

No. 21-35567

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

CHONG and MARILYN YIM, KELLY LYLES, EILEEN, LLC and
RENTAL HOUSING ASSOCIATION OF WASHINGTON,

Plaintiffs/Appellants,

v.

CITY OF SEATTLE,

Defendant/Appellee.

Appeal from the United States District Court
Western District of Washington at Seattle
District Court No. 2:18-cv-736 JCC

**CITY OF SEATTLE'S
SUPPLEMENTAL EXCERPTS OF RECORD, INDEX VOLUME**

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¹ The SER omits one document record that Plaintiffs reproduced in full. *See* ER-108–34.

² In their Opening Brief, Plaintiffs cite this brief from the district court, but fail to include it in the ER. The SER includes this brief’s cover, table of contents, and the pages Plaintiffs cite in their Opening.

No. 21-35567

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Appendix
to
City of Seattle's Combined
Opposition to Plaintiffs' Motion for Summary Judgment
and Cross-Motion for Summary Judgment:
Pages 1 – 616 of the Stipulated Record

YIM ET AL. V. CITY OF SEATTLE, No. C18-cv-736-JCC



RHAWA
Rental Housing Association of WA

2414 SW ANDOVER ST
SEATTLE , WA 98106
Phone: (206) 283-0816 / (800) 335-2990
Fax: (206) 286-9461

File No: 72313898
Name: Non- Seattle Applicant
SSN: ***-**-9874
Address: 10821 Wonderland
AVE SEATTLE , WA
98106
Prepared For: RHAWA

Requested By: RHAWA
Date Ordered: 06/27/2018
Date Completed: 06/27/2018

EXECUTIVE SUMMARY

<i>Report Type</i>	<i>Description</i>	<i>Status</i>
Tenant Credit Infile	Trans Union	Completed
Criminal Court Record	XX , MULTISTATE , Non- Sea App	Completed
Evidion Report	XX	Completed
PREVIOUS ADDRESS HISTORY		Completed



RHAWA
Rental Housing Association of WA

2414 SW ANDOVER ST
SEATTLE, WA 98106
Phone: (206) 283-0816 / (800) 335-2990
Fax: (206) 286-9461

Tenant Credit Infile

Prepared For:	RHAWA 2414 Andover Seattle, WA 98106	Sources:	TU
		Ordered:	06/27/2018
		Completed:	06/27/2018
		Report No:	72313898
		Requested By:	cyoung206

APPLICANT				
Name	Phone	Social Security	Age/DOB	Dependents
Address				
Non SEA App		***-**-9874	19921029	
10821 8TH AVE SEATTLE, WA 98146				

RESIDENCE			
Type Ownership	App/CoApp	Address	Since To
PRESENT	APPLICANT	11911 SEDIVISION ST PORTLAND, OR 97266	03/14
PREVIOUS	APPLICANT	21628 SE239TH ST MAPLE VALLEY, WA 98038	11/13

EMPLOYMENT				
Employer	Position	Income	From VerDate	TO VerBy
HOMEMAKER Non Seattle App	HOMEMAKER			

SCORES	
Risk Assessment	Codes
Non Seattle Applicant	TUC-01
FILE NOT SCORED BECAUSE SUBJECT DOES NOT HAVE SUFFICIENT CREDIT	

PROFILE SUMMARY						
	COUNT	BALANCES	PAYMENTS	PAST DUE		
PUBLIC RECORDS	0	INSTALLMENT	0	\$0	\$0	\$0
INQUIRIES	6	REVOLVING	0	\$0	\$0	\$0
CURRENT ACCOUNTS	0	REAL ESTATE	0	\$0	\$0	\$0
NOW DELINQUENT	0	OTHER	0	\$0	\$0	\$0
PREVIOUSLY DELQ.	0					
PAID ACCOUNT	0					
R/E NOW DELINQUENT	0	TOTAL	0	\$0	\$0	\$0
OLDEST TRADE:	08/01					

PUBLIC RECORDS	
NONE FOUND.	
Reporting Bureau certifies compliance with contractual requirements governing check of public records with these results.	

CREDIT HISTORY												
E C O A	Creditor Name Account Number	Type	Date Reported	Date Opened Last Activity	Hi Credit Term Mo	Balance Amount	Past Due	Historical				MOP
								Mo	30	60	90	
COLLECTIONS(S) NONE FOUND.												
TRADE(S) NONE FOUND.												

INQUIRIES				
Date	Name	Code	IC	
06/27/2018	RNTL HSG ASS	Z01047026		Non Seattle Applicant
03/15/2018	US BANK	B00851016		Non Seattle Applicant
09/01/2017	US BANK	B00851016		Non Seattle Applicant
04/14/2017	US BANK	B00851016		Non Seattle Applicant
10/18/2016	ORCA FINANCI	Z05376310		Non Seattle Applicant
07/16/2016	SYNCB/TOYSDC	B05894261		Non Seattle Applicant

AKAs	
Non Seattle App	Non Seattle App

IDENTIFICATION
<p>TUC-01 Name: TRANSUNION Address: 2 BALDWIN PLACE, P.O. BOX 1000 CHESTER, PA 19016 Phone: 800-888-4213 Name: Non Seattle Applicant , ***-**-9874 , DOB: 10/29/1992 ADDRESS DISCREPANCY ALERT: MISMATCH (INQUIRIES IN LAST 60 DAYS=00) SUBSTANTIAL DIFFERENCE BETWEEN THE ADDRESS SUBMITTED IN THE CREDIT REQUEST AND THE ADDRESS(ES) IN THE CREDIT FILE. VERIFY IDENTITY OF CONSUMER BEFORE GRANTING CREDIT. (FACT ACT) HIGH RISK FRAUD ALERT - REQUESTED PRODUCT DELIVERED; SSN ISSUED: 1993 - 1993; STATE OF: WA INPUT SSN ISSUED: 1993; STATE: WA; (EST. AGE OBTAINED: 00 TO 01) - REQUESTED PRODUCT DELIVERED; REGULAR HIT ON FILE-ALL FILES ARE RETURNED EXACT MATCH BETWEEN SSN ON INPUT AND SSN ON FILE IN FILE SINCE: 11/13/2013</p>

REPORT FOOTER
<p>TRANS UNION 2 BALDWIN PL. P.O. BOX 1000</p>

CHESTER, PA 19022
(800)888-4213
END OF CREDIT REPORT

PREVIOUS ADDRESS HISTORY

Name Searched: Non Seattle Applicant
Social Searched: ***-**-9874

Comments: SSN IS VALID. ISSUED IN WA
 IN THE YEAR 1993
 Records found: 2

Non Seattle Applicant	DOB: 10/29/1992	AGE: 25
Address: 7895231 Neverland S ST PORTLAND, Cal 97266-1081 MULTNOMAH COUNTY		AddressType: Unknown Format: General From: 2014-03 To: 2017-10

Non Seattle Applicant	DOB: 10/29/1992	AGE: 25
Address: 896512 Neverland S MAPLE Highway, WA 98038- 8571 KING COUNTY		AddressType: Unknown Format: General From: 2013-05 To: 2016-10

Date Verified:
Verifier:



RHAWA
Rental Housing Association of WA

2414 SW ANDOVER ST
SEATTLE, WA 98106
Phone: (206) 283-0816 / (800) 335-2990
Fax: (206) 286-9461

File No: 72313898
Name: Non Seattle Applicant
SSN: ***.**-9874
Address: 10821 8TH AVE SEATTLE, WA 98146
Prepared For: RHAWA

Requested By: RHAWA
Date Ordered: 06/27/2018
Date Completed: 06/27/2018

CRIMINAL HISTORY

Name Searched: Non Seattle Applicant
Search Type: Criminal
Jurisdiction: MULTISTATE / XX

OFFENDER INFORMATION

Full Name	Non Seattle
DOB	10/11/1992
Offender Number	15873215

Offender Comments: COURT FILE NUMBER: CR6984258; SOURCE ID: 98325
category: CRIMINAL/TRAFFIC
sourceorjurisdiction: MN BUREAU OF CRIMINAL APPREHENSION, AND DEPARTMENT OF PUBLIC SAFETY(CONVICTION RECORDS)
state: MN
counts: 1
arrestingagency: MINNEAPOLIS Police Department
dispositiondate: 09/11/2014
court: HENNEPIN CO DISTRICT COURT

OFFENSE RECORDS

Case Type	Misdemeanor
Offense Description	DISORDERLY CONDUCT-OFFENSIVE/ABUSIVE/NOISY/OBSCENE
Offense Classification	609.72.1(3)
Disposition	CONVICTED
Disposition Date	01/11/2018
Probation Sentence Length	Days:0, Months:0, Years:1

Offense Comments: COURT FILE NUMBER: CR148328978; SOURCE ID: 369485

OFFENDER INFORMATION

Full Name	Non Seattle
DOB	10/11/1992
Sex	FEMALE
Offender Number	326598

Offender Comments: category: CRIMINAL/TRAFFIC
sourceorjurisdiction: WA SEATTLE MUNICIPAL COURT
state: WA
countyorjurisdiction: CITY OF SEATTLE
arrestingagency: SEATTLE POLICE DEPARTMENT
dispositiondate: 05/05/2012
amendeddisposition: CLOSED
amendeddispositiondate: 05/05/2012
court: MUNICIPAL COURT OF SEATTLE

OFFENSE RECORDS	
Offense Description	THEFT
Offense Date	08/05/2011
Offense Classification	12A6598.21
Disposition	DISMISSED W/PREJUDICE
Disposition Date	05/05/2012
File Date	10/21/2011

Offense Comments: CRIMINAL NON-TRAFFIC

Verified By: Electronic/ In Person
Date Verified: 06/27/2018

EVICTIION REPORT

State: XX
Name Searched: Non Seattle Applicant

Comments: NO RECORDS FOUND



2414 SW ANDOVER ST
SEATTLE , WA 98106
Phone: (206) 283-0816 / (800) 335-2990
Fax: (206) 286-9461

File No: 72418398
Name: Seattle Applicant
SSN: ***-**-5961
Address: 1800 No-where AVE
SEATTLE , WA 98102
Prepared For: RHAWA
2414 SW Andover St
SEATTLE , WA 98106

Requested By:
Date Ordered: 07/11/2018
Date Completed: 07/11/2018

EXECUTIVE SUMMARY

Report Type	Description	Status
Tenant Credit Infile	Trans Union	Completed
Eviction Report	XX	Completed
PREVIOUS ADDRESS HISTORY		Completed
Sex Offender Report	Seattle	Completed



RHAWA
Rental Housing Association of WA

2414 SW ANDOVER ST
SEATTLE, WA 98106
Phone: (206) 283-0816 / (800) 335-2990
Fax: (206) 286-9461

Tenant Credit Infile

Prepared For:	RHAWA 2414 SW Andover St SEATTLE, WA 98136	Sources:	TU
		Ordered:	07/11/2018
		Completed:	07/11/2018
		Report No:	72418398
		Requested By:	cyoung206

APPLICANT

Name	Phone	Social Security	Age/DOB	Dependents
Address				
Applicant, Seattle		***-**-5961	19820905	
1800 NO-Where SEATTLE, WA 98106				

RESIDENCE

Type Ownership	App/CoApp	Address	Since To
PRESENT	APPLICANT	1122 E PIKE ST1233 SEATTLE, WA 98122	09/04
PREVIOUS	APPLICANT	519 E 12TH AV SEATTLE, WA 98102	03/07
PREVIOUS	APPLICANT	1440 N NW ST802 WASHINGTON, DC 20005	

SCORES

Risk Assessment	Codes
Seattle Applicant 753	TUC-01

PROFILE SUMMARY

	COUNT	BALANCES	PAYMENTS	PAST DUE
PUBLIC RECORDS	1	INSTALLMENT	2	\$26994
INQUIRIES	1	REVOLVING	4	\$0
CURRENT ACCOUNTS	7	REAL ESTATE	0	\$0
NOW DELINQUENT	0	OTHER	1	\$0
PREVIOUSLY DELQ.	0			
PAID ACCOUNT	6			
R/E NOW DELINQUENT	0	TOTAL	7	\$26994
				\$250
				\$0

OLDEST TRADE: 08/01

PUBLIC RECORDS

Name: Seattle Applicant	SSN: ***-**-5961	Bureaus: TUC-01
ECOA: I Code: B58961325	Type: CHAPTER 7 BANKRUPTCY DISCHARGED	Date Filed: 01/09

Court: National DISTRICT COURT Docket #: 256489	Date Reported:
Plaintiff:	Attorney: Marcus Martin
Amount:	Date Satisfied: 04/09
	Liabilities:

Reporting Bureau certifies compliance with contractual requirements governing check of public records with these results.

CREDIT HISTORY												
E C O A	Creditor Name	Type	Date Reported	Date Opened Last Activity	Hi Credit Term Mo	Balance Term Amount	Past Due Amount	Historical				MOP
								Mo	30	60	90	
COLLECTIONS(S)												
NONE FOUND.												
TRADE(S)												
	Seattle Applicant I DSNB MACYS 89312564	REV	06/18	09/08 03/18	\$307	\$0	48 0 0 0	0	0	1		
	Seattle Applicant I BBY/CBNA 6985215684	REV	06/18	09/13 11/13	\$43	\$0	48 0 0 0	0	0	1		
	Seattle Applicant I BK OF AMER 25369	REV	06/18	04/18 06/18	\$336	\$0	2 0 0 0	0	0	1		
	Seattle Applicant I NAVIENT 59861128942684 STUDENT LOAN	INS	05/18	02/04 05/18	\$47496 299	\$26994 \$250	4 0 0 0	0	0	1		
	Seattle Applicant I CES/NAVIENT D589713269 COLLATERAL : SLDTO NAVIENTNAVIENT STUDENT LOAN ACCOUNT CLOSED DUE TO TRANSFER	INS	10/17	02/04 10/17	\$47418 300	\$0 \$250	48 0 0 0	0	0	1		
	Seattle Applicant I CRDT FIRST 89615	REV	02/17	12/15 02/17	\$1448	\$0	14 0 0 0	0	0	1		
	Seattle Applicant I BK OF AMER 89236478912 LINE OF CREDIT CLOSED	CRE	11/11	08/01 11/11	\$10000	\$0	48 0 0 0	0	0	1		

INQUIRIES			
Date	Name	Code	IC

about:blank

7/11/2018

SR_0009

07/11/2018 RNTL HSG ASS Z01047026 Seattle Applicant

IDENTIFICATION

TUC-01
 Name: TRANSUNION
 Address: 2 BALDWIN PLACE, P.O. BOX 1000
 CHESTER, PA 19016
 Phone: 800-888-4213
 Name: Seattle Applicant , ***-**-5961 , DOB: 09/05/1982
 ADDRESS DISCREPANCY ALERT: MISMATCH (INQUIRIES IN LAST 60 DAYS=00) SUBSTANTIAL
 DIFFERENCE BETWEEN THE ADDRESS SUBMITTED IN THE CREDIT REQUEST AND THE ADDRESS(ES) IN
 THE CREDIT FILE. VERIFY IDENTITY OF CONSUMER BEFORE GRANTING CREDIT. (FACT ACT)
 HIGH RISK FRAUD ALERT - REQUESTED PRODUCT DELIVERED;
 HIGH RISK FRAUD ALERT: INPUT/FILE (CURRENT/PREVIOUS) ADDRESS IS COMMERCIAL
 HIGH RISK FRAUD ALERT: INPUT/FILE (CURRENT/PREVIOUS) ADDRESS REQUIRES FURTHER
 INVESTIGATION
 HIGH RISK FRAUD ALERT: INPUT/FILE ADDRESSES, SSN, OR TELEPHONE NUMBER REPORTED BY MORE
 THAN ONE SOURCE
 SSN ISSUED: 1969 - 1970; STATE OF: WA
 INPUT SSN ISSUED: 1969 - 1970; STATE: WA; (EST. AGE OBTAINED: 16 TO 18)
 FILE CURRENT ADDRESS IS A MAIL RECEIVING/FORWARDING SERVICE
 FILE CURRENT ADDRESS HAS BEEN REPORTED MORE THAN ONCE (UNIT: 445)
 FILE ADDRESS, SSN, OR TELEPHONE NUMBER REPORTED BY MORE THAN ONE SOURCE
 - REQUESTED PRODUCT DELIVERED;
 REGULAR HIT ON FILE-ALL FILES ARE RETURNED
 EXACT MATCH BETWEEN SSN ON INPUT AND SSN ON FILE
 IN FILE SINCE: 10/01/1981

REPORT FOOTER

TRANS UNION
 2 BALDWIN PL.
 P.O. BOX 1000
 CHESTER, PA 19022
 (800)888-4213
END OF CREDIT REPORT

PREVIOUS ADDRESS HISTORY

Name Searched: Seattle Applicant
Social Searched: ***-**-5961

Comments: SSN IS VALID. ISSUED IN WA
 IN THE YEAR 1969-1970
 Records found: 26

Seattle Applicant	DOB: 6/30/1982	AGE: 36
	Address: 183652 Neverland S SEATTLE, WA 98122-3916 KING COUNTY	AddressType: Unknown Format: General From: 2015-07 To: 2018-04
Seattle Applicant	DOB: 9/05/1982	AGE: 36
	Address:	AddressType: Unknown

IRIS Report

Page 5 of 8

Seattle Applicant

789521 Neverland S
OLYMPIA, WA 98502-5426
THURSTON COUNTY

Format: General
From: 2014-10
To: 2015-07

DOB: 9/05/1982

AGE: 36

Address:
189350 Neverland S
WASHINGTON, DC 20005-2729
DISTRICT OF COLUMBIA COUNTY

AddressType: Unknown
Format: General
From: 2013-09
To: 2014-09

IRIS Report

Seattle Applicant	DOB: 09/05/1982	AGE: 36
	Address: 9236 Neverland S SEATTLE, WA 98118-5326 KING COUNTY	AddressType: Unknown Format: General From: 2011-02 To: 2013-06
Seattle Applicant	DOB: 9/05/1982	AGE: 36
	Address: 589 Neverland S SEATTLE, WA 98102-6224 KING COUNTY	AddressType: Unknown Format: General From: 2009-02 To: 2011-02
Seattle Applicant	DOB: 9/05/1982	AGE: 36
	Address: 4346 Neverland S SEATTLE, WA 98116-5326 KING COUNTY	AddressType: Unknown Format: General From: 2008-01 To: 2009-01
Seattle Applicant	DOB: 9/05/1982	AGE: 36
	Neverland S SEATTLE, WA 98121-3411 KING COUNTY	AddressType: Unknown Format: General From: 2006-12 To: 2007-12
Seattle Applicant	DOB: 9/05/1982	AGE: 36
	Address: 14 Neverland S AUBURN, WA 98002-7834 KING COUNTY	AddressType: Unknown Format: General From: 2005-12 To: 2006-12
Seattle Applicant	DOB: 9/05/1982	AGE: 36
	Address: 4834 Neverland S SW SEATTLE, WA 98126-5326 KING COUNTY	AddressType: Unknown Format: General From: 2005-11 To: 2005-12
Seattle Applicant	DOB: 9/05/1982	AGE: 36
	Address: 58900 Neverland S SEATTLE, WA 98122-5922 KING COUNTY	AddressType: Unknown Format: General From: 2003-11 To: 2005-11
Seattle Applicant	DOB: 9/05/1982	AGE: 36
	Address: 1458900 Neverland S BURIEN, WA 98168-3430 KING COUNTY	AddressType: Unknown Format: General From: 1999-08 To: 2003-11

Date Verified:
Verifier:



RHAWA
Rental Housing Association of WA

2414 SW ANDOVER ST
SEATTLE , WA 98106
Phone: (206) 283-0816 / (800) 335-2990
Fax: (206) 286-9461

File No: 72418398
Name: Seattle Applicant
SSN: ***-**-5961
Address: 1800 No-Where AVE
SEATTLE , WA 98106
Prepared For: RHAWA
2414 SW Andover St
SEATTLE , WA 98136

Requested By:
Date Ordered: 07/11/2018
Date Completed: 07/11/2018

SEX OFFENDER REPORT

State Checked:
Name Checked: Seattle Applicant
Comments: No Records Found

EVICTIION REPORT

State: XX
Name Searched: Seattle Applicant
Comments: NO RECORDS FOUND

Ethan W. Blevins

From: Chartrice Young <CYoung@rhawa.org>
Sent: Thursday, July 5, 2018 2:12 PM
To: Sean Martin
Subject: Email sent to members for Fair Chance Applications
Attachments: Fair Chance Housing FAQ_FINAL (1).pdf; 2018_ApplicationForTenancySEATTLE.PDF

Dear Member,

There is a Seattle Ordinance called the Fair Chance Housing (please see attached FAQ's) which forbids a landlord to inquire about the applicant's criminal background. The applications that you used are not the correct applications to be used for the City of Seattle. Because the application used has the questions asking about criminal history, We will not be able run the screening report due to the applications are not in compliance with the Seattle law.

Per Seattle's ordinance, Fair Chance Housing, the applications must also include a disclaimer regarding the ordinance, which you will find in the "Application for Tenancy (Seattle)" application on the RHAWA website, here is the link <https://www.rhawa.org/forms.html>. We have attached one for your convenience.

Please have your applicants complete the correct application and resubmit it via tenantscreening@rhawa.org.

Chartrice Young | Director of Tenant Screening

T (206) 905 - 0605 | cyoung@RHAWA.org
Rental Housing Association of Washington | 2414 SW Andover St, Ste D207, Seattle, WA 98106
T (206) 283 - 0816 | (800) 335 - 2990 | F (206) 286 - 9461 | RHAWA.org



This email contains general information and is not intended to apply to any specific situation. If you need legal advice or have questions about the application of the law in a particular matter, you should consult a lawyer.



APPLICATION FOR TENANCY (SEATTLE)

AGENT / OWNER CONTACT INFORMATION (COMPLETED BY OWNER/AGENT):

Name: _____ Member #: _____
 Phone: _____ Fax: _____ Date: _____
 Email: _____
 Screening Package: Basic Package Premium Package Background Screening Package Other _____

APPLICANT INFORMATION

Applicant's Last Name	First Name	Middle	Phone #
Current Address	City	State	Zip
Social Security/ITIN #	Date of Birth	Government Issued ID	Email

MANAGERS CHECKLIST: Visual Proof Of: Driver's License State ID SS Card Other _____

OCCUPANCY INFORMATION

List all persons in addition to yourself that will also be residents, including a date of birth for each. All persons 18 or older must complete a separate rental application and pay a screening fee.

1. _____ 3. _____
 2. _____ 4. _____

Are you, or any other occupant, a smoker? Yes No
 Do you have renter's insurance? Yes No If yes, proof of insurance is required.
 Do you have a waterbed or aquarium over 20 gallons? Yes No
 Will pets reside in the unit? Yes No If yes, how many? _____ Type(s) _____
 Breed(s) _____ Weight(s) _____

PERSONAL BACKGROUND HISTORY

Landlord is prohibited from requiring disclosure, asking about, rejecting an applicant, or taking an adverse action based on any arrest record, conviction record, criminal history, except for registry information as described in SMC 14.09.025.A.3, SMC 14.09.025.A.4, SMC 14.09.025.A.5, and subject to the exclusions and legal requirements in SMC 14.09.115.

Owner / Agent requires offender screening: Yes No

FINANCIAL INFORMATION

Current monthly expenses for financial obligations: Car _____ Loan _____
 Credit _____ Other _____
 Have you ever filed for bankruptcy? Yes No

PREVIOUS RESIDENCE HISTORY

Current Address	City	State	Zip	Landlord's Name	Landlord Phone #	Dates of Occupancy	Rent Amount \$
Previous Address	City	State	Zip	Landlord's Name	Landlord Phone #	Dates of Occupancy	Rent Amount \$
Previous Address	City	State	Zip	Landlord's Name	Landlord Phone #	Dates of Occupancy	Rent Amount \$

Formal legal advice and review is recommended for both Resident and Owner prior to selection and use of provided form.
 RHAWA does not represent your selection or execution of this form as appropriate for your specific circumstances.
 © RHAWA 2017. For use by current RHAWA members only. No representation is made as to the sufficiency or tax consequences from use of this form.



APPLICATION FOR TENANCY (SEATTLE)

PREVIOUS RESIDENCE HISTORY – CONT.

Have you given notice of termination of tenancy to your current landlord? Yes No

For what date are you seeking occupancy? _____

Have you ever been served an unlawful detainer or been evicted? Yes No

If yes, include month / yr & address: _____

Have you ever received a notice to pay rent or vacate and/or another unlawful detainer notice from a landlord? Yes No

If yes, describe circumstances: _____

INCOME HISTORY

Applicant's Current Source of Income	Position	Monthly Income	Start Date	Supervisor / H.R. Name & Phone

Previous Source of Income	Position	Dates Employed	Supervisor / H.R. Name & Phone

Other Sources of Verifiable Income	Monthly Income	Other Sources of Verifiable Income	Monthly Income

VEHICLE REGISTRATION

Written permission separate from this application must be obtained to park on premises.

Vehicle Make	Model	Year	Color	Plate # / State

Description of any other vehicles (boat, trailer, RV, motorcycle, etc.) you would like to keep on the property.

Vehicle Make	Model	Year	Color	Plate # / State

EMERGENCY / PERSONAL CONTACTS

Name	Relationship	Phone #

Name	Relationship	Phone #

ACKNOWLEDGMENT

In compliance with the Fair Credit Act and RCW 59.18.257 (2), this is to inform you that a credit investigation involving the statements made on this application for tenancy will be initiated. Any false, fraudulent or misleading information provided on the application may be grounds for denial of tenancy and/or forfeiture of rental or lease agreement. An incomplete application causes delay in processing and may result in denial of tenancy. If you are declined due to the consumer report, you may obtain a free copy of your credit report from the bureau it was obtained from within 60 days of denial. You also have the right to dispute the accuracy of the report and/or add a consumer statement to the report. This is NOT an agreement to rent and all applications must be approved. **Disputes:** If the screening of your application for tenancy included RHAWA's Full Credit Report and you wish to dispute any or all information on your credit report, contact Rental Housing Association to file the dispute on your behalf. Rental Housing Association of WA - Tenant Screening 2414 SW Anover St, Ste D207 Seattle, WA 98106 Phone: (800) 335-2990/tenantscreening@RHAWA.org

A non-refundable processing fee of _____ is required per applicant for non-refundable tenant screening fees.


I certify to the best of my knowledge all statements are true. I authorize the agent/owner for initial tenancy and again upon any future lease modifications or renewals to verify the information provided on the application including, but not limited to, obtaining credit reports, character reports, civil and/or criminal records, verifying source of income and rental history. I understand that false, fraudulent or misleading information may be grounds for denial of tenancy and/or forfeiture of my rental or lease agreement.

_____ By initialing, I acknowledge having been notified in writing, or by posting, of what types of information will be accessed to conduct the tenant screening and what criteria may result in denial of the application, as required by RCW 59.18.257.

Applicant Signature	Print Name	Date

Formal legal advice and review is recommended for both Resident and Owner prior to selection and use of provided form.
 RHAWA does not represent your selection or execution of this form as appropriate for your specific circumstances.
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https://www.employmentreports.net/screening/Dashboard.aspx?Subscriber=576RHA&View=New




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Seattle Landlords may not inquire in to, nor require disclosure of, any types of arrest or criminal records or convictions for any applicant of a rental property located in Seattle, except for sex offense convictions which occurred when the applicant/individual was an adult, and which require the applicant/individual to be a lifetime registrant on any local, state, or federal sex offender registry list. If an applicant discloses such information it must be immediately omitted from the application.

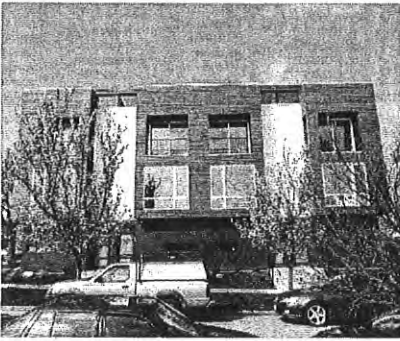
Messages

Welcome!

My Notes

Company Notes

Seattle Housing Affordability and Livability Agenda



Final Advisory Committee Recommendations
To Mayor Edward B. Murray and the Seattle City Council

July 13, 2015

Acknowledgments

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Seattle seeks to be a diverse, prosperous, and equitable community where individuals and families can build good lives in vibrant neighborhoods. Housing costs rising faster than incomes threaten to make that aspiration unattainable.

— mission statement developed by the HALA Advisory Committee, 1/29/15

Executive Summary

Over multiple generations and through cycles of boom and bust, Seattle has continuously reinvented where and how it houses its residents and the ways it fosters the livability of distinctive, vibrant neighborhoods to promote quality of life, walkability, access to efficient public transit, parks and the cultural amenities that enrich urban life. Today's Seattle faces a new set of challenges, which demand that – once again – we rethink urban living and how we shape the environments that we call home.

As Seattle expands rapidly and experiences massive economic and population growth, we are confronted by the reality of more people chasing a limited supply of housing than ever before in our history. This, combined with a booming regional housing market, fewer and fewer federal and state funds dedicated to subsidized housing, and widening income inequalities locally, nationally and globally, have created – and will likely sustain – a housing affordability crisis unlike any Seattle has experienced since the Second World War. At the same time we are constrained by outdated policies and historical precedents that are no longer viable for the long-term health of our city. Some of the challenges are intrinsic to Seattle, for example tight limits on housing supply epitomized by the fact that at present almost two-thirds of our urban land is restricted to Single Family zoning.

An adequate, affordable supply of housing is the lifeblood of culturally rich, diverse, and livable urban centers. Without this, people who work here will be forced to move out of the city, with dire impacts not only on individual lives, but also on the region: more traffic congestion, increased environmental degradation, and fragmentation of communities. Housing affordability must remain a cornerstone of our city's commitment to an equity agenda that ensures a fundamental fairness for each individual and community that calls Seattle home. Without vigilance, we risk becoming a city accessible only to the affluent and privileged.

In our deliberations, the 28 members of the task force empaneled by the Mayor and City Council to address Seattle's Housing Affordability and Livability Agenda (the "HALA"), attempted to balance the needs of a fast-growing city with almost unimaginable new wealth and the acute needs of people who experience systemic inequities driven by issues of income, ethnicity, and race on a daily basis. We also acknowledged the reality of the cyclical nature of economic growth, and that the recommendations we crafted needed to anticipate periods of economic uncertainty and contraction – as hard as that is to imagine today.

The Mayor charged the HALA to create a plan that can generate a net increase of 50,000 units of housing – 20,000 units of affordable housing and 30,000 new units of market rate housing – over the

next decade. This is, by any measure, a significant stretch goal for a city that, in the best of times, has created about 800 new affordable units in a year.

As we dove into our work, the HALA Committee encountered one of the fundamental reasons the problem of housing affordability and livability is so daunting, and why previous similar efforts have failed: the politics of the issues appear to be almost intractable. The multiple interests gathered around the HALA table seem at times fundamentally opposed to each other – or at least in significant tension with each other – and each interest group is politically powerful enough to block any single-sided proposal. In short, the crisis of housing affordability in Seattle is a true Gordian Knot.

In this challenging context, the HALA spent the last 10 months seeking common ground. We have sought to cut the Gordian knot by presenting a comprehensive package of strategies. Our recommendations are not intended to be a fragmented array of 65 ideas; it was in a suite of concepts that the HALA found consensus. Considered separately, our recommendations may appear to have minimal relationship to each other. The HALA strongly discourages this approach; rather, this report presents an integrated fabric of ideas, each of which addresses a specific component of the city's current housing and livability predicament. Taken together, we believe that the package of concepts offered in this report will increase housing affordability and livability across the spectrum of needs, from homeless housing with operating and service dollars to lower-wage workforce housing to market rate housing. The HALA recommendations are included in the body of the report that follows. The ideas we believe have the potential to effect the greatest changes are highlighted at the end of this Executive Summary.

The suggested investments in building and preserving affordable housing are an essential part of a larger shared goal – building vibrant, attractive and welcoming communities across all of Seattle. As neighborhoods accommodate more market rate and affordable housing, the City should continue to make strategic investments – taking advantage of the recent Transportation Benefits District to increase bus service, expanding transportation choices with investments in walking and biking, preserving and maintaining our open spaces with the new Metropolitan Parks District funding, and ensuring that every neighborhood is home to strong educational choices, thriving economic opportunities and rich arts and culture. Together, we believe these investments will ensure that each new home helps build a community of opportunity for all.

The HALA agreed to organize our work around four key areas of inquiry, all of which must be considered as part of the City's unflagging commitment to a racial and social justice agenda that promotes equity for all of its residents. These four areas can be summarized as:

- MORE RESOURCES FOR AFFORDABLE HOUSING (more subsidy, through a range of revenue generating mechanisms)
- MORE HOUSING (maximizing opportunities in the market)
- MORE SUPPORTS FOR COMMUNITIES (strategic preservation of housing and protections for vulnerable tenants and homeowners)
- MORE INNOVATION (the streamlining of systems and related reforms to cut the costs of housing)

MORE RESOURCES FOR AFFORDABLE HOUSING: We need significant, new resources to create more affordable housing for individuals and for families – both large and small. Everyone who is lucky enough to benefit from the enormous real-estate boom of recent years – the surging equity of individual homeowners, the run-up in land values for the land owners and developers, and everyone serendipitously enriched by upzoning – must do their part to share some of that wealth with the members of our community who have found themselves excluded from these opportunities. No one in Seattle should have to face homelessness, and our housing resources must be part of the solutions that make homelessness rare, brief and one-time. This means a much higher Housing Levy. A mandate that developers provide a share of the apartments in their new buildings to people who cannot compete in the market, i.e., people with annual incomes at 60% of the area median income or less. An Urban Growth fund. A healthy Real Estate Excise Tax specifically for affordable housing. New sources of housing-related operating and service subsidies for individuals and families recovering from homelessness. Finally, we must also redouble our efforts to engage our state and federal partners, particularly in areas in which affordable housing options have been losing significant ground over several decades (such as federal Housing Choice Vouchers).

Getting to these results will ensure that schoolteachers and firefighters, baristas and dishwashers, art students, the members of the cleaning crews in glass-and-steel office towers – as well as those who continue to struggle with homelessness – can live in the dense, walkable, transit-oriented urban centers on which Seattle has pinned its post-carbon future.

MORE HOUSING: While funds for affordable housing are key, we also need to relieve market pressures by increasing housing of all types. The inescapable reality is that everyone in the city of Seattle needs to make room both for newcomers, as well as those that historically have been excluded from the housing market altogether, including individuals and families who are homeless. We all have to make room at the tables of our many communities. In a land constrained city, increased housing density is the necessary companion to urban growth. That means more cottages, in-law apartments, flats, duplexes and triplexes in the two-thirds of Seattle currently zoned exclusively (and, historically, through racial restrictive covenants, for purposes of exclusion¹) for single family homes. It means dedicating more land for multifamily housing in and around Urban Villages and more multifamily housing of all types and sizes inside Urban Villages or very close to desirable urban amenities. An increasingly dense city also must have access to an efficient transportation system, one that gets people out of their cars and using public options to move to and from work, school, and community activities.

In short, this means that our city will not look like what we're used to. But that's been the story of Seattle from its birth. Our city's physical form will change so that our character and values can stay the same: we can only hold onto our commitment to inclusion, opportunity for all, and affordability if we let our city fill in with more housing.

MORE SUPPORTS FOR COMMUNITIES: The current Seattle housing market is particularly cruel to renters with low incomes. It's nearly impossible for lower-income families to own their own homes; and those who do, struggle to maintain their ownership as family expenses increase faster than incomes. As rents and prices rise, individuals and families are too frequently displaced from their homes and

¹See discussion of racial restrictive covenants in Seattle. http://depts.washington.edu/civilr/covenants_report.htm

communities or pushed out of Seattle altogether. As we grow, we must ensure more supports are provided to vulnerable tenants and marginalized communities, through strategic, targeted preservation efforts, as well as longer timelines for eviction and more adequate funds for relocation expenses. We must ensure that people with barriers, such as diverse income sources and past criminal records, are able to access housing. We must make sure that struggling homeowners remain stably housed.

MORE INNOVATION: Seattle has, from its inception, relied on the ingenuity, acumen, compassion, strong business sense and civic pride of its citizens. It's essential that we now turn these skills towards the challenges of innovation that can support the affordability and livability of our city. This means creating more streamlined approaches to the rules and processes that could allow housing development to occur more efficiently; fostering new partnerships for subsidized housing development; innovation in housing types allowed in lower density zones; the creation of Medicaid-based housing supports; and ensuring access to Sharia-compliant loan products that promote increased homeownership.

Most importantly, perhaps, innovation is required to ensure that the rich cultural fabric and heritage of the city – and the families and communities that embody this diversity – will continue to be able to make Seattle their home.

The ideas we generate will only be limited by our potential to imagine them.

We now invite you to dive into the body of this report and consider the many recommendations we have offered. The pages that follow represent the extraordinarily hard work of the HALA members, and many, many hours of conversation that pushed into the night and stretched our capacities to listen, understand, and plan together. It is far from a perfect product, but it represents the aspirations of a diverse group of caring Seattle stakeholders, and our belief that we can, working collectively, ensure a future for Seattle that is vibrant, flourishing, equitable and accessible to everyone who seeks to call this beautiful place their home.

Highest Impact Recommendations

Of the many recommendations presented in the report, the boldest and most promising ideas with the greatest potential to impact housing affordability in Seattle are the following:

1. **More Resources and More Housing: Build Affordability as We Grow**
 - **Strategy R.1** - Mandate that affordable units be included in new housing developments and that commercial developments contribute fees towards affordable housing, and provide an associated upzone or floor area ratio (FAR) increase
2. **More Housing: Increase Opportunities for Multifamily Housing**
 - **Strategy MF.1** - Devote more land to multifamily housing particularly in areas near transit, services and amenities
 - **Strategies MF.2 and MF.3** - Further the Urban Village growth strategy by expanding the boundaries of Urban Villages to reflect walking proximity to transit, services and amenities and by converting Single Family zoned land within Urban Villages to a more intensive use.
 - **Strategy MF.5** - Increase height limits and modify building and fire codes to maximize economical wood frame construction
3. **More Supports for Communities: Launch a Proactive Preservation Strategy**
 - **Strategy P.1** - Task the City's Office of Housing with leading an expansive preservation effort to strategically acquire existing affordable multifamily housing and provide funding for that strategy
 - **Strategy P.2** - Make strategic investments to lessen impacts of growth on and minimize displacement of marginalized populations
 - **Strategy P.3** - Seek state authority to enact a property tax exemption for private landlords who commit to income and rent restrictions in existing buildings
 - **Strategy T.1** - Combat displacement by funding rental and operating subsidies for extremely low-income households
4. **More Resources: Call on the State and City to Create Additional Resources for Affordable Housing**
 - **Strategy R.2** - Create a stable source of funding by enacting a Real Estate Excise Tax (REET) dedicated to affordable housing
 - **Strategy R.6** - Expand the size of the critically important State Housing Trust Fund
 - **Strategy L.1** - Prioritize use of surplus and underutilized public property for affordable housing and promote co-development in conjunction with public buildings
 - **Strategy R.7** - Dedicate property taxes derived from new construction to affordable housing by reinstating the City Growth Fund

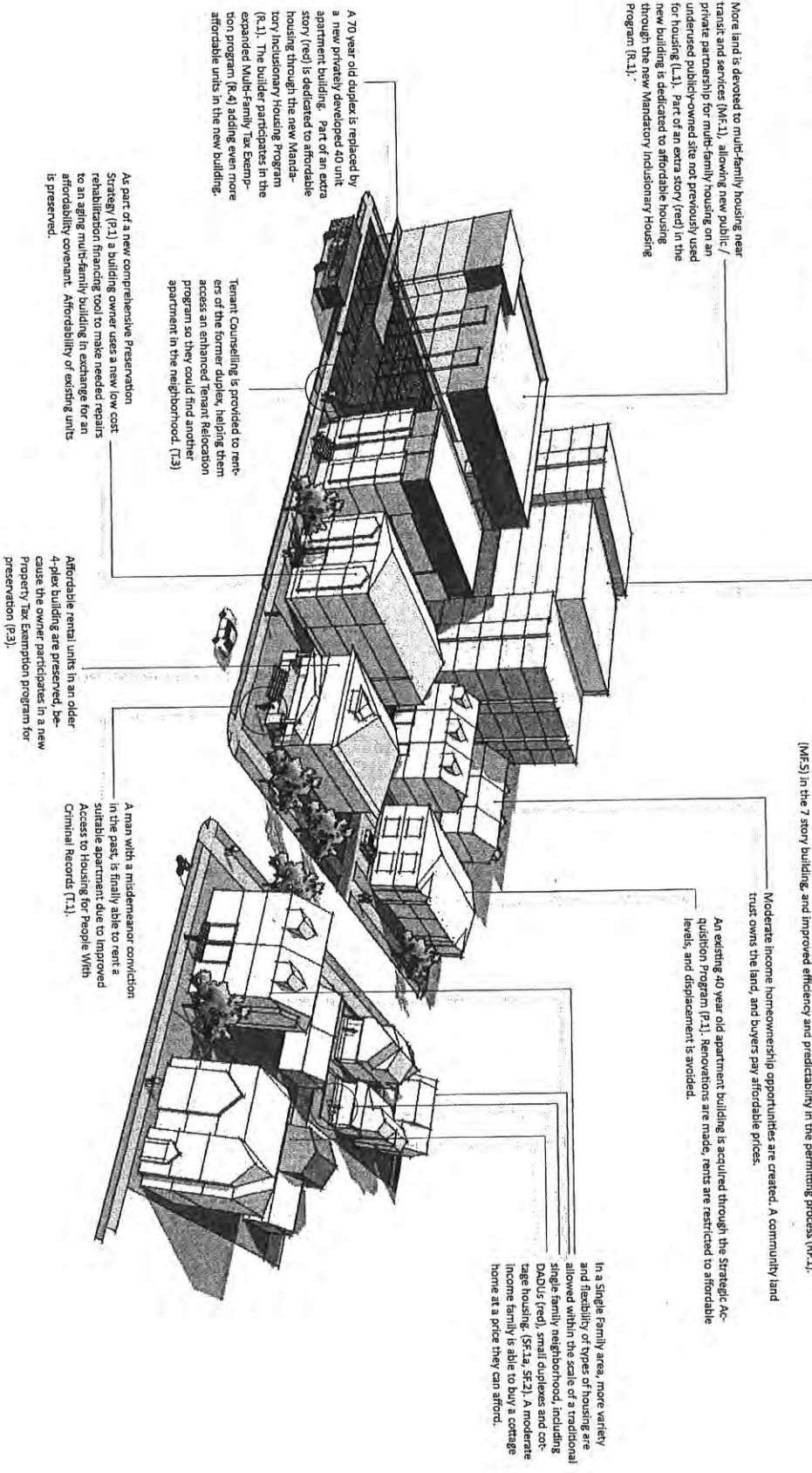
5. **More Resources: Recommit to and Expand Effective Existing Tools**
 - **Strategy R.3** - Renew and increase the critically important Seattle Housing Levy which is a cornerstone of the City's funding for affordable housing, and has historically supported vulnerable individuals and families struggling with housing instability and homelessness
 - **Strategy R.4** - Renew and expand the City's successful multifamily property tax exemption program which enlists private developers in providing income and rent restricted units in newly constructed buildings (see also item 3b above)

6. **More Supports for Communities: Support Vulnerable Tenants and Increase Access to Housing**
 - **Strategy T.1** - Increase fair access to rental housing for people with past criminal records through local legislation, education and technical assistance
 - **Strategy T.3** - Provide funding for tenant counseling and landlord education to combat displacement and increase access to housing

7. **More Housing: Increase Access, Diversity and Inclusion within Single Family Areas**
 - **Strategy SF.1a** - Boost production of accessory dwelling units and detached accessory dwelling units by removing specific code barriers that make it difficult to build ADUs and DADUs
 - **Strategy SF.2** - Allow for more variety of housing types, such as small lot dwellings, cottages, courtyard housing, duplexes and triplexes, in Single Family zones

8. **More Innovation: Create Efficiencies in Housing Production**
 - **Strategy RP.1** - Improve predictability and timeliness and thus reduce construction costs by reforming City design review and historic review processes
 - **Strategy Rp.2** - Reduce the number of projects required to undergo SEPA review by raising SEPA thresholds

Housing Affordability and Livability Agenda (HALA) An Illustration of Top Priority Strategies at Work



More land is devoted to multi-family housing near transit and services (MF-1), allowing new public / private partnership for multi-family housing on an underused publicly-owned site not previously used for housing (L-1). Part of an extra story (red) in the new building is dedicated to affordable housing through the new Mandatory Inclusionary Housing Program (R-1).

A 70 year old duplex is replaced by a new privately developed 40 unit apartment building. Part of an extra story (red) is dedicated to affordable housing through the new Mandatory Inclusionary Housing Program (R-1). The builder participates in the expanded Multi-Family Tax Exemption program (R-4) adding even more affordable units in the new building.

As part of a new comprehensive Preservation Strategy (P-1) a building owner uses a new low cost rehabilitation financing tool to make needed repairs to an aging multi-family building in exchange for an affordability covenant. Affordability of existing units is preserved.

Tenant Counseling is provided to renters of the former duplex, helping them access an enhanced Tenant Relocation program so they could find another apartment in the neighborhood. (T-3)

Using funds from an expanded housing levy (R-3), and a new Real Estate Excise Tax (R-2) Seattle's Office of Housing funds a non-profit developer to build a new 120 unit affordable housing building for low income individuals and families. Local rental operating subsidies (T-1) are used to make several units available to formerly homeless persons. The building's cost is kept low by changes to the code to maximize economical wood frame construction (MF-3) in the 7 story building, and improved efficiency and predictability in the permitting process (RP-1).

Moderate income homeownership opportunities are created. A community land trust owns the land, and buyers pay affordable prices. An existing 40 year old apartment building is acquired through the Strategic Acquisition Program (P-1). Renovations are made, rents are restricted to affordable levels, and displacement is avoided.

In a single family area, more variety and flexibility of types of housing are allowed within the scale of a traditional single family neighborhood, including DAUUs (red), small duplexes and cottage housing. (SF-1a, SF-2). A moderate income family is able to buy a cottage home at a price they can afford.

Affordable rental units in an older 4-story building are preserved, because the owner participates in a new Property Tax Exemption program for preservation (P-3).

A man with a misdemeanor conviction in the past, is finally able to rent a suitable apartment due to Improved Access to Housing for People With Criminal Records (T-1).

HALA RECOMMENDATIONS

Background

Seattle enjoys a reputation as being one of the most rapidly growing, desirable cities in the United States. This fast paced growth is straining our urban life, including the affordability of our housing and the livability of our richly diverse neighborhoods. At one end of the socioeconomic spectrum, Seattle is generating unprecedented wealth and affluence that is fueling a robust, highly competitive housing market. At the same time, the need for an increased supply of affordable housing in Seattle has never been greater:

- More than 2,800 people are homeless on a typical night in Seattle. These individuals and families sleep on the streets, under bridges, in parks, or in cars.
- More than 45,000 households in our city – one household in six – are spending more than half their incomes on housing.
- Middle income families are struggling to keep pace with the increasing costs of housing.
- Uncounted others have already left the city in search of affordability.

HALA Resolution

In response to this urgent need, in September 2014, Mayor Ed Murray and the City Council adopted Resolution 31546 calling for the development of a Seattle Housing Affordability and Livability Agenda (HALA) to support development and preservation of a diversity of housing types at a broad range of prices for Seattle residents over the next ten years. Resolution 31546 directs the agenda to include:

- Current and estimated needs for affordable rental and homeownership housing according to household size and income, as follows: up to 30% of AMI², greater than 30% AMI to 60% AMI, greater than 60% AMI to 80% AMI, and, if data is available, greater than 80% AMI based on reliable data sources including the United States Census Bureau and U.S. Department of Housing and Urban Development (HUD);³
- Current and estimated housing development, both income/rent-restricted and market-rate;

² AMI means Area Median Income, which is the median family income for the Seattle area, as published from time to time by the U.S. Department of Housing and Urban Development (HUD), with adjustments based on the average size of a household. Household size is considered to correspond to the size of the housing unit (1 person for 0 bedroom units and 1.5 persons per bedroom for other units), which is the method used by HUD to adjust income limits for subsidized housing for purposes of determining affordability of rents or sales prices. Current rent/income limits for Office of Housing programs are available at <http://www.seattle.gov/housing/development/limits.htm>.

³ The draft Housing Appendix prepared for the staff draft of the Seattle 2035 Comprehensive Plan update provides relevant housing needs information in its most current form: <http://murray.seattle.gov/wp-content/uploads/2015/06/Housing-Appendix-Seattle-2035-Comp-Plan.pdf>

- Current and estimated funding for affordable housing in Seattle and estimated net-new affordable housing and populations served by household income level as a result of such funding;
- Recommendations concerning new programs or policies targeted to market-rate housing development and projected impact on housing affordability and expected availability of housing from such recommendations;
- Recommendations concerning new funding, programs, or policies for affordable housing production and preservation;
- Recommendations for preserving existing income/rent-restricted and unrestricted affordable housing; and
- Recommendations regarding increasing access to permanent housing for people who are currently homeless.

The Mayor and City Council called together leaders in our community to help develop this bold agenda for increasing the affordability and availability of housing in our city by convening a 28-member Housing Affordability and Livability Agenda Advisory Committee. The HALA Committee worked in partnership with a Steering Committee, comprised of key elected and appointed officials from the City, the State, and the Seattle Housing Authority that will, in large part, be responsible for implementation of the HALA recommendations.

Goals and Values

The HALA Steering Committee set out the following goals and values to guide the process:

- **Strengthen our City through Housing Affordability:** When people of all incomes, from individuals to multigenerational families, have the opportunity to live throughout Seattle, our city achieves greater economic growth, environmental sustainability and equity.
- **Ensure Equal Access to Housing to Advance Social and Racial Justice:** People of all races, ethnicities and abilities should be able to access housing in Seattle.
- **Promote the Livability of Seattle's Neighborhoods:** Deliberate planning for how new housing is built should be guided by the values of equity and sustainability to create cohesive, resilient communities with good transportation choices, open space and amenities that ensure a good quality of life for all.
- **Promote Housing Opportunity across Seattle:** Communities and people thrive when safe, healthy and affordable housing options are available throughout the city.
- **Promote Equitable Growth:** People who live in Seattle should be able to afford to stay in their communities as the city grows and prospers. People should benefit from growth, not be displaced by growth.
- **Continue our Commitment to Prioritizing those Most in Need:** When we invest public resources to build homes for people with the lowest incomes, our whole city benefits.
- **Embrace Innovation and Build upon Current, Proven Programs and Policies:** As a national leader in the funding and development of affordable housing, Seattle must continue to take bold and innovative actions to address the housing affordability crisis.

The HALA Process

To accomplish this body of work, the HALA process was broken into three phases of work:

- Understanding housing affordability needs through data and public input;
- In depth discussions of potential solutions and strategies; and
- Crafting and refining a suite of recommendations.

Shared Foundational Knowledge

In order to build foundational knowledge and develop a shared understanding of the issues at hand, City staff presented the HALA committee with data on demographics, the housing market, Seattle housing needs based in part on affordability and availability of housing, and an overview of existing City housing programs. A link to these materials are provided in Appendix B.

In addition, the HALA Committee received Racial and Social Justice training from the Seattle Office of Civil Rights (SOCR). SOCR also developed a HALA-specific “Racial Equity Lens” tool⁴ for the Committee to use throughout the policy evaluation process. The tool served as a check point for accountability to racial equity and created an awareness within the group of the potential opportunities to increase racial equity and the potential unintended consequences of policy proposals.

Community Input

The HALA Committee hosted three Community Open Houses during the months of November and December 2014 to receive community feedback early in its process. An online survey was also made available from December 2014 through January 2015. A summary of the public input received is available in Appendix C.

Strategy Work Groups

HALA Committee and other key stakeholders listed in Appendix D collaborated in work groups for four months, from January 2015 through April 2015. Each work group studied a specific area of housing policy and made detailed recommendations. Breaking into strategy work groups allowed the HALA effort to take advantage of more Seattle citizens’ immense expertise in order to delve into the policy details within each topic area. Staff from the Mayor’s Office, the Office of Housing, the Department of Planning and Development and the Office of Civil Rights provided support to the work groups.

The policy discussions and strategy recommendations generated by each of the work groups were documented and submitted to the full HALA Committee for consideration.

Recommendations

The HALA Committee carefully considered the recommendations put forward by the work groups. After discussing each proposed strategy, the committee members indicated whether they supported, could live with, or did not support the strategy. The strategies on which they had consensus (supported or could live with them) form the basis of the suite of recommendations and priorities in this report.

⁴ Racial Equity Lens: <http://murray.seattle.gov/wp-content/uploads/2015/07/HALA-Racial-Equity-Lens.pdf>

Mayor Murray's Housing Goal: 50,000 Homes in 10 years

In response to the crisis of affordability, Mayor Murray challenged the committee to develop specific, bold and practical proposals that, when implemented, will create or preserve at least 50,000 apartments, houses, and other dwellings within the next 10 years. Mayor Murray divided this goal into two parts:

- Building or preserving 20,000 rent and income-restricted homes
- Building at least 30,000 new market-rate homes

The 20,000 affordable homes will be reserved for people whose incomes are at or below 80% of AMI, including individuals and families at 0-30% of AMI that are currently struggling with homelessness. Achieving this ambitious goal requires that we triple Seattle's current rate of affordable housing production.

Mayor Murray's goal of 30,000 market-rate units is necessary to produce enough housing to keep up with Seattle's rapidly growing population. Currently, we are not keeping pace with demand.

The need for affordable housing exists across a range of income levels that fall below the area median income (AMI) for Seattle residents. Accordingly, the Mayor asked that the HALA recommendations provide a balance of strategies to address the needs at four distinct income levels: 0-30% AMI, 30-60% AMI, 60-80% AMI and above. He asked that the recommendations recognize the diversity of family sizes, types and living situations. Finally, he asked that the HALA keep sight of the affordability and livability strategies that do not tie directly to a production goal.

HALA Recommendations

In response to the call to action in Resolution 31546 and to the Mayor's charge to build or preserve 50,000 homes, the HALA Committee has identified a total of 65 strategies to increase affordable housing in the city. These strategies fall into four main categories:

1. **MORE RESOURCES FOR AFFORDABLE HOUSING:** more subsidy, through a range of revenue generating mechanisms
2. **MORE HOUSING:** maximizing opportunities in the market
3. **MORE SUPPORTS FOR COMMUNITIES:** strategic preservation of housing and protections for vulnerable tenants and homeowners
4. **MORE INNOVATION:** the streamlining of systems and related reforms to cut the costs of housing

In each strategic category, the HALA was asked to consider ways to ensure alignment with the City's racial and social justice initiative goals. This important issue increased the complexity of the issues being addressed in the context of a large urban environment with highly diverse populations and communities.

In response to the Mayor's request that the HALA develop recommendations that produce 20,000 affordable homes across the income spectrum ($\leq 30\%$ AMI, $\leq 60\%$ AMI, $\leq 80\%$ AMI and $> 80\%$ AMI), the

HALA established targets for each income band. The HALA's recommendations work towards a goal of creating 6,000 units for residents earning less than 30% AMI; 9,000 units for residents earning 30 to 60% AMI; and 5,000 units for those earning between 60-80% AMI. The financing mechanisms to achieve this goal are complex and of necessity ambitious, and by our estimation will require an investment of nearly \$3 billion in affordable housing over a ten year period. The totality of the HALA recommendations leave a financing gap of about \$270 million over the next ten years, which we believe can be closed with local, regional, state and, in particular, federal resources in partnership with the private market. It should be noted that the production of units serving homeless populations will also need significant, ongoing additional federal, state and local funding for ongoing operations and services.

Of the many recommendations presented in the report, the boldest and most promising ideas with the greatest potential to impact housing affordability in Seattle are highlighted in the text that follows with a blue outline.

When implemented, we believe these recommendations stand the best chance of increasing Seattle's housing by at least 50,000 apartments, houses, and other dwellings within 10 years from now.

Implementation

The recommendations contained in this report are extensive and reach broadly across all sectors of the city. Many of them overlap and work in concert to create the sought after levels of affordability. The difficult work of implementation begins after the HALA finishes its work and will rest with the Mayor, City Council and City staff. In that implementation process, we understand that further analysis of our ideas must occur, not only to assess scale and fit in specific areas of the city, but to test and refine our assumptions. Further, the cumulative effect of the changes should be reviewed to ensure that the recommendations are appropriately packaged. We furthermore recognize that community input and public comment will be a natural precursor to any change and we encourage comment and input on these ideas.

I. MORE RESOURCES FOR AFFORDABLE HOUSING

Recommended Strategies to Increase Funding and Sources of Subsidy

Seattle is a vibrant city of many cultures, traditions, languages and people. The current cycle of growth – and the escalating housing costs that come with it – threatens the city’s rich heritage. If we do not proactively work to increase the supply of affordable homes across our many neighborhoods, we risk becoming a playground accessible only to the wealthy, and will displace those with less means to communities outside the city, significantly diminishing the diverse richness that defines Seattle.

In order to produce 20,000 affordable homes in ten years, more than tripling current production, we will need new sources of funds. Seattle voters have a history of taxing themselves to support the common good. The vital Housing Levy, which has been renewed five times, is an important source of funding for affordable housing in the city. But it isn’t enough. Taxpayers, nonprofits, the business community and the public sector will all need to work together to produce a comprehensive suite of resources which are dependable and predictable through economic, development, and political cycles. Resources help to build a more economically and racially equitable city, and provides housing opportunities near transit to connect workers to jobs and reduce household costs.

New and Expanded Resources

R.1 Partnership for Mandatory Inclusionary Housing – Development Driven Affordability Strategy

Market forces alone will not build sufficient affordable housing for lower income households, nor can sufficient quantities of subsidized housing be produced in high amenity and opportunity neighborhoods without the participation of and partnership by market-rate developers. Therefore, to ensure more affordable housing is built and that our neighborhoods individually and collectively reflect the demographics of our city, the City should: (1) boost market capacity by extensive citywide upzoning of residential and commercial zones; and (2) match this increased capacity with a mandate to build affordable housing in emerging market-rate buildings. To achieve these goals, this program will encourage market-rate housing developers to produce units versus paying a fee in lieu of performance. To ensure the broadest possible participation in this strategy, commercial, non-residential development would similarly be afforded additional capacity through upzones or floor area ratio (FAR) increases in exchange for payment of a commercial linkage fee. The details of this concept are in Appendix E.

As constructed, this strategy is expected to yield approximately 6,000 affordable units at or below 60% of AMI, in numbers exceeding other proposed strategies, including a citywide linkage fee. The HALA recognizes the complexity of this proposal, but firmly believes that the benefits associated with tying affordability to necessary upzones, locating new affordable units in high opportunity areas, and creating significant quantities of affordable units at or below 60% of AMI through partnership with market-rate developers outweigh the challenges of implementation.

R.2 Enact a Real Estate Excise Tax (REET) for Affordable Housing
 Washington’s REET is an excise tax imposed any time a property is conveyed to a new owner. It is assessed on the property seller, and levied as a percentage of the sale price. King County currently collects REET at the maximum rate allowed under state law: 1.78%. The state legislature should enact legislation that would allow cities, via Council action, to impose an additional REET, so long as it is specifically dedicated for affordable housing. This additional REET capacity, which the HALA recommends be 0.25% above and beyond the existing State cap, would allow local jurisdictions to capture a portion of the appreciation of real estate prices upon the transfer of property and reinvest it in affordable housing. This increased REET would provide a relatively stable source of funding for investments in affordable housing for low-income people.

R.3 Renew and Increase the Seattle Housing Levy
 In 2009, Seattle voters approved, for the fifth time, a property tax levy dedicated to affordable housing for low-income residents. The Seattle Housing Levy is a cornerstone of the City’s housing resources and is critical to addressing the housing needs of the most vulnerable people in our city. The Seattle Housing Levy funds affordable housing development and preservation, rental assistance to prevent homelessness and support for first-time homebuyers. The levy directs a significant portion of funding to homeless and extremely low-income households. Housing Levy capital funds are currently leveraged three to one, bringing other public, philanthropic and private resources for affordable housing to our community. The current \$145 million Seattle Housing Levy runs through 2016. The City should renew and double the size of the Seattle Housing Levy to provide more local resources to build and preserve housing for low-income people and to provide operating subsidies at the lowest income levels. Production of units serving homeless populations will need significant, ongoing additional federal, state and local funding for ongoing operations and services.

R.4 Renew and Expand the Multifamily Tax Exemption Program
 Since 2004, the City of Seattle has administered a Multifamily Tax Exemption (MFTE) program that provides a property tax exemption to market-rate and nonprofit housing developers who build housing units affordable to renter households between 65-85% AMI. This program supports nearly 2,000 affordable units in mixed income buildings across the city. The current program is set to expire at the end of 2015. The City should renew the program while continuing to calibrate program requirements to achieve participation from a range of projects, including projects in areas with rapidly rising rents and areas with lower rents that provide the added value of economic development. The MFTE program should continue to target affordability to low-income households (roughly 60-80% AMI). In addition, the City should strengthen the program with the measures below.

- **R.4a Expand Residential Target Areas.** State law requires the MFTE program to be limited to designated Residential Target Areas (RTAs), which currently generally coincide with the boundaries of Urban Centers and Villages. To allow this program to create affordable units outside Urban Villages and Urban Centers, the City should expand eligible RTAs to all areas zoned for multifamily housing.
- **R.4b Expand Unit Types to Include Congregate Residences.** City code currently excludes congregate residences from MFTE participation. The City should include a congregate unit type to provide the tax exemption for smaller units restricted at lower affordable rents.
- **R.4c Promote Family-Sized Units.** Currently, the program addresses units with more than 2 bedrooms by applying the 2 bedroom rent and income limits but assuming higher occupancy

rates. In some cases, this could act as a disincentive to the creation of larger bedroom units because it requires deeper affordability than may be feasible. To address this, the City should adopt an appropriate income/rent requirement for 3 bedroom unit types that provides an incentive equal to that for building other types of units.

- **R.4d State Law Changes to Expand Affordability Options.** State law currently limits the tax exemption on a development that sets aside 20% of its units to a maximum of 12 years. This tool works well for creating units affordable at 65-85% AMI for a limited period of time, but creates a barrier for achieving longer-term affordability, or affordability to households with lower incomes. The City should pursue state legislation to create a more flexible program that allows a range of options, including options for up to 24 years of participation, to serve lower-income households in a smaller percentage of units, and to create the opportunity for projects to renew eligibility beyond the initial 12 year period.

R.5 Establish a Local Voluntary Employers Fund
Explore Partnerships with Employers and Major Institutions

Attracting and retaining workers at all skill levels is vital our economy, particularly in a time of robust job growth. Employers can and should be part of the solution to provide workforce housing for their employees in Seattle. The City should identify local employers willing to voluntarily contribute to a city fund that builds and preserves affordable workforce housing. This model has proven successful in other high cost areas, including in Silicon Valley, where scores of employers, employer foundations, state and federal housing agencies and private citizens have voluntarily donated to a trust fund for over a decade to address the community’s full range of affordable housing needs, including but not limited to the needs of their employees. Building on successful models in other cities, the City should also explore partnering with major local employers and institutions to collaborate on innovative co-developments or social investment platforms.

R.6 Expand the State Housing Trust Fund

The Washington State Housing Trust Fund is a critical component of the funding system needed to build and preserve affordable homes in Seattle and an important source of leverage of the Seattle Housing Levy. The Housing Trust Fund provides funding for housing for low- and moderate- income households, people with special needs, seniors and persons with disabilities. The majority of housing funded with the Housing Trust Fund serves households with special needs or incomes at or below 30% AMI. In addition, the Housing Trust Fund supports weatherization and home repair programs like Energy Matchmakers, which can help decrease the cost of energy for low-income families. The state legislature should increase the size of the State Housing Trust Fund to help cities across the state create safe, healthy and affordable homes for Washington residents.

R.7 Reinstate the City Growth Fund

In 1985, City Council established a growth-related program to address the large amount of low-income housing being lost in Seattle’s downtown area due to redevelopment. The Growth Fund used a set formula to calculate the amount of funding generated from property tax revenues tied to new construction downtown and used that revenue to acquire and rehabilitate existing low-income housing that was at risk of being redeveloped and to develop new low-income housing. The program was eliminated in 2002. The City should reestablish a citywide Growth Fund that dedicates a portion of the property tax revenue tied to new construction to the production of affordable housing. The City should

consider the impacts the scale of a growth fund could have on other critical general fund investments that relate to housing stability, including human services allocations.

R.8 Establish a Supportive Housing Medicaid Benefit

Some people in Seattle not only suffer severe mental or physical illness but also lack safe housing. For these people, among the most vulnerable members of our community, homelessness and health challenges reinforce and worsen one another. Research shows that for many of these people, permanent supportive housing – combining affordable housing with tenancy supports and housing case management for people with complex health challenges and long histories of homelessness — is the solution. The City’s ability to sustain and expand this resource of permanent supportive housing is constrained by the lack of adequate operating and services funding. In light of the opportunities created by the Affordable Care Act, Medicaid expansion and the State Innovations in Medicaid grant, the state should create, and the federal government should approve, a Medicaid benefit for services in permanent supportive housing for chronically homeless people with disabilities. This item should be included in the 1115 Medicaid Waiver currently being prepared for submission to the federal government by the Washington State Health Care Authority. The benefit would reimburse housing providers for tenancy support services that help Medicaid-eligible residents maintain stable housing, increase access to health care and reduce health care costs over both the short and long terms.

R.9 Hotel Tax on Short-Term Rentals

Following the lead of other jurisdictions, the City should, in conjunction with the county and state governments, explore regulating and collecting hotel taxes from short-term rentals such as Airbnb or VRBO. Under such an approach, short-term rentals would collect and remit taxes to the county that originate directly from guests as an extra charge on their bill, the same way that hotels collect them. In addition, the City should commit to dedicating these taxes to affordable housing.

R.10 Explore a Social Impact Investing Model for Housing in Seattle

The City should use the opportunities of significant regional growth in private venture capital activities to convene stakeholders to explore local opportunities for Social Investments in housing. This can include the use of social impact investments and social impact bonds. Social Impact Bonds use private investments to implement or expand prevention and early intervention social programs. Private investors can earn a financial return if programs achieve desired goals, as demonstrated by third party evaluators, and potentially reduce future government expenses for the target populations. Other jurisdictions have explored or piloted Social Impact Bond models that address various issues, including chronic homelessness, homeless children and jail recidivism. Social Impact Investments are usually loans provided by social investors to nonprofit organizations. Unlike grants and donations, these are loans which organizations repay and use to create real social impact. They can be used for a host of purposes, including capital investments.

Land Utilization Opportunities

L.1 Prioritize Use of Public Property for Affordable Housing

Quality infill sites for multifamily development are both limited and costly in Seattle, especially in areas that are desirable for their location efficiency and access to amenities. The City and other public entities own significant surplus and underutilized land that should be evaluated as resources that could be used for the development of affordable housing although Seattle Comprehensive Plan goals, such as open space, should also be considered.

The City should work with other jurisdictions including the State of Washington, King County, Port of Seattle, Seattle School District and Sound Transit, to create an inventory of public properties and evaluate these to determine potential opportunities for affordable housing.

For City owned property, the City should mandate that surplus and underutilized properties that are suitable for housing development be prioritized for affordable housing. It should explicitly allow the sale or lease of City-owned land at less than fair market value for affordable housing purposes, recognizing that this comes at a cost to other city needs and general funds.

When land is not suitable for housing development, the unrestricted proceeds from sale should be dedicated to affordable housing development. The City should also create a mandate for the co-development of affordable housing in conjunction with new public buildings and investments such as community centers, libraries, public schools, and other institutions of learning.

L.2 Support Strategic Site Acquisition for Affordable Housing

While proximity to transit hubs can be especially beneficial for lower income households, land in these prime locations can be prohibitively expensive for those who develop income- and rent-restricted housing. The City should expand resources available for site acquisition either directly or indirectly in the following ways:

- Explore establishing a Public Development Authority to purchase, receive, hold, and transfer properties for affordable housing development.
- Provide seed capital to the Regional Equitable Development Initiative (REDI) revolving fund to support land acquisition
- Explicitly allow the sale or lease of City-owned land at less than Fair Market Value for affordable housing purposes
- Use Sound Transit 3 funding to buy land around stations to increase ridership through provision of affordable housing.

Financing Options to Lower Costs of Building Affordable Housing

Current financing options for the development of affordable housing in Seattle limit the range of projects built and are restricted by the availability of public resources. The City of Seattle should develop new financing tools to increase public and private investment in income restricted housing. These tools should be based on strong underwriting thresholds and possible third party evaluation of borrower capacity.

F.1 Provide Flexible Low Cost Loans

Seattle has an established program and history of providing low-interest loans of City funds to help finance affordable housing development. To build upon this success, the City should expand its loan offerings to accommodate a range of project types, such as large projects that can support debt service on a subordinate permanent loan, or projects that only need short- to medium-term financing to reduce upfront equity investment. The City should explore a bond issue to seed capital to the loan fund, which could revolve and provide new loans as old loans mature or refinance.

F.2 Develop a Credit Enhancement Program

The cost of financing is a significant constraint on affordable housing development. The City's high credit rating provides an opportunity to lower the cost of financing to facilitate development, helping to achieve long-term affordability. The City should develop a credit enhancement program in partnership with multiple lending institutions, focused on increasing developers' long-term borrowing power for affordable and mixed-income projects. The program should be executed in a way that does not increase the development timeline and should have strong underwriting thresholds and third party evaluation of borrower capacity.

F.3 Explore Short-Term Lending

Fund balances maintained across the City of Seattle could provide a modest resource for short-term lending at a low cost. The City of Seattle's Office of Housing currently has a program that authorizes use of certain fund balances for this type of activity, but the use of these funds is generally limited by the availability of take-out financing. In the event there is a rise in demand for short-term loans, the City should research and thoroughly understand the potential and limitations of this resource; for instance, the length of time such funds could be outstanding, the expected interest rates charged by different funds over time and the rough order of magnitude of fund balances that would be suitable for lending.

II. MORE HOUSING

Recommended Strategies to Increase and Diversify Seattle's Housing Supply

Increase Opportunities for Multifamily Housing

Many Seattle residents and people who want to live in Seattle are frustrated in their search for an apartment, townhome, duplex or similar housing. Their opportunities are limited by the relatively small portion of Seattle's land zoned for multifamily housing (such as apartment buildings, condominiums, townhouses, duplexes, etc). In addition, only about 10% of the parcel land area is zoned for Lowrise (LR), Midrise (MR) or Highrise (HR)⁵ multifamily housing. In areas of the city where new multifamily development is feasible and where demand is highest (i.e., where people want to live, based on access to amenities, transit and other livability factors), development sites are in short supply.

MF.1 Increase the amount of land zoned for multifamily housing

The HALA Committee recommends devoting more land to multifamily housing especially in areas near amenities and services such as transit and schools. Any increase in development capacity should be tied to requirements for providing affordable housing.

There is a wide range of circumstances that present good opportunities to add or expand multifamily zoning in ways that complement neighborhoods, leverage existing resources and help the environment. New multifamily zoned land should be prioritized near green belts, open space and parks; near schools and community centers; and within walking distance of the frequent transit network. While an increase in multifamily zoned land to spur production of new multifamily housing is not expected to immediately decrease rents in the short-term, ensuring a growing supply of larger multifamily housing across the city can help to stem rent increases over the long-term. This strategy, which is expected to impact 6% of Seattle's Single Family zones (3% in urban villages and 3% in the walksheds described above) should be viewed as an investment in Seattle's overall housing market affordability for both current and future generations.

Strategies to preserve quality affordable multifamily housing and mitigate displacement must be a critical component of *any* plan for short- and long-term growth. There is risk of some increased displacement pressure in areas that are upzoned (that is, where zoning is changed to increase development capacity on a site). However, linking upzones directly to a requirement for affordable housing responds to some of the need that is fueled in part by growth. Additional strategies focused specifically on mitigating displacement will also be needed.

⁵ Zoning map of the City of Seattle: <http://www.seattle.gov/dpd/Research/gis/webplots/smallzonemap.pdf> and more information on zoning designations: <http://www.seattle.gov/dpd/codesrules/codes/zoning/default.htm>

MF.2 Expand the boundaries of Urban Villages to reflect walksheds for transit, amenities and services

The City’s designated Urban Villages are the places where the most new multifamily housing and other amenities like transit service, parks and libraries are directed according to plans and policies. Some Urban Village boundaries do not reflect logical and rational land use patterns or proximity to transit and services. The City should expand Urban Village boundaries to areas within a 10 minute walking distance to frequent transit. A 10 minute walk – or about ½ mile – is the rule of thumb distance for how far most people are willing to walk to transit. To address concerns that proposing zoning changes based on transit locations could result in misalignment of zoning if transit services move, change or are eliminated, the City should ensure that transit strategies are aligned with zoning changes.

The City should also expand Urban Village boundaries to areas adjacent to major community resources and amenities such as schools, parks, community centers and green belts. Locating a variety of multifamily housing types adjacent to these resources would allow more residents, with a greater variety of household sizes and incomes, to make full use of public investments in urban infrastructures, and it supports the livability of Seattle’s growing population of multifamily housing residents. The City should accomplish this action through policy and map changes in the major update of Seattle’s Comprehensive Plan, referred to as “Seattle 2035,” expected in early 2016.

MF.3 Increase housing options on single family zoned land within Urban Villages

Currently there are more than 800 acres and more than 6,500 lots zoned for single family homes within existing Urban Village boundaries. However, Urban Villages are the lynchpin of Seattle’s growth strategy, due to the concentration of community services, amenities and frequent transit in those areas. In order to increase the range of housing options and encourage the addition of new housing in appropriate locations, the City should convert land within Urban Villages zoned primarily for detached single family development to the City’s existing Residential Small Lot (RSL) zone⁶ or Lowrise⁷ multifamily zones. These actions would provide a greater array of housing options in order to accommodate a greater proportion of growth within Seattle’s Urban Villages.

MF.4 Add multifamily zoning to create transitions next to more intensive zones

Throughout Seattle there are places where mixed use or commercial zones back up directly to Single Family zones. This is most common within a block or two from arterial roadways. Lack of transitions between sometimes large commercial or mixed use structures and single-family backyards or side yards creates odd scale relationships and underused space. To create better transitions between areas allowing for higher and lower density, the block(s) just outside the higher density area should be converted to Lowrise multifamily zoning. These transitional areas will create new opportunities for multifamily housing. Generally, residents of new multifamily housing in these areas will benefit from proximity to services and transit corridors. The strategy will have positive long-term livability and urban design benefits by creating logical and sensitive transitions between high and low density areas.

⁶ http://www.seattle.gov/dpd/cs/groups/pan/@pan/documents/web_informational/dpds021570.pdf
⁷ http://www.seattle.gov/dpd/cs/groups/pan/@pan/documents/web_informational/dpds021571.pdf

Maximize Housing Opportunities in Existing Multifamily Areas

In addition to designating new lands for multifamily housing, there are a number of ways existing zoning and building codes can be modified to maximize housing opportunities in places already designated for multifamily housing. The strategies below should be used in conjunction with the mandatory inclusionary zoning strategy as a way to ensure that any increase in density produces affordable housing.

MF.5 Modify height limits and codes to maximize economical wood frame construction

Wood frame construction is among the most cost effective new buildings for housing. This economical "Type V" building type can generally be built to 75' when five stories of wood frame construction is built on top of a two-story concrete base. Height limits in the zoning code and to some extent limitations in the building code curtail construction in this cost-effective "sweet spot" – with a maximum number of stories that can be built safely and practically with low-cost wood framing. Fire and life safety protections require high rise structures that are 75' tall and above to use more expensive concrete or steel framing, which adds to the per square foot cost of building.

- MF.5a Change 65' zoning code height limits to 75' or 85':** 65 feet is the common height limit in Seattle multifamily zoned areas and makes up 65% of all lands zoned for Commercial or Neighborhood Commercial. The City should change zoning code height limits from 65' to 75' to harmonize zoning regulations with maximum height for Type V wood frame construction in the building code. This change would allow buildings to maximize cost efficiencies in "Five over Two" construction and would allow another story of housing on some sites without dramatically changing the scale of development. An 85' height limit could also be explored in conjunction with other adjustments to the building code to allow a sixth story of wood frame construction. An increase in height to 75' (or 85') would create significant value and should be tied to requirements for affordable housing.
- MF.5b Consider increasing 30' and 40' zones:** Upzones within this increment would significantly lower the per square foot cost of building new housing. The same or similar investments in construction of a base story and infrastructure could support five stories of housing instead of two or three with this change. These increases in development capacity would create significant value and should be linked to affordable housing requirements.
- MF.5c Consider building and fire code modifications to allow six stories of wood frame construction:** Distinct from the proposals above, the City should review the possibility of stretching economical wood frame construction even further. This could take the form of building code changes to increase the height limit or allowed number of wood frame stories. This action needs careful vetting to ensure fire and life safety protection. For examples, this could be accomplished by expediting review and approval of emerging building technologies

such as Cross Laminated Timber (CLT) as is being done in the province of British Columbia, and has been explored in demonstration projects in London and Melbourne.⁸

MF.6 Remove code barriers to small flats or apartments in some multifamily zones

In some of the Lowrise multifamily zones, townhouse or rowhouse forms of development are favored by the code over stacked flats (apartments or condominiums located on different levels in a building). This can limit production of potentially greater numbers of housing units, or limit the housing product to ownership units instead of rental units. The City should change the code to allow more stacked flats in all Lowrise zones.

MF.7 Focus on existing multifamily zoned areas with significant underused development capacity

Some parts of the city have multifamily zoning that is not being developed. These may be lower rent areas, including areas lagging in livability features and amenities. The City should identify these areas and focus livability components, such as streetscape improvements and parks, or other targeted incentives to spur housing development there.

MF8. Remove recently created barriers to the creation of congregate micro-housing

The Committee encourages the City Council PLUS committee to be prompt and diligent in its anticipated review of whether or where congregate micro-housing should be expanded (it is currently allowed in the NC-3 and above zones) and modify recently created barriers to the creation of congregate micro-housing by creating zoning and locational criteria that allow congregate micro-housing to be built by market developers in dense areas of Urban Villages and Urban Centers with 30' or 40' height limits. Current zoning criteria restricts congregate micro-housing to zones where the height limits and land cost make congregate micro-housing development unlikely.

Increase Access, Diversity and Inclusion within Single Family Areas

Approximately 65% of Seattle's land⁹ – not just its residential land but all its land – is zoned single family, severely constraining how much the City can increase housing supply. Among its peer cities, Seattle has one of the highest percentages of land dedicated *exclusively* to detached single family structures and a small number of accessory dwelling units. The exclusivity of Single Family Zones limits the type of housing available for sale or rent, limits the presence of smaller format housing and limits

⁸ Through local amendments to State and National building codes, Seattle currently allows one more story of wood frame construction over a concrete base (5), and greater maximum height of a wood framed structure from grade than most other cities in the country. Limits on the height and number of stories of wood structures are generally linked to two things: the maximum heights fire ladder trucks can access, and seismic/structural limitations on the forces wood framing can withstand. An independent Construction Codes Advisory Board (CCAB) approves any local amendments to the Seattle Building Code. In 2013 and 2014 an innovation committee of CCAB received presentations and had discussion of CLT advanced technologies. To approve CLT, further specific review by CCAB, as well as drafting of specific building code standards to demonstrate equivalent safety protections would be required.

⁹ excluding street ROWs and including parks and open spaces. See slide 41 at http://murray.seattle.gov/wp-content/uploads/2015/06/All_BackgroundDataSlides_4Nov14-FINAL-Updated-6-26-2015.pdf.

access for those with less income. Seattle's zoning has roots in racial and class exclusion¹⁰ and remains among the largest obstacles to realizing the City's goals for equity and affordability. In a city experiencing rapid growth and intense pressures on access to affordable housing, the historic level of Single Family zoning is no longer either realistic or sustainable.

SF.1 Increase Supply of Accessory Dwelling Units and Backyard Cottages

Although both types of accessory units are allowed¹¹, citywide production has been lower than expected. Only about 1% of single family lots have an accessory dwelling unit ("ADU"), and only 159 backyard cottages (also known as detached accessory dwelling units, or "DADUs") have been built since they were legalized in 2010. ADUs and DADUs can help provide housing in a number of ways. Accessory units are a good option for extended family or for the sharing of housing resources. They allow homeowners to earn additional income which can help some homeowners stay in their homes. ADUs and DADUs can also provide an additional rental housing option in family-friendly parts of the city and can be constructed in keeping with neighborhood scale. The opportunity is large, since there are roughly 120,000 single family lots in Seattle. ADUs and DADUs are expected to serve moderate income households in the 80% to 120% AMI range.

SF.1a Remove Barriers Code Barriers to Accessory Dwelling Units and Backyard Cottages

Although both Accessory Dwelling Units and Backyard Cottages are allowed in Single Family zones, several of the associated land use regulations are deterring their production in significant quantities. Some of the land use code regulations that are in place function as a barrier for a homeowner to take on adding an accessory unit to their home. The same code barriers may not be providing a strong public policy benefit. Therefore, in order to boost production, the City should remove specific code barriers that make it difficult to build ADUs and DADUs:

- Remove the parking requirement. Currently, an off-street parking space must be created for an additional ADU or DADU.
- Remove the ownership requirement. Allow both the accessory and principal unit to be rented. Currently, the owner must live in one of the two. The ownership requirement is a barrier to securing financing to build an ADU/DADU. Explore the opportunities and implications of Unit Lot Subdivision which would allow separate ownership of the primary dwelling and the accessory dwelling.
- Allow a single lot to have both an ADU and a DADU. Currently only one is allowed.
- Make minor modifications to remove barriers within existing development standards for DADUs, such as height limits, setbacks, maximum square footage, and minimum lot size to ensure constructability.

Removing these barriers is expected to boost production of ADUs and DADUs to levels in the range of 5% or more of all single family lots within 10 years, which could produce 4,000 or more new homes.

¹⁰ See discussion of racial restrictive covenants in Seattle.
http://depts.washington.edu/civilr/covenants_report.htm

¹¹ ADUs were legalized citywide in 1994 and DADUs in 2010.

SF.1b Create Pre-approved Standard Plans for Backyard Cottages

Most homeowners are not in the design or construction business, so taking on a DADU construction process can be daunting. The City should make this process easier by creating a set of pre-approved plans for Backyard Cottages. The City should sponsor a design competition or call for submittals from architects or designers that could be broadly publicized to help increase awareness and interest in backyard cottages. The catalogue of pre-approved plans could include a wide range of options including plans to meet a variety of site conditions, pre-fabricated or modular homes, or other options. Once pre-approved, homeowners could easily access the pre-approved plans by selecting from a catalogue or online resource, and they could be potentially provided at no cost. Pre-approved plans would allow a homeowner to receive a permit ‘over-the-counter’ from DPD.

SF.1c Develop a clemency program to legalize undocumented ADUs and DADUs

Due to strong demand for housing options, there are a large number of unpermitted informal ADUs and DADUs in Seattle’s single family neighborhoods today. The City should provide an opportunity for these units to be legalized, so that the ADUs and DADUs become subject to the City’s Rental Registration and Inspection Ordinance (RRIO) and the City can ensure these units are safe. Legalization would also provide occupants with better access to tenant protections regulations and allow the City to establish accurate counts for housing planning and policies. The City should create a clemency program for a set duration and invite owners of unpermitted units to receive free permits to legalize and document these existing units with the City. The clemency program should occur after other remaining code barriers – such as the ownership requirement – are removed.

SF.2 Allow a Broader Mix of Lower Density Housing Types within Single Family Areas

The City should allow more variety of housing scaled to fit within traditional single-family areas to increase the economic and demographic diversity of those who are able to live in these family oriented neighborhoods. The broader mix of housing would include small lot dwellings, cottages or courtyard housing, rowhouses, duplexes, triplexes, and stacked flats. Although a broader variety of housing would be permitted, the total amount of “massing” or building area on a single lot should remain the same (excluding ADUs and DADUs). This does not eliminate the option of single family housing; rather, it increases the opportunities for more efficient use of very limited land resources. The program could take the form of land use code changes, or it could begin as a pilot program with a limited time period and a maximum number of units. At the conclusion of a pilot phase, final code changes should be developed based on the best examples. The City should also explore methods to create affordability restrictions, perhaps through community land trusts, in these new housing types.

This low-density use would be less intense than the Lowrise 1 multifamily (LR1) zone. The City could also modify and expand use of the Residential Small Lot (RSL) zone that is already in the Land Use Code. The City should allow units in a duplex or a triplex to be separately owned, as well as allowing a traditionally scaled single family structure to be occupied by multiple different households in different units within the structure. This strategy is consistent with the HALA recommendation to promote homeownership opportunities within the city (Strategy H.1).

New housing types produced in single family areas are expected to serve moderate income households above 80% AMI and represent increased homeownership opportunities and more family-sized housing. While homes produced are not expected to be affordable at lower income levels, they should be significantly less expensive than new large detached single family structures – the only other type of new housing commonly produced in single family areas. The program could also make development of new housing more feasible in some of the lower cost single family areas of the city.

While strategies to increase flexibility and variety in Single Family zones have strong potential to improve housing affordability and access, some question whether they go far enough to remedy past racial and social injustice. Limiting the locations where new flexibility would apply could continue patterns of exclusion. And in the absence of specific affordability restrictions, it may not be certain that expanding housing types would result in housing opportunities for households with incomes generally between 80-120% AMI and persons of color. Therefore, monitoring of efforts to diversify housing options in single family areas should be included as the strategies are implemented. This monitoring would also be consistent with Seattle's Race and Social Justice Initiative.

SF.3 Allow Flexible Reuse of Large, Unique Development Sites

When former school sites, church properties, military installations, publicly owned lands, corporate campuses among others are ready for redevelopment, these sites are often not zoned to allow multifamily housing. When they become available, these sites present a good opportunity for infill housing. There is a strong connection between this land use action, and other actions described in this report to encourage the use of surplus public property because many publicly owned properties that become available are not already zoned to support housing.

The City should revise the Planned Residential Development (PRD) zoning tool to enable denser multifamily housing through a master plan (not a rezone), and to allow its use without requiring City Council action. The current requirement of a City Council vote to approve a PRD results in high uncertainty and long approval timelines due to the volatility of land use decisions when they become politicized – especially when there is strong localized advocacy against a development. A revised PRD should still include a strong public outreach component that would take place during the review of a coordinated master plan – including the Design Review process and other community engagement as needed. In order for a developer to access this tool, the City should require the inclusion of rent- and income-restricted housing. The City should ensure that the affordable housing produced is at a very low income level (such as 60% AMI and below), and that it has a long term or permanent affordability (such as 50 years). This tool could be used in conjunction with strategies below to create opportunities for permanent affordable homeownership units.

SF.4 Oppose Neighborhood Conservation Districts

During 2015, a proposal to establish a Neighborhood Conservation District program was brought for Council consideration. The program would allow groups of property owners in single family areas and lowrise multifamily zoned areas to establish conservation design guidelines that would be specific to areas as small as a block or two. As proposed, the guidelines would limit architectural style of new development in those areas and the program would set up an additional review panel that would need

to give approval before building permits could be issued for infill development or alterations. The HALA recommends that the City not establish a Neighborhood Conservation District program as currently proposed. Such a program could reduce the areas of the city available to increase housing supply and affordability, and is thus at cross purposes with other recommendations in this report. The program could make approvals for new housing more time consuming and expensive. The program could also be used to limit the diversification of lower density areas of the city by creating a new avenue for existing homeowners to oppose the addition of new infill housing in their neighborhoods.

Promoting Family Friendly Housing

Seattle has a very low percentage of families with children compared to peer cities and the remainder of King County. Most new multifamily housing consists of only studio and one bedroom units. Many families can't find housing that meets their needs that they can afford. HALA recommends increasing production of new family-friendly rental housing – both affordable and market rate – primarily through funding priorities, and secondarily through zoning tools.

FF.1 Formalize family-sized units and/or family-friendly housing design

The City should establish clear criteria in the zoning code for family-sized housing units or family-friendly housing design features. With these criteria in place, family housing can be supported through incentive zoning or other programs. Criteria could include minimum unit size and/or number of bedrooms for a family-sized unit. Another approach could be to create family friendly design guidelines to encourage a broader range of family friendly design features, like sightlines to useable open space, stroller-friendly entries, or mudrooms.

FF.2 Maintain a family-friendly housing focus when implementing other housing actions

A number of the other recommendations in this report can be tailored to help support families. For example, the Multifamily Tax Exemption (MFTE) program categories should be recalibrated so that the incentive for 2-bedroom units is stronger and 3-bedroom and larger units are encouraged. As new resources to build housing become available through other actions, the City should prioritize programs that house families most in need. Land use actions, particularly those that expand housing options in Low-density zones and Low and Midrise Multifamily zones, can also support more opportunities for family housing.

Three bedroom or larger units in market-rate multifamily buildings make up only 2% of the existing supply and only half of those, or 1%, are affordable to people at 80% of AMI. In order to encourage market-rate developers to build 3 bedroom or larger units, greater incentives should be provided as part of incentive zoning to developers who include family-sized units in their developments. One way this could be achieved would be through exempting some number of 3 bedroom units from the Floor Area Ratio calculations.

In addition, the HALA recommendation for an increase in multifamily zoned lands with an emphasis on additional Lowrise zones, can spur more affordable alternatives for families if specifically done for that purpose. The City should explore new tools to help ensure that the development capacity added through rezoning actually yields a greater supply of family sized housing. For example, the City could look at how it might implement a family-friendly multifamily zoning classification.

FF.3 Family-sized Housing Action Plan

In 2014, the Seattle Planning Commission released a thorough *Family Sized Housing* report. The report recommended that the City develop, fund and monitor a plan specific to housing families in order to more fully understand family housing needs and to arrive at effective solutions to support families staying in Seattle. Actions could include researching best practices in other cities, adopting and monitoring a goal for production of new family-sized units in multifamily housing, researching trends to better understand changing housing needs and preferences of families with children, and/or appointing family constituents to key housing, land use and urban design advisory boards.

Reduce Housing Costs by Reforming Off-street Parking Policies

City requirements that developers provide quotas of off-street car parking for each residential unit they construct are a little-attended but critical factor in Seattle's housing affordability challenge. Parking quotas are a major driver of the construction cost of new housing, especially of small dwellings in more-urban zones. They can dramatically constrain the supply of new dwellings built, because off-street parking requirements consume large shares of building lots. Off-street parking requirements or quotas have a large impact on the financial viability of new housing for both market and affordable housing development. Parking quotas act as density limits, inflate the average size and price of housing units, and prevent some smaller properties from being developed altogether. The City should review parking policies and requirements to make sure they support housing affordability. This work should be tailored to recognize that parking challenges can vary widely by neighborhood.

Prk.1 Reduce parking requirements for multifamily housing outside of Urban Villages or Centers

Development in multifamily zones outside of Urban Villages and Centers must provide one parking space for each housing unit (except when the frequent transit reduction discussed below is applied). Recent research shows that throughout Seattle, multifamily buildings continue to have excess parking capacity. The City should consider reducing parking quotas further in circumstances when a project outside Urban Villages and Urban Centers are served by frequent transit, or if the housing is near other services or community resources.

Prk.2 Do not re-introduce parking mandates in Urban Villages or Centers

There is typically no requirement to build new off-street parking when housing is developed in Urban Villages and Centers. The City should maintain this policy of not requiring off-street parking in Urban Villages and Centers as reintroducing parking mandates would increase both the cost and reduce the supply of housing.

Prk.3 Definition of Frequent Transit Service

New housing development in multifamily zones that are outside of Urban Villages and Centers can access a 50% reduction in their parking quotas if the site is within $\frac{1}{4}$ mile of a frequent transit stop. In the past, averaging of the transit service schedule at a stop or station could be used to meet the criteria for frequent transit service. A recent Hearing Examiner decision invalidated the averaging technique making fewer potential project sites eligible to access the parking quota reduction. The City should pass legislation to clarify and change the code to allow averaging. This change will allow production of more housing and reduce the cost of the construction by requiring fewer costly parking stalls to be built.

Prk.4 Remove the parking requirements for smaller format housing types in single family areas

The Low Density Residential Zone described above would introduce into single family areas a variety of smaller format housing such as cottages, courtyard housing or small duplexes or triplexes. Fitting additional housing on a lot while maintaining the character of a single family neighborhood might not be possible if a new parking space for each dwelling is also required. To make these innovative housing types work, the 1:1 parking requirement should be reduced or removed. The City should not require parking for these new low-density residential housing types.

Prk.5 Consider removing the parking requirement for single family homes

As urban residents begin to benefit from increased access to transit, the efficacy of requiring one off-street parking space for every single family home should be evaluated. The space occupied by an off-street garage or parking space could be used instead to accommodate space for housing, including an accessory dwelling unit. The most common parking configuration – a driveway and curb cut accessing a garage from the street – occupies curb space that could be used to provide a parking space on the street. A 1:1 parking requirement eliminates exactly as many on-street spaces as it mandates off the street, causing no increase in parking supply, bisecting sidewalks with countless driveways, and uses buildable housing space for redundant (and expensive) parking. Therefore, the City should consider removing the parking requirement for single family homes.

III. MORE SUPPORTS FOR COMMUNITIES

Recommended Strategies for Preserving Housing and Increasing Access for Vulnerable Tenants and Homeowners

Renters become increasingly vulnerable in a competitive rental market with rapidly escalating housing costs. These recommendations support housing affordability through preservation, tenant protections and increasing access to housing. They include engaging private and nonprofit landlords in serving more renters with barriers and providing landlord supports. A number of these strategies seek to address racial inequity.

Launch a Proactive Preservation Effort

Cities are in a constant process of depreciation and renewal. Old buildings come down; new ones go up. In Seattle right now, we are in a phase of demolition and construction, as the city's population and economy grows. The redevelopment process can cause displacement. When older housing is demolished, the previous tenants rarely can afford the significantly higher rents of newly constructed housing. Efforts to mitigate displacement, without interrupting housing growth critically needed to keep pace with strong demand in our city, must be a foundational element of Seattle's housing strategy.

Every year the city loses some amount of less-expensive private market housing due to demolition, and redevelopment, fueled by rising demand in neighborhoods across the city. Additional affordable housing is sometimes lost through expiring use restrictions. The reality of ongoing displacement of low-income households and the need to mitigate its impacts – was a consistent theme in many HALA discussions and a major concern raised in the public forums. This attention to displacement was particularly acute, especially given concerns that the impacts of displacement are felt disproportionately by communities of color. While the City is planning for growth and new development, the City must also institute a fully funded preservation strategy to reduce displacement and minimize the loss of affordable housing.

P.1 Pursue Opportunities to Acquire and Finance Existing Affordable Multifamily Housing

The City should commit financial resources to empower the Office of Housing to lead an expansive preservation effort. This effort would involve seeding a large-scale fund to finance activities such as the acquisition/renovation of multifamily properties. This effort should signal an expansion in the mission of the Office of Housing to oversee Seattle's broader affordable housing inventory and ensuring the necessary staffing for the Office of Housing to lead the effort. The effort should strive to take advantage of acquisition opportunities in areas of the market that remain affordable, but that are at risk due to increasing market pressures across Seattle.

P.2 Make Strategic Investments to Minimize Displacement

The City of Seattle should work with communities to identify areas of the city where residents and cultural communities may be at risk of displacement. In areas of high displacement risk, the City should strategically deploy geographically targeted preservation strategies and increase affordable housing development to reduce displacement, enhance community anchors and support other public investments in economic development, parks and transit. In addition, the City should identify areas of high opportunity and make strategic investments in affordable housing to improve equitable access to neighborhoods. Data analysis and effective community outreach will help identify how growth may

benefit or burden marginalized populations and should inform potential strategies to lessen impacts and maximize opportunity for marginalized populations.

P.3 Pursue a Preservation Property Tax Exemption

A property tax exemption could be an effective tool for motivating private landlords to preserve and create even greater affordability in existing housing, while also ensuring that the housing is available to those who need it most. The City should capitalize on the success of the MFTE program and pursue State legislation to provide a targeted property tax exemption to existing property owners who agree to income and rent restrictions within their properties for a minimum period of time. This tool could be targeted to properties at greatest risk of rent increases (e.g. those in close proximity to job and transit hubs) or applied in conjunction with an acquisition/renovation project.

P.4 Engage Private Owners with New Financing Tools and Technical Assistance

Some owners who operate rental housing that is currently priced for lower income tenants are faced with a tradeoff between raising rents and making much needed improvements, or selling their property due to an inability to obtain needed financing when major repairs are required. As part of expanding its preservation efforts, the City should develop and market a low-cost rehab loan program to complement its existing weatherization grants. This program would provide a compelling incentive for existing owners to improve their properties in exchange for an affordability covenant. Effective outreach, marketing and technical support will be critical components to the success of the program. The City should build on the success of its weatherization program by helping owners through the contracting process and with ongoing program compliance.

P.5 Mitigate the Impact of City Code Requirements: Unreinforced Masonry Buildings and Rental Registration and Inspection Ordinance

The City administers a number of codes that affect existing buildings, and should seek to mitigate the impact of code requirements that could unintentionally cause a loss of affordable housing. For example, the City has been considering a mandate that unreinforced masonry (URM) buildings undergo a seismic retrofit to reduce the risk of injury and loss of life in the case of an earthquake. URM buildings are found in many of the city's oldest neighborhoods and commercial centers. A portion of these may not be able to withstand the financial impact of a code change without greatly increasing rents or being compelled to sell. Similarly, the Rental Registration and Inspection Ordinances (RRIO) aims to register and inspect all rental dwellings in the city of Seattle on a ten-year schedule, so that those few truly unsafe living spaces are removed from the market or upgraded by their owners. As these programs are implemented the City should take action to preserve strategic assets and work with communities to explore ways to mitigate the financial burden of these code requirements.

Increase Tenant Supports

T.1 Increase Access to Housing for People with Criminal Records

An estimated one in every three to four adults in the US has a criminal record which can have a lifelong impact on access to housing. Persons with a criminal record, who are disproportionately lower income and people of color, need fair access to suitable housing options. Studies show that people with stable housing are more likely to successfully reintegrate into society and less likely to reoffend. The City should pursue a combination of local legislation, education, and technical assistance to ensure fair access to Seattle's housing options for people with criminal records. Any legislation should provide fair access to people with criminal records yet protect property owner's rights and interests.

T.2 Explore Local Rental/Operating Subsidies to Serve the Lowest Income

Affordable housing financing tools are insufficient alone to create housing affordable to households with the lowest incomes, and traditional federal subsidies to help serve this population such as public housing and Housing Choice Vouchers (Section 8) have stagnated in recent years. For the foreseeable future, federal housing subsidies alone are insufficient, as they currently address less than 25% of identified, local needs. Together with the expansion of financing tools generally designed to create new units affordable at or below 60% AMI, the City, in partnership with the Seattle Housing Authority, for-profit, nonprofit affordable housing providers, and private market landlords, should explore using City funding to expand rental/operating subsidies to help further subsidize units to serve households with extremely low incomes. This may include short term operating subsidies and/or long-term targeted subsidies.

T.3 Increase Tenant Counseling and Landlord Education Funding

The City should fund agencies and organizations that provide general landlord-tenant education and outreach for tenants or landlords. The City should also fund legal aid assistance for lower-income landlords and tenants.

T.4 Allow for Local Portability of Tenant Screening Reports

People seeking to rent housing pay for a screening report each time they submit an application. For low-income and homeless people, the cost of these reports can mount and become a barrier to securing housing. Portable screening reports, based on standard criteria for a comprehensive screening report, will reduce costs for tenants and preserve landlords' interest in receiving complete, high quality reports. Legislation on this issue has been introduced several times at the state legislature but has failed to become law. Absent adoption of state legislation, the City should bring together tenant advocates, the screening report industry, and local landlords to collaborate on providing a solution for portability.

T.5 Increase Impact of Tenant Relocation Assistance Ordinance (TRAO)

Displacement of households due to demolition, substantial rehabilitation, or change of use is more common during times of rapid redevelopment. Due to high housing costs, displaced lower income tenants have difficulty finding replacement housing in Seattle. The TRAO program currently provides a payment of \$3,255 to tenant households earning \leq 50% AMI to help them secure new housing. The City should increase the effectiveness of the TRAO program by:

- Providing assistance to tenants with language barriers or those suffering from mental illness or cognitive disabilities.
- Revising the definition of “tenant household.” Under the existing definition, all low-income tenants on a lease are treated as members of one household and granted only one quota of relocation assistance, even if they are roommates who do not intend to seek housing together again.
- Developing legislation that seeks to prevent a practice of evading the TRAO ordinance by significantly increasing rents so that tenants choose to move prior to demolition, substantial rehabilitation or change of use that would trigger TRAO eligibility. The legislation should give the City the authority to collect fines from those who engage in this practice.

T.6 Support the Landlord Liaison Project

Many homeless individuals and families have access to housing vouchers, but have credit issues, a history of evictions or criminal records which can act as barriers to accessing housing in the private market. The King County Landlord Liaison Project (LLP) is a partnership among landlords and property managers, service providers, and homeless individuals and families. Participating landlords agree to apply alternative screening criteria to applicants referred for housing through this program. In exchange, social service agencies provide continuing support services to LLP tenants and respond promptly any time a landlord has concerns. These services ensure that tenants and landlords receive support and assistance. The City should explore whether there are ways to increase access to private market housing for homeless people by enhancing the Landlord Liaison Project.

T.7 Explore Solutions to Housing for People Exiting Incarceration

Most people sentenced to prison in Washington state are required to provide a reasonable and safe release plan that identifies where they will live. Some find that after paying their debt to society, they do not have any release options due to a lack of family or community support, a lack of suitable housing options, or simply a lack of funds to pay for housing. The City should convene stakeholders to explore housing solutions for people leaving incarceration and re-integrating into the community, including incentives for private market housing and additional resources for publicly funded housing.

T.8 Restore Community Service Officers

Community Service Officers (CSOs) are civilians employed by the Seattle Police Department who act as helpful intermediaries to resolve conflicts among landlords, tenants, the Department of Planning and Development, and the police. The police department eliminated its CSO positions during budget cuts a number of years ago. The City should restore the CSO program to help resolve landlord-tenant conflicts.

T.9 Explore Effects of Housing Costs on Protected Classes

The City should explore available data on protected classes within Seattle to determine how they have been impacted by displacement from rising rents and the impact of public resources that have been deployed to address such displacement. If additional data are needed, the Seattle Office for Civil Rights could work with a reputable academic institution to collect further data to inform policy and fair housing efforts.

T.10 Expand Source of Income Protection

Renters who receive a verifiable source of ongoing legal income, such as Social Security, child support, Supplemental Security Income (SSI) and Housing Choice vouchers (or any other governmental or nonprofit subsidy) deserve a rental environment that treats these types of income fairly. Currently, it is illegal under the City's Fair Housing law to discriminate against a tenant based on the use of a Housing Choice voucher. The City should expand protection to include other verifiable sources of income. Representatives of the City of Seattle, tenant advocates, and local landlords should collaborate in determining which additional sources of income should be protected.

Promote Sustainable Homeownership

As the cost of buying a home in Seattle continues to increase, it has become more challenging to provide opportunities for low-income homebuyers to purchase homes in Seattle. Housing prices in Seattle have risen to such astronomical levels that city funds dedicated to allowing at least a few low-income households to reap the benefits of homeownership are stretched extremely thin. Still, the HALA committee supports maintaining a modest, targeted program of supporting homeownership.

H.1 Support Permanently Affordable Homeownership and Stewardship

Permanently affordable homes are a lasting community asset enjoyed by many low-income households over time. The City should explore models to develop permanently affordable homeownership units, including expanding the utilization of models such as land trusts, to preserve ongoing homeownership opportunities in an increasingly expensive housing market. The City should integrate affordable homeownership into its surplus property strategies. This strategy should be accompanied by an appropriate stewardship mechanism to ensure long-term affordability, including a revenue source to pay for stewardship over the long-term.

H.2 Explore the Development of a Sharia-compliant Financing Product

Limited options for financing a home purchase are available for Muslim households who abide by Sharia law, which prohibits the payment of interest or fees for loans of money. The City can help fill this gap by convening lenders, housing nonprofits, and community leaders to explore how the market might develop Sharia-compliant loan products. The City should evaluate current available loan products to determine barriers to their use due to religious or other restrictions.

H.3 Seek to Remove Barriers to Condo Development

Condominium developers are subject to an implied warranty for construction under the State's Condominium Act. Courts in Washington have interpreted the statutory language broadly, resulting in a plethora of law suits against condo developers, a chilling of condo development in the state, and - often - adverse consequences for the condo owners, despite significant improvements in condo construction practices. The City should work with the University of Washington's Runstad Center to explore options to stimulate the condo development market, including revising the warranty scheme in the Condo Act. Areas to explore include working with the state Insurance Commissioner to develop a condo defect insurance program such as exists in British Columbia, and establishment of a board of professionals to review warranty matters before litigation is commenced.

H.4 Increase Impact of the Down Payment Assistance Program

Buying a home in a high cost market is out of reach for most low-income households. The City currently operates a program to provide down payment assistance to help low-income people at or below 80%

AMI purchase a home in Seattle. Even with support from City and other programs, low-income buyers struggle to compete in Seattle's real estate market. The City should conduct a review of its program policies and learn more about the needs of low-income buyers to identify whether there are opportunities to create efficiencies and increase opportunities for potential homebuyers to become successful homeowners.

H.5 Enhance Programs to Preserve Homeownership for Low-income Homeowners

The City should explore ways to help low-income homeowners in need remain stably housed. In addition to the existing HomeWise Weatherization Program and the Home Repair Loan Program, the City could explore creating a pool of funds for higher risk home repair loans or helping homeowners with their housing costs when temporary financial hardships (such as a medical crisis) threaten their housing stability. The City should also explore providing additional resource support to supporting low-income seniors at risk of displacement.

H.6 Support Coordinated, Culturally Appropriate Homebuyer Education

Buying a home is a process, not an event. For many people, months, if not years, pass between taking the first step of completing a homebuyer education class and actually buying a home. The City should build on its current funding for Homebuyer Education and Counseling program by supporting a coordinated system of intakes, referrals, financial counseling and other support for homebuyers, which would be designed to help homebuyers successfully navigate and complete the entire home buying process, even if the process is lengthy. Counseling and education must be culturally appropriate and available in multiple languages.

IV. MORE INNOVATION

Recommended Strategies to Create Efficiencies in Housing Production

To meet the challenge of tripling housing production, we must rely on the innovation and creativity that have defined Seattle's success. This means creating more streamlined approaches to the rules and processes that could allow housing development to occur more efficiently and cost effectively. It also means embracing the ideas described in the prior sections of this report: fostering new partnerships for subsidized housing development; innovation in housing types allowed in lower density zones; the creation of Medicaid-based housing supports; ensuring access to Sharia-compliant loan products that promote increased homeownership.

Reform the Review Processes

Construction of housing requires permits from a range of different agencies within the City of Seattle – Department of Planning and Development (DPD), Seattle Department of Transportation (SDOT), Seattle Public Utilities (SPU), and Seattle City Light (SCL). Long permitting processes and unpredictable timelines make housing projects difficult to develop and add to the cost of new housing. It is estimated that if significant reforms were made to Design Review and Historic Review, and improvements were made to the predictability of permitting within and between departments, total timelines for a complex multifamily development could be reduced by up to 2 months, and cost savings could total up to \$4,000 per housing unit.

RP.1 Reform the Design Review and Historic Review Processes

Seattle has operated a Design Review program since 1994. Most multifamily and mixed-use projects undergo design review by an appointed citizen Design Review Board. Design review addresses elements of project design such as overall appearance of the building and how the proposal relates to adjacent sites and the street. Benefits of design review include better collaboration between developers and community members, improved design outcomes, and opportunities for flexibility in application of land use code standards. Design Review is administered by the DPD.

Separate from Design Review, Seattle has established eight historic districts and has operated historic district reviews since 1970. The appearance and historical integrity of structures and public spaces within each district are regulated by a citizens' board and/or the Landmarks Preservation Board in accordance with historic design review guidelines. Historic District review is overseen by the Department of Neighborhoods (DON).

Some builders and designers report design review and historic district review substantially increase the timeline and cost of obtaining land use permits, which raises the cost of building housing. Design review and historic review are among the primary drivers of the permitting timeline, because they must be completed before other building and utility permits. As discretionary processes, design review and historic review are sometimes unpredictable, which can lead to cost increases and high development contingencies. A complex multifamily project with design review or historic review takes on average 14 months from permit application to building permit issuance.

The City of Seattle should make reforms to the design review and historic review processes to improve predictability and consistency, including:

- Make procedural changes to improve 2-way dialogue at board meetings
- Change Design Review board structure for more available review times and more professionalism of boards
- Provide training to all Design Review and Historic Review board members, and all program staff members to allow them to consider the impacts of their decisions on housing costs
- Limit commentary on aspects outside the purview of the Design Review or Historic Review program
- Limit extent of packet materials, and number of meetings.
- Increase accountability of individual planners and historic review board staff members
- Reevaluate the structure and procedures of the historic districts preservation boards to ensure code compliant development projects are able to proceed through permitting on an efficient timeline.

RP.2 Reduce the number of housing projects subject to SEPA

Washington's State Environmental Policy Act (SEPA) (RCW 43.21C.229) requires cities to establish thresholds for when a development must complete a project-specific SEPA analysis as part of their permitting processes. SEPA requires projects sponsors to analyze a range of potential impacts including Transportation, Water, Air, Habitat, Noise, Light, Land Use, and Public Utilities. In the past, the city relied on SEPA to help it address topics for which codes did not provide sufficient protections. As the City has developed more specific codes, the importance of SEPA has diminished. Existing regulatory requirements, which address most of the issues in a SEPA review, include environmental critical areas rules, shoreline rules, grading and drainage codes, stormwater regulations, parking codes, design review, land use/zoning code, noise codes, transportation mitigation programs, energy code, building code, and historic preservation provisions.

Today, SEPA analysis rarely changes the outcome of development within urban areas. Research on development in Seattle from 1995-2010 found few examples of mitigation required through SEPA that was not already required by other codes. SEPA is used more often to obstruct rather than promote sustainable development. SEPA challenges can increase the cost of housing by raising development costs and knocking some proposed new buildings out of the permitting queue. To facilitate housing construction, Seattle can raise SEPA thresholds to reduce the number of housing projects that must undergo this review. The City should perform a comprehensive review of projects that have gone through SEPA to determine the scale below which it is uncommon for projects to have conditions placed on the development. Projects sizes that typically do not generate conditions should be exempt from SEPA review. The City should also adjust the SEPA thresholds based on new Comprehensive Plan (Seattle 2035) growth estimates.

RP.3 Improve Interdepartmental Coordination

To build in Seattle, developers must first obtain permits from at least 3 departments of city government. Running the permitting gauntlet commonly takes 10 – 14 months from permit application to building permit issuance for a complex multifamily development, and adds thousands or tens of thousands of dollars to the cost of each new dwelling. Each of the permits required has a legitimate purpose, but the

city could dramatically speed housing construction in Seattle, lower its cost, and temper housing prices by better coordinating the way these public agencies process permit applications. The city created the Preliminary Assessment Tool and the Development Services Office of SPU to improve coordination of permit processing. However, projects still get stuck in one in-box or another. To further improve interdepartmental coordination, the City can ensure full staffing by all reviewing departments (DPD, SCL, SDOT, SPU) at the pre-submittal conference and in Preliminary Assessment Reports (PARs). The City can also improve the timing and coordination of utility service application review with other permits to avoid mandates for changes in the field at time of inspection.

RP.4 Increase the predictability of utility charges

Some builders and designers of housing report that they have little way to predict how much city utilities will charge them in fees due to a lack of clarity and transparency in fee structures. Sometimes, housing developers do not know what the utility fees are until the building is complete, the project's books are closed, and a bill arrives in the mail from a utility – sometimes for many thousands of dollars. Uncertainty is a cost—a damper on investment—and it raises the price of housing. If utility charges were more predictable, project costs could be reduced up front. In particular, charges from Seattle City Light (SCL) for electrical service connections, including mandates for late changes to utility vault sizing or location, have been cited as a source of unpredictability. Late billing is particularly problematic for nonprofit affordable housing developers. The City can improve the transparency of fee structures, provide an early cost estimates on request, and instruct SCL and SPU to set timely deadlines for billing.

RP.5 Provide Staffing Contingencies

Housing construction tends to surge and lag. It's a cyclical industry, subject to interest rates and the vagaries of regional trends in population and income growth. The City's permitting agencies, meanwhile, have a hard time staffing their permit application review teams in sync with market trends. If the City could staff up—and down—quickly in step with the ebbs and flows of construction, the permitting timeline could be reduced during peak activity. The bulk of the funding for permit review staff – particularly in the DPD comes directly from permit application fees. During busy development cycles DPD needs additional staff to keep up with the pace of development; however, there is significant lead time between when an uptick in permit fees (applications) are collected and when DPD can hire and train new staff. This can lead to permit timelines increasing due to backlog at the very time when there is the most demand to build more housing.

To ensure consistent staffing through development cycles, the City should establish a non-permit revenue dependent funding source, such as General Fund, or as contingent budget authority, to create a reserve so reviewing departments can ramp up staff during the busiest times. This approach would allow the city to begin ramping up review staffing in advance, or at the beginning of a development cycle, to keep up with demand.

Create Efficiencies in Construction

E.1 Pre-fabricated and Modular Construction

The cost of physical construction is the largest portion of what it costs to build new housing. To reduce the cost of new housing, the City should make changes to building codes to allow the use of new building technologies like Cross Laminated Timber (as described above) and other innovations to maximize the efficiency of constructing new housing. The City should continue to support modular and

pre-fabricated construction because of its potential to substantially compress the timeline of the construction.

Explore Comprehensive Reform to On-street Parking Regulations

On-street parking is often one of the most contentious topics when a new housing development is proposed in a neighborhood: residents do not want to compete for on-street spaces. Improving how on-street parking is managed could go a long way towards improving how new housing is welcomed.

OP.1 Create a parking benefit district and "cap and trade" demonstration/pilot program

Parking Benefit Districts establish pay-for-parking districts, using either meters or parking badges, and return on-street parking revenues to the neighborhood. Parking "cap and trade" districts award on-street parking permits to residents and allow those residents to rent or trade their permits, thereby recouping financial benefits from visitors who park in their neighborhoods. These approaches can temper opposition to infill development by providing tangible community benefits (such as sidewalk improvements or open space upgrades that could be purchased with Parking Benefit District funds) or personal financial gain (to the holders of tradable parking permits). Secondly, charging even minimal amounts for on-street parking would discourage the storage of vehicles in the public right of way and might encourage new residents to choose alternatives to personal car ownership. Many other cities, such as San Diego and Pasadena, have launched Parking Benefit Districts. A demonstration/pilot project could show us how this approach might work within the context of the Seattle environment.

OP.2 Explore revising the Restricted Parking Zone (RPZ) program.

The RPZ program is the existing program for how resident on-street parking is managed in areas of the city with constrained on-street parking. The Program helps ease parking congestion in residential neighborhoods, while balancing the needs of all people to be able to use the public streets. RPZs help neighborhoods deal with the impacts through signed time limits from which vehicles displaying a valid RPZ permit are exempt. There are 31 RPZ zones in the city.

Reforms to the RPZ program could implement the parking benefit district and cap-and-trade demonstration project described above. They could also help mitigate conflict over infill housing development due to vehicle parking concerns. The City could explore revising the RPZ program in the following ways:

Update Pricing of Residential Parking Permits – Link pricing structure for RPZ permits to demand for parking in a neighborhood. Pricing structure would make off-street parking rates more competitive with on-street rates. Current rates provide an incentive for many car owners to choose on-street parking instead of off-street pay garages.

Limit Supply of On-Street Parking Permits - Reduce the quantity of RPZ passes issued in an area, connecting quantity of permits to number of available spaces. Consider creating a private market for the available permits, similar to parking "cap and trade."

OP.3 Explore improving Right of Way (ROW) management of curb space

In some areas of the city, ROW space could be organized better to improve the balance of transportation and parking needs. In some cases, a sizeable quantity of on-street parking could be added without reducing transportation needs for all modes. SDOT and DPD should explore reconfiguring ROW

areas in these instances to make more efficient use of space. This action should be a part of comprehensive reforms to improve how on-street parking is managed, in order to accommodate residential growth and reduce parking-related friction.

Appendix A: Resolution 31546

<http://clerk.seattle.gov/~scripts/nph-brs.exe?s1=31546&Sect4=AND&|=MAX&Sect1=IMAGE&Sect2=THESON&Sect3=PLURON&Sect5=LEGI2&Sect6=HITOFF&d=LEGA&p=1&u=http%3A%2F%2Fclerk.seattle.gov%2F~public%2Flegisearch.htm&r=4&f=G>

Appendix B: Foundational Data

http://murray.seattle.gov/wp-content/uploads/2015/06/Short_BackgroundDataSlides_4Nov14-FINAL-Updated-6-26-2015.pdf

Appendix C: HALA Public Outreach Summary

The HALA Committee hosted three Community Open Houses on November 19, 20 and December 4, 2014 to provide educational information and receive community feedback early in its process. The City also posted an online survey from December 2014 through January 2015 to collect input beyond the community events. Below is a summary of the open houses and the online survey, which represents input from a total of 2,709 participants.

Community Meetings

The HALA Community Open Houses were held at the start of the committee process at three locations across the city to ensure broad participation. Before and after a presentation on housing affordability in Seattle, participants provided direct feedback to the HALA by writing on display boards, through comment cards, in direct conversations with the committee co-chairs, committee members and city staff, and via a live voting tool. Each open house provided information through display boards on growth trends and neighborhood impact, zoning and urban planning typologies, affordable housing definitions and programs, housing cost burden and rent trends and fair housing history. Attendees shared their own experiences and ideas on these topics through notes on the display boards.¹² Translation services were provided at all three events.

Each open house was unique, and is summarized separately below although some common themes emerged among the participants. Most participants had lived in Seattle for more than 10 years, were in single family homes, and lived near where the open house was held. In addition participants were informed and engaged on housing affordability issues and were interested in learning about solutions to solve the affordability challenges faced in our city.

Public Comments and Suggestions

- *South Seattle – November 19, 2014 – Ethiopian Community Center*
In South Seattle, 57 people signed in, but more than 65 attended. Due to the expected population of limited English speakers, translators were integral to the success of this meeting. Some of the common concerns raised related to displacement and rising housing costs which prevented friends and family from moving into the neighborhood. Participants generally supported density as a means to achieve affordability, wanted housing for a range of income levels and across housing type, and encouraged locating housing near transit hubs. Credit and background checks were cited as barriers to housing, and rent control was mentioned as one way to increase affordability.
- *Central Seattle – November 20, 2014 – Garfield Community Center*
In Central Seattle, 79 people signed in and participated in the event. Many participants struggled with rent increases and were concerned about displacement of existing residents. Participants generally supported housing near transit, reducing parking requirements, increasing density through infill

¹² The themes from the public comments on displays and comment forms at the meetings are summarized here: <http://murray.seattle.gov/wp-content/uploads/2015/07/Themes-HALA-open-houses.pdf>

development and distributing affordable housing throughout the city, including in single family zones. Participants also had an interest in providing more family-sized housing.

- *North Seattle – December 4, 2014 – Olympic View Elementary School*

In North Seattle, 64 people signed in but there were over 100 people in attendance from all parts of north Seattle. Many participants were cost burdened, and supported finding new ways to increase affordability. Rent control, increasing density through infill development, supporting housing type options (with mixed support for microhousing), and increasing transit access were all cited as ways to increase affordability. Participants generally valued mixed-income and mixed-use developments as well as walkability and neighborhood amenities.

Community Meeting Survey Responses

During the public open houses, participants were offered the opportunity to share their opinions on a variety of subjects through live digital voting. Although participants at each of the community meetings weighed their answers differently, one theme was common at all three venues. The majority of all respondents preferred to live in Seattle, closer to jobs and transit, even if that meant living in a smaller or less desirable home, in a less desirable neighborhood, or with increased density. The main challenge identified was finding housing that was affordable.

- *South Seattle*

In South Seattle, 69 people participated in the live voting survey. Most participants were 36-50 years old and were renters in a mix of housing types. Most people could afford their rent. (Anecdotal evidence suggests that many people were from the nearby Seattle Housing Authority developments and thus likely lived in rent- and income-restricted, subsidized housing.) The primary concern of participants was that friends and family were moving out of the neighborhood or could not afford to move into it. Participants highly valued safety and short commute times and believed that growth provides jobs. They overwhelmingly agreed with the statement that housing is a human right.

- *Central Seattle*

Central Seattle's 71 survey participants were primarily 26-50 years old, and were primarily renters in either single family homes or large apartment buildings. Over half of them currently struggle to afford rent. Participants generally valued neighborhood amenities and walkability and would prefer a small house in an in-city neighborhood over a more desirable house located further away. Generally participants responded that growth brings amenities and businesses.

- *North Seattle*

In North Seattle, 103 people participated in the survey. The audience trended slightly older, with most over 35 years old and 25% over 65 years old. Participants generally had lived in Seattle for more than 20 years and were predominantly homeowners. Neighborhood walkability and amenities were seen as very important. Participants generally were most concerned that others cannot afford to move to the neighborhood or have had to move out due to high costs. Participants also indicated that they have benefitted from increased property values. Participants most strongly agreed with the statement that growth leads to denser, compact development, which increases services and amenities.

Online Survey

Following the public open houses, the public was invited to take an online survey and share their thoughts on housing affordability and livability issues in Seattle. The survey was hosted on the Mayor's website in December 2014 and January 2015 and received 2,466 responses. Similar to the public meeting survey, participants chose to take the survey and thus the results are meant to be informative, but not representative of the entire city. The top results from the 20 question survey are summarized below.

In describing their housing situation, the majority of respondents indicated that they rent in a single family house or townhouse, with a third struggling to afford rent. Participants generally either live with one person or alone. Most people have one or two cars with onsite parking or one car with no onsite parking.

When looking for a place to live, the top considerations were the cost of housing and neighborhood walkability, followed by proximity to work, school, and transit. Nearly all respondents would choose a smaller house or apartment in Seattle with a shorter commute than a larger house with a longer commute. Similarly, a vast majority value living in their dream neighborhood over their dream home. There was an interesting split in barriers to housing, with 41% experiencing housing costs that are over half of their income and over a third encountering issues with credit checks. Another third reported no barriers at all.

Rising housing costs impacted almost everyone who took the survey. Most people struggle to afford their rent, have not been able to purchase a home because the competition is too great, or have had to move to a less expensive neighborhood. Friends and family either cannot move to the neighborhood due to high costs or moved out because of costs. Respondents saw a benefit to growth in increased job opportunities and improved transit and public services, but reiterated a concern about displacement and high housing costs due to that growth. Three-quarters of survey respondents would be comfortable with increased density if housing prices were more affordable.

Additional questions on demographics, personal housing stories, and respondent suggestions are available here: <http://murray.seattle.gov/wp-content/uploads/2015/07/HALA-Online-Survey-Results.pdf>

Appendix D: Additional Participants in Strategy Work Groups

New Affordable Housing Resources

Rachael Myers	Washington Low-Income Housing Alliance
Paul Purcell	Beacon Development Group
Scott Matthews	Vulcan
Hillary Franz	Futurewise
Pat Foley	Lake Union Partners
Megan Hyla	King County Housing Authority

Financing

Mark Dean	Citigroup
Greg Dunfield	GMD Development
Jay Reich	Pacifica Law Group
Darin Davidson	Inland Development Group
Cindy Proctor	Beacon Development Group
Tory Laughlin Taylor	Bellwether Housing
Tory Quinn	US Bank
Mark Ellerbrook	King County

Zoning and Housing Types

Bradley Khouri	b9 Architects
Betsy Hunter	Plymouth Housing Group
Erich Armbruster	Ashworth Homes
Renee Staton	Community Member
Sam Lai	Green Canopy Homes
Catherine Weatbrook	Community Member

Construction Costs and Timelines

Markham McIntyre	Seattle Chamber of Commerce
Doug Ito	SMR Architects
Heather Bunn	RAFN
Al Levine	Community Member
Grace Kim	Seattle Planning Commission
Jake Mckinstry	Spectrum Development
Brandon Morgan	Vulcan
Dale Sperling	OneBuild
Linda Anderson	Community Member

Tenant Access and Protections

Natalie Quick	Quick Consulting
Joe Puckett	Washington Multifamily Housing Association
Kira Zylstra	Solid Ground
Billie Abers	Capitol Hill Housing
Vanessa Hernandez	ACLU
Jim Tharpe	Unity House
Lisa Wolters	Seattle Housing Authority

Preservation

Mike Rooney	Mt. Baker Housing
George Petrie	Goodman Real Estate
Brian Lloyd	Beacon Development Group
Mercedes Elizalde	LIHI
Denny Onslow	O+S Partners
Sarajane Siegfried	Community Member
Ann-Marie Lindboe	Seattle Housing Authority
John Poulsen	Bellwether Housing
Beth Dwyer	GGLO

Sustainable Homeownership

Terri Miller	Coldwell Banker Bain
Ania Beszterda Alyson	Habitat for Humanity
Dwight Prevo	Wells Fargo
Aaron Fairchild	Green Canopy Homes
Lili Sotelo	Northwest Justice Project
Lisa DeBrock	Washington State Housing Finance Commission
Tony To	HomeSight
Diane Wasson	Homestreet Bank
John Forsyth	Seattle Housing Authority

Appendix E: Strategy for Housing Affordability through New Development

The City of Seattle is committed to a goal of building or preserving 20,000 affordable homes as part of an overall strategy to build 50,000 homes over the next 10 years. As a crucial element of reaching the affordability goals, the City is proposing a bold 2-part strategy that welcomes developers as a partner in the production of over 6,000 homes affordable to households with incomes up to 60% of area median income over 10 years. The strategy has two separate frameworks, one for residential development and one for commercial development:

- **Mandatory Inclusionary Housing** – New construction residential development in multifamily and mixed use areas across the city will include affordable housing. Mandatory Inclusionary Housing will be implemented pending approval of rezones allowing additional height or density.
- **Commercial Linkage Fee** – New construction commercial development will help fund production and preservation of affordable housing throughout Seattle through payment of a per square foot Commercial Linkage Fee. Similar to Mandatory Inclusionary Housing, Commercial Linkage Fee will be implemented upon approval of rezones.

	Mandatory Inclusionary Housing	Commercial Linkage Fee
<i>Basic concept</i>	<ul style="list-style-type: none"> • Mandatory requirement – affordable housing included in all new construction multifamily and mixed-use development • As an alternative, a fee can be paid or housing can be built off-site as approved by the City 	<ul style="list-style-type: none"> • Mandatory requirement – affordable housing provided by payment of fee to City for new construction commercial development • As an alternative, housing can be built on- or off-site, as approved by the City
<i>Affordability and Fees</i>	<ul style="list-style-type: none"> • Between 5-7% of total units in new multifamily residential developments will be affordable to households with incomes at or below 60% of area median income. • Amount of affordable housing required (and in-lieu fees) is based on value of upzones, and varies by market and construction type. 	<ul style="list-style-type: none"> • Fees will fund housing at all ranges of affordability (0% - 80% AMI), but predominantly at or below 60% of area median income. • Fees are based on value of upzones, and vary by market and construction type.
<i>Multifamily, Mixed-use, and Commercial Zones under 85'</i>	<ul style="list-style-type: none"> • Rezone specified areas (see table below) to provide additional residential development capacity. • In addition, roughly 6% of Single Family zones – within or near urban villages and along transportation 	<ul style="list-style-type: none"> • Rezone specified areas (see table below) to provide additional commercial development capacity.

	corridors – will be rezoned to Lowrise.	
<i>Zones that allow Highrise Development</i>	<ul style="list-style-type: none"> Buildings will be allowed an extra ~ 1,000 square feet per floor. Fees are based on existing incentive zoning for affordable housing. 	<ul style="list-style-type: none"> Buildings will be allowed additional buildable floor area equivalent to the site size (1 FAR). Fees are based on existing incentive zoning for affordable housing.
<i>Flexibility</i>	<ul style="list-style-type: none"> When possible, code flexibility will be provided to accommodate this additional capacity, and in the limited cases when it cannot, fees will be adjusted. 	<ul style="list-style-type: none"> When possible, code flexibility will be provided to accommodate this additional capacity, and in the limited cases when it cannot, fees will be adjusted.
<i>Timeline and Implementation</i>	<ul style="list-style-type: none"> In 2015, the City aims to adopt a resolution with an implementation plan for completing the proper environmental review, program development and legislative process by September 2017. To facilitate faster implementation, Mandatory Inclusionary Housing will be considered as part of neighborhood upzones in progress and for areas where environmental reviews were recently completed. The City's existing incentive zoning will remain in effect until Mandatory Inclusionary Housing is implemented. 	<ul style="list-style-type: none"> In 2015, the City aims to adopt a Commercial Linkage Fee ordinance. The program will be phased-in over 3 years. Over that time, commercial property will be zoned to greater capacity and linkage fees will come into effect with the implementation of this additional capacity. The fee schedule would be set for 10 years (indexed for CPI) with additional changes subject to the Mayor and the Council undertaking a specified Technical Review Committee process. The City's existing incentive zoning will remain in effect until Commercial Linkage Fee is implemented.

Proposed Zone-Wide Changes for Multifamily and Mixed-Use Zones under 85'

Note: Current modeling is based on proposed zone changes below. Final zoning changes will be subject to program design and the legislative process.

Zone Name	Current	Proposed Change
LR1	FAR: 1.1 Height: 30' (Apt Density: 1/2,000 sf)	Remove apt. density limit. (No other height / FAR changes needed)
LR2	FAR: 1.2 Height: 30'	FAR ~1.3 Height 40'
LR3	Outside UVs: FAR 1.5, Height 30' Inside UVs: FAR 2.0, Height 40'	Outside UVs: FAR ~1.7, height 40' Inside UVs: FAR ~2.2, height 55'
NC-30 (becomes NC-40)	FAR: 2.5 Height: 30'	FAR 3.0 Height 40'
NC-40 (becomes NC-55)	FAR: 3.25 Height: 40'	FAR: 3.75 Height: 55'
NC-65 (becomes NC-75)	FAR: 4.75 Height: 65'	FAR: 5.5 Height: 75'
NC-85 (merge into NC-125)	FAR: 6.0 Height: 85'	FAR: 6.0 Height: 125'
C-30 (becomes C-40)	FAR: 2.5 Height: 30'	FAR 3.0 Height 40'
C-40 (becomes C-55)	FAR: 3.25 Height: 40'	FAR: 3.75 Height: 55'
C-65 (becomes C-75)	FAR: 4.75 Height: 65'	FAR: 5.5 Height: 75'
C-85 (merge into C-125)	FAR: 6.0 Height: 85'	FAR: 6.0 Height: 125'
IC	FAR: 2.5 (outside Stadium T.O.) FAR: 3 (in Stadium T.O.)	FAR: 3.0 FAR: 3.5

Appendix F: Committee Votes on Proposed Strategies

The strategies listed below were among many more that were considered by the seven work groups. The strategies below were approved by the work groups and forwarded to the HALA Committee for consideration. Votes were initially collected electronically, and any strategy that did not receive strong support was brought for discussion and re-voting at subsequent meetings, allowing time for proponents and opponents to discuss the merits of each proposal and to offer amendments.

The HALA Committee used a consensus-based decision making model in its deliberations. We worked to reach agreement where we could by setting aside our differences to find common ground on solutions to Seattle’s housing crisis. We used this type of decision making process, rather than a majority vote, in order to reach agreement across all committee members whenever possible. This created a working environment in which all members had a strong voice in setting the HALA recommendations. In our voting, a “Yes” vote means that a committee member supports the proposition even if it may not be the way that they individually would address the issue. A “No” vote means a member did not support the idea. Wherever possible, the committee tried to reach unanimity. The amount of consensus we were able to reach is remarkable as we are a group of people from many different backgrounds who believe in a wide range of solutions to affordability and livability issues in Seattle. The votes demonstrate our differences of opinions, as well as the places where we were able to come together.

RESOURCES		Yes	No
<p>ISSUE: Seattle should take a balanced approach to generating resources to preserve and enhance housing affordability. This balanced approach requires a shared responsibility by taxpayers, nonprofits, the business community, and the public sector. The City needs a suite of tools to ensure that sufficient resources can be sustained over time and throughout development, real estate, and political cycles. No single policy or revenue stream will be sufficient or appropriate to solve the affordable housing crisis on its own.</p>			
1. Secure New Resources for Affordable Housing			
1a.	Enact state legislation to authorize a local option Real Estate Excise Tax (REET) to allow municipalities to re-capture a portion of increased land value upon the transfer of property and reinvest it in critical affordable housing infrastructure. The legislation should: <ul style="list-style-type: none"> • allow for a .25% REET; • be specifically dedicated to affordable housing; • be implemented locally via council action. 	21	0
1b.	Support a proposed Medicaid benefit for permanent supportive housing for chronically homeless people with disabilities and for supportive services to at risk tenants in affordable and subsidized units.	21	0
1c.	Collect hotel taxes from short-term rentals (i.e. Airbnb) and dedicate funds for affordable housing, as a result of the impact short-term rentals has on affordability and availability of rental units.	19	2
1d.	Explore options for other funding sources from local employers. Could include: a voluntary program, a required tax based program, a fund that also provides benefits to direct employees.	25	0

1e.	In order to disincentivize speculative sales, explore state legislation to allow for an anti-speculation tax that levies a significant excise tax on multifamily property transfers that occur within 5 years of purchase. Single family homes and new construction (e.g., sale by short-term developer to long-term owner) would be exempted.	12	13
1f.	Pursue social investing models, including identifying whether there is a defined challenge related to housing to which a Social Impact Bond model could be applied locally to create cost savings and support stable housing.	25	0
1g.	Facilitate acquisition of sites for future affordable housing development, by: <ul style="list-style-type: none"> • Providing seed capital to the regional Transit Oriented Development (TOD) Regional Equitable Development Initiative (REDI) revolving fund to support land acquisition; • Explicitly allowing the sale or lease of land at less than Fair Market Value for affordable housing purposes, (or potentially other public benefits but with affordable housing as the priority). • Using a portion of Sound Transit 3 funding to buy land around stations to increase ridership through provision of affordable housing. 	20	0
1h.	Create a Development Driven Affordability Strategy that (1) boosts market capacity by extensive citywide upzoning of residential and commercial zones, and (2) matches this increased capacity with a mandate to build affordable housing in emerging market rate buildings. Commercial, non-housing development should be afforded additional capacity through upzones or floor area ratio (FAR) increases in exchange for payment of a commercial linkage fee.	21-Yes	0-No 2-Abstain
2. Dedicate Existing Resources for Affordable Housing			
2a.	Prioritize and maximize affordable housing upon disposition of publicly-owned surplus property. Options include: <ul style="list-style-type: none"> • Explore establishing a body, potentially building on an existing Public Development Authority, to receive, hold, and transfer public properties that are suitable for affordable housing development; • At the City level, explicitly prioritizing affordable housing as the preferred use for all public surplus properties; • For City or other properties that are either underutilized or proposed for development, prioritizing co-development of affordable housing for any locations and types of usages that are suitable for residential purposes; • Specific to transportation authorities, explicitly allowing the sale or lease of land at less than Fair Market Value to facilitate the creation of affordable housing near transit; and • Creating an inventory of public properties, including those owned by the State, County, Port, community colleges, etc., to identify opportunities for affordable housing. 	21	0

2b.	Reinstate the City Growth Fund citywide with a portion of the new construction value dedicated for affordable housing if there is a demonstrated nexus between sources and expenses.	20	1
2c.	Prioritize state discretionary funding to support communities in addressing affordability and livability goals. Prioritize local discretionary funding to neighborhoods that meet affordable housing targets. Develop policy that authorizes the City to designate specific sites or places (e.g. TOD area) for targeted investment, setting a common goal for multiple departments that do site-specific investment.	18	1

3. Collaborate and Build Partnerships to Support Affordable Housing

3a.	Create programs/allowances for an increase in student housing near campuses, including partnerships with institutions.	20	0
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4. Support Existing Efforts to Secure Resources/Mitigate Housing Impacts

4a.	Structure city-wide Linkage Fee program to appropriately mitigate the impacts of new development on the need for affordable housing.	16	9
4b.	Renew and increase the Housing Levy	20	0
4c.	Expand the State Housing Trust Fund	19	0
4d.	Establish bonding authority backed by hotel-motel tax revenue to acquire or build affordable housing for low wage workers workers.	19	0

ZONING Yes No

ISSUE: Approximately 65% of Seattle's land (excluding street ROWs and including parks and open spaces) is zoned single family, limiting possibilities for increasing housing supply in large portions of the city. Currently, these areas of the city are exclusive to single family structures and a small supply of ADU/DADUs, thus limiting the types of housing available for rent, the presence of smaller households, and access for those with less income. Seattle zoning has roots in racial and class exclusion and remains among the largest obstacles to realizing the city's goals for equity and affordability.

1. Allow more flexibility and variety of housing types in Single Family (SF) zones and increase the economic and demographic diversity of those who are able to live in Single Family areas.

1a.	Single family zones should allow small lot dwellings, cottage or courtyard housing, duplexes, triplexes, or Residential Small Lot (RSL) development, within the character and scale of traditional single family areas.	23	1
1a(i)	Launch a "density by design" pilot program to allow construction of real world examples, then use these projects to develop the potential code changes.	21	1

1b.	Remove the remaining <u>code</u> and permitting barriers to ADU/DADUs including:		
1b(i)	Remove the ownership requirement to allow both accessory (ADU/DADU) <u>and</u> principal unit to be rented. Currently the owner must live in either the accessory or principal unit. The ownership requirement is a barrier to securing financing to build an ADU/DADU.	25	0
1b(ii)	Explore removing Unit Lot Subdivision (ULS) to enable separate ownership of the principal unit and the accessory unit.	23	1
1b(iii)	Allow a single lot to have both an ADU and a DADU. (Currently only one is allowed.)	21	1
1b(iv)	Remove the parking requirement. Currently an off street parking space must be created for an additional DADU.	20	2
1b(v)	Make minor modifications to remove barriers within existing development standards for DADUs, such as height limits, setbacks, and maximum square footage to ensure constructibility.	21	1
1b(vi)	Launch a program to generate a set of pre-approved standard plans for backyard cottages through a City sponsored design competition or call for submittals from architects. Allow homeowners to receive a permit for a pre-approved DADU standard plan over the counter.	20	1
1b(vii)	Broadly publicize a clemency program inviting homeowners to get a free permit to legalize any undocumented ADU or DADU.	20	1
1c.	Allow traditional single family scaled structures to be occupied by multiple households provided the structure is within the character and scale of a single family home.	21	1
1d.	Capture value created by "density by design" strategies (1.a and 1.c above), by requiring some of the additionally allowed density to be dedicated affordable housing.	20	6
1e.	Prevent the potential reduction of areas currently zoned, or that could be in the future zoned for, multifamily housing by expressing HALA Committee opposition to the Neighborhood Conservation District (NCD) proposal currently being considered by City Council. Significant concern that the NCD proposal currently being discussed by City Council could prevent flexibility and variety in single family zones, reduce the ability to increase areas zoned for multifamily, or create additional delays in the construction timeline (impacts Construction Strategy #1, Zoning #1 and Zoning #2)	25	0

Issue: A relatively small portion of Seattle’s land is zoned for multi-family housing. Only about 10% of the parcel land area is zoned for Lowrise (LR), Midrise (MR) or Highrise (HR) multi-family housing. In areas of the city where new development is feasible, development sites are in very short supply. This limits possibilities for the creation of new housing that can be added to help meet growing demand.

2. Devote more land to multi-family housing especially in areas near amenities and services such as transit and schools. Tie increased development capacity to incentives to provide affordable housing units on site (in some or all cases depending on analysis).

2a. Upzone to multi-family or increase the intensity of existing multi-family zoning in the following areas or circumstances:	15	1
2a(i) Transitions next to more intensive zones (ie. the 'back' of commercial zones along arterial roadways)	22	0
2a(ii) Next to green belts, open space, or parks	21	0
2a(iii) Nearby schools or community centers	22	0
2a(iv) Within walking distance of the frequent transit network	22	0
2a(v) Underused light industrial areas	22	5
2a(vi) Convert existing Single Family zoning that is within Urban Villages to Residential Small Lot (RSL) zoning.	22	0
2a(vii) Expand the boundaries of Urban Villages to reflect transit walksheds and services: Could be accomplished through the Seattle 2035 process.	22	0
2b. "Unlock" existing development potential in areas where zoning already allows multi-family development but it is not occurring. Identify sites or locations with significant underused development capacity, and focus livability components or other targeted incentives to spur housing development there.	19	1
2c. Expand and improve the Incentive Zoning (IZ) program:		
2c(i) Apply to all areas that are upzoned.	19	3
2c(ii) Apply to 30' and 40' zones, where extra stories can be built in wood.	18	3
2c(iii) Encourage on-site production of the IZ affordable units to promote equity and open access to desirable neighborhoods for households at all levels of affordability.	19	2
2c(iv) Increase the housing percentage requirements in the IZ program.	19	3
2c(v) Adjust the program so it is more accurately linked to construction type, and more effectively captures value.	20	1
2d. Reduce allowable use restrictions in multi-family zoned areas so more business uses can be located closer to where people live to enhance livability. This would include relaxing allowable use restrictions in some residential only zones.	17	1

2e. Allow flexible reuse of large, unique development sites for housing. Sites can include former school sites, military installations, corporate campuses etc. and are often not zoned to allow multi-family housing. Revise the "Planned Residential Development" (PRD) zoning tool to enable denser multi-family housing through a master plan (not a rezone), and without a City Council decision. Require dedicated affordable housing to access the flexibility.	21	0
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Issue: Seattle has a very low percentage of families with children compared to peer cities and the remainder of King County. Most new housing built recently has been small units consisting of studio and one bedroom units. Many families find it difficult to find housing that meets their needs that they can afford.

3. Increase production of new family-friendly rental housing – both affordable, and market rate – primarily through funding priorities, and secondarily through zoning tools. (Note: Strategies 1 and 2 were considered very important to supporting housing for families as well.)

3a. Allocate resources and modify programs specifically to provide funding for affordable family sized rental housing. Recalibrate MFTE categories so 3 bedroom and larger units are encouraged (see Finance). And provide more resources through OH programs to subsidize families in need (see Resources).	22	0
3b. Formalize family-sized units and/or family-friendly housing design, in the zoning code as a category so that it can be encouraged through the incentive zoning and other programs.	22	0
3c. Modify the incentive zoning program to encourage family sized units through FAR exemptions and/or height bonuses.	21	1
3d. Develop, fund and monitor a detailed plan as called for by the Seattle Planning Commission in their report on Family Sized Housing.	24	0

Issue: Parking is a key factor in the cost of building new housing, the supply of housing and therefore its price, and in the livability of neighborhoods. Parking requirements have a large impact on the viability of new housing for both market and affordable housing development. Parking requirements can act as a density limit and inflate the average size and price of housing units.

4. Review parking policies and requirements to support affordable housing.

4a. Review parking policies in multi-family zones.		
4a(i) Reinstate "average headway" in the definition of frequent transit for the purpose of accessing reductions to required parking minimums. Averaging headways allows projects close to frequent transit to access minimum parking reductions as intended. Accomplish this through a legislative change (not a DPD Director's Rule).	21	1
4a(ii) Do not reinstate required parking minimums in UV/UCs. The removal of parking requirements has been crucial in stimulating production of a wide range of housing types.	19	2

4a(iii)	Reduce parking requirements for multi-family housing development outside of UV/UCs in locations well served by transit and other amenities.	22	0
4b. Review parking policies in single-family zones.			
4b(i)	Remove the 1:1 required parking ratio for "low density residential" housing types. (See 1.a and 1.c above).	20	1
4b(ii)	Eliminate parking minimums on all Single Family lots immediately. The required parking space does not increase amount of parking, because of the street space needed for curbcuts.	19	2
4c. Make comprehensive reform to on street parking policies. (Could apply to multi-family or single-family areas).			
4c(i)	Create a parking benefit district and "cap and trade" demonstration/pilot program. Establish pay-for-parking districts, and return on street parking revenues to the neighborhood.	26	0
4c(ii)	Explore revising the pricing structure for RPZ passes or replace the program with parking districts (above) or similar.	25	2
4c(iii)	Explore improving ROW management of curb space, including reconfiguring ROW areas to make more efficient use of space for parking or similar.	25	2

Issue: Some zoning regulations discourage favorable forms or types of housing.

5. Make modifications to the zoning code to enable a broad range of forms of housing, especially those proven to be viable and successful in Seattle and peer cities.

5a.	Encourages the City Council PLUS committee to promptly review of whether or where congregate micro-housing should be expanded and modify recently created barriers to the creation of congregate micro-housing by creating zoning and locational criteria that allow congregate micro-housing to be built by market developers in dense areas of Urban Villages and Urban Centers with 30' or 40' height limits. Create an MFTE category that allows Congregate housing to participate in the MFTE program.	21	1
5b.	Make code changes to encourage production of small flats to fill the market gap between large ownership townhouses and small rental apartments: <ul style="list-style-type: none"> • Remove code barriers to the production of flats in rowhouse/townhouse formats in all LR zones • Reform the state condo act to temper the excessive liability associated with condominium development (See also finance.) 	20	1

ISSUE: Occupancy limits may constrain inexpensive shared housing. Code currently defines a household as (1) an unlimited number of family members or (2) no more than 8 people if anyone is not a family member. The household size limit may constrain sharing of large houses, and may arguably discriminate based on family structure.

6. Rewrite the definition of household to be any group of people who live together, so there is no limit on household size.	22	5
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FINANCING		Yes	No
<p>ISSUE: Current financing options available for low-income housing development in Seattle are utilized by a limited range of projects, and are restricted by available public resources. The City should provide new financing tools that help increase public and private investment in affordable housing, and expand the types of projects produced to serve a broad range of low-income households.</p>			
<p>1. The City should create lower-cost financing options for affordable housing production and preservation, and take advantage of its credit rating to help reduce financing costs.</p>			
1a.	<p>Create a City credit enhancement program to assist private developers to attain more favorable financing terms and increase borrowing power. The program should include the following criteria:</p> <ul style="list-style-type: none"> • The City should partner with multiple lending institutions to take advantage of the best terms available through changing markets. • Minimum underwriting criteria should be established to reduce the City's risk, while maintaining a streamlined process that does not increase the development timeline. • The City should limit the program to permanent debt, rather than taking on construction risk. • The program should be targeted to projects where credit enhancement has the greatest potential impact, i.e., projects with significant permanent debt. • The program should achieve long-term affordability. • The program should work for affordable and mixed income projects. 	27	0
1b.	<p>The City should consider a bond issue to generate a pool of lower-cost capital for making loans with flexible terms/uses, including in new construction and preservation projects, and in projects that may or may not use the 4% LIHTC/bond programs. Potential loan products include:</p> <ul style="list-style-type: none"> • Subordinate permanent loans that provide some level of ongoing debt service with full/partial repayment at refinancing of first mortgage • Senior permanent loans that provide some level of ongoing debt service with full/partial repayment at refinancing of first mortgage • Subordinate short- to medium-term loans that reduce a developer's up front equity investment • Short-term acquisition loans to be repaid with permanent financing 	19	1
1c.	<p>The City should explore short-term lending from available City fund balances.</p>	19	2

ISSUE: The City should maximize the ability of property tax incentives to achieve affordability in a range of projects, including projects in areas with rapidly rising rents and areas with lower rents that provide the added value of economic development.

<p>2. Continue to calibrate the MFTE program to achieve participation from a range of projects, including projects in areas with rapidly rising rents and areas with lower rents that provide the added value of economic development. The program should continue to target affordability to low-income households (roughly 80% AMI) through changing market conditions.</p>		
2a.	Institute a penalty for opt-out to provide a safeguard against market pressures.	12 10
2b.	Create a 3BR unit type to remove the disincentive for building larger units.	20 0
2c.	Expand eligible residential target areas to all areas zoned for multifamily housing.	17 2
2d.	Explore changes in State law to: <ul style="list-style-type: none"> • Allow lower set-aside percentages that would enable the program to serve lower income households. • Create a separate program specifically for subsidized projects that are already meeting affordability requirements for other financing (e.g., 100% at 60% AMI for the 4% tax credit program, with a 15-year term to match the refinancing date); OR • Create different options for length of participation (12, 15, 20 years), allowing the program to serve the needs of various financing products. 	20 0
2e.	Create an MFTE category that allows Congregate housing to participate in the MFTE program.	24 0

ISSUE: Affordable housing financing tools may be insufficient alone to create housing affordable to households with the lowest incomes, and traditional federal subsidies to help serve this population such as public housing and section 8 have stagnated in recent years.

3.	The City should consider local funding to create or expand rental/operating subsidies together with expansion of financing tools.	24 0
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PRESERVATION		Yes	No
<p>ISSUE: Every year the city loses affordable housing stock due to demolition, expiring use restrictions, neighborhood gentrification and major property renovation, all accelerated by rising demand in neighborhoods across the city. While the City is planning for growth and new development, the City must also institute a robust and fully funded preservation strategy to prevent displacement and ensure no loss of the existing stock of affordable housing.</p>			
<p>1 Create a substantial financial resource and legislative authority to empower the City to lead an expansive affordable housing preservation effort.</p>			
1a.	Fund a large-scale acquisition/rehab loan fund, or directly acquire below-market rate properties (using, for example, City issued bonds).	23	1
1b.	Expand the focus and staffing of the Office of Housing to implement a robust, proactive preservation effort.	23	1
1c.	Explore legislation to create a right of first refusal in existing affordable multifamily housing.	12	7
1d.	Explore incentives and opportunities to preserve buildings at risk due to URM/RRIO requirements.	21	2
<p>2 Develop and market financing tools to preserve or deepen affordability of existing housing.</p>			
2a.	Establish a rehab loan program that leverages existing weatherization funding to reach and incentivize a broader base of private owners to maintain their properties as affordable, coupled with an effective outreach component.	24	0
2b.	Provide outreach and technical support to owners in the form of a "navigator" position to increase access to City programs.	24	0
<p>3 Develop incentives to preserve or deepen affordability of existing housing.</p>			
3a.	Explore state legislation to provide a tax exemption to existing owners where rents are very likely to increase to ensure continued affordability, e.g. near transit.	19	1
3b.	Explore state legislation to provide tax exemption for acquisition/rehab projects that preserve affordability.	23	1
<p>4 Collaborate with communities and housing stakeholders to increase capacity and promote anti-displacement strategies.</p>			
4a.	Identify vulnerable areas and appropriately target strategies to areas with high displacement risk, for instance by utilizing a geospatial displacement risk tool to guide City planning and decision-making.	20	0
4b.	Establish an expert advisory body or commission to lend specialized expertise and guidance to the City's housing strategies, bringing together representatives of tenants, owners, developers and public agencies.	23	2

5 Collect data on the affordability of existing unsubsidized market-rate stock to strategically guide preservation efforts		
5a.	Purchase custom data tables annually to identify the distribution of market-rate rents by affordability at specified income levels.	20 1

TENANTS		Yes	No
<p>ISSUE: An estimated 25-33% of US adults have a criminal record and face significant, and often lifelong, barriers to housing. They are disproportionately people of color. Housing helps them access job programs and maintain employment, reunite with families, and comply with terms of release. Stable housing also has broad community benefits. It is a key strategy for ending homelessness, helps address racial disparities, and improves public safety by reducing recidivism.</p> <p>1. Pursue a combination of local legislation, education, technical assistance, and fair housing enforcement to reduce barriers to housing for people with criminal records.</p>			
1a. Develop legislation to reduce barriers for people with criminal records. All relevant			
1a(i)	Prohibit advertisements for rental housing that make people with criminal records ineligible to apply.	22	1
1a(ii)	Prohibit screen criteria that include an absolute exclusion of anyone with a criminal record or a broad category of criminal record, such as a felony.		
1a(iii)	Require consideration, prior to denial, of additional, verifiable information provided by the applicant regarding the criminal record and/or changed circumstances or good conduct since the time of conviction.		
1a(iv)	Prohibit denials based on records that cannot be reported under state law, such as crimes greater than seven (7) years since disposition or release, or juvenile records if the applicant is twenty-one (21) years old or older.		
1a(v)	Prohibit denials based on arrests older than one (1) year, except when currently pending charges are under active prosecution.		
1a(vi)	Prohibit denials based on warrants attached to a case where a final disposition has been entered. Allow exclusion of people with active warrants, either pending or adjudicated.		
1a(vii)	Require screening criteria to be based on a business justification related to the requirements of tenancy.		
1a(viii)	Provide for the enforcement of the above provisions.		
1b. Provide education, technical assistance and best practices to reduce the criminal		12	1
1b(i)	Provide educational sessions regarding the extent of the problem, benefits to individuals and community with reduced barriers, and practical considerations for landlords to set reasonable screening criteria and procedures.	16	1
1b(ii)	Develop and publish guidelines for screen criteria based on a business justification.	16	1

1b(iii)	Develop and publish guidelines for screening reports in accordance with state law and best practices.	16	1
1b(iv)	Provide written guidelines and educational sessions to promote best practices in tenant admissions, including individualized tenant assessment.	16	0
1c.	Convene stakeholders to explore opportunities for housing for people leaving incarceration, including additional resources for publicly funded housing and incentives for private market housing.	17	0

ISSUE: Displacement of households due to demolition, substantial rehabilitation or change of use is more common during times of rapid redevelopment. Due to high housing costs, displaced lower income tenants have difficulty finding replacement housing in Seattle. The TRAO program provides a payment of \$3,255 to tenant households earning ≤ 50% AMI to help them secure new housing. TRAO effectiveness is curbed by current limits on the program.

2. Increase the impact of the Tenant Relocation Assistance Ordinance (TRAO) Program:

2a.	Provide direct assistance to tenants suffering from mental illness or cognitive disabilities, or having language barriers in completing and submitting applications for tenant relocation assistance. This could be done through the Office of Housing, the Human Services Department, or established community agencies such as Solid Ground.	17	0
2b.	Define tenant household in a manner to eliminate the inequity of having low-income individuals under one contractual agreement being treated as one tenant household for purposes of applying for relocation assistance.	15	2
2c.	Develop a policy to prevent exorbitant rent increases that are implemented with the intent of avoiding the application of the Tenant Relocation Assistance Ordinance.	17	0
2d.	Support legislation that seeks to strengthen the City's existing authority under the Tenant Relocation Assistance Ordinance to fine landlords who clear buildings with exorbitant rent increases for the purpose of evading application of the TRAO ordinance.	17	0

ISSUE: Homeless people experience significant barriers when attempting to access the private market for housing, even when they have a rental voucher as payment. Case management services and mitigation funds provide an incentive for landlords to reduce screening barriers.

3. Increase access to private market housing for homeless people by supporting the Landlord Liaison Project, landlord mitigation funds, other tools.

3a.	Increase access to private market housing for homeless people by supporting the Landlord Liaison Project, landlord mitigation funds, and other tools.	17	0
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ISSUE: The City's Rental Agreement Regulation Ordinance (RARO) requires 60 days notice before housing costs are increased by 10% or more. To help mitigate the hardship on tenants who face a large rent increase, more advance notice could be provided.

4. Amend the Rental Agreement Regulation Ordinance (RARO) to improve enforcement and/or increase notice requirements for rent increases.

4a. The HALA Committee should consider the pros and cons of providing for DPD enforcement of the Rental Agreement Regulation Ordinance notice requirements.	14	3
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ISSUE: Rising housing costs affect all low income households, but can have a disproportionate impact on people of color, with fair housing implications.

5. Ensure consistent enforcement of fair housing statutes.

5a. The City of Seattle Office of Civil Rights should partner with a reputable academic institution, such as the University of Washington, to update and expand its 2005 study on how protected classes within the city have been impacted by displacement from rising rents and how public resources are being deployed to address such displacement. The City should provide the necessary funding to implement the study. The study should not duplicate past studies and should collaborate with other research being conducted currently to avoid duplication of efforts. The study should not examine how to implement rent control in the city.	15	1
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ISSUE: People seeking to rent housing pay for a screening report each time they submit an application. The cumulative cost of these reports is a significant barrier to achieving stable housing for low-income and homeless families.

6. Absent state legislation, allow for local portability of tenant screen reports.

6a. Allow for local portability of tenant screening reports after defining the criteria for a comprehensive screening report. The City of Seattle should bring together representatives of the City, tenant advocates, the screening report industry, and local landlords to collaborate in this endeavor.	16	0
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ISSUE: Community Service Officers are civilians that acted as a helpful intermediary to resolve conflict between landlords, tenants, DPD and police. CSOs were eliminated due to budget cuts about 5 years ago.

7. Restore Community Service Officers to resolve conflicts such as lock-outs.

7a. Reinstigate the Community Service Officer Program in the Seattle Police Department and, among other duties, enforce the Prohibited Acts section of the Housing and Building Maintenance Code. Special training is to be given in the observance of civil limits and the special needs of individuals living in ex-offender housing.	24	0
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8. Enforce tenants' right to organize.			
8a.	Reinstitute the Community Service Officer Program in the Seattle Police Department and, among other duties, enforce the Prohibited Acts section of the Housing and Building Maintenance Code. Special training is to be given in the observance of civil limits and the special needs of individuals living in ex-offender housing.	24	0
9. Excessive lease rules.			
9a.	A residential rental agreement should contain no provision that is contrary to or unenforceable under federal, state, or local law.	15	2
10. Fee reform.			
10a	Adopt a local ordinance that prevents a late fee from being charged on a late fee.	13	3
10b	Determine whether or not a late fee should be considered rent.	13	3
11. Expand sources of income protection.			
11a	Expand sources of income protection to include certain payments made directly to tenants by government agencies. Representatives of the City of Seattle, tenant advocates, and local landlords shall collaborate in determining which additional sources of income would enjoy protection.	16	1
12. Rent stabilization.			
12a	There are valuable options in regulating rents that are worth exploring that should be forwarded to the HALA Committee.	13	11
13. Increase tenant counseling information.			
13a	Budget \$750,000 to the Human Services Department for agencies and organizations to apply for funding for general landlord-tenant education and outreach, and legal aid and assistance for low-income individuals. There should be means testing for landlords and tenants for legal assistance, but general education and outreach should not be means tested for landlords.	25	0

HOMEOWNERSHIP		Yes	No
<p>ISSUE: As the cost of buying a home in Seattle continues to increase, it becomes more challenging to provide opportunities for low-income homebuyers to purchase a home in Seattle. The City must continue to seek successful strategies to create homeownership opportunities for low-income households, so that low-income households have access to the many benefits of homeownership. Additionally, the City should implement strategies to help low-income homeowners remain successfully in their homes, as a preservation strategy that can help low-income people stay in Seattle.</p>			
<p>1. Preserve existing affordable housing by providing resources and programs to help ensure low-income homeowners at or below 80% AMI can remain successfully in their homes. This could include helping low-income homeowners facing challenges such as gentrification of their neighborhood, major home repairs on a limited budget, medical crisis or other financial crisis and/or aging in their home.</p>			
1a.	Develop other programs and/or resources to support low-income homeowners. OH staff would need to do more research to determine the best approaches. Relief should be available on when a household is in a time of need. Some potential ideas include: <ul style="list-style-type: none"> • A foreclosure prevention campaign targeted to seniors • Housing assistance for homeowners where medical debt is putting their housing situation at risk (medical debt is one of the leading causes for foreclosures and defaults) • Better leveraging existing home repair and weatherization programs • Property tax discounts for low-income homeowners in areas experiencing growth and gentrification 	22	1
<p>2. Increase the number of low-income homebuyers who are ready to buy and can qualify for the best mortgage possible. Every year, over a thousand people take homeownership classes in Seattle. Support could be provided to convert more of these participants into successful homeowners. By helping homeowners qualify for the best mortgage possible, a buyer's purchasing power can be increased (essential in this high cost market), buyers are more likely to get mortgage terms that set them up for long-term success as a homeowner and the City can stretch limited public dollars such as down payment assistance further.</p>			
2a.	Provide financial support for coordinated, start-to-finish support that is culturally appropriate and available in multiple languages. Structure support to pro-actively work with borrowers throughout the process of getting ready for homeownership, even if that process takes place over several years.	21	1
2b.	Ensure borrowers have the help they need to address debt, repair credit and be successfully prepared for the financial obligations of homeownership.	21	1

2c.	Consider changes to the City's existing down payment assistance program that could allow for more flexibility in serving buyers at or below 80% AMI.	21	1
2d.	The City should be encouraged to be a leader in convening community groups to create a sharia-compliant lending program for households earning < 80% AMI.	18	1
3.	Increase the number of homeownership units that are affordable to homebuyers at or below 80% AMI. With housing costs increasing rapidly, actions should be taken to create affordably priced homeownership units that will keep low-income homebuyers in the City. This can involve a mix of strategies that will both create market-rate units that tend to be more affordable, such as condos and create homeownership units that will remain permanently affordable.		
a.	Seek and implement opportunities to develop homeownership units that are permanently affordable, accompanied by an appropriate stewardship mechanism. Strategies for producing permanently affordable homeownership opportunities include utilizing surplus property for homeownership units and inclusion of homeownership units in public projects. It is especially important to identify such opportunities near high-capacity public transit.	21	1
b.	Explore concept of changes to implied warranty in Condo Act, which currently serves as barrier to condo development. This could be of assistance in helping both non-profit and for-profit developers produce more condos.	20	0
c.	When condo conversions happen, provide incentives so that units are converted to long-term affordable homeownership units.	15	2
4	Provide assistance to homebuyers between 80-120% AMI. With the current median home value in Seattle at \$468,900, many middle-income homeowners are also becoming locked out of the homeownership market. However, there are limited resources to help these middle-income homebuyers. The state constitution prohibits public funding to households above 80% AMI, so these homebuyers cannot access direct assistance such as the City's down payment assistance program. This strategy is not about changing the state constitution, but instead about exploring other ways to provide assistance that work within the current constitutional limits.		
a.	More research needs to be done possible methods, could include property tax deduction, expansion of mortgage credit certificate program, or tax breaks for employees who provide down payment assistant to employees.	13	7

CONSTRUCTION		Yes	No
ISSUE: Unpredictable and long processes to receive permits make housing projects difficult to develop and add to the cost of new housing.			
1. Increase the predictability and speed of the permitting process across all departments, for all housing development.			
1a.	Make major reforms to the design review and historic review processes to improve predictability and consistency: <ul style="list-style-type: none"> • Procedural changes to improve 2-way dialogue at board meetings • Change board structure for more available review times and more professionalism of boards • Train board and staff to allow affordability (cost) impacts to be considered in design review recommendations • Limit commentary on aspects outside the purview of the program • Limit extent of packet materials, and number of meetings. • Increase accountability of individual planners • Improve historic review process 	20	0
1b.	Improve coordination and timing of permit reviews within and between departments (DPD, SCL, SDOT, SPU): <ul style="list-style-type: none"> • Ensure full staffing by all reviewing departments at the pre-submittal conferences and in Preliminary Assessment Reports (PAR) to maximize effectiveness of pre-application guidance. • Improve timing and coordination of utility service application review with other permits to avoid mandates for changes in the field at time of inspection. (Especially electrical vault size/ locations.) 	18	0
1c.	Allocate resources from the general fund, or as contingent budget authority, for a reserve so reviewing departments can 'ramp up' staff (or on call assistance) during the busiest times.	16	2
1d.	Modify SEPA thresholds to reduce the number of housing projects that must undergo a SEPA environmental review, since environmental impacts are often adequately addressed by other regulations. Adjust the thresholds based on new Comprehensive Plan growth estimates.	18	2
1e.	Increase the predictability and transparency of permitting charges and utility connection charges. <ul style="list-style-type: none"> • Improve transparency of fee structure, or provide early cost estimation of required City utility connection fees. (ie. CityLight connection charges) • Do not allow late billing, so that utility connection charges or permit fees may not be billed to an application at substantially later than project completion. 	20	0

ISSUE: Affordable housing developments often have heightened timing constraints due to time limits of multiple subsidized housing funding sources.

2. Establish special permit expediting for affordable housing projects, which is tiered to the level or term of affordability.

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|-------|---|----|---|
| 2a. | Establish a priority tiering system that applies to all departments, such as: <ul style="list-style-type: none"> • Highest priority – publicly subsidized / funded projects and/or designated very low income (50% AMI and below) • Second priority – projects with dedicated affordability at low and moderate income levels (ie 50%-85% AMI) and guaranteed for 20+ years. • Ensure no 'opt outs' for projects that gain from expedited review | 13 | 6 |
| <hr/> | | | |
| 2b. | Create an enhanced level of permit facilitation/coordination provided by interdepartmental city staff to advance affordable housing projects on an efficient schedule. (aka expeditor). The role should have a high level of authority and report to the Mayor's office. The role would also be a single communicator / point of contact to the affordable housing project applicant. | 17 | 3 |

ISSUE: City of Seattle development fees and charges, generally intended to ensure growth pays for growth, add significantly to the cost of building new housing. If affordable housing is an overriding public priority there is opportunity to subsidize housing through waiver or discount of development related fees and charges.

3. Give discounts or waivers of City utility connection, right of way use fees, or permit fees for affordable housing projects. Provide discounts or waivers only for projects (or housing units) that have guaranteed affordability, and serve low or very low income populations.

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|----|--|----|---|
| a. | Waive or discount of Seattle Department of Transportation (SDOT) ROW street closure fees - for construction staging. | | |
| b. | Waive or discount of Seattle Public Utility (SPU) water service connections fees. | 15 | 5 |
| c. | Waive or discount of Seattle City Light electrical connection fees. | | |
| d. | Waive or discount of Department of Planning and Development (DPD) permit review fees. | | |

ISSUE: The cost of physical construction is the largest portion of the cost of producing new housing.

4. Facilitate the use of new building technologies and other innovations to maximize the efficiency of constructing new housing.

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| a. | Consider modification to building and/or fire codes to allow six or more stories of economical wood frame construction. ("6 over 2"). | 20 | 1 |
| b. | Explore allowing new building materials, particularly Cross Laminated Timber (CLT) to enable economical wood frame construction to be possible at heights greater than 75'. | 19 | 1 |

c.	Reconcile zoning code height limits with construction types. In particular, a 70' height limit would be better than a 65' height limit in order to maximize economical Type V wood frame construction.	20	0
d.	Support use of pre-fabricated construction, including prefabricated metal modular structures, as method to reduce construction costs.	19	1

Appendix G: Concepts Explored for which there was not Consensus

Rent Control: The HALA Committee discussed whether the City should explore options for rent control. Proponents offered that hundreds of jurisdictions across the country use this approach and that in New York City it has resulted in the regulation of rent for nearly one million units. Proponents discussed that rent control laws in other cities have been undermined by state legislation allowing rent to increase to market rate between tenancies, rather than tying rents to inflation which they believe would be more effective at keeping rents affordable without impeding supply. Opponents offered that rent control has been consistently proven to be a failure, would not add to housing supply or affordability, and is a price control that will lead to shortages and thus higher rents. In addition, they pointed out that rent control is illegal at the state level and support of rent control would only divert attention from other more feasible strategies that can achieve more affordable housing.

Direct Financial Support for Homebuyers above 80% of AMI: The HALA Committee discussed whether the City should explore options for supporting moderate-income homebuyers, recognizing that the state constitution prohibits direct housing subsidies for households above 80% AMI. The HALA Committee discussed a few options, including property tax exemptions, which many members did not support. Proponents acknowledged that many major U.S. cities have some kind of assistance for homebuyers at these income levels and that moderate income homebuyers are being priced out of Seattle. Although Committee members thought the policy was valid they saw a much stronger need at lower income levels, so preferred to target assistance and attention on creating opportunities for lower income homebuyers. Committee members also raised that zoning flexibility, which could result in smaller homes at lower price points, might be the best approach at this time to support moderate-income homebuyers.

Include a Penalty for MFTE Opt-out: The HALA Committee discussed whether the MFTE program should include a provision that assesses a penalty when participating buildings elect to exit the program prior to the end of the 12 year low-income commitment period. The MFTE program, which received strong HALA support for renewal and expansion, currently allows participating buildings to exit the program at any time without penalty. Some proponents explained that the penalty could be sized appropriately (not the full value of the tax exemption) and could be used to help support tenants whose rents could rise if an owner opts out. There was a concern that opting out could happen more frequently as market rents rise. Opponents offered that opt-outs have not been a problem to date, and that an opt-out penalty could dissuade investors and ultimately reduce participation in the MFTE program.

Pursue an Anti-Speculation Tax: The HALA Committee discussed whether the City should impose an excise tax on multifamily housing to prevent sales within 5 years of purchase, in order to prevent the displacement of existing tenants through rehabilitation and subsequent rent increases. This tax, which was presented to voters in San Francisco, would require a change in state law related to real estate excise taxes. The Committee identified a number of issues. Flipping may occur when a family-owned building is passed to another family member in an estate and is subsequently sold to someone who spruces it up for resale. A family-owned building may be an underperforming asset, but the family is not actively pursuing market rate rents. An owner may be charging below-market rents now on the

assumption he or she will get the full value for the building upon sale (perhaps to fund retirement). Imposing an anti-speculation tax might discourage this kind of building ownership. Other members questioned how big a problem multifamily flipping is in Seattle. Without data establishing how many multifamily buildings were being purchased, rehabilitated and resold quickly, some members felt ill-equipped to support the proposal. Some members expressed concern that this would frustrate the strategy to adopt a Real Estate Excise Tax dedicated to affordable housing, which received unanimous support.

Create a Right of First Refusal: The HALA Committee discussed whether the City should pursue legislation to create a right of first refusal for the City upon the sale of existing affordable multifamily housing. Some members questioned whether a state legislative change would be necessary. Proponents believe that a right of first refusal provides a way to acquire affordable housing through a distinctly different manner than other strategies, so should be kept on the list. Proponents cited the District of Columbia as having used this strategy to retained affordable housing. The Committee rejected this proposal for a number of reasons, including concern that the strategy would amount to a government taking of a property right and skepticism that the City could act quickly enough or offer a competitive price. There was concern that this strategy would cause existing owners to raise their rents before a sale in order to avoid being subject to this requirement. Other members suggested variations on this strategy, for instance the City could help the owner or tenants purchase the property, or the Office of Housing could track the marketing of affordable multifamily housing and facilitate purchase by nonprofits.

Upzone underused light industrial areas for multifamily housing: The HALA Committee discussed zoning changes to allow multifamily housing in light industrial areas. Currently no industrial zones allow for residential uses. The Committee decided against this strategy because of the City's public policy objective to protect the remaining industrial lands and associated living wage jobs. Stakeholders from the city's industrial lands advocacy groups pointed out that housing in industrial areas could cause problems for the continued viability of an industrial cluster. It was also noted that industrial areas may not be the most livable areas, and can be far removed from other support services and community resources. The Committee preferred to put greater emphasis on other zoning changes to increase multifamily opportunities.

Rewrite the definition of household to be any group of people who live together, so there is no limit on household size: The city's Land Use Code limits households to 8 unrelated people. This means that unless everyone is a relative, no more than 8 people may living in one home. Advocates for removing the household size limit believe the limit unnecessarily regulates housing choice. They point out that historically "rooming houses" and similar living arrangements were a valuable and accepted housing option. Proponents pointed out that roommate arrangements can provide low cost housing options to individuals in desirable neighborhoods, and that occupancy limits deter roommate living arrangements. It was also suggested that the rule is commonly violated and does not serve a legitimate public purpose because there is little evidence of health and safety risks due to overcrowding.

Opponents to this action argued against it for several different reasons. Some did not see how the household size limit is a meaningful constraint on the sharing of housing. Some felt removing the size limit would cause controversy with little to no gain. Others thought the household size limit was

important to keep in place to regulate the total occupancy of principal plus accessory units, where accessory units are allowed. The action could also increase competition for larger housing units with negative impacts on families. Removing the limit could create some problems for landlords, who sometimes rely on the regulation to limit how many people are eligible to sign onto a lease.

Establish special permit expediting for affordable housing projects: The HALA Committee considered a recommendation to expedite permits for dedicated affordable housing projects. The expediting would apply to all departments and would be tiered to the level of affordability. The highest priority would be publicly funded housing and/or income and rent restricted housing for very low income households (50% AMI and below). A second priority would be projects with dedicated affordability for households with incomes at or below 50%-85% AMI and guaranteed for 20+ years.

Although the Committee recognized the importance of speeding the permitting process, members felt that prioritizing too many project types would not result in any meaningful change in processing times. Currently, many projects qualify for green building priority permitting, but that priority permitting is not appreciably faster. The prevailing view was that the permitting process should be made faster and simpler for all projects – not just affordable projects. As a result, the Committee advanced recommendations to reform design and historic review processes, and to improve interdepartmental permit coordination.

Give discounts or waivers of City utility connection, right of way use fees, or permit fees for affordable housing: The Committee discussed discounts or waivers for rent/income restricted housing for low, very low, or extremely low income populations. City of Seattle fees can total hundreds of thousands of dollars on a complex multifamily development project. Waiving the fees could directly reduce the cost of producing new affordable housing. Specific fees considered for waiver included SDOT's right of way use fee (during construction), DPD permit review fees, and SCL and SPU utility connection charges.

Committee members rejected this proposal because they were concerned that the foregone fees would be passed on to other ratepayers in the system. The affected departments would have to increase fees on other projects, or raise revenue to backfill foregone fees through a general fund increase. It was also acknowledged that the right of way closure fee serves an important public purpose of incentivizing the shortest possible right of way closures due to construction.

Appendix H: Glossary of Acronyms

ADUs and DADUs: Accessory Dwelling Units and Detached Accessory Dwelling Units

AMI: Area Median Income

C: Commercial zone

CLT: Cross Laminated Timber

CPI: Consumer Price Index

CSOs: Community Service Officers

DH: Downtown Harborfront zone

DMC: Downtown Mixed Commercial zone

DMR: Downtown Mixed Residential zone

DOC: Downtown Office Core zone

DON: Department of Neighborhoods

DPD: Department of Planning and Development

DRC: Downtown Retail Core zone

DT: Downtown

EIS: Environmental Impact Statement

FAR: Floor area ratio

HALA: Housing Affordability and Livability Agenda

HR: Highrise multifamily zone

HUD: US Department of Housing and Urban Development

IC: Industrial Commercial zone

IDR: International District Residential zone

IZ: Incentive Zoning

- LLP:** Landlord Liaison Project
- LR:** Lowrise multifamily zone
- MFTE:** Multifamily Tax Exemption
- MIH:** Mandatory Inclusionary Housing
- MR:** Midrise multifamily zone
- NC:** Neighborhood Commercial zone
- OH:** Office of Housing
- PARs:** Preliminary Assessment Reports
- PLUS:** Planning Land Use and Sustainability Committee, City Council
- PMM:** Pike Place Market Mixed zone
- PRD:** Planned Residential Development
- PSM:** Pioneer Square Mixed zone
- REDI:** Regional Equitable Development Initiative
- REET:** Real Estate Excise Tax
- ROW:** Right of Way
- RPZ:** Restricted Parking Zone
- RRIO:** Rental Registration and Inspection Ordinance
- RSL:** Residential Small Lot zone
- RTAs:** Residential Target Areas
- SCL:** Seattle City Light
- SDOT:** Seattle Department of Transportation
- SEPA:** State Environmental Policy Act
- SLU:** South Lake Union
- SM:** Seattle Mixed zone

SOCR: Seattle Office of Civil Rights

SPU: Seattle Public Utilities

SSI: Supplemental Security Income

TRAO: Tenant Relocation and Assistance Ordinance

URM: Unreinforced Masonry building



SEATTLE CITY COUNCIL

Legislative Summary

Res 31622

Record No.: Res 31622

Type: Resolution (Res)

Status: Adopted

Version: 1

In Control: City Clerk

File Created: 09/30/2015

Final Action: 10/16/2015

Title: A RESOLUTION declaring the City Council's intent to consider strategies to increase the availability of affordable housing in The City of Seattle; requesting the State Legislature to adopt new policies or modify existing policies in order to provide additional opportunities for cities and counties to increase the availability of affordable housing; and repealing Resolution 31609.

	<u>Date</u>
Notes:	Filed with City Clerk: 10/16/2015
	Mayor's Signature: 10/16/2015
Sponsors: O'Brien	Vetoed by Mayor:
	Veto Overridden:
	Veto Sustained:

Attachments: Att A - Council Work Plan for HALA Recommendations

Drafter: Emilia.Sanchez@seattle.gov

Filing Requirements/Dept Action:

History of Legislative File

Legal Notice Published: Yes No

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Clerk	10/01/2015	sent for review	Council President's Office			
	Action Text: The Resolution (Res) was sent for review. to the Council President's Office						
	Notes:						
1	Council President's Office	10/01/2015	sent for review	Full Council			
	Action Text: The Resolution (Res) was sent for review. to the Full Council						
	Notes:						
1	Full Council	10/05/2015	referred	Full Council			
	Action Text: The Resolution (Res) was referred. to the Full Council						
	Notes:						
1	Full Council	10/05/2015	adopted				Pass
	Action Text: The Motion carried, the Resolution (Res) was adopted by the following vote, and the President signed the Resolution:						
	Notes:						

Legislative Summary Continued (Res 31622)

Motion was made and duly seconded to to adopt Resolution 31622.

In Favor: 9 Councilmember Bagshaw, Council President Burgess, Councilmember Godden, Councilmember Harrell, Councilmember Licata, Councilmember O'Brien, Councilmember Okamoto, Councilmember Rasmussen, Councilmember Sawant

Opposed: 0

1 City Clerk 10/06/2015 submitted for Mayor
Mayor's signature
Action Text: The Resolution (Res) was submitted for Mayor's signature. to the Mayor
Notes:

1 Mayor 10/16/2015 Signed
Action Text: The Resolution (Res) was Signed.
Notes:

1 Mayor 10/16/2015 returned City Clerk
Action Text: The Resolution (Res) was returned. to the City Clerk
Notes:

1 City Clerk 10/16/2015 attested by City Clerk
Action Text: The Resolution (Res) was attested by City Clerk.
Notes:

Traci Ratzliff
LEG Repealing 31609 RES
D2

CITY OF SEATTLE
RESOLUTION 31622

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A RESOLUTION declaring the City Council's intent to consider strategies to increase the availability of affordable housing in The City of Seattle; requesting the State Legislature to adopt new policies or modify existing policies in order to provide additional opportunities for cities and counties to increase the availability of affordable housing; and repealing Resolution 31609.

WHEREAS, from 2011 to 2015 rental rates for existing units open more than a year in Seattle increased by 25 percent according to Dupree + Scott Apartment Advisors Annual Apartment Reports; and

WHEREAS, in Seattle, 27,750 households at 0-50 percent of Area Median Income (AMI) and an additional 1,750 households at 50-80 percent of AMI spend more than half their income on housing, according to the *2006-2010 Five Year American Community Survey Data*; and high rental housing costs make it more difficult for lower-income households to remain in the city; and

WHEREAS, there is an estimated need for an additional 70,000 housing units over the next 20 years, with approximately 18,000 of those units needed for households at 0-50 percent of AMI and 9,500 units needed for households at 50-80 percent of AMI according to *Seattle 2035: Updating Seattle's Comprehensive Plan Background Report, February 2014*; and

WHEREAS, in recognition of the growing housing affordability challenge in the city, the Council has taken numerous actions over the last several years to develop strategies for addressing this problem; and

WHEREAS, in May 2013, the Council adopted Resolution 31444, calling for a thorough review and update of Seattle's incentive zoning and affordable housing programs and policies focused on creating affordable workforce housing; and

Traci Ratzliff
LEG Repealing 31609 RES
D2

1 WHEREAS, in response to the completed review and update of the incentive zoning program,
2 the Council adopted Resolution 31551 in October 2014 stating the City's intent to
3 implement an affordable housing linkage fee program, establishing policy parameters for
4 such a program, and directing the Department of Planning and Development and the
5 Office of Housing to develop regulations implementing an affordable housing linkage fee
6 program; and

7 WHEREAS, in response to the recommendations included in the report on affordable housing
8 programs and policies operating nationwide, the Council adopted Resolution 31547 in
9 September 2014 stating its intent to authorize \$1 million in funding for the Central Puget
10 Sound Regional Equitable Development Initiative Fund (REDI) to finance the acquisition
11 of land for the development of affordable housing along transit lines and requesting the
12 Department of Planning and Development to explore the expansion of the development
13 of accessory dwelling units and detached accessory dwelling units; and

14 WHEREAS, the Council authorized \$1 million in funding for the REDI Fund as part of the
15 City's 2015 Adopted Budget; and

16 WHEREAS, recognizing the legal complexity of policies and practices designed to create more
17 affordable housing, including state and federal constitutional questions, the Council urged
18 the City Attorney in December 2014 to create a senior legal team composed of Assistant
19 City Attorneys and outside legal experts to review potential policies and practices and
20 advise city government; and

21 WHEREAS, in recognition that further strategies were needed to address the affordable housing
22 challenge, in September 2014, the Council adopted Resolution 31546, establishing the
23 Housing Affordability and Livability Agenda (HALA) Advisory Committee to evaluate

Traci Ratzliff
LEG Repealing 31609 RES
D2

1 potential strategies to support the development and preservation of a diversity of housing
2 types and rents/prices for the residents of the City over the next ten years; and

3 WHEREAS, the HALA Advisory Committee examined an array of potential strategies the City
4 can implement on its own, and some that will require state action in order to implement,
5 and has issued a report with recommendations to the Council and Mayor; and

6 WHEREAS, the Mayor has submitted a set of recommendations based on the HALA's report
7 that attempts to meet the goal of building or preserving 20,000 rent- and income-
8 restricted units affordable to households from 0 – 80 percent of AMI and 30,000 units of
9 market rate housing affordable to households above 80 percent of AMI over the next 10
10 years;

11 WHEREAS, the City Council adopted Resolution 31609 on September 28, 2015; and

12 WHEREAS, Attachment A to Resolution 31609 was not presented with the Select Committee on
13 Housing Affordability recommendation at the time the Full Council unanimously adopted
14 the Resolution;

15 WHEREAS, this resolution accurately reflects the Select Committee on Housing Affordability
16 recommendation; NOW, THEREFORE,

17 **BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEATTLE, THE**
18 **MAYOR CONCURRING, THAT:**

19 Section 1. The City Council is ready to expeditiously consider strategies recommended
20 by the Housing Affordability and Livability Agenda (HALA) Advisory Committee and the
21 Mayor that will accomplish the following objectives:

Traci Ratzliff
LEG Repealing 31609 RES
D2

1 A. Increase the number of rent and income restricted units for households at or below
2 60 percent of AMI and explore changes to development regulations to increase the supply and
3 variety of housing types.

4 B. Implement programs and policies to preserve existing affordable housing,
5 particularly in neighborhoods where low-income families are at risk of displacement.

6 C. Adopt programs or policies that reduce barriers for tenants seeking housing who
7 have insufficient incomes, involvement with the criminal justice system, or unconventional
8 sources of income.

9 D. Explore programs to assist existing homeowners to remain in their homes or to
10 provide homebuyer programs to meet the need of those unable to access conventional mortgage
11 programs.

12 E. Streamline existing project review programs and permitting activities.

13 Attached as Attachment A to this resolution is the Council Work Plan for HALA
14 Recommendations, which includes the specific strategies the Council intends to pursue and
15 includes the draft work plan, deliverables, and estimated timeline for action on each of these
16 strategies.

17 Section 2. The City implores the Washington State Legislature to adopt new policies or
18 modify existing programs that could assist the City to significantly increase the availability of
19 rental housing, particularly rent- and income-restricted units for those earning 60 percent of
20 median income or below, including the following: authorize a 0.25 percent increase in the Real
21 Estate Excise Tax to fund affordable housing; authorize an increase in the Housing Trust Fund;
22 and authorize a new housing preservation tax exemption to create rent- and income-restricted
23 affordable homes in existing buildings. The City Council requests the Mayor and the Office of

Traci Ratzliff
LEG Repealing 31609 RES
D2

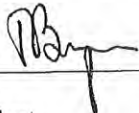
1 Intergovernmental Relations to coordinate discussions and planning to advance the measures in
2 this resolution during the next session of the Washington State Legislature and to incorporate
3 these in the City's 2016 State Legislative Agenda.

4 Section 3. The City Council concurs in the goal of producing 20,000 net new rent- and
5 income-restricted housing units and 30,000 net new market rate housing units by December
6 2025, and requests that in implementing specific strategies the City aim to ensure at least 75
7 percent of rent- and income-restricted units are affordable to households earning 0-60 percent of
8 median income. The City Council requests that the Mayor establish a method for annually
9 tracking and reporting on progress towards producing rent- and income-restricted and market
10 rate units.


11 Section 4. Resolution 31609 is repealed.
12

Traci Ratzliff
LEG Repealing 31609 RES
D2

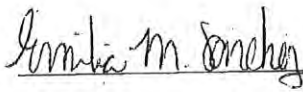
1 Adopted by the City Council the 5th day of OCTOBER, 2015, and
2 signed by me in open session in authentication of its adoption this 5th day
3 of OCTOBER, 2015.

4 
5 _____
6 President _____ of the City Council

7 The Mayor concurred the 16th day of October, 2015.

8 
9 _____
10 Edward B. Murray, Mayor

11 Filed by me this 16th day of OCTOBER, 2015.

12 
13 _____
14 for Monica Martinez Simmons, City Clerk

15
16
17 (Seal)

18 Attachment A: Council Work Plan for HALA Recommendations

9/18/2015

ATTACHMENT A

Council Work Plan for HALA Recommendations

Strategy	Deliverable	Timeline for Council Action	Comment
<i>Increase the number of rent and income restricted units for households at or below 60 percent of AMI and explore changes to regulations to increase the supply and variety of housing options</i>			
a) Implement a Mandatory Housing Affordability Program (Commercial)	<ul style="list-style-type: none"> ▪ Framework legislation ▪ Implementing upzones or changes in development standards 	<ul style="list-style-type: none"> ▪ 4th quarter 2015 ▪ 2017 	
b) Adopt a Mandatory Housing Affordability Program (Residential)	<ul style="list-style-type: none"> ▪ Policy resolution ▪ Implementing upzones or changes in development standards 	<ul style="list-style-type: none"> ▪ 3rd quarter 2015 ▪ 2017 	
c) Renew and consider modifications to the City's Multifamily Property Tax Exemption Program (MFTE)	<ul style="list-style-type: none"> ▪ Legislation 	<ul style="list-style-type: none"> ▪ 3rd quarter 2015 	
d) Significantly increase the voter approved Housing Levy	<ul style="list-style-type: none"> ▪ Legislation authorizing placement on ballot in 2016 	<ul style="list-style-type: none"> ▪ 2nd quarter 2016 	
e) Develop credit enhancement program for the development of replacement housing units by the Seattle Housing Authority at Yesler Terrace	<ul style="list-style-type: none"> ▪ Legislation authorizing credit enhancement program 	<ul style="list-style-type: none"> ▪ 1st quarter 2016 	

<p>f) Use publicly owned properties for development of affordable housing.</p>	<ul style="list-style-type: none"> Legislation authorizing transfer of specific city owned property for development of housing 	<ul style="list-style-type: none"> Ongoing 	<p>The Finance and Administrative Services Department and the Office of Housing (OH) will explore whether Resolution 29799, which governs disposition of surplus property, should be revised to prioritize affordable housing development.</p>
<p>g) Explore development of a local employers fund for affordable housing.</p>	<ul style="list-style-type: none"> Report to Council 	<ul style="list-style-type: none"> 3rd quarter 2016 	
<p>h) Remove barriers to development of detached and attached accessory dwelling units and explore regulation of the market for short term rentals.</p>	<ul style="list-style-type: none"> Report to the Council on options for short term rental regulation Legislation amending development standards to facilitate production of attached and detached accessory dwelling units and Legislation establishing regulations for the short term rental market 	<ul style="list-style-type: none"> 1st quarter 2016 3rd quarter 2016 4th quarter 2016 	<p>Changes Council will consider include eliminating or allowing waiver of parking requirements, eliminating owner-occupancy requirements, allowing multiple accessory dwelling units on one lot, and increasing the number of unrelated persons that can collectively reside in principal and accessory dwelling units on one lot.</p>
<p>i) Adaptation of Single Family Homes</p>	<ul style="list-style-type: none"> Report to Council reflecting policy options. Legislation amending development standards to allow more flexible use of homes in existence prior to January 1, 2016 that are located in single family zones. Legislation 	<ul style="list-style-type: none"> 3rd quarter 2016 2017 	<p>The Council will consider changes to allow existing houses to be converted into multiple housing units. Development standards for Single Family zoning including height, bulk and lot coverage ratios continue to apply.</p>
<p>j) Explore reducing or removing minimum parking requirements for residential development in urban centers,</p>		<ul style="list-style-type: none"> 2017 	

<p>urban villages, and areas served by frequent transit.</p> <p>k) Participate in the transit oriented development (TOD) Regional Equitable Development Initiative (REDI) revolving loan fund to support land acquisition.</p>	<ul style="list-style-type: none"> Legislation adopting governing MOU with regional partners 	<ul style="list-style-type: none"> 4th quarter 2015 	
<p><i>Implement programs and policies to preserve existing affordable housing, particularly in neighborhoods where low income families are at risk of displacement.</i></p>			
<p>l) Develop an Affordable Housing Preservation Program</p>	<ul style="list-style-type: none"> Report to Council; legislation may be required 	<ul style="list-style-type: none"> 3rd quarter 2016 	<p>OH will explore options including: opportunities to acquire existing affordable multifamily housing; development of a low-cost rehab loan program to assist private owners in maintaining existing, affordable housing and implementation of an affordable housing tax exemption program.</p>
<p>m) Make strategic investments in housing, economic development, transit and education in areas at high risk for displacement</p>	<ul style="list-style-type: none"> Report to Council 	<ul style="list-style-type: none"> Ongoing, report in 3rd quarter 2016 	
<p><i>Adopt programs or policies that reduce barriers for tenants seeking housing who have insufficient incomes, involvement with the criminal justice system, or unconventional sources of income.</i></p>			
<p>n) Remove barriers and increase access to housing for people with criminal histories</p>	<ul style="list-style-type: none"> Legislation 	<ul style="list-style-type: none"> 1st - 2nd quarter 2016 	
<p>o) Protect renters from discrimination based on source</p>	<ul style="list-style-type: none"> Legislation 	<ul style="list-style-type: none"> 2nd - 3rd quarter 2016 	

of income				
p) Strengthen the Tenant Relocation Assistance Ordinance (TRAO)	<ul style="list-style-type: none"> Legislation or Report 	<ul style="list-style-type: none"> 1st or 2nd quarter 2016 	<ul style="list-style-type: none"> DPD will explore options including: providing assistance to tenants with language barriers or those with disabilities; revising definition of "tenant household" and payment under TRAO 	
q) Explore the expansion of rental/operating subsidies to assist the lowest income households	<ul style="list-style-type: none"> Report 	<ul style="list-style-type: none"> 3rd quarter 2016 	<ul style="list-style-type: none"> This action is contingent on identification of a funding source. Potential sources could include an affordable housing levy renewal or changes to state law authorizing a real estate excise tax increase. 	
<i>Explore programs to assist existing homeowners to remain in their homes or to provide homeowner programs to meet the need of those unable to access conventional mortgage programs.</i>				
r) Consider options for increasing access to Sharia-compliant loan products	<ul style="list-style-type: none"> Report 	<ul style="list-style-type: none"> Ongoing 		
s) Consider programs to prevent displacement of low-income homeowners with financial hardships	<ul style="list-style-type: none"> Report 	<ul style="list-style-type: none"> 3rd quarter 2016 	<ul style="list-style-type: none"> Contingent on identification of a funding source. 	
<i>Streamline existing project review programs and permitting activities.</i>				
t) Consider changes to the Design Review program	<ul style="list-style-type: none"> Legislation 	<ul style="list-style-type: none"> 2nd quarter 2016 		
u) Consider changes to the historic preservation review program	<ul style="list-style-type: none"> Legislation 	<ul style="list-style-type: none"> 2017 		
v) Improve coordination of permitting activities between city departments	<ul style="list-style-type: none"> Report 	<ul style="list-style-type: none"> Ongoing 		

STATE OF WASHINGTON -- KING COUNTY

--SS.

329864

No. 31611,31622

CITY OF SEATTLE, CLERKS OFFICE

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT: TITLE ONLY RESOLUTIONS

was published on

10/27/15

The amount of the fee charged for the foregoing publication is the sum of \$54.25 which amount has been paid in full.



Subscribed and sworn to before me on 10/27/2015

Notary public for the State of Washington, residing in Seattle

Affidavit of Publication

State of Washington, King County

City of Seattle
Title Only Resolutions

The full text of the following legislation, passed by the City Council on October 6, 2016, and published below by title only, will be mailed upon request. It can be accessed at: <http://clerk.seattle.gov>. For information on upcoming meetings of the Seattle City Council, please visit <http://www.seattle.gov/council/calendar>.

Contact: Office of the City Clerk at (206) 684-8344.

Resolution 31611: A RESOLUTION relating to the State Route 520, Interstate 5 to Medina Bridge Replacement and High Occupancy Vehicle Project recognizing the completion of a design refinements effort and a recommendations report for the west side portion of the project and recommending actions by the City of Seattle and State of Washington based on results of this effort.

Resolution 31622: A RESOLUTION declaring the City Council's intent to consider strategies to increase the availability of affordable housing in The City of Seattle; requesting the State Legislature to adopt new policies or modify existing policies in order to provide additional opportunities for cities and counties to increase the availability of affordable housing; and repealing Resolution 31608.

Date of publication in the Seattle Daily Journal of Commerce, October 27, 2016: 10/27(628864)



SEATTLE CITY COUNCIL

Legislative Summary

Res 31669

Record No.: Res 31669

Type: Resolution (Res)

Status: Adopted

Version: 3

Ord. no:

In Control: City Clerk

File Created: 05/25/2016

Final Action: 06/17/2016

Title: A RESOLUTION encouraging as a best practice the use of an individualized tenant assessment using the Fair Housing Act's discriminatory effects standard to avoid Fair Housing Act violations when criminal history is used as a screening criterion in the landlord screening process.

Notes:

Sponsors: Herbold

Date

Filed with City Clerk: 6/17/2016

Mayor's Signature: 6/17/2016

Vetoed by Mayor:

Veto Overridden:

Veto Sustained:

Attachments: Att A - HALA Recommendations, Att B - Selecting a Tenant Screening Agency V1, Att C - Engrossed Senate Bill 6413 V1, Att D - Recommended Best Practices To Do and Not Do in Drafting and Implementing a Criminal Conviction Screening Policy V1

Drafter: patrick.wigren@seattle.gov

Filing Requirements/Dept Action:

History of Legislative File

Legal Notice Published: Yes No

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Clerk	05/25/2016	sent for review	Council President's Office			
	Action Text: The Resolution (Res) was sent for review. to the Council President's Office						
	Notes:						
1	Council President's Office	05/26/2016	sent for review	Civil Rights, Utilities, Economic Development, and Arts Committee			
	Action Text: The Resolution (Res) was sent for review. to the Civil Rights, Utilities, Economic Development, and Arts Committee						
	Notes:						
1	Full Council	05/31/2016	referred	Civil Rights, Utilities, Economic Development, and Arts Committee			

Legislative Summary Continued (Res 31669)

1 Civil Rights, Utilities, Economic Development, and Arts Committee 06/03/2016 adopt as amended Pass
 Action Text: The Committee recommends that Full Council adopt as amended the Resolution (Res).
 In Favor: 3 Chair Herbold, Vice Chair Sawant, Member O'Brien
 Opposed: 0

2 Full Council 06/13/2016 adopted as amended Pass
 Action Text: The Motion carried, the Resolution (Res) was adopted as amended by the following vote, and the President signed the Resolution:
 Notes: ACTION 1:

Motion was made by Councilmember Herbold, duly seconded and carried, to amend Resolution 31669, by substituting version D4 for version D3, which includes a new Attachment A.

ACTION 2:

Motion was made by Councilmember Bagshaw, and duly seconded, to amend Resolution 31669, by adding a new 12th recital, as shown in the language below:

WHEREAS, the Washington State Legislature passed House Bill 1553, an Act relating to certificates of restoration of opportunity, that states, "certificates of restoration of opportunity offer potential public and private employers or housing providers concrete and objective information about an individual under consideration for an opportunity. These certificates can facilitate the successful societal reintegration of individuals with a criminal history whose behavior demonstrates that they are taking responsibility for their past criminal conduct pursuing a positive law-abiding future."

ACTION 3:

Motion was made, duly seconded and carried, to suspend Council Rule III.A.6, relating to the presentation of Full Council amendments at least two hours before the Full Council meeting.

ACTION 4:

The Amendment in Action 2 was restated and unanimously passed.

ACTION 5:

Motion was made and duly seconded to adopt Resolution 31669 as amended.

In Favor: 6 Councilmember Bagshaw, Councilmember Burgess, Councilmember González, Councilmember Herbold, Councilmember Johnson, Councilmember O'Brien
 Opposed: 0

Legislative Summary Continued (Res 31669)

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|---|---------------------|--|------------------------------------|------------|
| 3 | City Clerk | 06/14/2016 | submitted for
Mayor's signature | Mayor |
| | Action Text: | The Resolution (Res) was submitted for Mayor's signature. to the Mayor | | |
| | Notes: | | | |
| 3 | Mayor | 06/17/2016 | Signed | |
| | Action Text: | The Resolution (Res) was Signed. | | |
| | Notes: | | | |
| 3 | Mayor | 06/17/2016 | returned | City Clerk |
| | Action Text: | The Resolution (Res) was returned. to the City Clerk | | |
| | Notes: | | | |
| 3 | City Clerk | 06/17/2016 | attested by City
Clerk | |
-

Asha Venkataraman
LEG Use of Disparate Impact Rule RES
D5

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CITY OF SEATTLE
RESOLUTION 31669

A RESOLUTION encouraging as a best practice the use of an individualized tenant assessment using the Fair Housing Act’s discriminatory effects standard to avoid Fair Housing Act violations when criminal history is used as a screening criterion in the landlord screening process.

WHEREAS, the United States Department of Housing and Urban Development (HUD) has issued guidance in determining whether the use of criminal history by a housing provider to deny housing opportunities results in unjustified discriminatory effects, affirming that restrictions based on a characteristic not protected under Title VIII of the Civil Rights Act of 1968 (the Fair Housing Act), 42 U.S.C. 3601, *et seq.*, such as criminal history, could still violate the Act if the burden of the restriction fell more often on members of one protected class over another, and stating that “[housing providers’] selective use of criminal history as a pretext for unequal treatment of individuals based on race, national origin, or other protected characteristics violates the Act”; and

WHEREAS, in September 2014 the City Council adopted Resolution 31546, in which the Mayor and Council jointly convened the Seattle Housing Affordability and Livability Agenda (HALA) Advisory Committee, resulting in the July 2015 Final Advisory Committee Recommendations and the Mayor’s *Housing Seattle: A Roadmap to an Affordable and Livable City*, which outline solutions to address Seattle’s housing affordability crisis; and

WHEREAS, in October 2015 the City Council adopted Resolution 31622, which declared the City Council’s intent to expeditiously consider strategies recommended by the HALA Advisory Committee, including fair access to housing for people with criminal records because they face significant barriers to securing housing; and

Last revised April 13, 2016

Asha Venkataraman
LEG Use of Disparate Impact Rule RES
D5

1 WHEREAS, nearly 1/3 of the U.S. population has a criminal record, with an average of 650,000
2 persons released annually since 2004 from federal and state prisons; and
3 WHEREAS, African Americans are four percent of Washington's population but account for 18
4 percent of the state's prison and jail population¹; and Native Americans are two percent
5 of the state population but account for five percent of the state's prison and jail
6 population²; and
7 WHEREAS, the Fair Housing Act prohibits intentional discrimination in housing practices as
8 well as housing practices resulting in unjustified discriminatory effects without regard to
9 the intent to discriminate (Disparate Impact Rule), 24 CFR Part 100, and in 2014, fair
10 housing testing conducted by the Seattle Office for Civil Rights found that African
11 American and Latino/a testers, who posed as prospective renters, were told about
12 criminal background and credit history checks more frequently than white testers; and
13 WHEREAS, the Disparate Impact Rule creates a burden-shifting paradigm to determine
14 unjustified discriminatory effects: (1) The charging party must establish a prima facie
15 case of disparate impact by showing a policy or practice causes a discriminatory effect on
16 a group of persons on the basis of a protected class in the Fair Housing Act (which is
17 substantially equivalent to Seattle's Open Housing Ordinance, Seattle Municipal Code
18 Chapter 14.08); (2) the burden shifts to the respondent, who must prove that the
19 challenged practice is necessary to achieve one or more substantial, legitimate, non-
20 discriminatory interests; and (3) the charging party can still establish liability if those
21 interests could be served by a practice with less discriminatory effect; and

¹ http://www.prisonpolicy.org/graphs/2010percent/WA_Blacks_2010.html

² http://www.prisonpolicy.org/graphs/2010percent/WA_American_Indian_2010.html

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LEG Use of Disparate Impact Rule RES
D5

1 WHEREAS, the City Council recognizes that landlords are responsible for providing resident
2 safety and protection of property, but screening and eligibility policies and practices that
3 categorically exclude any person with a record of arrest or conviction from obtaining or
4 even applying for housing does not accurately distinguish criminal conduct that
5 demonstrates a risk to resident safety and property from conduct that does not pose such a
6 risk; and

7 WHEREAS, the HUD guidance states that in order to show that a criminal history screening
8 policy is necessary to serve a “substantial, legitimate, nondiscriminatory interest,” a
9 housing provider “must show that its policy accurately distinguishes between criminal
10 conduct that indicates a demonstrable risk to resident safety and/or property and criminal
11 conduct that does not” and that “A policy or practice that fails to take into account the
12 nature and severity of an individual’s conviction is unlikely to satisfy this standard.”

13 WHEREAS, the HUD guidance further states that a housing provider must “be able to prove
14 through reliable evidence that its policy or practice of making housing decisions based on
15 criminal history actually assists in protecting resident safety and/or property. Bald
16 assertions based on generalizations or stereotypes that any individual with an arrest or
17 conviction record poses a greater risk than any individual without such a record are not
18 sufficient to satisfy this burden;” and

19 WHEREAS, the City Council supports the principles of the Seattle Fair Chance Employment
20 Ordinance, commonly referred to as “ban the box,” as a method to increase the
21 employment opportunities for people with criminal records by, among other things,
22 requiring individualized assessments and prohibiting questions on initial job applications
23 regarding an applicant’s criminal record; and

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1 WHEREAS, The Washington State Legislature passed House Bill 1553 in March 2016, an Act
2 relating to certificates of restoration of opportunity, that states “certificates of restoration
3 of opportunity offer potential public and private employers or housing providers concrete
4 and objective information about an individual under consideration for an opportunity.
5 These certificates can facilitate the successful societal reintegration of individuals with a
6 criminal history whose behavior demonstrates that they are taking responsibility for their
7 past criminal conduct pursuing a positive law-abiding future.”

8 WHEREAS, the Seattle Office of Civil Rights, as a part of the July 2015 Final Advisory
9 Committee Recommendations and the Mayor’s *Housing Seattle: A Roadmap to an*
10 *Affordable and Livable City*, has convened the Fair Chance Housing committee to
11 provide input on legislation to ensure a fair chance in housing for those facing barriers
12 due to an arrest and conviction record; NOW, THEREFORE,

13 **BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEATTLE, THE**
14 **MAYOR CONCURRING, THAT:**

15 Section 1. The City Council is committed to passing an ordinance, consistent with HALA
16 recommendations (See Attachment A), as soon as practicable that ensures that people with
17 criminal history have fair and equitable access to housing while protecting the rights and
18 interests of property owners.

19 Section 2. The City Council intends to work with those most impacted by the use of
20 criminal history in screening criteria as well as property owners to help guide the content of such
21 an ordinance.

22 Section 3. The City Council recognizes that landlord screening criteria related to criminal
23 history used to determine a tenant’s eligibility or suitability to obtain housing can result in

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1 disparate impacts on racial minorities. The City Council prioritizes policies leading to racial
2 equity outcomes in housing, which include promotion of the United States Department of
3 Housing and Urban Development (HUD) guidance cautioning against a landlord's policy or
4 practice of categorically excluding individuals from housing based on criminal history.

5 Section 4. The City Council endorses practices that are consistent with HUD's guidance;
6 namely, that landlords should not exclude individuals from housing on the basis of prior arrests
7 not resulting in conviction, because an arrest alone does not constitute proof of the commission
8 of any crime and does not provide a reliable metric to determine potential risk to resident safety
9 and protections of property.

10 Section 5. The City Council urges that consistent with HUD's guidance, landlords should
11 only implement practices excluding persons from housing based on criminal conviction history
12 when those practices are based upon reliable evidence that the policy is necessary to achieve a
13 substantial, legitimate, nondiscriminatory interest (for example, by distinguishing between
14 criminal conduct that indicates a demonstrable risk to resident safety and/or property and
15 criminal conduct that does not), and that such an interest could not be served by another practice
16 that has a less discriminatory effect, which may include, among other things, conducting an
17 individualized tenant assessment and allowing an applicant who has been denied tenancy
18 because of conviction history to provide additional information that a landlord could consider in
19 reevaluating the screening decision, including but not limited to:

- 20 A. The nature and severity of the crime;
- 21 B. The conduct underlying the conviction;
- 22 C. The length of time since conviction and/or release from incarceration;
- 23 D. The age of the individual at the time of conviction;

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1 E. What the convicted person has done since the conviction; and

2 F. Evidence of rehabilitation.

3 Section 6. The City Council endorses *Selecting a Tenant Screening Agency: Guideline*
4 *for Property Management in Affordable Housing*, the tenant screening agency guidance issued
5 by the Seattle Office of Housing in 2015 (Attachment B) to ensure that landlords are using
6 accurate and consistent criminal record information; unlawful detainer information consistent
7 with Engrossed Senate Bill 6413, passed by the Washington State Legislature in March 2016
8 (Attachment C); and *Recommended Best Practices to Do and Not Do in Drafting and*
9 *Implementing a Criminal Conviction Screening Policy* (Attachment D), adapted from the
10 National Multifamily Housing Council's white paper *Best Practices to Avoid Disparate Impact*
11 *Liability*.


12 Section 7. The City Council recommends that a landlord should not rely on records that
13 cannot be reported by consumer reporting agencies under State law.

14 Section 8. The City Council commends the Seattle Office for Civil Rights' efforts to
15 proactively identify instances of housing discrimination and to enforce fair housing laws through
16 testing, investigation of charges, and other means. The City Council supports a continued effort
17 to prevent and investigate housing discrimination through landlord and applicant education, and
18 intends to pursue innovative enforcement measures.

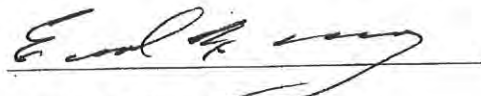
19 Section 9. The City Council requests that, when investigating any complaint of housing
20 discrimination based on the use of criminal history, the Seattle Office for Civil Rights should
21 seek to determine whether there is disparate impact, an intent to discriminate, or unjustified
22 discriminatory effects from the use of criminal history.

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LEG Use of Disparate Impact Rule RES
D5


1 Adopted by the City Council the 13th day of June, 2016,
2 and signed by me in open session in authentication of its adoption this 13th day of
3 June, 2016.

4 
5 President Pro Tem of the City Council

6 The Mayor concurred the 17th day of June, 2016.

7 
8 Edward B. Murray, Mayor

9 Filed by me this 17th day of JUNE, 2016.

10 
11 Monica Martinez Simmons, City Clerk

12 (Seal)

- 13
- 14 Attachments:
- 15 Attachment A: HALA Recommendations
- 16 Attachment B: Selecting a Tenant Screening Agency: Guideline for Property
- 17 Management in Affordable Housing
- 18 Attachment C: Engrossed Senate Bill 6413
- 19 Attachment D: Recommended Best Practices to Do and Not Do in Drafting and
- 20 Implementing a Criminal Conviction Screening Policy

Attachment A: HALA Recommendations

V1

Seattle Housing Affordability and Livability Agenda

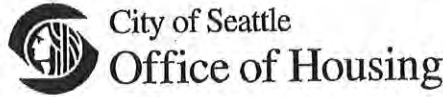
ISSUE: An estimated 25-33% of US adults have a criminal record and face significant, and often lifelong, barriers to housing. They are disproportionately people of color. Housing helps them access job programs and maintain employment, reunite with families, and comply with terms of release. Stable housing also has broad community benefits. It is a key strategy for ending homelessness, helps address racial disparities, and improves public safety by reducing recidivism.

1. Pursue a combination of local legislation, education, technical assistance, and fair housing enforcement to reduce barriers to housing for people with criminal records.
 - 1a. Develop legislation to reduce barriers for people with criminal records.
 - 1a(i) Prohibit advertisements for rental housing that make people with criminal records ineligible to apply.
 - 1a(ii) Prohibit screen criteria that include an absolute exclusion of anyone with a criminal record or a broad category of criminal record, such as a felony.
 - 1a(iii) Require consideration, prior to denial, of additional, verifiable information provided by the applicant regarding the criminal record and/or changed circumstances or good conduct since the time of conviction.
 - 1a(iv) Prohibit denials based on records that cannot be reported under state law, such as crimes greater than seven (7) years since disposition or release, or juvenile records if the applicant is twenty-one (21) years old or older.
 - 1a(v) Prohibit denials based on arrests older than one (1) year, except when currently pending charges are under active prosecution.
 - 1a(vi) Prohibit denials based on warrants attached to a case where a final disposition has been entered. Allow exclusion of people with active warrants, either pending or adjudicated.
 - 1a(vii) Require screening criteria to be based on a business justification related to the requirements of tenancy.
 - 1a(viii) Provide for the enforcement of the above provisions.

Source: Housing Affordability and Livability Agenda, *Final Advisory Committee Recommendations To Mayor Edward B. Murray and the Seattle City Council*, pg. Appendix F-11 (July 13, 2015)

SR_0118

Att B - Selecting a Tenant Screening Agency
 Guideline for Property Management in
 Affordable Housing
 V1



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
1. Accurate Sources of Data	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 (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. A screening company must have procedures in place to ensure the maximum possible accuracy of the information it provides.
2. Applicant Identification	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. 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.
3. Easy to Understand Report Format	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. Define any abbreviations or court codes used in the report.

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An equal opportunity, affirmative action employer. Accommodations for people with disabilities provided upon request.

4. Sufficient Opportunity to Correct Information	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.	Provide a timely, efficient and accessible process for applicants to correct inaccurate screening reports. If an applicant disputes the accuracy of information contained in the report, investigate and respond within five business days. If an inaccuracy is found, send a corrected report to the housing provider, and send corrections to the source of inaccurate information.
5. Pending Charges	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).	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. <i>(See also Section 9, Warrants)</i>
6. Convictions	Screening report cannot report convictions older than seven years under state law. RCW 19.182.040	Report only if seven years or less since disposition or release
7. Vacated Convictions	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)	Do not report vacated or dismissed convictions.
8. Juvenile Records	Reports should follow State law: Juvenile records must not be reported if an applicant is 21 years old or older. RCW 19.182.040	Report only if the applicant is less than 21 years old.
9. Warrants	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.	Report only warrants issued for charges that do not have a final disposition and are seven years or less from the date of issue. Do not report warrants attached to a case for which a final disposition has been entered.

10. Participation in a Deferral Program	Includes drug court, deferral of sentence, and stipulated judgment.	Report only if two years or less from completion of participation in the deferral program.
11. Registered Sex Offenders	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.
12. Evictions	State law prohibits reporting negative information more than seven years old.	Report only if seven years or less since entry of judgment.
13. Eviction Filings	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.
14. Dismissed Evictions	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."

Att C - Engrossed Senate Bill 6413
V1

CERTIFICATION OF ENROLLMENT

ENGROSSED SENATE BILL 6413

Chapter 66, Laws of 2016

64th Legislature
2016 Regular Session

LANDLORD-TENANT--SCREENING REPORTS AND DEPOSIT REFUNDS

EFFECTIVE DATE: 6/9/2016

Passed by the Senate March 9, 2016
Yeas 49 Nays 0

BRAD OWEN
President of the Senate

Passed by the House March 2, 2016
Yeas 97 Nays 0

FRANK CHOPP
Speaker of the House of Representatives
Approved March 29, 2016 4:21 PM

JAY INSLEE
Governor of the State of Washington

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SENATE BILL 6413** as passed by Senate and the House of Representatives on the dates hereon set forth.

HUNTER G. GOODMAN
Secretary

FILED

March 30, 2016

Secretary of State
State of Washington

ENGROSSED SENATE BILL 6413

AS AMENDED BY THE HOUSE

Passed Legislature - 2016 Regular Session

State of Washington 64th Legislature 2016 Regular Session

By Senators Mullet, Benton, Pedersen, and Frockt

Read first time 01/20/16. Referred to Committee on Financial Institutions & Insurance.

1 AN ACT Relating to tenant screening, evictions, and refunds under
2 the residential landlord-tenant act; amending RCW 59.18.257 and
3 59.18.280; reenacting and amending RCW 59.18.030; and adding a new
4 section to chapter 59.18 RCW.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 Sec. 1. RCW 59.18.030 and 2015 c 264 s 1 are each reenacted and
7 amended to read as follows:

8 As used in this chapter:

9 (1) "Certificate of inspection" means an unsworn statement,
10 declaration, verification, or certificate made in accordance with the
11 requirements of RCW 9A.72.085 by a qualified inspector that states
12 that the landlord has not failed to fulfill any substantial
13 obligation imposed under RCW 59.18.060 that endangers or impairs the
14 health or safety of a tenant, including (a) structural members that
15 are of insufficient size or strength to carry imposed loads with
16 safety, (b) exposure of the occupants to the weather, (c) plumbing
17 and sanitation defects that directly expose the occupants to the risk
18 of illness or injury, (d) not providing facilities adequate to supply
19 heat and water and hot water as reasonably required by the tenant,
20 (e) providing heating or ventilation systems that are not functional
21 or are hazardous, (f) defective, hazardous, or missing electrical

1 wiring or electrical service, (g) defective or hazardous exits that
2 increase the risk of injury to occupants, and (h) conditions that
3 increase the risk of fire.

4 (2) "Commercially reasonable manner," with respect to a sale of a
5 deceased tenant's personal property, means a sale where every aspect
6 of the sale, including the method, manner, time, place, and other
7 terms, must be commercially reasonable. If commercially reasonable, a
8 landlord may sell the tenant's property by public or private
9 proceedings, by one or more contracts, as a unit or in parcels, and
10 at any time and place and on any terms.

11 (3) "Designated person" means a person designated by the tenant
12 under RCW 59.18.590.

13 (4) "Distressed home" has the same meaning as in RCW 61.34.020.

14 (5) "Distressed home conveyance" has the same meaning as in RCW
15 61.34.020.

16 (6) "Distressed home purchaser" has the same meaning as in RCW
17 61.34.020.

18 (7) "Dwelling unit" is a structure or that part of a structure
19 which is used as a home, residence, or sleeping place by one person
20 or by two or more persons maintaining a common household, including
21 but not limited to single-family residences and units of multiplexes,
22 apartment buildings, and mobile homes.

23 (8) "Gang" means a group that: (a) Consists of three or more
24 persons; (b) has identifiable leadership or an identifiable name,
25 sign, or symbol; and (c) on an ongoing basis, regularly conspires and
26 acts in concert mainly for criminal purposes.

27 (9) "Gang-related activity" means any activity that occurs within
28 the gang or advances a gang purpose.

29 (10) "In danger of foreclosure" means any of the following:

30 (a) The homeowner has defaulted on the mortgage and, under the
31 terms of the mortgage, the mortgagee has the right to accelerate full
32 payment of the mortgage and repossess, sell, or cause to be sold the
33 property;

34 (b) The homeowner is at least thirty days delinquent on any loan
35 that is secured by the property; or

36 (c) The homeowner has a good faith belief that he or she is
37 likely to default on the mortgage within the upcoming four months due
38 to a lack of funds, and the homeowner has reported this belief to:

39 (i) The mortgagee;

- 1 (ii) A person licensed or required to be licensed under chapter
- 2 19.134 RCW;
- 3 (iii) A person licensed or required to be licensed under chapter
- 4 19.146 RCW;
- 5 (iv) A person licensed or required to be licensed under chapter
- 6 18.85 RCW;
- 7 (v) An attorney-at-law;
- 8 (vi) A mortgage counselor or other credit counselor licensed or
- 9 certified by any federal, state, or local agency; or
- 10 (vii) Any other party to a distressed property conveyance.
- 11 (11) "Landlord" means the owner, lessor, or sublessor of the
- 12 dwelling unit or the property of which it is a part, and in addition
- 13 means any person designated as representative of the owner, lessor,
- 14 or sublessor including, but not limited to, an agent, a resident
- 15 manager, or a designated property manager.
- 16 (12) "Mortgage" is used in the general sense and includes all
- 17 instruments, including deeds of trust, that are used to secure an
- 18 obligation by an interest in real property.
- 19 (13) "Owner" means one or more persons, jointly or severally, in
- 20 whom is vested:
- 21 (a) All or any part of the legal title to property; or
- 22 (b) All or part of the beneficial ownership, and a right to
- 23 present use and enjoyment of the property.
- 24 (14) "Person" means an individual, group of individuals,
- 25 corporation, government, or governmental agency, business trust,
- 26 estate, trust, partnership, or association, two or more persons
- 27 having a joint or common interest, or any other legal or commercial
- 28 entity.
- 29 (15) "Premises" means a dwelling unit, appurtenances thereto,
- 30 grounds, and facilities held out for the use of tenants generally and
- 31 any other area or facility which is held out for use by the tenant.
- 32 (16) "Property" or "rental property" means all dwelling units on
- 33 a contiguous quantity of land managed by the same landlord as a
- 34 single, rental complex.
- 35 (17) "Prospective landlord" means a landlord or a person who
- 36 advertises, solicits, offers, or otherwise holds a dwelling unit out
- 37 as available for rent.
- 38 (18) "Prospective tenant" means a tenant or a person who has
- 39 applied for residential housing that is governed under this chapter.

1 (19) "Qualified inspector" means a United States department of
2 housing and urban development certified inspector; a Washington state
3 licensed home inspector; an American society of home inspectors
4 certified inspector; a private inspector certified by the national
5 association of housing and redevelopment officials, the American
6 association of code enforcement, or other comparable professional
7 association as approved by the local municipality; a municipal code
8 enforcement officer; a Washington licensed structural engineer; or a
9 Washington licensed architect.

10 (20) "Reasonable attorneys' fees," where authorized in this
11 chapter, means an amount to be determined including the following
12 factors: The time and labor required, the novelty and difficulty of
13 the questions involved, the skill requisite to perform the legal
14 service properly, the fee customarily charged in the locality for
15 similar legal services, the amount involved and the results obtained,
16 and the experience, reputation and ability of the lawyer or lawyers
17 performing the services.

18 (21) "Reasonable manner," with respect to disposing of a deceased
19 tenant's personal property, means to dispose of the property by
20 donation to a not-for-profit charitable organization, by removal of
21 the property by a trash hauler or recycler, or by any other method
22 that is reasonable under the circumstances.

23 (22) "Rental agreement" means all agreements which establish or
24 modify the terms, conditions, rules, regulations, or any other
25 provisions concerning the use and occupancy of a dwelling unit.

26 (23) A "single-family residence" is a structure maintained and
27 used as a single dwelling unit. Notwithstanding that a dwelling unit
28 shares one or more walls with another dwelling unit, it shall be
29 deemed a single-family residence if it has direct access to a street
30 and shares neither heating facilities nor hot water equipment, nor
31 any other essential facility or service, with any other dwelling
32 unit.

33 (24) A "tenant" is any person who is entitled to occupy a
34 dwelling unit primarily for living or dwelling purposes under a
35 rental agreement.

36 (25) "Tenant representative" means:

37 (a) A personal representative of a deceased tenant's estate if
38 known to the landlord;

39 (b) If the landlord has no knowledge that a personal
40 representative has been appointed for the deceased tenant's estate, a

1 person claiming to be a successor of the deceased tenant who has
2 provided the landlord with proof of death and an affidavit made by
3 the person that meets the requirements of RCW 11.62.010(2);

4 (c) In the absence of a personal representative under (a) of this
5 subsection or a person claiming to be a successor under (b) of this
6 subsection, a designated person; or

7 (d) In the absence of a personal representative under (a) of this
8 subsection, a person claiming to be a successor under (b) of this
9 subsection, or a designated person under (c) of this subsection, any
10 person who provides the landlord with reasonable evidence that he or
11 she is a successor of the deceased tenant as defined in RCW
12 11.62.005. The landlord has no obligation to identify all of the
13 deceased tenant's successors.

14 (26) "Tenant screening" means using a consumer report or other
15 information about a prospective tenant in deciding whether to make or
16 accept an offer for residential rental property to or from a
17 prospective tenant.

18 (27) "Tenant screening report" means a consumer report as defined
19 in RCW 19.182.010 and any other information collected by a tenant
20 screening service.

21 (28) "Comprehensive reusable tenant screening report" means a
22 tenant screening report prepared by a consumer reporting agency at
23 the direction of and paid for by the prospective tenant and made
24 available directly to a prospective landlord at no charge, which
25 contains all of the following: (a) A consumer credit report prepared
26 by a consumer reporting agency within the past thirty days; (b) the
27 prospective tenant's criminal history; (c) the prospective tenant's
28 eviction history; (d) an employment verification; and (e) the
29 prospective tenant's address and rental history.

30 (29) "Criminal history" means a report containing or summarizing
31 (a) the prospective tenant's criminal convictions and pending cases,
32 the final disposition of which antedates the report by no more than
33 seven years, and (b) the results of a sex offender registry and
34 United States department of the treasury's office of foreign assets
35 control search, all based on at least seven years of address history
36 and alias information provided by the prospective tenant or available
37 in the consumer credit report.

38 (30) "Eviction history" means a report containing or summarizing
39 the contents of any records of unlawful detainer actions concerning
40 the prospective tenant that are reportable in accordance with state

1 law, are lawful for landlords to consider, and are obtained after a
2 search based on at least seven years of address history and alias
3 information provided by the prospective tenant or available in the
4 consumer credit report.

5 **Sec. 2.** RCW 59.18.257 and 2012 c 41 s 3 are each amended to read
6 as follows:

7 (1)(a) Prior to obtaining any information about a prospective
8 tenant, the prospective landlord shall first notify the prospective
9 tenant in writing, or by posting, of the following:

10 (i) What types of information will be accessed to conduct the
11 tenant screening;

12 (ii) What criteria may result in denial of the application;
13 (~~and~~)

14 (iii) If a consumer report is used, the name and address of the
15 consumer reporting agency and the prospective tenant's rights to
16 obtain a free copy of the consumer report in the event of a denial or
17 other adverse action, and to dispute the accuracy of information
18 appearing in the consumer report; and

19 (iv) Whether or not the landlord will accept a comprehensive
20 reusable tenant screening report made available to the landlord by a
21 consumer reporting agency. If the landlord indicates its willingness
22 to accept a comprehensive reusable tenant screening report, the
23 landlord may access the landlord's own tenant screening report
24 regarding a prospective tenant as long as the prospective tenant is
25 not charged for the landlord's own tenant screening report.

26 (b)(i) The landlord may charge a prospective tenant for costs
27 incurred in obtaining a tenant screening report only if the
28 prospective landlord provides the information as required in (a) of
29 this subsection.

30 (ii) If a prospective landlord conducts his or her own screening
31 of tenants, the prospective landlord may charge his or her actual
32 costs in obtaining the background information only if the prospective
33 landlord provides the information as required in (a) of this
34 subsection. The amount charged may not exceed the customary costs
35 charged by a screening service in the general area. The prospective
36 landlord's actual costs include costs incurred for long distance
37 phone calls and for time spent calling landlords, employers, and
38 financial institutions.

1 (c) If a prospective landlord takes an adverse action, the
2 prospective landlord shall provide a written notice of the adverse
3 action to the prospective tenant that states the reasons for the
4 adverse action. The adverse action notice must contain the following
5 information in a substantially similar format, including additional
6 information as may be required under chapter 19.182 RCW:

7 "ADVERSE ACTION NOTICE

- 8 Name
- 9 Address
- 10 City/State/Zip Code

11 This notice is to inform you that your application has been:

- 12 Rejected
- 13 Approved with conditions:
 - 14 Residency requires an increased deposit
 - 15 Residency requires a qualified guarantor
 - 16 Residency requires last month's rent
 - 17 Residency requires an increased monthly rent of \$.....
 - 18 Other:

19 Adverse action on your application was based on the following:

- 20 Information contained in a consumer report (The prospective
21 landlord must include the name, address, and phone number of the
22 consumer reporting agency that furnished the consumer report that
23 contributed to the adverse action.)
- 24 The consumer credit report did not contain sufficient
25 information
- 26 Information received from previous rental history or reference
- 27 Information received in a criminal record
- 28 Information received in a civil record
- 29 Information received from an employment verification

30 Dated this day of, ((20))....(year)

31 Agent/Owner Signature"

32 (2) Any landlord who maintains a web site advertising the rental
33 of a dwelling unit or as a source of information for current or
34 prospective tenants must include a statement on the property's home
35 page stating whether or not the landlord will accept a comprehensive
36 reusable tenant screening report made available to the landlord by a
37 consumer reporting agency. If the landlord indicates its willingness

1 to accept a comprehensive reusable tenant screening report, the
2 landlord may access the landlord's own tenant screening report
3 regarding a prospective tenant as long as the prospective tenant is
4 not charged for the landlord's own tenant screening report.

5 (3) Any landlord or prospective landlord who violates subsection
6 (1) of this section may be liable to the prospective tenant for an
7 amount not to exceed one hundred dollars. The prevailing party may
8 also recover court costs and reasonable attorneys' fees.

9 ~~((3) A stakeholder work group comprised of landlords, tenant~~
10 ~~advocates, and representatives of consumer reporting and tenant~~
11 ~~screening companies shall convene for the purposes of addressing the~~
12 ~~issues of tenant screening including, but not limited to: A tenant's~~
13 ~~cost of obtaining a tenant screening report; the portability of~~
14 ~~tenant screening reports; criteria used to evaluate a prospective~~
15 ~~tenant's background, including which court records may or may not be~~
16 ~~considered; and the regulation of tenant screening services. Specific~~
17 ~~recommendations on these issues are due to the legislature by~~
18 ~~December 1, 2012.))~~

19 (4) This section does not limit a prospective tenant's rights or
20 the duties of a screening service as otherwise provided in chapter
21 19.182 RCW.

22 **NEW SECTION. Sec. 3.** A new section is added to chapter 59.18
23 RCW to read as follows:

24 (1) A court may order an unlawful detainer action to be of
25 limited dissemination for one or more persons if: (a) The court finds
26 that the plaintiff's case was sufficiently without basis in fact or
27 law; (b) the tenancy was reinstated under RCW 59.18.410 or other law;
28 or (c) other good cause exists for limiting dissemination of the
29 unlawful detainer action.

30 (2) An order to limit dissemination of an unlawful detainer
31 action must be in writing.

32 (3) When an order for limited dissemination of an unlawful
33 detainer action has been entered with respect to a person, a tenant
34 screening service provider must not: (a) Disclose the existence of
35 that unlawful detainer action in a tenant screening report pertaining
36 to the person for whom dissemination has been limited, or (b) use the
37 unlawful detainer action as a factor in determining any score or
38 recommendation to be included in a tenant screening report pertaining
39 to the person for whom dissemination has been limited.

1 **Sec. 4.** RCW 59.18.280 and 2010 c 8 s 19027 are each amended to
2 read as follows:

3 (1) Within ~~((fourteen))~~ twenty-one days after the termination of
4 the rental agreement and vacation of the premises or, if the tenant
5 abandons the premises as defined in RCW 59.18.310, within
6 ~~((fourteen))~~ twenty-one days after the landlord learns of the
7 abandonment, the landlord shall give a full and specific statement of
8 the basis for retaining any of the deposit together with the payment
9 of any refund due the tenant under the terms and conditions of the
10 rental agreement.

11 (a) No portion of any deposit shall be withheld on account of
12 wear resulting from ordinary use of the premises.

13 (b) The landlord complies with this section if the required
14 statement or payment, or both, are delivered to the tenant personally
15 or deposited in the United States mail properly addressed to the
16 tenant's last known address with first-class postage prepaid within
17 the ~~((fourteen))~~ twenty-one days.

18 ~~((The notice shall be delivered to the tenant personally or by~~
19 ~~mail to his or her last known address.))~~ (2) If the landlord fails to
20 give such statement together with any refund due the tenant within
21 the time limits specified above he or she shall be liable to the
22 tenant for the full amount of the deposit. The landlord is also
23 barred in any action brought by the tenant to recover the deposit
24 from asserting any claim or raising any defense for retaining any of
25 the deposit unless the landlord shows that circumstances beyond the
26 landlord's control prevented the landlord from providing the
27 statement within the ~~((fourteen))~~ twenty-one days or that the tenant
28 abandoned the premises as defined in RCW 59.18.310. The court may in
29 its discretion award up to two times the amount of the deposit for
30 the intentional refusal of the landlord to give the statement or
31 refund due. In any action brought by the tenant to recover the
32 deposit, the prevailing party shall additionally be entitled to the
33 cost of suit or arbitration including a reasonable attorneys' fee.

34 (3) Nothing in this chapter shall preclude the landlord from
35 proceeding against, and the landlord shall have the right to proceed
36 against a tenant to recover sums exceeding the amount of the tenant's
37 damage or security deposit for damage to the property for which the
38 tenant is responsible together with reasonable attorneys' fees.

Passed by the Senate March 9, 2016.
Passed by the House March 2, 2016.

Approved by the Governor March 29, 2016.
Filed in Office of Secretary of State March 30, 2016.

Att D - Recommended Best Practices
V1

Recommended Best Practices to Do and Not Do in Drafting and Implementing a Criminal Conviction Screening Policy


DO	DO NOT
Have a written and thoughtfully developed criminal screening policy	Inconsistently apply the screening policy or allow subjective considerations to be part of the decision
Narrowly tailor the screening policy to reflect legitimate concerns over convictions that directly relate to the legitimate interests of a housing provider	Ignore mitigating information and fail to review on a case-by-case basis accounting for the time passed since the conviction, the nature and severity of the conviction, and efforts to rehabilitate
Write down justifications in support of the legitimate interests for the policy	Automatically deny an applicant because of the mere existence of a prior arrest
Give greater weight to convictions that reflect the legitimate concerns	Automatically deny an applicant because of the mere existence of a prior conviction
Allow an individual the opportunity to explain mitigating circumstances and provide evidence of rehabilitation if he or she is declined for tenancy	Exempt certain people or classes of people from the screening policy
Provide detailed training to staff to consistently apply the screening policy and to understand the justifications for the policy	Use a criminal screening policy as a pretext to exclude certain individuals or classes of individuals

SOURCE: NATIONAL MULTIFAMILY HOUSING COUNCIL, *CRIMINAL CONVICTION SCREENING POLICIES: BEST PRACTICES TO AVOID DISPARATE IMPACT LIABILITY*, P. 3 (MAY 2016).

Murray seeks fair access to housing for those with criminal records

Page 1 of 3

Murray seeks fair access to housing for those with criminal records

 murray.seattle.gov/murray-seeks-fair-access-to-housing-for-those-with-criminal-records/

January 19, 2016

Today Seattle Mayor Ed Murray formed a Fair Chance Housing committee to reduce barriers to housing for people with criminal records. The committee will work to develop proposals that address rental housing discrimination, provide wider access to rental assistance and increase enforcement of Seattle fair housing ordinances.

"Creating an affordable Seattle means we must have equitable access to housing for everyone. Too many of our residents face life-long barriers to housing due to their criminal histories long after they have served their sentences and paid their debt to society," said Mayor Ed Murray. "Lack of fair access to housing can lead to homelessness and deeper dependence on public services. We must ensure everyone in our community has a fair chance to find a stable home."

The formation of the committee was a recommendation of Seattle's Housing Affordability and Livability Agenda (HALA) issued in July 2015. The HALA committee pointed to several discriminatory practices, including:

- Advertisements for rental housing that make people with criminal records ineligible to apply.
- Screening criteria that include an absolute exclusion of anyone with a criminal record or a broad category of criminal record, such as a felony.
- Denials based on records that cannot be reported under state law, such as crimes greater than seven years since disposition or release, or juvenile records if the applicant is twenty-one years of age or older.

The U.S. Department of Justice estimates that as many as one-third of adults in the United States have past criminal files. In 2013, a Seattle Office of Civil Rights investigation found that African American and Latino renters were asked about criminal history more frequently than white applicants.

In 2013, the City of Seattle established restrictions on how employers can use conviction and arrest records during the hiring process and in the course of employment.

"I am proud that the Mayor is moving forward with this measure to increase fairness and racial equity in Seattle's rental housing market," said Patricia Lally, Director of the Seattle Office for Civil Rights. "This issue impacts everyone, but especially Black, Latino and Native American families, who face disproportionate barriers to stable housing in Seattle."

"This is about addressing the aftermath of mass incarceration. We hear every day from clients, community groups and advocates that criminal records are a major barrier to housing," said Merf Ehman of Columbia Legal Services. "A community coalition has come together to work for fair accessible renting for everyone and is committed to unlocking housing for all and ending homelessness."

<https://www.printfriendly.com/p/g/grgqWD>

8/20/2018

SR_0134

Murray seeks fair access to housing for those with criminal records

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While the U.S. Department of Housing and Urban Development (HUD) recently issued guidance to local Housing Authorities about the use of arrest records, state and federal law does not prohibit property managers from running advertisements that exclude people with any type of criminal record from applying for housing, no matter how many years ago an incident occurred.

The Fair Chance Housing committee will provide input to the Office for Civil Rights on a legislative proposal addressing these barriers to housing, while acknowledging and responding to business and safety impacts. The Mayor's Office and City Attorney's Office will finalize the legislation prior to sending the proposal to the Seattle City Council for approval.

The members of the Fair Chance Housing committee are:

Billie Abers, Capitol Hill Housing

Afamefuna Ayika, BlackOut WA

Marcel Baugh, Seattle Human Rights Commission

Derrick Belgarde, Chief Seattle Club

Rod Brandon, Seattle Housing Authority

Cameron Carl, Seattle Goodwill

Augustine Cita, Urban League of Metropolitan Seattle

Merf Ehman, Columbia Legal Services

Eric Ellman, Consumer Data Industry Association

Mahnaz Eshetu, Refugee Women's Alliance

Liz Etta, Tenants Union

Sean Flynn, Rental Housing Association of Washington

Andrew Kashyap, Racial Disparity Project

Mario Paredes, Consejo Counseling and Referral Service

Joe Puckett, Washington Multifamily Housing Association

Pastor Lawrence Willis, United Black Clergy

Clinton Wilson, FareStart

Kira Zylstra, AllHome

The Fair Chance Housing committee also includes a person who is currently experiencing homelessness due to their conviction record.

<https://www.printfriendly.com/p/g/grgqWD>

8/20/2018

SR_0135

Murray seeks fair access to housing for those with criminal records

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Share



Seattle City Council
Memorandum

Date: February 16, 2016

To: Mayor Ed Murray

From: Councilmember Lisa Herbold
Councilmember M. Lorena González
Councilmember Debora Juarez
Councilmember Mike O'Brien

Subject: Recommendation for the Fair Chance Housing Committee's Scope of Work

Thank you for leading the City of Seattle in creating pathways to help address the housing affordability crisis and ensuring our City creates equitable housing access for everyone. The Fair Chance Housing committee will be vital to helping achieve the City's goals to decrease homelessness and reduce dependency on our limited public services and will inform the final legislative proposal. It's important to consider the work that has brought us to this moment.

1. In 2012, Councilmember O'Brien and former Councilmember Licata requested the Seattle Office of Housing address the issues of barriers created to accessing housing when providers rely on criminal background screenings to select tenants. This resulted in the development of Tenant Screening Agency Guidelines, intended to assist housing organizations when they contract for screening services by producing high-quality screening reports and increasing access to housing for people with criminal records.
2. In December 2014, All Home, formerly Committee to End Homelessness King County, released a report that made recommendations for refining the coordination of entry and assessment processes (CEA) for families experiencing homelessness in King County. The report found that there were approximately 77 different screening criteria used by publically funded housing providers, resulting in some families failing to receive referrals or being rejected multiple times. To address this finding, the report recommended engaging in a concerted effort to "remove as many program entry criteria as possible and standardize those remaining."
3. In July 2015, the Housing Affordability and Livability Agenda recommendations were in line with prior findings and suggested strategies: *"The City should pursue a combination of local legislation, education, and technical assistance to ensure fair access to Seattle's housing options for people with criminal records. Any legislation should provide fair access to people with criminal records yet protect property owner's rights and interests."*

In summary, regional and local elected officials and advocates have discussed the need to move expeditiously on this issue since 2012. In the interest of promptly moving our shared goals forward, we request that you consider including the following administrative and policy parameters as part of the Fair Chance Housing Committee's scope of work.

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SER-139

Administration Parameters for the Fair Chance Housing Committee:

1. **Inclusion of public meetings to ensure that all stakeholders and particularly those tenant applicants most impacted by the issue have their voice heard.** In order to provide community an opportunity to engage and understand the Committee's work, we believe it is critical to designate a set number of meetings that are open to the public. Prior mayors have allowed the chairs of advisory committees to carve out time in their work plans to engage community via public hearings.¹
2. **Timeline.** The Committee will send recommendations to Council for review in early July 2016.
3. **Council Participation.** Councilmember and/or Council staff participation at Committee meetings.

Policy Elements for the Fair Chance Housing Committee:**1. Prioritize Racial Justice**

- Ensure that the recommendations and any process related to it consider the racial inequities in the criminal justice system that has had a disproportionate impact on people of color resulting in criminal records having a greater negative impact on these communities.
- Ensure that those tenant applicants most impacted by the issues have their voices heard and considered as part of the Committee's recommendations.
- Develop recommendations to affirmatively further fair housing.
- Prohibit landlord screening criteria related to criminal records with a disparate impact on protected classes.

2. Create a Genuine Fair Chance at Housing for All

- Include discussion of both public and private landlord practices in the development of recommendations, including a community and landlord education campaign.
- Include discussion of an opportunity for the applicant to meet with a landlord and position themselves as a good tenant
- Include discussion of prohibiting advertisements for rental housing that make people with criminal records ineligible to apply ("no felons", "clean background", etc.).
- Include discussion of prohibiting screening criteria that excludes anyone with a criminal record or a broad category of criminal record.
- Include discussion on prohibiting automatic denials based on criminal histories. Instead, require a landlord to consider additional information provided by the applicant regarding the criminal record or changed circumstances since the time of conviction or a plea prior to a denial and require that a landlord inform the applicant of his or her right to present evidence, particularly if the conviction or plea was a juvenile offense.
- Include discussion of prohibiting screening criteria that includes and exclusion of anyone with pending charges or warrants that occurred more than one year ago, consistent with State Law.
- Consider creation of a "first in line" process to ensure equal access, so that applications are considered on a first come first served basis.

¹ In 2007, for example, Mayor Greg Nickels appointed members to the Police Accountability Review Panel and Chair Terry Carroll incorporated several public hearings.

3. Principles to Establish Fair Screening Criteria

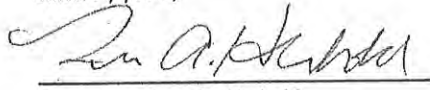
- o Landlords' screening criteria should be based upon a business justification related to the requirements of tenancy.
- o Denials should not be based on records that cannot be reported by consumer reporting agencies under State law, such as crimes greater than 7 years since disposition or release, or juvenile records if an applicant is 21 years old or older.
- o Denials should not be based on arrests that result in no charges, pleas and/or convictions.

4. Strong enforcement


- o Ensure funding for proactive enforcement including any potential supplemental budget actions or 2017 budget proposals.

We look forward to continuing to work with you and members of the Fair Chance Committee in the coming months and look forward to receiving a response to the suggestions set forth above.

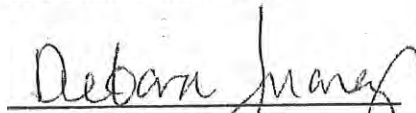
Sincerely yours,



 Councilmember Lisa Herbold



 Councilmember M. Lorena González



 Councilmember Debora Juarez



 Councilmember Mike O'Brien

Family Homelessness Coordinated Entry System Analysis and Refinement Project

Final report prepared for
Committee to End Homelessness King County



December 19, 2014

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I. Executive Summary

The Committee to End Homelessness King County (CEHKC) has engaged Focus Strategies to assess and make recommendations for refinement of the coordinated entry and assessment process (CEA) for families experiencing homelessness in King County, Washington. This analysis includes a summary of strengths, challenges and gaps in the current Family Housing Connection (FHC) approach, and recommendations for increasing the efficiency and effectiveness of the family CEA system.

Between mid-August and November 2014, Focus Strategies conducted a broad range of information gathering activities including interviewing and observing staff at the 2-1-1 call center and at the Family Housing Connection primary and satellite locations; meeting and interviewing FHC, County and housing provider staff; holding meetings with groups of providers focused on special populations; holding focus groups with consumers; reviewing a large number of documents, reports and data; and reviewing materials from and interviewing representatives of other communities with coordinated entry and assessment systems. Focus Strategies presented initial findings from this research in early November to the CEHKC Funders Group and at a Community Meeting held November 6, 2014 and attended by more than 170 people from 56 agencies. Participants in this meeting were asked to provide feedback in several key areas and this feedback has been considered in the recommendations proposed.

Background

Family Housing Connection (FHC) was the result of nearly two years of planning and research by the staff of the King County Family Homeless Initiatives and a committed Work Group of providers and funders. The final design, adopted by the Interagency Council (IAC) was for a centrally-operated assessment process using a locally developed assessment and screening tool, and managed through a dedicated database to capture information on the families, the programs to serve them, and make matches between families and openings. The primary operator of the system, Catholic Community Services, was selected through an RFP process to conduct assessments and make referrals. The 2-1-1 call center is also contracted as part of FHC to do initial screening and make assessment appointments.

King County was among one of the earliest communities to adopt a CEA structure for families after the passage of the HEARTH Act in 2009. FHC was launched in April 2012 and in its 2 ½ years of operations has gone through several changes and modifications in practice and policy. Most significant among these is the change of target population over time from families experiencing homelessness and those at risk, to prioritization of those reporting being unsheltered, to today's exclusive target population of literally homeless families, both sheltered and unsheltered. An additional important recent change is the addition of diversion assessment and support as an integral, and apparently successful, part of the process.

Summary of Current Process

FHC refers homeless families to openings in emergency shelters, transitional housing, rapid rehousing, rental assistance and permanent housing with services. Today 30 agencies and 91 programs take referrals through FHC. Families can be assessed either in a non-participating shelter, or at an FHC program site via an appointment scheduled through 2-1-1. Shelter based appointments currently happen within about a week, while scheduled appointments are often two to three weeks out. Scheduled appointments have an average 50% no show rate.

At the assessment stage, currently 30% of families are diverted, though some of these ultimately are added to the roster if diversion within approximately 30 days is deemed unsuccessful. Once on the roster, families are contacted in chronological order as openings come up that they appear qualified for. The median time from assessment to a first referral is approximately 100 days. However, less than half of referrals result in program and family acceptance. The median time from assessment to *last* referral is more than 200 days. These times frames vary significantly for families, however, as some families receive a referral much more quickly while some who remain on the roster have never received a referral. Currently the system has approximately 80 openings in a month and approximately 100 new families are added to the roster each month.

Strengths, Challenges and Gaps

Our review noted a number of strengths of the current CEA system that are both commendable and can be built upon. These include:

- The establishment and operation of CEA for families, which is acknowledged both locally by stakeholders and nationally as a best practice and a critical piece of an effective systems approach to reducing homelessness;
- Sustained utilization/occupancy of shelter and transitional housing resources between the period prior to and post launch;
- Intentional targeting of families that are staying in places not meant for human habitation and in shelter, including domestic violence shelters, for homeless resources;
- The addition of diversion services to the assessment process and successful diversion of hundreds of families;
- Examination of program barriers and fair housing requirements, which is still ongoing, but has resulted in some providers voluntarily reducing program entry criteria and several public funders encouraging these changes; and,
- A high level of flexibility and commitment demonstrated by FHC staff.

Our review also identified many challenges and areas of concern related to the operation and effectiveness of FHC, some of which are a result of the CEA design but many of which reflect broader system issues. These include:

- The governance and oversight of the CEA process and FHC is unclear to many stakeholders and appears to have resulted in some decisions being made without an established process to appropriately vet them. Data on how the CEA process is performing is not routinely shared with decision makers.
- Despite the intent to design a family-centered CEA approach, the referral process is primarily driven by the need to meet current program requirements. The process is effectively operated to fill program openings, which is not the same as meeting the referral needs of homeless families that have been identified as eligible for assistance from the family homeless system.
- Programs that take referrals through FHC have a very large number of screening criteria for entry and these criteria are not standardized, so the matching process cannot be automated and families cannot have clear expectations of their likelihood to be assisted. High barriers appear to result in some families never receiving referrals or being rejected multiple times.
- Once referred to a program, families often have to go through multiple levels of additional screening and paperwork which can include one or two interviews with a service provider, then with property management and ultimately approval or denial by a Housing Authority.

- The database designed for FHC's use has not been fully operationalized and is not integrated into HMIS. Users report it is difficult to get what they need from it. Our assessment is that this may be in part due to implementation decisions that do not take advantage of the database's full capacity. Key problems include the inability to do automated matches and difficulty with reporting.
- Families with the highest needs or greatest vulnerabilities are not currently prioritized for program openings.
- The assessment process and tool does not stratify families in a way that is meaningful for making referrals and does not capture information that is needed to make referrals to the existing set of programs.

System Impacts on Special Populations

- Special populations for whom specific programs have been designed and targeted, including survivors of domestic violence and families with child welfare involvement, do not get referred in a timely fashion to openings that are intended to support reunification or safety and recovery.
- Immigrant and refugee families may have difficulty getting access to the system and cannot be specifically targeted for openings in programs intended to meet their language and cultural needs.

Current Gaps

We also identified certain gaps in the existing system design, including:

- There is not designated capacity within FHC or in the community to specifically help families obtain needed documentation.
- FHC has no capacity currently for immediate crisis access for assessment or ability to conduct mobile assessments.
- Assistance with self-directed housing search is limited to families that get diversion assistance and doesn't exist globally for sheltered families or for families that are waiting on the roster.
- Links to mainstream services such as benefits advocacy or enrollment, employment services, and other supports are made through referrals only. Once a family is in diversion, rapid rehousing, or another program these links may be stronger but they are not linked to the CEA process which sees families first.

RECOMMENDATIONS

The scope for this project includes making recommendations for the refinement or significant reworking of the FHC system. We have broken our recommendations into four categories: a) short-term refinements to the current model that can be undertaken with the current model and operator; b) issues that must be tackled no matter what final model is chosen, but may take a little longer to enact; c) steps for improving access for special populations; and d) considerations for broader structural changes to the Family CEA model.

a. Short-term refinements to the current FHC model
1. Reorient referral approach and report on efforts to make effective referrals for families
2. Ensure diversion is explored with <u>every</u> family assessed and is a priority response
3. Explore methods to reduce no shows and make assessment more efficient
4. Keep the roster regularly updated
5. Run the WATCH background check and consider collecting and storing other documentation
b. Longer term changes needed under existing or new model
1. Define leadership and decision making for CEA generally and FHC particularly
2. Engage in a concerted effort to reduce program entry barriers <ul style="list-style-type: none"> - Remove as many program entry criteria as possible and standardize those remaining - Reduce number of application steps needed at program entry
3. Adopt explicit prioritization for high need and highly vulnerable families and revise or replace screening tool
4. Promote improved database use and HMIS integration and ensure system performance data is tracked and widely shared
5. Help families get document ready
c. Address access needs of special needs families
1. Remove DV transitional housing units and FUP vouchers from FHC process
2. Ensure that the needs of child welfare involved families are considered in the development of prioritization criteria
3. Assess system data to better understand the impact of the FHC system on access by immigrant and refugee families and continue to explore referral mechanisms that allow literally homeless families to be offered programs that are language and culture specific without running afoul of Fair Housing
d. Consider structural changes to the broader CEA model
1. Analyze the pros and cons of a more decentralized model of CEA for families, including via community based service sites and/or geographically dispersed shelters
2. Develop decision making criteria and process to make decision
3. Plan for modifications/improvements to current model or transition to new model in 2016

CEA Relationship to Homeless System Improvement

The recommendations in this report should result in an improved coordinated entry and assessment capacity and experience for families and providers. However, as has been frequently acknowledged by community leaders, CEA alone cannot create an effective system to address and end homelessness, and without a focus on increasing diversion and/or program openings, any CEA model will continue to result in a wait list.

Our analysis of the data provided indicates a current average gap between new entries to the roster and openings of 17 per month. This does not consider the number of families already on the roster for whom a placement is needed, or that some families that may be eligible for assistance do not receive an assessment at this time due to limited access to appointments. It does, however, indicate that the real-time gap may be able to be reduced or even eliminated with an increase in program turnover and/or an improvement in diversion. Ongoing tracking of the real-time gap indicated by the CEA process, and program and system adjustment to close that gap is needed to improve the overall system impact.

Finally, we note that the long-term intent of FHC was to be the basis for a broader coordinated entry system serving all populations. Currently King County has separate systems for families and youth and is now developing one for single adults. In the future, the consolidation of these systems, at least at the data collection and matching level, should be considered.

II. Introduction

a. Purpose of the Project

The Committee to End Homelessness King County (CEHKC) has engaged Focus Strategies to assess and make recommendations for refinement of the coordinated entry and assessment process (CEA) for families experiencing homelessness in King County, Washington.

The scope of work calls for Focus to:

- 1) Analyze the strengths, challenges and gaps of the CEA system, including the efficiency, cost, and governance/oversight of the current process, how coordinated entry fits within the larger family homeless system, and how specialized populations participate in coordinated entry and assessment;
- 2) Engage stakeholders, including providers, funders and consumers, in evaluating and assessing the current approach and obtaining suggestions for changes or refinements; and,
- 3) Make formal recommendations for increased efficiency and effectiveness, including identifying promising practices in other communities, addressing the ongoing sustainability of the CEA system, addressing the needs of special populations, and aligning the CEA system with broader system goals.

The analysis and recommendations in this report are intended to be understood within the larger context of systems-thinking and system redesign taking place in King County. While Focus Strategies has focused this report on how the current CEA system is working, and recommended changes and refinements to the CEA process, we have also explored how the configuration of the larger housing and service system impacts the ability of FHC to function as intended.

b. Information Sources and Process to Date

This draft report is the result of a four month process that began in mid-August 2014. During this time Focus staff have gathered information from a number of sources and avenues to inform this process, including:

- Document review: We reviewed dozens of documents provided to us at the outset of the project by FHI and CCS staff and many additional documents provided or gathered during the fact-finding phase. These included current and prior policies and procedures for FHC, presentations and reports, and other documents related to FHC's establishment and operation (see Appendix A for a list of key documents reviewed).
- Site visits/observation: Katharine Gale, team lead for Focus Strategies for this project, visited the Crisis Clinic 2-1-1 call center site and FHC primary and satellite locations in September to interview staff and observe the phone screen, appointment, and assessment, and referral process. She also sat in on team meetings of the assessment and diversion staff and of the referral specialists.
- Key informant meetings and interviews: A total of 16 in-person meetings were held with individual agencies or with groups of stakeholders in September and October. These included:

- o Meetings with provider agencies: We met with seven different organizations participating in FHC at their program sites. These meetings included between three and eight staff of the organizations who interact with FHC.
- o Provider group meetings for special populations: We held three meetings with providers representing special populations that currently participate in the system: survivors of domestic violence, immigrant/refugee families, and families involved with the Court system, particularly those with child welfare involvement.
- o Consumer focus groups: We held two focus groups with consumers of homeless services. Mark Putnam and Michelle Valdez of the Committee to End Homelessness held a focus group with clients at Bianca's Place and provided a written summary. In addition, two providers, Mary's Place and Family Treatment Court, forwarded notes and summaries from individual consultations with consumers about their experiences with FHC.
- o Meetings with funders: We met with a small group of FHC funders at the start of the project and presented to the Committee to End Homelessness' regular funder meeting in November. We also spoke individually with five major funders of the FHC and/or FHI effort.
- o Interviews/conversations with other knowledgeable community members and national experts: In addition to in-person meetings, Focus staff held calls with a variety of key informants including King County funders, national researchers, and other consultants working on coordinated entry.

A complete list of organizations and individuals who participated in the process is provided in Appendix B. Names of consumers who participated in focus groups were not collected and are not included to respect their confidentiality.

- Data and database analysis: Focus reviewed various data and reports provided from the FHC database by King County to assess system performance and FHC's performance. We also reviewed the FHC database matching and reporting functionality through a virtual demonstration to determine which database functions were used, how well, and what information can be reported.
- Research on coordinated and centralized intake systems: We reviewed models and practices from coordinated entry implementations in number of other communities. Focus staff conducted research on existing coordinated entry approaches in 12 communities across the country and held detailed phone interviews with seven of these communities.
- Community meeting: Katharine Gale facilitated a community meeting on November 6, 2014 attended by approximately 170 persons including consumers, funders and representatives from 56 agencies, as well as clients and community members. At this meeting she presented preliminary findings based on information gathering to date and participants were asked for their feedback. Participants were also asked to problem solve in small groups on key issues identified in the fact-finding process and report back on solutions. Notes from each small group conversation were gathered after the meeting and the results of these conversations were shared with the FHI Advisory Committee on November 12. These notes are included as Appendix C of this report.

A draft report was posted for public comment December 4, 2014 and presented for discussion at the FHI Advisory Committee on December 10, 2014. Comments on the draft from Committee members were

accepted through December 12. The majority of comments received expressed concurrence with specific recommendations, additional concerns, or implementation suggestions which have been shared with the Committee and did not result in changes to the report. However, some requests for clarification of findings or revisions to language have been made. This Final report will be presented to the Interagency Council (IAC) of the Committee to End Homelessness King County on January 12, 2015.

c. Terminology Used in this Report

For the purposes of this report, we refer to any project or program that offers a temporary or permanent housing unit or a subsidy through FHC as a “program” and the agencies that operate these programs are called “providers.” Families that contact FHC are called “clients” or “families” and when a reference is made to “contacting a family” this typically means contact with the designated head of household. Unless otherwise modified, the term “funder” refers to public and private agencies that provide resources to any portion of the homeless system, not just the coordinated entry system. Funders include entities that provided initial support for the development of program sites (capital funding) and continue to exercise oversight of programs through regulatory agreements, as well as those that provide ongoing funding for services and program operations.

d. Brief History and Background on Family Housing Connection

King County is one of three Washington State Counties that are part of the Family Homelessness Initiative (FHI). FHI is an effort supported by the Bill and Melinda Gates Foundation and Building Changes, in partnership with the counties of King, Pierce and Snohomish, to transform the local systems that serve homeless families and to reduce family homelessness in the three county area. FHI is based on a theory of change that includes five primary “pillars” of an effective system for addressing family homelessness. One of the five is coordinated entry and assessment (CEA). The Initiative states that Coordinated Entry and Assessment (CE/A) establishes a common way for families to access homeless services and provides agencies with a consistent and ready source of appropriate client referrals. It also provides an opportunity to collect unduplicated data to better understand the need of families seeking services.

Since the establishment of FHI, coordinated entry and assessment has become a Federal and State requirement. Under the 2009 HEARTH Act, the US Department of Housing and Urban Development now requires all communities that receive HUD Continuum of Care (CoC) and Emergency Solutions Grant (ESG) funds to establish and operate a system for coordinated intake, assessment, and referral. The federal regulations specify that coordinated assessment systems must:

- Cover the CoC's geographic area
- Be easily accessible by households seeking housing or services
- Be well-advertised
- Use a comprehensive and standardized assessment tool
- Respond to local needs and conditions
- Cover *at least* all CoC and ESG-funded programs
- Include a policy to address the needs of those fleeing domestic violence

The Washington State Department of Commerce has also made coordinated entry a requirement for its funding, and has provided guidance on how to develop such a system. Commerce's requirements are detailed in their Notice of Funding Availability for the Consolidated Homeless Grant. They require that by December 31, 2014, at a minimum, communities establish a coordinated entry lead agency; identify access point(s) for the coordinated entry system; develop a common intake tool; and maintain an up-to-date inventory of available housing resources, including capacity information and basic program eligibility requirements.¹

Design and Launch

Family Housing Connection's design process was undertaken prior to the mandate from Commerce and as the preliminary guidance from HUD was just being released. FHC was designed and developed over the course of nearly a year and a half, led by a Work Group consisting of funders and providers who developed the design. The model was then shared with stakeholders for feedback, including providers of specialized populations including Immigrant/refugee population and survivors of domestic violence. Several meetings were held to discuss the design of the assessment tool and matching tool. Stakeholders agreed on guiding principles: the tool would need to be "strengths-based, housing-focused, brief, client-centered and to collect only the data needed to make a housing match and ensure that the process was fair." The tool/script was also reviewed by a local provider with a fair housing background and wording of questions was guided by this process. The design model was then approved by the IAC.

Once a basic model was developed for a centralized system, a competitive Request for Proposal process resulted in Catholic Community Services (CCS) being awarded the primary contract. CEA for families also includes a contract with the King County Crisis Center 2-1-1. The 2-1-1 function includes initial screening for basic eligibility and appointment scheduling. The 2-1-1 contract was sole sourced and not awarded through an RFP process.

Many of the initial parameters for FHC were determined in advance of the provider selection process, including the assessment tool, the need for geographic coverage, the software to be used and the programs to be included. After many months of research and planning, King County Family Housing Connection was launched on April 23, 2012.

Significant Changes

Since its inception FHC has undergone a number of design and practice changes. The most significant of these is the target population. Originally, callers were screened to determine if they were homeless or at risk of homelessness, defined as being 30 days from losing housing. This was later changed to 14 days from losing housing but that change did not result in a significant decrease in the number of callers or appointments.

Initially there was no priority based on living situation and unsheltered families were grouped within the FHC placement roster with doubled up families (based on initial date of entry into the system). In January

¹ <http://www.commerce.wa.gov/Programs/housing/Homeless/Pages/ConsolidatedStateHomelessGrantProgram.aspx>

2013, the IAC approved the decision to prioritize families living in their cars or other places not meant for human habitation for emergency crisis units within FHC.

At the start of 2014 the criteria were changed again to reduce eligibility for all FHC-referred programs to families that are literally homeless according to HUD's definitions. This change means that FHC now can only serve and refer families who are living in:

- A place not meant for human habitation such as the streets or a car (unsheltered)
- An emergency shelter or emergency motel program
- An institutional setting such as a hospital or treatment program, where the family has resided for less than 90 days, prior to which the family was unsheltered or in shelter.

The change to literal homelessness was accompanied by a change in the contractual assessment expectations of FHC which went from 540 assessments per month to 200. This dramatically reduced the numbers of families scheduled for appointments for assessment; it is unclear how the change in definition affected actual demand.

Two other significant changes were made in 2014: (1) the launch of the Diversion pilot; and (2) assessments at non-participating shelters.

Introduction of Diversion

At the start of 2014 a new diversion pilot was launched to try to better address the needs of families seeking assistance and further reduce the roster of families waiting for assistance. Diversion efforts are typically designed to identify people who are seeking shelter who might be able to safely remain where they are currently living or move directly to other housing, rather than entering the homeless system. Diverting individuals and families from the homeless service system improves timely outcomes for these households and increases the system's ability to serve other people with no safe alternatives to sleeping on the streets or other places not meant for habitation.

In King County, diversion is currently used only with families that are literally homeless and unsheltered, so it is not designed to help preserve existing housing situations but rather to help families become rehoused without entering a shelter or other program. In this sense, King County's family diversion is more akin to a light-touch rapid rehousing program.

The Diversion pilot targeted both families on the placement roster and new households attempting to access FHC. The objective was to use Diversion funds to assist families who could be helped identify and access housing on their own whenever possible. The FHC staff attempted to contact every family on the roster.

The result of this effort to both divert and to update the roster was to reduce the list from over 4,000 families to approximately 1,000. The process included providing 430 families with diversion services, but the majority of the reduction came from removing families that were no longer eligible due to their housing status, and families that could no longer be reached.

Once the first phase of addressing the wait list was done, Diversion became a regular part of the assessment process. While Diversion has been successful in helping prevent families from being entered

onto the placement roster, it has also resulted in CCS adding time to the assessment slots which went from 60 to 120 minutes, effectively cutting in half the number of assessments that could be conducted through the scheduling channel. This has significantly slowed down the intake and assessment flow.

Assessments at Non-Participating Shelters

At the end of August, FHC began a pilot of conducting assessments within non-participating general population shelters. (From launch FHC has done assessments within DV shelters.) These assessments are shorter because they do not include diversion screening, and can be scheduled within a week of entering shelter. This shift has made it easier for homeless families staying in shelter to receive an assessment and cut down on the number who have to travel long distances. It also has reduced the no show rate for assessment and appears to have increased the numbers of households going on to the roster.

Lean Process

Finally, in 2014 the King County Community and Human Services Department facilitated a "Lean" process for FHC. Lean is a "systematic, customer-approach to identifying and eliminating waste through continuous improvement."² A small group of providers, FHC and FHI Initiative staff participated in the Lean process, which was carried out over a period of weeks in February. The process focused primarily on improving the speed, success and customer experience of the FHC referral process. The result of the Lean process were a number of recommended changes in practice, including a) streamlining family communications with FHC during the period between assessment and referral, b) putting in place a policy to review denials and collect information on them, and c) piloting a "warm handoff" from the referral specialist to the provider agency when a client family is on the phone with the specialist. FHC also implemented a check list/next steps handout for families outlining the process and explaining the documents needed and resources to help families get them.

All of the Lean recommendations were implemented and most continue, though the warm handoff was not successful and has been discontinued. The Lean process did not specifically address other key barriers to program entry but it did identify that without addressing eligibility criteria and the multiple steps for families to access programs the process would continue to experience delays.

² From undated document provided by King County Coalition to End Homelessness

III. Description of Current FHC Flow

This section describes the process from first contact through referral. The diagram on page 16 illustrates this flow.

First Contact

As of the time of this report there are two ways a potential client can receive an assessment and get onto the FHC Placement roster. They can call 2-1-1 for an initial screening and possible appointment, or they can get into a non-participating shelter (including a domestic violence shelter or a private or faith based family shelter) where an FHC assessment specialist will complete the assessment onsite (they do not have to schedule through 2-1-1).

FHC notifies 2-1-1 every Wednesday of new appointments available. These appointments are given out quickly. In effect, potential clients calling 2-1-1 on any other day of the week who are deemed likely to be eligible from an initial screening by a 2-1-1 operator to determine homeless status are likely to be told to call back on Wednesday morning when new appointments will be available. In September, appointments were being scheduled for roughly three weeks from the time of the call. Not all callers were successful in getting an appointment.

Clients already in shelter work with the shelter provider to schedule an appointment with FHC when an FHC assessor will be on site. Callers from shelter were able to get an appointment the following week when an FHC assessor is on site.

Callers who report that they are experiencing domestic violence are provided with referrals to Day One resources (DV specific shelter and Community Action Programs) and are also offered an FHC appointment onsite at the DV shelter (if one is available) using an alias/identifier. If families are experiencing domestic violence and are not in shelter, they are scheduled through 2-1-1 to meet with an FHC specialist at one of FHC's community locations.

Assessment

At the time of the scheduled appointment the representative of the family meets with the FHC assessor. Assessments for unsheltered families are scheduled for 120 minutes to accommodate a diversion conversation. Currently unsheltered families attend approximately 50% of scheduled appointments.

The appointment begins with an open ended conversation about where the family is currently staying and what they are currently experiencing. Through this conversation the Housing Specialist is listening for opportunities to support the family in returning to an immediate housing solution which could be completed through light-touch support from FHC staff or result in a referral to a diversion partner who can spend more time with the family and explore opportunities in more detail. If a solution for immediate housing does not sound possible, the housing assessment will be completed and the family will be placed on the roster to wait for available shelter openings. Approximately 30% of families are provided diversion and do not enter the roster at that time (though if diversion is unsuccessful they are later put onto the roster with a wait list date dating back to their initial contact with 2-1-1.)

If not diverted, the assessment conversation and tool is completed and the client family is assigned a score of 1, 2 or 3 based on the number of "housing barriers" they report. The client is told they will be called when there is an opening, given information about the kind of documentation they are likely to need when they get a referral and urged to keep FHC posted if there are changes in their situation.

Families that report that they are fleeing domestic violence are enrolled in FHC without consenting to identifying information being included in the database. The assessment is completed and families are provided with DV specific resources including DV shelters and other support programs at the end of the assessment. Families are encouraged to explore all options including outside resources while they wait for resources from FHC.

Once the assessment is completed, the family is entered onto the roster by date of initial contact with 2-1-1.

Openings and Referrals

Providers post program openings in the FHC database up to 30 days before it will be available. Basic information about the opening is included in the posting but most of the detail information is provided in program inventories that detail all of the requirements and criteria for a program entry (more on this below).

When an opening is recorded in the database, a referral specialist at FHC begins to search the roster for a family that will be eligible for the program. The search is by wait list date, with families that have been on the list the longest being reviewed first.

When a client family is identified from the list that appears eligible for an opening, the head of household receives a call from the referral specialist to whatever number is indicated in their record. Most often this results in the specialist leaving a message that there is an opening the family may be eligible for. If the opening is within a transitional, permanent, rapid re-housing or rental assistance program, the family has six hours to respond to the message. If the opening is in shelter there is no grace period; referrals specialists call down the list until they reach a family that is eligible or one calls back.

The first family that is reached within these timeframes and expresses interest is screened for changes in circumstances and eligibility for this opening. Information provided at the initial assessment is updated and new questions are asked regarding background such as detailed criminal and eviction histories, with the questions dependent on the screening criteria for the particular opening.

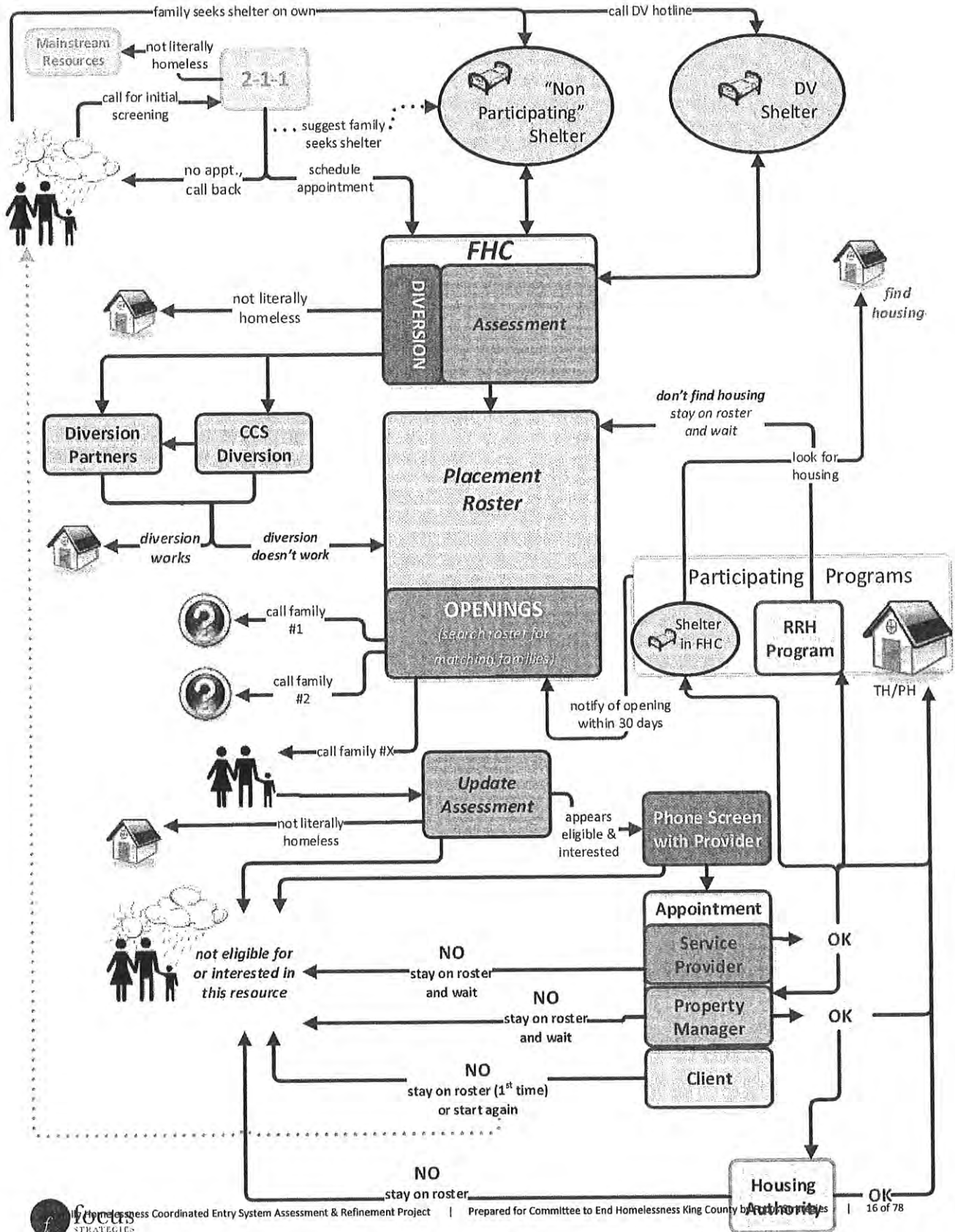
If the family is deemed eligible and continues to express interest after this secondary assessment, FHC informs the family of the documents that they will need and sends the screening result and contact information about the family to the provider. The provider then has 72 hours in which to contact the family to confirm the information and schedule an appointment. If the provider does not hear back from the family within 24 hours of their initial contact, the referral can be returned as "family refusal" and a new referral will be sent.

Screening and Disposition

For shelter and for rapid rehousing, this appointment is generally considered an “intake” and can result in an immediate admission. For other programs such as transitional, permanent housing and some rental assistance, the appointment may be the first of several steps prior to admission.

If after the program level screening(s) a program denies entrance to a family, the family remains on the placement roster. Any new information about the client discovered in the provider process does not change FHC’s assessment information unless the client requests that it change. FHC referral staff follows up with families to confirm the new information gained, and it can be updated then with the permission of the family.

If at any point the client does not show up or rejects the referral, or the program denies the client, the program has to ask for new referral and the process starts over. If the client rejects more than one offer, they are removed from the waitlist. The current refusal policy also specifies that families cannot refuse a resource based on the type of housing offered.



IV. Summary of Data on FHC Process and Results

FHC has a dedicated database that is used to record assessments, track program openings, and record dispositions of referrals. The database is in the same software as the broader Homeless Management Information System (HMIS) but it is not integrated into that system. Obtaining the reports that Focus Strategies sought from the FHC database was extremely challenging. Key informants told us that the data system and analysis has been challenging from the start of the program, and that time that would have been put into developing reports and analyzing and sharing data had to go into making sure the database could function as a repository of client and program information.

We made a number of data requests during the fact-finding portion of this project and have analyzed in detail the information we have been provided. Despite our concerns about the reliability of the data, our overall impression of the functioning of the FHC is that the process is lengthy, unpredictable for families and for providers, and has a less than 50% success rate at matching families in need to available resources.³

A detailed description of the data we received and our analyses can be found in Appendix D.

Current Roster Status

- 853 families were on the placement roster on November 4, 2014. Of these, 586 are currently recorded as unsheltered, while 267 are in an emergency shelter.

The roster was reduced dramatically in 2014, from more than 4,000 families at the start of the year to 1,010 at the start of August, through a combination of diversion and updating of entries. Since that time the roster has continued to shrink, despite the addition of new families each month.

- Of the 1,112 families on the roster as of September 12, 2014, nearly 70% (766) had been on it for more than 6 months and 30% (342) had been on the roster for 18 months or more.
- More than 130 families on the roster in October had never received any referral.

Event Time Frames

We requested information about the average time between key events in the referral process.

- The median time from first contact to assessment is about 14 days.
- The median wait from assessment to *first* referral is about 100 days.
- The median time from the referral to a disposition of that referral (accepted or denied by either the program or family) is 9 days.

³ We present this summary of key data points with caveats; including: we did not review the underlying data quality, and we found on several occasions that the same data elements changed from one request to another.

- The median time from assessment until *last* referral is more than 200 days. That is twice as long as the time to first referral because many families require more than one referral before being accepted into a program.
- The total time elapsed for those who are exited from the roster from first touch to exit date is 315 days.

The data we were provided did not include time from openings being posted to a referral being made but it was reported that most referrals are made within 5 business days.

Referral Analyses

We reviewed the rate at which referrals are successful. Between January and November 6, 2014, 1,382 referrals were made. Less than half (47.5%) resulted in an acceptance.

- Families refused 418 (30%) of referrals made – the highest refusal rate was for shelter (123 of 301 referrals made, 41%)
- Agencies denied 313 (23%) of referrals – the highest denial rate was for permanent housing programs (31 of 69 referrals, 45%)

We reviewed in detail the screening criteria used by programs to determine whether families are admitted to the programs. We found a very high level of program screening criteria and that the criteria are not standard. We identified 77 different screening criteria related to criminal justice history and 26 related to eviction history.

We also reviewed one month of refusals and denials. We found that in May 2014, 58 referrals resulted in a denial or refusal. Explanations did not follow a consistent pattern and that in some cases an explanation by one provider for a program denial was used by another provider to indicate a client refusal. The single most common reason for of refusals or denials was that the provider failed to reach the client family or that the family did not show up for an appointment. (See appendices E and F for greater detail on these analyses).

Recent List Dynamics and Openings Analysis

Finally, we looked at the rate of monthly program openings and compared it to the number of new families added to the roster in a month. We limited our analysis to June – October 2014 in order to examine the dynamics during the period in which real-time diversion was in effect.

Table 1: New Roster Entries and Program Openings by Month

	June	July	August	Sept	October	Median
Total Roster after assessment/diversion	83	76	109	138	103	103
Number of Openings⁴	105	69	92	85	67	85
Surplus/Deficit of openings in month	22	-7	-17	-53	-36	-17

Source: FHC special report and monthly reports, June – October, 2014, calculations by Focus Strategies

The median number of households added to the roster in a month was 106 and ranged from 83 to 110. These figures include families that are added directly to the roster without attempting diversion, and families with whom diversion is attempted who are added to the roster.

The median number of program openings reported in a month is 85 and ranged from 67 to 105. The largest number of openings are in transitional housing and rapid rehousing. Openings in shelter are more limited and permanent housing openings are rare.

The current gap between new entries to the roster and openings is an average of 17 per month. This does not consider the number of families already on the roster for whom a placement is needed but it does indicate that the real-time gap may be able to be reduced or even eliminated with an increase in unit/program turnover and/or an improvement in diversion. This also does not consider that some families that may be eligible do not receive an assessment at this time due to limited access to appointments.

Detailed explanations of these findings and the data used are presented in Appendices D, E and F.

⁴ We compared the number of openings reported by FHC to those provided to us by the County and found that the numbers did not match so we are uncertain about the accuracy of these figures, but it appears to be close.

V. Summary of Strengths, Challenges and Gaps

The scope for this project calls for Focus Strategies to summarize the strengths, weakness and gaps of the current FHC system.

a. Strengths

CEA establishment

The creation and operation of Family Housing Connection is a significant accomplishment. The community process that led to the launch involved a large array of stakeholders and was developed using the best knowledge available at the time, and moved system change forward in King County. For families experiencing homelessness, much of the redundant effort to find out about resources and to get access to housing and program resources has been reduced through the creation of FHC.

A recent survey of a wide range of local stakeholders by the evaluators of the Family Homeless Initiative found most informants see coordinated entry as a best practice and important for ending family homelessness. Our interviews confirm that many programs understand the need, though some were strong in asserting that they did not believe the experience had improved greatly for families. Families that we spoke with were primarily satisfied with the call and assessment experience, but dissatisfied with the wait for a referral and the loss of contact during the waiting period.

Increased utilization rates

According to data collected for the 2013 Federally-required Annual Homeless Assessment Report (AHAR) between the period before FHC and the first full year after its launch, shelter and transitional housing utilization rates rose slightly. This appears to have been especially true for transitional housing outside of the City of Seattle which showed an 8% improvement in average occupancy, from 81% to 89%.⁵ (We heard from some programs had experienced very long vacancies recently but could not assess the extent of this problem, or whether the move to serving only sheltered and unsheltered families enacted in 2014 had changed occupancy trends.)

Targeting literally homeless families

Since its inception, the CEA model has been adjusted from serving families both homeless and at imminent risk of homelessness, to prioritizing families in unsheltered situations, to serving exclusively families that are “literally homeless” – that is in shelter or living unsheltered. These changes have been challenging and in some cases controversial but they are consistent with purpose and intent of a CEA system to reduce the burden on families experiencing homelessness to have to find the help they need, and target Federal, state and local resources for ending homelessness to those families who have no other safe alternative.

⁵ The 2014 AHAR data was not available to us at the time of this report.

Introduction of diversion

The addition of diversion in 2014 has worked well and initially removed hundreds of families from the roster and help them secure housing. Between June and October more than 100 families were successfully diverted from being added to the roster. Providers and funders involved in the pilot are excited about the effort.

Diversion appears to currently be attempted with 30% of families scheduled to be assessed. We did not interview any families that had been offered and accepted diversion services; we note that none of the families in the focus groups we conducted described having been offered diversion services or having a conversation as part of their assessment about alternatives to getting on the placement roster.

Reduction of program barriers among some program funders and providers

We noted above, and describe in more detail below and in the appendices, that there are a high number of program entry criteria which create barriers to entry for families. A number of providers have experimented with voluntarily reducing program entry criteria and some have removed all non-funder required criteria for entry. Several public funders have also supported and encouraged these changes and engaged in dialogue with FHC and provider staff about this topic.

Appreciation of FHC staff

People we spoke to said the staff at FHC are committed and hardworking and most were quick to say that they did not feel that the problem was with the FHC staff. Many informants recognized that FHC has a very difficult task and appreciated the effort and in many cases the flexibility and responsiveness shown.

b. Challenges/Findings and Concerns

Unclear governance and decision making

People we interviewed repeatedly asked how decisions were being made and who was making them. During the startup and most of the implementation phase of FHC there was a dedicated subcommittee but this committee no longer meets. We observed that some significant decisions appeared to have been taken at the staff or subcommittee level that had broader implications. As an example, the establishment of the external fill policy which changes some of the functioning and messaging about coordinated entry was vetted by the CEA subcommittee but not receive review of a higher oversight body.

Related to this is the concern that data is not broadly shared with funders, stakeholders and the community at large. Repeatedly we were asked about how the system was working and told that data we had been given was not shared.

Finally, we heard that because of the lack of clarity around governance and oversight that providers and funders at times act independently – we heard frequently that funders are not always “on the same page” with regards to the need for and/or prioritization policies of coordinated entry for homeless families. The

role of funders is extremely important in ensuring that the CEA process operates smoothly and fairly, in eliminating “side doors” and reducing barriers to entry (discussed below).

Referral process focuses primarily on filling vacant units rather than making effective referrals for families

While the stated intention in the initial design of the system was to focus on meeting family needs more efficiently, program needs and requirements appear to drive the process. The referral process is not set up to look for all the openings that might fit the next family on the list, or the family with the greatest needs – instead it is oriented to look for one eligible client family to fit each opening. When a provider posts an opening, the FHC referral specialist searches for the next family on the roster that appears to qualify. If a referral specialist is working on more than one opening at a time they may be thinking about who will be the best fit for multiple openings and be considering more than one family at a time, or consulting with their colleagues about the best options for a particular family, but the general approach is to look for a family to fit the unit. This results in several problems which were reported to us, including:

- Some families get no referrals
- Some families get multiple referrals but are repeatedly rejected
- Families that don’t get back to FHC within the permitted time frame for a specific opening are frustrated and the opportunity to connect them to a resource when they do call in may be lost.

The performance measures in the FHC contract underscore this approach. The contract requires that FHC tracks referrals and their success, but not the rate at which families get housing.

It is important underscore that the lack of family-centered design is not just a matter of principle. This approach has significant practical impacts. When a referral specialist gets ahold of a family they are generally only getting information from them related to the particular opening they are attempting to fill. In addition, families must retell their story or present information and answer deeply person questions multiple times during the process – including on the phone to 2-1-1, to FHC assessors, to FHC referral specialist, and to providers, sometimes more than once.

Lack of buy in/misunderstanding of what FHC is

While the FHI Evaluation indicates that most stakeholders believe that coordinated entry is important, few providers we spoke with indicated that they viewed themselves as part of the team working on it or see it as a joint project in which they have a stake. Some funders also indicated that they saw FHC as something that was part of the FHI Initiative but not necessarily a critical part of the homeless system or something they had a strong stake in.

FHC is currently operated by a single non-profit organization. This may contribute to the feeling that CEA is not a system-wide responsibility. We identified in interviews and focus groups with families that some stakeholders have an impression that FHC is a “program.” For example, a caller to 2-1-1 asked about getting into “the FHC program” and was told that “that program” it was only for families who are literally homeless. We picked up a flyer at one of our site visits that promotes FHC. The flyer does not make it clear that the purpose of FHC is to assess families for resources in the community. The language could be interpreted to mean that FHC has its own housing resources and you can apply to them.

Significant effort was made to brand FHC and to make sure that it was “well-publicized.” The information website and materials are attractive and helpful, but may add to the impression of FHC as a one agency’s program rather than a key element of the family homeless system to connect families experiencing homelessness to programs to serve them.

Amount and variety of program screening/entry criteria

As described above, programs serving homeless families in the FHC system have many additional program entry criteria. This results in several negative impacts on FHC’s ability to refer and to place families with programs:

- More than one quarter of families that are referred in a month are denied access to an opening; some are rejected more than once.
- Families with barriers are skipped for openings and may remain on the list for a very long time without a successful referral.

The large numbers of screening criteria are not standardized which means that the FHC database cannot use the automation function to make matches. This creates a significant inefficiency in the process as matching is done through a laborious manual process, and does not always result in an appropriate match. In addition, program criteria can change whenever a program submits a new inventory worksheet, which means that even the benefit of staff learning over time about the requirements of different programs is limited.

Secondary/tertiary screenings at programs

In addition to the barriers created by the screening criteria themselves, the process of secondary and even third level screening at the programs significantly delays the process. We were informed that in some cases a family might have to pass through as many as six assessment or approval steps to get access to a transitional or permanent housing unit:

- Initial Assessment with FHC
- Follow-up phone assessment with FHC, including new information not previously collected (such as detailed criminal background)
- Pre-screen by service provider (typically by phone)
- In person screening/interview with service provider and preparation of application materials
- Screening/application process with property manager
- Submission of paperwork and approval by Housing Authority

At any stage during the last five steps of the process the family may be denied, and the potential for families to miss appointments or be unable to follow through increases.

Limited use of databases and data for analysis

There are a several issues with the use of the database and with the availability and utilization of data. As described above, the large number and variety of screening criteria means FHC is unable to use the

database developed to match clients with inventory. Our observation was that not only did the number of program screening criteria make true automation impossible, but the database was slow and more importantly, that it did not provide very much information that the referral specialist needed.

It is our understanding that the AdSysTech tool was designed for King County to respond to local needs and to automate the matching process. However, FHC is not using the power the tool possesses. Focus Strategies is vendor neutral so we make no recommendations about the relative merits of different HMIS software. Our finding relates instead to the need to use the power of the existing database to facilitate the work. Using a non-automated system to fill 80 openings a month within 91 programs is not practical or desirable. We have reviewed the AdSysTech tools' capacity in other settings and find that if a standardized set of matching/screening criteria is used, the matching software is capable of automating these functions in a fairly straightforward manner.

Additionally, the FHC database is not integrated with the rest of the HMIS system, despite the fact that the underlying software is the same. Some information is available in both systems, notably the basic client information. However, the result of referrals are not always recorded in the FHC database and are never recorded in HMIS. This means that it is impossible to determine what happens to people after they are removed from the FHC roster without special efforts to clean and integrate the two databases.

Further, reliability of data in the FHC database is poor because even when the results of referrals are entered, there appears to be a lengthy delay in the data entry. We were told, for example, that there are people still on the placement roster who are housed or in programs. The November 2014 "Communication to Partners" document posted by FHC indicates that of referrals made in October, 40% had not been updated with an outcome.

Additional issues with the database include:

- Some decisions were made that reduce the flexibility of the database. For example, appointments can only be made on the hour; staff do not have the option to select a start time of 30 past the hour.
- Important information for process improvement is not gathered in a useful fashion. For example, as described above, the categories for refusals and denials are not standard and are not explicit enough to be used to make changes.

Highest needs not prioritized

The planning for FHC recognized that the likely outcome of the creation of a placement roster was going to be long waits for assistance. Materials from FHI the system state "In the short term, it is expected that there will still be fairly long waiting periods for interim and permanent housing placement; limited resources to provide prevention services; and limited capacity to serve those households at high-risk of homelessness. Although it is not ideal, it is envisioned that the new system will operate initially using a form of "waitlist" for housing and or services. Since most programs operate at capacity and we know there is pent up demand, the system will likely not be able to provide real time referrals directly into programs for families at the time of their coordinated entry appointment."

Conversations occurred during the planning phase that considered and rejected a further prioritization process, beyond the creation of a set of barrier levels that would be generated by the assessment tool.

The intent was that priority be conferred based on length of time homeless and by virtue of the wait list date. This issue was revisited in 2013 when eligibility was narrowed to literal homelessness but the group again decided not to prioritize any further.

The result, however, is that families on the list are effectively prioritized based on 1) ability to be reached at the time of an opening, and 2) do not have, or did not self-report, barriers to entry that conflict with program entry criteria. Families with crisis needs, such as medical conditions, are not identified or prioritized.

Assessment information and tool not meeting need

The assessment is largely based on the tool designed for the process. The assessment tool was designed to capture information needed to make referrals and to stratify families into three levels of need, with higher scores indicating higher housing barriers and a presumed need for a longer and more service intensive intervention. There are 12 questions that actually contribute to creating the score and these are primarily about past housing barriers. We found that the thinking behind the tool was generally sound with what was understood at the time, and the questions were intended to be non-invasive, consistent with fair housing and based on self-report.

However, the result has proved less useful than intended. Virtually no families score a 3 and few score a 2, leaving most families undifferentiated. A higher score does not move a family up in the order, and while it was intended to match families to deeper resources, the high level of entry criteria for permanent and transitional housing has resulted in some level 2 families having more difficulty getting in and being referred to rapid rehousing programs which have fewer entry criteria.

In addition to the 12 questions that generate the score, additional information about the families' situation, resources and housing and service preferences is asked. Unfortunately, not all of the information is used for making referrals and providers generally do not rely on these aspects of the assessment for entry decisions or for service planning because 1) they are often out of date or the updated information is hard to understand, and 2) providers conduct their own intakes and assessments.

On the other hand, information that is needed to make a referral currently, such as detailed criminal or eviction histories or more specific information about medical conditions or service needs, is not collected in the assessment process. This type of information is gathered at the time of a referral, and the initial assessment is also updated. The update process is therefore somewhat lengthy and requires questions of a personal nature be asked over the phone and under pressure. Some providers mentioned that they believe families do not always answer these questions truthfully, as background checks reveal histories families did not mention. We note that it is hard to imagine a family wanting to give information at the moment of an apparent offer of housing that might disqualify them.

c. Special Populations

A specific area of concern for the King County community is whether FHC is serving special needs populations among homeless families for whom programs have been established. We were asked to look at the needs of three groups: survivors of domestic violence, child-welfare involved families and immigrant/refugee families.

Domestic violence (DV) shelters currently take referrals directly and do not go through FHC. FHC refers families that report imminent danger from domestic violence to DV services and shelter and offers them an assessment for FHC using an alias. Transitional housing for domestic violence survivors is currently included in the FHC system.

Because the assessment questions to distinguish needs ask families what kind of services they would like, we were told that many families that have had past DV say they would want or are willing to accept DV services, but this is not the same as a family that is actively fleeing domestic violence or has specific trauma needs related to DV, which is what these programs are designed to provide. The delay from the time of assessment to referral to a resource also means that families referred to transitional housing for survivors are not those with the most recent or pressing need.

Likewise, families involved with the child welfare system have complex needs that are also often time sensitive. Parents are required to meet many requirements established by the court and to meet specific time frames before regaining custody of their children. However, referrals through the CEA system typically require that parents have custody or are able to prove their ability to get custody, which is difficult without additional assistance and coordination. The ability to make these determinations in a timely fashion is difficult for an outside party such as FHC to make.

We also heard reports that the FHC system is particularly difficult for immigrant and language minority families to use. We note that King County has developed a number of specialized programs targeted to specific cultural groups. We have not found this type of program specialization to be true in other communities we have worked in.

Issues raised include that the system is not well-suited to immigrant/refugee families, and that referrals to the programs often were not families for whom the programs were created and for whom language and cultural capacity is available.

On the access side, we were able to see that language and interpretation services have been provided to families during the assessment process, but we recognize that this is not sufficient if families experience other access barriers to the system or feel unwelcome or uncomfortable. Each focus group that we held had one recent immigrant family (2 out of 12 families) who had participated in the FHC process, but again this is not evidence that no barriers exist that might specifically impact immigrant/refugee populations disproportionately. We requested an analysis of the FHC database that would look at this issue more closely, especially comparing those who receive a referral quickly to those who do not, but do not have the data at this time.

On the referral side, two things appear to impact the ability to make successful referrals to these programs. Firstly, Fair Housing law does not permit an offer of housing to be based on race or ethnicity. An offer of language-based services can be made but if a client family does not say this is important to them they cannot be refused entrance or "steered" to such housing. Likewise a family of another cultural or language group cannot be denied access to a program because of race or ethnicity. This has made coming up with a method to identify and refer homeless families these programs are intended to serve difficult. In 2013 the County undertook a significant Fair Housing Review and FHI worked with providers to further clarify their program eligibility criteria; coordinated training for providers and a second round of revisions to their criteria. Work on the impact of fair housing is ongoing at this time but interpretations of Fair Housing appear to have impacted how referrals are made.

Secondly, with the change to literal homelessness, fewer families are being assessed and fewer qualify for FHC-participating program referrals. This impact the numbers of immigrant families who are on the FHC list and may do so disproportionately relative to the rates at which such families were served in the past, depending on the prevalence of literal homelessness among the immigrant/refugee community. We are unable to determine this.

The change to literal homelessness was met with concern from many stakeholders, both those representing subpopulations specifically but also for families in general. Many expressed concern that this has reduced access to help for families who are doubled up or precariously housed which can have negative impacts on children, and may also be artificially increasing the number of families that either are either in shelter or unsheltered, or appearing to do so.

d. Gaps in the CEA System

In addition to the challenges laid out above we identified certain gaps in the current coordinated entry and assessment system.

Assistance with documents: For access to virtually every program families need some documents, including personal identification, which can include birth certificates for the children and documentation of income. Many of these documents can take time and resources to obtain, and sometimes the process to get them poses a significant barrier for the family to manage without assistance. No one is currently helping with assisting client families to get document ready. FHC provides families with information about the documents they will likely need at the time of the assessment and again when a referral is made, but there is no specific assistance offered to get the documents needed.

Limited coordination and loss of contact: Contact with clients once they are assessed is almost exclusively through clients getting back in touch directly and FHC reaching back out to clients at the time of an opening. Families in non-participating shelters are connected through the shelter provider and FHC and shelters are working more closely with the introduction of assessments at shelter sites but no specific method exists currently to work with case managers for unsheltered families that are connected to other services, such as the Family Treatment Court services or other service providers, while they await a referral. We understand that FHC does respond to providers questions and coordinate in some cases, but this is not a consistent practice.

No mobile and crisis access: FHC currently has no ability to provide assessments in the field for families for whom transportation is a significant barrier to access or for families that are in crisis or have extremely high barriers/needs (though, as we noted above, no such designation currently exists to identify highest need or most vulnerable families).

No self-directed housing support: Families that are assessed for diversion receive support to resolve their situation if possible within approximately 30 days. No similar service exists for families on the roster for whom diversion was never attempted.

Limited connection to other mainstream services: The current system provides families with referrals to a variety of other resources in the community at both the 2-1-1 step and the FHC assessment step. However, these referrals are primarily in the form of information about where a client family might go to

seek help or obtain benefits. Mainstream services are not directly linked to the process and no consistent record is kept as to whether families get the help to which they are referred. There are no direct connections with access to benefits (TANF, SNAP, SSI, etc.) and access to services that can help families find and gain housing, such as credit counseling, legal services and employment.

VI. Lessons from Other Communities

To understand better how coordinated entry and assessment (CEA) is operating in other communities and to extract promising practices, Focus Strategies conducted a scan of other CEA systems throughout the country. We reviewed materials that were available via the internet, in some cases posted by the systems themselves and some from case studies or presentations posted by the National Alliance to End Homelessness. We also spoke with the Continuum of Care leads of three communities and with the program operators for seven CEA systems. Finally, we spoke with two national technical assistance providers who had worked in five communities.

The systems we researched included both family-only and general population systems. The family-only systems included: Hennepin County, MN; New London, CT; Los Angeles, CA; Toronto, Ontario; Portland, OR and San Francisco, CA. The general population systems included: Pierce County, WA; Cleveland, OH; Dayton, OH; Whatcom County, WA; Charlotte, NC; and Montgomery County, PA. We also looked at the youth CEA system for King County. (For a comparative matrix of models from most of these communities, see Appendix G.)

a. CEA Models

Our survey found that CEA Models vary significantly from community to community but that for the most part they fall into some basic categories of approaches:

1. **Centralized:** Systems where there is a single place or a single provider operating in multiple places that is responsible for intake, assessment and referral. All homeless people (or all people in a specific subpopulation such as families or chronically homeless people) must pass through the single place or single provider to access assistance.

Centralized systems can include:

- A single physical point of entry such as a shelter, assessment center, or County office; or
- A single agency that conducts intake/assessments at multiple locations.

Communities that have set up single entry points into family shelter include San Francisco and Hennepin County, MN. Pierce County, WA has a single agency centralized intake agency that conducts assessments at multiple locations.

2. **Decentralized:** Decentralized systems typically have multiple points of entry operated by different providers but using a single standardized system for intake, assessment and referral. Communities that have a large geography to cover often elect a decentralized approach and typically each entry point serve a specific geography within the community, thereby ensuring homeless people don't have to travel long distances for assistance. Los Angeles, CA; Montgomery County, PA; and Charlotte, NC have all created decentralized systems. In Los Angeles and Montgomery County the entry sites (called Family Solution Centers in Los Angeles and Housing Resource Centers in Montgomery County) provide a wide range of services to families experiencing homelessness including direct access to rapid re-housing and housing search support, and either co-located or closely linked connections to mainstream services including benefits enrollment and financial and employment counseling.

3. **Shelter-based:** These systems can be either centralized (a single shelter acts as the entry point) or decentralized, with multiple shelters as entry points. Shelter based systems typically are found in communities where there is substantial shelter capacity and/or a “right to shelter.” In these communities the shelters serve as the assessment points and the gateways into other housing interventions, particularly rapid re-housing. Dayton, OH, is known for its “gateway shelter” model in which all homeless people must first enter one of four gateway shelters, from which they receive a standardized Front Door Assessment and referrals to housing.

4. **Mobile:** Portland, Oregon has piloted a new, mobile model for Family CEA. This approach uses an initial phone screen by 2-1-1, followed by a mobile assessment. Families do not have to come to a physical location but instead the CEA can literally meet them “where they are at.” Families assessed as eligible are assigned to a housing support team which can assist them to go from homelessness to housing, with or without entry into shelter or other temporary settings.

b. Lessons Learned

Avoiding waiting lists

One key insight we have gleaned from looking at other communities is that the success of a system depends less on how the entry points are designed and much more on whether there is an adequate supply of exits so that the system does not simply result in a long and slowly moving waiting list. Some of the communities achieving the best results are those where there is either a right to shelter or an ample supply of shelter, so that the system is actually creating a coordinated and standardized way of ensuring families who have no other alternatives are able to enter shelter. From there, they are assisted with a plan to exit to permanent housing. Cleveland, Dayton and Hennepin County use this model. These systems do not have long waits for shelter because the supply is adequate and there is a strong effort made to divert as many households as possible (in Cleveland 60% are diverted and in Hennepin it is 75% or above).

In communities where there is no guaranteed access to shelter and where there is not a sufficient supply of rapid re-housing, transitional housing and permanent housing options, we found there generally are very long waiting lists for assistance. This is the experience in San Francisco, CA and in Pierce County, WA. One way to avoid long lists even in communities that are not right-sized is to set up the assessment and referral system such that only those with the highest needs are prioritized for access to homeless-dedicated housing programs. For example, Charlotte, NC does not have a long waiting list, but only those with the highest needs can be placed on a priority list for TH, RRH or PSH. Whatcom County, WA adds households to the “housing interest pool” list but makes it clear to them that only “Tier 1” household, those with the highest priority, are expected to get a referral.

Reducing program entry barriers

In many systems we examined, program entry barriers were either identified as an ongoing issue that is being addressed at this time, or as an issue at one time in the past that has been resolved or partially resolved. In systems where providers have not been required to lower their barriers to entry (e.g. Pierce

County, WA) the CEA is often not able to find placements for the highest need clients. A few communities said this was not an issue for them (Whatcom, WA; Bucks County, PA) and attributed that to a shared commitment among funders and providers to prioritize and serve the highest need households.

Methods communities have used to reduce barriers include a prohibition on screening practices that use criteria not required by the underlying funding sources, lower ranking in competitive funding processes for programs that have not reduced barriers, and/or contractual requirements that programs take a fixed percentage of referrals made through the CEA. Even in communities where providers have only been allowed to keep their funder-imposed eligibility criteria, continued entry barriers are still an issue and prevent many high need households from receiving assistance (e.g. Charlotte, Dayton).

Challenges integrating Domestic Violence programs

Our research indicates that few communities have made much progress in integrating domestic violence services and shelters well with coordinated entry. In most cases, domestic violence shelter runs through a different system and callers or clients presenting for assessment that identify as having active domestic violence issues are referred to the DV system for further triage and possible entry into DV shelter. Households that enter DV shelter or transitional housing may also be assessed for eligibility for homeless programs at the time they present, or at a later date they may come back through the CEA for a housing referral. One community that has had some success in integrating the two systems is Dayton, OH. In Dayton, one of the four “gateway” shelters that are the entry points into CEA is a DV shelter operated by the YWCA. Once DV clients enter this shelter they receive the same standardized “front door assessment” as those who enter the other three gateways and are able to access all the same housing waiting lists. However, unlike other households, their data is not entered into HMIS and a separate system has been set up to manage these clients on the waiting lists.

c. Cost Considerations

The cost of Coordinated Entry and Assessments systems vary widely, from communities in which the functions have been implemented at little to no additional cost through shared responsibilities and redirected staff, to communities where entirely new systems and programs have been established. Not surprisingly, our research indicated that larger communities typically have greater costs, but the range of what is included in those costs is wide and the models are so different it is virtually impossible to compare them. For example, Hennepin County, MN has an entire center staffed by County employees to handle intake, assessment and referral for families who are homeless and/or have other immediate needs. This 12 person shelter team is responsible for determining which families are able to enter shelter (many are diverted) but also does benefits eligibility and referral to a range of mainstream resources. It is difficult to pull out exactly which costs are specific to CEA in this system, though there appears to be only one dedicated staff person that does the actual assessments. Overall, the County spends \$12.5 million annually on homelessness, but not all is for CEA, and much of it is for sheltering single who are currently not part of the CEA process.

San Francisco spends over \$1 million annually for the Connecting Point program which serves as the centralized intake into most family shelter. Connecting Point not only assesses the families and refers to shelter, but provides case management to many families while they are on the list, assistance getting

documents, and drop-in services that provide for basic needs such as food and transportation. Additional resources such as diversion support and short-term rental assistance can be accessed through the case management process, some of which is included in the Connecting Point budget.

Los Angeles is currently investing nearly \$10 million in eight Family Solution Centers (FSCs). These regionally based centers provide a comprehensive array of services to families, including not only intake, assessment, referral to shelter and housing, but also diversion, rapid rehousing, and access to employment services, benefits, and other mainstream resources. The County's funding leverages funds from other sources (e.g. First Five funding for children, Housing Authority vouchers) which can only be accessed through the FSCs even though the funders of these services do not contract with them directly. The cost of coordinated entry and assessment portion of the FSCs is not broken out from the overall budget of each center. Each center has one or two staff focused on immediate crisis response who respond to calls and conduct assessments, but at some centers these responsibilities are shared with other staff.

Resources Used for Coordinated Entry

An additional question that King County has posed relates to the resources used for coordinated entry. The primary sources of CEA funding we identified were local general funds and in some cases State resources. Few communities use HUD CoC funding for this purpose. San Francisco's system previously relied in part on a HUD Supportive Services Only (SSO) grant but that was recently reallocated and the county has picked up the additional cost. Some communities supplement local public funds with private funding (Montgomery, PA for example) but the amount of private funding appears to be much smaller.

In addition, many CEA functions are an eligible activity connected to other programs. In Los Angeles, CA and Montgomery, PA, most of the CEA functions are covered by rapid rehousing resources, such as ESG, TANF, and local funds, and built into those budgets.

Our conclusion from looking at a variety of CEA models in other communities, particularly large ones, is that the overall cost of providing effective coordinated entry and assessment is not likely to be less than what King County currently invests, but that King County asks less from its CEA system and isolates assessment and referral activities from other kinds of supports for client families that could be covered by other resources under a more integrated model.

VII. Recommendations

The scope for this project includes making recommendations for the refinement or significant reworking of the CEA system. We have broken our recommendations into four categories: a) short-term refinements to the current FHC model that can be undertaken with the current model and operator; b) issues that must be tackled no matter what final model is chosen, but may take a little longer to enact; c) steps for improving access for special populations; and d) considerations for broader structural changes to the Family CEA model.

a. Short-term Refinements to Current CEA Model

1) Reorient referral approach and report on efforts to make effective referrals for families

The referral system should be moved as quickly as possible to one that focuses on referring families to the openings that meet their needs referral rather than finding a family to fill each opening. This approach means that the CEA process will consider all openings for the next family to be served and make the best referral for the family under consideration, rather than finding one family to fit each specific opening.

This change needs to be part of the longer term approach to the system as well. Many of the pieces needed to make this change most effective will require additional time, such as removal of program barriers, establishment of prioritization, and improvement of the database and matching functions, addressed below. Nonetheless, we recommend that this step be taken as quickly as possible and that challenges in implementing the change be recorded and discussed by the oversight body or leadership group recommended below.

2) Ensure diversion is explored with every family assessed and is a priority response

Currently diversion is only offered to families that report living in a place not meant for human habitation, and not families that have entered one of the non-participating shelters or motel programs. It is explored as part of the assessment process but it was indicated to us that it was only explored with some families and is offered as an option rather than a priority.

We suggest the diversion approach be expanded to include those families that have recently entered shelter who may also have opportunities to quickly resolve their housing crisis with assistance.

While the addition of diversion requires some additional conversation and interaction with client it is important to shorten the assessment portion. We also suggest that the diversion conversation become the primary purpose of the initial assessment and that information collected for placement on the roster be reduced to factual information likely to remain true over time, not information that is likely to change.

3) Explore methods to reduce no shows and make assessment more efficient

Approximately 50% of families with scheduled assessment appointments actually show up. At one time FHC was double-booking families for assessment but with the addition of diversion screening to this process, double-booking was stopped and assessments times were doubled.

Methods in place in other communities to address this include block scheduling (Pierce County), drop-in hours (Toronto, OT), and providing assessments that lead directly to some level of housing planning and search assistance (Montgomery County, PA). FHC should consider experimenting with one or more of these methods soon to learn if these can reduce the amount of dedicated time needed for the assessment function. King County may also wish to consider expanding assessment capacity by giving authority to complete the assessment to the other diversion providers, and having some families (perhaps those who through 2-1-1 are identified as most likely to be successfully diverted) sent directly to a diversion provider.

4) Keep the roster regularly updated

Research on the patterns of families that experience homelessness in the United States indicates that many families self-resolve their housing situation within a matter of days or weeks. In King County, average time on the placement roster until a referral is more than three months and it can be much longer. The list becomes stale very quickly and families become difficult to find, slowing down the referral process. When the roster was updated in 2014 it was reduced from nearly 4,000 to under 1000, with most of those reductions being because the families were no longer eligible, or were unable to be found. While keeping the list updated requires additional work, it reduces work later to try to reach families who are no longer in need, eligible, or whose contact information is out of date. Methods to update the wait list can include:

- Periodic calls or outreach by FHC staff combined with a set number of attempts before a family is made inactive;
- A requirement for clients to stay in touch to remain active, for example, weekly check in/messages by a certain date; and
- Ability of a client to appoint a case manager or other service provider as a contact person who can keep FHC informed of the family's status.

We recognize that a mandatory check-in may be burdensome for families but, unlike a daily call for shelter openings, this type of check in can be made less restrictive as it does not have to be at a specific time and can be done through a recorded message.

5) Run the WATCH background check

While we say below that the screening criteria of many programs are a significant obstacle to entry and must be reduced, background checks are currently standard for many programs in FHC. In addition, even when most such criteria are removed, some criminal background prohibitions will remain due to funding source constraints which means that background checks are likely to remain a requirement for the foreseeable future. Having FHC run this report on an experimental basis at the time of assessment may

provide important information that reduces time making unsuccessful calls or referrals later in the process. Running this report for a period of time will also allow FHC to determine 1) how many families have criminal background as a significant barrier to receiving help, which can be used to help determine how many criminal background criteria must be eliminated to increase access for families, and 2) get a sense of whether self-reporting is generally an accurate reflection of a family's history, at least in this regard. It will be important to assure families that a criminal background does not preclude them from getting assistance.

b. Longer-term Changes Needed Under Any Model

These recommendations are essential to the functioning of any CEA effort in King County but may not be able to be carried out immediately and require efforts by stakeholders other than FHC. They are essential to the functioning of any CEA effort, whether the structure remains the same or changes to a different model.

1) Define leadership and decision making for CEA

King County should develop a clear and well-understood oversight and decision-making process for CEA, not just for families but for all populations. This could be a single committee or a subcommittee on the different populations that meets together as well as separately. The committee should develop recommendations and clear guidance for what kind of decisions can be made at the operator level, at the committee level and at the IAC level for all types of CEA.

Once such a structure is in place, ensure regular reporting to the oversight committee on CEA and system performance (see below for recommended data elements).

2) Reduce program entry barriers

The number and range of screening criteria and steps in the referral/screening process are both extremely inefficient and result in families being unable to access the programs intended to assist them. A significant effort to remove barriers to entry is needed.

a. Remove as many criteria as possible and standardize those remaining

We recommend removing all screening criteria but funding-source required criteria, and both capital and program funders make the removal of these criteria a condition of their funding moving forward. An across the board removal of most criteria is the fastest and fairest way to remove barriers, as it makes all programs responsible for serving the needs of homeless families.

This may be a difficult step to take all at once, and many providers and funders continue to feel that there are programs and settings that are less appropriate for "higher-barrier" families. We suggest that any remaining criteria that are permitted are 1) based on an objective program design basis such as physical layout of the property or extremely low staffing, and 2) are consolidated into a single standard. For example, if after consideration it is felt that a restriction on felonies (other than those few that are a

funding source required) is needed in some programs to reduce risk to other residents or property, then the felony standard should be the same for all programs permitted to have one.

Participants at the community meeting were asked to provide feedback on what support programs would need to be able to reduce entry criteria. Frequent suggestions included:

- Incentive funding to providers with fewer barriers
- Greater funding for case management
- Risk mitigation funds
- Training in clinical services
- Become a learning environment/more sharing of successful strategies
- Flexibility to make a better decision with a family if a referral is not a good fit/circumstances change – being able to change programs

In our review of other communities we found that contractual expectations to accept referrals, and priorities in funding applications for programs with fewer entry barriers or higher rates of referral acceptance were most common. We did not identify communities that provided specific additional funding to programs in order to lower program entry criteria.

b. Reduce number of application steps

Once most entry barriers have been removed and all remaining have been standardized, the process for gaining entry to openings also needs to be streamlined. A family should not have to meet with a provider representative more than once to gain access and the review time for should be reduced to the shortest possible time – one business day would be desirable. This means that service providers, property managers and the Housing Authorities will have to work together to determine how they can streamline the process and collect and review the needed information.

A Lean process focused on this aspect of the system may be desirable or some other method could be used to identify options for streamlining the process.

3) Adopt explicit prioritization and revise or replace screening tool

As discussed above, the current tool and process does not prioritize families with the highest needs or vulnerability. This emphasis needs to change in order to better serve the most vulnerable families and also respond to new Federal guidance.

HUD recently released guidance requiring communities to adopt a standardized assessment and prioritization tool and process for all Permanent Supportive Housing (PSH) projects receiving CoC funding. Rather than use a first-come-first-served approach, admission to programs must use prioritization policies that ensure homeless people with the highest needs and longest periods of homelessness are served first. Assessment of service need must be made using an assessment tool (e.g., a Vulnerability Index (VI)) or review of service utilization data (e.g., use of emergency rooms, mental health crisis services, jail, etc.). Communities may not use disability or type of mental health diagnosis to determine priority for access to PSH.

We suggest developing or adopting an assessment tool that assesses for eligibility, including streamlined and consolidated program rules/barriers, and also assesses for vulnerability with a focus on length of time homeless. One option for consideration for prioritizing is the high-needs family screening tool (HNF) developed by Building Changes for the Washington Families Fund.

Before developing or adopting the assessment tool, however, we recommend giving consideration both to the performance metrics the community is most interested in assessing and the types of reports needed to provide data back to stakeholders. It is much more efficient to first develop performance metrics and then to develop a tool to capture the data needed to assess them. Implementation of the tool should not precede the definition of what the measurable outcomes are.

4) Promote data use and HMIS integration

To have an effective CEA process, especially with as many programs as King County has, the matching process must be automated. Automation cannot be achieved until the barrier reduction steps described above are carried out, a new prioritization process and criteria are established, and an assessment tool is either developed or adopted.

We recommend that a high priority be placed on integrating the CEA system into HMIS, because otherwise multiple data systems are needed. Often the result of multiple systems being used for one purpose is that homeless families fall through the cracks; this is the case because determining what is happening with families is based on reporting that cannot be automated. As noted above, the performance measures need to reflect the intention of the system and collect the data needed to report on them.

In addition to configuring data systems to achieve the needed reporting, regular reporting on performance measures and essential process measures needs to be required. Time and resources need to be focused on ensuring that the data are shared and that the decision making structure is reviewing results and setting targets.

The primary CEA measures should be the results for families, including:

- How quickly families are housed, including families with barriers to housing;
- Why families are denied program entry and what their characteristics are; and
- How many families do not receive a referral or are skipped in the order, and how long it takes to house those families.

Provider performance outcomes should also reflect this family-centered approach and should include requirements to accept referrals except in extraordinary circumstances. This shift toward a family-oriented system will help insure that the problems and solutions that are identified are about screening families in and housing all types of homeless families quickly.

5) Help families get document-ready

A gap in the current system is that there is no entity responsible for helping families to get the documentation they need to be admitted to the programs. While this is not a barrier for all families using the system, it is an issue that was reported by families and providers as a barrier to entry. It is not necessary that the CEA provider perform this function, though it is advantageous if the service can be

closely tied to the assessment process. Coordinated entry systems can also collect and upload copies of key documents to HMIS with clients' permission. This can help ensure that important documents are not lost while a family is unhoused.

c. Address Access for Special Needs Families

1) Survivors of domestic violence

As described above, domestic violence shelter is currently accessed through a parallel process from FHC but DV-specific transitional housing is not. We recommend that until final decisions are made on prioritization and the establishment of a new or refined approach to CEA for families, that transitional housing units specifically designated to serve survivors of domestic violence be removed from FHC. If TH-DV units are filled from DV shelters, this will increase the likelihood that families referred to the programs will need and want the specific services that are offered there, and this may also result in additional openings in DV crisis shelters which are critically needed.

However, access to these dedicated units will not be enough. Families that have recently experienced domestic violence who are also homeless should still have to opportunity to access the full range of programs for families that are homeless. Continued efforts will need to be made to ensure that eligible families can be appropriately assessed and referred through the CEA system.

On December 2, 2014 as we prepared the draft report we received a letter from the directors of domestic violence housing programs in King County stating that they intend to approach HUD for a waiver to establish a parallel coordinated entry system for domestic violence programs. We have shared this letter with the FHI Advisory Committee.

We have concerns about parallel systems and note that many families will end up in one or the other system based on chance or opportunity and many will likely end up going through both processes. Given the data collection prohibitions, the impact of this overlap will be extremely hard to track and understand. Nonetheless we know that this practice does happen in some communities and may be able to be implemented in a way that does not increase the burden on families that would be eligible under both systems.

2) Family Unification Program (FUP) vouchers and child-welfare involved families

FUP vouchers are intended specifically for families in the reunification process. In most communities, the determination of who should receive a FUP voucher is made by the child welfare agency. To be most effective, FUP's must be issued in keeping with the short reunification time line that families in the child welfare system are given to reunify. We recommend that the FUP vouchers be removed from the CEA process to support the more targeted use of these vouchers and to relieve FHC of the challenge of identifying eligible families in a timely fashion.

We have concerns that FUP is frequently not used in a way that is consistent with a Housing First approach. In some communities, FUP is given as a "reward" to families who have been successful with meeting other requirements for reunification, instead of being offered on the basis of the family's housing need and as

a way to help families continue to make progress. This is a matter we suggest be further explored, but this question falls outside of the CEA process.

Not all families that have child welfare and court involvement will qualify for or receive FUP. For these families we suggest that a prioritization process based on needs and/or vulnerability, mentioned above, include the potential for reunification as a criteria for priority, and particularly consideration for transitional and permanent housing resources. Preventing the permanent removal of children from the home when this can be done safely is a high public policy benefit, both for the impact on families and children, and a reduction of taxpayer costs associated with long-term out of home placement. Collaboration with the County Child Welfare/Child Protective Services Division and the family courts to explore how best to make this determination will be an important step if this population is identified for priority referrals.

3) Units/programs for immigrant and language minority populations

We requested data on the characteristics of the families on the wait list including race and ethnicity but as we prepare the final report, we do not have the information needed to determine if the FHC system is having a disproportionate negative impact on immigrant/refugee and language minority populations in terms of receiving or accepting referrals or being excluded from access to assessments or the roster. We recommend that CEHKC evaluate the data on these programs and the populations they serve to determine if they are intended to serve families that meet the literal homeless definition, and review the families on the roster to see if families that do not receive successful referrals are disproportionately among this group.

If these conditions are true, steps must be taken to ensure that the coordinated entry system is able to work with members of these communities appropriately to ensure that they have access to the resources of the system. Some of the recommendations below for system changes, such as a more decentralized model, may assist with that. We also think that the Fair Housing questions here need to be addressed with regards to the specific programs in question rather than generally.

If providing housing to literally homeless families is not the primary intention of these specialized programs for specific language or cultural groups, then we recommend that they be removed from FHC or its successor CEA model. The question then of whether these programs should be classified as homeless programs and counted in the Housing Inventory Chart and eligible for homeless-targeted resources is a question to be addressed in the system realignment process.

d. Consider Structural Changes to the Broader CEA Model

i. Retain Centralized Model With Modifications

Undertaking the recommendations in Sections VI a. – c. will result in improvements to the system no matter what CEA model is and should increase efficiency significantly. In particular, if the barriers to program entry can be reduced and the database can be used to automate matching, this will reduce

workload considerably. Under the current model, FHC might consider a having a single person assigned to do matching using the automated functions who is highly skilled and comfortable with database work.

If the model remains similar to its current structure with a central provider conducting referrals at multiple sites, then the program should reduce locations where screenings are offered to no more than four – most likely South, central/ Seattle, North and East. We suggest that Seattle always be offered as an option since it is the location to which transit is possible. If there is great concern over the difficulty for families of having to travel long distances, mobile assessments can be offered on a case-by case basis as needed. We have identified communities that offer mobile assessment (e.g. Montgomery, PA) but in practice they rarely have to do mobile assessment.

If King County chooses to retain the centralized model, the functions should be expanded to include assistance with gaining documentation and housing search assistance. These could be offered without any significant structural changes by increasing links to diversion and rapid rehousing providers and expanding the capacities of these programs to serve families while they are on the roster.

The positives of this approach are that it builds upon what is already in place and would require the least amount of change. Staff are already trained and protocols in place for many pieces of the CEA process that would not have to be fundamentally re-designed.

The primary negatives of this approach are:

- The current system leaves all of the responsibility in the hands of a single agency;
- Integration of assessment activities with diversion and rapid rehousing may be harder in a centralized structure than through a more shared, decentralized system;
- Staff skill sets may need to be increased -- both as users and of the database and as assessors; and
- The limited funding available for CEA in the near future will necessitate reductions in dedicated staff, though the better incorporation of other functions such as diversion and rapid re-housing could generate additional funding that might preserve staffing capacity.

ii. **Shift to Decentralized Model with Multiple Agencies/Sites Conducting Assessments**

Another option is for King County to move to a decentralized CEA system in which the assessment function is conducted by a limited number of agencies located in places throughout the County geography. This model is similar to what is in place for families in Los Angeles, and for all people experiencing homelessness in Montgomery County, PA.

Within a decentralized model there are two options for how referrals/placement could be done:

- 1) There is one common list maintained for the entire community. All the assessment locations have the ability to place households on the central list. There is one centralized matching and referral process.
- 2) Each intake site is connected to a network of geographically connected programs, maintains its own list, and makes its own referrals.

The first option requires a real time inventory of openings and the ability for one entity to coordinate the waiting list and referral process with all the assessment centers. The second option, currently used in Los Angeles, may increase the likelihood that families will accept a referral because each center is linked to programs in its own geography. This also has the advantage of pointing out where there are gaps in crisis services, if particular sub-regions are documenting more families seeking help. Transfers between regions can be possible but a family is only eligible to be served within one sub-region at a time.

The positives of this decentralized option are that:

- It is much easier to cover a large geography;
- There is greater buy-in and shared responsibility for the system when it is by several entities or agencies;
- Resource centers can be linked to other services including mainstream services available in the community;
- In this model assessment and referral functions are integrated with other client-service responsibilities and may reduce the total cost currently associated with operating a separate assessment function and expand the resources that can be used to cover these functions; and
- Regionally based assessment locations may feel more welcoming to families and can have specialized language capacity if needed (e.g. if located in a community with a large number of people who do not speak English as their primary language).

The main negatives of this option are:

- The cost is difficult to determine because assessment functions are integrated with other activities;
- Database functionality must be improved and each agency that participates must have well-trained staff who can use the database to make matches or coordinate with a central referral specialist; and
- Start up and changeover time will disrupt the current system and a method for handling the transition from the current placement roster will need to be established.

iii. Shift to Shelter Based Model

Another alternative CEA method is to turn some, or even all, shelters into primary entry points. In some communities we reviewed, a set of shelters are designated as Front door or Tier 1 shelters that act as the entry point, assess and refer to other programs, including to other longer-stay shelters.

Positive attributes of this option are that:

- Shelters currently are staffed to provide case management and may be able to take on the task of assessment and document readiness without significant additional resources;
- Families may already know to come to shelters when seeking homeless assistance;
- Families that are not seeking shelter are automatically excluded from the process, thus prioritizing those families who have determined for themselves that they have no better options;
- Diversion can be incorporated as an activity linked to shelter-based assessment;

The primary negative is the lack of shelter and shelters opening, especially true of emergency shelter in King County.

A second negative is that placing the responsibility for case management and document readiness in shelters, shelters become more central to the system rather than being seen primarily as a temporary, safe place for families to stay only if needed while they are assisted to find housing. As the system shifts to one in which greater emphasis is placed on diversion, rapid rehousing and shorter lengths of stay, a shelter based system could have to opposite effect. Shelters may find it hard to divert families if they reach a point at which they have empty beds, or to encourage rapid departure from shelter. For these reasons we think it is a less desirable approach and a larger change for King County than either a modified centralized system or a decentralized, resource-center based system.

Two other structural models have been suggested in this process for consideration. We mention them here though we are not prepared to recommend either for consideration at this time.

Mobile model: Only one community that we are aware of has moved to an almost entirely mobile model for families, Portland, Oregon. This model is not just a CEA model but a significant change in service delivery. While many aspects of this model appear promising, the results of this system change are still unknown.

"No Wrong Door": No Wrong Door refers to a system in which any agency within the system can do the initial assessment, and either take the client family into their program immediately or add them to the centralized list. We don't recommend "no Wrong Door" with all providers doing assessment. No wrong door may be effective within smaller and rural communities with few providers and large geography but it is not a well-formed practice in larger and more urban communities.

Process Recommendation:

In whatever model is selected, diversion should be included as a key component built into the CEA process and much tighter links to rapid rehousing and mainstream resources should be developed.

To determine whether to modify the current model or adopt a different one:

- Establish a general decision making approach for all CEA, per the recommendation above;
- Decide on objectives for the system and establish relevant performance metrics;
- Develop a new prioritization method and consider the benefits of a centralized versus decentralized approach once prioritization criteria are established and tools investigated;
- Refine the database to work with the new tool and prioritization approach and ensure it is integrated into HMIS;
- Decide on a preferred CEA structure through a time-limited public comment and funder-informed process;
- Conduct any additional research needed to develop the model selected;

- Work with local funders to tie together the resources from the Diversion pilot, rapid rehousing programs, resources for document readiness assistance, and other sources to support the additional functions that will be needed in any model selected; and
- RFP the functions. Bidders for the work should bring to the table other resources such as providing assistance to families to get documents, and should be selected based in part on their connections to other services and ability to provide a fuller range of services to homeless families.

We suggest that even if the decision is made to modify the current system rather than adopt a new model that the CEA resources be awarded by RFP in 2016. This would allow time for many of the above recommended changes to be made in the system and for possible new partnerships to be developed that can improve either model.

e. Other Issues and Suggestions Raised

1) Adding Program Transfer Capacity

Several providers we interviewed spoke of the need to be able to transfer households to a different program if the original placement was not a “good fit”. We cannot determine if that this is a significant issue or of great concern to families, but we believe that this can be done and is not a significant problem for the system to adopt. HUD has made it clear that a homeless household does not lose its eligibility for PSH while in a rapid rehousing program. Likewise, a family can move from one shelter or transitional housing program to another, though this is generally discouraged as a frequent practice because it is inefficient and often results in longer total periods of homelessness. The only prohibition currently from the Federal level is that families may not enter certain HUD-funded rapid rehousing from transitional housing.

We caution, however, that the strength of feeling around this recommendation as a solution to the referral issue may be fueled in part by a desire to retain program barriers. We would not recommend creating transfer capacity until a significant reduction in entry barriers is achieved, and any approved transfers should be based primarily on client needs or requests.

2) Providing Multiple Referrals and Individual Tenant Assessment (ITA)

A few providers and staff of the Seattle Office of Housing strongly encouraged a policy of making more than one referral at a time. We do not believe that this method conforms to the general expectations of coordinated entry as envisioned by HUD and made clear in its recent guidance for prioritizing for Permanent Supportive Housing.

Units that are vacant for more than 30 days are very problematic for programs that rely on rent for a portion of their operating budgets. A significant portion of the King County stock of transitional and permanent housing for homeless families was funded with traditional affordable housing resources, including Low Income Housing Tax Credits, which follow traditional application and screening practices including lotteries. We recommend implementing the changes we have recommended here first, particularly the reduction of screening criteria, to determine if vacancy periods are able to be reduced.

Along with the suggestion for multiple referrals was the suggestion that providers be able to use Individual Tenant Assessment (ITA) to determine whether to accept a family. While it is important to ensure that families are treated individually and can make a case for being accepted, we do not think this is the primary solution to ensure that families currently being screened out gain access to homeless-targeted resources.

We strongly recommend the adoption of protocols by affordable housing providers that would help homeless families gain greater access to non-dedicated units. We have provided reference materials to similar policies in place in Oakland, CA that reduce the barriers for families with histories of homelessness to gain access to affordable housing. For homeless dedicated programs, however, access should be based on homeless status and need and should not be based on additional criteria, however individually applied, that too often preclude families in need from the very resources developed to meet their housing needs.

3) External Fill Policy

In response to concerns from providers experiencing long wait times to receive referrals for program vacancies, an External Fill Policy was adopted in May, 2014 that permits providers to fill an opening outside of the FHC process if no families on the roster meet the opening's eligibility criteria. The policy gives FHC two business days to make this determination based on the roster, but does not speak to a maximum time to make a referral. Between June and September 2014, 21 external fills were approved, 13 of which were for Bianca's Place shelter, a congregate shelter that opened during that time and had a number of beds to fill quickly.

In our conversations with providers and funders we found the policy was not well understood. Some people were unaware of the policy while others reported different lengths of time that FHC had to determine if a referral is possible. There was also confusion as to whether the policy applied only when there were no eligible families on the roster, which appears to be the intent of the current policy, or if it also applied when presumably eligible families could not be reached in a specified time period. Two providers shared that in order to be able to use the policy they either had or were considering creating their own "interest pool" of possible clients, which appears to be counter to the intent of the policy.

Two recommendations have been put forward by a provider during the time of this project: firstly that a 7-day maximum time for a referral be adopted, and secondly, that shelters with capacity to take late-night entrants be permitted to fill empty beds after hours.

In general, permitting external fills runs counter to the purpose of coordinated entry, as it increases the chances that families will go to multiple places to get help, and reduces the effectiveness of prioritization. However, at this time there is no effective prioritization policy in place and some qualifying families cannot get on the roster due to limited appointments. Additionally, the challenges of reaching eligible families on the roster in a timely fashion appears to have created unacceptably long vacancies in certain cases, and some congregate shelters reportedly have nightly vacancies. Thus, Focus Strategies recognizes that the external fill policy is needed, but we recommend it should be closely tracked and its application monitored as part of the enhanced oversight process.

We recommend:

- 1) While the policy is in place, a specified period of time for an initial referral to be made, such as seven business days, should be added.
- 2) When external fills are permitted, the analysis should include tracking information on *why* they were needed. If no family on the list matches the program's criteria, it should be made clear which criteria are posing the barrier, and immediate efforts to remove the criteria should be made before a next referral. If the issue is that no eligible family could be reached in a timely fashion, then the number of attempts should be documented. If families repeatedly refuse offers for a particular program, this should also be tracked and discussed.
- 3) Once the refined CEA system is functioning with lower program barriers, established prioritization and closer to real-time referrals, the external fill policy should not be needed. At that time, all openings that are not filled in a timely manner should be reviewed by the oversight body to determine if this is a result of a failure of the referral and matching system or evidence that there is no continued need or client interest in the program.
- 4) For congregate shelters with underutilized bed capacity, we recommend experimenting with one or both of two approaches to fill openings:
 - a. Make real time referrals of priority families to shelter on the same day that they call 2-1-1 and/or are the day they are assessed. (This means having experimental priority criteria that can be put in place quickly— such as unsheltered households with infants under 2, pregnant women, or other easy to verify criteria.)
 - b. Allow for external fills after normal business hours for empty beds from tent cities, and from motel programs and non-participating shelters, but not through families calling at specific times, lining up, or other program referrals that are based on a list.

We do not recommend removing all shelters or all congregate shelters completely from FHC at this time, as this risks reverting to an uncoordinated system with multiple entry points operating under different entry practices and criteria. If efforts recommended under item 4 above do not reduce unused shelter capacity then this question should be reconsidered. One of the three possible models to consider for the future CEA design includes using shelters as the primary point of entry. We have discussed some pros and cons of this model in Section VII.d. Structural Changes to Broader CEA Model.

VIII. CEA and Homeless System Improvement

As mentioned above, coordinated entry and assessment is an important piece of an effective homeless crisis response system but it is only one piece of the effort. It should reduce the time that clients spend seeking assistance, reduce provider time filling openings, and ensure improved targeting and better use of limited resources. But CEA on its own does not create any new resources and without other steps to ensure a right-sized array of exit opportunities, CEA results in a line or wait list. The data from a well-functioning CEA is useful to understanding the need and can be used to inform allocation decisions to make more opportunities to serve households in need.

System Realignment and Right-Sizing

King County is currently engaged in a process of system realignment that seeks to reduce shelter and transitional housing and to expand permanent and rapid rehousing in order to make greater strides in ending family homelessness. We have not reviewed in depth the specifics of this proposal for this project, but we understand that data from the coordinated entry process as well as other system and performance data have been used to establish the targets.

Our analysis of FHC's current performance (see Appendix D) confirms what community leaders have said since the inception of FHC - that King County's system for families does not currently have enough openings to provide a referral to every family. However, the apparent gap is not so large - currently averaging a difference of about 20 openings per month. This indicates that it may be possible to move to real time referrals with close to enough openings. We offer this suggestion with caution due to the difficulty of getting the data to make this assessment, and our inability to confirm its accuracy.

The ability to move to real time referrals depends on the balancing of the need and the inventory. "Equilibrium" can only be reached if either:

- a) Fewer families are added to the roster - either by a screening process that eliminates some families that are likely to self-resolve from being added (as in Charlotte, NC) or successfully diverting more families; or
- b) Creating more program openings on a monthly basis. Openings can be increased by adding new capacity, by shortening the time that families stay in existing programs, or by reallocating funds from programs that serve small numbers of families at time to programs that serve a greater number of families.

It appears that currently all King County family programs have on average of 80 openings per month, while approximately of 100 families are added to the roster. An increase of 10 more openings and 10 additional diversions could meet the current need to ensure that the list does not continue to grow. Of course, the existing roster of 853 families has to be addressed as well, which means both a regular need to clean up the roster and a larger number of openings will be needed in order to get to real time placement.

Bring Coordinated Entry Efforts Together

In the longer run, operating separate CEA systems for families, youth and singles may not be practical or desirable. The initial intent for the FHC model was that it would be able to be expanded to serve all populations. Currently a separate, though similar, system exists to serve youth and young adults, and a new decentralized model is now being developed to serve homeless single adults. It may be possible to achieve economies of scale by integrating some or all of these functions, especially on the database development and collection side.

IX. Project Team & Acknowledgements

Focus Strategies is a Sacramento, California-based consulting firm specializing in helping communities use performance data to improve systems for ending homelessness. For this project, Katharine Gale, Principal Associate, was the team lead consultant and conducted the majority of the on-the-ground work and analysis. Other staff, including Megan Kurteff Schatz, Kate Bristol, Tracy Bennett, Emily Halcon, Heather Carver, and Genevieve Heidenreich worked on the analysis of program entry criteria and referrals and assisted in the collection of information and review of CEA in other communities.

Focus Strategies wishes to thank the staff of the Committee to End Homelessness for their help in facilitating access to information, stakeholders and data sources used for this assessment, and particularly Michelle Valdez who scheduled all meetings and provided invaluable logistical support, Janet Salm who conducted special data draws and analyses for us as well as sharing her in-depth knowledge of the data system and history, and Debbi Knowles who provided critical background information and context about FHC and FHI. Emily Harris Shears of CCS-FHC provided access to herself and her staff, information about the process, responded to a range of questions, and produced a specific data summary at our request. We also thank all of the staff of 2-1-1 and FHC, clients of FHC who attended focus groups, and all of the funders and providers that met with us and shared their experience. We also deeply appreciate all of the other communities that spoke with us and sent us information for this report and effort. Finally, we are grateful to several national experts including Debra Rog, Matt White, Jason Alexander, and Cynthia Nagendra who shared their insights with us. A list of persons and organizations that we consulted with is presented in Appendix B.

Appendices

- A: Key Documents Reviewed
- B: Persons and Organizations Consulted
- C: Themes Emerging from Community Meeting
- D: Data Analysis of FHC Process and Results
- E: Screening Criteria Analysis
- F: Denial and Refusal Analysis
- G. Matrix of Community Coordinated Entry Models

Appendix A Key Documents Reviewed

Committee to End Homelessness CEA Planning, System Planning and Oversight

Application Guidelines, June 1, 2011
Coordinated Entry and Uniform Assessment for Families and Guiding Principles
Coordinated Entry for Families, presentation to IAC, February 2010
Duties and Responsibilities of CEH and its Advisory Bodies, June 2014
Family Assessment Tool
Family Homelessness Initiative (FHI) Advisory Group Charter, 2014
FHI Advisory Group Meeting Notes, November 2014
FHI CEA Subcommittee Proposal, December 2013
FHI Realignment Targets, June 6, 2014
New Family Homelessness System Assumptions, December 2013

Family Housing Connection (FHC) Budgets, Staffing Plans and Operational Policies

Agency Denial Policy/Procedure, March 11, 2014
Catholic Community Services, 2012 Contract Exhibit II, Revised July 14, 2014
CEA Budget, February 2, 2012
Coordinated Entry for Families, Matching and Scoring Process
Diversion Flow diagram version 4, April 1, 2014
Diversion One-Pager "No data", July 7, 2014
External Fill Policy, May 17, 2014
FHC Active Programs, July 25, 2014
FHC Appointment Schedule Process Change, August 2014
FHC Operations Manual, 2014 Edits, August 28, 2014
FHC Monthly Updates, May – October 2014
FHC Three Year Budget Overview
Inactive Placement Roster Status – Unable to Reach August 22, 2014
Process to Update Family Information
Program Inventories, various dates
Refusal Policies, Effective August 1, 2013
Safety Transfer Policy and Procedure, December 13, 2013
Various Lean project summaries, forms and tracking sheets, 2014

Data, Reporting and Performance Analyses

211 Monthly Stat Reports, 2014
211 FHC Call Stats, 2014
Clients Enrolled and Diverted, November 18, 2014

Evaluation Brief Literally Homeless Families, April 1, 2013
FHC Client Roster Summary, August 12, 2014
FHC Referrals Summary by Agency
Side by Side, Referral and Occupied
Various data analyses drawn from FHC database prepared at our request by King County staff, cited in report

Additional Materials

After Hours Policy for Empty Shelter Beds (proposed)
Department of Commerce, Guidelines for the Consolidated Homeless Grant, 2014-2015
Domestic Violence Waiver Proposal Revised, July 15, 2014
Fair Housing Review, May 22, 2013
Fair Housing 101 PowerPoint, March 2013
Findings from the Washington Families Fund Stakeholder Survey 2014
Guide to Fair Housing for Nonprofit Housing and Shelter Providers, 2013
HSD Recommendations on Screening Criteria, 2014
Miscellaneous materials related to the VA 25 Cities Coordinated Assessment and Housing Placement (CAHP) System Project
Proposed FHC External Fill Policy, LIHI, October 12, 2014
Public Comment on Draft Report Summary, December 10, 2014
Rapid Rehousing For Families Pilot Accommodations and Exceptions Policy
Seattle Office of Housing Recommendations for FHC System Improvements, October 13, 2014
Seattle Office of Housing Feedback - FHC Draft Report for Public Comment, December 12, 2014
SIG Proposal – Risk Mitigation Funds, June 24, 2014
SHA Housing Choice Vouchers Project-Based Program guidance
Various publically available materials and privately shared documents about Coordinated Entry Systems in other communities

Appendix B Persons and Organizations Consulted

During the course of this project, we met or spoke with more than 100 people including representatives of King County providers and funders, and community representatives and experts from around the country. Most of these meetings were individual or in small groups. *Focus Strategies is extremely grateful to everyone who provided their time and information to the project and we apologize to any participants or interviewees we may have neglected to thank or list here.*

In addition to those listed below, 22 family representatives participated in three confidential focus groups. These adults represented a total of 20 families and 37 children experiencing homelessness or recently rehoused. Their participation assisted the project tremendously.

Name	Organization
Matt White	Abt Associates
Joyce McAlpine Probst	Abt Associates
Various Staff	Associated Ministries, Pierce County
David Wertheimer	Bill and Melinda Gates Foundation
Nikki Dally	Broadview
Alice Shobe	Building Changes
Nick Cobb	Building Changes
Declan Wynne	Building Changes
Jason Alexander	Capacity for Change, Montgomery PA
Bill Hallerman	Catholic Community Services
Emily Harris-Shears	Catholic Community Services - Family Housing Connection
Tatsiana Kaptsiuh	Catholic Community Services - Family Housing Connection
Scott Schubert	Catholic Community Services - Family Housing Connection
Various Staff	Catholic Community Services - Family Housing Connection
Ann Margaret Webb	City of Seattle Human Services Department
Adreine Easter	City of Seattle Human Services Department
Jason Johnson	City of Seattle Human Services Department
Cheryl Collins	City of Seattle Office of Housing
Sandra Igo	City of Seattle Office of Housing
Joanne Quinn	City of Seattle Office of Housing
Dan Foley	City of Seattle Office of Housing
Laurie Olson	City of Seattle Office of Housing
Ana Rausch	Coalition for the Homeless of Houston/Harris County
Michelle Valdez	Committee to End Homelessness King County
Debbi Knowles	Committee to End Homelessness King County
Mark Putnam	Committee to End Homelessness King County
Megan Gibbard	Committee to End Homelessness King County

Triina	Tenello	Committee to End Homelessness King County
Amy	Price	Community Shelter Board, Columbus OH
Elizabeth	Perla	Compass Family Services
Leticia	Draper	Consejo
Dana	Easterling	Crisis Clinic 211
Various Staff		Crisis Clinic 211
Peg	Coleman	Domestic Abuse Women's Network
Denise	Perez	El Centro
Derek	Wentorf	Friends of Youth
Amanda	Launay	Friends of Youth
Angela	Parker	Friends of Youth
Mim	Daniels	Friends of Youth
Matthew	Ayres	Hennepin County
Christy	Becker	Hopelink
Meghan	Altimore	Hopelink
Kaitlin	Scott	Hopelink
Various Staff		Hopelink
Ann	Levine	Imagine Housing
Pradeepta	Upadlyay	Interim CDA
Carol	James	Interim CDA
Bill	Boyd	Join, Portland OR
Adreine	Quinn	King County
Janet	Salm	King County
Allison	Howard	King County Drug Diversion Court
Jill	Murphy	King County Family Treatment Court
Kristin	Winkel	King County Housing Authority
Kristy	Johnson	King County Housing Authority
Nancy	Whitney	King County Parent Child Assistnace Program
Sarah	Steininger	Lifewire
Sharon	Lee	LIHI
Lynne	Behar	LIHI
Cheree	Jones	LIHI
Jonni	Miller	Los Angeles Homeless Services Authority
Manuela	Ginnett	Multiservice Center
Tammy	Money	Multiservice Center
Diana	Vanetta	Multiservice Center
Cynthia	Nagenda	National Alliance to End Homelessness
Fartun	Mohamed	Neighborhood House
David	Moser	Neighborhood House
Ginny	Ware	New Beginnings
Jennifer	Change	Portland Ending Homelessness Initiative
Milla	McClahclan	Rapid Results Institute
Norene	Roberts	Salvation Army

Ciara	Murphy	Salvation Army
Lisa	Wolters	Seattle Housing Authority
Connie	Ritchie	Solid Ground
Kyra	Zylstra	Solid Ground
Dee	Hills	Solid Ground
Tamara	Brown	Solid Ground
Linda	Macer	Solid Ground
Karen	Ford	Solid Ground
Darlene	Finny	Solid Ground
Aden	Hussein	Somali Youth and Family
Hamdi	Abdulle	Somali Youth and Family
Sara	Levin	United Way- King County
Katy	Miller	US Interagency Council on Homelessness
Dan	McDougal-Tracey	Valley Cities
Mindy	Maxwell	Valley Cities
Rebecca	Laszlo	Valley Cities
Pemberly	Vander Linden	Valley Cities
Mary	Schwartz	Washington State Department of Commerce
Sara	Holbrook	Wellspring Family Services
Andrew	Greer	Westat
Debra	Rog	Westat
Greg	Winter	Whatcom Homeless Service Center
Jeanice	Hardy	YWCA
Gina	Yarwood	YWCA
June	Lovell	YWCA
Doris	O'Neal	YWCA

Appendix C

November 10, 2014

To: FHI Advisory Committee
CEH Staff

From: Katharine Gale, Consultant, Focus Strategies

Subject: Themes emerging from Community Meeting on Family Coordinated Entry/Assessment

The Community meeting held November 6, 2014 was very well attended with more than 100 people present. The first part of the meeting focused primarily on the findings of the first phase of our assessment, which have been shared with you in the PowerPoint. The final portion of the meeting was devoted to small group work around three key areas of our findings. Every attendee was able to participate in two small group conversations (except for table facilitators who stayed with the same topic for both rounds).

This memo summarizes key themes and ideas that were generated in the small group work, and concludes with a sense of our next steps.

1. Assessment Access and Process

Six groups were asked to brainstorm strategies to make assessment more timely and accessible including who should do the assessment, when and where, and how to keep in touch with families after they have been assessed and are waiting.

Emerging from the discussions was a strong push for decentralization to decrease both the burden on families and the wait time, and to utilize the resources in the community. Ideas floated included:

- Offer assessments at a number of particular locations throughout the community – locations to be data driven by where there is demand/need
 - Make sure assessments are available by drop in rather than appointment
- Do assessments at all locations/every agency with “no wrong door” – have a standard tool and FHC’s role be to train all providers and be responsible for quality assurance
- Do assessments within shelters and use FHC to provide mobile capacity to meet with families outside of shelter – especially, use mobile assessment for highest barrier families
- Experiment with remote/camera based assessment from community centers, as can be done by hospitals

Several of these groups also mentioned that there needs to be support for getting families the documents they need, and that documents collected should be scanned and uploaded to HMIS so they are available when a program needs them.

These groups also emphasized the need for a less lengthy and more standard assessment tool that translates more directly to what is needed to access programs. Several also mentioned the need for greater HMIS integration and use of data.

2. Prioritization and Matching

These seven groups were broken up by intervention type and asked what information was needed to make the best matches, what information would increase the rate at which families accept referrals, and whether any families should be prioritized for particular interventions.

Frequent criteria that were mentioned as needed for best matching in nearly all categories included:

- Income and employment status/work history
- “Service needs”
- Health/Medical/mental health/AOD
- Safety planning/DV
- Language need
- Family size/structure/age of kids
- Geographic preferences and connections

Many mentioned that the information from families needed to be accurate and that truthfulness is a concern. Several groups felt a background check was needed for eligibility and/or to be able to work with landlords.

A few noted that an assessment is not a good way to predict success, and a few said that programs needed to remove screening barriers and not use the information to screen families out.

These groups were also asked which criteria would most likely result in families not rejecting the programs offered. On this question, every table said geography was important and some method for matching needs and family preferences to program referred. Some also mentioned language.

Finally, these groups were asked whether any families should be prioritized or ‘fast-tracked’ for program entry. This table summarizes the suggestions in each intervention type.

Shelter	Suggestions for Families to Prioritize/Fast Track		
	Transitional	Rapid rehousing	Permanent Supportive
Medical Large families DV/safety Co-occurring disorders CPS involvement	Pregnant women Higher barriers Medically fragile	Employment history DV <i>Disabled</i> <i>Children receiving services</i> <i>CPS involvement</i> <i>Teen parents</i> <i>*Italics: not sure if responses were for this category</i>	Higher barriers Disability + medical needs/medically fragile CD/MH needs Children with intense needs Hardest to shelter (i.e. family size, barriers above) Pregnant women Domestic violence

3. Reducing Entry Barriers

These six groups, focusing specifically on transitional housing and permanent supportive/service-enriched housing were asked to look at how to balance programs' concerns about changing entry criteria with the need to find openings for all families, and what type of support would be most useful for program to reduce and standardize criteria.

For the first question regarding balancing, many of the groups mentioned the concerns of property managers and that they felt they must be able to do some screening to protect other tenants. Specific concerns around sex offenses were noted.

Many tables mentioned that there should be efforts to make a better definition of what a "good fit" is, and perhaps tier the levels of support within different programs so that harder to serve families would be matched with higher services levels. The assessment tool would need to match the tiers. Many said standardization of the screening criteria was very important but also noted there had to be buy-in to what the standards are.

Some tables said that transitional housing should have the lowest barriers, while others though that referrals to transitional housing needed to keep in mind what the real exit potential of the family was going to be after the program.

Frequent suggestions for support to providers to be able to reduce barriers were:

- Greater funding for case management or incentive funding to providers with fewer barriers
- Risk mitigation funds
- Training in clinical services
- Become a learning environment/more sharing of successful strategies
- Flexibility to make a better decision with a family if it is not a good fit/circumstances change – being able to switch programs

Other ideas included mobile clinical supports and flexible funding for supporting family exit strategies.

Next Steps

We will be pulling together and summarizing all we have learned from our King County interviews and meetings, as well as examples of models from other communities that are relevant to the local situation. We will be filling in gaps on a few issues that have been raised or emerged during the last visit and then developing our report and recommendations.

We anticipate that the report will include some recommendations for immediate policy and practice changes that can be made while the system is structured as is and other longer-term suggestions for larger changes. We also plan to include pros and cons when more than one option is offered.

We look forward to working with your committee to shape the final report.

Appendix D

Data on FHC Process and Results

A. Database Functioning and Analytic Capacity

FHC has a database that is used to record assessments, track program openings, and record dispositions of referrals. The database is in the same software as the broader Homeless Management Information System (HMIS) but it is not integrated into that system. Reporting from the FHC database is extremely challenging. Key informants told us that the data system and analysis has been challenging from the start of the program, and that time that would have been put into developing reports and analyzing and sharing data had to go into making sure the database could function as a repository of client and program information.

Some basic pieces of information are tracked regularly by FHC such as households on the roster, numbers of appointments scheduled, monthly referrals made, and number of openings in a month. This information is posted on the FHC website in monthly reports. It was not clear whether this data came from the database or from FHC's own accounting, though we expect it is the latter because some reports we received that had been drawn from the database did not match the numbers reported by FHC for the same period.

Other critical pieces of information were much more difficult or impossible to get or to obtain in a fashion that was useful for analysis, including consistent information about wait time at different steps in the process, and referral results for different types of families. Data was not readily available to help us analyze the groups of families that received specific types of referrals or families that did not receive any referrals at all.

The fact that clients remain on the roster until they are given a referral and the list is not regularly updated means that, while there is an impression in the community that there is a long list of people actively waiting for assistance, a large number of those on the roster at any given time may have already resolved their housing crisis, and/or no longer be literally homeless. The current policy calls for FHC to attempt to reach families three times before making them inactive and then, after three months, remove them from the list. Reaching out to families is generally only done when a referral opportunity comes up, so families that are routinely skipped over may not be updated.

From the data we were provided, Focus Strategies has determined that the assessment and referral process is typically lengthy and unpredictable. We present the following data that was provided to us with caveats including that we did not review the underlying data quality, and that we found on several occasions that the same data elements changed from one request to another.

B. Placement Roster and Time Analyses

According to FHC's most recent monthly report, as of November 4, 2014, 853 families were on the placement roster. Of these, 586 were reported as unsheltered, while 267 were in an emergency shelter.

The roster was reduced dramatically, from more than 4,000 families at the start of the year, to fewer than 1,100 in August through a combination of diversion activities and updating of entries. Most of those removed from the roster were either unable to be reached or found to be ineligible under the

new policy to assess and serve only sheltered and unsheltered families. We note that since that time the roster has continued to shrink, despite the addition of new families each month.

Figure 1: Numbers of families on the roster by month

Prior to clean up	August	September	October	November
4036	1078	1010	1009	853

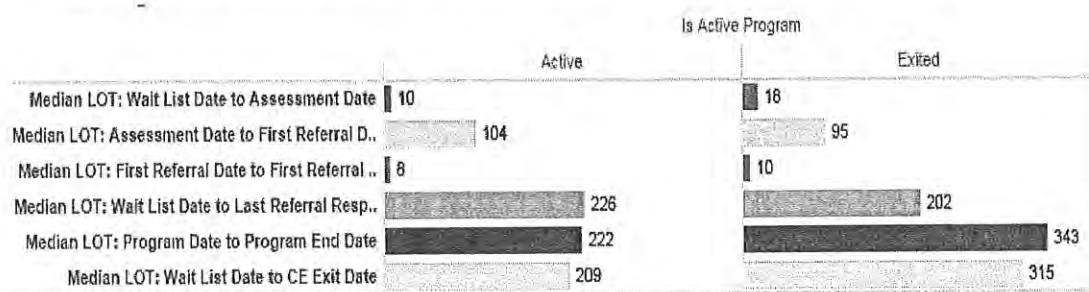
Source: FHC monthly reports, June – November, 2014

Time Analyses

We sought to learn how long the median time from first contact with FHC (via 211 or shelter) to placement was. Our summary below is approximate as the source data (below) is separated by those who are remain on the list and those who have been exited from the list.

- The median time from first contact (known as “wait list date”) to assessment is about 14 days. At the time of our review the wait from the time of a call to 211 until assessment had grown to 21 days due to the reduction in assessment appointments. However, the number of assessments conducted at shelter sites was increasing and these are reportedly scheduled within one week.
- The median wait from assessment to *first* referral is about 100 days.
- The median time from when a referral is made to when it is accepted or denied is 9 days.
- The median time from assessment until *last* referral is more than 200 days. That is twice as long as the time to first referral because many families require more than one referral before being accepted into a program.
- The total time elapsed for those who are exited from the roster from first touch to exit date is 315 days.

Figure 2: Median Time Frames for FHC-related Events



Source: FHC database, pulled by King County staff, October 30, 2014

We were cautioned by staff that the range is very wide for several reasons, including 1) at the start of FHC families in shelter had their wait list date recorded as the day they first entered shelter which could

have been many months before the launch of FHC; and 2) some families were made “inactive” by moving their wait list dates into the future. We also observe that the time between final referral and exit date includes those who have been referred to a rapid rehousing program and are seeking housing.

Time on the Roster

We were provided with summary information about how many families are on the wait list and when they first were added to it. This data showed that as of August 2014, nearly 70% of families on the roster (766) had been on it for more than 6 months and 30% (342) had been on the roster for 18 months or more.

Figure 3: Time on Roster as of September 12, 2014

Time on Roster	Families
1 week or less	17
1-2 weeks	17
2 weeks - 1 month	33
1 -2 months	69
2-3 months	61
3-6 months	149
6 months - 1 year	234
12 to 18 months	190
18 to 24 months	170
25 to 28 months (max time)	172
Total	1112

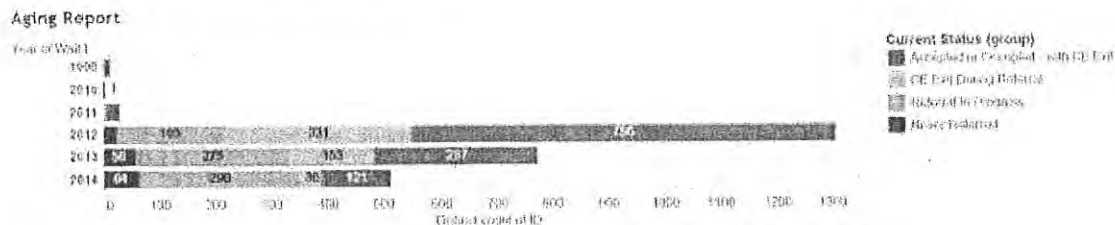
Source: FHC database, pulled by King County staff, August 12, 2014

We note that to be still on the roster as of August presumes that during the clean-up period (Jan-May 2014) the family was contacted, reached and reported still being eligible due to being literally homeless, either unsheltered or in emergency shelter.

Never Referred

More than 130 families on the roster have never received a referral, including more than 60 who have been on the list since 2013 or before. However, it is not clear if that is because they could not be reached or they could not be referred because they did not meet any program eligibility criteria.

Figure 4: Status of Households on Roster



Distinct count of ID for each Wait List Date Year. Color shows details about Current Status (group). The marks are labeled by distinct count of ID (copy). The data is filtered on Current Status and FUPDATEplace 1 (via JandNCEFCQuestions). The Current Status filter keeps Accepted or Decoupled - no CE Exit, Accepted or Decoupled - with CE Exit, CE Exit During Referral, Ready for First Referral and Referral in Progress. The FUPDATEplace 1 (via JandNCEFCQuestions) filter keeps 18 of 18 members. The View is Filtered on Wait List Date Year, which keeps 7 of 7 members.

Source: FHC database, pulled by King County Staff, October 22, 2014

In addition to those who have never received a referral, more than 750 households are reported as “Referral in process”. This status may mean that a referral is currently in process but more often indicates that the family received a referral in the past that was denied or refused and they are awaiting another referral.

C. Recent List Dynamics and Openings Analysis

We requested information on the rate of assessments, diversions and program openings. Our intent was to determine the ratio of households assessed to the number of successful diversions and program openings to address their needs. This information was unable to be drawn from the database and was provided to us through a manual count conducted at our request by FHC staff.

Figure 5: New Roster Entries and Program Openings by Month

	June	July	August	Sept	October	Median
Appointments scheduled by 211	185	175	155	163	143	163
Appointments completed	107	106	100	110	83	106
# Referred for Diversion in month	43	45	33	38	33	38
# Added directly to FHC Roster (no diversion) in month	71	71	88	103	95	88
# Added to FHC roster after trying diversion	12	5	21	35	8	12
Total Roster after assessment/diversion	83	76	109	138	103	103

Number of Openings ¹	105	69	92	85	67	85
Number of referrals made	202	163	154	152	131	154
Referrals per opening	1.9	2.4	1.7	1.8	2.0	1.9
Surplus/Deficit of openings in month	22	-7	-17	-53	-36	-17

Source: FHC special report and monthly reports, June – October, 2014, Calculations by Focus Strategies

While in June there were more program openings than there were families added to the roster, the ratio has switched since that time, and more families are currently being added than there would be openings for, even if there were not families already on the roster. This confirms what has been asserted in the planning process, that the supply of openings is lower than the need. However, it also provides some information that can be used to determine how much turnover or additional supply of program openings there needs to be to meet the need on a real-time basis. An average gap between new entries and available openings of 17 may be able to be closed by increasing program turnover and/or increasing the number of families successfully diverted. This gap will likely widen, however, if access to assessments increases, as some eligible families currently do not get an appointment.

The County provided us with an average of openings during 2014 indicated 79 opening on average per month.

Figure 6: Average Monthly Openings in 2014 through October

	Service Enriched Housing / PSH	Transitional Housing	Rental Assistance	Emergency Shelter	All types combined
Average Monthly Openings	5.5	35.6	23.4	14.4	78.9

Source: FHC database, pulled by King County staff, October 2014

D. Referral Analyses

Focus Strategies also received data on the numbers of families on the roster who received one or more referrals to a program opening during 2014. Analysis of this data indicates that fewer than half of all

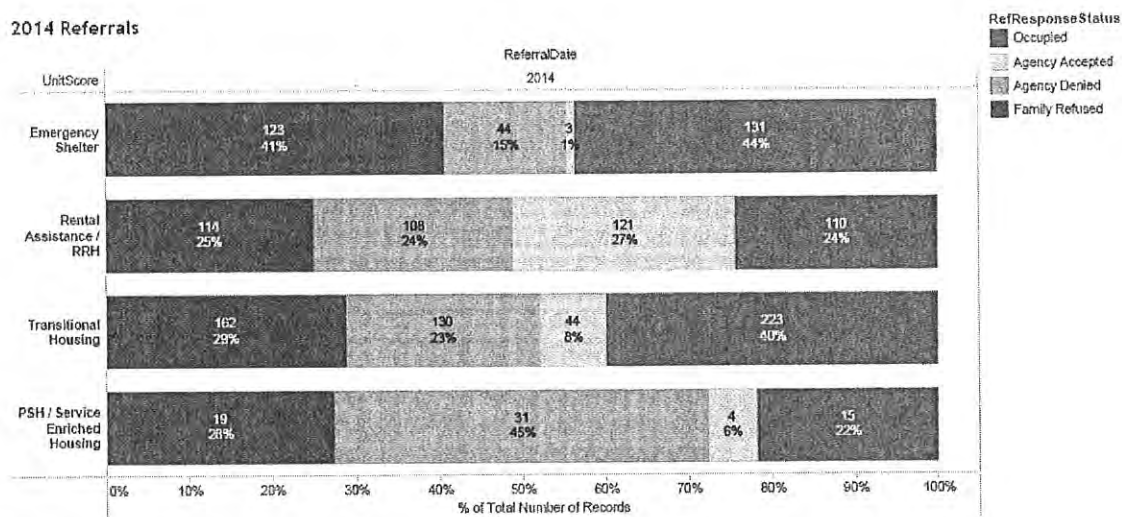
¹ We compared the number of openings reported by FHC to those provided to us by the County and found that the numbers did not match, so we are uncertain about the accuracy but believe it is close. This table presents the monthly openings reported by FHC.

referrals made by FHC in 2014 resulted in program enrollment or occupancy. Between January 1 and November 6, 2014, 1,382 referrals were made. Of these

- Families refused 30%– the highest refusal rate was for shelter (123 of 301 referrals, 41%)
- Agencies denied 23% of referrals – the highest denial rate was for PSH/SEH (31 of 69 referrals, 45%)
- 47.5% of referrals, 657, resulted in a program acceptance and/or occupancy.²

The overall ratio of referrals to acceptances in 2014 was 2.1; FHC had to on average make slightly more than two referrals to fill an opening.

Figure 7: Result of all referrals between January 1, and November 6, 2014



Source: FHC database, pulled by King County Staff, November 6, 2014

Because of the high rate of refusals and denials, Focus Strategies did a more in depth analysis of program criteria and system dynamics. This work is summarized here and more detail is provided in Appendices E and F.

E. Further Analysis of Program Screening Criteria

An important part of the coordinated entry process is the ability to match the families in need of a program with the program openings. To make an appropriate and efficient match, certain basic criteria

² We note that for rapid rehousing programs, an opening is not considered “occupied” until a household has found and moved into housing. The larger number of acceptances and lower percentage occupied in rapid rehousing reflects this practice.

such as family size and unit size must match. The greater the number of criteria that exist in the array of program openings, the more difficult it is to efficiently match families to an available vacancy. Some criteria are established by a program's funding source and not easily changed (for example, programs receiving VA funding must serve Veterans). However, many programs also impose their own additional criteria and these include many requirements that may cause a family to be rejected for participation or occupancy.

In other communities where Focus Strategies has analyzed homeless system effectiveness and worked on assessment or planning of coordinated entry systems, we have conducted detailed reviews of program criteria and prepared frequency tables and summaries of the most common criteria and how many programs have them. This type of analysis turned out to be impossible to do for King County within the budget and time frame of this project due to the number of programs, number of criteria used by programs, and the high degree to which these criteria are non-standardized (for example, there are literally dozens of variations just of requirements relating to past criminal activity).

Programs participating in FHC provide information about their entry criteria through a document called the "Program Inventory." The document contains a series of criteria categories with responses provided by the provider in a narrative format. Providers may update and resubmit their program inventory at any time.

Focus Strategies conducted an analysis of the information in the program inventory. Our analysis indicated that in addition to "standard" criteria which would be expected to be present in programs serving homeless families – such as prior living status (literally homeless, at-risk); household size, population requirements (veterans, domestic violence survivors), maximum income permitted and required immigration status-- there are ten additional categories of criteria that King County programs use to screen and accept or refuse applicants:

- | | |
|--|--|
| 1. Minimum income required | 6. Eviction History |
| 2. Deposits or other payments required | 7. Criminal Background |
| 3. Prohibitions on debt to landlords | 8. Documentation requirements |
| 4. Prohibitions on debt to housing authorities | 9. Residency requirements |
| 5. Additional population criteria | 10. Additional program or service participation criteria |

There is no standard wording for any of these categories – a program fills in its policies or practices in each of the above areas, and lists what the source of the criteria is. Some are cited as the result of the funding source used to pay for the housing or services, including a limited number of specific criminal background requirements and a prohibition on unpaid debt to housing authorities. The vast majority of the requirements, however, are cited as coming from "program design" or from "property management."

Focus selected two of the more frequent screening criteria categories to review: eviction history and criminal background. We found:

Eviction: Forty-nine percent of programs (44) had some screening criteria related to the applicant's eviction history. We found 26 differently worded requirements. In most cases these categories were mutually exclusive – that is, programs had only one requirement related to this criteria.

Criminal Background: Eighty-four percent of programs (75) had some criteria relating to the applicant's criminal background; only 14 had no requirements. We identified 77 differently-worded criteria in this category, and most programs had multiple requirements. Most frequent were prohibitions on convictions for sex offenses, methamphetamine production, and arson, but a very large number of requirements covered others areas of criminal history, especially felonies and drug-related activity.

The full analysis and a listing of these barriers was presented in summary form and distributed to the Funders Group of the Committee to End Homelessness on November 3, 2014 and is included as Appendix E to this report.

F. Analysis of Reasons for Unsuccessful Referrals

As stated above, fewer than 50% of referrals currently result in occupancy. Focus set out to analyze the primary reasons referrals are not successful. Again, a complete review was not possible, because the FHC database does not collect this information in a manner that allows for a quantitative analysis. Provider denials can be categorized in one of three ways:

- Ineligible upon referral
- New information obtained that make family ineligible
- Change in family circumstances

Client refusals are captured simply as Family Refused and have no further distinction.

We requested and received the denial and refusal fields for the month of May 2014 and manually analyzed the frequency of reasons given. Our analysis found 58 referrals within that month that resulted in a denial or refusal (excluding families that were unsuccessful in diversion):

Client refusals: Thirty-one (31) referrals made in May 2014 resulted in a refusal by the family. 68% of these refusals (21) were noted as either client couldn't be reached (11) or didn't make appointment (10). Of the remaining 32% (10) eight different reasons were noted including family didn't have documents, family had gotten housing elsewhere, family was unfamiliar with and concerned about the area.

Provider Denials: Twenty-seven (27) referrals resulted in a denial by the program. Nineteen different reasons were noted to explain the denials including client did not show up, was not a good fit, didn't have needed documents or deposit, and clients work schedule does not fit with shelter schedule.

In several cases, a disposition that one provider had recorded as a client refusal was categorized in another case as provider denial and vice versa. For example, "client didn't show up" was sometimes listed as an explanation for a program denial, though more frequently as a client refusal. "Family didn't have required documents" and "family got housing elsewhere" also appeared under both types of explanations.

The denial rate does not capture the number of families during the month who were not given a referral to any program due to program screening criteria. In addition, we do not have information on how many calls FHC made to families that did not return the call or did not do so within the permitted time frame.

The analysis of unsuccessful referrals for May 2014 was presented and distributed to the Funders Group of the Committee to End Homelessness on November 3, 2014 and is included as Appendix F to this report.

G. Client Characteristics Analysis

FHC and King County have previously prepared demographic data on the families on the wait list and has shared this in other publications. Focus Strategies requested a specific comparative analysis of the families on the roster for the longest periods compared to those that received a successful referral.

It is important to understand whether the families that are more readily referred are different from those who are not and in what ways. For example, if the failure to get a successful referral is a result of a systemic barrier, such as requirements relating to criminal background, or that there are few units for larger families, this has implications for system-design decisions and investments moving forward. Given the reports that the CEA system does not work well for immigrant and refugee populations, it is important to examine if there are language or ethnic differences between those who are successfully referred and those who are not which would point to needed changes in the assessment process as well as possible disparate impacts of current screening criteria on certain classes of families. We were unable to conduct this assessment for the report and recommend that the Committee undertake this analysis.

Appendix E

FHC Assessment and Refinement Project

Analysis of Specific Screening Criteria in Use by Programs Participating in Family Housing Connection

Program entry criteria are provided by each program to FHC in what is called the Program Inventory. Focus Strategies intended to conduct an analysis of these criteria to determine which program entry requirements and prohibitions may be most frequently preventing homeless families from successfully entering programs. However, the planned analysis is not possible because of the number and variations among the criteria and the lack of a data collection method that can aggregate them.

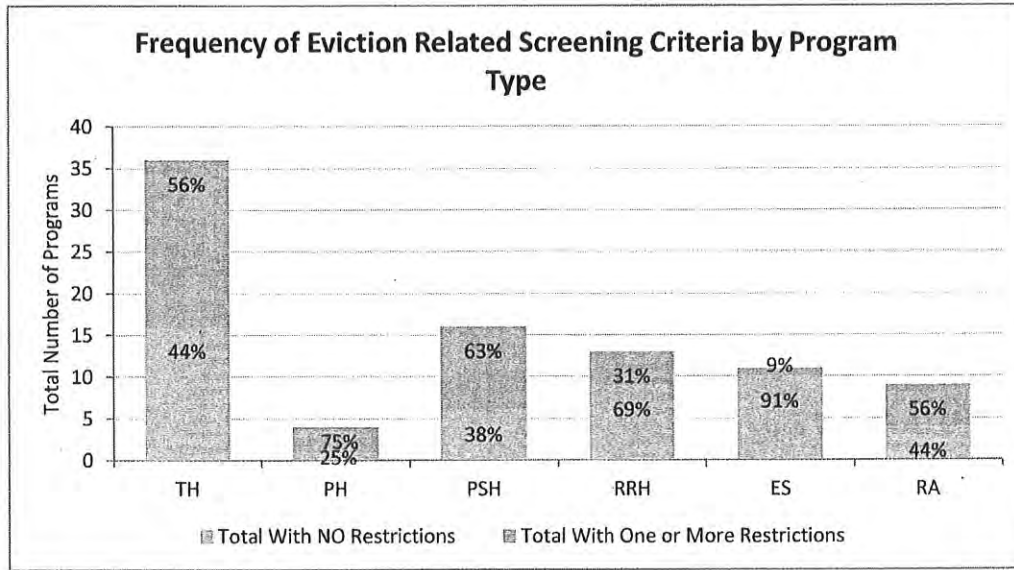
Instead, this analysis offers a glimpse into the magnitude and range of criteria under two categories within the current portfolio: history of evictions and criminal history. In carrying out this analysis, we have also identified issues in both system design and data collection that will inform recommendations. This analysis is based on criteria listed in narrative form in Program Inventories provided electronically on September 4, 2014.

Programs Included in Analysis by Type			
Program Type Listed	Collapsed Program Type	# programs	% of all Programs
TH	Transitional Housing	36	40%
TH-VETS			
TH-DV			
TH-DV/IR			
PH	Perm Housing (Non time-limited housing)	4	4%
PSH	Perm Supportive Housing	16	18%
SEH			
RRH	Rapid ReHousing	13	15%
RRH-DV			
ES	Emergency Shelter	11	12%
RA	Rental Assistance	9	10%
		89	100%

1. Frequency of Eviction-Related Screening Criteria by Program Type

There are 26 differently-worded criteria related to evictions listed in program inventories that appear between one and eight times across the programs with such restrictions. Not all categories are mutually-exclusive and some programs may have more than one requirement.

		ALL	TH	PH	PSH	RRH	ES	RA	
		# of Programs Reporting Criteria							
<i>most frequent</i>	1	No more than 2	8	7	1	0	0	0	0
	2	No more than 1	7	2	1	1	1	0	2
	3	None in last year	4	2	1	0	0	1	1
	4	OK if Non-payment for unaffordable housing	3	0	0	3	0	0	0
	5	Evictions less than 3 years need payee and repayment agreement	2	2	0	0	0	0	0
	6	No evictions w/in 5 years	2	1	0	1	0	0	0
	7	No more than 3	2	1	1	0	0	0	0
	8	Previous evictions from this agency	2	2	0	0	0	0	0
	9	See TSC	2	0	0	2	0	0	0
	10	Vary based on property	2	0	0	0	1	0	1
	11	Verified eviction	2	2	0	0	0	0	0
<i>least frequent</i>	12	Case by case basis, if we see recent history, might not be a good fit for the program	1	0	0	0	0	0	1
	13	Case by case. If family not housed in 3 months, we can exit them.	1	0	0	1	0	0	0
	14	Drug Related Eviction (3 years, Fed assist housing)	1	0	0	1	0	0	0
	15	Evictions less than 5 years need written statement	1	1	0	0	0	0	0
	16	HUD guidelines	1	1	0	0	0	0	0
	17	No evictions for criminal in 7 years	1	0	1	0	0	0	0
	18	No evictions for lease violations (except non-payment) - last 5 years	1	0	1	0	0	0	0
	19	No evictions from HA	1	0	0	1	0	0	0
	20	No evictions from HA in 3 yrs	1	0	1	0	0	0	0
	21	No more than 1 in 3 years for non-payment	1	0	1	0	0	0	0
	22	No more than 2 in last 5 years	1	0	1	0	0	0	0
	23	No more than 3 in 3 years	1	1	0	0	0	0	0
	24	Only non-payment evictions-3 years	1	0	0	1	0	0	0
	25	Related to prop damage	1	1	0	0	0	0	0
	26	Unlawful detainer action	1	1	0	0	0	0	0



PH, PSH, RA, and TH programs are much more likely to have a number of screening criteria related to evictions.

Reported Source for Eviction Criteria	Frequency
Funder (16% of Total)	
Seattle Housing Authority, King County Housing Authority, or Renton Housing Authority (No specification)	8
Funder (FUSION)	1
Funder (unspecified)	2
MOU (KCHA & Y)	1
Program (77% of Total)	
Property manager	24
Program Design	33
Other (7% of Total)	
RRHF Pilot	4
Varies by housing provider	1

2. Frequency of Criminal History-Related Screening Criteria

There are 77 differently-worded criteria related to criminal history listed in program inventories for 75 programs; 14 programs have no restrictions. These criteria appear between one and 32 times across the programs with such restrictions. Many categories are not mutually-exclusive and most programs have more than one requirement.

#	Criminal History Related Criteria	Frequency
1	1st degree assault	1
2	Active warrants	12
3	Any conviction	2
4	Any drug misdemeanor = EXTENSIVE documentation/support	2
5	Arrests in last 6 months	6
6	Arson	26
7	Assault	2
8	Assault –within last 2 years	1
9	Burglary/Robbery	1
10	Child sex abuse	8
11	Class "A" felonies	1
12	Client terminated if felony criminal activity (old or new) that would compromise safety of staff is revealed after enrollment	1
13	Conviction felony involving a child	1
14	Conviction involving a weapon	1
15	Conviction Violent felony	1
16	Crimes against children	4
17	Crimes against older adults	1
18	Current illegal drug use	1
19	Drug distribution	2
20	Drug Distribution - last 2 years	1
21	Drug distribution – last 5 years	6
22	Drug production	4
23	Drug related – within 1 year	1
24	Drug-related criminal activity	2
25	Domestic violence - 5 years	7
26	Domestic violence w/ currently live-in partner	1
27	Felonies (property only) less than 3 year AND no active case management	1
28	Felonies intent to sell or manufacturing b/w 1-5 years AND no case management	1
29	Felonies intent to sell or manufacturing less than 1 year	1
30	Felony - assault/DV within 3 years AND no counseling	1
31	Felony (specific) – within 1 year	2
32	Felony - 3 years	1
33	Felony against persons	1
34	Felony Assault	2
35	Felony Assault - within 1 year	1
36	Felony Assault with a deadly weapon	
37	Felony burglary/robbery/theft - last 5 years	1
38	Felony convictions	3

#	Criminal History Related Criteria	Frequency
39	Felony convictions - 1 year	1
40	Felony crimes against persons - 1 year	1
41	Felony Drug manufacturing or distribution - 5 year	1
42	Felony Robbery	1
43	Felony theft/burglary - 3 years	2
44	Felony violent/sexual	9
45	Felony w/in 5 years = EXTENSIVE documentation/support	2
46	Kidnapping	11
47	Lifetime registry sex offender	2
48	Manslaughter	9
49	Manufacturing /Selling illegal drugs	11
50	Meth - sales	2
51	Meth delivery	1
52	Meth production	21
53	Meth production in public housing	1
54	Misdemeanor - manufacturing , possession w/ intent, distribution - 12 months	1
55	Murder	3
56	No misdemeanors > 1.5 years	2
57	No restrictions	14
58	Non-violent felonies (persons) less than 3 year AND no case management	1
59	Non-violent felonies against persons 7 years	1
60	Open criminal cases	6
61	Open domestic violence charges	6
62	Open/Active court cases	2
63	Outstanding/un-adjudicated felony - 5 years	7
64	Pending felony - 6 months	2
65	Possession less than 3 years AND no rehab program	1
66	Property damage	1
67	Prostitution	2
68	Repeat offenders (5 or more-misdemeanors or felonies)	2
69	Sex offender conviction	32
70	Sexual assault	2
71	Sexual offenses	6
72	SHA Project Based criteria	4
73	Vandalism	1
74	Vary based on property	3
75	Violation of the Uniform Controlled Substances Act	1
76	Violent criminal history	9
77	Violent Felony – last 3 years	1
78	Violent felony – last 5 years	8

3. Frequency of Criminal History-Related Screening Criteria Specific to Drugs

There are 19 differently-worded criteria related to criminal history specific to drugs listed in program inventories that appear between one and 21 times across the programs with such restrictions. Some categories are not mutually-exclusive and programs may have more than one requirement.

Screening Criteria - Criminal Drug Related		
#	Specific Drug Related Criteria	Frequency
1	Any drug misdemeanor = EXTENSIVE documentation/support	2
2	Current illegal drug use	1
3	Drug distribution	2
4	Drug Distribution - 2 years	1
5	Drug distribution - 5 years	6
6	Drug production	4
7	Drug related - 1 year	1
8	Drug-related criminal activity	2
9	Felonies intent to sell or manufacturing b/w 1-5 years AND no case management	1
10	Felonies intent to sell or manufacturing less than 1 year	1
11	Felony Drug manufacturing or distribution - 5 years	1
12	Manufacturing/Selling illegal drugs	11
13	Meth – sales	2
14	Meth delivery	1
15	Meth production	21
16	Meth production in public housing	1
17	Misdemeanor – manufacturing, possession w/ intent, distrib - 12 months	1
18	Possession less than 3 years AND no rehab program	1
19	Violation of the Uniform Controlled Substances Act	1

14 of the 19 criteria (almost 75%) are related to drug sales, production and distribution – grey rows indicate those that are not.

Appendix F One Month Analysis of Agency Denials and Family Refusals

When a program denies a referral sent from FHC or a family refuses the referral, the explanation is recorded in the database. As with the screening criteria above, few standard categories exist, so an analysis of the type and frequency of reasons given can only be conducted manually. This means that reports on denials cannot be generated from the database and regular review of the reasons referrals do not succeed is nearly impossible at FHC. (In addition, we cannot see how many families were not offered a referral to a particular opening because they did not meet the stated program criteria in the program inventory.)

We reviewed the denials and refusals recorded in the database for the month of May, 2014. There were 27 agency denials and 31 family refusals.* Categories in the database are limited to:

- Agency denied – Ineligible upon Referral (7)
- Agency denied – Change in family circumstance (1)
- Agency denied – New information obtained that make family ineligible (19)
- Family refused (31)

Explanations that appear in the notes field of the database are summarized here.

Agency Denied		
#	Explanation for Denial	Frequency
1	Client got housing	2
2	Criminal history/active warrants	2
3	No show	2
4	Not first time homeless – program requirement	2
5	Not good fit (one noted: <i>Referred to program outside FHC that is better fit</i>)	2
6	Not literally homeless	2
7	Program does not have an opening	2
8	Client doesn't "endorse" two service needs	1
9	Didn't have deposit	1
10	Didn't have required documents	1
11	Family being pursued by abuser	1
12	Landlord debt	1
13	No reason listed	1
14	Been in agency's TH programs before	1
15	Children not staying with parent	1
16	Over-income	1
17	Recent eviction	1
18	Parent's work schedule doesn't fit shelter schedule	1
19	Wrong family size	1

Family Refused		
#	Explanation of Refusal	Frequency
1	Couldn't reach/no contact	11
2	No show for appointment or intake	10
3	Family will wait for another program	2
4	No reason given	2
5	Family didn't have needed documents	1
6	Family declined	1
7	Family got housing elsewhere	1
8	Family unfamiliar with/uncomfortable with area	1
9	Missed contact deadline	1
10	Transportation/family couldn't get to site	1

*This analysis does not include diversion programs that were unsuccessful at diverting families, which are also recorded as denials. Family Homelessness Coordinated Entry System Assessment & Refinement Project | Prepared for Committee to End Homelessness King County by Focus Strategies | 72 of 78

Appendix G: Matrix of Community Coordinated Entry Models

Community	Type of System	Population	Entry Points/Initial Contact	Assessment Tools/Process	Matching, Referral, Prioritization	Use of HMIS	Staffing and Funding Sources	Successes	Challenges
Charlotte, NC (Mecklenburg County) Community Population = 792,862 2013 PIT = 3,993	Decentralized, prioritized access to TH, RRH, PSH	All populations Must be literally homeless or 72 hours from being homeless	Clients can call 211, any provider for brief pre-screen; referred to designated assessment center. Only clients who have been through assessment center can access TH, RRH and PSH.	Five designated assessment centers (shelter and safety net providers with an MOU with CoC) Locally developed Housing Prioritization Tool generates score (letter, color). Highest need also get Vulnerability index to see if eligible for PSH.	Clients who have high needs placed on priority lists for TH, RRH, PSH. Lists are kept very short. Lower barriers clients do not go on any list. Client called when opening available in program for which they meet eligibility criteria.	Clients entered in HMIS at point of contact with Coordinated Assessment but HMIS not used for matching	No information.	Community buy in to serving highest need clients. Tool developed that does prioritization of hardest to house.	Inventory of units available for higher need clients is not right sized. Many who need assistance are not able to get on a list.
Dayton, OH (Montgomery County) Community Population = 141,359 2013 PIT = 1,041	Standardized assessment and referral based in emergency shelters	All populations Clients must be in emergency shelter	Point of entry are the four "gateway" shelters (families, single men, single women, DV).	Initial intake done within 3 days of shelter entry. HMIS data elements collected; diversion screen. Front Door Assessment conducted 7-14 days after entry. Locally developed, comprehensive tool looks at housing barriers. Generates "low, medium or high" score.	Using assessment results, shelter does referral decision work sheet and makes referral to TH, RRH or PSH. Providers must accept 1 out of 4 referrals. Programs not allowed to have non-funder imposed barriers.	Clients entered into HMIS by shelters. Not clear whether matching and referral done in HMIS.	No information.	Closed side doors; housed many "long stayers"	System does not have sufficient RRH and PSH inventory to ensure all clients receive "best fit" referral.

Community	Type of System	Population	Entry Points/Initial Contact	Assessment Tools/Process	Matching, Referral, Prioritization	Use of HMIS	Staffing and Funding Sources	Successes	Challenges
Hennepin County, MN Community Population = 1,185,000 2013 PIT = 3,481	Centralized access to family shelter. "Right to shelter" for families in this community	Families only Must be literally homeless	County service center. Clients can call or make apt. Center staffed by county. Unit also handles WIC, SNAP, other county funded services.	No formal assessment. More problem solving, designed to divert as many as possible. 75% of callers diverted. 25% enter shelter.	Once in shelter, families work with Rapid Exit provider (one nonprofit) that works with them to identify best housing option. Rapid exit assessment done within 72 hours in shelter. Uses modified VI SPDAT. Most clients go to RRH. Manual matching process (paper list of vacancies).	Shelter assessment at County center entered into HMIS. Rapid Exit Assessment not yet in HMIS. Working on fixing this (Abt contract).	County funds the County service center, which has 12 FTEs. This team does more than just shelter access. Looking to add 3 FTEs (housing referral coordinators, HMIS admin)	Shelters like the system. Agencies accepting referrals from shelters are more resistant. Don't like giving up control over who they take; having to take families from rapid exit.	Data disconnect between County service center and rapid exit. Lack of automation of referral process. Hennepin now also trying to figure out how to adapt model to singles, youth

Community	Type of System	Population	Entry Points/Initial Contact	Assessment Tools/Process	Matching, Referral, Prioritization	Use of HMIS	Staffing and Funding Sources	Successes	Challenges
Houston, TX Community Population = 2,196,000 2013 PIT = 5,351	Coordinated access into permanent supportive housing (and into RRH starting March 2015)	Only chronically homeless households. Both single adults and families (if CH).	One main "hub" Beacon Day Shelter conducts screening and assessment. Most clients go through this hub. Clients can be assessed at a few other locations. There is a call-in line for frequent users of jail or hospital. Also some outreach programs can do assessment.	Assessment includes HMIS data elements, criminal history (for matching to programs), VI for prioritization. Clients line up at Beacon Day Shelter at 7 and assessments begin at 9. Each assessment takes 15-60 minutes.	Clients who are eligible (chronically homeless) are matched to available vacancies based on results of VI (highest need have priority) and also program screening criteria (criminal record, household type). Once matched, unit may not be available immediately (some programs have waiting lists). Clients call in regularly to stay in touch. Community has little shelter and most clients will not enter shelter anyway while waiting for unit.	Assessment entered into HMIS. Providers enter bed availability into HMIS daily. Matching done through HMIS. But data is not fully shared across whole system.	9 FTEs (4 assessors— staffed at shelter, 2 assessor/navigators, 2 navigators, 1 coalition staff). Beacon Day Shelter has \$150,000 CoC grant for assessment work. Other assessment agencies use own funds.	Overall highly successful. Since Feb. 2014, 600 assessments, 175 housed.	Some problems with getting PSH programs to adopt Housing First approach, reduce barriers, but situation improving.

Community	Type of System	Population	Entry Points/Initial Contact	Assessment Tools/Process	Matching, Referral, Prioritization	Use of HMIS	Staffing and Funding Sources	Successes	Challenges
Los Angeles County, CA Community Population = 10,017,068 2013 PIT = 53,798	Decentralized, regionally based access to all shelter and housing programs through 8 Family Solutions Centers (FSC).	Families only Homeless by HUD definition (includes Category 2, imminently homeless).	211 is initial point of entry. Initial screening for DV, homelessness, need for housing. 211 schedules appt. at FSC. FSCs are regionally based and each has a unique service planning area (SPA).	FSCs use one or more standardized assessment tools, F-SPDAT, or locally created tool. Family Crisis Team member does the assessment. Attempt diversion using mainstream resources. If not diverted, develop housing plan, including placement into "next step" or permanent housing. Plan also addresses benefits, income, employment, behavioral health	Matching is done at the FSC level, not a system wide approach. Each FSC has RRH resources. They also are responsible for maintaining an inventory of housing referrals (e.g. shelter, TH, PSH, etc.) in their region.	FSCs enter clients into HMIS, including universal data elements. Currently matching and referral is not done using HMIS but plan is to do so.	System is funded through a variety of City and County including TANF, ESG and general funds. \$10 million for all functions including rapid rehousing. @15 FTE's on Family Crisis Team which includes assessment function.	Diversion rates as high as 85%. Focusing deeper resources such as permanent subsidies on highest need families.	Working differently in different parts of the County depending on the relationships between providers and the range of services available.

Community	Type of System	Population	Entry Points/Initial Contact	Assessment Tools/Process	Matching, Referral, Prioritization	Use of HMIS	Staffing and Funding Sources	Successes	Challenges
Montgomery County, PA Community Population = 812,376 2013 PIT = 438	Decentralized, regionally based access to rapid rehousing through three Housing Resource Centers	All populations Currently for literally homeless by HUD definition, Category 1. Will add imminently homeless next year, as add diversion component.	"Your Way Home" call center, operated by 211 organization, is initial point of entry. Pre-screen for DV, homelessness, mainstream resources. Call Center schedules appointments at HRC. How soon appointment is set based on pre-screen score.	Call center uses SPDAT pre-screen tool, and HRCs use full SPDAT. Assessment includes full SPDAT and development of Housing Assistance Plan. "Coaches" do assessment, housing planning, manage subsidy and exit clients.	Each HRC has RRH resources; operate on a progressive engagement model. They can also make referrals to shelter and keep a central list of openings. Also link to career and financial counseling, legal services, etc.	Call Center starts HMIS record. HRCs complete record. Use "smartsheet" software for SPDAT scores and openings. HMIS system is open to all providers; exploring opening it to other organizations that serve the clients	System is county and privately funded. Call Center about \$125K a year. Three HRCs about \$2 million including seven FTE "coaches", housing specialists, rapid rehousing funds	Community agreement to prioritize based on highest need. Standardized method for delivering rapid rehousing. Very low no show rates for appointments.	Concerns that pre-screen information not accurate, self-reported. Shelters uncomfortable at first at not being assessors but now working. Doesn't currently include diversion or PSH.
Pierce County, WA Community Population = 819,743 2013 PIT = 1,997	Centralized intake system for access to all system components	All populations Literally homeless (or within 72 hours)	Access Point for Housing (AP4H) operates a call in line and also conducts in person assessments. (211 and other providers refer to AP4H, with some minimal pre-screening.) Callers to AP4H who are literally homeless receive appt. for assessment within a week.	90 minute "strengths" assessment. Includes eligibility criteria for programs. Locally developed tool. Clients are put on Placement Roster in order in which they were assessed. Currently the roster has over 700 households.	As vacancies are available at participating ES, TH, RRH, and PSH, AP4H will search Roster for household that meets eligibility criteria, try to contact, make referral.	AP4H enters results of assessment into HMIS and also into Access database. Database used for semi-automated matching process	System is funded by Pierce County and Gates Foundation. Call center has 10 FTE staff who handle initial calls, diversion screen, and conduct assessments.	More transparent and streamlined method of accessing programs for clients.	Long waiting list. Lack of prioritization or removal of barriers means more difficult clients may never be referred. Many providers would prefer to take referrals from their own referral networks.

Community	Type of System	Population	Entry Points/Initial Contact	Assessment Tools/Process	Matching, Referral, Prioritization	Use of HMIS	Staffing and Funding Sources	Successes	Challenges
San Francisco, CA Community Population = 837,442 2013 PIT = 7,350	Centralized access to family shelter	Families only Literally homeless, must receive benefits in SF or be willing to transfer to SF.	Families call Connecting Point for initial 10-15 min. screening. Based on initial screening get on list and wait for appointment. Some get appointment right away, depending on work volume. Those with active DV referred to DV system.	Use locally developed tools for phone screen and for in person assessment. Lengthy in person meeting for assessment, gather information, explain shelter rules. Once on list, clients must call or come in once per week to stay on list. Those who don't are made inactive and ultimately removed from list.	Main purpose of Connecting Point is to get families into longer-term shelter. Shelter priority for families with medical or mental health needs and those on list > 5 months. Provide case management while family waiting for shelter referral. Also help get people on waiting lists for permanent housing, do some diversion work. Connecting Point does not refer into TH or PSH.	Not using HMIS. Provider has own database.	12 FTEs total (6 CMI, 3 Housing Specialists, 3 Admin). City/County funded (SF is both a City and a County).	More standardized and fair way of using shelter resources. Households can get access to case management and sometimes rental assistance while on list.	Only provides access to some longer-term shelters, not to crisis beds, rapid rehousing or permanent housing options. Not integrated into HMIS. Fairly long wait times to access shelter.

Fair Chance Housing

May 23, 2017



Seattle
Office for Civil Rights

The Issue

- Over the last two decades, there has been a rise in the use of criminal background checks to screen prospective tenants.
- Increased number of landlords with rental advertisements that indicate “no felons” or “clean record required”.
- Approximately 30% (173,714) of Seattle residents over the age of 18 have an arrest or conviction record and 7%, or 43,428 people, have a felony record.
- Each year, an average of 1,400 women and men return home to King County once released from the Washington State Department of Corrections.

Barriers to Housing

Family Reunification

Problem: Nearly half of all children in the U.S. have one parent with a criminal record.

Addressing homelessness

Problem: 1 in 5 people who leave prison become homeless soon thereafter.

Racial equity

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

Public safety

Problem: Housing instability leads to increased recidivism.

Community-Driven Call to Action

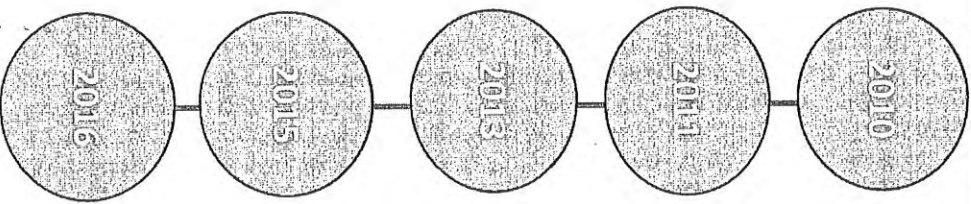
Sojourner Place Transitional Housing and Village of Hope call on City to address barriers to rental housing and employment.

Over 300 people participate in 2 community forums. Two-thirds are in support of City taking action to address barriers.

City Council passes Job Assistance Ordinance, now called Fair Chance Employment.

Community groups bring issue to HALA process. FARE Coalition holds community forum to raise awareness.

City convenes Fair Chance Housing Stakeholder Committee.



Fair Chance Housing Committee

Hana Aličić, Tenants Union

Marcel Baugh, Seattle Human Rights Commission

Derrick Belgarde, Chief Seattle Club

Rod Brandon, Seattle Housing Authority

Cameron Carl, Seattle Goodwill

Augustine Cita, Urban League of Metropolitan Seattle

Eric Ellman, Consumer Data Industry Association

Mahnaz Eshetu, Refugee Women's Alliance

Sean Flynn, Rental Housing Association of Washington

Andrew Kashyap, Racial Disparity Project

Marcenia Milligan

Joe Puckett, Washington Multifamily Housing Association

Sue Selman, Bellwether Housing

Nick Straley, Columbia Legal Services

Hilary Young, Pioneer Human Services

Kira Zylstra, AllHome

Fair Chance Housing Committee

Meeting 1. January 2016

Overview. What is your current experience with criminal record screening?

Meeting 2. August 2016

Racial equity and Ban the Box disparity study

Meeting 3. September 2016

Building a legislative framework. What should be included?

Meeting 4. October 2016

Building a legislative framework. What should be included? (continued discussion)

Meeting 5. December 2016

OCR shared draft proposal for feedback/response.

Meeting 6. January 2017

OCR shared updated draft proposal for feedback/response.

Community Voices



City of Seattle

Edward B. Murray, Mayor

Seattle Office for Civil Rights

Patricia Lally, Director

Date: May 17, 2017
To: Civil Rights, Utilities, Economic Development, and Arts Committee
From: Patricia Lally, 233-7822
Subject: Fair Chance Housing Stakeholder Process

Briefing Objective:

Discussion on Fair Chance Housing Stakeholder process convened to address housing barriers faced by people with arrest and conviction records.

Background:

An estimated one in every three adults in the United States has an arrest or a conviction record,¹ and nearly half of all children in the U.S. have one parent with a criminal record.² It is estimated that approximately 30% (173,714) of Seattle residents over the age of 18 have an arrest or conviction record and 7%, or 43,428 people, have a felony record.³

Due to a rise in the use of criminal background checks during the tenant screening process, people with arrest and conviction records face major barriers to access housing. In some cases, landlords categorically exclude people with any prior arrest or conviction. One study found that

*"Don't be a felon in the city and try to get an apartment. No amount of money can get you past a felony."
 – Resident, City of Seattle 2016 Homeless Needs Assessment*

43% of Seattle landlords are inclined to reject an applicant with a criminal history.⁴ All Home has reported that one in five people who leave prison become homeless soon thereafter.⁵

Without a business justification, screening based on a criminal conviction can be a tool for racial discrimination. In 2016, HUD issued guidance on the use of arrest and conviction records, stating that screening policies and practices can have a discriminatory impact due to deep-rooted inequities in the criminal justice system. The HUD guidance requires a housing provider to show a legitimate nondiscriminatory interest when excluding an individual from housing to ensure compliance with fair housing law.

History

For nearly a decade, community groups have called on the City to address barriers faced by renters with criminal records. In 2010, OCR convened two public forums bringing together over 300 people, two-thirds of whom

¹ U.S. Department of Justice Office of the Attorney General, "The Attorney General's Report on Criminal History Background Checks." (June 2006) at 51

² Center for American Progress, "Removing Barriers to Opportunity for Parents With Criminal Records and Their Children" (December 2015)

³ Prevalence estimates sent by University of Washington Sociologist Katherine Beckett

⁴ Helfgott, J.B. (1997). Exoffender needs versus community opportunity in Seattle, Washington. Federal Probation, 61, 12-24.

⁵ All Home citing National Alliance to End Homelessness, http://www.endhomelessness.org/pages/re_entry



City of Seattle

Edward B. Murray, Mayor

Seattle Office for Civil Rights

Patricia Lally, Director

testified in support of legislation to address barriers in housing and employment. Council responded by unanimously passing Fair Chance Employment legislation and asking the Office of Housing and OCR to work with nonprofit housing providers on best practices for housing screening.

Efforts by City departments have been successful at getting many nonprofit providers to understand the importance of individually assessing applicants to avoid racially disparate impacts caused by blanket policies of exclusion. The Office of Housing held educational sessions for housing providers on the impacts of criminal record screening on racial equity and developed a guide on selecting a tenant screening agency.

All Home has also taken steps to address this issue. Along with the implementation of coordinated entry for persons experiencing homelessness in King County, All Home worked with funders, providers, and system partners to lower and standardize eligibility criteria in all publicly funded homeless programs to reduce the barriers to housing for past experiences such as criminal records. Prior to this shift, homeless housing programs across King County held more than 100 distinct criteria related to evictions and criminal records causing a disparate impact on communities of color. In lowering barriers to programs, there are now only five types of criminal convictions included in screening for homeless housing programs, and they are asked about only when necessary.

While these efforts have made an impact, many affordable housing providers and landlords of market rate units continue policies and practices that broadly exclude people with criminal records.

HALA Recommendation

In 2015, the Housing and Affordability and Livability Agenda (HALA) committee recommended that the City address the barriers faced by renters with criminal records via legislation, education, and technical assistance. In response, the Mayor's Action Plan to Address Seattle's Affordability Crisis called for stakeholders to provide input on legislation that would address two goals: public safety and racial equity. OCR convened stakeholders for six meetings between January 2016 and January 2017. Stakeholders represented a diverse array of interests including persons with prior convictions, legal advocacy organizations, landlord associations, nonprofit housing providers, and social service agencies specializing in working with people in re-entry (Fair Chance Housing Stakeholder list attached).

Goal 1: Public Safety

Housing is a key ingredient for successful re-entry into the community. The Vera Institute of Justice has shown that housing also leads to reduced recidivism, and that without housing a person was seven times more likely to reenter the criminal justice system.⁶ Stable housing, in conjunction with stable employment, ensures people can provide for themselves and their families.

⁶ "The First Month Out: Post-Incarceration Experiences in New York City", Vera Institute of Justice, 1999.
http://cowlltfish.net/Whats_New/files/562240fc8e0a4293598e23072a0a3fad-1030.html



City of Seattle

Edward B. Murray, Mayor

Seattle Office for Civil Rights

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Criminal record screening impacts family reunification. About 80% of the young men we spoke with at Clallam Bay State Penitentiary plan to return to Seattle once their sentences are complete. One young man expressed that he knew he would be homeless because he didn't want to impact his mother's ability to stay housed through Seattle Housing Authority or impact his girlfriend's lease with her landlord.

While there are some transitional housing options available for those with prior records, providers impose barriers when trying to place people into permanent housing. Pioneer Human Services provides clients with up to 24 months of housing and yet Hilary Young, VP of Policy at Pioneer Human Services, states, "Many people do not have anywhere to turn once that time expires, despite having established positive rental history, and are forced into sub-standard or dangerous housing situations or back onto the streets."

Some stakeholders have expressed the need to use criminal records as a public safety tool. Yet many landlords currently do not conduct criminal records checks and the safety of residents has not been impacted. Sociological research finds that the propensity to re-commit a crime is not automatic. Rather, after 4 to 7 years where no re-offense has occurred, a person with a prior conviction is no more likely to commit a crime than someone who has never had a conviction.⁷

Studies have also shown that a conviction record alone is not a predictor for tenant success. A 2009 study conducted at Downtown Emergency Service Center showed that a criminal record was not statistically predictive of a failure to maintain housing and that rather, age was the only factor that could be used as a predictor of tenant success.⁸

Goal 2. Racial equity

Racial equity is central to the issue of fair chance housing. People of color face compounding effects of criminal records due to racial bias in tenant selection as well as racial disparities in the criminal justice system. In 2014, 64% of OCR's fair housing tests found incidents of different treatment based on race. In some cases, African Americans were told they would have to undergo a criminal record check when similarly situated white counterparts were not.

Racial disparities in the criminal justice system have deeply and negatively harmed communities of color. Due to an interplay of racial bias, sentencing policies and systemic inequities, people of color make up 37% of the U.S. population, but 67% of the prison population. The Sentencing Project citing Bureau of Justice Statistics data, has stated, "Overall, African Americans are more likely than white Americans to be arrested; once arrested, they are more likely to be convicted; and once convicted, they are more likely to face stiff sentences. Black men are six times as likely to be incarcerated as white men and Hispanic men are more than twice as likely to be incarcerated as non-Hispanic white men."⁹

⁷ Kurlychek, et al. "Scarlet Letters & Recidivism: Does An Old Criminal Record Predict Future Criminal Behavior?" (2006) and "'Redemption' in an Era of Widespread Criminal Background Checks," *NJI Journal*, Issue 263 (June 2009), at page 10 - preliminary study with group of first-time 1980 arrestees in New York- the findings depend on the nature of the prior offense and the age of the individual.

⁸ Malone, Daniel, Assessing Criminal History as a Predictor of Future Housing Success for Homeless Adults with Behavioral Health Disorders, *Psychiatric Services*, Feb 2009, Vol. 60, No.2

⁹ <http://www.sentencingproject.org/criminal-justice-facts/>



City of Seattle

Edward B. Murray, Mayor

Seattle Office for Civil Rights

Patricia Lally, Director

These racial disparities are present in Washington as well. In Washington State, African Americans are 3.4% of the overall population, but account for nearly 18.4% of the state's prison population; Latinos are 11.2% of Washington's population, but account for 13.2% of the state's prison population; and Native Americans are 1.3% of the state population, but account for 4.7% of the state's prison population.¹⁰

Fair Chance Housing Committee stakeholders relayed the importance of meaningfully addressing the experiences of communities of color. OCR also reached out to residents living at Jubilee Women's Center (formerly Sojourner Place Transitional Housing), the Village of Hope, and members of the Black Prisoners Caucus at Clallam Bay State Penitentiary for their input. All groups emphasized the importance of centering racial equity as a part of this work.

Supporting materials:

Fair Chance Housing Stakeholder list

¹⁰ <http://www.ofm.wa.gov/pop/census2010/default.asp#demo>



Fair Chance Housing Legislation Stakeholder Committee

Hana Aličić, Tenant's Union

Marcel Baugh, Seattle Human Rights Commission

Derrick Belgarde, Chief Seattle Club

Rod Brandon, Seattle Housing Authority

Cameron Carl, Seattle Goodwill

Augustine Cita, Urban League of Metropolitan Seattle

Eric Ellman, Consumer Data Industry Association

Mahnaz Eshetu, Refugee Women's Alliance

Sean Flynn, Rental Housing Association of Washington

Andrew Kashyap, Racial Disparity Project

Marcenia Milligan

Joe Puckett, Washington Multifamily Housing Association

Sue Selman, Bellwether Housing

Nick Straley, Columbia Legal Services

Hilary Young, Pioneer Human Services

Kira Zylstra, AllHome

City Council Representation: Jesse Perrin (CM O'Brien), Jennifer Samuels (CP Harrell).

City staff: Brenda Anibarro, Erika Pablo and Caedmon Cahill, Office for Civil Rights;

Leslie Price, Mayor's Office; Maureen Kostyack, Office of Housing; Asha

Venkataraman, Central Staff

Erika Pablo
OCR Fair Chance Housing ORD
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CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

..title

AN ORDINANCE relating to housing regulations; adding a new Chapter 14.09 (Fair Chance Housing) to the Seattle Municipal Code to regulate the use of criminal history in rental housing; authorizing the Seattle Office for Civil Rights to enforce the regulations set out in this new chapter; and amending Section 3.14.931 of the Seattle Municipal Code to expand the Seattle Human Rights Commission’s duties.

..body

WHEREAS, the U.S. Department of Justice has estimated one in every three adults in the United States has either an arrest or conviction record¹; and

WHEREAS, the Center for American Progress reports that nearly half of all children in the U.S. have one parent with a criminal record²; and

WHEREAS, over the past two decades, there has been a rise in the use of criminal background checks to screen prospective tenants for housing; and

WHEREAS, a study by the Vera Institute of Justice has shown that people with stable housing are more likely to successfully reintegrate into society and are less likely to reoffend,³ and

WHEREAS, individuals and parents who have served their time must be able to secure housing if they are to re-enter into society to successfully rebuild their lives and care for their families; and

¹ Bureau of Justice Statistics, U.S. Department of Justice, “Survey of State Criminal History Information Systems,” 2012, available at <https://www.ncjrs.gov/pdffiles1/bjs/grants/249799.pdf>
² Vallas, Boteacg, West, Odum. “Removing Barriers to Opportunity for Parents with Criminal Records and Their Children: A Two Generation Approach,” Center for American Progress. December 2015.
³ Vera Institute of Justice, “Piloting a Tool for Reentry: A Promising Approach to Engaging Family Members,” 2011, available at <http://archive.vera.org/sites/default/files/resources/downloads/Piloting-a-Tool-for-Reentry-Updated.pdf>

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1 WHEREAS, African Americans are 3.4 percent of Washington’s population but account for
2 nearly 18.4 percent of Washington’s prison population;⁴ Latinos are 11.2 percent of
3 Washington’s population but account for 13.2 percent of Washington’s prison
4 population;⁵ and Native Americans are 1.3 percent of the state population but account for
5 4.7 percent of Washington’s prison population;⁶ and

6 WHEREAS, racial inequities in the criminal justice system are compounded by racial bias in the
7 rental applicant selection process, as demonstrated by fair housing testing conducted by
8 the Seattle Office for Civil Rights in 2013 that found evidence of different treatment
9 based on race in 64 percent of tests, including some cases where African American
10 applicants were told more often than their white counterparts that they would have to
11 undergo a criminal background check as part of the screening process; and

12 WHEREAS, there is no sociological research establishing a relationship between a criminal
13 record and an unsuccessful tenancy;⁷ and

14 WHEREAS, an Urban Institute study stated, “men who found [stable] housing within the first
15 month after release were less likely to return to prison during the first year out”;⁸ and

16 WHEREAS, a study performed in Cleveland found that “obtaining stable housing within the first
17 month after release inhibited re-incarceration”;⁹ and

⁴ <http://www.ofm.wa.gov/pop/census2010/default.asp#demo>; <http://www.doc.wa.gov/docs/publications/reports/100-QA001.pdf>

⁵ <http://www.ofm.wa.gov/pop/census2010/default.asp#demo>; <http://www.doc.wa.gov/docs/publications/reports/100-QA001.pdf>

⁶ <http://www.ofm.wa.gov/pop/census2010/default.asp#demo>; <http://www.doc.wa.gov/docs/publications/reports/100-QA001.pdf>

⁷ Ehman and Reosti, “Tenant Screening in an Era of Mass Incarceration: A Criminal Record is No Crystal Ball”, *N.Y.U. Journal of Legislation and Public Policy Quorum*, March 2015.

⁸ *The Importance of Stable Housing for Formerly Incarcerated Individuals*, Housing Law Bulletin, Volume 40, http://nhlp.org/files/Importance%20of%20Stable%20Housing%20for%20Formerly%20Incarcerated_0.pdf

⁹ *Id.*

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1 WHEREAS, studies show that, after four to seven years where no re-offense has occurred, a
2 person with a prior conviction is no more likely to commit a crime than someone who has
3 never had a conviction;¹⁰ and
4 WHEREAS, research shows higher recidivism occurs within the first two years of release and is
5 mitigated when individuals have access to safe and affordable housing and
6 employment;¹¹ and
7 WHEREAS, a 2015 study reported that juveniles on the sex offender registry had considerable
8 difficulty in accessing stable housing because of their registration status, which
9 contributed to negative mental health outcomes;¹² and
10 WHEREAS, more than 90 percent of arrests of juveniles for sex offenses represent a one-time
11 event that does not recur,¹³ and studies have repeatedly shown low recidivism rates
12 ranging from three percent to four percent;¹⁴ and
13 WHEREAS, The City of Seattle has developed a Race and Social Justice Initiative (RSJI) to
14 eliminate institutional racism and create a community where equity in opportunity exists
15 for everyone; and
16 WHEREAS, the City's Office for Civil Rights (OCR) works to advance civil rights and end
17 barriers to equity; and

¹⁰ Kurlychek, et al. "Scarlet Letters & Recidivism: Does an Old Criminal Record Predict Future Criminal Behavior?" (2006), http://www.albany.edu/bushway_research/publications/Kurlychek_et_al_2006.pdf. and "'Redemption' in an Era of Widespread Criminal Background Checks," *NIJ Journal*, Issue 263 (June 2009), at page 10 - preliminary study with group of first-time 1980 arrestees in New York - the findings depend on the nature of the 2009), at page 10 - preliminary study with group of first-time 1980 arrestees in New York- the findings depend on the nature of the prior offense and the age of the individual.

¹¹ Ehman and Reosti, "Tenant Screening in an Era of Mass Incarceration: A Criminal Record is No Crystal Ball", *N.Y.U. Journal of Legislation and Public Policy Quorum*, March 2015.

¹² Harris, Andrew J. et al. (2015). "Collateral Consequences of Juvenile Sex Offender Registration and Notification," <http://journals.sagepub.com/doi/abs/10.1177/1079063215574004>

¹³ Zimring, F.E. (2004). *An American travesty: Legal responses to adolescent sexual offending*, p. 66. University of Chicago.

¹⁴ *Ibid*, Appendix C.

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1 WHEREAS, in 2010, residents of Sojourner Place Transitional Housing, Village of Hope, and
2 other community groups called on the City to address barriers to housing faced by people
3 with prior records; and

4 WHEREAS, in response, OCR and the Seattle Human Rights Commission held two public
5 forums in 2010 and 2011, bringing together over 300 people including community
6 members with arrest and conviction records, landlords, and employers to share their
7 concerns; and

8 WHEREAS, in 2013, the City Council passed the Seattle Jobs Assistance Ordinance, now titled
9 the Fair Chance Employment Ordinance, to address barriers in employment; and

10 WHEREAS, since 2013, the Office of Housing has worked with nonprofit housing providers to
11 share best practices in tenant screening to address racial inequities; and

12 WHEREAS, in September 2014 the Council adopted Resolution 31546, in which the Mayor and
13 Council jointly convened the Seattle Housing Affordability and Livability Agenda
14 (HALA) Advisory Committee to evaluate potential strategies to make Seattle more
15 affordable, equitable, and inclusive; and in particular, to promote the development and
16 preservation of affordable housing for residents of the City; and

17 WHEREAS, in July 2015, HALA published its Final Advisory Committee Recommendations
18 and the Mayor published *Housing Seattle: A Roadmap to an Affordable and Livable City*,
19 which outlines a multi-pronged approach of bold and innovative solutions to address
20 Seattle's housing affordability crisis; and

21 WHEREAS, in October 2015, the Mayor proposed and Council adopted Resolution 31622,
22 declaring the City's intent to expeditiously consider strategies recommended by the
23 Housing Affordability Livability Agenda (HALA) Advisory Committee; and

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1 WHEREAS, the Mayor’s Housing and Affordability and Livability Agenda recommended that
2 the City address barriers to housing faced by people with criminal records, and the Mayor
3 responded by creating a Fair Chance Housing Committee; and

4 WHEREAS, the Fair Chance Housing Committee provided input to OCR on a legislative
5 proposal to address these barriers; and

6 WHEREAS, in 2016, the Department of Housing and Urban Development (HUD) issued
7 guidance on the application of the Fair Housing Act to the use of arrest and conviction
8 records in rental housing, stating that a housing provider may be in violation of fair
9 housing laws if their policy or practice does not serve a substantial, legitimate,
10 nondiscriminatory interest, due to the potential for criminal record screening to have a
11 disparate impact on African American and other communities of color; and

12 WHEREAS, in 2016, the Seattle City Council passed Resolution 31669, affirming HUD’s
13 guidance and the work of the Mayor’s Fair Chance Housing Committee; NOW,

14 THEREFORE,

15 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

16 Section 1. The Council expresses the following concerning implementation of Seattle
17 Municipal Code Chapter 14.09:

- 18 A. The implementation of Seattle Municipal Code Chapter 14.09 will consist of:
 - 19 1. Seattle Office for Civil Rights will conduct regular fair housing testing to
 - 20 ensure compliance, decrease racial bias, and evaluate the impacts of Chapter 14.09; and
 - 21 2. Seattle Office for Civil Rights will launch a Fair Housing Home Program
 - 22 for landlords. The program’s goal will be to reduce racial bias and biases against other protected
 - 23 classes in tenant selection. Completion of the training program will result in a certification of a

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1 Fair Housing Home program. For pre-finding settlement and conciliation agreements under
2 Chapter 14.09, landlords will be required to participate in the Fair Housing Home program; and

3 3. The City of Seattle will work at the state level to reduce the impact of
4 criminal convictions; and

5 4. The City of Seattle will explore additional mechanisms to reduce the
6 greatest barriers to housing for individuals with criminal conviction records through the Re-Entry
7 Taskforce, convened by the Seattle Office for Civil Rights.

8 Section 2. A new Chapter 14.09 is added to the Seattle Municipal Code as follows:

9 **Chapter 14.09 USE OF CRIMINAL RECORDS IN HOUSING**

10 **14.09.005 Short title**

11 This Chapter 14.09 shall constitute the “Fair Chance Housing Ordinance” and may be cited
12 as such.

13 **14.09.010 Definitions**

14 “Accessory dwelling unit” has the meaning defined in Section 23.84A.032’s definition of
15 “Residential use.”

16 “Adverse action” means:

- 17 A. Refusing to engage in or negotiate a rental real estate transaction;
- 18 B. Denying tenancy;
- 19 C. Representing that such real property is not available for inspection, rental, or lease
20 when in fact it is so available;
- 21 D. Failing or refusing to add a household member to an existing lease;
- 22 E. Expelling or evicting an occupant from real property or otherwise making
23 unavailable or denying a dwelling;

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1 F. Applying different terms, conditions, or privileges to a rental real estate
2 transaction, including but not limited to the setting of rates for rental or lease, establishment of
3 damage deposits, or other financial conditions for rental or lease, or in the furnishing of facilities
4 or services in connection with such transaction;

5 G. Refusing or intentionally failing to list real property for rent or lease;

6 H. Refusing or intentionally failing to show real property listed for rent or lease;

7 I. Refusing or intentionally failing to accept and/or transmit any reasonable offer to
8 lease, or rent real property;

9 J. Terminating a lease; or

10 K. Threatening, penalizing, retaliating, or otherwise discriminating against any
11 person for any reason prohibited by Section 14.09.025.

12 "Aggrieved party" means a prospective occupant, tenant, or other person who suffers
13 tangible or intangible harm due to a person's violation of this Chapter 14.09.

14 "Arrest record" means information indicating that a person has been apprehended,
15 detained, taken into custody, held for investigation, or restrained by a law enforcement
16 department or military authority due to an accusation or suspicion that the person committed a
17 crime. Arrest records include pending criminal charges, where the accusation has not yet resulted
18 in a final judgment, acquittal, conviction, plea, dismissal, or withdrawal.

19 "Charging party" means any person who files a charge alleging a violation under this
20 Chapter 14.09, including the Director.

21 "City" means The City of Seattle.

22 "Commission" means the Seattle Human Rights Commission.

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1 “Consumer report” has the meaning defined in RCW 19.182.010 and means a written,
2 oral, or other communication of information by a consumer reporting agency bearing on a
3 consumer’s creditworthiness, credit standing, credit capacity, character, general reputation,
4 personal characteristics, or mode of living that is used or expected to be used or collected in
5 whole or in part for purposes authorized under RCW 19.182.020.

6 “Conviction record” means information regarding a final adjudication or other criminal
7 disposition adverse to the subject. It includes but is not limited to dispositions for which the
8 defendant received a deferred or suspended sentence, unless the adverse disposition has been
9 vacated or expunged.

10 “Criminal background check” means requesting or attempting to obtain, directly or
11 through an agent, an individual’s conviction record or criminal history record information from
12 the Washington State Patrol or any other source that compiles, maintains, or reflects such records
13 or information.

14 “Criminal history” means records or other information received from a criminal
15 background check or contained in records collected by criminal justice agencies, including
16 courts, consisting of identifiable descriptions and notations of arrests, arrest records, detentions,
17 indictments, informations, or other formal criminal charges, any disposition arising therefrom,
18 including conviction records, waiving trial rights, deferred sentences, stipulated order of
19 continuance, dispositional continuance, or any other initial resolution which may or may not later
20 result in dismissal or reduction of charges depending on subsequent events. The term includes
21 acquittals by reason of insanity, dismissals based on lack of competency, sentences, correctional
22 supervision, and release, any issued certificates of restoration of opportunities and any
23 information contained in records maintained by or obtained from criminal justice agencies,

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1 including courts, which provide individual’s record of involvement in the criminal justice system
2 as an alleged or convicted individual. The term does not include status obtained from a county,
3 statewide, or national sex offender registry.

4 “Date of disposition” means the date of conviction, judgment, and sentence, and/or date
5 on which any criminal charge is initially resolved or adjudicated, whichever is latest, specifically
6 including the imposition of a deferred sentence, stipulated order of continuance, dispositional
7 continuance, or any other initial resolution which may or may not later result in dismissal or
8 reduction of charges depending on subsequent events. “Date of disposition” does not refer to
9 ultimate resolution of the findings in the case or to any adjustment to findings that may occur as
10 a result of appeal, post-conviction litigation, post-disposition motions, or agreement to continue
11 for dismissal or reduction of charges.

12 “Date of rental application” means the date and time when a landlord receives a complete
13 rental application, whether submitted through the mail, electronically, or in person.

14 “Department” means the Seattle Office for Civil Rights and any division therein.

15 “Detached accessory dwelling unit” has the meaning defined in Section 23.84A.032’s
16 definition of “Residential use.”

17 “Director” means the Director of the Seattle Office for Civil Rights or the Director’s
18 designee.

19 “Fair chance housing” means practices to reduce barriers to housing for persons with
20 criminal records.

21 “Juvenile” means a person under 18 years old.

22 A “legitimate business reason” shall exist when the policy or practice is necessary to
23 achieve a substantial, legitimate, nondiscriminatory interest. To determine such an interest, a

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1 landlord must demonstrate, through reliable evidence, a nexus between the policy or practice and
2 resident safety and/or protecting property, in light of the following factors:

- 3 A. The nature and severity of the conviction;
- 4 B. The number and types of convictions;
- 5 C. The time that has elapsed since the date of conviction;
- 6 D. Age of the individual at the time of conviction;
- 7 E. Evidence of good tenant history before and/or after the conviction occurred; and
- 8 F. Any supplemental information related to the individual’s rehabilitation, good
9 conduct, and facts or circumstances surrounding the conviction provided by the individual, if the
10 individual chooses to do so.

11 “Person” means one or more individuals, partnerships, organizations, trade or
12 professional associations, corporations, legal representatives, trustees, trustees in bankruptcy, or
13 receivers. It includes any owner, lessee, proprietor, manager, agent, or employee, whether one or
14 more natural persons, and any political or civil subdivision or agency or instrumentality of the
15 City.

16 “Prospective occupant” means any person who seeks to lease, sublease, or rent real
17 property.

18 “Respondent” means any person who is alleged or found to have committed a violation of
19 this Chapter 14.09.

20 “Supplemental information” means any information produced by the prospective
21 occupant or the tenant, or produced on their behalf, with respect to their rehabilitation or good
22 conduct, including but not limited to:

- 23 A. Written or oral statement from the prospective occupant or the tenant;

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- 1 B. Written or oral statement from a current or previous employer;
- 2 C. Written or oral statement from a current or previous landlord;
- 3 D. Written or oral statement from a member of the judiciary or law enforcement,
- 4 parole or probation officer, or person who provides similar services;
- 5 E. Written or oral statement from a member of the clergy, counselor, therapist, social
- 6 worker, community or volunteer organization, or person or institution who provides similar
- 7 services;
- 8 F. Certificate of rehabilitation;
- 9 G. Certificate of completion or enrollment in an educational or vocational training
- 10 program, including apprenticeship programs; or
- 11 H. Certificate of completion or enrollment in a drug or alcohol treatment program; or
- 12 certificate of completion or enrollment in a rehabilitation program.

13 "Tenant" means a person occupying or holding possession of a building or premises
14 pursuant to a rental agreement.

15 **14.09.015 Applicability**

16 A person is covered by this Chapter 14.09 when the physical location of the housing is within the
17 geographic boundaries of the City.

18 **14.09.020 Notice to prospective occupants and tenants**

19 If a landlord screens prospective occupants for conviction records, the landlord shall provide
20 written notice of screening criteria on all applications for rental properties. The written notice
21 shall also include that the landlord will consider for tenancy qualified applicants with criminal
22 histories and applicants may provide any supplemental information related to an individual's
23 rehabilitation, good conduct, and facts or circumstances surrounding any conviction record

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1 within two years from the date of the rental application. The Department shall adopt a rule or
2 rules to enforce this Section 14.09.020.

3 **14.09.025 Prohibited use of criminal history**

4 A. It is an unfair practice for any person to:

5 1. Advertise, publicize, or implement any policy or practice that
6 automatically or categorically excludes all individuals with any arrest record, conviction record,
7 or criminal history from any rental housing that is located within the City.

8 2. Require disclosure, inquire about, or carry out an adverse action in
9 housing, based on an arrest record of a prospective occupant, a tenant, or a member of their
10 household. An arrest record is not proof that a person has engaged in unlawful conduct.

11 3. Require disclosure, inquire about, or take an adverse action in housing
12 against a prospective occupant, a tenant or a member of their household, based on (a) criminal
13 history, except for conviction records pursuant to subsection 14.09.025.A.4; (b) juvenile records;
14 (c) convictions that have been expunged, sealed, or vacated; and/or (d) conviction records that,
15 from the date of disposition, precede the date of the rental application by more than two years,

16 4. Carry out an adverse action based on a conviction record with a
17 disposition date within two years from the date of the rental application of a prospective
18 occupant, a tenant or a member of their household, unless the landlord has a legitimate business
19 reason for taking such action.

20 5. Carry out an adverse action based on status obtained from a county, state,
21 or national sex offender registry, of a prospective adult occupant, an adult tenant, or an adult
22 member of their household, unless the landlord has a legitimate business reason for taking such
23 action.

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1 6. Carry out an adverse action based on information obtained from any
2 county, statewide, or national sex offender registry regarding any juvenile prospective occupant,
3 a juvenile tenant, or juvenile member of their household.

4 B. If a landlord takes an adverse action based on a legitimate business reason, the
5 landlord shall provide written notice by email, mail, or in person of the adverse action to the
6 prospective occupant or the tenant and state the specific record or records that were the basis for
7 the adverse action.

8 C. If a consumer report is used by a landlord as part of the screening process, the
9 landlord must provide the name and address of the consumer reporting agency and the
10 prospective occupant's or tenant's rights to obtain a free copy of the consumer report in the event
11 of a denial or other adverse action, and to dispute the accuracy of information appearing in the
12 consumer report.

13 **14.09.030 Retaliation prohibited**

14 A. No person shall interfere with, restrain, or deny the exercise of, or the attempt to
15 exercise, any right protected under this Chapter 14.09.

16 B. No person shall take any adverse action against any person because the person has
17 exercised in good faith the rights protected under this Chapter 14.09. Such rights include but are
18 not limited to the right to fair chance housing and regulation of the use of criminal history in
19 housing by this Chapter 14.09; the right to make inquiries about the rights protected under this
20 Chapter 14.09; the right to inform others about their rights under this Chapter 14.09; the right to
21 inform the person's legal counsel or any other person about an alleged violation of this Chapter
22 14.09; the right to file an oral or written complaint with the Department for an alleged violation
23 of this Chapter 14.09; the right to cooperate with the Department in its investigations of this

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1 Chapter 14.09; the right to testify in a proceeding under or related to this Chapter 14.09; the right
2 to refuse to participate in an activity that would result in a violation of City, state, or federal law;
3 and the right to oppose any policy, practice, or act that is unlawful under this Chapter 14.09.

4 C. It shall be a rebuttable presumption of retaliation if a landlord or any other person
5 takes an adverse action against a person within 90 days of the person's exercise of rights
6 protected in this Section 14.09.030. The landlord may rebut the presumption with clear and
7 convincing evidence that the adverse action was taken for a permissible purpose.

8 D. Proof of retaliation under this Section 14.09.030 shall be sufficient upon a
9 showing that a landlord or any other person has taken an adverse action against a person and the
10 person's exercise of rights protected in this Section 14.09.030 was a motivating factor in the
11 adverse action, unless the landlord can prove that the action would have been taken in the
12 absence of such protected activity.

13 E. The protections afforded under this Section 14.09.030 shall apply to any person
14 who mistakenly but in good faith alleges violations of this Chapter 14.09.

15 F. A complaint or other communication by any person triggers the protections of this
16 Section 14.09.030 regardless of whether the complaint or communication is in writing or makes
17 explicit reference to this Chapter 14.09.

18 **14.09.035 Enforcement power and duties**

19 A. The Department shall have the power to investigate violations of this Chapter
20 14.09, as defined herein, and shall have such powers and duties in the performance of these
21 functions as are defined in this Chapter 14.09 and otherwise necessary and proper in the
22 performance of the same and provided for by law.

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1 B. The Department shall be authorized to coordinate implementation and
2 enforcement of this Chapter 14.09 and shall promulgate appropriate guidelines or rules for such
3 purposes.

4 C. The Director is authorized and directed to promulgate appropriate guidelines and
5 rules consistent with this Chapter 14.09 and the Administrative Code. Any guidelines or rules
6 promulgated by the Director shall have the force and effect of law and may be relied on by
7 landlords, prospective occupants, tenants, and other parties to determine their rights and
8 responsibilities under this Chapter 14.09.

9 D. The Director shall maintain data on the number of complaints filed pursuant to
10 this Chapter 14.09, demographic information on the complainants, the number of investigations
11 it conducts and the disposition of every complaint and investigation. The Director shall submit
12 this data to the Mayor and City Council every six months for the two years following the
13 effective date of the ordinance introduced as Council Bill 119015.

14 **14.09.040 Violation**

15 The failure of any person to comply with any requirement imposed on the person under this
16 Chapter 14.09 is a violation.

17 **14.09.045 Charge—Filing**

18 A. An aggrieved person may file a charge with the Director alleging a violation. The
19 charge shall be in writing and signed under oath or affirmation before the Director, one of the
20 Department’s employees, or any other person authorized to administer oaths. The charge shall
21 describe the alleged violation and should include a statement of the dates, places, and
22 circumstances, and the persons responsible for such acts and practices. Upon the filing of a
23 charge alleging a violation, the Director shall cause to be served upon the charging party a

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1 written notice acknowledging the filing, and notifying the charging party of the time limits and
2 choice of forums provided in this Chapter 14.09.

3 B. A charge shall not be rejected as insufficient because of failure to include all
4 required information if the Department determines that the charge substantially satisfies the
5 informational requirements necessary for processing.

6 C. A charge alleging a violation or pattern of violations under this Chapter 14.09
7 may also be filed by the Director whenever the Director has reason to believe that any person has
8 been engaged or is engaging in a violation under this Chapter 14.09.

9 **14.09.050 Time for filing charges**

10 Charges filed under this Chapter 14.09 must be filed with the Department within one year after
11 the alleged violation has occurred or terminated.

12 **14.09.055 Charge—Amendments**

13 A. The charging party or the Department may amend a charge:

- 14 1. To cure technical defects or omissions;
- 15 2. To clarify allegations made in the charge;
- 16 3. To add allegations related to or arising out of the subject matter set forth

17 or attempted to be set forth in the charge;

18 4. To add as a charging party a person who is, during the course of the
19 investigation, identified as an aggrieved person; or

20 5. To add or substitute as a respondent a person who was not originally
21 named as a respondent, but who is, during the course of the investigation, identified as a
22 respondent. For jurisdictional purposes, such amendments shall relate back to the date the
23 original charge was first filed.

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1 B. The charging party may amend a charge to include allegations of retaliation which
2 arose after the filing of the original charge. Such amendment must be filed within one year after
3 the occurrence of the retaliation, and prior to the Department’s issuance of findings of fact and
4 determination with respect to the original charge. Such amendments may be made at any time
5 during the investigation of the original charge so long as the Department will have adequate time
6 to investigate the additional allegations and the parties will have adequate time to present the
7 Department with evidence concerning the additional allegations before the issuance of findings
8 of fact and a determination.

9 C. When a charge is amended to add or substitute a respondent, the Director shall
10 serve upon the new respondent within 20 days:

- 11 1. The amended charge;
- 12 2. The notice required under subsection 14.09.060.A; and
- 13 3. A statement of the basis for the Director’s belief that the new respondent
- 14 is properly named as a respondent. For jurisdictional purposes, amendment of a charge to add or
- 15 substitute a respondent shall relate back to the date the original charge was first filed.

16 **14.09.060 Notice of charge and investigation**

17 A. The Director shall promptly, and in any event within 20 days of filing of the
18 charge, cause to be served on or mailed, by certified mail, return receipt requested, to the
19 respondent, a copy of the charge along with a notice advising the respondent of respondent’s
20 procedural rights and obligations under this Chapter 14.09. The Director shall promptly make an
21 investigation of the charge.

22 B. The investigation shall be directed to ascertain the facts concerning the violation
23 alleged in the charge, and shall be conducted in an objective and impartial manner.

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1 C. During the period beginning with the filing of the charge and ending with the
2 issuance of the findings of fact, the Department shall, to the extent feasible, engage in settlement
3 discussions with respect to the charge. A pre-finding settlement agreement arising out of the
4 settlement discussions shall be an agreement between the charging party and the respondent and
5 shall be subject to approval by the Director. Each pre-finding settlement agreement is a public
6 record. Failure to comply with the pre-finding settlement agreement may be enforced under
7 Section 14.09.100.

8 D. During the investigation, the Director shall consider any statement of position or
9 evidence with respect to the allegations of the charge which the charging party or the respondent
10 wishes to submit, including the respondent's answer to the charge. The Director shall have
11 authority to sign and issue subpoenas requiring the attendance and testimony of witnesses, the
12 production of evidence including but not limited to books, records, correspondence, or
13 documents in the possession or under the control of the person subpoenaed, and access to
14 evidence for the purpose of examination and copying, and conduct discovery procedures which
15 may include the taking of interrogatories and oral depositions.

16 E. The Director may require a fact-finding conference or participation in another
17 process with the respondent and any of respondent's agents and witnesses and the charging party
18 during the investigation in order to define the issues, determine which elements are undisputed,
19 resolve those issues which can be resolved, and afford an opportunity to discuss or negotiate
20 settlement. Parties may have their legal counsel present if desired.

21 **14.09.065 Procedure for investigations**

22 A. A respondent may file with the Department an answer to the charge no later than
23 ten days after receiving notice of the charge.

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1 B. The Director shall commence investigation of the charge within 30 days after the
2 filing of the charge. The investigation shall be completed within 100 days after the filing of the
3 charge, unless it is impracticable to do so. If the Director is unable to complete the investigation
4 within 100 days after the filing of the charge, the Director shall notify the charging party and the
5 respondent of the reasons therefor. The Director shall make final administrative disposition of a
6 charge within one year of the date of filing of the charge, unless it is impracticable to do so. If
7 the Director is unable to make a final administrative disposition within one year of the filing of
8 the charge, the Director shall notify the charging party and the respondent of the reasons
9 therefor.

10 C. If the Director determines that it is necessary to carry out the purposes of this
11 Chapter 14.09, the Director may, in writing, request the City Attorney to seek prompt judicial
12 action for temporary or preliminary relief to enjoin any violation pending final disposition of a
13 charge.

14 **14.09.070 Findings of fact and determination of reasonable cause or no reasonable cause**

15 A. The results of the investigation shall be reduced to written findings of fact and a
16 determination shall be made by the Director that there is or is not reasonable cause for believing
17 that a violation has been, is being or is about to be committed, which determination shall also be
18 in writing and issued with the written findings of fact. The findings and determination are
19 “issued” when signed by the Director and mailed to the parties.

20 B. Once issued to the parties, the Director’s findings of fact, determination, and
21 order may not be amended or withdrawn except upon the agreement of the parties or in response
22 to an order by the Commission after an appeal taken pursuant to Section 14.09.075; provided,

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1 that the Director may correct clerical mistakes or errors arising from oversight or omission upon
2 a motion from a party or upon the Director's own motion.

3 **14.09.075 Determination of no reasonable cause—Appeal from and dismissal**

4 If a determination is made that there is no reasonable cause for believing a violation under this
5 Chapter 14.09 has been, is being, or is about to be committed, the charging party may appeal
6 such determination to the Commission within 30 days of the date the determination is signed by
7 the Director by filing a written statement of appeal with the Commission. The Commission shall
8 promptly deliver a copy of the statement to the Department and respondent and shall promptly
9 consider and act upon such appeal by either affirming the Director's determination or, if the
10 Commission believes the Director should investigate further, remanding it to the Director with a
11 request for specific further investigation. In the event no appeal is taken, or such appeal results in
12 affirmance, or if the Commission has not decided the appeal within 90 days from the date the
13 appeal statement is filed, the determination of the Director shall be final and the charge deemed
14 dismissed and the same shall be entered on the records of the Department.

15 **14.09.080 Determination of reasonable cause—Conciliation**

16 A. If the Director determines that reasonable cause exists to believe that a violation
17 has occurred, is occurring, or is about to occur, the Director shall endeavor to eliminate the
18 violation through efforts to reach conciliation. Conditions of conciliation may include, but are
19 not limited to, the elimination of the violation, rent refunds or credits, reinstatement to tenancy,
20 affirmative recruiting or advertising measures, payment of actual damages, and reasonable
21 attorney's fees and costs, or such other remedies that will carry out the purposes of this Chapter
22 14.09. The Director may also require payment of a civil penalty as set forth in Section 14.09.100.

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1 B. Any post-finding conciliation agreement shall be an agreement between the
2 charging party and the respondent and shall be subject to the approval of the Director. The
3 Director shall enter an order setting forth the terms of the agreement, which may include a
4 requirement that the parties report to the Director on the matter of compliance. Copies of such
5 order shall be delivered to all affected parties and shall be subject to public disclosure.

6 C. If conciliation fails and no agreement can be reached, the Director shall issue a
7 written finding to that effect and furnish a copy of the finding to the charging party and to the
8 respondent. Upon issuance of the finding, except a case in which a City department is a
9 respondent, the Director shall promptly cause to be delivered the entire investigatory file,
10 including the charge and any and all findings made, to the City Attorney for further proceedings
11 and hearing under this Chapter 14.09, pursuant to Section 14.09.085.

12 **14.09.085 Complaint and hearing**

13 A. Following submission of the investigatory file from the Director, the City
14 Attorney shall, except as set forth in subsection 14.09.085.B, prepare a complaint against such
15 respondent relating to the charge and facts discovered during the Department's investigation.
16 The City Attorney shall file the complaint with the Hearing Examiner in the name of the
17 Department and represent the interests of the Department at all subsequent proceedings.

18 B. If the City Attorney determines that there is no legal basis for a complaint to be
19 filed or proceedings to continue, a statement of the reasons therefor shall be filed with the
20 Department. The Director shall then dismiss the charge. Any party aggrieved by the dismissal
21 may appeal to the Commission.

22 C. The City Attorney shall serve a copy of the complaint on respondent and furnish a
23 copy of the complaint to the charging party and to the Department.

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1 D. Within 20 days of the service of such complaint upon it, the respondent shall file
2 its answer with the Hearing Examiner and serve a copy of the same on the City Attorney.

3 E. Upon the filing of the complaint, the Hearing Examiner shall promptly establish a
4 hearing date and give notice thereof to the Commission, City Attorney, and respondent, and shall
5 thereafter hold a public hearing on the complaint which shall commence no earlier than 90 days
6 nor later than 120 days from the filing of the complaint, unless otherwise ordered by the Hearing
7 Examiner.

8 F. After the complaint is filed with the Hearing Examiner, it may be amended only
9 with the permission of the Hearing Examiner, which permission shall be granted when justice
10 will be served and all parties are allowed time to prepare their case with respect to additional or
11 expanded charges.

12 G. The hearing shall be conducted by the Hearing Examiner, a deputy hearing
13 examiner, or a hearing examiner pro tempore appointed by the Hearing Examiner from a list
14 approved by the Commission, sitting alone or with representatives of the Commission if any are
15 designated. Such hearings shall be conducted in accordance with written rules and procedures
16 consistent with this Chapter 14.09 and the Administrative Code, Chapter 3.02.

17 H. The Commission, within 30 days after receiving notice of the date of hearing from
18 the Hearing Examiner, at its discretion, may appoint two Commissioners, who have not
19 otherwise been involved in the charge, investigation, fact finding, or other resolution and
20 proceeding on the merits of the case, who have not formed an opinion on the merits of the case,
21 and who otherwise have no pecuniary, private, or personal interest or bias in the matter, to hear
22 the case with the Hearing Examiner. Each Commissioner shall have an equal vote with the
23 Hearing Examiner. The Hearing Examiner shall be the chairperson of the panel and make all

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1 evidentiary rulings. The Hearing Examiner shall resolve any question of previous involvement,
2 interest, or bias of an appointed Commissioner in conformance with the law on the subject. Any
3 reference in this Chapter 14.09 to a decision, order, or other action of the Hearing Examiner shall
4 include, when applicable, the decision, order, or other action of a panel constituted under this
5 subsection.

6 **14.09.090 Decision and order**

7 A. Within 30 days after conclusion of the hearing, the Hearing Examiner shall
8 prepare a written decision and order, file it as a public record with the City Clerk, and provide a
9 copy to each party of record and to the Department.

10 B. Such decision shall contain a brief summary of the evidence considered and shall
11 contain findings of fact, conclusions of law upon which the decision is based, and an order
12 detailing the relief deemed appropriate, together with a brief statement of the reasons supporting
13 the decision.

14 C. In the event the Hearing Examiner or a majority of the panel composed of the
15 Hearing Examiner and Commissioners determines that a respondent has committed a violation
16 under this Chapter 14.09, the Hearing Examiner may order the respondent to take such
17 affirmative action or provide for such relief as is deemed necessary to correct the violation,
18 effectuate the purpose of this Chapter 14.09, and secure compliance therewith, including but not
19 limited to rent refund or credit, reinstatement to tenancy, affirmative recruiting and advertising
20 measures, or payment of reasonable attorney's fees and costs, or to take such other action as in
21 the judgment of the Hearing Examiner will carry out the purposes of this Chapter 14.09. An
22 order may include the requirement for a report on the matter of compliance.

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1 D. The Department in the performance of its functions may enlist the aid of all
2 departments of City government, and all said departments are directed to fully cooperate with the
3 Department.

4 **14.09.095 Appeal from Hearing Examiner order**

5 A. The respondent may obtain judicial review of the decision of the Hearing
6 Examiner by applying for a Writ of Review in King County Superior Court within 14 days from
7 the date of the decision in accordance with the procedure set for in chapter 7.16 RCW, other
8 applicable law, and court rules.

9 B. The decision of the Hearing Examiner shall be final and conclusive unless review
10 is sought in compliance with this Section 14.09.095.

11 **14.09.100 Civil penalties in cases alleging violations of this Chapter 14.09**

12 A. In cases either decided by the Director or brought by the City Attorney alleging a
13 violation filed under this Chapter 14.09, in addition to any other award of damages or grant of
14 injunctive relief, a civil penalty may be assessed against the respondent to vindicate the public
15 interest, which penalty shall be payable to The City of Seattle and the Department. Payment of
16 the civil penalty may be required as a term of a conciliation agreement entered into under
17 subsection 14.09.080.A or may be ordered by the Hearing Examiner in a decision rendered under
18 Section 14.09.090.

19 B. The civil penalty assessed against a respondent shall not exceed the following
20 amount:

- 21 1. \$11,000 if the respondent has not been determined to have committed any
22 prior violation;

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1 2. \$27,500 if the respondent has been determined to have committed one
2 other violation during the five-year period ending on the date of the filing of this charge; or

3 3. \$55,000 if the respondent has been determined to have committed two or
4 more violations during the seven-year period ending on the date of the filing of this charge;
5 except that if acts constituting the violation that is the subject of the charge are committed by the
6 same person who has been previously determined to have committed acts constituting a
7 violation, then the civil penalties set forth in subsections 14.09.100.B.2 and 14.09.100.B.3 may
8 be imposed without regard to the period of time within which those prior acts occurred.

9 **14.09.105 Enforcement of Department and Hearing Examiner orders and agreements**

10 A. In the event a City respondent fails to comply with any final order of the Director
11 or of the Hearing Examiner, a copy of the order shall be transmitted to the Mayor, who shall take
12 appropriate action to secure compliance with the final order.

13 B. In the event a respondent fails to comply with any final order issued by the
14 Hearing Examiner not directed to the City or to any City department, the Director shall refer the
15 matter to the City Attorney, for the filing of a civil action to enforce such order.

16 C. Whenever the Director has reasonable cause to believe that a respondent has
17 breached a settlement or conciliation agreement, the Director shall refer the matter to the City
18 Attorney for filing of a civil action to enforce such agreement.

19 **14.09.110 Exclusions and other legal requirements**

20 A. This Chapter 14.09 shall not be interpreted or applied to diminish or conflict with
21 any requirements of state or federal law, including but not limited to Title VIII of the Civil
22 Rights Act of 1968, the Federal Fair Credit Reporting Act, 15 U.S.C. 1681 et seq., as amended;
23 the Washington State Fair Credit Reporting Act, chapter 19.182 RCW, as amended; and the

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1 Washington State Criminal Records Privacy Act, chapter 10.97 RCW, as amended. In the event
2 of any conflict, state and federal requirements shall supersede the requirements of this Chapter
3 14.09.

4 B. This Chapter 14.09 shall not apply to an adverse action taken by landlords of
5 federally assisted housing subject to federal regulations that require an adverse action, including
6 but not limited to when any member of the household is subject to a lifetime sex offender
7 registration requirement under a state sex offender registration program and/or convicted of
8 manufacture or production of methamphetamine on the premises of federally assisted housing.

9 C. This Chapter 14.09 shall not apply to the renting, subrenting, leasing, or
10 subleasing of a single-family dwelling; or a residence housing one family or household or one
11 that is designed for one family only or a unit so designed; wherein the owner or person entitled to
12 possession thereof maintains a permanent residence, home, or abode.

13 D. This Chapter 14.09 shall not apply to rooms or units in dwellings containing
14 living quarters occupied or intended to be occupied by no more than four families living
15 independently of each other, if the owner actually maintains and occupies one of such living
16 quarters as their residence.

17 E. This Chapter 14.09 shall not apply to an accessory dwelling unit or detached
18 accessory dwelling unit wherein the owner or person entitled to possession thereof maintains a
19 permanent residence, home, or abode on the same lot.

20 F. This Chapter 14.09 shall not be construed to discourage or prohibit landlords from
21 adopting screening policies that are more generous to prospective occupants and tenants than the
22 requirements of this Chapter 14.09.

23 G. This Chapter 14.09 shall not be construed to create a private civil right of action.

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1 **14.09.115 Severability**

2 The provisions of this Chapter 14.09 are declared to be separate and severable. If any
3 clause, sentence, paragraph, subdivision, section, subsection, or portion of this Chapter 14.09, or
4 the application thereof to any landlord, prospective occupant, tenant, person, or circumstance, is
5 held to be invalid, it shall not affect the validity of the remainder of this Chapter 14.09, or the
6 validity of its application to other persons or circumstances.

7 Section 3. Section 3.14.931 of the Seattle Municipal Code, last amended by Ordinance
8 125231, is amended as follows:

9 **3.14.931 Seattle Human Rights Commission—Duties**

10 The Seattle Human Rights Commission shall act in an advisory capacity to the Mayor, City
11 Council, Office for Civil Rights, and other City departments in respect to matters affecting
12 human rights, and in furtherance thereof shall have the following specific responsibilities:

13 A. To consult with and make recommendations to the Director of the Office for Civil
14 Rights and other City departments and officials with regard to the development of programs for
15 the promotion of equality, justice, and understanding among all citizens of the City;

16 B. To consult with and make recommendations to the Director of the Office for Civil
17 Rights with regard to problems arising in the City which may result in discrimination because of
18 race, religion, creed, color, national origin, sex, marital status, parental status, sexual orientation,
19 gender identity, political ideology, age, ancestry, honorably discharged veteran or military status,
20 genetic information, the presence of any ~~((sensory, mental, or physical))~~ disability, alternative
21 source of income, ~~((the possession or use of))~~ participation in a Section 8 ((rent certificate)) or
22 other subsidy program, right of a mother to breastfeed her child, or the use of a ~~((trained guide~~

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1 ~~er~~) service (~~dog~~) animal by a (~~handicapped~~) disabled person, and to make such investigations
2 and hold such hearings as may be necessary to identify such problems;

3 C. As appropriate, recommend policies to all departments and offices of the City in
4 matters affecting civil rights and equal opportunity, and recommend legislation for the
5 implementation of such policies;

6 D. Encourage understanding between all protected classes and the larger Seattle
7 community, through long range projects;

8 E. Hear appeals and hearings as set forth in Chapters 14.04, 14.06, ~~(and)~~ 14.08, and
9 14.09 of the Seattle Municipal Code;

10 F. Report on a semi-annual basis to the Mayor and the City Council. The reports
11 shall include an annual or semi-annual work plan, a briefing of the Commission’s public
12 involvement process for soliciting community and citizen input in framing their annual work
13 plans, and updates on the work plans; and

14 G. Meet on a quarterly basis through a designated representative with the Seattle
15 Women’s Commission, the Seattle LGBTQ (Lesbian, Gay, Bisexual, Transgender, Queer)
16 Commission, and the Seattle Commission for People with Disabilities to ensure coordination and
17 joint project development.

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1 Section 4. Sections 1, 2, and 3 of this ordinance shall take effect and be in force 150 days
2 after the effective date of this ordinance, to ensure there is adequate time for rule-making and
3 any adjustments in business practices needed.

4 Section 5. This ordinance shall take effect and be in force 30 days after its approval by
5 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
6 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

7 Passed by the City Council the _____ day of _____, 2017,
8 and signed by me in open session in authentication of its passage this _____ day of
9 _____, 2017.

10 _____
11 President _____ of the City Council

12 Approved by me this _____ day of _____, 2017.

13 _____
14 Edward B. Murray, Mayor

15 Filed by me this _____ day of _____, 2017.

16 _____
17 Monica Martinez Simmons, City Clerk

18 (Seal)



City of Seattle
Mayor Edward B. Murray

June 20, 2017

Honorable Bruce A. Harrell, President
Seattle City Council
City Hall 2nd Floor

Dear Council President Harrell:

I am pleased to transmit the attached proposed Fair Chance Housing legislation for your consideration in accordance with Resolution 31622, which adopted the work plan for implementing the City's Housing Affordability and Livability (HALA) agenda.

For nearly a decade community groups have called on the City to address the impacts that criminal records have on a person's ability to rent housing. Due to the rise in access to online records, employers and landlords are increasingly relying on criminal background checks when screening applicants and often applying overly broad exclusions to anyone with any conviction record. In 2010, women living in transitional housing and community groups working to support people who had served their time, called on the City to adopt regulations in employment and housing to address these practices. In 2013, the City passed Fair Chance Employment legislation, removing barriers for those seeking jobs. Community groups have continued to call on the City to address the barriers in housing and HALA made the issue one of its final recommendations.

Racial equity is central to the issue of fair chance housing. Due to racial bias in tenant selection and racial disparities in the criminal justice system people of color face compounding effects of criminal records. While this legislation will not cure the deep racial inequities that exist in housing access and within our criminal justice system, it aims to make an impact by centering racial equity and addressing the ways in which African Americans, Native Americans, Latinos, and other communities of color are disproportionality harmed by current policies and practices.

The legislation was developed with input from a stakeholder committee comprised of tenant advocates, landlord associations, affordable housing providers, organizations working on re-entry issues, and people experiencing barriers to housing because of their criminal history. The legislation does not represent a consensus from the group, but the legislation aims to address barriers while balancing concerns.

Specifically, the proposed legislation:

- Prohibits blanket or categorical exclusions of criminal history in rental advertisements;
- Regulates the tenant screening process by prohibiting a landlord from asking about:
 - Arrests that did not lead to a conviction, including pending criminal charges;

Honorable Bruce A. Harrell
June 20, 2017
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- o Convictions that have been expunged, vacated or sealed;
- o Juvenile records, including information obtained from a sex offender registry against a juvenile;
- o Convictions and other criminal history that are older than two years.

The legislation requires a business justification when a landlord takes an adverse action against a tenant or applicant because of a conviction record that is less than two years old or information obtained from a sex offender registry. The legislation also requires landlords to ensure the applicant is given notice of this law and an opportunity to correct erroneous records. The legislation includes exemptions for certain types of housing and federal requirements.

If enacted, the proposed legislation brings us one step closer addressing the racial inequities in our community. Fair access to housing is the bedrock of a strong and inclusive community. In 2013, Seattle passed fair chance legislation in employment which has assisted those who have served their time, find jobs. Yet for many, housing remains out of reach. This legislation will address that gap and assure that women and men who have served their time and have found employment, can also find a safe and stable place to call home.

Thank you for your consideration of this legislation. If you have any questions, please contact Leslie Brinson Price at 386-9136.

Sincerely,



Edward B. Murray
Mayor, City of Seattle

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Record No: CB 119015 Version: Council Bill No: CB 119015
 Type: Ordinance (Ord) Status: Passed
 Current Controlling Legislative Body: City Clerk
 Ordinance No: Ord 125393

Title: AN ORDINANCE relating to housing regulations; adding a new Chapter 14.09 (Fair Chance Housing) to the Seattle Municipal Code to regulate the use of criminal history in rental housing; authorizing the Seattle Office for Civil Rights to enforce the regulations set out in this new chapter; and amending Section 3.14.931 of the Seattle Municipal Code to expand the Seattle Human Rights Commission's duties.

Sponsors: Lisa Herbold, Bruce Harrell

Supporting documents: [1. Proposed Substitute](#), [2. Summary and Fiscal Note v2](#), [3. Summary Att 1 - Racial Equity Toolkit - Fair Chance Housing](#), [4. Summary and Fiscal Note v1](#), [5. Mayor's Letter](#), [6. Office for Civil Rights Memo](#), [7. Presentation](#), [8. Central Staff Memo \(added 7/25/17\)](#), [9. Memo Att A: Proposed Amendment \(added 7/25/17\)](#), [10. Central Staff Memo](#), [11. Memo Att A: Proposed Amendment](#), [12. CF 320351: Documents and Research Supporting CB 119015](#), [13. Signed Ordinance 125393](#), [14. Affidavit of Publication](#)

[History \(11\)](#) | [Text](#)

11 records		Group	Export					
Date	Ver.	Action By		Action	Result	Action Details	Meeting Details	Seattle Channel
8/23/2017	3	City Clerk		attested by City Clerk		Action details	Meeting details	
8/23/2017	3	Mayor		Signed		Action details	Meeting details	
8/23/2017	3	Mayor		returned		Action details	Meeting details	
8/16/2017	3	City Clerk		submitted for Mayor's signature		Action details	Meeting details	
8/14/2017	1	City Council		passed as amended	Pass	Action details	Meeting details	
8/8/2017	1	Civil Rights, Utilities, Economic Development, and Arts Committee		pass as amended	Pass	Action details	Meeting details	
7/25/2017	1	Civil Rights, Utilities, Economic Development, and Arts Committee		discussed		Action details	Meeting details	
6/26/2017	1	City Council		referred		Action details	Meeting details	
6/22/2017	1	Council President's Office		sent for review		Action details	Meeting details	
6/20/2017	1	City Clerk		sent for review		Action details	Meeting details	
6/20/2017	1	Mayor		Mayor's leg transmitted to Council		Action details	Meeting details	

SEATTLE CITY COUNCIL - Action Details

Details

Record No: CB 119015 Version: 1
 Type: Ordinance (Ord)
 Title: AN ORDINANCE relating to housing regulations; adding a new Chapter 14.09 (Fair Chance Housing) to the Seattle Municipal Code to regulate the use of criminal history in rental housing; authorizing the Seattle Office for Civil Rights to enforce the regulations set out in this new chapter; and amending Section 3.14.931 of the Seattle Municipal Code to expand the Seattle Human Rights Commission's duties.
 Result:
 Agenda note:
 Minutes note:
 Action: referred
 Action text: The Council Bill (CB) was referred. to the Civil Rights, Utilities, Economic Development, and Arts Committee

Votes (0:0)

0 records	
Person Name	Vote
No records to display.	

Racial Equity Toolkit

to Assess Policies, Initiatives, Programs, and Budget Issues



The vision of the Seattle Race and Social Justice Initiative is to eliminate racial inequity in the community. To do this requires ending individual racism, institutional racism and structural racism. The Racial Equity Toolkit lays out a process and a set of questions to guide the development, implementation and evaluation of policies, initiatives, programs, and budget issues to address the impacts on racial equity.

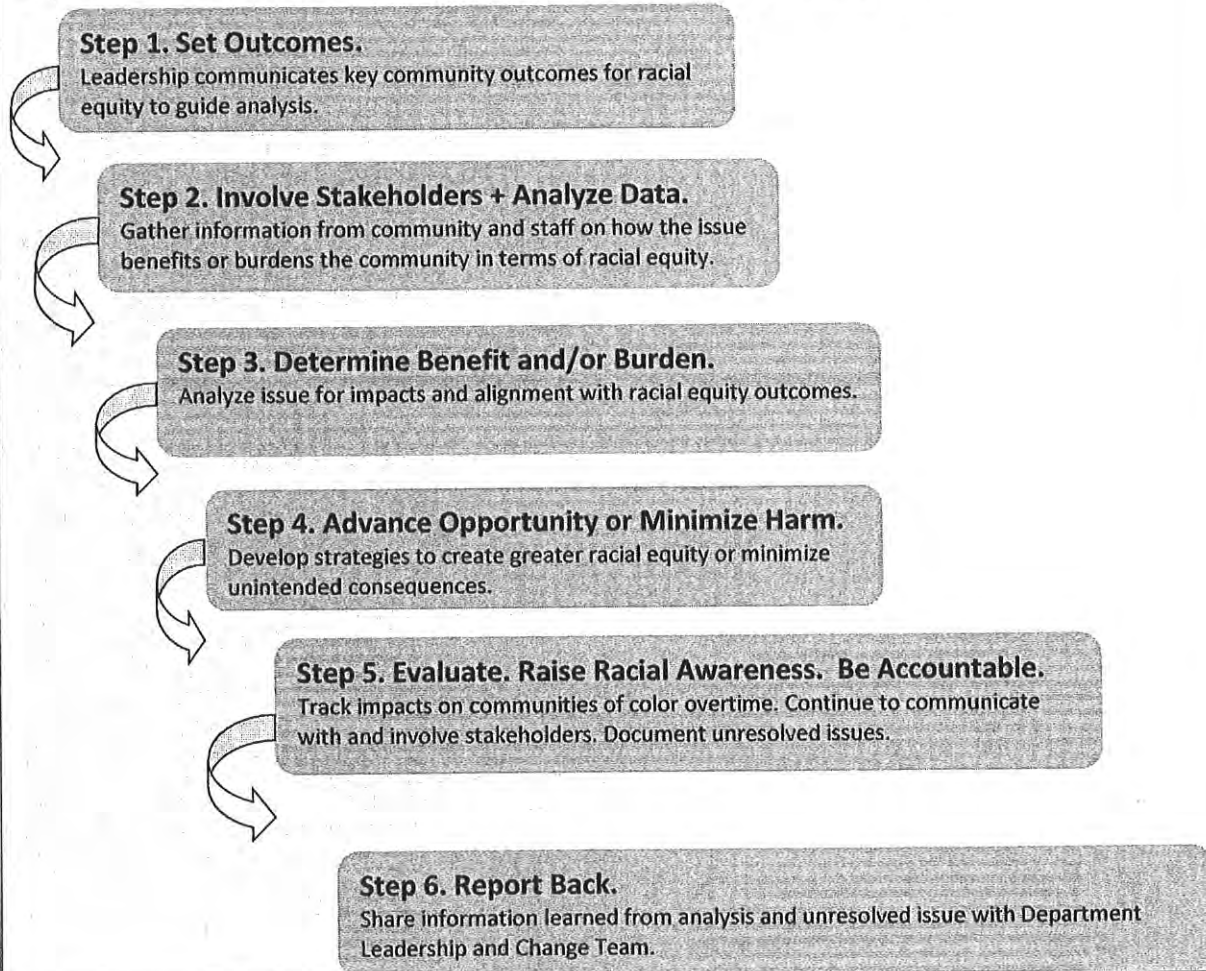
When Do I Use This Toolkit?

Early. Apply the toolkit early for alignment with departmental racial equity goals and desired outcomes.

How Do I Use This Toolkit?

With Inclusion. The analysis should be completed by people with different racial perspectives.

Step by step. The Racial Equity Analysis is made up of six steps from beginning to completion:



Summary Att 1 - Racial Equity Toolkit - Fair Chance Housing
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Racial Equity Toolkit Assessment Worksheet

Title of policy, initiative, program, budget issue: Fair Chance Housing

Description: Regulating the use of arrest and conviction records in rental housing.

Department: Seattle Office for Civil Rights Contact: Brenda Anibarro, Erika Koch Pablo, and Caedmon Cahill

Policy Initiative Program Budget Issue

Step 1. Set Outcomes.

1a. What does your department define as the most important racially equitable community outcomes related to the issue?

Racial Equity Outcome 1. Increase racial equity by providing housing access

Racial equity is central to the issue of fair chance housing. People of color face compounding effects of criminal records due to racial bias in tenant selection (see OCR Fair Housing Testing, <http://www.seattle.gov/civilrights/civil-rights/fair-housing/testing>) as well as racial disparities in the criminal justice system (see 2b). While this legislation will not cure the deep racial inequities that exist in housing access and within our criminal justice system, it aims to make an impact by centering racial equity and addressing the ways in which African Americans, Native Americans, Latinos, and other communities of color are disproportionality harmed by current policies and practices.

1b. Which racial equity opportunity area(s) will the issue primarily impact?

- | | |
|---|--|
| <input checked="" type="checkbox"/> Education | <input checked="" type="checkbox"/> Criminal Justice |
| <input checked="" type="checkbox"/> Community Development | <input checked="" type="checkbox"/> Jobs |
| <input type="checkbox"/> Health | <input checked="" type="checkbox"/> Housing |
| <input type="checkbox"/> Environment | |

1c. Are there impacts on:

- | | |
|---|--|
| <input type="checkbox"/> Contracting Equity | <input type="checkbox"/> Immigrant and Refugee Access to Services |
| <input type="checkbox"/> Workforce Equity | <input checked="" type="checkbox"/> Inclusive Outreach and Public Engagement |

Summary Att 1 - Racial Equity Toolkit - Fair Chance Housing
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Step 2. Involve stakeholders. Analyze data.

2a. Are there impacts on geographic areas? Yes No

- All Seattle neighborhoods
- Ballard
- North
- NE
- Central

- Lake Union
- Southwest
- Southeast
- Delridge
- Greater Duwamish

- East District
 - King County (outside Seattle)
 - Outside King County
- Please describe:

2b. What are the racial demographics of those living in the area or impacted by the issue?

Landlords deny applicants with criminal history for a variety of reasons, and often without a clear relationship to tenancy or safety of residents. As online background checks become more common and access to criminal record information is more readily accessible, there has been an increase in the number of people who have been unable to secure housing based on their criminal record. Over the last seven years, community groups have urged the City to act to address the impacts that criminal records have on a person’s ability to rent housing.

It is estimated that across race, approximately 30% (173,714) of Seattle residents over the age of 18 have an arrest or conviction record and that 7%, or 43,428 people, have a felony record.¹

While the barriers faced by a criminal record exist across race, major disparities exist in who is incarcerated in Washington state and who has access to housing. African Americans are 3.4% of the overall state population, but account for nearly 18.4% of the state’s prison population; Latinos are 11.2% of Washington’s population, but account for 13.2% of the state’s prison population; and Native Americans are 1.3% of the state population, but account for 4.7% of the state’s prison population.

Here in King County, African Americans are 6.8% of the overall population,² but account for 36.3% of the King County jail population.³ Native Americans are 1.1%,⁴ but account for 2.4% of the King County jail population.⁵ While the Latino population in King County is 9.5%,⁶ Latinos are aggregated with the white population data in the King County Jail, so rate of incarceration for Latino adults in King County is unknown.⁷

Criminal history does not only impact adults, but it also impacts children with criminal history and their families’ search for housing. African American youth account for 6.8% of the overall King County population,⁸ but account for 47.3% of those in juvenile detention;⁹ Native American youth account for 0.8% of the overall King County population,¹⁰ but

¹ Prevalence estimates sent by University of Washington Sociologist Katherine Beckett
² <https://www.census.gov/quickfacts/table/PST045216/53033,53#headnote-js-a>
³ http://www.kingcounty.gov/~media/courts/detention/documents/KC_DAR_Monthly_Breakouts_05_2017.ashx?la=en
⁴ <https://www.census.gov/quickfacts/table/PST045216/53033,53#headnote-js-a>
⁵ http://www.kingcounty.gov/~media/courts/detention/documents/KC_DAR_Monthly_Breakouts_05_2017.ashx?la=en
⁶ <https://www.census.gov/quickfacts/table/PST045216/53033,53#headnote-js-a>
⁷ http://www.kingcounty.gov/~media/courts/detention/documents/KC_DAR_Monthly_Breakouts_05_2017.ashx?la=en
⁸ <https://www.census.gov/quickfacts/table/PST045216/53033,53>
⁹ King County Juvenile Justice Statistics Comparison of 2015 to 2016
¹⁰ <https://www.census.gov/quickfacts/table/PST045216/53033,53>

Summary Att 1 - Racial Equity Toolkit - Fair Chance Housing
V1a

account for 3.4% of those in juvenile detention; and Latino youth account for 9.5% of the overall King County population,¹¹ but account for 20.6% of those in juvenile detention.¹²

It is critical to point out that these disparities do not reflect a greater rate of crime committed by people of color compared to the white population. Rather, the disparity by race is the result of an interplay of racial bias, bias policing, sentencing policies and systemic inequities. The Sentencing Project, citing Bureau of Justice Statistics data, has stated, "Overall, African Americans are more likely than white Americans to be arrested; once arrested, they are more likely to be convicted; and once convicted, they are more likely to face stiff sentences. Black men are six times as likely to be incarcerated as white men and Hispanic men are more than twice as likely to be incarcerated as non-Hispanic white men."¹³

Further, people of color who do not have records are harmed by existing racial bias in tenant selection that may associate race with criminality. In 2014, 64% of OCR's fair housing tests found incidents of different treatment based on race. In some cases, African Americans were told they would have to undergo a criminal record check when similarly situated white counterparts were not.

2c. How have you involved community members and stakeholders?

For nearly a decade, community groups have called on the City to address barriers faced by renters with criminal records. In 2010, OCR convened two public forums bringing together over 300 people, two thirds of whom testified in support of legislation to address barriers in housing and employment. Council responded by unanimously passing Fair Chance Employment legislation and asking the Office of Housing and OCR to work with nonprofit housing providers on best practices for housing screening. The nature of these conversations focused on barriers to housing, experiences with criminal history and access to housing, and unintended consequences of any potential legislation.

Efforts by City departments have been successful at getting many nonprofit providers to understand the importance of individually assessing applicants to avoid racially disparate impacts caused by blanket exclusion policies. The Office of Housing held educational sessions for housing providers on the impacts of criminal record screening on racial equity and developed a guide on selecting a tenant screening agency.

While these efforts have made an impact, many affordable housing providers and landlords of market rate units continue policies and practices that broadly exclude people with criminal records.

In 2015, the Housing and Affordability and Livability Agenda (HALA) committee recommended that the City address the barriers faced by renters with criminal records via legislation, education, and technical assistance. In response, the Mayor's Action Plan to Address Seattle's Affordability Crisis called for stakeholders to provide input on legislation that would address two goals: public safety and racial equity. OCR convened stakeholders for six meetings held between January 2016 and January 2017. Stakeholders represented a diverse array of interests including persons with prior convictions, legal advocacy organizations, landlord associations, nonprofit housing providers, and social service agencies specializing in working with people in re-entry (Fair Chance Housing Stakeholder list attached).

OCR also reached out to residents living at Jubilee Women's Center (formerly Sojourner Place Transitional Housing), the Village of Hope, members of the Black Prisoners Caucus at Clallam Bay State Penitentiary, the FARE Coalition and the

¹¹ King County Juvenile Justice Statistics Comparison of 2015 to 2016

¹² <https://www.census.gov/quickfacts/table/PST045216/53033,53>

¹³ <http://www.sentencingproject.org/criminal-justice-facts/>

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City of Seattle Reentry Workgroup for their input on this policy. All groups emphasized the importance of centering racial equity as a part of this legislation.

2d. What does data and your conversations with stakeholders tell you about existing racial inequities that influence people's lives and should be taken into consideration?

The genesis of the Fair Chance Housing bill has been led by community organizing by women living in transitional housing (Sojourner Place Transitional Housing) and community members with the Village of Hope, working to support women and men who were formerly incarcerated. From the outset, community members have been clear that the barriers to housing are rooted in structural racism and to address the barriers, we must address racism that persists across systems, including in the criminal justice system.

Structural racism and family reunification - During the public meeting OCR held in 2011, many mothers and fathers spoke about the inability to find housing to provide for their children because of their own record or their child's record. We know that nearly half of all children in the U.S. have one parent with a criminal record.¹⁴ With support from the Village of Hope, OCR staff visited with the Black Prisoner's Caucus at Clallam Bay State Penitentiary in October of 2016. When asked how many in the room were planning to return home to Seattle after their sentence was complete, about 80% said yes. A few of the men spoke about the obstacles facing them including knowing they have nowhere to live because their mother and girlfriends live in subsidized housing and they didn't want to jeopardize their family's ability to stay housed given screening criteria based on prior convictions. Those we have met with have been clear that community members with conviction records are not isolated individuals looking for places to live but are mothers, fathers, and children of people in our community. They are a part of our community.

Stakeholders shared that while efforts surrounding fair chance employment has provided some assistance, many community members who are able to find employment, including through programs like Targeted Local Hire, are not always able to find housing. Housing stability is critical in maintaining employment and ensuring stability for themselves and their family.

In 2016, the University of Michigan published a study on the unintended consequences of ban the box policies on racial equity. The study found that absent the ability to see criminal history information, employers relied on racial bias, associated blackness with criminality, and rejected applicants with a Black-sounding name. The study found that before Ban the Box was put into place white applicants received 7% more callbacks than similar black applicants. This disparity increased to 45% after Ban the Box was put into place.¹⁵ The white applicants with records received more call backs than Black applicants including Black applicants without criminal records. Black applicants without records were more likely to not be called back at a higher rate after Ban the Box was implemented. OCR brought this study into its conversations with community and with the Fair Chance Committee. In response, community was clear that the City's Fair Chance policy must center racial equity to ensure that there are no unintended consequences that cause greater harm.

To address this, the policy proposal includes a bright line look-back period to reduce instances where racial bias may be introduced into the process. OCR is also proposing that landlords receive anti-bias training. This training would be a requirement for a cause finding or settlement agreement and voluntarily for all others through a new Fair Home Program. Fair Chance Housing would also be subject to proactive enforcement through Director's Charges and housing testing.

¹⁴ Center for American Progress, "Removing Barriers to Opportunity for Parents With Criminal Records and Their Children" (December 2015)

¹⁵ Agan, Amanda Y. and Starr, Sonja B., Ban the Box, Criminal Records, and Statistical Discrimination: A Field Experiment (June 14, 2016). U of Michigan Law & Econ Research Paper No. 16-012.

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2e. What are the root causes or factors creating these racial inequities?

Examples: Bias in process; Lack of access or barriers; Lack of racially inclusive engagement

Criminal justice system and race

In addition to the racial disparities in the criminal justice system outlined earlier, people of color, and African Americans in particular, are harmed by the ways in which race is wrongfully associated with criminality. Studies show that in the United States, there is a racially biased assumption, whereby “Blackness” gets closely associated with criminality. As Michelle Alexander writes, “Today mass incarceration defines the meaning of blackness in America: Black people, especially Black men, are criminals. That is what it means to be Black.”¹⁶ The narrative of public safety surrounding the need for criminal background checks does not exist outside this societal context.

Racial inequity in homeownership:

A recent report by the *Seattle Times* shows that only 28% of Black households in King County own their home, representing one of the lowest rates in the nation. For Latino households, the rate is 34%. In contrast, 68% of white households in King County own their home.¹⁷ Communities of color make up a disproportionate share of renters and practices impacting tenants have a disproportionate impact on these communities.

Seattle’s history of structural and institutional racism:

Seattle has a history of development practices rooted in institutional racism that has concentrated political, economic, and geographic power in white communities to the detriment of people of color. Red lining, racial covenants, “race neutral” zoning practices, inequitable job growth, and institutional support for gentrification have all contributed to severe racial inequities in Seattle’s housing demographics.¹⁸

Step 3. Determine Benefit and/or Burden.

Given what you have learned from data and from stakeholder involvement...

3. How will the policy, initiative, program, or budget issue increase or decrease racial equity? What are potential unintended consequences? What benefits may result? Are the impacts aligned with your department’s community outcomes that were defined in Step 1.?

The potential unintended consequences that we have identified include:

2 year look back

This legislation allows landlords to take an adverse action based on a conviction record that occurred within two years from the rental application. This poses a risk to the applicants who have criminal history within those two years. A

¹⁶ Alexander, Michelle. *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*

¹⁷ http://www.seattletimes.com/seattle-news/data/the-rise-and-dramatic-fall-of-king-countys-black-homeowners/?utm_source=referral&utm_medium=mobile-app&utm_campaign=ios

¹⁸ Puget Sound Sage, “The HALA Recommendations, Why We Support Them, and Why It is About Race” <https://soundprogress.wordpress.com/2015/08/11/the-hala-recommendations-why-we-support-them-and-why-it-is-about-race/>.

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majority of these individuals are experiencing homelessness and repeatedly involved in the criminal justice system for often low level offenses and the majority of these individuals are people of color.

In King County, 11,634 people are experiencing homelessness.¹⁹ An All Home survey found 55% of respondents reported being in jail or juvenile detention.²⁰ Also, 29% self-reported as Black or African American, 13% as Hispanic or Latino, 11% as multiple races, and 10% as American Indian or Alaska Native. For All Home's coordinated entry program of the unsheltered individuals, 53% of the family heads of households identify as Black or African American and 40% of young adults identify as Black or African American.²¹

Familiar Faces, a King County taskforce developing a plan to better support individuals with complex social and health issues who regularly interact with the King County Jail system.²² Of these "familiar faces" 58.6% are experiencing homelessness and 39.6% are Black.²³

The 2-year look back creates an access gap for individuals experiencing homelessness, with low level offenses, disproportionality living with disabilities, and disproportionality Black.

Michigan Study - Unintended Consequences of Ban the Box

As mentioned in 2d, the Michigan Study showed that once ban the box policies were implemented Black applicants were less likely to receive a call back because employers were associating blackness with criminality. Even though this legislation is intended to minimize racial bias, it will likely not be able to erase the amount of racial bias that plays in a rental housing decision.

The City's First in Time legislation will hopefully minimize some of these biases by requiring the landlord to rent to the first qualified applicant. First in Time coupled with Fair Chance Housing will require landlords to rent to an applicant based on qualifications.

Increase Standards for Screening Criteria

Still, landlords may increase the standards for screening criteria to discourage individuals with conviction records from applying, or to prevent successful applications from individuals with criminal history. Landlords have expressed that this legislation may compel them to increase their rental value, income requirements, credit score, and add other requirements which could likely screen out individuals living with criminal history.

Step 4. Advance Opportunity or Minimize Harm.

4. How will you address the impacts (including unintended consequences) on racial equity? What strategies address immediate impacts? What strategies address root causes of inequity listed in Q.6? How will you partner with stakeholders for long-term positive change? If impacts are not aligned with desired community outcomes, how will you re-align your work?

¹⁹ <http://allhomekc.org/wp-content/uploads/2016/11/Count-Us-In-2017-news-release-5-31-16.pdf>

²⁰ <http://allhomekc.org/wp-content/uploads/2016/11/2017-King-PIT-Count-Comprehensive-Report-FINAL-DRAFT-5.31.17.pdf>

²¹ <http://allhomekc.org/wp-content/uploads/2016/01/Coordinated-Entry-for-All-Evaluation-Quarter-Three-2016.pdf>

²² Familiar Faces Data Packet: Current State – Analysis of Population, Updated May 2016

²³ *Id.*

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Program Strategies: Fair Home Program – This program will provide training on the use of criminal history in housing and other fair housing laws to landlords and property managers. The program’s goal will be to reduce racial and other bias in tenant selection. Completion of the training program will result in landlords receiving certification as a Fair Housing Home participant.

Policy Strategies: The Seattle Reentry Workgroup is already tasked with a review of City investments to recommend additional policies or strategies to support those who may be harder to house and who may require additional assistance to access stable housing. Fair Chance housing legislation will increase and expand the work of the Reentry Workgroup.

Ensure policy allows for strong proactive enforcement actions. This will occur through OCR’s Director’s charges and housing testing.

Partnership Strategies: Build education on this issue through training for housing providers and individuals seeking housing. Also, include this issue in future fair housing partner contracts so that more members of the community are aware of their rights and that agencies contact us when they see a violation occur.

Step 5. Evaluate. Raise Racial Awareness. Be Accountable.

5a. How will you evaluate and be accountable? How will you evaluate and report impacts on racial equity over time? What is your goal and timeline for eliminating racial inequity? How will you retain stakeholder participation and ensure internal and public accountability? How will you raise awareness about racial inequity related to this issue?

Conduct fair housing testing on the use of criminal records in housing every two years to see if outcomes are improving. Monitor racial inequities in housing cost burden data to see if we are moving the needle. Fold this issue into our overall education and outreach efforts with the community.

To measure unintended consequences similar to those found in the Michigan study, a pre/post evaluation should be done in order to measure the legislation’s impact. Funding would need to be identified for this evaluation to occur.

5b. What is unresolved? What resources/partnerships do you still need to make changes?

Funding for evaluation, Fair Housing Home program, outreach and education (implementation) still not determined.

OCR has had success using grants to community organizations to multiply our outreach efforts. With these grants, we are able to foster our community relationships, invest in community, allow for the subject matter experts to engage with their own community, and inform the community on fair housing and other discrimination laws.

Step 6. Report Back.

Share analysis and report responses from Q.5a. and Q.5b. with Department Leadership and Change Team Leads and members involved in Step 1.



Seattle Office for Civil Rights

Edward B. Murray, Mayor
Patricia Lally, Director

Date: July 10, 2017
To: Councilmember Lisa Herbold
From: Patricia Lally, 233-7822
Subject: Fair Chance Housing

Background

An estimated one in every three adults in the United States has an arrest or a conviction record¹ and nearly half of all children in the U.S. have one parent with a criminal record.² It is estimated that approximately 30% (173,714) of Seattle residents over the age of 18 have an arrest or conviction record and that 7%, or 43,428 people, have a felony record.³

Due to a rise in the use of criminal background checks during the tenant screening process, people with arrest and conviction records face major barriers to access housing. In some cases, landlords categorically exclude people with any prior arrest or conviction. One study found that 43% of Seattle landlords are inclined to reject an applicant with a criminal history.⁴ All Home has reported that one in five people who leave prison become homeless soon thereafter.⁵

*"Don't be a felon in the city and try to get an apartment.
No amount of money can get you past a felony."
- Resident, City of Seattle 2016 Homeless Needs Assessment*

Landlords deny applicants with convictions for a variety of reasons, and often without a clear relationship to tenancy or safety of residents. One screening agency reported that theft in the second degree was one of the top reasons for denial. Convictions on this basis can include the theft of an iPhone.

Without a legitimate business reason, screening based on a criminal conviction can be a tool for racial discrimination. In 2016, HUD issued guidance on the use of arrest and conviction records in housing. In the guidance, HUD states screening policies and practices can have a discriminatory impact due to deep-rooted inequities in the criminal justice system and as such, require a legitimate nondiscriminatory interest to ensure compliance with fair housing law.

¹ U.S. Department of Justice Office of the Attorney General, "The Attorney General's Report on Criminal History Background Checks." (June 2006) at 51

² Center for American Progress, "Removing Barriers to Opportunity for Parents With Criminal Records and Their Children" (December 2015)

³ Prevalence estimates sent by University of Washington Sociologist Katherine Beckett

⁴ Helfgott, J.B. (1997). Exoffender needs versus community opportunity in Seattle, Washington. Federal Probation, 61, 12-24.

⁵ All Home citing National Alliance to End Homelessness, http://www.endhomelessness.org/pages/re_entry

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Housing providers have begun to come into compliance with the guidance, but it is anticipated to be rolled back under the Trump administration.

Legislative History

For nearly a decade, community groups have called on the City to address barriers faced by renters with criminal records. In 2010, OCR convened two public forums bringing together over 300 people, two thirds of whom testified in support of legislation to address barriers in housing and employment. Council responded by unanimously passing Fair Chance Employment legislation and asking the Office of Housing and OCR to work with nonprofit housing providers on best practices for housing screening.

Efforts by City departments have been successful at getting many nonprofit providers to understand the importance of individually assessing applicants to avoid racially disparate impacts caused by blanket policies of exclusion. The Office of Housing held educational sessions for housing providers on the impacts of criminal record screening on racial equity and developed a guide on selecting a tenant screening agency.

All Home has also taken steps to address this issue. All Home implemented coordinated entry for persons experiencing homelessness in King County and worked with funders, providers, and system partners to lower and standardize eligibility criteria in all publicly funded homeless programs to reduce the barriers to housing such as criminal records. Prior to this shift, homeless housing programs across King County held more than 100 distinct criteria related to evictions and criminal records causing a disparate impact on communities of color. In lowering barriers to programs, there are now only five types of criminal convictions included in screening for homeless housing programs and they are asked about only when necessary.

While these efforts have made an impact, many affordable housing providers and landlords of market rate units continue to have policies and practices that broadly exclude people with criminal records.

HALA Recommendation

In 2015, the Housing and Affordability and Livability Agenda (HALA) committee recommended that the City address the barriers faced by renters with criminal records via legislation, education, and technical assistance. In response, the Mayor's Action Plan to Address Seattle's Affordability Crisis called for stakeholders to provide input on legislation that would address two goals: racial equity and public safety. OCR convened stakeholders for six meetings held between August 2016 and January 2017. Stakeholders represented a diverse array of interests including persons with prior convictions, legal advocacy organizations, landlord associations, nonprofit housing providers, and social service agencies specializing in working with people in re-entry (Fair Chance Housing Stakeholder list attached).

Goal 1. Racial equity

Racial equity is central to the issue of fair chance housing. People of color face compounding effects of criminal records due to racial bias in tenant selection as well as racial disparities in the criminal justice system. In 2014, 64% of OCR's fair housing tests found incidents of different treatment based on race. In some cases, African Americans were told they would have to undergo a criminal record check when similarly situated white counterparts were not told.

Racial disparities in the criminal justice system have deeply and negatively harmed communities of color. Due to an interplay of racial bias, sentencing policies and systemic inequities, people of color make up 37% of the U.S. population but 67% of the prison population. The Sentencing Project citing Bureau of Justice Statistics data, has stated, "Overall, African Americans are more likely than white Americans to be arrested; once arrested, they are more likely to be convicted; and once convicted, they are more likely to face stiff sentences. Black men are six times as likely to be incarcerated as white men and Hispanic men are more than twice as likely to be incarcerated as non-Hispanic white men."⁶

These racial disparities hold in Washington as well. In Washington State, African Americans are 3.4% of the overall population but account for nearly 18.4% of the state's prison population; Latinos are 11.2% of Washington's population but account for 13.2% of the state's prison population; and Native Americans are 1.3% of the state population but account for 4.7% of the state's prison population.

Fair Chance Housing Committee stakeholders relayed the importance of ensuring legislation meaningfully addresses the experiences of communities of color. OCR also reached out to residents living at Jubilee Women's Center (formerly Sojourner Place Transitional Housing), the Village of Hope, and members of the Black Prisoners Caucus at Clallam Bay State Penitentiary for their input on this policy. All groups emphasized the importance of centering racial equity as a part of this legislation.

Goal 2: Keeping families together and building inclusive communities

Fair access to housing helps to keep families together. Nearly half of all children in the U.S. have one parent with a criminal record.⁷ Families also face barriers in keeping or finding new housing when they have a child with a juvenile record. As a result, many families have had to separate or face homelessness. About 80% of the young men we spoke with at the Black Prisoner's Caucus at Clallam Bay State Penitentiary plan to return to Seattle once their sentences are complete. One young man expressed that he knew he would be homeless because he didn't want to impact his mother's ability to stay housed through Seattle Housing Authority or impact his girlfriend's lease with her landlord.

While there are some transitional housing options available for those with prior records, providers impose barriers when trying to place people into permanent housing. Pioneer Human Services provides clients with up to 24 months of housing and yet Hilary Young, VP of Policy at Pioneer Human Services, states, "Many people do not have anywhere to turn once that time

⁶ <http://www.sentencingproject.org/criminal-justice-facts/>

⁷ Center for American Progress, "Removing Barriers to Opportunity for Parents With Criminal Records and Their Children" (December 2015)

expires, despite having established positive rental history, and are forced into sub-standard or dangerous housing situations or back onto the streets." Fair Chance Housing assures that parents who have served their time can reunite with their family and provide for their family, and children who have juvenile records can remain in their home, providing much needed stability.

Housing is a key ingredient for successful re-entry into the community. The Vera Institute of Justice has shown that housing also leads to reduced recidivism and that without housing a person was seven times more likely to reenter the criminal justice system.⁸ Stable housing, in conjunction with stable employment, ensures people can provide for themselves and their families.

Some stakeholders have expressed concern regarding the need to use criminal records as a public safety tool. Yet many landlords currently do not conduct criminal records checks and the safety of residents has not been impacted. Sociological research finds that the propensity to recommit a crime is not automatic. Rather, after 4 to 7 years where no re-offense has occurred, a person with a prior conviction is no more likely to commit a crime than someone who has never had a conviction.⁹

Studies have also shown that a conviction record alone is not a predictor for tenant success. A 2009 study conducted at Downtown Emergency Service Center showed that a criminal record was not statistically predictive of a failure to maintain housing and that rather, age was the only factor that could be used as a predictor of tenant success.¹⁰

Current State

The following laws and regulations currently impact rental advertisements, screening, and decisions in relation to criminal history.

1. WA Fair Credit Reporting Act (RCW 19.182)
Landlords cannot currently receive criminal history information from screening companies of:
 - offenses older than seven years (from date of disposition, release or parole)
 - juvenile records, if applicant is 21 or older
2. First in Time provision of the Open Housing Ordinance (SMC 14.08)

⁸ "The First Month Out: Post-Incarceration Experiences in New York City", Vera Institute of Justice, 1999.

<http://cowlitzfish.net/Whats%20New/files/562240fc8e0a4293598e23072a0a3fad-1030.html>

⁹ Kurlychek, et al. "Scarlet Letters & Recidivism: Does An Old Criminal Record Predict Future Criminal Behavior?" (2006) and "Redemption" In an Era of Widespread Criminal Background Checks," *NIJ Journal*, Issue 263 (June 2009), at page 10 - preliminary study with group of first-time 1980 arrestees in New York- the findings depend on the nature of the prior offense and the age of the individual.

¹⁰ Malone, Daniel, Assessing Criminal History as a Predictor of Future Housing Success for Homeless Adults with Behavioral Health Disorders, *Psychiatric Services*, Feb 2009, Vol. 60, No.2

If a landlord screens for criminal records, they are required to provide notice of the convictions they screen for and additional criteria that will be used to conduct an individualized assessment of an applicant's criminal record, if the landlord conducts one. They must notify in writing, by posting it in the office of the person leasing the unit, or by posting it in the building that is being advertised for rent, and on any website that the landlord uses to advertise the unit.

If the owner needs more information than was stated in the notice to determine whether to approve the application, take an adverse action, or decide to conduct an individualized assessment, the owner must notify the applicant of what additional information is needed, and the specified period of time (at least 72 hours) that they have to provide the additional information.

3. HUD Guidance on the Use of Arrest and Conviction Records
Criminal records policy or practice may violate fair housing laws due to racial disparities in the criminal justice system. To ensure compliance, HUD encourages landlords to avoid blanket bans, demonstrate safety risk to resident safety and/or property using reliable evidence (review nature and severity of conviction and time elapsed since conviction occurred). Exclusions must be necessary to achieve a "substantial, legitimate, nondiscriminatory interest" of the provider. Arrest records alone or blanket bans should not be used. The guidance encourages the landlord to conduct an individualized assessment (case-by-case analysis) that considers the age of the individual, tenant history, and rehabilitation efforts.

Addressing Unintended Consequences

In 2016, the University of Michigan published a study on the unintended consequences of ban the box policies on racial equity. The study found that absent the ability to see criminal history information, employers relied on racial bias, associated blackness with criminality, and rejected applicants with a Black-sounding name. The study found that before Ban the Box was put into place white applicants received 7% more callbacks than similar black applicants. This disparity increased to 45% after Ban the Box was put into place.¹¹ The policy worked for white applicants, in that white applicants with records received call backs more than Black applicants without criminal records. Black applicants without records were more likely to not be called back at a higher rate after Ban the Box was implemented.

The City's Fair Chance Housing policy must center racial equity to ensure that there are no unintended consequences that cause greater harm. To address this, the policy proposal includes a bright line look-back period to reduce instances where racial bias may be introduced into the process. OCR is also proposing that landlords receive required anti-bias training when part of a probable cause finding or settlement and voluntarily for all others through a new Fair

¹¹ Agan, Amanda Y. and Starr, Sonja B., Ban the Box, Criminal Records, and Statistical Discrimination: A Field Experiment (June 14, 2016). U of Michigan Law & Econ Research Paper No. 16-012.

Home Program. Fair Chance Housing would also be subject to proactive enforcement through Directors Charges and our testing program.

Other Jurisdictions

Jurisdiction	Laws
Champagne and Urbana, IL	Arrest and conviction records are a protected class.
Richmond, CA	Public housing providers can't look at records older than 2 years. Private market providers must have legitimate nondiscriminatory reason to deny.
Washington D.C.	Private and public housing can't look at convictions older than 7 years. Does not apply to certain convictions including murder, manslaughter, assault, arson, sex abuse, robbery, kidnapping, and fraud.
San Francisco	Applies to publicly funded housing providers receiving funds from the City/County of San Francisco. Can only look back 7 years. Must have business reason for denial.

Fair Chance Housing Legislation

Fair Chance Housing legislation regulates the use of arrest and conviction records in rental housing in Seattle. The legislation does the following:

Advertisements

Landlords will no longer be able to use language in their advertisements that categorically exclude people with any arrest or conviction records. For example, statements such as "No felons," "Clean record required," or "No violent offenses," would no longer be allowed.

Questions on rental applications and in screening

Landlords will no longer be able to ask about the following on the application, in person, or through a background check:

- Arrests that did not lead to a conviction, including pending criminal charges;
- Convictions that have been expunged, vacated or sealed;
- Juvenile records;
- Information from a sex offender registry regarding a juvenile; and
- Convictions that are older than two years

Landlords who conduct a criminal background check will need a legitimate business reason to deny, evict, or take other adverse action against an applicant or tenant based on a conviction record that is less than 2 years old or based on an adult's status on a sex offender registry. They must also notify the applicant in writing of the specific record(s) that was the basis for the denial.

A "legitimate business reason" means the landlord's policy or practice is necessary to achieve a substantial, legitimate, nondiscriminatory interest. The determination of such interest must demonstrate, through reliable evidence, a nexus to resident safety and/or property in light of the following factors:

- the nature and severity of the conviction;
- the number and types of convictions;
- the time that has elapsed since the date of conviction;
- age of the individual at the time of conviction;
- evidence of good tenant history before or after the conviction occurred; and
- any supplemental information related to the individual's rehabilitation, good conduct, and facts or circumstances surrounding the conviction provided by the individual, if the individual chooses to do so.

Addressing erroneous records

If a consumer report is used by the landlord as part of the screening process, the landlord must provide the name and address of the consumer reporting agency and the person's rights to obtain a free copy of the consumer report in the event of a denial or other adverse action, and to dispute the accuracy of information appearing in the consumer report.

Requirement to include notice of this law on the rental application

Prohibition against retaliation

Exemptions for certain housing types and federal requirements

This legislation will not apply to shared occupancy units, buildings containing four or fewer living units in which the owner resides in one unit, accessory dwelling units or detached accessory dwelling units where the owner lives on the premise.

Legislation will not preempt state and federal admission requirements, specifically a federal law that requires federally funded housing to ban people convicted methamphetamine production and people subject to lifetime sex offender registration.

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 7% (43,428) of Seattle residents, have a felony record.**
- **An average of 100 people a day are released from King County jails.**
- **Each year, an average of 1,400 people 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**

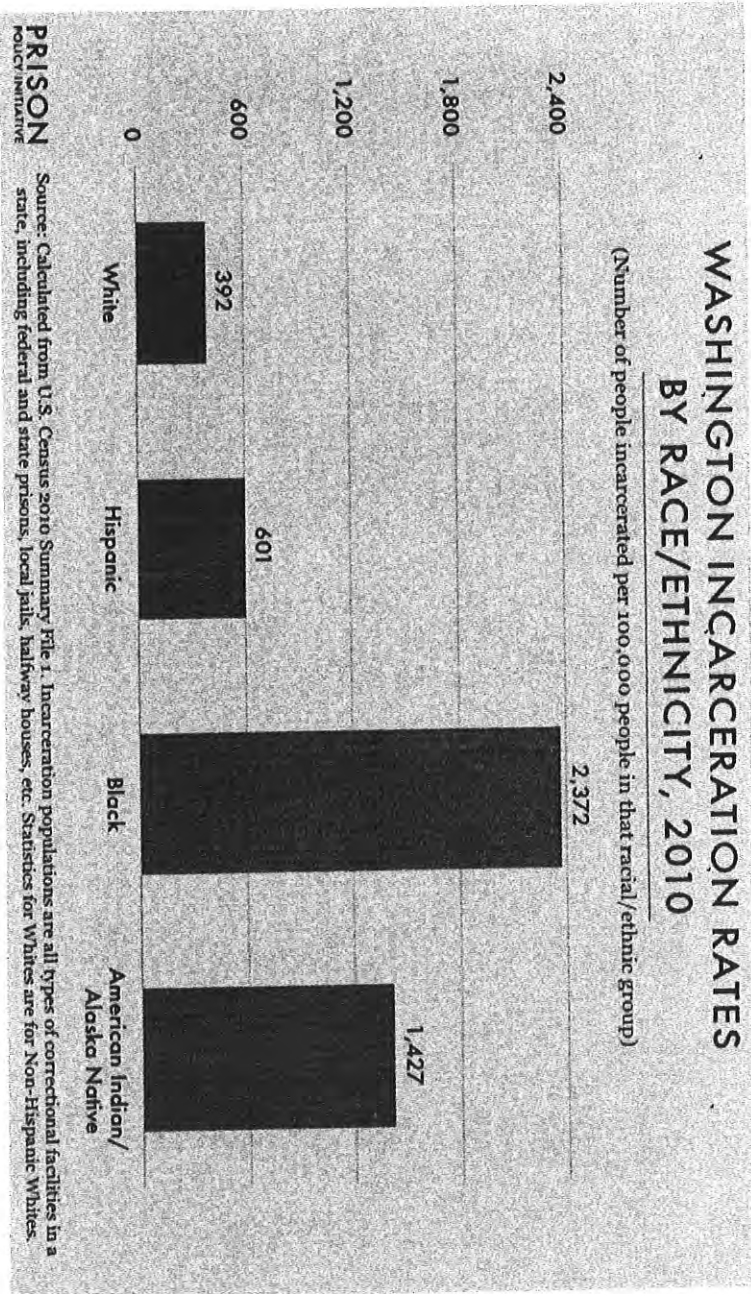
Juvenile Justice

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



Current State: Removing Barriers to Housing

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

In April 2016, HUD issued guidance on the use of criminal records in housing.

HUD recognized criminal record screening in housing creates a disparate impact against communities of color.

Landlords should screen on a case-by-case basis and consider several factors.

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
- Information for 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/tenant 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 Doesn't Apply?

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 peop
 - convicted of methamphetamine production in public housing, or
 - subject to lifetime sex offender registration

FCH: Application with 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.

FCH: Application 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.

FCH: Seattle Office for 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**

No. 21-35567

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

CHONG and MARILYN YIM, KELLY LYLES, EILEEN, LLC and
RENTAL HOUSING ASSOCIATION OF WASHINGTON,

Plaintiffs/Appellants,

v.

CITY OF SEATTLE,

Defendant/Appellee.

Appeal from the United States District Court
Western District of Washington at Seattle
District Court No. 2:18-cv-736 JCC

**CITY OF SEATTLE'S
SUPPLEMENTAL EXCERPTS OF RECORD, VOLUME 2 OF 2**

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July 24, 2017

MEMORANDUM

To: Civil Rights, Utilities, Economic Development & Arts Committee
From: Asha Venkataraman, Council Central Staff
Subject: Council Bill 119015: Fair Chance Housing Legislation

On June 21, the Executive transmitted Council Bill (CB) 119015. Referred to as Fair Chance Housing this legislation would limit a landlord's use of a prospective tenant's criminal history. The bill is a result of a Housing Affordability and Livability Agenda (HALA) recommendation to lower barriers to housing for persons with criminal histories, and a stakeholder process to determine how to implement that HALA recommendation.

The Seattle Office for Civil Rights (SOCR) briefed the Civil Rights, Utilities, Economic Development & Arts Committee (CRUEDA) at the July 13 public hearing on CB 119015. During that public hearing, the CRUEDA committee heard from a panel of interested parties and the public. The July 25 CRUEDA committee agenda includes a discussion and a possible vote on CB 119015. If CRUEDA does not vote the bill out of committee on July 25, a committee vote is expected on August 8. Full Council will vote on August 14. As currently drafted, CB 119015 would be effective 150 days (about 5 months) after passage, to allow for the development of Director's Rules for implementation.

BILL SUMMARY

CB 119015 creates a new section 14.09 of the Seattle Municipal Code (SMC), containing five major elements: (1) Limitations on a landlord's use of a prospective tenant's criminal history; (2) notice and consumer reporting requirements; (3) exclusions; (4) enforcement; and (5) other initiatives to decrease bias.

1. Limitations on a landlord's use of a prospective tenant's criminal history

CB 119015 limits the use of criminal history in three ways. First, landlords may not use language in advertisements categorically excluding those with arrest or conviction records.

Second, landlords may not ask about or deny housing based on:

- arrests not leading to convictions;
- pending criminal charges;
- convictions that have been expunged, sealed, or vacated;
- juvenile records, including listing of a juvenile on a sex offense registry; and
- convictions older than two years from the date of the tenant's application.

Third, a landlord may deny housing to, or otherwise take an adverse action against, an applicant or tenant based on a conviction record within two years of the date of application or based on the prospective adult tenant's status on a sex offender registry only if the landlord has a legitimate business reason for doing so. The legitimate business reason must be based on a nexus to safety of residents on the property and/or protecting property, considering:

- the nature or severity of the conviction;
- the number and types of convictions;
- the time elapsed since the date of conviction;
- the age of the individual at the time of the conviction;
- evidence of good tenant history before and/or after the conviction occurred; and
- any supplemental information related to the individual's rehabilitation, good conduct, and facts or circumstances surrounding the conviction provided by the individual.

2. Notice and consumer reporting agency requirements

Landlords must include on a rental application whether the landlord screens for conviction records and what screening criteria the landlord will apply. The notice must also include a statement that the landlord will consider all qualified applicants with criminal histories and that the applicant may provide information related to their rehabilitation, good conduct, and facts or circumstances surrounding the conviction.

CB 119015 also requires that landlords must provide the prospective tenants the name and address of the any consumer reporting agency the landlord uses for screening. The landlord must notify the prospective tenants of their rights to (a) get a free copy of the report if a denial or other adverse action occurs, and (b) dispute the report's accuracy. The bill also prohibits retaliation for exercising or trying to exercise any of the rights granted in section 14.09.

3. Exclusions

CB 119015 contains exclusions for certain types of housing and accounts for federal requirements. The bill does not apply to a denial of tenancy when required by federal law, including when federally funded housing is required to ban persons convicted of methamphetamine production in federally assisted housing and persons subject to lifetime sex offender registration. The bill does not apply to:

- shared occupancy units;
- buildings with four or fewer living units where the owner lives in one unit; and
- accessory dwelling units (ADUs) and detached accessory dwelling units (DADUs) where the owner lives on the premises or lot.

4. Enforcement

The enforcement provisions of CB 119015 are the same as those currently codified in Title 14 for other violations enforced by SOCR. This process includes enforcement of violations by SOCR through individual complaints or a Director's charge, leading to investigation, findings of fact and determination of presence or absence of reasonable cause, appeals, conciliation, complaints to the Hearing Examiner, and civil penalties.

5. Other initiatives to decrease bias

Lastly, implementation of Section 14.09 will include SOCR conducting fair housing testing and the creation of a Fair Housing Home Program to train landlords on reducing of racial bias and other protected class bias. A landlord completing the program will receive a certification. Landlords participating in a pre-settlement finding or conciliation agreement will be required to participate. The bill also commits the City to advocating at the state level to reduce the collateral impacts of criminal convictions and explore additional mechanisms to decrease barriers to housing through SOCR's convening of the Re-Entry Taskforce.

PROPOSED AMENDMENTS

The text of the amendments discussed below are provided in Attachment A to this memo.

1. Technical and clarifying amendments recommended by SOCR (Councilmember Herbold)

In addition to correcting typos and ensuring consistent syntax, this proposed amendment does several things:

First, it adds a definition of "registry information" to clarify the information a landlord can look at when considering a conviction underlying sex offender registration. The ability to look at the underlying conviction is limited to information on the sex offender registry and does not allow the landlord to consider convictions otherwise prohibited when showing a legitimate business reason for taking an adverse action. In accordance with this addition, the amendment also revises any reference to registration status or information to "registry information."

Second, the amendments incorporate an omission regarding retaliation using immigration status into the bill. They include as prohibited retaliation engaging in unfair immigration related practices, which is communication to a person the willingness to report or actually reporting suspected citizenship or immigration status to a government agency because a person is exercising their rights codified in the legislation. This provision is already present throughout many sections of the SMC, and it was inadvertently omitted in the original transmittal of the bill.

Third, the original exclusion language in 14.09.110.C allowed for an interpretation where the bill excluded all single-family dwellings altogether, instead of the intended interpretation to cover single family dwellings where the owner shares occupancy. The

revisions to the language in C as well as in B, D, and E serve to sharpen the language to ensure the proper intention is reflected through the language.

2. Recital on screening requirements (Councilmember Herbold)

This proposed amendment would include as a recital the fact that landlords are not obligated under state or local law to conduct criminal background checks on tenants.

3. Recital on creation of a clerk file containing documents and research (Councilmember González)

This proposed amendment would include a recital referencing a clerk file containing the documents and research supporting the data cited in the previous recitals regarding statistics on persons with criminal histories, studies showing the relationship between stable housing and recidivism, disproportionality in prison populations of communities of color, the impacts of a record of juvenile sex offenses, and recidivism rates of juveniles convicted of sex offenses.

4. Adding an evaluation of the legislation (Councilmember Herbold)

This amendment requires SOCR to ask the City Auditor to conduct an evaluation of Fair Chance Housing to look at the ability of persons with criminal histories to obtain housing and the impacts on the incidence of racial discrimination. It asks for the evaluation to be completed by the end of 2019. The scope of the evaluation will be discussed with the City Auditor and an estimated cost will be determined.

5. Prohibiting use of a sex offense conviction if the adult was convicted as a juvenile (Councilmember Herbold)

The current legislation does not allow a landlord to deny housing or otherwise carry out an adverse action based on juvenile records or information on a sex offender registry about a prospective juvenile occupant, tenant, or member of a household. It does allow a landlord to deny housing or carry out an adverse action using information on a sex offender registry about an adult, regardless of whether the sex offense conviction occurred when the adult was a juvenile or over 18. This amendment would no longer allow a landlord to deny housing or carry out an adverse action based on information about the adult on the sex offender registry if the sex offense conviction occurred when the adult was a juvenile. It still allows the landlord to deny housing or carry out an adverse action based on information on the sex offender registry if the conviction occurred when the adult was over 18.

6. Changing the two-year conviction record look back period to no look back period
(Councilmember O'Brien)

This amendment would remove a landlord's ability to use any of the following information about a prospective tenant as a basis for denying housing or otherwise carrying out an adverse action: an adult's criminal records, arrest records, conviction records, or criminal history. The current draft of the bill already prohibits the use of juvenile records as a basis for carrying out an adverse action. Thus, the only basis upon which a landlord could deny housing or otherwise carry out an adverse action is if the landlord had a legitimate business reason for doing so based on the presence of an adult on a sex offender registry. The definition of "legitimate business reason" is revised to reflect that the convictions a landlord can consider are only those listed on the registry.

The amendment would also change the notice requirements to state that the landlord is prohibited from rejecting an applicant because of any juvenile record, arrest record, conviction record, or criminal history, except for an adult's presence on a sex offender registry, and that applicants could still provide supplemental information related to an individual's rehabilitation, good conduct, and facts or explanations regarding their classification on a sex offender registry.

The prohibition regarding use of the information described and the notice requirements are subject to the exclusions enumerated in section 14.09.110, which recognize (among other things) that a landlord of federally assisted housing is required to deny tenancy based on lifetime sex offender registration and conviction of manufacture or production of methamphetamine on the premises of federally assisted housing.

7. Removing the exclusion for four or fewer units where the owner lives on the premises
(Councilmember O'Brien)

This amendment would no longer exclude buildings with four or fewer units where each family lives independently and the owner lives in one of the units from the requirements of the bill. The other exclusions would remain intact.

Attachments:

- A. CB 119015 Proposed Amendment Language

cc: Kirstan Arestad, Central Staff Director
Dan Eder, Central Staff Deputy Director

Attachment A: CB 119015 Proposed Amendment Language

Proposed Amendment 1: Technical and clarifying amendments recommended by SOCR
(Councilmember Herbold)

* * *

~~WHEREAS~~WHEREAS, research shows higher recidivism occurs within the first two years of release and is mitigated when individuals have access to safe and affordable housing and employment;¹¹ and

WHEREAS, a 2015 study reported that juveniles on the sex offender registry had considerable difficulty in accessing stable housing because of their status, which contributed to negative mental health outcomes;¹² and

WHEREAS, more than 90 percent of arrests of juveniles for sex offenses represent a one-time event that does not recur,¹³ and studies have repeatedly shown low recidivism rates ranging from three percent to four percent;¹⁴ and

WHEREAS, The City of Seattle has developed a Race and Social Justice Initiative (RSJI) to eliminate institutional racism and create a community where equity in opportunity exists for everyone; and

WHEREAS, the City's Office for Civil Rights (OCR) works to advance civil rights and end barriers to equity; and

WHEREAS, in 2010, residents of Sojourner Place Transitional Housing, Village of Hope, and other community groups called on the City to address barriers to housing faced by people with prior records; and

WHEREAS, in response, OCR and the Seattle Human Rights Commission held two public forums in 2010 and 2011, bringing together over 300 people including community members with arrest and conviction records, landlords, and employers to share their concerns; and

Attachment A: CB 119015 Proposed Amendment Language

WHEREAS, in 2013, the City Council passed the Seattle Jobs Assistance Ordinance, now titled the Fair Chance Employment Ordinance, to address barriers in employment; and

WHEREAS, since 2013, the Office of Housing has worked with nonprofit housing providers to share best practices in tenant screening to address racial inequities; and

WHEREAS, in September 2014 the Council adopted Resolution 31546, in which the Mayor and Council jointly convened the Seattle Housing Affordability and Livability Agenda (HALA) Advisory Committee to evaluate potential strategies to make Seattle more affordable, equitable, and inclusive; and in particular, to promote the development and preservation of affordable housing for residents of the City; and

WHEREAS, in July 2015, HALA published its Final Advisory Committee Recommendations and the Mayor published *Housing Seattle: A Roadmap to an Affordable and Livable City*, which outlines a multi-pronged approach of bold and innovative solutions to address Seattle’s housing affordability crisis; and

~~WHEREAS~~WHEREAS, in October 2015, the Mayor proposed and Council adopted Resolution 31622, declaring the City’s intent to expeditiously consider strategies recommended by the Housing Affordability Livability Agenda (HALA) Advisory Committee; and

* * *

14.09.010 Definitions

* * *

“Criminal history” means records or other information received from a criminal background check or contained in records collected by criminal justice agencies, including courts, consisting of identifiable descriptions and notations of arrests, arrest records, detentions, indictments, informations, or other formal criminal charges, any disposition arising therefrom, including conviction records, waiving trial rights, deferred sentences, stipulated order of

Attachment A: CB 119015 Proposed Amendment Language

continuance, dispositional continuance, or any other initial resolution which may or may not later result in dismissal or reduction of charges depending on subsequent events. The term includes acquittals by reason of insanity, dismissals based on lack of competency, sentences, correctional supervision, and release, any issued certificates of restoration of opportunities and any information contained in records maintained by or obtained from criminal justice agencies, including courts, which provide individual's record of involvement in the criminal justice system as an alleged or convicted individual. The term does not include registry information, status obtained from a county, statewide, or national sex offender registry.

* * *

"Director" means the Director of the Seattle Office for Civil Rights or the Director's designee.

"Dwelling unit" has the meaning as defined in Section 22.204.050.D.

"Fair chance housing" means practices to reduce barriers to housing for persons with criminal records.

"Juvenile" means a person under 18 years old.

A "legitimate business reason" shall exist when the policy or practice is necessary to achieve a substantial, legitimate, nondiscriminatory interest. To determine such an interest, a landlord must demonstrate, through reliable evidence, a nexus between the policy or practice and resident safety and/or protecting property, in light of the following factors:

- A. The nature and severity of the conviction;
- B. The number and types of convictions; except that pursuant to 14.09.025.A.5,

convictions are limited to those found in registry information;

- C. The time that has elapsed since the date of conviction;
- D. Age of the individual at the time of conviction;

Attachment A: CB 119015 Proposed Amendment Language

E. Evidence of good tenant history before and/or after the conviction occurred; and

F. Any supplemental information related to the individual’s rehabilitation, good conduct, and facts or circumstances surrounding the conviction provided by the individual, if the individual chooses to do so.

* * *

“Registry information” means information solely obtained from a county, statewide, or national sex offender registry, including but not limited to, the registrant’s physical description, address, and conviction description and dates.

* * *

14.09.025 Prohibited use of criminal history

A. It is an unfair practice for any person to:

1. Advertise, publicize, or implement any policy or practice that automatically or categorically excludes all individuals with any arrest record, conviction record, or criminal history from any rental housing that is located within the City.

2. Require disclosure, inquire about, or carry out an adverse action ~~in housing~~, based on an arrest record of a prospective occupant, a tenant, or a member of their household. An arrest record is not proof that a person has engaged in unlawful conduct.

3. Require disclosure, inquire about, or take an adverse action ~~in housing~~ against a prospective occupant, a tenant or a member of their household, based on (a) criminal history, except for conviction records pursuant to subsection 14.09.025.A.4 and 14.09.025.A.5; (b) juvenile records; (c) convictions that have been expunged, sealed, or vacated; and/or (d) conviction records that, from the date of disposition, precede the date of the rental application by more than two years.

Attachment A: CB 119015 Proposed Amendment Language

4. Carry out an adverse action based on a conviction record with a disposition date within two years from the date of the rental application of a prospective occupant, a tenant or a member of their household, unless the landlord has a legitimate business reason for taking such action.

5. Carry out an adverse action based on ~~status-registry information obtained from a county, state, or national sex-offender registry~~, of a prospective adult occupant, an adult tenant, or an adult member of their household, unless the landlord has a legitimate business reason for taking such action.

6. Carry out an adverse action based on ~~registry information obtained from any county, statewide, or national sex-offender registry~~ regarding any ~~juvenile~~ prospective juvenile occupant, a juvenile tenant, or juvenile member of their household.

14.09.030 Retaliation prohibited

A. No person shall interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right protected under this Chapter 14.09.

B. No person shall take any adverse action against any person because the person has exercised in good faith the rights protected under this Chapter 14.09. Such rights include but are not limited to the right to fair chance housing and regulation of the use of criminal history in housing by this Chapter 14.09; the right to make inquiries about the rights protected under this Chapter 14.09; the right to inform others about their rights under this Chapter 14.09; the right to inform the person's legal counsel or any other person about an alleged violation of this Chapter 14.09; the right to file an oral or written complaint with the Department for an alleged violation of this Chapter 14.09; the right to cooperate with the Department in its investigations of this Chapter 14.09; the right to testify in a proceeding under or related to this Chapter 14.09; the right

Attachment A: CB 119015 Proposed Amendment Language

to refuse to participate in an activity that would result in a violation of City, state, or federal law; and the right to oppose any policy, practice, or act that is unlawful under this Chapter 14.09.

C. No person shall communicate to a person exercising rights protected in this Section 14.09.030, directly or indirectly, the willingness to inform a government employee that the person is not lawfully in the United States, or to report, or to make an implied or express assertion of a willingness to report, suspected citizenship or immigration status of a prospective occupant, a tenant or a member of their household to a federal, state, or local agency because the prospective occupant or tenant has exercised a right under this Chapter 14.09.

D. It shall be a rebuttable presumption of retaliation if a landlord or any other person takes an adverse action against a person within 90 days of the person's exercise of rights protected in this Section 14.09.030. The landlord may rebut the presumption with clear and convincing evidence that the adverse action was taken for a permissible purpose.

E. Proof of retaliation under this Section 14.09.030 shall be sufficient upon a showing that a landlord or any other person has taken an adverse action against a person and the person's exercise of rights protected in this Section 14.09.030 was a motivating factor in the adverse action, unless the landlord can prove that the action would have been taken in the absence of such protected activity.

F. The protections afforded under this Section 14.09.030 shall apply to any person who mistakenly but in good faith alleges violations of this Chapter 14.09.

G. A complaint or other communication by any person triggers the protections of this Section 14.09.030 regardless of whether the complaint or communication is in writing or makes explicit reference to this Chapter 14.09.

* * *

Attachment A: CB 119015 Proposed Amendment Language

14.09.110 Exclusions and other legal requirements

A. This Chapter 14.09 shall not be interpreted or applied to diminish or conflict with any requirements of state or federal law, including but not limited to Title VIII of the Civil Rights Act of 1968, the Federal Fair Credit Reporting Act, 15 U.S.C. 1681 et seq., as amended; the Washington State Fair Credit Reporting Act, chapter 19.182 RCW, as amended; and the Washington State Criminal Records Privacy Act, chapter 10.97 RCW, as amended. In the event of any conflict, state and federal requirements shall supersede the requirements of this Chapter 14.09.

B. This Chapter 14.09 shall not apply to an adverse action taken by landlords of federally assisted housing subject to federal regulations that require ~~an adverse action denial of tenancy~~, including but not limited to when any member of the household is subject to a lifetime sex offender registration requirement under a state sex offender registration program and/or convicted of manufacture or production of methamphetamine on the premises of federally assisted housing.

C. This Chapter 14.09 shall not apply to the renting, subrenting, leasing, or subleasing of a dwelling unit in which the owner or subleasing tenant or subrenting tenant occupy part of the dwelling unit and in which the owner or subleasing tenant or subrenting tenant, shares a kitchen or bathroom with a prospective occupant. ~~single family dwelling; or a residence housing one family or household or one that is designed for one family only or a unit so designed; wherein the owner or person entitled to possession thereof maintains a permanent residence, home, or abode.~~

D. This Chapter 14.09 shall not apply to the renting, subrenting, leasing, or subleasing of rooms or units in dwelling units containing living quarters occupied or intended to

Attachment A: CB 119015 Proposed Amendment Language

be occupied by no more than four ~~families~~ households living independently of each other, if the owner actually maintains and occupies one of such living quarters-unit as their the owners' permanent residence.

E. This Chapter 14.09 shall not apply to the renting, subrenting, leasing, or subleasing of an accessory dwelling unit or detached accessory dwelling unit wherein the owner or person entitled to possession thereof maintains a permanent residence, home, or abode on the same lot.

F. This Chapter 14.09 shall not be construed to discourage or prohibit landlords from adopting screening policies that are more generous to prospective occupants and tenants than the requirements of this Chapter 14.09.

G. This Chapter 14.09 shall not be construed to create a private civil right of action.

Attachment A: CB 119015 Proposed Amendment Language

Proposed Amendment 2: Recital on screening requirements (Councilmember Herbold)

* * *

WHEREAS, in 2016, the Department of Housing and Urban Development (HUD) issued guidance on the application of the Fair Housing Act to the use of arrest and conviction records in rental housing, stating that a housing provider may be in violation of fair housing laws if their policy or practice does not serve a substantial, legitimate, nondiscriminatory interest, due to the potential for criminal record screening to have a disparate impact on African American and other communities of color; and

WHEREAS, landlords are not obligated under local or state law to conduct criminal background checks; and

WHEREAS, in 2016, the Seattle City Council passed Resolution 31669, affirming HUD's guidance and the work of the Mayor's Fair Chance Housing Committee; NOW, THEREFORE,

* * *

Attachment A: CB 119015 Proposed Amendment Language

Proposed Amendment 3: Recital on creation of a clerk file containing documents and research (Councilmember González)

* * *

WHEREAS, more than 90 percent of arrests of juveniles for sex offenses represent a one-time event that does not recur,¹³ and studies have repeatedly shown low recidivism rates ranging from three percent to four percent,¹⁴ and

WHEREAS, documents and research relating to the information cited in the recitals is located in Clerk File 320351; and

WHEREAS, The City of Seattle has developed a Race and Social Justice Initiative (RSJI) to eliminate institutional racism and create a community where equity in opportunity exists for everyone; and

* * *

Attachment A: CB 119015 Proposed Amendment Language

Proposed Amendment 4: Adding an evaluation of the legislation (Councilmember Herbold)

* * *

14.09.110 Evaluation

The Department shall ask the Office of the City Auditor to conduct an evaluation of the Fair Chance Housing Ordinance to determine if the program should be maintained, amended, or repealed. The evaluation should include an analysis of the impact on discrimination based on race and the impact on the ability of persons with criminal records to obtain housing. The highest quality evaluation will be performed based on available resources and data. The Office of the City Auditor, at its discretion, may retain an independent, outside party to conduct the evaluation. The evaluation shall be submitted to City Council by the end of 2019.

14.09.110115 Exclusions and other legal requirements

A. This Chapter 14.09 shall not be interpreted or applied to diminish or conflict with any requirements of state or federal law, including but not limited to Title VIII of the Civil Rights Act of 1968, the Federal Fair Credit Reporting Act, 15 U.S.C. 1681 et seq., as amended; the Washington State Fair Credit Reporting Act, chapter 19.182 RCW, as amended; and the Washington State Criminal Records Privacy Act, chapter 10.97 RCW, as amended. In the event of any conflict, state and federal requirements shall supersede the requirements of this Chapter 14.09.

B. This Chapter 14.09 shall not apply to an adverse action taken by landlords of federally assisted housing subject to federal regulations that require an adverse action, including but not limited to when any member of the household is subject to a lifetime sex offender registration requirement under a state sex offender registration program and/or convicted of manufacture or production of methamphetamine on the premises of federally assisted housing.

Attachment A: CB 119015 Proposed Amendment Language

C. This Chapter 14.09 shall not apply to the renting, subrenting, leasing, or subleasing of a single-family dwelling; or a residence housing one family or household or one that is designed for one family only or a unit so designed; wherein the owner or person entitled to possession thereof maintains a permanent residence, home, or abode.

D. This Chapter 14.09 shall not apply to rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as their residence.

E. This Chapter 14.09 shall not apply to an accessory dwelling unit or detached accessory dwelling unit wherein the owner or person entitled to possession thereof maintains a permanent residence, home, or abode on the same lot.

F. This Chapter 14.09 shall not be construed to discourage or prohibit landlords from adopting screening policies that are more generous to prospective occupants and tenants than the requirements of this Chapter 14.09.

G. This Chapter 14.09 shall not be construed to create a private civil right of action.

14.09.115120 Severability

The provisions of this Chapter 14.09 are declared to be separate and severable. If any clause, sentence, paragraph, subdivision, section, subsection, or portion of this Chapter 14.09, or the application thereof to any landlord, prospective occupant, tenant, person, or circumstance, is held to be invalid, it shall not affect the validity of the remainder of this Chapter 14.09, or the validity of its application to other persons or circumstances.

Attachment A: CB 119015 Proposed Amendment Language

Proposed Amendment 5: Prohibiting use of a sex offense conviction if the adult was convicted as a juvenile (Councilmember Herbold)

14.09.025 Prohibited use of criminal history

A. It is an unfair practice for any person to:

* * *

7. Carry out an adverse action based on registry information regarding a prospective adult occupant, an adult tenant, or an adult member of their household if the conviction occurred when the individual was a juvenile.

Attachment A: CB 119015 Proposed Amendment Language

Proposed Amendment 6: Changing the two-year conviction record look back period to no look back period (Councilmember O'Brien)

14.09.010 Definitions

* * *

“Criminal history” means records or other information received from a criminal background check or contained in records collected by criminal justice agencies, including courts, consisting of identifiable descriptions and notations of arrests, arrest records, detentions, indictments, informations, or other formal criminal charges, any disposition arising therefrom, including conviction records, waiving trial rights, deferred sentences, stipulated order of continuance, dispositional continuance, or any other initial resolution which may or may not later result in dismissal or reduction of charges depending on subsequent events. The term includes acquittals by reason of insanity, dismissals based on lack of competency, sentences, correctional supervision, and release, any issued certificates of restoration of opportunities and any information contained in records maintained by or obtained from criminal justice agencies, including courts, which provide individual’s record of involvement in the criminal justice system as an alleged or convicted individual. The term does not include status obtained from a county, statewide, or national sex offender registry.

~~“Date of disposition” means the date of conviction, judgment, and sentence, and/or date on which any criminal charge is initially resolved or adjudicated, whichever is latest, specifically including the imposition of a deferred sentence, stipulated order of continuance, dispositional eentinuance, or any other initial resolution which may or may not later result in dismissal or reduction of charges depending on subsequent events. “Date of disposition” does not refer to ultimate resolution of the findings in the case or to any adjustment to findings that may occur as~~

Attachment A: CB 119015 Proposed Amendment Language

~~a result of appeal, post-conviction litigation, post-disposition motions, or agreement to continue for dismissal or reduction of charges.~~

~~“Date of rental application” means the date and time when a landlord receives a complete rental application, whether submitted through the mail, electronically, or in person.~~

“Department” means the Seattle Office for Civil Rights and any division therein.

“Detached accessory dwelling unit” has the meaning defined in Section 23.84A.032’s definition of “Residential use.”

“Director” means the Director of the Seattle Office for Civil Rights or the Director’s designee.

“Fair chance housing” means practices to reduce barriers to housing for persons with criminal records.

“Juvenile” means a person under 18 years old.

A “legitimate business reason” shall exist when the policy or practice is necessary to achieve a substantial, legitimate, nondiscriminatory interest. To determine such an interest, a landlord must demonstrate, through reliable evidence, a nexus between the policy or practice and resident safety and/or protecting property, in light of the following factors:

- A. The nature and severity of the conviction;
- B. The number and types of convictions;
- C. The time that has elapsed since the date of conviction;
- D. Age of the individual at the time of conviction;
- E. Evidence of good tenant history before and/or after the conviction occurred; and

Attachment A: CB 119015 Proposed Amendment Language

F. Any supplemental information related to the individual's rehabilitation, good conduct, and additional facts or explanations circumstances surrounding the conviction provided by the individual, if the individual chooses to do so.

For the purposes of this definition, review of conviction information is limited to those convictions included in registry information.

* * *

14.09.020 Notice to prospective occupants and tenants

The written notice shall ~~also~~ include that the landlord is prohibited from requiring disclosure, asking about, rejecting an applicant, or taking an adverse action based on any arrest record, conviction record, or criminal history, subject to the exclusions and legal requirements in section 14.09.110, will consider for tenancy qualified applicants with criminal histories and applicants may provide any supplemental information related to an individual's rehabilitation, good conduct, and facts or circumstances surrounding any conviction record within two years from the date of the rental application. If a landlord screens prospective occupants pursuant to section 14.09.025.A.3 for conviction records, the landlord shall provide written notice of screening criteria on all applications for rental properties. Pursuant to section 14.09.025.A.3, applicants may provide any supplemental information related to an individual's rehabilitation, good conduct, and facts or explanations regarding their registry information. The Department shall adopt a rule or rules to enforce this Section 14.09.020.

Attachment A: CB 119015 Proposed Amendment Language

14.09.025 Prohibited use of criminal history

A. It is an unfair practice for any person to:

1. Advertise, publicize, or implement any policy or practice that automatically or categorically excludes all individuals with any arrest record, conviction record, or criminal history from any rental housing that is located within the City.

~~2. Require disclosure, inquire about, or carry out an adverse action in housing, based on an arrest record of a prospective occupant, a tenant, or a member of their household. An arrest record is not proof that a person has engaged in unlawful conduct.~~

~~3. Require disclosure, inquire about, or take an adverse action in housing against a prospective occupant, a tenant or a member of their household, based on any arrest record, conviction record, juvenile record, or(a) criminal history, except for conviction records information pursuant to subsection 14.09.025.A.3 and subject to the exclusions and legal requirements in section 14.09.110.4; (b) juvenile records; (c) convictions that have been expunged, sealed, or vacated; and/or (d) conviction records that, from the date of disposition, precede the date of the rental application by more than two years;~~

~~4. Carry out an adverse action based on a conviction record with a disposition date within two years from the date of the rental application of a prospective occupant, a tenant or a member of their household, unless the landlord has a legitimate business reason for taking such action.~~

~~5. Carry out an adverse action based on status obtained from a county, state, or national sex offender registry, of a prospective adult occupant, an adult tenant, or an adult member of their household, unless the landlord has a legitimate business reason for taking such action.~~

Attachment A: CB 119015 Proposed Amendment Language

64. Carry out an adverse action based on information obtained from any county, statewide, or national sex offender registry regarding any juvenile prospective occupant, a juvenile tenant, or juvenile member of their household.

B. If a landlord takes an adverse action based on a legitimate business reason, the landlord shall provide written notice by email, mail, or in person of the adverse action to the prospective occupant or the tenant and state the specific ~~record or records~~ registry information that ~~were~~ was the basis for the adverse action.

* * *

Attachment A: CB 119015 Proposed Amendment Language

Proposed Amendment 7: Removing the exclusion for four or fewer units where the owner lives on the premises (Councilmember O'Brien)

14.09.110 Exclusions and other legal requirements

A. This Chapter 14.09 shall not be interpreted or applied to diminish or conflict with any requirements of state or federal law, including but not limited to Title VIII of the Civil Rights Act of 1968, the Federal Fair Credit Reporting Act, 15 U.S.C. 1681 et seq., as amended; the Washington State Fair Credit Reporting Act, chapter 19.182 RCW, as amended; and the Washington State Criminal Records Privacy Act, chapter 10.97 RCW, as amended. In the event of any conflict, state and federal requirements shall supersede the requirements of this Chapter 14.09.

B. This Chapter 14.09 shall not apply to an adverse action taken by landlords of federally assisted housing subject to federal regulations that require an adverse action, including but not limited to when any member of the household is subject to a lifetime sex offender registration requirement under a state sex offender registration program and/or convicted of manufacture or production of methamphetamine on the premises of federally assisted housing.

C. This Chapter 14.09 shall not apply to the renting, subrenting, leasing, or subleasing of a single-family dwelling; or a residence housing one family or household or one that is designed for one family only or a unit so designed; wherein the owner or person entitled to possession thereof maintains a permanent residence, home, or abode.

~~D. This Chapter 14.09 shall not apply to rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as their residence.~~

Attachment A: CB 119015 Proposed Amendment Language

ED. This Chapter 14.09 shall not apply to an accessory dwelling unit or detached accessory dwelling unit wherein the owner or person entitled to possession thereof maintains a permanent residence, home, or abode on the same lot.

FE. This Chapter 14.09 shall not be construed to discourage or prohibit landlords from adopting screening policies that are more generous to prospective occupants and tenants than the requirements of this Chapter 14.09.

GF. This Chapter 14.09 shall not be construed to create a private civil right of action.

U.S. Department of Justice
Office of Justice Programs

Bureau of Justice Statistics

Survey of State Criminal History Information Systems, 2014

Criminal Justice Information Policy

U.S. Department of Justice
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For information, contact
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U.S. Department of Justice
Office of Justice Programs
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Survey of State Criminal History Information Systems, 2014

A Criminal Justice Information Policy Report

December 2015

Criminal Justice Information Policy

U.S. Department of Justice
Bureau of Justice Statistics

William J. Sabol, Ph.D.
Director

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Glossary of terms

Automated fingerprint identification system (AFIS): An automated system for searching fingerprint files and transmitting fingerprint images. AFIS computer equipment can scan fingerprint impressions (or use electronically transmitted fingerprint images) and automatically extract and digitize ridge details and other identifying characteristics in sufficient detail to enable the computer's searching and matching components to distinguish a single fingerprint from thousands or even millions of fingerprints previously scanned and stored in digital form in the computer's memory. The process eliminates the manual searching of fingerprint files and increases the speed and accuracy of ten-print processing (arrest fingerprint cards and noncriminal justice applicant fingerprint cards).

AFIS equipment also can be used to identify individuals from "latent" (crime scene) fingerprints, even fragmentary prints of single fingers in some cases.

Criminal history record information (CHRI) or criminal history record information system: A record (or the system maintaining such records) that includes individual identifiers and describes an individual's arrests and subsequent dispositions. Criminal history records do not include intelligence or investigative data or sociological data such as drug use history.

CHRI systems usually include information on juveniles if they are tried as adults in criminal courts. Most, however, do not include data describing involvement of an individual in the juvenile justice system. Data in CHRI systems are usually backed by fingerprints of the record subjects to provide positive identification. State legislation and

practices vary widely concerning disclosure of juvenile record information and access to criminal history records for noncriminal justice purposes.

Data quality: The extent to which criminal history records are complete, accurate, and timely. In addition, accessibility sometimes is considered a data quality factor. The key concern in data quality is the completeness of records and the extent to which records include dispositions as well as arrest and charge information. Other concerns include the timeliness of data reporting to state and Federal repositories, the timeliness of data entry by the repositories, the readability of criminal history records, and the ability to have access to the records when necessary.

Interstate Identification Index (III): A fingerprint-supported "index-pointer" system for the interstate exchange of criminal history records. Under III, the Federal Bureau of Investigation (FBI) maintains an identification index to persons arrested for primarily felonies or serious misdemeanors under state or Federal law. The index includes identification information (such as name, date of birth, race, and sex), FBI Numbers, and State Identification Numbers (SID) from each state that holds information about an individual.

Search inquiries from criminal justice agencies nationwide are transmitted automatically via state telecommunications networks and the FBI's National Crime Information Center (NCIC) telecommunications lines. Searches are made on the basis of name and other identifiers. The process is entirely automated. If a hit is made against the Index, record requests are made using the SID or FBI Number, and data are automatically retrieved from each repository holding records on the individual and forwarded to the requesting agency. As of October 5, 2008,

all 50 states and the District of Columbia participated in III. Responses are provided from FBI files when a jurisdiction, such as a U.S. territory, is not a participant in III. The III system may also be employed when responding to fingerprint-based noncriminal justice purpose record background checks.

Participation in III requires that a state maintain an automated criminal history record system capable of interfacing with the III system and also capable of responding automatically to all interstate and Federal/state record requests.

Juvenile justice records: Official records of juvenile justice adjudications. Most adult criminal history record systems do not accept such records, which are frequently not supported by fingerprints and which usually are confidential under state law. The FBI accepts and disseminates juvenile records. States, however, are not required to submit such records to the FBI and may be legislatively prohibited from doing so.

Lights-out processing: “Lights-out” criminal record processing occurs when fingerprint data submitted to a criminal record repository by a local justice jurisdiction for the purpose of determining an individual’s identity, and frequently associated criminal history record information, is processed electronically and a response is returned electronically to the submitting jurisdiction, all without human intervention.

Livescan: The term “livescan” refers to both the technique and technology used to electronically capture fingerprint and palm print images without the need for the more traditional ink-and-paper methods. Livescan devices also allow the electronic transfer of

digitized images and accompanying textual information to a criminal history repository.

National Crime Information Center

(NCIC): A computerized information system available to law enforcement and criminal justice agencies maintained by the FBI. The system includes records for wanted persons, missing persons, other persons who pose a threat to officer and public safety, and various property files. The III is accessible through the NCIC system. The NCIC operates under a shared-management concept between the FBI and local, state, tribal, and Federal criminal justice agencies. The FBI maintains the host computer and provides a telecommunications network to the Criminal Justice Information Services Systems Agency (CSA) in each of the 50 states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, and Canada, as well as Federal criminal justice agencies. A CSA is a criminal justice agency that has overall responsibility for the administration and usage of NCIC within a district, state, territory, or Federal agency. NCIC data may be provided only for criminal justice and other specifically authorized purposes.

National Crime Prevention and Privacy Compact:

An interstate and Federal/state compact that establishes formal procedures and governance structures for the use of the III. It is designed to facilitate the exchange of criminal history data among states for noncriminal justice purposes and to eliminate the need for the FBI to maintain duplicate data about state offenders. Under the Compact, the operation of this system is overseen by a policymaking council comprised of state and Federal officials.

The key concept underlying the Compact is agreement among all signatory states that all criminal history information (except sealed records) will be provided in response to noncriminal justice requests from another state—regardless of whether the information

being requested would be permitted to be disseminated for a similar noncriminal justice purpose within the state holding the data. (That is, the law of the state that is *inquiring* about the data—rather than the law of the state that *originated* the data—governs its use.) In some cases, ratification of the Compact will have the effect of amending existing state legislation governing interstate record dissemination, since most states do not currently authorize dissemination to all of the Federal agencies and out-of-state users authorized under the Compact. Noncriminal justice inquiries sent to the FBI are handled by a combination of information retrieval by the FBI from its files of voluntarily contributed state arrest and disposition records and by accessing state-held information. This requires that the FBI maintain duplicates of state records (see National Fingerprint File discussion for exception) and generally results in less complete records being provided, since FBI files of state records are not always as complete due to reporting deficiencies.

The Compact was passed by Congress and signed into law by President Clinton in October 1998. The Compact became effective in April 1999, following ratification by two state legislatures: Montana on April 8, 1999, and Georgia on April 28, 1999. As of April 2013, 28 additional states have entered into the Compact: Nevada (May 1999); Florida (June 1999); Colorado (March 2000); Iowa (April 2000); Connecticut (June 2000); South Carolina (June 2000); Arkansas (February 2001); Kansas (April 2001); Alaska (May 2001); Oklahoma (May 2001); Maine (June 2001); New Jersey (January 2002); Minnesota (March 2002); Arizona (April 2002); Tennessee (May 2003); North Carolina (June 2003); New Hampshire (June 2003); Missouri (July 2003); Ohio (January 2004); Wyoming (February 2005); Idaho

(March 2005); Maryland (May 2005); Oregon (July 2005); West Virginia (March 2006); Hawaii (May 2006); Michigan (January 2009); Vermont (July 2010); and New York (March 2013). Eleven other states and territories have signed a Memorandum of Understanding indicating compliance with the Privacy Compact: American Samoa, Guam, Illinois, Kentucky, Mississippi, Nebraska, New Mexico, North Dakota, Puerto Rico, South Dakota, and Virginia.

National Fingerprint File (NFF): A system and procedures designed as a component of the III system, which, when fully implemented, would establish a totally decentralized system for the interstate exchange of criminal history records. The NFF will contain fingerprints of Federal offenders and at least one set of fingerprints on state offenders from each state in which an offender has been arrested, primarily for a felony or a serious misdemeanor. Under the NFF concept, states are required to forward only the first-arrest fingerprints of an individual to the FBI, accompanied by other identification data such as name and date of birth.

Fingerprints for subsequent arrests are not required to be forwarded. Disposition data on the individual also is retained at the state repository and is not forwarded to the FBI. Upon receipt of the first-arrest fingerprint card (or electronic images), the FBI enters the individual's fingerprint information, name and identifiers in the III, together with an FBI Number and an SID Number for each state maintaining a record on the individual. Charge and disposition information on state offenders are maintained only at the state level, and state repositories are required to respond to all authorized record requests concerning these individuals for both criminal justice and noncriminal justice purposes. States are required to release all data on record subjects for noncriminal justice inquiries, regardless of whether the data could legally be released for

similar purposes within the state. As of January 2015, the NFF has been implemented in 19 states: Colorado, Florida, Georgia, Hawaii, Idaho, Iowa, Kansas, Maryland, Minnesota, Missouri, Montana, New Jersey, North Carolina, Ohio, Oklahoma, Oregon, Tennessee, West Virginia, and Wyoming.

Next Generation Identification (NGI):

The NGI system, developed over multiple years, is an incremental replacement of the FBI's Integrated Automated Fingerprint Identification System (IAFIS) that provides new functionality and improves existing capabilities. This technological upgrade accommodates increased information processing and sharing demands from local, state, tribal, Federal, and international agencies. The NGI system offers state-of-the-art biometric identification services and compiles core capabilities that serve as the platform for multimodal functionality. Achievement of full operational capabilities of NGI was attained on September 15, 2014.

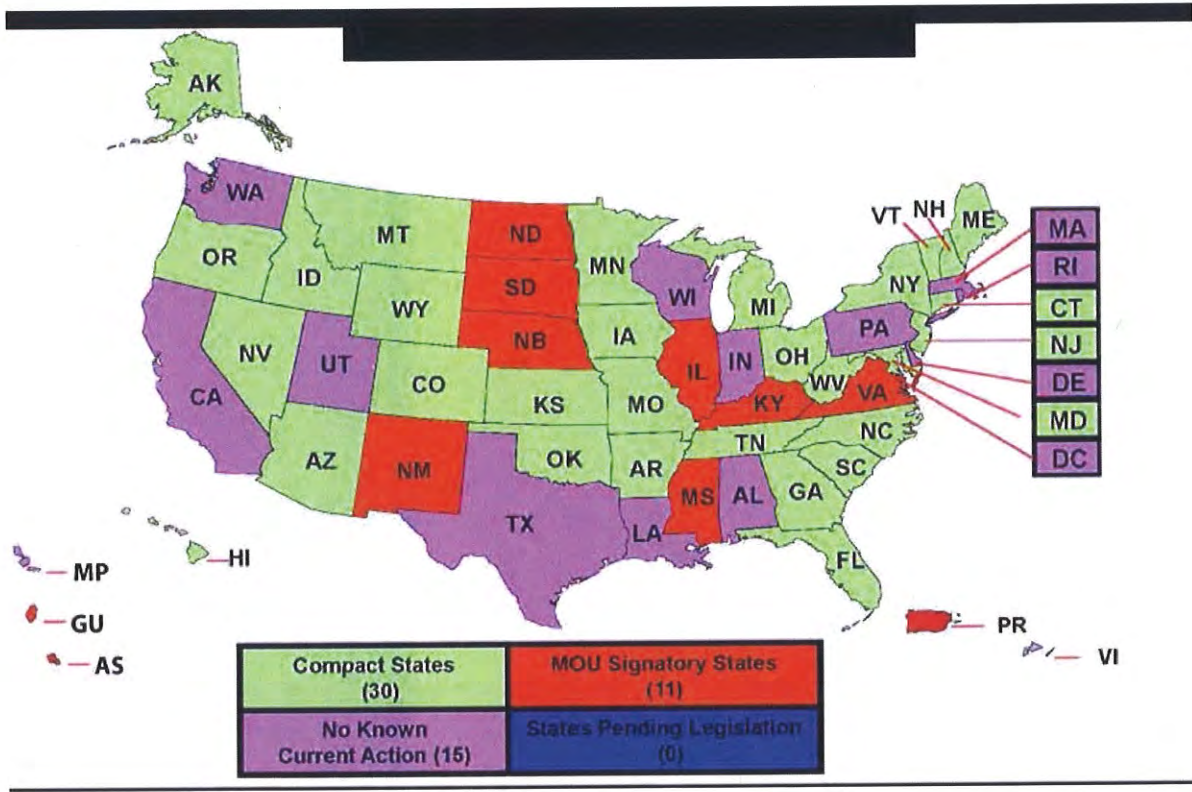
Positive Identification: Identifying an individual using biometric characteristics that are unique and not subject to alteration. In present usage, the term refers to identification by fingerprints, but may also include identification by iris images, voiceprints, or other techniques. Positive identification is distinguished from identification using name, sex, date of birth, or other personal identifiers as shown on a document that could be subject to alteration or counterfeit, such as a birth certificate, Social Security card, or driver's license. Because individuals can have identical or similar names, ages, etc., identifications based on such characteristics are not reliable.

Rap back: A "rap back" or "hit notice" program will inform an employer or other designated entity when an individual who has undergone a fingerprint-based background check—and whose fingerprints are retained by a criminal history repository after the check—is subsequently arrested. His or her fingerprints, obtained after the arrest, are matched against a database that contains the fingerprints that were initially submitted. The employer or designated entity is then notified of the individual's arrest. There is a fee for the service in some states; other states provide the service free. Some states also provide "rap back" services for notifications within the criminal justice system. For example, this might involve a notification to a parole or probation officer of the arrest of a person under supervision.

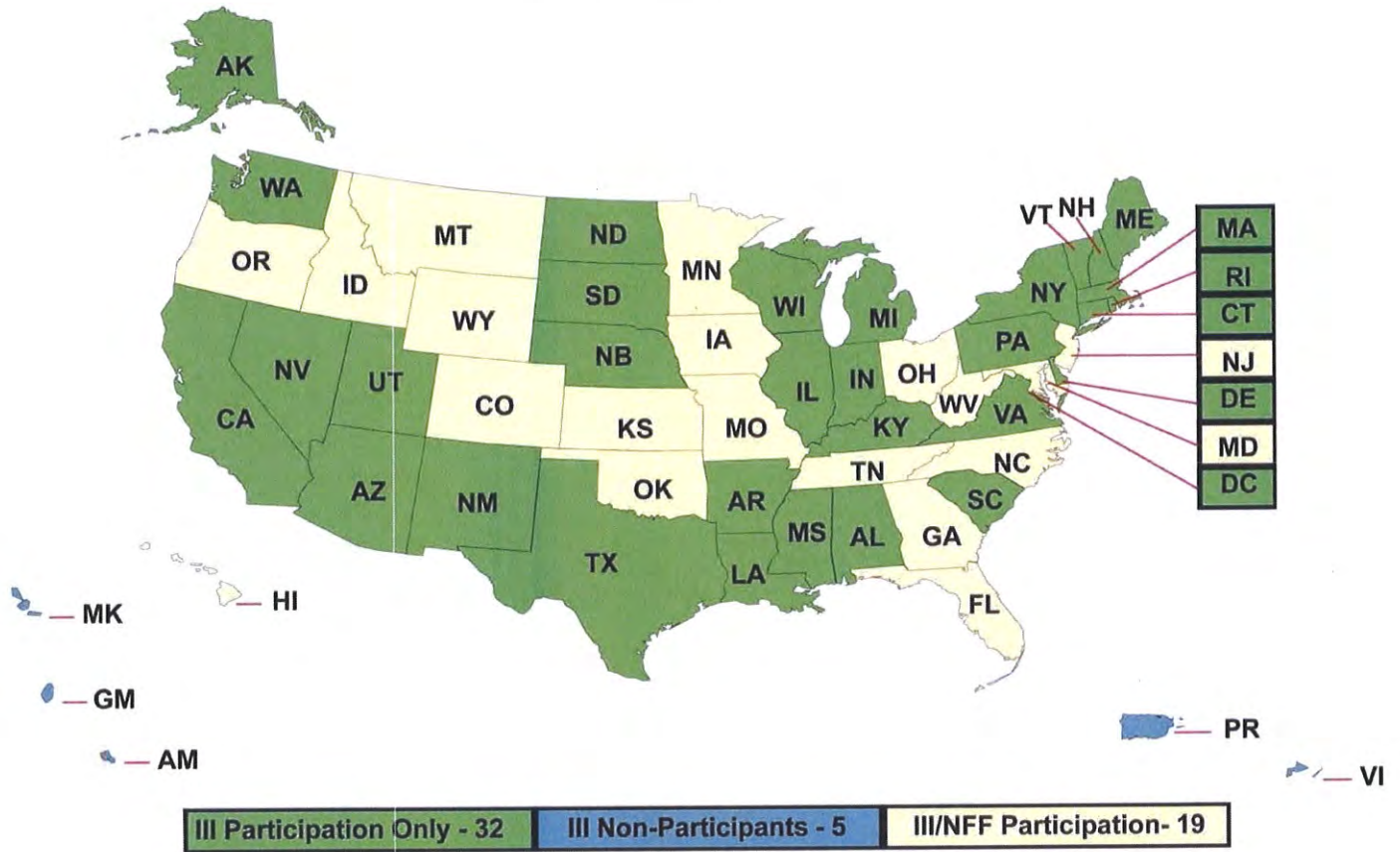
State central repository: The database (or the agency housing the database) that maintains criminal history records on all state offenders. Records include fingerprint files and files containing identification segments and notations of arrests and dispositions. The central repository is generally responsible for state-level identification of arrestees. The repository agency often is the Criminal Justice Information Services Systems Agency (CSA) for contact with FBI record systems. Non-fingerprint-based inquiries from local agencies for a national records check are routed to the FBI via the central repository. Although usually housed in the Department of Public Safety, the central repository is maintained in some states by the State Police, Attorney General, or other state agency.

Maps

Compact States and Territories (April 10, 2013)



Interstate Identification Index (III) National Fingerprint File (NFF) (January 13, 2015)



Note to readers

This is the thirteenth survey of criminal history information systems conducted by SEARCH, The National Consortium for Justice Information and Statistics, since 1989. Some of the tables include data from previous surveys. Use caution in drawing comparisons between the results of earlier surveys and the data reported here. Over the course of the survey years, the U.S. Department of Justice, Bureau of Justice Statistics (BJS), has continued to administer assistance programs dedicated to improving criminal history records. As a result, some states focused new or additional resources on the condition of their records and, in many cases, know more about their records today than in the past. Similarly, expansion, advancement, and adoption of technology have also made a beneficial impact. Some state repositories, however, have suffered fiscal cutbacks and consequently have had to shift priorities away from certain criminal history information management tasks. For these and other reasons, trend comparisons may not as accurately reflect the status of each state's criminal history records as the current data considered alone.

Survey revisions

Given the dramatic advances in information technology, legislative and social trends that increase demand for criminal history record access, and the need for criminal record managers to respond to these developments, BJS and SEARCH conducted an in-depth review of the previous survey questions and developed a revised survey instrument for 2014.

SEARCH updated formats for easier response and collection of data and also added new questions to collect information on new and emerging information sharing practices. Many of these changes were suggested by users and respondents during the review process. Comments and suggestions focused on:

- increasing data on wanted person and disposition reporting
- charge tracking and record flagging
- livescan usage and repository operations
- rap back services
- how information is disseminated and how it is used.

SEARCH continues to use an online database system to collect more complete and comprehensive survey data. Features include online, password-protected reporting forms that allow respondents to complete and submit individual sections of the survey, as well as to examine/update previously submitted portions.

The Survey of State Criminal History Information Systems, 2014 consists of 36 data tables of information, and reflects the evolving criminal record management environment.

Introduction

This report is based upon the results from a survey conducted of the administrators of the state criminal history record repositories in March–June 2015. SEARCH surveyed 56 jurisdictions, including the 50 states, the District of Columbia, American Samoa, the Territory of Guam, the Commonwealth of Puerto Rico, the Northern Mariana Islands, and the U.S. Virgin Islands.¹ All 50 states, the District of Columbia, Guam, and Puerto Rico submitted survey responses. This report presents a snapshot as of December 31, 2014.

Throughout this report, the 50 states are referred to as “states”; the District of Columbia, American Samoa, Guam, Puerto Rico, the Northern Mariana Islands, and the Virgin Islands are referred to as “territories,” and “Nation” refers collectively to both states and territories.

¹ Hereafter, these territories are referred to as the District of Columbia, American Samoa, Guam, Puerto Rico, the Northern Mariana Islands, and the Virgin Islands.

In addition, the Federal Bureau of Investigation (FBI) was the source for some of the information relating to criminal history records, including state participation in the Interstate Identification Index (III) system (the national criminal records exchange system) and the number of III records maintained by the FBI on behalf of the states; the number of records in the wanted person file; and the protection order file of the FBI’s National Crime Information Center (NCIC) database.

Major findings

Criminal history files

Overview of state criminal history record systems, December 31, 2014 (table 1):

- Forty-nine states, the District of Columbia, Guam, and Puerto Rico report the total number of persons in their criminal history files as 105,569,200, of which 100,024,400 are automated records. (An individual offender may have records in more than one state.)
- Twenty-nine states, the District of Columbia, Guam, and Puerto Rico have fully automated criminal history files.

Level of disposition reporting

Overview of state criminal history record systems, December 31, 2014 (table 1):

- Seventeen states and Guam, representing 38% of the individual offenders in the Nation’s criminal history records, report that 80% or more arrests within the past 5 years in the criminal history database have final dispositions recorded.
- Twenty-five states and Guam, representing 49% of the individual offenders in the Nation’s criminal history records, report that 70% or more arrests within the past 5 years in the criminal history database have final dispositions recorded.
- Twenty-nine states and Guam, representing 59% of the individual offenders in the Nation’s criminal history records, report that 60% or more arrests within the past 5 years in the criminal history database have final dispositions recorded.
- When arrests older than 5 years are considered:

- Twenty-one states and Guam, representing 41% of the individual offenders in the Nation’s criminal history records, report that 80% or more arrests in the entire criminal history database have final dispositions recorded.
- Twenty-six states and Guam, representing 54% of the individual offenders in the Nation’s criminal history records, report that 70% or more arrests in the entire criminal history database have final dispositions recorded.
- Thirty-one states and Guam, representing 65% of the individual offenders in the Nation’s criminal history records, report that 60% or more arrests in the entire criminal history database have final dispositions recorded.

- In 11 states and Guam, 90% or more felony charges have a final disposition recorded in the criminal history database. In 19 states and Guam, 80% or more felony charges have a final disposition recorded in the criminal history database.

Overview of state criminal history record system functions, 2014 (table 1a):

- Fifty states, the District of Columbia, Guam, and Puerto Rico processed 23,886,000 fingerprint records in 2014; of these, 11,687,700 were used for criminal justice purposes and 12,198,500 were used and submitted for noncriminal justice licensing, employment, and regulatory purposes.
- In 14 states and Guam, fingerprints processed for criminal justice purposes account for 60% or more of the state’s total number of fingerprints processed.
- Thirty-seven states, the District of Columbia, Guam, and Puerto Rico retain all fingerprints processed for criminal justice purposes.

- Ten states do not retain any fingerprints processed as part of conducting noncriminal justice background checks.

Detailed findings

Status of state criminal history files

Number of subjects (individual offenders) in state criminal history file, 2010, 2012, and 2014 (table 2):

- Ninety-five percent of the approximately 105 million criminal history records maintained by the state criminal history repositories are automated.
- Five states (Arizona, California, Connecticut, Michigan, and Oregon) report an overall decrease in the total number of subjects in manual and automated files between 2012 and 2014.
- Four states (Louisiana, Massachusetts, Mississippi, and New York) report an overall increase of at least 20% in the total number of subjects in manual and automated files between 2012 and 2014.

- Forty-five states, Guam, and Puerto Rico report an overall increase in the total number of subjects in manual and automated files between 2012 and 2014.

Criminal history records of Interstate Identification Index (III) participants maintained by state criminal history repositories and the Federal Bureau of Investigation (FBI), 2014 as of January 14, 2015 (table 21):

- Nationwide, over 85.9 million criminal history records are accessible through the III. The states maintain 70% of all III records and the FBI maintains 30%.

Biometric and image data

Biometric and image data collection by state criminal history repository, 2014 (table 3):

- Twenty-five states, the District of Columbia, and Guam reported accepting latent fingerprint images.
- Eleven states, the District of Columbia, and Guam accept flat fingerprint images.

- Twelve states accept 2-finger print images for identification purposes.
- Fifteen states accept 10-finger print images for making incarceration/release decisions.
- Twenty-one states, the District of Columbia, and Guam accept palm print images.
- Ten states and the District of Columbia accept facial images or digitized mug shots. Three states accept facial recognition data and associated biometric information.
- Three states (Illinois, Michigan, and Minnesota) report accepting biometric information regarding scars, marks, and tattoos.
- One state (California) captures biometric iris information and one state reports accepting less than 10-finger print images for disposition reporting/processing purposes.

Protection order information

Protection order information and record counts, 2014 (table 4):

- Forty-two states, the District of Columbia, and Guam maintain protection order files, which total over 2.1 million records.
- All states, the District of Columbia, Guam, and the Virgin Islands enter protection order records onto NCIC, totaling over 1.4 million records.
- Protection orders in 24 states, the District of Columbia, and Guam are entered into state protection order files by courts.
- In 8 states without protection order files, all indicate that law enforcement agencies enter protection orders directly to NCIC.

Warrants and wanted persons

Warrant and wanted person file information, 2014 (table 5),

Warrant and wanted person file record counts, 2014 (table 5a):

- Forty states, the District of Columbia, Guam, and Puerto Rico maintain warrant files, which total over 7.8 million records. Of these, over 725,000 represent felony-level warrants and over 3.8 million represent misdemeanor-level warrants.
- Twenty-two states and the District of Columbia indicate that local law enforcement agencies enter warrants onto the state warrant file.
- Five states (Hawaii, Massachusetts, North Carolina, Utah, and West Virginia), Guam, and Puerto Rico indicate that courts enter warrants onto the state file.
- In 14 states and the District of Columbia, entry onto the state file is made by both law enforcement and courts.
- In states without warrant files, 9 states report that law enforcement agencies enter warrants directly to NCIC.
- All states, American Samoa, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands enter warrant records into NCIC,

totaling over 2.1 million records as of December 31, 2014.

Flagging of records

Flagging of records, 2014 (table 6):

- Thirty-three states have felony flagging capability for all criminal history subjects.
- Nine states have felony flagging capability for some criminal history record subjects.
- Eight states, the District of Columbia, Guam, and Puerto Rico do not have a felony flagging capability for criminal history record subjects.
- States employ flagging to indicate:
 - a sex offender registrant (35 states and Guam)
 - a convicted drug offender (3 states— Kansas, Maryland, and South Carolina)
 - a violent offender (10 states)
 - a domestic violence conviction (12 states and Guam)
 - a mental health adjudication (5 states— Arkansas, California, Hawaii,

Illinois, and Massachusetts)

- DNA available (30 states)
- DNA not yet collected (10 states)
- a person ineligible for firearms purchases under Federal law (14 states and Guam)
- a person ineligible for firearms purchases under state law (10 states and Guam)

Accessibility of records and services through state repositories

Access to records, 2014 (table 6a):

- State repositories offer access to:
 - a sex offender registry (42 states, the District of Columbia, Guam, and Puerto Rico)
 - orders of protection (28 states, the District of Columbia, and Guam)
 - warrants and wanted persons information (32 states, the District of Columbia, and Guam)
 - retained applicant prints (22 states)

- rap back for criminal justice purposes (12 states)
- firearm registration information (7 states)
- domestic violence incident reports (6 states)

Dispositions

Number of final dispositions reported to state criminal history repository, 2008, 2010, 2012, and 2014 (table 7):

- Forty-eight states, the District of Columbia, Guam, and Puerto Rico provided data on the number of final dispositions reported to their criminal history repositories. They indicated that over 12.1 million final dispositions were reported in 2014—a 12% decrease from that reported in 2012.

Disposition reporting to the Federal Bureau of Investigation (FBI), 2014 (table 7a):

- In accordance with acceptable National Fingerprint File (NFF) practices, 14 NFF-participating states have elected not to send disposition information to the FBI on second and subsequent arrests.

- Twenty-nine states and Guam sent nearly 6.2 million final case dispositions to the FBI.
- Eighteen states sent 95% or more final case dispositions to the FBI via machine-readable data (MRD).
- Four states (Connecticut, Minnesota, New Mexico, and Virginia), the District of Columbia, and Guam sent 100% of final case dispositions to the FBI via hard copy or paper.
- Ten states sent 100% final case dispositions to the FBI via III message key.

Interim disposition reporting and posting of indictment information, 2014 (table 7b):

- Twenty-five states collect charge tracking information (interim dispositions) to show case status through the criminal justice process.
- Sixteen states and Guam post indictment information to the criminal history record.

Disposition reporting by local prosecutors, 2014 (table 7c):

Matching of dispositions between prosecutors and the repository, 2014 (table 7d):

- Thirty-four states, the District of Columbia, and Puerto Rico receive dispositions from local prosecutors.
- Seven states receive dispositions from local prosecutors via automated means.
- Seven states and Puerto Rico receive dispositions from local prosecutors via prosecutorial case management systems.
- Fifteen states receive dispositions in paper form.
- Eighteen states and the District of Columbia receive dispositions from local prosecutors via a mix of automated and paper-based processes.
- Twenty-one states match dispositions received from prosecutors through the assignment of a Process Control Number (PCN) or a Transaction Control Number (TCN) during booking and/or

subsequent to the arrest/booking process.

- Eleven states match dispositions received from prosecutors through a comparison of the State Identification Number (SID) and 12 states match dispositions by the Arrest Number.
- Nineteen states match dispositions received from prosecutors by the subject's name and date of birth, and 9 states match dispositions by charge.

Receipt of court disposition information by automated means and record matching, 2014 (table 8):

- Thirty-nine states and the District of Columbia receive court disposition data by automated means.
- Seventeen states report that 90% or more of all court dispositions are reported to repositories by automated means.
- Twenty-six states match dispositions received from courts through the assignment of a PCN or a TCN during booking and/or subsequent to the arrest/booking process.

- Twenty-one states and the District of Columbia match dispositions received from courts through a comparison of the SID, and 19 states and the District of Columbia match dispositions by the Arrest Number.
- Thirty-two states match dispositions received from courts by the subject's name and date of birth, and 16 states match dispositions by charge.

Matching of dispositions received to specific arrest events, 2014 (table 8a):

- Eight states report that 25% or more of all dispositions received could not be linked to a specific repository arrest record.
- Twenty-three states place dispositions that cannot be matched to a suspense log for further investigation, and 13 states reject the disposition information.
- Repository staff in 28 states and Puerto Rico conducts follow-up actions when dispositions cannot be matched to a specific arrest. In 25 states and Puerto Rico, repository

staff follows-up and contacts the court to obtain additional information.

Record processing times, livescan devices in courtrooms, and disposition backlogs, 2014 (table 14)

- Forty states, the District of Columbia, and Guam report a total of over 3.3 million felony arrests in 2014.
- Twenty states reported having backlogs in entering court disposition data into their criminal history database.
- Collectively, 19 states have over 3 million unprocessed or partially processed court disposition forms, ranging from 200 in North Dakota to over 1 million in Nevada.
- The length of time between occurrence of the final felony court disposition and its receipt by the repository ranges from 1 day or less in 8 states and Guam to 164 days in Missouri.
- The number of days between receipt of a final felony court disposition and its entry into the criminal history

database ranges from 1 day or less in 20 states to over 100 days in Oregon.

- Ten states use livescan devices in the courtroom to link positive identifications with dispositions.

State criminal history repository practices and technologies employed

Arrest fingerprint cards processed, 2008, 2010, 2012, and 2014 (table 9):

- During 2014, over 11.6 million arrest fingerprint cards were submitted to state criminal history repositories. This is an 8% decrease from that reported in 2012.
- Twenty-one states report an overall increase in the total number of arrest fingerprint cards submitted to the state repository.
- Nine states report an overall increase of at least 10% in the total number of arrest fingerprint cards submitted to the state repository.

- Twenty-nine states report an overall decrease in the number of arrest fingerprint cards submitted to the state repository.

Criminal history system software employed by state criminal history repositories, 2014 (table 10):

- Software components of state criminal history systems:
 - Current system was acquired from a software vendor and configured for the state's environment, but with no software modifications (2 states—New Hampshire and Wyoming—and Guam)
 - Current system was acquired from a software vendor, but customized changes were made to account for the state's environment (19 states and the District of Columbia)
 - Current system was built in-house either by staff or contractors (26 states and Puerto Rico)

- Software environment / platform used for state criminal history systems:

- Microsoft.NET platform (9 states)
- Java platform (14 states, the District of Columbia, and Puerto Rico)
- Mainframe platform (11 states)
- Other (14 states and Guam)

Arrest/fingerprint reporting, 2014 (table 11):

- Forty-nine states, the District of Columbia, Guam, and Puerto Rico report having a total of 25,439 law enforcement agencies. Of these, over 10,000 law enforcement agencies submit arrest fingerprint images to state repositories using livescan technology.
- Over 400 law enforcement agencies submit arrest fingerprint images to state repositories using cardscan technology.
- Nearly 2,700 law enforcement agencies submit hard copy arrest fingerprint cards to state repositories.

Electronic fingerprint capture devices and the submission of arrest fingerprints, 2014 (table 11a):

- Forty-nine states, the District of Columbia, Guam, and Puerto Rico report receiving over 10.3 million arrest fingerprint records by livescan.
- Over 89,000 fingerprint records were scanned and submitted to repositories using cardscan, and over 591,000 hard copy arrest fingerprint cards were submitted and received from law enforcement.

Electronic fingerprint capture devices and the use of livescan/cardscan for criminal and noncriminal justice purposes, 2014, (table 11b):

- Forty-one states, the District of Columbia, Guam, and Puerto Rico report having 6,810 livescan devices and 500 cardscan devices in use for both criminal and noncriminal justice purposes. Similarly, 8,704 livescan devices and 168 cardscan devices are used exclusively for noncriminal justice purposes.

Electronic fingerprint capture devices and the submission of fingerprints for noncriminal justice purposes, 2014 (table 11c)

- Forty-three states, the District of Columbia and Puerto Rico report receiving over 10 million noncriminal justice fingerprint requests by livescan and over 627,000 by cardscan.
- Forty-three states, the District of Columbia, and Puerto Rico indicate over 80% of noncriminal justice fingerprints are submitted using livescan while 5% are submitted using cardscan.
- Four states and Guam indicate that all noncriminal justice fingerprints are submitted using other methods.

Mobile technology for capturing and transmitting fingerprints, 2014 (table 11d):

- Twenty-eight states, the District of Columbia, and Puerto Rico use mobile technology to transmit fingerprints for identification purposes.

- Four states use mobile technology to transmit fingerprints for booking purposes.
- Eight states and the District of Columbia plan to implement mobile technology to capture non-fingerprint biometric information.
- Twenty-four states employ Rapid ID and have conducted over 1.7 million searches that produced over 1 million “hits” or positive responses.

Record/database content and combining criminal events with noncriminal justice applicant information, 2014 (table 12):

- Twenty-five states and Puerto Rico combine both criminal events and noncriminal justice applicant information in the same record.
- Four states and Puerto Rico indicate that 30% or more of their records contain both criminal events and noncriminal justice applicant information.

Privatization of noncriminal justice fingerprint capture services, 2014 (table 13):

- Thirty-two states have privatized the capture of noncriminal justice fingerprints. In 18 of these states, a single vendor provides this service.
- In 30 states, the vendor assesses a fee above what the state charges for the background check. These fees range from \$8–\$20.

Noncriminal justice background checks

Noncriminal justice name-based background checks, 2014 (table 15):

- Forty-two states and the District of Columbia performed over 19.4 million name-based noncriminal justice background check requests.
- Twenty-nine states performed over 17.4 million name-based noncriminal justice background checks that were received via the Internet.
- Thirty-five states and the District of Columbia performed over 1.1 million name-based

noncriminal justice background checks that were received via the mail.

- Two states—Nevada and Oregon—received 112,700 name-based noncriminal justice background checks via telephone.
- Twelve states and the District of Columbia performed 732,100 additional name-based noncriminal justice background checks that were received via other means, such as modem or public walk-in access.

Noncriminal justice fingerprint-based background checks, 2014 (table 16):

- Information contained in the results of a fingerprint-based noncriminal justice background check:
 - Full record (39 states, the District of Columbia, Guam, and Puerto Rico)
 - Convictions only (3 states—Kentucky, Maine, and New Hampshire)
 - Juvenile records (5 states)

— Arrests without dispositions—over 1 year old (18 states and the District of Columbia)

— Other (20 states)

- Twenty-four states report that 10% or more fingerprint-based noncriminal justice transactions are identified against arrest fingerprints.
- Twenty-three states attempt to locate missing disposition information before responding to fingerprint-based noncriminal justice inquiries.

Legal authority for conducting noncriminal justice background checks, 2014 (table 17)

- All states, the District of Columbia, Guam, and Puerto Rico report having legal authority to conduct noncriminal justice background checks against a wide range of occupational groups, and licensing and regulatory functions. This authority is granted most often through specific state statute and where applicable, Federal statute pursuant to U.S. Public Law 92-544, the National Child Protection Act (NCPA),

and the Volunteers for Children Act (VCA). In instances where legal authority is not available, noncriminal justice background checks are not conducted. See table 17 for the specific circumstances under which these background checks are conducted.

Lights-out fingerprint processing, 2014 (table 18):

- Thirty-seven states, the District of Columbia, and Guam conduct “lights-out” fingerprint processing (an identification decision is made without fingerprint technician intervention).
- Twenty-one states and Guam report 60% or more of criminal and noncriminal fingerprints received are handled using “lights-out” processing techniques.

Assessment and allocation of fees, 2014 (table 19):

- All states, the District of Columbia, Guam, and Puerto Rico report charging a fee to conduct a search of the state’s criminal history database for noncriminal justice purposes.

- Fifteen states and the District of Columbia allocate all fees collected for such purposes to their state general fund.

- Three states (Georgia, New Jersey, and New York) allocate a percentage of collected fees to state repository operations.

- Twenty-one states and Guam allocate all fees collected for noncriminal justice background checks to their state repository.

- Eleven states and Puerto Rico allocate all fees to fund other activities/ programs. These include funding of Automated Fingerprint Identification Systems (AFIS), criminal justice information system support, information sharing activities, etc.

Web-based services for noncriminal justice purposes, 2014 (table 20):

- Twenty-seven states provide web-based noncriminal justice background checks to the public.

- Twenty-five states collect a public access fee to conduct a background check of Internet requests. Fees charged per inquiry range from \$1 in Missouri to \$31 in Maine.

Rap back

Criminal justice rap back services, 2014 (table 22)

- Eighteen states provide in-state criminal justice rap back services.
- At year’s-end 2014, no states were participating in the FBI’s Next Generation Identification (NGI) criminal justice rap back service.
- Nearly 59,000 in-state criminal justice rap back notifications were made by 10 states.
- Purposes in which criminal justice agencies can be notified of a subsequent inquiry and/or record posting via the in-state criminal justice rap back service:
 - Error correction/record management updates (6 states)
 - Investigative lead (1 state—Kansas)
 - Sex offender (2 states—Florida and New York)

- Parolee (5 states—Florida, Hawaii, Louisiana, New York, and Texas)
 - Probationer (6 states)
 - Permit/privileged license revocation (4 states—Connecticut, Delaware, Kansas, and Kentucky—and the District of Columbia)
 - Noncriminal justice purpose fingerprint search (2 states—Connecticut and Florida)
 - Other – criminal justice employment, arrests, CCW permit revocation, warrants, and record updates (8 states)
- Noncriminal justice rap back services, 2014 (tables 23 and 23a)*
- Twenty-seven states provide in-state noncriminal justice rap back services. In 25 of those states, rap back is authorized by state law or administrative regulation. In 19 states, state law or administrative regulation specifies the purposes in which agencies can be notified.
 - Over 1.1 million in-state noncriminal justice rap back notifications were made by 16 states.
 - At year’s-end 2014, no states were participating in the FBI’s NGI noncriminal justice rap back service.
 - Occupational groups in which agencies can be notified for subsequent record postings:
 - Persons working with children (22 states)
 - Persons working with the elderly (19 states)
 - Healthcare providers (19 states)
 - Security guards (16 states)
 - Police, fire, and public safety personnel (19 states)
 - Other (16 states)
 - Six states charge a fee for enrolling in the state’s noncriminal justice rap back service and 3 states charge a fee upon making a rap back notification. In Texas, fees are assessed for both enrollment and each notification.
 - Ten states report having in-state noncriminal justice rap back validation requirements similar to that required by NGI for all or some of its rap back subscriptions.

Data tables

Table 1. Overview of state criminal history record systems, December 31, 2014

State	Number of subjects (individual offenders) in state criminal history file			Percent of arrests in database that have final case dispositions recorded		
	Total	Automated	Manual	All arrests	Arrests within past 5 years	Felony charges with final disposition
Total	105,569,200 a	100,024,400	5,544,800			
Alabama	2,164,900	2,164,900	0	na	20	na
Alaska	270,400	260,200	10,200	91	91	92
American Samoa	nr	nr	nr	nr	nr	nr
Arizona	1,653,400	1,653,400	0	58	66	71
Arkansas	712,000	712,000	0	68	79	90
California	11,365,000	9,568,700	1,796,300	na	na	na
Colorado	1,641,800	1,641,800	0	19	34	21
Connecticut	1,155,400	556,200	599,200	68	98	97
Delaware	2,380,800	2,380,800	0	96	96	96
District of Columbia	470,300	470,300	0	43	43	43
Florida	6,346,900	6,346,900	0	71	66	81
Georgia	3,965,200	3,965,200	0	71	85	71
Guam	2,100	2,100	0	100	100	100
Hawaii	543,800	543,800	0	95	89	95
Idaho	394,100	394,100	0	50	39	57
Illinois	6,646,200	6,071,100	575,100	69	37	17
Indiana	1,700,000	1,700,000	0	46	43	14
Iowa	721,100	703,100	18,000	92	88	32
Kansas	1,455,200	1,004,100	451,100	56	41	62
Kentucky	1,355,900	1,355,900	0	38	19	48
Louisiana	2,809,700	2,109,600	700,100	21	na	na
Maine	544,600	506,700	37,900	82	65	70
Maryland	1,578,800	1,578,800	0	98	95	28
Massachusetts	1,715,300	1,715,300	0	na	na	na
Michigan	2,967,900	2,967,900	0	84	75	84
Minnesota	1,080,700	1,080,700	0	nr	nr	nr
Mississippi	866,600	866,600	0	14	11	10
Missouri	1,640,300	1,491,400	148,900	69	70	53
Montana	232,200	232,200	0	48	53	41
Nebraska	411,900	411,900	0	70	75	78
Nevada	823,500	823,500	0	49	55	10
New Hampshire	495,200	470,400	24,800	83	83	90
New Jersey	2,255,400	2,215,600	39,800	88	83	96
New Mexico	629,000	534,200	94,800	24	20	27
New York	9,289,000	9,289,000	0	90	88	85
North Carolina	1,608,900	1,608,900	0	85	72	91
North Dakota	179,800	169,800	10,000	87	81	na
No. Mariana Islands	nr	nr	nr	nr	nr	nr
Ohio	2,360,800	2,021,700	339,100	53	40	68
Oklahoma	975,600	905,800	69,800	39	34	53
Oregon	1,225,900	1,225,900	0	82	78	92
Pennsylvania	2,713,000	2,431,500	281,500	75	62	89
Puerto Rico	342,200	342,200	0	nr	nr	nr
Rhode Island	1,189,600	1,189,600	0	85	na	na
South Carolina	1,672,200	1,626,000	46,200	65	na	na
South Dakota	285,100	285,100	0	84	na	na
Tennessee	1,909,800	1,898,700	11,100	50	75	na
Texas	13,050,800	13,050,800	0	86	92	72
Utah	741,300	741,300	0	77	72	83
Vermont	244,700	244,700	0	93	88	92
Virgin Islands	nr	nr	nr	nr	nr	nr
Virginia	2,230,500	2,172,700	57,800	88	89	89
Washington	1,706,900	1,706,900	0	96	94	99
West Virginia	654,100	421,000	233,100	na	na	na
Wisconsin	nr	nr	nr	87	83	83
Wyoming	193,400	193,400	0	84	82	87

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Table 1 explanatory notes:

- Percentages and numbers reported are estimates.
- Percentages have been rounded to the nearest whole percent.
- Numbers have been rounded to the nearest 100.
- na (not available).
- nr (not reported).
- The "number of subjects (individual offenders)" in the state criminal history file for each year applies only to the criminal history file, including partially automated files, and does *not* include release by police without charging, declinations to proceed by prosecutor, or final trial court dispositions.
- The total number of subjects (individual offenders) in state criminal history files does not include American Samoa, the Northern Mariana Islands, the Virgin Islands, and Wisconsin, from which no data were submitted.

Data footnotes:

- a. The total number of subjects in state criminal history files does not equal the sum of automated and manual files due to rounding.
- b. Massachusetts Courts do not submit fingerprint-supported final dispositions to the repository. A major project is currently underway to link court disposition data to the repository.
- c. Low percentages are due to a number of factors. Lack of training of court clerks, turnover, illegible handwriting on manual documents, court information system not linked to criminal history repository system, updated records at local level are not being forwarded to repository system, etc.
- d. Wisconsin's DOJ IT personnel were unable to provide this data within the timeframe requested.

Table 1a. Overview of state criminal history record system functions, 2014

State	Total number of fingerprints processed	Fingerprints processed for criminal justice purposes					Total noncriminal justice purposes	Fingerprints processed for noncriminal justice purposes			
		Total criminal justice purposes	Retained	Percent of 2014 volume	Not retained	Percent of 2014 volume		Retained	Percent of 2014 volume	Not retained	Percent of 2014 volume
Total	23,886,000	11,687,700	11,286,800		400,900		12,198,500	8,434,000		3,764,500	
Alabama	268,800	225,000	225,000	84	0	0	43,800	43,800	16	0	0
Alaska	62,000	22,200	22,200	36	0	0	39,900	39,900	64	0	0
American Samoa	nr	nr	nr	nr	nr	nr	nr	nr	nr	nr	nr
Arizona	475,100	346,500	346,500	73	0	0	128,600	128,600	27	0	0
Arkansas	228,200	127,500	127,500	56	0	0	100,600	100,600	44	0	0
California	3,379,000	1,465,700	1,446,500	43	19,200	1	1,913,200	1,913,200	57	0	0
Colorado	394,100	235,400	235,200	60	200	0	158,800	152,400	39	6,400	2
Connecticut	182,100	97,200	97,200	53	0	0	84,900	84,900	47	0	0
Delaware	85,200	34,300	34,300	40	0	0	50,900	50,900	60	0	0
District of Columbia	12,500	600	600	5	0	0	11,900	700	6	11,200	90
Florida	2,178,100	773,400	773,400	36	0	0	1,404,700	497,300	23	907,400	42
Georgia	903,500	503,000	503,000	56	0	0	400,600	0	0	400,600	44
Guam	4,000	2,500	2,500	63	0	0	1,500	1,500	37	0	0
Hawaii	87,500	48,200	48,000	55	200	0	39,400	0	0	39,400	45
Idaho	145,900	63,200	63,200	43	0	0	82,600	5,500	4	77,100	53
Illinois	951,300	503,900	463,300	49	40,600	4	447,400	402,700	42	44,700	5
Indiana	618,500	237,800	237,800	38	0	0	380,700	380,700	62	0	0
Iowa	129,300	87,100	87,100	67	0	0	42,200	0	0	42,200	33
Kansas	186,800	131,200	131,200	70	0	0	55,700	55,700	30	0	0
Kentucky	227,400	172,300	172,300	76	0	0	55,100	400	0	54,700	24
Louisiana	466,800	327,200	327,200	70	0	0	139,600	139,600	30	0	0
Maine	43,300	30,700	17,000	39	13,700	32	12,600	10,400	24	2,200	5
Maryland	535,000	266,800	266,800	50	0	0	268,200	268,200	50	0	0
Massachusetts	351,100	150,000	146,700	42	3,300	1	201,000	201,000	57	0	0
Michigan	667,200	384,200	279,400	42	104,800	16	282,900	279,500	42	3,400	1
Minnesota	202,100	154,300	152,300	75	2,000	1	47,800	100	0	47,700	24
Mississippi	223,400	88,200	88,200	39	0	0	135,200	0	0	135,200	61
Missouri	394,800	220,400	220,400	56	0	0	174,400	174,400	44	0	0
Montana	49,100	21,000	21,000	43	0	0	28,100	0	0	28,100	57
Nebraska	69,500	43,600	43,600	63	0	0	25,900	25,900	37	0	0
Nevada	275,800	81,200	79,000	29	2,200	1	194,600	47,600	17	147,000	53
New Hampshire	75,700	42,000	42,000	56	0	0	33,700	0	0	33,700	44
New Jersey	606,000	185,100	164,200	27	20,900	3	420,900	233,700	39	187,200	31
New Mexico	182,700	79,800	79,800	44	0	0	102,900	102,900	56	0	0
New York	1,476,400	886,900	713,100	48	173,800	12	589,600	554,600	38	35,000	2
North Carolina	539,500	270,300	251,700	47	18,600	3	269,200	64,500	12	204,700	38
North Dakota	50,500	25,600	25,600	51	0	0	24,900	8,200	16	16,700	33
No. Mariana Islands	nr	nr	nr	nr	nr	nr	nr	nr	nr	nr	nr
Ohio	1,216,100	277,300	277,300	23	0	0	938,800	938,800	77	0	0
Oklahoma	291,600	152,200	152,200	52	0	0	139,300	139,300	48	0	0
Oregon	262,200	137,500	137,500	52	0	0	124,700	34,500	13	90,200	34
Pennsylvania	813,500	335,200	335,200	41	0	0	478,400	22,000	3	456,400	56
Puerto Rico	41,600	15,400	15,400	37	0	0	26,200	26,200	63	0	0
Rhode Island	51,300	32,000	32,000	62	0	0	19,200	0	0	19,200	38
South Carolina	366,400	281,300	281,300	77	0	0	85,200	49,400	13	35,800	10
South Dakota	30,500	29,500	29,500	97	0	0	1,000	0	0	1,000	3
Tennessee	601,500	385,700	384,300	64	1,400	0	215,800	215,800	36	0	0
Texas	1,687,700	818,500	818,500	48	0	0	869,200	868,800	51	400	0
Utah	381,800	117,000	117,000	31	0	0	264,800	69,100	18	195,700	51
Vermont	29,600	15,300	15,300	52	0	0	14,300	0	0	14,300	48
Virgin Islands	nr	nr	nr	nr	nr	nr	nr	nr	nr	nr	nr
Virginia	507,600	256,500	256,500	51	0	0	251,000	0	0	251,000	49
Washington	440,800	220,600	220,600	50	0	0	220,300	8,600	2	211,700	48
West Virginia	187,800	105,300	105,300	56	0	0	82,500	82,500	44	0	0
Wisconsin	201,500	157,900	157,900	78	0	0	43,700	8,200	4	35,500	18
Wyoming	46,300	16,200	16,200	35	0	nr	30,100	1,400	3	28,700	62

Table 1a explanatory notes:

- Percentages and numbers reported are estimates.
- Percentages have been rounded to the nearest whole percent.
- Numbers have been rounded to the nearest 100.
- na (not available).
- nr (not reported).
- The total number of fingerprint-based background checks in state criminal history files does not include American Samoa, the Northern Mariana Islands, and the Virgin Islands, from which no data were submitted.

Data footnotes:

- a. The total number of fingerprints processed does not equal the sum of fingerprints processed for criminal and noncriminal justice purposes due to rounding.

Table 2. Number of subjects (individual offenders) in state criminal history file, 2010, 2012, and 2014

State	Number of subjects in manual and automated files		Number of subjects in manual and automated files, 2014			Percent of automated files			Percent change in total file	
	2010	2012	2014 total	Manual file	Automated file	2010	2012	2014	2010-2012	2012-2014
Total	95,960,700	100,596,300	105,569,200	5,544,800	100,024,400	92%	94%	95%	5%	5%
Alabama	1,751,700	2,021,200	2,164,900	0	2,164,900	89	100	100	15	7
Alaska	248,000	258,600	270,400	10,200	260,200	96	96	96	4	5
American Samoa	nr	900	nr	nr	nr	na	na	na	na	na
Arizona	1,594,400	1,706,500	1,653,400	0	1,653,400	100	100	100	7	-3
Arkansas	613,300	676,800	712,000	0	712,000	100	100	100	10	5
California	10,641,300	11,438,800	11,365,000	1,796,300	9,568,700	85	83	84	7	-1
Colorado	1,495,800	1,547,200	1,641,800	0	1,641,800	100	100	100	3	6
Connecticut	1,265,800	1,301,200	1,155,400	599,200	556,200	67	53	48	3	-11
Delaware	2,114,300	2,263,300	2,380,800	0	2,380,800	100	100	100	7	5
District of Columbia	645,100	nr	470,300	0	470,300	100	na	100	na	na
Florida	5,844,000	6,300,800	6,346,900	0	6,346,900	100	100	100	8	1
Georgia	3,541,500	3,759,600	3,965,200	0	3,965,200	100	100	100	6	5
Guam	2,000	2,000	2,100	0	2,100	100	100	100	0	5
Hawaii	519,100	540,600	543,800	0	543,800	100	100	100	4	1
Idaho	364,300	349,700	394,100	0	394,100	100	100	100	-4	13
Illinois	5,752,100	6,164,800	6,646,200	575,100	6,071,100	90	91	91	7	8
Indiana	1,488,500	1,595,700	1,700,000	0	1,700,000	100	100	100	7	7
Iowa	619,100	677,000	721,100	18,000	703,100	100	98	98	9	7
Kansas	1,303,200	1,381,200	1,455,200	451,100	1,004,100	68	70	69	6	5
Kentucky	1,211,900	1,280,900	1,355,900	0	1,355,900	100	100	100	6	6
Louisiana	2,193,000	2,231,100	2,809,700	700,100	2,109,600	71	71	75	2	26
Maine	464,000	522,000	544,600	37,900	506,700	89	92	93	13	4
Maryland	1,455,600	1,522,600	1,578,800	0	1,578,800	100	100	100	5	4
Massachusetts	1,114,600	1,179,600	1,715,300	0	1,715,300	73	75	100	6	45
Michigan	3,350,000	4,053,000 ^a	2,967,900	0	2,967,900	100	100	100	21	-27 ^a
Minnesota	837,900	1,022,600	1,080,700	0	1,080,700	100	100	100	22	6
Mississippi	510,600	689,800	866,600	0	866,600	100	100	100	35	26
Missouri	1,520,600	1,617,200	1,640,300	148,900	1,491,400	90	91	91	6	1
Montana	207,500	213,500	232,200	0	232,200	100	100	100	3	9
Nebraska	366,600	388,400	411,900	0	411,900	100	100	100	6	6
Nevada	704,500	772,500	823,500	0	823,500	100	100	100	10	7
New Hampshire	427,700	422,900	495,200	24,800	470,400	94	94	95	-1	17
New Jersey	2,072,700	2,155,200	2,255,400	39,800	2,215,600	100	93	98	4	5
New Mexico	544,200	595,700	629,000	94,800	534,200	100	81	85	9	6
New York	8,075,100	7,379,600	9,289,000	0	9,289,000	100	100	100	-9	26
North Carolina	1,545,300	1,490,500	1,608,900	0	1,608,900	98	100	100	-4	8
North Dakota	153,300	170,800	179,800	10,000	169,800	87	89	94	11	5
No. Mariana Islands	nr	nr	nr	nr	nr	na	na	na	na	na
Ohio	2,114,000	2,239,400	2,360,800	339,100	2,021,700	87	100	86	6	5
Oklahoma	852,400	920,900	975,600	69,800	905,800	92	92	93	8	6
Oregon	1,429,500	1,526,600	1,225,900	0	1,225,900	100	100	100	7	-20
Pennsylvania	2,661,900	2,528,100	2,713,000	281,500	2,431,500	81	91	90	-5	7
Puerto Rico	nr	312,500	342,200	0	342,200	na	na	100	na	10
Rhode Island	1,035,500	1,117,200	1,189,600	0	1,189,600	97	100	100	8	6
South Carolina	1,544,200	1,609,500	1,672,200	46,200	1,626,000	99	97	97	4	4
South Dakota	252,100	268,700	285,100	0	285,100	99	100	100	7	6
Tennessee	2,266,300	1,651,000 ^b	1,909,800	11,100	1,898,700	100	95	99	-27	16
Texas	10,883,600	11,824,200	13,050,800	0	13,050,800	100	100	100	9	10
Utah	534,300	704,700	741,300	0	741,300	80	100	100	32	5
Vermont	229,700	238,000	244,700	0	244,700	100	100	100	4	3
Virgin Islands	nr	nr	nr	nr	nr	na	na	na	na	na
Virginia	1,996,600	2,109,900	2,230,500	57,800	2,172,700	80	97	97	6	6
Washington	1,569,600	1,666,000	1,706,900	0	1,706,900	55	100	100	6	2
West Virginia	599,300	629,200	654,100	233,100	421,000	100	58	64	5	4
Wisconsin	1,263,000	1,374,600	nr ^c	nr	nr	100	100	na	9	na
Wyoming	170,100	182,000	193,400	0	193,400	100	100	100	7	6

Table 2 explanatory notes:

- Percentages and numbers reported are estimates.
- Percentages have been rounded to the nearest whole percent.
- Numbers have been rounded to the nearest 100.
- na (not available).
- nr (not reported).
- The totals for the percent of automated files and the percent change in total files represent percentages of column totals, not averages.
- The total number of subjects in manual and automated state criminal history files for 2014 does not include American Samoa, the Northern Mariana Islands, the Virgin Islands, and Wisconsin, from which no data were submitted.
- The "number of subjects (individual offenders)" in the state criminal history file for each year applies only to the criminal history file, including partially automated files, and does not include the master name index.

Data footnotes:

- a. 2012 totals were overstated by including applicant retained fingerprint cards. This total was adjusted from 4,053,000 to 2,967,900 in this year's report.
- b. The decrease between 2010 and 2012 totals is from adjusting how law enforcement applicants and other retained applicant fingerprint cards are accounted for in the state database. Additionally, 90,310 records were expunged from state files in 2012.
- c. Wisconsin's DOJ IT personnel were unable to provide this data within the timeframe requested.

Table 3. Biometric and image data collection by state criminal history repository, 2014

State	Volume/acceptance of repository biometric information											
	Latent prints	Flat prints	2-finger prints for ID purposes	2-finger prints for incarceration/release	10-finger prints for incarceration/release	Palm prints	Facial images/mug shots	Scars, marks, tattoos	Facial recognition data	Iris capture	1- or 2-finger prints for updating dispositions	Other
Total	2,196,200	28,327,300	568,444	0	1,687,000	10,811,200	3,457,500	186,100	1,900	16,000	4,200	305,201
Alabama	6,800					1,400						
Alaska	400										4,200	
American Samoa	nr											
Arizona	900											
Arkansas	nr											
California	38,700	110,400	179,500		42,400	1,264,600				16,000		29,400 a
Colorado	7,900	387,500	344			240,200	6,100					
Connecticut	7,000					84,700						
Delaware	nr											
District of Columbia	200	598,900				227,800	120,100					
Florida	163,900	21,817,500			507,200	4,881,700	1,458,400					b
Georgia	300											
Guam	100	100				100						
Hawaii	10,700					200	8,800		100			
Idaho	3,000		800		7,300	41,300	8,800					
Illinois	na				42,000	na	1,002,800	2,200				c
Indiana	2,800				230,100	400						
Iowa	1,200											
Kansas	nr											
Kentucky	1,200											
Louisiana	nr											
Maine	nr											
Maryland	6,800	410,500	233,200		266,100	106,400						
Massachusetts	6,100	791,800				132,900	190,900					
Michigan	5,300	649,500	800			298,100	298,600	160,900	1,400			
Minnesota			118,000		6,800			22,000	400			1 d
Mississippi	nr											
Missouri	8,000		13,300		9,100	326,300						
Montana					400							
Nebraska	14,400	69,500	400		69,500	46,100						
Nevada	1,000		4,400			10,700						275,800 e
New Hampshire	nr											
New Jersey	5,500		5,000		233,500	28,800	101,300					
New Mexico	700	79,800	4,700		79,800	68,300						
New York	nr											
North Carolina	nr											
North Dakota					3,800							
No. Mariana Islands	nr											
Ohio	nr											
Oklahoma	nr											
Oregon	nr											
Pennsylvania	nr											
Puerto Rico	nr											
Rhode Island	nr											
South Carolina	5,000					845,400	115,300					
South Dakota	nr											
Tennessee	1,500					125,600	146,400					
Texas	120,000	700	8,200		72,200	1,446,500						
Utah		117,000			117,000	50,000						
Vermont	nr											
Virgin Islands	nr											
Virginia	nr											
Washington	1,776,800	3,294,100				583,700						
West Virginia	na											c
Wisconsin	nr											
Wyoming	nr											

Table 3 explanatory notes:

- na (not available).
- nr (not reported).

Data footnotes:

- a. Images maintained together (facial, mug shots, scars, marks, tattoos, etc.).
- b. Numbers represent counts as of April 2015.
- c. Biometric and image date is collected by the repository but volumes for this report are not available.
- d. Footprints
- e. Latent prints include those entered by NVDPS and remote AFIS processing sites. Other = 10-digit rolled for criminal and civil.

Table 4. Protection order information and record counts, 2014

State	Agencies entering protection orders onto the state file			Agencies entering protection orders directly to NCIC			Number of active records in state protection order database as of 12/31/2014	Number of active records in NCIC protection order file as of 12/31/2014	
	State maintains a protection order file	Law enforcement	Courts	Other	Protection orders entered to NCIC	Law enforcement			Courts
Total							2,143,002	1,404,205	
Alabama	Yes	X			Yes	X	9,944	4,434	
Alaska	Yes	X			Yes	X	4,866	1,267	
American Samoa	nr	nr			nr		nr	0	
Arizona	Yes	X			Yes	X	16,500	17,918	
Arkansas	No				Yes	X		11,357	
California	Yes	X	X		Yes	X	X	278,029	65,112
Colorado	Yes	X	X		Yes	X	X	185,360	110,967
Connecticut	Yes	X	X		Yes	X	X	29,808	28,939
Delaware	Yes		X		Yes		X	2,221	1,695
District of Columbia	Yes		X		Yes		X	2,233	1,828
Florida	Yes	X			Yes	X		276,157	187,693
Georgia	Yes		X		Yes	X	X	8,918	8,148
Guam	Yes		X		Yes		X	141	465
Hawaii	Yes		X		Yes			11,485	3,842
Idaho	Yes	X			Yes	X		6,441	979
Illinois	Yes	X	X		Yes		X	88,670	29,057
Indiana	Yes		X		Yes		X	84,294	83,105
Iowa	Yes	X	X		Yes	X	X	50,640	21,709
Kansas	No				Yes	X			4,735
Kentucky	Yes	X			Yes	X		16,390	16,409
Louisiana	Yes			Supreme Court	Yes	X		na	10,716
Maine	Yes			ME State Police	Yes			na	4,625
Maryland	Yes	X			Yes	X		5,506	7,654
Massachusetts	Yes		X		Yes			35,728	19,540
Michigan	Yes	X	X		Yes	X		29,428	15,265
Minnesota	Yes		X		Yes		X	11,614	16,301
Mississippi	Yes	X	X		Yes	X	X	11,541	607
Missouri	Yes	X			Yes	X		15,497	14,581
Montana	Yes	X			Yes	X		4,524	4,438
Nebraska	Yes	X			Yes	X		5,101	1,111
Nevada	Yes	X	X	State Repository	Yes		X	2,715	25
New Hampshire	Yes	X	X		Yes	X	X	18	3,702
New Jersey	Yes		X		Yes		X	168,000	169,956
New Mexico	No				Yes	X			6,304
New York	Yes		X		Yes		X	228,360	230,664
North Carolina	No				Yes	X			11,649
North Dakota	Yes		X		Yes	X		1,362	31
No. Mariana Islands	nr				nr				0
Ohio	No				Yes	X			32,493
Oklahoma	No				Yes	X			5,835
Oregon	Yes	X	X		Yes	X		11,644	15,130
Pennsylvania	Yes	X	X		Yes	X	X	65,272	29,392
Puerto Rico	nr				nr			nr	0
Rhode Island	Yes			Attorney General	Yes			47,576	12,713
South Carolina	No				Yes	X			2,380
South Dakota	Yes		X		Yes	X		3,821	2,901
Tennessee	No				Yes	X			16,404
Texas	Yes	X			Yes	X		17,141	15,920
Utah	Yes		X		Yes			192,897	4,181
Vermont	Yes	X			Yes	X		2,166	2,166
Virgin Islands	nr				Yes				102
Virginia	Yes	X			Yes	X		85,756	26,914
Washington	Yes	X	X		Yes	X	X	102,726	98,948
West Virginia	Yes		X		Yes		X	3,556	2,617
Wisconsin	Yes	X			Yes	X		18,296	18,295
Wyoming	Yes	X			Yes	X		660	986

SR_0354

SER-357

Table 4 explanatory notes:

- na (not available).
- nr (not reported).

Data footnotes:

- a. At year's end 2014, 25 protection orders were entered to NCIC. Nevada courts are not 24x7. This causes courts not to be able to comply with longstanding NCIC policy requiring "hits" against NCIC records to be confirmed by the entering agency 24x7. Also, courts and law enforcement are not available or willing to validate the accuracy of protection orders under the existing NCIC validation requirement. Protection orders that meet NICS entry criteria are entered to the NICS Index by repository staff for use in making firearm suitability determinations.

Table 5. Warrant and wanted person file information, 2014

State	Agencies that enter warrants to state file				Agencies that enter warrants to NCIC		
	State maintains a warrant file	Law enforcement	Courts	Other	Law enforcement	Courts	Other
Alabama	Yes	X			X		
Alaska	Yes	X			X		
American Samoa	nr						
Arizona	Yes	X			X	X	
Arkansas	No				X		
California	Yes	X	X		X	X	
Colorado	Yes	X	X		X	X	
Connecticut	Yes	X	X		X	X	
Delaware	Yes	X	X		X	X	
District of Columbia	Yes	X	X		X		
Florida	Yes	X			X		
Georgia	No				X		
Guam	Yes		X			X	
Hawaii	Yes		X		X		
Idaho	Yes	X			X		
Illinois	Yes	X	X		X	X	
Indiana	Yes	X			X		
Iowa	Yes	X			X		
Kansas	Yes	X			X		
Kentucky	Yes	X			X		
Louisiana	No				X		
Maine	Yes	X			X		
Maryland	Yes	X		Parole Commission	X		Parole Commission
Massachusetts	Yes		X		X		
Michigan	Yes	X	X		X	X	
Minnesota	Yes	X		County and State Departments of Corrections	X		County and State Department of Corrections
Mississippi	No				X		
Missouri	Yes	X			X		
Montana	Yes	X			X		
Nebraska	Yes	X			X		
Nevada	Yes	X	X		X	X	
New Hampshire	Yes	X	X		X	X	
New Jersey	No				X		
New Mexico	No				X		
New York	Yes	X	X		X	X	
North Carolina	Yes		X		X		
North Dakota	Yes	X			X		
No. Mariana Islands	nr						
Ohio	No	X	X		X	X	
Oklahoma	No				X		
Oregon	Yes	X	X		X	X	
Pennsylvania	Yes	X	X		X	X	
Puerto Rico	Yes		X		X	X	
Rhode Island	Yes	X	X	Attorney General	X	X	Attorney General
South Carolina	No				X		
South Dakota	Yes	X			X		
Tennessee	No				X		
Texas	Yes	X			X		
Utah	Yes		X	Adult Probation and Parole, State Board of Pardons	X		Adult Probation and Parole, State Board of Pardons
Vermont	Yes	X			X		
Virgin Islands	nr						
Virginia	Yes	X			X		
Washington	Yes	X	X		X	X	
West Virginia	Yes		X		X		
Wisconsin	Yes	X			X		
Wyoming	Yes	X			X		

SR_0356

Table 5 explanatory notes:

- na (not available).
- nr (not reported).

Data footnotes:

Table 5a. Warrant and wanted person file record counts, 2014

State	Number of records in state warrant database as of		NCIC Wanted Person File record count, as of		Breakdown of warrants in state warrant database			
	12/31/2014	a	12/31/2014	a	Felony warrants	Misdemeanor warrants	Other	
Total	7,823,581		2,126,579		725,076	3,868,351	859,476	
Alabama	184,351		11,577		17,179	167,160	12	c
Alaska	13,597		404		2,576	3,821	7,200	c
American Samoa	nr		1					
Arizona	342,950		18,735		43,158	874,595		
Arkansas		b	147,253					b
California	1,068,009		242,694		278,337	780,672		
Colorado	236,044		36,770		26,281	142,921	66,842	c
Connecticut	16,753		3,331		9,585	7,168		
Delaware	220,856		3,259		10,820	174,361	35,682	c
District of Columbia	10,105		615					
Florida	244,311		269,619					
Georgia		b	222,756					b
Guam	1,394		364		248	242	904	c
Hawaii	91,199		524		0	33052	58,147	c
Idaho	74		24,514					
Illinois	384,481		35,802					
Indiana	86,354		52,452					
Iowa	51,469		11,715		2,454	49,015		
Kansas	39,529		8,956		0	39,529		
Kentucky	313,616		10,231					
Louisiana		b	12,926					b
Maine	na		1,420					
Maryland	195,106		19,168					
Massachusetts	428,409		16,827		95,112	333,297		
Michigan	948,775		77,498		26,488	377,133	545,154	c
Minnesota	66,838		16,552		14,565	12,610		
Mississippi		b	11,321					b
Missouri	271,330		28,296		28,188	114,356		
Montana	20,628		2,938					
Nebraska	17,003		6,377			17003		
Nevada	203,048		14,484					
New Hampshire	31,116		2,742					
New Jersey		b	57,363					b
New Mexico		b	99,991					b
New York	288,174		33,745		66,626	195,168	26,380	c
North Carolina	831,703		25,146		na	na	na	
North Dakota	32,321		1,232					
No. Mariana Islands	nr		0					
Ohio		b	14,946					b
Oklahoma		b	19,405					b
Oregon	na		17,054		na	na	na	
Pennsylvania	104,839		106,811		20,042	46,898	37,899	c
Puerto Rico			1,522					
Rhode Island	na		1,817					
South Carolina		b	64,218					b
South Dakota	na		1,057					
Tennessee		b	33,143					b
Texas	223,553		219,227					
Utah	222,241		1,594		16,276	184,627	11,118	c
Vermont	5,407		256					
Virgin Islands	nr		80					
Virginia	175,996		52,671					
Washington	215,845		44,673		49,284	165,731	830	c
West Virginia	12,022		1,528		4,096	7,916	10	c
Wisconsin	176,134		15,812		13,761	93,075	69,298	c
Wyoming	48,001		1,167		0	48001		

SR_0358

SER-361

Table 5a explanatory notes:

- na (not available).
- nr (not reported).

Data footnotes:

- a. State counts may include warrants ineligible for NCIC entry, such as civil warrants, and certain traffic and juvenile warrants.
- b. State does not maintain a warrant file.
- c. States reporting "Other" indicate that warrants in this category pertain to attempt to locate civil, child support, juvenile, ordinance infractions, small claims, and/or traffic-related matters.

Table 6. Flagging of records, 2014

State	Felony conviction flagging capability for criminal history record subjects	Flagging also employed to indicate								Other	
		Sex offender registrant	Convicted drug offender	Violent offender	Domestic violence conviction	Mental health adjudication	DNA available	DNA not yet collected	Ineligible for firearms purchases under Federal law		Ineligible for firearms purchases under state law
Alabama	Yes, all	X									
Alaska	Yes, all	X			X		X	X	X	X	
American Samoa	nr										
Arizona	Yes, all	X					X				
Arkansas	Yes, all	X				X	X		X		
California	No	X				X	X	X			
Colorado	No	X		X			X				a
Connecticut	Yes, all	X			X						
Delaware	Yes, all	X			X		X				
District of Columbia	No										b
Florida	Yes, some	X					X				c
Georgia	Yes, all	X					X		X		
Guam	No	X			X			X	X	X	d
Hawaii	Yes, all	X		X		X	X	X			e
Idaho	Yes, all						X				
Illinois	Yes, all	X		X		X	X	X	X	X	
Indiana	No										
Iowa	Yes, all						X	X			
Kansas	Yes, all	X	X		X		X				
Kentucky	Yes, some	X					X		X	X	
Louisiana	Yes, some	X					X	X			
Maine	No										
Maryland	Yes, some	X	X	X							f
Massachusetts	No	X									
Michigan	Yes, all				X	X	X				
Minnesota	Yes, some								X		
Mississippi	No	X									
Missouri	Yes, all	X		X			X		X		
Montana	Yes, all	X		X			X				
Nebraska	Yes, all	X			X						
Nevada	Yes, all	X					X				
New Hampshire	No										
New Jersey	Yes, all	X			X		X	X			g
New Mexico	Yes, all	X									
New York	Yes, all	X		X			X				h
North Carolina	Yes, all				X		X		X		
North Dakota	No										
No. Mariana Islands	nr										
Ohio	Yes, some	X					X	X			i
Oklahoma	Yes, some										
Oregon	Yes, all	X					X		X	X	j
Pennsylvania	Yes, all	X			X				X	X	
Puerto Rico	No										
Rhode Island	Yes, all	X									
South Carolina	Yes, some	X	X	X					X	X	
South Dakota	Yes, all										
Tennessee	Yes, some						X			X	
Texas	Yes, all	X			X		X				
Utah	Yes, all										
Vermont	Yes, all	X		X			X				
Virgin Islands	nr										
Virginia	Yes, all	X							X		
Washington	Yes, all				X		X		X	X	
West Virginia	Yes, all	X		X	X		X	X			k
Wisconsin	Yes, all	X					X	X	X	X	
Wyoming	Yes, all									X	

SR_0360

Table 6 explanatory notes:

- na (not available).
- nr (not reported).

Data footnotes:

- a. Deceased, identity theft
- b. Most violent offender
- c. All registrations
- d. Warrants, custody status
- e. Career criminal, firearms risk
- f. Domestic crimes
- g. Gang-related
- h. Parole, probation, deported alien, wanted, missing persons
- i. Wanted, sealed, caution flags
- j. Deceased, presumed dead
- k. Child abusers, bail enforcement, CCW permits

Table 6a. Access to records, 2014

Other records and services that are accessible through state repositories								
State	Sex offender registry	Orders of protection	Wanted persons/warrants	Retained applicant prints	Rap back for criminal justice purposes	Firearm registration	Domestic violence incident reports	Other
Alabama	X	X	X	X			X	
Alaska	X	X	X	X				a
American Samoa	nr							
Arizona	X	X	X					
Arkansas	X	X	X					
California	X			X	X			
Colorado	X	X	X	X	X			
Connecticut	X					X		
Delaware	X	X	X	X	X		X	
District of Columbia	X	X	X					
Florida	X	X	X					b
Georgia	X	X	X					
Guam	X	X	X					
Hawaii	X	X				X		
Idaho	X	X	X					c
Illinois				X	X			
Indiana	na							
Iowa	X	X	X					
Kansas	X		X	X	X		X	
Kentucky	X	X	X					
Louisiana	X			X	X			
Maine								
Maryland	X	X	X	X	X	X	X	
Massachusetts				X				
Michigan	X							
Minnesota	X	X	X		X			d
Mississippi	X	X	X					
Missouri	X	X	X	X				e
Montana	X							
Nebraska	X	X	X	X				
Nevada	X	X	X					c, f
New Hampshire	X							
New Jersey	X	X	X	X	X	X	X	
New Mexico								
New York	X	X	X	X			X	
North Carolina	X							
North Dakota	X	X	X					c
No. Mariana Islands	nr							
Ohio	X		X	X				
Oklahoma				X				
Oregon	X		X	X				
Pennsylvania	X	X	X	X	X	X		
Puerto Rico	X							
Rhode Island	X		X	X				
South Carolina								
South Dakota	X			X		X		
Tennessee	X	X	X					
Texas	X			X	X			
Utah	X	X	X					
Vermont	X	X	X		X			
Virgin Islands	nr							
Virginia	X	X	X					g
Washington	X	X	X			X		
West Virginia	X		X	X				
Wisconsin								
Wyoming	X	X	X					

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Table 6a explanatory notes:

- na (not available).
- nr (not reported).

Data footnotes:

- a. State rap back for certain non-criminal justice clients
- b. Missing persons, child support writs
- c. Concealed weapons permits
- d. Domestic abuse no-contact orders, arrest photos, concealed weapons permits
- e. Rap back service for schools
- f. Parole and probation information
- g. Mental health, machine gun, concealed handgun permits

Table 7. Number of final dispositions reported to state criminal history repository, 2008, 2010, 2012, and 2014

State	Number of final case dispositions				Percent change		
	2008	2010	2012	2014	2008-2010	2010-2012	2012-2014
Total	12,215,600	12,964,000	13,798,300	12,181,300	6%	7%	-12%
Alabama	65,500	66,600	27,800	31,700	2	-58	a 14
Alaska	46,200	34,100	72,100	46,700	-26	111	b -35
American Samoa	nr	nr	1,300	nr	nr	nr	nr
Arizona	185,800	172,100	278,700	370,500	-7	62	33
Arkansas	185,800	44,500	42,900	54,800	-76	-4	28
California	1,784,100	1,616,800	1,565,000	1,471,100	-9	-3	-6
Colorado	22,800	66,700	34,300	115,500	93	-49	237 c
Connecticut	104,800	53,200	88,600	70,200	-49	67	-21
Delaware	127,000	341,100	476,700	451,600	169	40	-5
District of Columbia	nr	nr	nr	30,200	nr	nr	nr
Florida	1,316,800	2,224,700	2,057,400	1,419,800	69	-8	-31
Georgia	600,600	728,000	658,900	729,100	21	-9	11
Guam	900	1,100	5,000	4,300	22	355	d -14
Hawaii	51,200	67,400	70,400	72,700	32	4	3
Idaho	126,000	156,500	141,200	171,600	24	-10	22
Illinois	436,600	380,400	275,000	289,200	-13	-28	5
Indiana	201,600	295,400	244,400	169,000	47	-17	-31
Iowa	253,400	306,800	305,000	350,800	21	-1	15
Kansas	192,900	168,600	229,000	115,600	-13	34	-50 e
Kentucky	95,000	62,000	141,000	106,500	-35	127	f -24
Louisiana	18,600	32,800	42,400	21,300	76	29	-50 g
Maine	10,200	92,300	32,900	33,500	805	-64	h 2
Maryland	335,900	248,500	282,000	239,500	-26	13	-15
Massachusetts	423,200	na	na	na	na	na	na i
Michigan	348,000	440,300	824,200	428,100	27	87	j -48 j
Minnesota	166,200	k 152,400	93,400	114,700	-8	-39	23
Mississippi	13,100	15,400	15,200	28,600	18	-1	88 l
Missouri	188,500	134,600	157,800	172,400	-27	17	9
Montana	21,400	23,100	26,200	22,600	8	13	-14
Nebraska	47,900	65,600	56,200	72,200	37	14	28
Nevada	35,900	46,400	50,000	119,800	29	8	140 m
New Hampshire	nr	nr	nr	73,800	nr	nr	na
New Jersey	525,700	370,500	693,200	139,200	-30	87	n -80 n
New Mexico	16,300	21,700	10,000	4,900	33	-54	o -51 o
New York	517,400	532,300	576,200	548,700	3	8	-5
North Carolina	312,500	307,300	256,000	243,300	-2	-17	-5
North Dakota	19,000	18,000	nr	19,800	-5	na	na
No. Mariana Islands	nr	nr	nr	nr	nr	nr	nr
Ohio	288,300	575,100	p 351,800	400,400	99	-39	14
Oklahoma	68,800	69,000	75,500	85,200	<1	9	13
Oregon	190,600	164,000	149,400	q 87,500	-14	-9	-41 q
Pennsylvania	157,300	153,900	141,200	172,900	-2	-8	22
Puerto Rico	nr	nr	18,100	41,500	nr	nr	129
Rhode Island	13,300	23,300	15,900	7,800	75	-32	-51
South Carolina	204,500	151,900	183,800	112,100	-26	21	-39
South Dakota	64,900	59,800	na	350,900	-8	na	na
Tennessee	223,600	266,000	255,700	258,600	19	-4	1
Texas	986,200	959,700	1,398,300	1,040,100	-3	46	-26
Utah	180,600	202,900	118,300	79,900	12	-42	-32
Vermont	28,500	19,700	19,500	19,400	-31	-1	-1
Virgin Islands	nr	nr	nr	nr	nr	nr	nr
Virginia	433,600	432,500	464,400	460,800	<1	7	-1
Washington	305,200	287,700	396,800	396,900	-6	38	<1
West Virginia	46,000	66,000	66,500	na	43	1	na
Wisconsin	211,000	231,500	302,400	302,500	10	31	r <1
Wyoming	16,400	13,800	10,300	11,500	-16	-25	12

Table 7 explanatory notes:

- Percentages and numbers reported are estimates.
- Percentages have been rounded to the nearest whole percent.
- Numbers have been rounded to the nearest 100.
- na (not available).
- nr (not reported).
- Final dispositions include release by police without charging, declination to proceed by prosecutor, or final trial court disposition.

Data footnotes:

- a. Final dispositions reported in 2008 and 2010 include dispositions in backlog. The 2012 total does not.
- b. The 2012 increase in reported dispositions is caused by efforts to enter case dismissals that are reported to the repository by statewide courts. This also influences the 2014 percent change notation.
- c. The 2014 increase in reported dispositions is caused by a change in counting methodologies from previous cycles. The current method is to count each charge within each arrest event, as opposed to only counting individual arrest events and not each charge.
- d. The 2012 increase in reported dispositions is caused by efforts to complete a backlog reduction project.
- e. The 2014 decrease in reported dispositions is caused by a legislative change that required courts to electronically report dispositions to the repository by July 1, 2013. Prior to that date, statewide prosecutors reported dispositions; however, on the effective date of the new law, courts were not ready to report dispositions and prosecutors discontinued reporting. Prosecutors have since begun to report again and work is being done to build electronic court exchanges to report dispositions to the repository.
- f. The 2012 increase in reported dispositions is caused by NCHIP- and NARIP-funded efforts to research and enter dispositions for charges for which final dispositions were not reported.
- g. The 2014 decrease in disposition receipts is caused by the clearing of a 2012 backlog of disposition reports.
- h. The 2012 decrease in reported dispositions is caused by completing a 2010 project with statewide courts to recover past "legacy" disposition data.
- i. The Commonwealth of Massachusetts has a separate disposition database. Currently these dispositions are not submitted to the repository. Massachusetts reports 99% of records in its database have dispositions.
- j. The 2012 increase in reported dispositions is caused by efforts to research and enter dispositions for charges for which final dispositions were not reported. The 2014 decrease follows a 2013 legislative change making deferrals nonpublic and not subject to reporting of same to the repository.
- k. In the 2008 survey, Minnesota reported 230,100 final dispositions. This total was overstated by 63,900 and adjusted in this report to total 166,200.
- l. The 2014 increase in reported dispositions is caused by a major educational outreach project with statewide courts.
- m. The 2014 increase in reported dispositions is caused by a major outreach project and backlog reduction effort following a fall 2013 audit of criminal history records between the repository and statewide courts.
- n. The 2012 increase in reported dispositions is caused by implementing an automated linking and flagging process between the New Jersey State Police and statewide courts. This process went into production in 2011 and stabilized following a backlog reduction effort in 2013 and 2014.
- o. The 2012 and 2014 decreases in reported dispositions are caused by completing a backlog reduction project.
- p. Ohio's 2010 total number of final case dispositions received was decreased from 770,900 to 575,100 in this year's report. Also, the 2008–2010 percent change figure was adjusted to reflect this change. The higher number included dispositions that were processed from an accumulated backlog.
- q. Oregon's 2012 total number of final case dispositions received was decreased from 202,500 to 149,400 in this year's report. Also, the 2010–2012 percent change figure was adjusted to reflect this change. The 2014 decrease in reported dispositions is caused by a change in counting methodologies from previous cycles.
- r. The 2012 increase in reported dispositions is a result of receiving electronic dispositions from statewide county prosecutors.

Table 7a. Disposition reporting to the Federal Bureau of Investigation (FBI), 2014

State	Of total dispositions received, number sent to the FBI	Of dispositions sent to the FBI, percent sent by:			Interstate Identification Index (III) Message Key	NFF-participating states electing <u>not</u> to send disposition information to FBI on second and subsequent arrests
		Machine readable data (MRD)	Hard copy or paper			
Total	6,196,600					
Alabama	nr	100				
Alaska	41,500	99	1			
American Samoa	nr					
Arizona	370,500	0	75	25		
Arkansas	54,800	95	1	4		
California	1,010,500	99	1			
Colorado	0	a				Yes
Connecticut	16,000		100			
Delaware	451,600			100		
District of Columbia	nr		100			
Florida	0	a				Yes
Georgia	0	a				Yes
Guam	2,100		100			
Hawaii	5,000	a	100			No
Idaho	0	a				Yes
Illinois	272,400			100		
Indiana	144,800			100		
Iowa	6,900	a	100			No
Kansas	0	a				Yes
Kentucky	94,400		100			
Louisiana	na					
Maine	7,600			100		
Maryland	10,400	a	100			No
Massachusetts	na					
Michigan	428,100			100		
Minnesota	nr	a	100			Yes b
Mississippi	28,600			100		
Missouri	0	a				Yes
Montana	0	a				Yes
Nebraska	nr		100			
Nevada	30,000			100		
New Hampshire	nr					
New Jersey	nr	a				No
New Mexico	4,900		100			
New York	548,700		100			
North Carolina	0	a				Yes
North Dakota	19,800		100			
No. Mariana Islands	nr					
Ohio	400,400	a	100			No
Oklahoma	0	a	100			Yes
Oregon	0	a				Yes
Pennsylvania	149,800		100			
Puerto Rico	nr					
Rhode Island	7,800			100		
South Carolina	112,100		100			
South Dakota	210,000		98	b		
Tennessee	0	a				Yes
Texas	1,040,100			100		
Utah	0	c				
Vermont	16,700		95	5		
Virgin Islands	nr					
Virginia	22,400	d	100			
Washington	396,900		100			
West Virginia	0	a				Yes
Wisconsin	291,800			100		
Wyoming	0	a				Yes

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Table 7a explanatory notes:

- Percentages and numbers reported are estimates.
- Percentages have been rounded to the nearest whole percent.
- Numbers have been rounded to the nearest 100.
- na (not available).
- nr (not reported).

NOTE: National Fingerprint File (NFF) states are signatories to the National Crime Prevention and Privacy Compact, under which these states have agreed to provide all criminal history information when responding to requests received from the FBI in connection with national civil purpose background checks. Consequently, disposition information is made available for all inquiries received from the FBI for arrests that occurred subsequent to the state becoming an NFF participant. In some instances, an NFF state may provide information that predates NFF participation. States that do not participate in the NFF program continue to voluntarily forward disposition information to the FBI.

Data footnotes:

- a. NFF-participating state.
- b. The repository sends dispositions to the FBI when requested for specific cases.
- c. A project to send disposition information to the FBI is underway. It began in 2015 and it includes dispositions received by the repository in previous years.
- d. The Virginia State Police is redesigning its criminal history system to include sending disposition

Table 7b. Interim disposition reporting and posting of indictment information, 2014

State	State collects charge tracking information (interim dispositions) on the criminal history record to show case status through the criminal justice process	State posts indictment information to the criminal history record	
Alabama	Yes	nr	
Alaska	No	No	
American Samoa	nr	nr	
Arizona	nr	No	
Arkansas	Yes	No	a
California	No	No	
Colorado	No	Yes	
Connecticut	No	nr	
Delaware	Yes	Yes	
District of Columbia	No	nr	
Florida	Yes	No	
Georgia	Yes	Yes	b
Guam	No	Yes	
Hawaii	Yes	Yes	c
Idaho	No	Yes	
Illinois	Yes	No	
Indiana	No	No	
Iowa	No	No	
Kansas	Yes	Yes	
Kentucky	No	No	
Louisiana	No	No	
Maine	Yes	Yes	
Maryland	Yes	Yes	
Massachusetts	No	nr	
Michigan	Yes	Yes	
Minnesota	No	No	
Mississippi	Yes	Yes	
Missouri	Yes	Yes	
Montana	Yes	No	
Nebraska	No	No	
Nevada	Yes	No	
New Hampshire	Yes	Yes	
New Jersey	Yes	No	
New Mexico	No	No	
New York	Yes	No	
North Carolina	No	No	
North Dakota	Yes	No	
No. Mariana Islands	nr	nr	
Ohio	Yes	Yes	
Oklahoma		No	
Oregon	No	No	
Pennsylvania	No	nr	
Puerto Rico	nr	nr	
Rhode Island	No	nr	
South Carolina	No	Yes	
South Dakota	No	No	
Tennessee	No	No	
Texas	Yes	No	
Utah	Yes	Yes	
Vermont	Yes	No	
Virgin Islands	nr	nr	
Virginia	No	No	
Washington	No	No	
West Virginia	No	No	
Wisconsin	Yes	Yes	
Wyoming	Yes	No	

Table 7b explanatory notes:

- na (not available).
- nr (not reported).

Data footnotes:

- a. Arkansas rarely uses indictments. Instead, a criminal information is filed, which starts the criminal proceeding. Information obtained about the person and arrest and status of the criminal proceeding are posted to the record as received.
- b. Indicted disposition entered at the discretion of the prosecutor.
- c. Indictment information is posted to the criminal history record once the offender is served the warrant and booked.

Table 7c. Disposition reporting by local prosecutors, 2014

State	Does the repository receive any final case dispositions from local prosecutors?	How dispositions are received			
		Automated means	Prosecutors' case management system	Is paper-based	Mix of automated and paper-based
Alabama	No				
Alaska	Yes			X	
American Samoa	nr				
Arizona	Yes				X
Arkansas	Yes			X	
California	Yes				X
Colorado	No				
Connecticut	No				
Delaware	Yes		X		
District of Columbia	Yes				X
Florida	No				
Georgia	Yes	X	X		X
Guam	No				
Hawaii	Yes		X		X
Idaho	Yes			X	
Illinois	Yes				X
Indiana	Yes		X		
Iowa	No				
Kansas	Yes				X
Kentucky	No				
Louisiana	Yes				X
Maine	Yes	X			
Maryland	No	X			
Massachusetts		a			
Michigan	Yes	X			
Minnesota	Yes				X
Mississippi	Yes			X	
Missouri	Yes				X
Montana	Yes				X
Nebraska	No				
Nevada	Yes			X	
New Hampshire	Yes			X	
New Jersey	Yes				X
New Mexico	Yes				
New York	Yes				
North Carolina	No				
North Dakota	Yes			X	
No. Mariana Islands	nr			X	
Ohio	Yes			X	
Oklahoma	Yes				X
Oregon	Yes			X	X
Pennsylvania	No				
Puerto Rico	Yes		X		
Rhode Island	No				
South Carolina	Yes				X
South Dakota	Yes			X	
Tennessee	No				
Texas	Yes				X
Utah	Yes	X	X	X	X
Vermont	No				
Virgin Islands	nr				
Virginia	No				
Washington	Yes			X	
West Virginia	No				
Wisconsin	Yes	X	X	X	X
Wyoming	Yes	X	X	X	X

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Table 7c explanatory notes:

- na (not available).
- nr (not reported).

Data footnotes:

- a. The Commonwealth of Massachusetts has a separate disposition database. Currently these dispositions are not submitted to the repository. Massachusetts reports 99% of records in its database have dispositions.

Table 7d. Matching of dispositions between prosecutors and the repository, 2014

How records are matched between prosecutors and the repository									
State	N/A, state does not receive automated dispositions from prosecutors	PCN or TCN assigned at time of arrest/ booking†	PCN or TCN assigned subsequent to arrest/ booking†	State ID #	Arrest #	Name	Date of birth	Charges	Other
Alabama	X								
Alaska	X								
American Samoa	nr								
Arizona		X				X	X		
Arkansas				X	X	X	X	X	
California				X	X	X	X	X	
Colorado	X								
Connecticut	X								
Delaware									
District of Columbia	X								
Florida	X								
Georgia		X	X	X				X	
Guam	X								
Hawaii		X		X	X	X	X	X	Social Security Number
Idaho		X			X	X	X	X	
Illinois		X							
Indiana		X				X	X		Case number
Iowa	X								
Kansas		X				X	X		
Kentucky	X								
Louisiana				X	X			X	
Maine						X	X		Arrest tracking number
Maryland	X								
Massachusetts		a							
Michigan		X	X						
Minnesota						X	X		Controlling agency number
Mississippi					X				
Missouri		X							
Montana					X	X	X		
Nebraska	X								
Nevada		X				X	X		Date of arrest
New Hampshire		X							
New Jersey				X		X	X		Date of incident
New Mexico		X				X	X	X	Originating agency identifier
New York				X	X				Arrest date
North Carolina	X								
North Dakota		X							
No. Mariana Islands	nr								
Ohio		X				X	X		
Oklahoma		X							
Oregon		X	X	X	X	X	X		
Pennsylvania	X								
Puerto Rico	X								
Rhode Island	X								
South Carolina				X	X	X	X	X	
South Dakota	X								
Tennessee	X								
Texas			X	X	X				
Utah			X						
Vermont	X								
Virgin Islands	nr								
Virginia	X								
Washington		X		X	X	X	X	X	
West Virginia	X								
Wisconsin		X				X	X		
Wyoming		X				X	X		

Table 7d explanatory notes:

- na (not available).
- nr (not reported).
- † Process Control Number (PCN), Transaction Control Number (TCN)

Data footnotes:

- a. The Commonwealth of Massachusetts has a separate disposition database. Currently these dispositions are not submitted to the repository. Massachusetts reports 99% of records in its database have dispositions.

Table 8. Receipt of court disposition information by automated means and record matching, 2014

State	Was any court disposition data reported directly to the repository by automated means?	Percentage of court dispositions reported by automated means	Records matched between the court system and repository							Other
			PCN or TCN assigned at arrest/booking ^f	PCN or TCN assigned after arrest/booking ^f	State ID number	Arrest number	Name	Date of birth	Charges	
Alabama	No									
Alaska	No									
American Samoa	nr									
Arizona	Yes	24%	X		X		X	X	X	
Arkansas	Yes	70	X				X	X	X	
California	Yes	80			X	X	X	X	X	
Colorado	Yes	57					X	X	X	Docket number
Connecticut	Yes	99					X	X	X	
Delaware	Yes	100			X					
District of Columbia	Yes				X	X				
Florida	Yes	100	X		X	X	X	X	X	
Georgia	Yes	99	X	X	X	X	X	X	X	
Guam	No									
Hawaii	Yes	100	X		X	X	X	X	X	Social Security Number
Idaho	Yes	100	X				X	X		
Illinois	Yes	45	X		X					
Indiana	Yes	83	X				X	X		Case number
Iowa	Yes	70	X				X	X		
Kansas	Yes	1	X				X	X		
Kentucky	Yes	13					X			Citation number
Louisiana	Yes	na								
Maine	Yes	99					X	X	X	
Maryland	Yes	100	X	X	X	X	X	X		
Massachusetts		a								
Michigan	Yes	93	X	X	X	X	X	X		
Minnesota	Yes	nr					X	X		Controlling agency case #
Mississippi	No									
Missouri	Yes	78	X							
Montana	Yes	7					X	X	X	Court docket number
Nebraska	Yes	100	X	X	X		X	X		
Nevada	Yes	26	X				X	X	X	
New Hampshire	No		X	X	X		X	X	X	
New Jersey	Yes	nr			X		X	X		
New Mexico	No									
New York	Yes	100			X	X				Arrest date
North Carolina	Yes	nr	X		X					
North Dakota	No									
No. Mariana Islands	nr									
Ohio	Yes	74		X	X		X	X		
Oklahoma	No									
Oregon	Yes	64		X			X	X		
Pennsylvania	Yes	100			X		X	X	X	Social Security Number
Puerto Rico	No									
Rhode Island	Yes	100								Interface does electronic match
South Carolina	Yes	60					X	X	X	Warrant number
South Dakota	Yes	60	X				X	X	X	
Tennessee	Yes	65	X							
Texas	Yes	92	X		X	X	X	X	X	
Utah	No									
Vermont	Yes	95			X	X	X	X		
Virgin Islands	nr									
Virginia	Yes	95	X		X	X	X	X	X	
Washington	Yes	83	X		X	X	X	X	X	
West Virginia	No		X	X	X	X	X	X	X	
Wisconsin	Yes	100	X				X	X	X	
Wyoming	No									

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Table 8 explanatory notes:

- Percentages and numbers reported are estimates.
- Percentages have been rounded to the nearest whole percent.
- na (not available).
- nr (not reported).
- † Process Control Number (PCN), Transaction Control Number (TCN)

Data footnotes:

- a. The Commonwealth of Massachusetts has a separate disposition database. Currently these dispositions are not submitted to the repository. Massachusetts reports 99% of records in its database have dispositions.

Table 8a. Matching of dispositions received to specific arrest events, 2014

State	Percentage of all dispositions received that could <u>not</u> be linked to a specific arrest record	Actions taken when disposition cannot be matched						Other
		Placed in suspense file (no further action)	Placed in a suspense file for further investigation	Disposition information is rejected	Follow-up actions are taken by repository staff	Court is contacted		
Alabama	unknown				X	X		
Alaska	unknown						a	
American Samoa	nr							
Arizona	16			X				
Arkansas	1			X		X		
California	8						b	
Colorado	44						c	
Connecticut	15		X					
Delaware	0				X	X		
District of Columbia	nr							
Florida	28		X		X	X		
Georgia	0							
Guam	0							
Hawaii	22		X		X	X		
Idaho	nr		X		X			
Illinois	3		X		X	X		
Indiana	40		X					
Iowa	2		X					
Kansas	nr				X			
Kentucky	18			X				
Louisiana	14				X	X		
Maine	unknown			X				
Maryland	26		X		X	X		
Massachusetts	nr							
Michigan	11		X		X	X		
Minnesota	nr		X		X	X		
Mississippi	nr				X			
Missouri	17		X		X	X		
Montana	5		X		X	X		
Nebraska	0							
Nevada	44		X	X	X	X		
New Hampshire	41						d	
New Jersey	19		X		X	X		
New Mexico	nr							
New York	8					X		
North Carolina	0			X		X		
North Dakota	nr		X	X	X	X		
No. Mariana Islands	nr							
Ohio	47		X	X	X	X		
Oklahoma	nr			X				
Oregon	12		X	X	X	X		
Pennsylvania	26		X					
Puerto Rico	0				X	X		
Rhode Island	0				X		e	
South Carolina	unknown				X	X		
South Dakota	nr				X			
Tennessee	2	X						
Texas	2				X		f	
Utah	19		X		X	X		
Vermont	5							
Virgin Islands	nr							
Virginia	21		X	X	X	X		
Washington	3		X		X	X	g	
West Virginia	2		X	X	X	X	h	
Wisconsin	8		X		X	X		
Wyoming	3			X				

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Table 8a explanatory notes:

- Percentages and numbers reported are estimates.
- Percentages have been rounded to the nearest whole percent.
- na (not available).
- nr (not reported).

Data footnotes:

- a. Known information is added and flagged to indicate the information is not fingerprint supported.
- b. Added to repository as an "orphan disposition".
- c. Placed in a temporary file for later processing and matching to arrests.
- d. Disposition is entered to CCH without arrest information.
- e. BCI contacts law enforcement for follow-up with court.
- f. Placed in a suspense file and checked daily for arrest.
- g. Arresting law enforcement agency is contacted.
- h. Arresting law enforcement agency is contacted.

Table 9. Arrest fingerprint cards processed, 2008, 2010, 2012, and 2014

State	Fingerprints processed for criminal justice purposes				Percent change		
	2008	2010	2012	2014	2008-2010	2010-2012	2012-2014
Total	12,106,400	11,921,800	12,691,630	11,687,700	-2%	6%	-8%
Alabama	169,500	273,100	265,800	225,000	61	-3	-15
Alaska	23,000	24,900	23,300	22,200	8	-6	-5
American Samoa	nr	nr	30	nr			
Arizona	234,100	207,000	189,600	346,500	-12	-8	83
Arkansas	103,500	116,700	118,000	127,500	13	1	8
California	1,579,300	1,654,100	1,463,700	1,465,700	5	-12	<1
Colorado	249,400	236,100	228,500	235,400	-5	-3	3
Connecticut	166,000	132,200	98,000	97,200	-20	-26	-1
Delaware	41,600	34,600	40,400	34,300	-17	17	-15
District of Columbia	49,600	46,400	nr	600	-6		
Florida	1,060,900	904,300	914,000	773,400	-15	1	-15
Georgia	506,100	531,800	491,200	503,000	5	-8	2
Guam	3,700	2,300	nr	2,500	-38		
Hawaii	33,100	38,600	42,200	48,200	17		14
Idaho	82,800	81,100	71,000	63,200	-2	-12	-11
Illinois	691,500	624,000	575,800	503,900	-10	-8	-12
Indiana	201,100	216,200	244,500	237,800	8	13	-3
Iowa	87,700	83,700	92,100	87,100	-5	10	-5
Kansas	148,400	161,500	136,700	131,200	9	-15	-4
Kentucky	213,600	188,900	199,100	172,300	-12	5	-13
Louisiana	336,900	297,400	326,900	327,200	-12	10	<1
Maine	25,400	30,700	28,900	30,700	21	-6	6
Maryland	234,000	244,200	256,300	266,800	4	5	4
Massachusetts	169,200	148,700	135,100	150,000	-12	-9	11
Michigan	435,100	383,500	370,100	384,200	-12	-3	4
Minnesota	153,900	143,200	157,100	154,300	-7	10	-2
Mississippi	77,600	87,500	91,400	88,200	13	4	-4
Missouri	225,900	240,000	223,300	220,400	6	-7	-1
Montana	20,700	19,900	21,200	21,000	-4	7	-1
Nebraska	47,800	54,000	49,000	43,600	13	-9	-11
Nevada	109,100	104,200	103,200	81,200	-4	-1	-21
New Hampshire	29,500	35,800	45,000	42,000	21	26	-7
New Jersey	234,000	225,800	205,000	185,100	-4	-9	-10
New Mexico	88,000	94,200	107,600	79,800	7	14	-26
New York	730,100	762,500	737,300	886,900	4	-3	20
North Carolina	148,500	171,500	283,900	270,300	15	66	-5
North Dakota	11,800	14,000	22,800	25,600	19	63	12
No. Mariana Islands	nr	nr	nr	nr			
Ohio	308,200	288,500	426,900	277,300	-6	48	-35
Oklahoma	98,200	123,600	143,900	152,200	26	16	6
Oregon	122,800	123,900	120,800	137,500	1	-3	14
Pennsylvania	283,200	309,100	334,100	335,200	9	8	<1
Puerto Rico	nr	nr	586,400	15,400			
Rhode Island	39,400	37,500	34,100	32,000	-5	-9	-6
South Carolina	275,700	240,700	229,400	281,300	-13	-5	23
South Dakota	27,100	26,400	28,300	29,500	-3	7	4
Tennessee	393,100	368,300	428,000	385,700	-6	16	-10
Texas	914,200	882,100	1,101,300	818,500	-4	25	-26
Utah	106,900	107,400	76,500	117,000	<1	-29	53
Vermont	25,800	23,400	18,000	15,300	-9	-23	-15
Virgin Islands	nr	nr	nr	nr			
Virginia	302,800	296,600	296,100	256,500	-2	-1	-13
Washington	265,500	243,800	235,900	220,600	-8	-3	-6
West Virginia	32,900	66,000	97,300	105,300	101	47	8
Wisconsin	172,500	154,000	162,200	157,900	-11	5	-3
Wyoming	15,700	15,900	14,400	16,200	1	-9	13

Table 9 explanatory notes:

- Percentages and numbers reported are estimates.
- Percentages have been rounded to the nearest whole percent.
- Numbers have been rounded to the nearest 100.
- na (not available).
- nr (not reported).

Data footnotes:

- a. 2012 totals were understated, causing the 2012-2014 percent change increase.
- b. The 2012 increase of fingerprint card submissions to the repository is caused by an increase of misdemeanor offenses submitted by large municipal police agencies throughout the state.

Table 10. Criminal history system software employed by state criminal history repositories, 2014

State	Software components of state criminal history systems	Software environment / platform used for state criminal history system			
		Microsoft .NET platform	Java platform	Mainframe platform	Other
Alabama	2		X		
Alaska	3			X	
American Samoa	nr				
Arizona	3			X	
Arkansas	3			X	
California	3				a
Colorado	2		X		
Connecticut	3			X	
Delaware	3		X		
District of Columbia	2		X		
Florida	2			X	
Georgia	2		X		
Guam	1				b
Hawaii	3		X		
Idaho	2		X		
Illinois	3				c
Indiana	2			X	
Iowa	3				d
Kansas	2				e
Kentucky	2				f
Louisiana	2		X		
Maine	3				g
Maryland	3			X	
Massachusetts	2		X		
Michigan	3	X			
Minnesota	3				h
Mississippi	3		X		
Missouri	2		X		
Montana	3				i
Nebraska	2	X			
Nevada	3	X			
New Hampshire	1				j
New Jersey	3	X			
New Mexico	2				k
New York	3	X			
North Carolina	3	X			
North Dakota	3				l
No. Mariana Islands	nr				
Ohio	2				m
Oklahoma	3		X		
Oregon	2				n
Pennsylvania	3	X			
Puerto Rico	3		X		
Rhode Island	nr				
South Carolina	2			X	
South Dakota	4			X	
Tennessee	3	X			
Texas	3			X	
Utah	3		X		
Vermont	2		X		
Virgin Islands	nr				
Virginia	2			X	
Washington	nr				
West Virginia	2				o
Wisconsin	3		X		
Wyoming	1	X			

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Table 10 explanatory notes:

- na (not available).
- nr (not reported).

Legend: Software components of state criminal history systems

1. Acquired from software vendor and configured for the state's environment, but with no software modifications.
2. Acquired from software vendor but customized changes were made to account for the state's environment.
3. Built in-house either by staff or contractors.
4. Other.

Data footnotes:

- a. PL/SQL on Oracle 11G, Linux OS on Dell servers.
- b. Omnixx Enterprise Platform that incorporates BixTalk servers. Datamaxx message switch and SQL servers.
- c. Oracle forms and reports.
- d. Oracle software.
- e. Microsoft Visual Basic 6 with COM+ components.
- f. Sequel servers.
- g. PL / SQL.
- h. Microsystem cluster with multiple languages (C++, COBOL, PL/I, SQL).
- i. Oracle 11g database/Oracle 10g GUI on Windows platform.
- j. Access.
- k. Oracle.
- l. Progress.
- m. C++.
- n. CRIMEvue is on a Windows 2003 platform using mostly C++ code. Moving to either Windows 2008R2 or Windows 2012 this summer. The data is stored on a Microsoft SQL Server 2005 database.
- o. Oracle forms.

Table 11. Arrest/fingerprint reporting, 2014

State	Total number of law enforcement agencies	Number of law enforcement agencies that submit arrest prints via livescan	Percentage of arrest prints submitted via livescan	Number of agencies that submit arrest fingerprints via cardscan	Number of agencies that submit hard copy arrest fingerprint cards	Number of felony arrests reported to the repository
Total	25,439	10,062		203	2,442	3,340,600
Alabama	962	166	nr	nr	nr	nr
Alaska	49	41	96	0	15	5,300
American Samoa	nr	nr	nr	nr	nr	nr
Arizona	136	97	97	16	113	66,900
Arkansas	590	531	90	nr	nr	52,500
California	1,648	a	nr	nr	nr	662,000
Colorado	249	249	97	0	0	81,700
Connecticut	174	174	87	173	nr	nr
Delaware	76	76	74	0	0	10,000
District of Columbia	36	4	100	0	0	40,700
Florida	401	401	96	0	0	292,900
Georgia	672	652	99	0	0	162,100
Guam	1	1	100	0	0	3,200
Hawaii	14	14	100	5	5	6,700
Idaho	152	147	97	0	5	18,000
Illinois	1,670	612	93	3	36	125,800
Indiana	986	634	92	1	3	15,600
Iowa	366	57	89	0	309	37,400
Kansas	394	160	90	0	45	26,300
Kentucky	1,153	nr	100	0	0	56,900
Louisiana	821	201	na	2	21	nr
Maine	400	nr	70	nr	nr	9,600
Maryland	219	204	99	0	nr	41,500
Massachusetts	400	250	88	0	nr	nr
Michigan	650	650	98	0	nr	90,400
Minnesota	465	465	99	0	0	30,400
Mississippi	268	144	95	nr	nr	21,100
Missouri	663	306	88	0	357	122,800
Montana	126	122	26	0	4	5,300
Nebraska	228	20	84	0	187	14,100
Nevada	95	95	100	nr	nr	23,700
New Hampshire	212	nr	nr	nr	0	6,100
New Jersey	630	610	97	0	18	88,800
New Mexico	624	182	72	nr	150	8,500
New York	602	543	99	nr	42	153,400
North Carolina	568	269	99	nr	nr	94,600
North Dakota	123	78	82	0	38	nr
No. Mariana Islands	nr	nr	nr	nr	nr	nr
Ohio	962	na	90	0	nr	na
Oklahoma	327	284	91	0	43	59,600
Oregon	171	173	96	0	254	157,800
Pennsylvania	1,879	nr	95	nr	nr	48,700
Puerto Rico	6	nr	nr	nr	nr	nr
Rhode Island	41	41	100	2	2	6,600
South Carolina	272	65	89	0	62	na
South Dakota	204	34	99	nr	nr	nr
Tennessee	400	389	99	0	11	nr
Texas	2,737	531	93	0	nr	282,200
Utah	175	50	nr	nr	nr	25,100
Vermont	92	59	92	nr	nr	2,600
Virgin Islands	nr	nr	nr	nr	nr	nr
Virginia	343	na	97	na	na	164,800
Washington	179	152	88	1	27	188,900
West Virginia	765	72	70	0	693	26,800
Wisconsin	nr	nr	nr	nr	nr	nr
Wyoming	63	57	95	nr	2	3,200

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Table 11 explanatory notes:

- na (not available).
- nr (not reported).

Data footnotes:

- a. Number represents the total number of law enforcement agencies that have California Law Enforcement Telecommunications System (CLETS) access. It does not account for the total number of agencies.

Table 11a. Electronic fingerprint capture devices and the submission of arrest fingerprints, 2014

Number of arrest fingerprints submitted to the repository by livescan, cardscan, and hard copy				
State	Via livescan	Via cardscan	Hard copy	Total
Total	10,322,100	89,300	591,800	11,042,500
Alabama	202,400	22,600	24,000	249,000
Alaska	21,100	0	900	21,900
American Samoa	nr	nr	nr	nr
Arizona	184,300	0	20,300	204,600
Arkansas	119,000	0	8,600	127,500
California	1,258,800	0	2,000	1,260,800
Colorado	229,200	0	6,000	235,100
Connecticut	84,700	0	12,100	96,800
Delaware	25,400	0	8,900	34,300
District of Columbia	40,600	0	100	40,700
Florida	743,800	0	28,900	772,600
Georgia	497,200	0	5,800	503,000
Guam	2,500	0	0	2,500
Hawaii	48,000	0	0	48,000
Idaho	63,000	0	300	63,300
Illinois	359,500	0	25,600	385,100
Indiana	192,800	100	700	193,700
Iowa	77,500	0	9,700	87,100
Kansas	118,700	0	12,500	131,200
Kentucky	171,600	0	700	172,300
Louisiana	324,200	0	3,000	327,200
Maine	11,500	0	5,500	17,000
Maryland	263,800	0	3,000	266,800
Massachusetts	129,400	0	17,300	146,700
Michigan	642,600	6,800	17,700	667,200
Minnesota	112,000	0	300	152,300
Mississippi	84,000	4,300	0	88,200
Missouri	194,300	0	26,000	220,400
Montana	5,500	0	15,500	21,000
Nebraska	36,600	0	7,100	43,600
Nevada	79,200	0	2,900	82,100
New Hampshire	30,000	0	12,100	42,000
New Jersey	160,700	0	103,600	264,300
New Mexico	57,600	22,200	0	79,800
New York	548,200	na	1,000	549,200
North Carolina	223,800	0	2,800	226,600
North Dakota	17,400	0	3,800	21,100
No. Mariana Islands	nr	nr	nr	nr
Ohio	261,100	0	22,900	284,000
Oklahoma	138,200	0	14,100	152,200
Oregon	130,700	0	5,000	135,600
Pennsylvania	317,400	0	17,800	335,200
Puerto Rico	15,300	0	0	15,300
Rhode Island	32,000	0	0	32,000
South Carolina	249,200	0	32,100	281,300
South Dakota	28,600	0	800	29,500
Tennessee	376,200	0	8,100	384,300
Texas	754,900	0	63,600	818,500
Utah	117,000	0	0	117,000
Vermont	14,200	1,100	0	15,300
Virgin Islands	nr	nr	nr	nr
Virginia	251,000	nr	5,500	256,500
Washington	208,300	0	11,000	219,300
West Virginia	51,100	32,200	22,000	105,300
Wisconsin	nr	nr	nr	nr
Wyoming	16,000	0	200	16,200

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Table 11a explanatory notes:

- Percentages and numbers are estimates.
- Percentages have been rounded to the nearest whole percent.
- Numbers have been rounded to the nearest 100.
- na (not available).
- nr (not reported).

Data footnotes:

- a. Due to rounding, the total does not equal the sum of livescan, cardscan, and hard copy.

Table 11b. Electronic fingerprint capture devices and the use of liveness/cardscan for criminal and noncriminal justice purposes, 2014

State	Livescan use		Cardscan use	
	Noncriminal justice purposes only	Used for both criminal and noncriminal justice purposes ^a	Noncriminal justice purposes only	Used for both criminal and noncriminal justice purposes ^a
Total	8,704	6,810	168	500
Alabama	0	166	2	2
Alaska	40	20	2	0
American Samoa	nr	nr	nr	nr
Arizona	0	0	2	0
Arkansas	16	75	0	0
California	3,010	1,835	0	0
Colorado	23	386	23	386
Connecticut	25	55	nr	0
Delaware	nr	nr	nr	nr
District of Columbia	15	37	2	2
Florida	1081	0	0	0
Georgia	na	na	0	0
Guam	2	3	1	2
Hawaii	17	0	8	0
Idaho	29	4	2	0
Illinois	558	238	3	0
Indiana	67	0	2	0
Iowa	nr	nr	nr	nr
Kansas	12	160	0	0
Kentucky	72	180	0	0
Louisiana	2	142	66	5
Maine	6	22	1	2
Maryland	238	108	10	10
Massachusetts	25	250	0	0
Michigan	150	450	2	2
Minnesota	14	0	2	0
Mississippi	180	324	0	0
Missouri	68	302	0	5
Montana	1	34	1	1
Nebraska	8	0	0	0
Nevada	105	19	2	2
New Hampshire	3	41	0	0
New Jersey	27	644	1	0
New Mexico	105	0	0	12
New York	nr	nr	nr	nr
North Carolina	44	167	0	0
North Dakota	17	41	0	0
No. Mariana Islands	nr	nr	nr	nr
Ohio	2,352	0	0	0
Oklahoma	9	95	0	0
Oregon	na	na	0	0
Pennsylvania	0	279	0	3
Puerto Rico	15	15	8	8
Rhode Island	41	41	2	41
South Carolina	16	0	4	4
South Dakota	nr	nr	nr	nr
Tennessee	55	185	1	0
Texas	98	0	1	0
Utah	nr	nr	1	6
Vermont	0	59	0	0
Virgin Islands	nr	nr	nr	nr
Virginia	na	na	na	na
Washington	126	293	16	3
West Virginia	32	110	3	4
Wisconsin	nr	nr	nr	0
Wyoming	0	30	0	0

Table 11b explanatory notes:

- na (not available).
- nr (not reported).

Data footnotes:

- a. Refer to table 11 for criminal justice totals.

Table 11c. Electronic fingerprint capture devices and the submission of fingerprints for noncriminal justice purposes, 2014

State	Number of noncriminal justice fingerprints submitted to the repository by livescan and cardscan			Percentage of non- criminal justice fingerprints submitted via livescan	Percentage of non- criminal justice fingerprints submitted via cardscan	Percentage of non- criminal justice fingerprints submitted via other method
	Via livescan	Via cardscan	Other			
Total	10,097,100	627,700	1,439,000	83	5	12
Alabama	31,100	12,700	0	71	29	0
Alaska	3,000	1,300	35,600	8	3	89
American Samoa	nr	nr	nr	nr	nr	nr
Arizona	0	11,500	117,100	0	9	91
Arkansas	10,200	0	90,400	10	0	90
California	1,908,800	4,400	0	99.8	0.2	0
Colorado	102,500	49,900	6,400	65	31	4
Connecticut	0	23,900	61,000	0	28	72
Delaware	nr	nr	50,900	nr	nr	100
District of Columbia	11,900	0	0	100	0	0
Florida	1,404,700	0	0	100	0	0
Georgia	400,600	0	0	100	0	0
Guam	0	0	1,500	0	0	100
Hawaii	34,500	4,800	0	88	12	0
Idaho	21,500	22,800	38,300	26	28	46
Illinois	444,500	1,800	1,100	99.4	0.4	0.2
Indiana	162,500	5,400	212,800	43	1	56
Iowa	2,800	0	39,400	7	0	93
Kansas	10,000	0	45,700	18	0	82
Kentucky	17,600	0	37,500	32	0	68
Louisiana	139,600	0	0	100	0	0
Maine	8,900	100	3,600	71	1	28
Maryland	253,400	14,800	0	94	6	0
Massachusetts	162,400	0	38,600	81	0	19
Michigan	276,100	6,800	0	98	2	0
Minnesota	6,000	14,100	27,700	13	29	58
Mississippi	117,800	17,400	0	87	13	0
Missouri	154,900	19,500	0	89	11	0
Montana	27,800	300	0	99	1	0
Nebraska	19,100	0	6,800	74	0	26
Nevada	143,000	51,600	0	73	27	0
New Hampshire	18,000	0	15,700	53	0	47
New Jersey	308,600	0	112,300	73	0	27
New Mexico	82,200	15,600	5,100	80	15	5
New York	562,900	31,200	4,600	94	5	1
North Carolina	230,400	0	38,800	86	0	14
North Dakota	0	0	24,900	0	0	100
No. Mariana Islands	nr	nr	nr	nr	nr	nr
Ohio	938,800	0	0	100	0	0
Oklahoma	73,200	0	66,100	53	0	47
Oregon	38,000	0	86,700	30	0	70
Pennsylvania	478,400	0	0	100	0	0
Puerto Rico	5,100	5,100	16,000	19	19	62
Rhode Island	19,200	0	0	100	0	0
South Carolina	22,100	63,100	0	26	74	0
South Dakota	nr	nr	1,000	nr	nr	100
Tennessee	200,400	0	15,400	93	0	7
Texas	825,800	43,400	0	95	5	0
Utah	86,000	174,200	4,600	32	66	2
Vermont	12,100	0	2,200	85	0	15
Virgin Islands	nr	nr	nr	nr	nr	nr
Virginia	71,500	9,700	169,800	28	4	68
Washington	198,300	0	22,000	90	0	10
West Virginia	50,900	22,300	9,300	62	27	11
Wisconsin	nr	nr	nr	nr	nr	nr
Wyoming	0	0	30,100	0	0	SR_0388 ¹⁰⁰

Table 11c explanatory notes:

- Percentages and numbers are estimates.
- Percentages have been rounded to the nearest whole percent.
- Numbers have been rounded to the nearest 100.
- na (not available).
- nr (not reported).

Data footnotes:

- a. Wisconsin's DOJ IT personnel were unable to provide this data within the timeframe requested.

Table 11d. Mobile technology for capturing and transmitting fingerprints, 2014

State	Using mobile technology to transmit fingerprints		Plans to implement mobile technology to capture nonfingerprint biometric information	Currently employing Rapid ID	Rapid ID	
	For identification purposes	For booking purposes			Number of searches	Number of hits
Total					1,716,241	1,023,288
Alabama	No	No	Yes	No		
Alaska	No	No	No	No		
American Samoa	nr	nr	nr	nr		nr
Arizona	Yes	Yes	nr	Yes	114,772	81,068
Arkansas	Yes	No	No	Yes	1,235	764
California	Yes	No	No	Yes	179,460	106,313
Colorado	Yes	No	No	Yes	344	na
Connecticut	No	No	nr	nr		
Delaware	Yes	No	No	No		
District of Columbia	Yes	No	Yes	No		
Florida	Yes	No	No	Yes	699,391	500,698
Georgia	Yes	No	No	Yes	331,530	82,549
Guam	No	No	No	No		
Hawaii	Yes	No	No	Yes	600	nr
Idaho	Yes	No	No	Yes	1	1
Illinois	Yes	No	No	Yes	nr	nr
Indiana	No	No	No	No		
Iowa	No	No	No	No		
Kansas	Yes	No	No	No		
Kentucky	No	No	No	No		
Louisiana	No	No	No	No		
Maine	No	No	Yes	No		
Maryland	Yes	No	No	Yes	233,197	145,625
Massachusetts	Yes	No	No	Yes	100	2
Michigan	Yes	No	Yes	Yes	753	327
Minnesota	Yes	No	No	Yes	118,010	87,269
Mississippi	No	No	Yes	No		
Missouri	Yes	No	Yes	Yes	13,325	9,768
Montana	No	No	No	No		
Nebraska	Yes	No	No	No		
Nevada	No	No	No	No		
New Hampshire	No	No	No	No		
New Jersey	No	No	No	Yes	nr	nr
New Mexico	Yes	Yes	No	Yes	4,662	2,725
New York	Yes	No	No	Yes	396	343
North Carolina	Yes	No	No	Yes	4,520	1,180
North Dakota	No	No	No	No		
No. Mariana Islands	nr	nr	nr	nr	nr	nr
Ohio	Yes	No	Yes	Yes	nr	nr
Oklahoma	No	No	No	No		
Oregon	No	No	Yes	No		
Pennsylvania	No	No	No	No		
Puerto Rico	Yes	No	No	No		
Rhode Island	Yes	No	No	No		
South Carolina	Yes	Yes	Yes	Yes	4,520	1,180
South Dakota	No	No	No	No		
Tennessee	Yes	No	No	Yes	96	4
Texas	Yes	No	No	Yes	8,195	2,909
Utah	No	No	No	No		
Vermont	No	No	No	No		
Virgin Islands	nr	No	nr	nr	nr	nr
Virginia	No	No	No	No		
Washington	Yes	No	No	Yes	2	2
West Virginia	Yes	No	No	Yes	1,132	561
Wisconsin	Yes	Yes	No	No		
Wyoming	No	No	No	No		

SR_0390

Table 11d explanatory notes:

- na (not available).
- na (not available).

Data footnotes:

a. Nonfingerprint biometric information includes the capture of scars, marks and tattoo images, facial recognition and iris data.

Table 12. Record/database content and combining criminal events with noncriminal justice applicant information, 2014

State	Does your state combine both criminal events and noncriminal justice applicant information in the same record?	Of the total records in your database, what percentage represents records that contain both criminal events and noncriminal justice applicant information?
Alabama	Yes	5%
Alaska	Yes	na
American Samoa	nr	nr
Arizona	No	
Arkansas	Yes	
California	Yes	18
Colorado	Yes	11
Connecticut	Yes	49
Delaware	Yes	
District of Columbia	nr	
Florida	No	
Georgia	No	
Guam	No	
Hawaii	No	
Idaho	Yes	a
Illinois	Yes	9
Indiana	No	
Iowa	No	
Kansas	No	
Kentucky	Yes	
Louisiana	Yes	
Maine	No	
Maryland	Yes	31
Massachusetts	No	
Michigan	Yes	7
Minnesota	Yes	<1
Mississippi	No	
Missouri	Yes	7
Montana	No	
Nebraska	No	
Nevada	Yes	1
New Hampshire	No	
New Jersey	No	
New Mexico	Yes	100
New York	Yes	
North Carolina	No	
North Dakota	No	
No. Mariana Islands	nr	
Ohio	No	
Oklahoma	Yes	34
Oregon	Yes	5
Pennsylvania	Yes	2
Puerto Rico	Yes	100
Rhode Island	No	
South Carolina	No	
South Dakota	Yes	
Tennessee	No	
Texas	Yes	8
Utah	No	
Vermont	No	
Virgin Islands	nr	
Virginia	No	
Washington	Yes	na
West Virginia	Yes	
Wisconsin	No	
Wyoming	No	

SR_0392

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Table 12 explanatory notes:

- Percentages and numbers are estimates.
- Percentages have been rounded to the nearest whole percent.
- na (not available).
- nr (not reported).

Data footnotes:

- a. Maintained as part of the same record but distinguished from one another by the SID.

Table 13. Privatization of noncriminal justice fingerprint capture services, 2014

State	Has the state privatized the taking of noncriminal justice fingerprints?	Fingerprinting service provided by single (S) vendor or multiple (M) vendors	Does the vendor assess a fee above what the state charges for the background check?	Fee	Additional vendor-provided services
Alabama	Yes	M	Yes	nr	a
Alaska	Yes	M	Yes	Varies	b
American Samoa	nr	nr	nr	nr	
Arizona	Yes	S	Yes	\$8.00	c
Arkansas	Yes	M	Yes	nr	d
California	Yes	M	Yes	nr	e
Colorado	No				
Connecticut	No				
Delaware	No				
District of Columbia	No				
Florida	Yes	M	Yes	nr	f
Georgia	Yes	S	Yes	9.00	g
Guam	No				
Hawaii	No				
Idaho	Yes	M	Yes	Unknown	h
Illinois	Yes	M	Yes	Varies	
Indiana	Yes	S	Yes	12.00	i
Iowa	No				
Kansas	No				
Kentucky	No				
Louisiana	No				
Maine	Yes	S	Yes	Varies	j
Maryland	Yes	M	Yes	20.00	
Massachusetts	Yes	S	Yes	10.00	k
Michigan	Yes	M	Yes	nr	l
Minnesota	No				
Mississippi	Yes	M	Yes	nr	m
Missouri	Yes	S	Yes	8.00	
Montana	No				
Nebraska	No				
Nevada	Yes	M	Yes	nr	n
New Hampshire	No				
New Jersey	Yes	S	Yes	10.00	o
New Mexico	Yes	S	Yes	8.00	p
New York	Yes	S	Yes	10.00	q
North Carolina	No				
North Dakota	No				
No. Mariana Islands	nr				
Ohio	Yes	M	Yes	Varies	r
Oklahoma	Yes	S	Yes	12.00	
Oregon	Yes	S	Yes	13.00	s
Pennsylvania	Yes	S	Yes	8.00	t
Puerto Rico	No				
Rhode Island	Yes	S	nr		
South Carolina	Yes	S	Yes	14.00	u
South Dakota	No				
Tennessee	Yes	S	Yes	8.00	v
Texas	Yes	S	Yes	10.00	w
Utah	Yes	M	No		
Vermont	No				
Virgin Islands	nr				
Virginia	No				
Washington	Yes	M	Yes	nr	x
West Virginia	Yes	S	Yes	9.00	y
Wisconsin	Yes	S	Yes	8.00	z
Wyoming	No				

SR_0394

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Table 13 explanatory notes:

- na (not available).
- nr (not reported).
- Fees charged have been rounded to the nearest dollar.

Data footnotes:**Additional vendor-provided services:**

- a. Fees are set between the agency contracting the vendor for this service. Sending responses back to the requester.
- b. In at least one case, the vendor delivers the fingerprint cards to the repository for processing.
- c. Electronic application form and fee collection.
- d. No additional services beyond taking prints is authorized.
- e. Vendors collect and remit license/cert/permit fees to the California Department of Justice.
- f. Private vendors do not receive CHRI. Results go directly to the noncriminal justice entity.
- g. 3M Cogent provides customized website registration, and electronically captures and submits applicant fingerprints to GCIC.
- h. Some do fingerprint capture only, while others transmit the prints electronically to the repository on behalf of the authorized agency.
- i. Sending responses back to the requester.
- j. Sends responses back. Collects fees. Schedules the capturing.
- k. Hosting website for response review.
- l. Fee collection.
- m. None
- n. None
- o. None
- p. Results are sent back to a portal for review by the requesting agency.
- q. Verification of identification documents, photo capture, and transmission.
- r. Evaluating responses for the requester, sending responses back to the requester.
- s. Fingerprint capture and transmit only.
- t. Sends responses to authorized recipient.
- u. None
- v. Fee collection.
- w. None
- x. Fieldprint & L1 vendors (out-of-state store and forward) set appointments, provide fee collection, tracking, and reports for state agencies.
- y. Mails responses back to requester.
- z. Sends responses to requesters.

Table 14. Record processing times, livescan devices in courtrooms, and disposition backlogs, 2014

State	Number of felony arrests reported to repository during calendar year 2014	Average number of days between occurrence of final felony trial court case disposition and receipt of data by repository	Average number of days between receipt of final felony court disposition and entry of data into criminal history database	Livescan devices used in the courtroom to link positive identifications with dispositions	Number of livescan devices in courtrooms	Backlog of entering court disposition data into criminal history database (i.e., not entered within 48 hours of receipt at repository)	Number of unprocessed or partially processed court dispositions
Total	3,340,600						3,053,200
Alabama	nr	1	nr	No		Yes	100,000
Alaska	5,300	23	35	No		Yes	3,800
American Samoa	nr	nr	nr	nr		nr	nr
Arizona	66,900	16	2	Yes	1	No	
Arkansas	52,500	21	1	No		No	
California	662,000	nr	60	Yes	nr	No	
Colorado	81,700	0	0	No		Yes	504,400
Connecticut	nr	1	1	No		Yes	373,500
Delaware	10,000	1	1	No		No	
District of Columbia	40,700	nr	nr	No		No	
Florida	292,900	28	1	No		No	
Georgia	162,100	30	2	No		No	
Guam	3,200	1	2	No		No	
Hawaii	6,700	9	0	No		Yes	149,700
Idaho	18,000	1	1	No		Yes	a 171,600
Illinois	125,800	30	32	No		No	
Indiana	15,600	nr	1	Yes	2	No	
Iowa	37,400	7	7	No		No	
Kansas	26,300	nr	nr	No		Yes	57,600
Kentucky	56,900	90	90	No		No	
Louisiana	nr	na	60	No		No	
Maine	9,600	15	0	No		No	
Maryland	41,500	10	0	Yes	1	nr	
Massachusetts	nr	nr	nr	No		No	
Michigan	90,400	1	1	Yes	14	No	
Minnesota	30,400	<1	1	No		nr	
Mississippi	21,100	nr	2	No		No	
Missouri	122,800	164	12	No		Yes	122,400
Montana	5,300	16	32	No		Yes	3,500
Nebraska	14,100	1	1	No		No	
Nevada	23,700	nr	nr	No		Yes	1,023,500
New Hampshire	6,100	nr	nr	No		No	
New Jersey	98,800	nr	7	No		Yes	37,500
New Mexico	8,500	nr	nr	No		Yes	12,000
New York	153,400	1	1	No		No	
North Carolina	94,600	12	0	No		No	
North Dakota	nr	nr	0	No		Yes	200
No. Mariana Islands	nr	nr	nr	nr		nr	
Ohio	na	na	na	Yes	46	Yes	2,300
Oklahoma	59,600	30	30	No		No	
Oregon	157,800	na	100	Yes	10	Yes	54,000
Pennsylvania	48,700	nr	1	No		Yes	281,100
Puerto Rico	nr	nr	nr	nr		nr	
Rhode Island	6,600	5	5	No		No	
South Carolina	na	16	1	No		No	
South Dakota	nr	nr	nr	No		No	
Tennessee	nr	30	nr	No		No	
Texas	282,200	30	1	Yes	50	No	
Utah	25,100	0	0	Yes	11	Yes	47,300
Vermont	2,600	60	60	No		No	
Virgin Islands	nr	nr	nr	nr		nr	
Virginia	164,800	14	14	No		Yes	108,400
Washington	188,900	7	5	No		No	
West Virginia	26,800	nr	nr	Yes	5	Yes	
Wisconsin	nr	nr	nr	No		No	
Wyoming	3,200	60	2	No		Yes	SR_0396 400

Table 14 explanatory notes:

- na (not available).
- nr (not reported).

Data footnotes:

a. Due to data integrity issues in the court data feed in 2014, all dispositions were held until corrections were made. The 2014 dispositions were uploaded in early 2015.

Table 15. Noncriminal justice name-based background checks, 2014

State	Number of name-based noncriminal justice background checks performed				
	Total	Via Internet	Via mail	Via telephone	Other
Total	19,486,300	a 17,481,500	1,160,000	112,700	732,100
Alabama	5,800	4,600	1,200	0	0
Alaska	19,400	0	2,200	0	17,200
American Samoa	nr	nr	nr	nr	nr
Arizona	2,700	0	2,700	0	0
Arkansas	219,800	201,300	18,500	0	0
California	8,100	0	0	0	8,100
Colorado	347,600	345,200	2,400	0	0
Connecticut	35,000	0	35,000	0	0
Delaware	nr	nr	nr	nr	nr
District of Columbia	29,700	0	2,700	0	27,000
Florida	911,600	887,500	24,100	0	0
Georgia	0	0	0	0	0
Guam	0	0	0	0	0
Hawaii	357,800	318,200	3,200	0	36,500
Idaho	17,500	0	16,900	0	700
Illinois	561,200	141,800	22,500	0	396,900
Indiana	724,700	692,900	24,900	0	6,900
Iowa	255,100	6,200	22,800	0	226,200
Kansas	305,400	303,900	1,500	0	0
Kentucky	0	0	0	0	0
Louisiana	32,000	29,100	2,900	0	0
Maine	284,800	275,300	22,400	0	0
Maryland	0	0	0	0	0
Massachusetts	nr	nr	nr	nr	nr
Michigan	1,861,200	1,860,000	1,100	0	0
Minnesota	91,000	0	91,000	0	0
Mississippi	3,900	0	3,900	0	0
Missouri	443,900	423,300	20,700	0	0
Montana	154,000	150,800	3,100	0	0
Nebraska	41,300	17,400	23,900	0	0
Nevada	146,100	45,900	0	95,400	4,800
New Hampshire	131,600	0	131,600	0	0
New Jersey	115,000	17,900	97,100	0	0
New Mexico	11,300	0	8,000	0	3,400
New York	nr	nr	nr	nr	nr
North Carolina	22,600	0	22,600	0	0
North Dakota	25,800	0	22,600	0	3,100
No. Mariana Islands	nr	nr	nr	nr	nr
Ohio	938,800	882,400	56,300	0	0
Oklahoma	231,300	0	231,300	0	0
Oregon	267,500	244,800	5,400	17,300	0
Pennsylvania	1,258,700	1,181,200	77,500	0	0
Puerto Rico	0	0	0	0	0
Rhode Island	0	0	0	0	0
South Carolina	475,100	429,600	45,500	0	0
South Dakota	800	0	0	0	800
Tennessee	143,100	143,100	0	0	0
Texas	6,722,700	6,722,700	100	0	0
Utah	14,200	14,200	0	0	0
Vermont	132,400	132,400	0	0	0
Virgin Islands	nr	nr	nr	nr	nr
Virginia	257,200	153,900	103,300	0	0
Washington	1,089,600	1,080,700	8,900	0	0
West Virginia	800	100	200	0	500
Wisconsin	775,100	775,100	0	0	0
Wyoming	0	0	0	0	0

SR_0398

SER-401

Table 15 explanatory notes:

- Numbers have been rounded to the nearest 100.
- na (not available).
- nr (not reported).

Data footnotes:

- a. The total number of name-based checks received does not equal the sum of individual state background checks received via the Internet, mail, telephone, and other sources, due to rounding.

Table 16. Noncriminal justice fingerprint-based background checks, 2014

State	Information contained in the results for fingerprint-based noncriminal justice background checks	Percentage of fingerprint-based noncriminal justice transactions identified against arrest fingerprints	Repository attempts to locate missing disposition information before responding to fingerprint-based noncriminal justice inquiries
Alabama	4	na	Updated upon request
Alaska	1,2,4,5	16	No
American Samoa	nr	nr	nr
Arizona	1	17	Yes
Arkansas	5	3	Yes
California	1,2,4,5	18	Yes
Colorado	1,5	16	No
Connecticut	1,2,4,5	25	Yes
Delaware	1,2,4,5	nr	No
District of Columbia	1,4	7	No
Florida	1,4,5	14	No
Georgia	1	19	No
Guam	1	na	No
Hawaii	1	17	No
Idaho	1	39	Yes
Illinois	1,2	20	Yes
Indiana	1,3,4	14	Yes
Iowa	1	7	No
Kansas	5	na	Yes
Kentucky	2	nr	No
Louisiana	1,2,4,5	na	No
Maine	2	1	Yes
Maryland	1,2,4	13	Yes
Massachusetts	1	7	No
Michigan	1,2,3,4,5	nr	No
Minnesota	1,2,3,4,5	19	Yes
Mississippi	1	10	No
Missouri	1,2,4	5	Yes
Montana	1,5	15	Yes
Nebraska	1	na	Yes
Nevada	1,4,5	6	No
New Hampshire	2	nr	Yes
New Jersey	1,2,4,5	na	No
New Mexico	1	na	No
New York	1,5	12	No
North Carolina	1	11	No
North Dakota	1	11	Yes
No. Mariana Islands	nr	nr	nr
Ohio	2,5	10	Yes
Oklahoma	1	na	No
Oregon	1,5	20	No
Pennsylvania	nr	nr	nr
Puerto Rico	1	na	No
Rhode Island	1,4	na	No
South Carolina	2,4	13	Yes
South Dakota	1,2,4	na	Yes
Tennessee	1	15	No
Texas	1,5	34	No
Utah	1,2,3	nr	Yes
Vermont	1	8	Yes
Virgin Islands	nr	nr	nr
Virginia	5	na	Yes
Washington	2,3,5	nr	Yes
West Virginia	1	na	No
Wisconsin	1,4	12	No
Wyoming	1	9	No

SR_0400

SER-403

Table 16 explanatory notes:

- Percentages reported are estimates.
- Percentages have been rounded to the nearest whole percent.
- na (not available).
- nr (not reported).

Data footnotes:

Legend: Information contained in the results for fingerprint-based noncriminal justice background checks

1. Full record
2. Convictions only
3. Juvenile records
4. Arrests without disposition — over 1 year old
5. Other

Table 17. Legal authority for conducting noncriminal justice background checks, 2014

State	Legal authority used for background checks											
	Daycare providers	Caregivers at residential facilities	School teachers	Non-teaching school personnel	Volunteers working with children	Prospective foster care parents	Prospective adoptive parents	Relative caregivers	Nurses/elder caregivers	Legal guardians	Hazardous materials licensees	Medical marijuana (dispensers, caregivers)
Alabama	4	3	4	4	4	4	4	1	3	3		
Alaska	3	3	3	3	3	3	3	3	3	3	3	1
American Samoa	nr	nr	nr	nr	nr	nr	nr	nr	nr	nr	nr	nr
Arizona	3	3	3	3	3	3	3	1	3	3	1	1
Arkansas	3	3	3	3	3	3	3		3	2		1
California	2,3,4	2,3,4	2,3	2,3	2,3,4	2,3,4	2,3,4	2,3,4	2,3			
Colorado	2,3	2	2,3	2,3,4	2,3,4	2,3	2,3	2,3	2,3,4	2,3	1	2
Connecticut	4		4	4	4	4	4				3	
Delaware	3	3	3	3	3	3	3	3	3		3	3
District of Columbia	4	4	3,4	4	4	3,4	3,4	3,4	3,4	3,4		
Florida	3	3,4	3	3,4		3	4	3,4	3,4	3	3	3
Georgia	3	3	3	3,4	4	3	2,3	1	3	3	1	1
Guam	1	1	1	1	3	1	1	1	1	1	1	1
Hawaii	3	3	3	3	3,4			3	3	1	1	1
Idaho	3	3	3	3	4	3	3	3	3	3	1	1
Illinois	3	2	3	3,4	4	3	3	3	3,4	1	1	3
Indiana	4	3	4	4	4	4	4	4	4	4		
Iowa	3	4	4	4	4	4	4	4	2	1,2	1	1
Kansas	3	3	3	3,4	4	3	3	1	3	3	1	1
Kentucky	2	2	3	2	2	3	3	2	2	2	3	1
Louisiana	2	2	3	2	2	3	2,3	2	2,3	1	3	1
Maine	3	1	2,3	2	1	2,3	2,3	1	1	1	3	1
Maryland		2						2		2		
Massachusetts	3	3	4	4	4	4	4	1	1	1	1	1
Michigan	2	3	3	4	4	3	3	3	3	3	1	2
Minnesota	2,3	2,3	2,3	2,3	2,3	2,3	2,3	2,3	2,3	2,3	1	2,3
Mississippi	nr	nr	nr	nr	nr	nr	nr	nr	nr	nr	nr	nr
Missouri	3,4	2	3,4	3,4	3,4	3	3,4	3	3,4	3		3
Montana	4	2,4	4	2,4	4	3	4	2,4	4	2,4	1	3
Nebraska	1	1	3	1	3,4	3	3	1	1	2	1	1
Nevada	3	3	3	3,4	4	3	3,4	3	3	3	1	2,3
New Hampshire	3	3	3	3	4	3	3	2	3	1	1	3
New Jersey	3	3	3,4	3,4	3,4	3,4	3,4	3	3	3,4	3	3
New Mexico	3	3	3	3	3	3	3	3	3			
New York	2	3	3	3	4	3	3	1	3	3	3	2
North Carolina	3	3	3	2	2	3	3	1		1	1	1
North Dakota	3		3	3	2,3	3	3	3	3	3	1	1
No. Mariana Islands	nr	nr	nr	nr	nr	nr	nr	nr	nr	nr	nr	nr
Ohio	2	3	3	4	4	2	2	2	2	2		
Oklahoma	4	3,4	3	3	3	3	3	3	3	3	1	1
Oregon	3	3	3	3	3,4	3,4	1	1	3	1	1	3
Pennsylvania	3	3	3	3	2	3	3	3	3	3	3	
Puerto Rico	1	1	1	1	1	1	1	1	1	1	1	1
Rhode Island	3	3	3	2,3	2	3	3	2	3	2		3
South Carolina	3,4	3	3	2	2	3	3	2	3	2	1	1
South Dakota	3	2	3	3	4	3	3	3	3	2		
Tennessee	3	3,4	3	3	3,4	3	3	3,4	3,4	3	1	1
Texas	4	4	4	4	4	4	4	4	3	4	3	1
Utah	3	3	3	3	4	3	3	3	3	3	1	1
Vermont	2	3	3	3	4	3	3	4	4	3	1	3
Virgin Islands	nr	nr	nr	nr	nr	nr	nr	nr	nr	nr	nr	nr
Virginia	2	2	2	2	2,4	2	2	2	2	2	2	1
Washington	3	3	3,4	2,3	2	3	2,3	3	3	4	1	3
West Virginia					4				4			
Wisconsin	4	4	3	3	4	4	4	3	3	3	3	
Wyoming	4	3	3	4	4	3	3	3	3	3	3	1

Table 17 explanatory notes:

- na (not available).
- nr (not reported).

Data footnotes:

Legend: Legal authority states use to conduct background checks for the following occupational/regulatory inquiries.

1. N/A (State does not conduct these checks)
2. State statute
3. Public Law 92-544
4. National Child Protection Act (NCPA) / Volunteers for Children Act (VCA)

Table 18. Lights-out fingerprint processing, 2014

State	Repository conducts lights-out processing	Percentage of fingerprints handled with lights-out processing		
		Total	Criminal	Noncriminal
Alabama	No			
Alaska	Yes	10	10	10
American Samoa	nr	nr	nr	nr
Arizona	Yes	67	27	80
Arkansas	No			
California	Yes	81	80	82
Colorado	Yes	54	nr	nr
Connecticut	Yes	1	1	2
Delaware	Yes	nr	nr	nr
District of Columbia	Yes	29	0	100
Florida	No			
Georgia	Yes	95	95	95
Guam	Yes	100	100	100
Hawaii	Yes	87	89	85
Idaho	Yes	50	50	50
Illinois	Yes	51	65	41
Indiana	Yes	71	40	31
Iowa	No			
Kansas	Yes	80	80	70
Kentucky	Yes	58	76	
Louisiana	Yes	87	95	85
Maine	No			
Maryland	Yes	98	98	98
Massachusetts	Yes	54	89	90
Michigan	Yes	55	55	55
Minnesota	Yes	100	100	100
Mississippi	Yes	96	95	69
Missouri	Yes	90	90	90
Montana	Yes	na	na	na
Nebraska	Yes	15	0	25
Nevada	Yes	nr	nr	nr
New Hampshire	Yes	100	100	100
New Jersey	Yes	91	91	91
New Mexico	Yes	98	79	19
New York	Yes	75	79	72
North Carolina	Yes	87	79	99
North Dakota	nr	16	0	32
No. Mariana Islands	nr	nr	nr	nr
Ohio	Yes	nr	nr	nr
Oklahoma	Yes	63	91	48
Oregon	No			
Pennsylvania	No			
Puerto Rico	No			
Rhode Island	No			
South Carolina	Yes	98	79	99
South Dakota	No			
Tennessee	Yes	95	95	95
Texas	Yes	80	80	90
Utah	No			
Vermont	Yes	89	92	85
Virgin Islands	nr	nr	nr	nr
Virginia	No			
Washington	Yes	nr	nr	nr
West Virginia	No			
Wisconsin	Yes	nr	nr	nr
Wyoming	Yes	12	10	2

SR_0404

SER-407

Table 18 explanatory notes:

- Percentages and numbers are estimates.
- Percentages have been rounded to the nearest whole percent.
- na (not available).
- nr (not reported).

Data footnotes:

Table 19. Assessment and allocation of fees, 2014

State	Fee charged to conduct a search of the criminal history database for noncriminal justice purposes	How fees are allocated
Alabama	Yes	1
Alaska	Yes	4 a
American Samoa	nr	nr
Arizona	Yes	4 b
Arkansas	Yes	4 c
California	Yes	3
Colorado	Yes	3
Connecticut	Yes	1
Delaware	Yes	1
District of Columbia	Yes	1
Florida	Yes	4 d
Georgia	Yes	2
Guam	Yes	3
Hawaii	Yes	3
Idaho	Yes	3
Illinois	Yes	3
Indiana	Yes	1
Iowa	Yes	1
Kansas	Yes	3
Kentucky	Yes	3
Louisiana	Yes	3
Maine	Yes	1
Maryland	Yes	1
Massachusetts	Yes	4 e
Michigan	Yes	4 f
Minnesota	Yes	3
Mississippi	Yes	4 g
Missouri	Yes	3
Montana	Yes	3
Nebraska	Yes	4
Nevada	Yes	3
New Hampshire	Yes	3
New Jersey	Yes	2
New Mexico	Yes	3
New York	Yes	2 h
North Carolina	Yes	1
North Dakota	Yes	1
No. Mariana Islands	nr	nr
Ohio	Yes	1
Oklahoma	Yes	3
Oregon	Yes	3
Pennsylvania	Yes	1
Puerto Rico	Yes	4
Rhode Island	Yes	1
South Carolina	Yes	4
South Dakota	Yes	3
Tennessee	Yes	3
Texas	Yes	3
Utah	Yes	1
Vermont	Yes	4
Virgin Islands	nr	nr
Virginia	Yes	4
Washington	Yes	3
West Virginia	Yes	1
Wisconsin	Yes	3
Wyoming	Yes	1

Table 19 explanatory notes:

- Fees charged have been rounded to the nearest dollar.
- na (not applicable).
- nr (not reported).

Data footnotes:

- a. Fees collected go to support repository operations, while excess funds revert to the state general fund.
- b. Fees support the program's Applicant Clearance Card team and the Arizona Board of Fingerprinting.
- c. Fees are used to maintain criminal history records and AFIS.
- d. Fees collected are placed into a legislative trust fund to support criminal justice information systems.
- e. 61% of fees collected go to support repository operations.
- f. Fees are collected and designated for special purposes.
- g. Fees support the state's Crime Information Center.
- h. 33% of fees collected go to support repository operations.

Legend: How fees are allocated.

1. All fees go to the state general fund, with the repository funded by general fund allotment.
2. A percentage of fees go to support repository operations.
3. All fees go to support repository operations.
4. Other

Table 20. Web-based services for noncriminal justice purposes, 2014

State	Repository provides web-based noncriminal justice background checks to the public	Are public access fees collected for Internet access	Fee
Alabama	Yes	Yes	\$15
Alaska	nr	No	
American Samoa	nr	nr	
Arizona	No	No	
Arkansas	Yes	Yes	2
California	No	No	
Colorado	Yes	Yes	7
Connecticut	No	nr	
Delaware	No	nr	
District of Columbia	No	No	
Florida	Yes	Yes	24
Georgia	Yes	Yes	15
Guam	No	No	
Hawaii	Yes	Yes	nr
Idaho	No	nr	
Illinois	Yes	Yes	10
Indiana	Yes	Yes	16
Iowa	Yes	Yes	15
Kansas	Yes	Yes	20
Kentucky	Yes	nr	
Louisiana	No	nr	
Maine	Yes	Yes	31
Maryland	No	No	
Massachusetts	No	nr	
Michigan	Yes	Yes	10
Minnesota	Yes	No	
Mississippi	No	nr	
Missouri	Yes	Yes	1
Montana	Yes	Yes	14
Nebraska	Yes	Yes	15
Nevada	No	nr	
New Hampshire	No	nr	
New Jersey	Yes	Yes	2
New Mexico	No	nr	
New York	No	nr	
North Carolina	No	nr	
North Dakota	No	nr	
No. Mariana Islands	nr	nr	
Ohio	Yes	Yes	nr
Oklahoma	No	nr	
Oregon	Yes	Yes	10
Pennsylvania	Yes	Yes	10
Puerto Rico	No	No	
Rhode Island	No	No	
South Carolina	Yes	Yes	25
South Dakota	No	nr	
Tennessee	No	No	
Texas	Yes	Yes	3
Utah	Yes	Yes	15
Vermont	Yes	Yes	30
Virgin Islands	nr	nr	
Virginia	No	nr	
Washington	Yes	Yes	10
West Virginia	No	nr	
Wisconsin	Yes	Yes	7
Wyoming	No	nr	

Table 20 explanatory notes:

- na (not available).
- nr (not reported).
- Fees charged have been rounded to the nearest dollar.

Data footnotes:

Table 21. Criminal history records of Interstate Identification Index (III) participants maintained by state criminal history repositories and the Federal Bureau of Investigation (FBI), 2014

(The information in this table was provided by the Criminal Justice Information Services Division, FBI - Statistics as of January 14, 2015)

State	Total III records in state and FBI files	State-supported records	FBI-supported records	Percent supported by state repositories	Percent supported by the FBI
Total	85,909,018	60,208,743	25,700,275	70%	30%
Alabama	1,251,180	709,662	541,518	57	43
Alaska †	229,073	147,529	81,544	64	36
American Samoa	697	0	697	0	100
Arizona †	1,750,198	1,031,604	718,594	59	41
Arkansas †	711,897	537,461	174,436	75	25
California	9,641,796	8,397,114	1,244,682	87	13
Colorado * †	1,455,710	1,229,800	225,910	84	16
Connecticut †	543,411	364,724	178,687	67	33
District of Columbia	306,143	54,767	251,376	18	82
Delaware	303,025	260,962	42,063	86	14
Florida * †	5,813,156	5,410,471	402,685	93	7
Georgia * †	3,579,395	3,353,554	225,841	94	6
Guam	33,763	0	33,763	0	100
Hawaii * †	302,476	240,157	62,319	79	21
Idaho * †	394,008	343,610	50,398	87	13
Illinois	3,479,628	1,826,490	1,653,138	52	48
Indiana	1,430,771	941,300	489,471	66	34
Iowa * †	698,925	417,614	281,311	60	40
Kansas * †	846,267	495,093	351,174	59	41
Kentucky	973,459	570,789	402,670	59	41
Louisiana	1,474,719	1,041,397	433,322	71	29
Maine †	180,126	45,039	135,087	25	75
Maryland * †	1,347,709	960,684	387,025	71	29
Massachusetts	957,253	595,021	362,232	62	38
Michigan †	2,181,141	1,924,365	256,776	88	12
Minnesota * †	919,799	868,186	51,613	94	6
Mississippi	503,694	297,985	205,709	59	41
Missouri * †	1,474,148	1,161,371	312,777	79	21
Montana * †	209,591	196,825	12,766	94	6
Nebraska	391,604	280,119	111,485	72	28
Nevada †	907,220	657,958	249,262	73	27
New Hampshire †	267,561	161,307	106,254	60	40
New Jersey * †	2,032,745	1,883,147	149,598	93	7
New Mexico	609,093	320,241	288,852	53	47
New York †	4,006,653	3,674,185	332,468	92	8
North Carolina * †	1,694,851	1,554,968	139,883	92	8
North Dakota	142,409	107,288	35,121	75	25
No. Mariana Islands	4,560	nr	4,560	0	100
Ohio * †	2,069,768	1,718,964	350,804	83	17
Oklahoma * †	887,004	583,904	303,100	66	34
Oregon * †	1,034,203	918,247	115,956	89	11
Pennsylvania	2,341,987	1,823,707	518,280	78	22
Puerto Rico	186,642	0	186,642	0	100
Rhode Island	210,824	187,597	23,227	89	11
South Carolina †	1,517,552	1,444,808	72,744	95	5
South Dakota	270,499	182,043	88,456	67	33
Tennessee * †	1,741,295	922,713	818,582	53	47
Texas	6,479,565	5,906,536	573,029	91	9
Utah	593,078	519,735	73,343	88	12
Vermont †	110,084	59,590	50,494	54	46
Virgin Islands	19,846	0	19,846	0	100
Virginia	2,008,027	1,661,803	346,224	83	17
Washington	1,507,863	1,218,888	288,975	81	19
West Virginia * †	378,208	224,788	153,420	59	41
Wisconsin	1,125,780	605,294	520,486	54	46
Wyoming * †	193,664	167,339	26,325	86	14
Federal	10,057,065	0	10,057,065	0	100
Foreign	126,210	0	126,210	0	100

SR_0410

Table 21 explanatory notes:

* State is a participant in the National Fingerprint File (NFF).

† State is a signatory of the National Crime Prevention and Privacy Compact.

- na (not available).
- nr (not reported).

FBI-supported: The FBI provides the criminal history records for persons arrested by a Federal agency and arrest data that Ill-participating states are unable to provide.

State-supported: A designated agency within a state referred to as a "Ill participant" provides records from its file upon receipt of an electronic notification from Ill.

(Source: FBI/CJIS, Interstate Identification Index/National Fingerprint File Operations and Technical Manual, December 2005).

Data footnotes:

Table 22. Criminal justice rap back services, 2014

State	State provides in-state criminal justice rap back services	Number of in-state criminal justice rap back notifications made for criminal justice purposes	Purposes in which criminal justice agencies can be notified of a subsequent inquiry and/or record posting via the in-state criminal justice rap back service										Currently participates in NGI criminal justice rap back service
			Error correction/record management updates	Investigative lead	Sex offender	Parolee	Probationer	Permit/privileged license revocation	Noncriminal justice purpose fingerprint search	Other			
Total		58,922											
Alabama	No												No
Alaska	No												No
American Samoa	nr												nr
Arizona	No												No
Arkansas	Yes	0	X										No
California	Yes	14,200	X										No
Colorado	Yes	na	X										No
Connecticut	Yes	nr							X	X			No
Delaware	Yes	10,185							X			a	No
District of Columbia	No								X				No
Florida	Yes	11,684	X		X	X	X			X		b	No †
Georgia	No												No
Guam	No												nr
Hawaii	Yes	12,247				X	X						No
Idaho	No												No
Illinois	Yes	6,397	X										No
Indiana	No												No
Iowa	No												No
Kansas	Yes	2,882		X					X			a	No
Kentucky	No												No
Louisiana	Yes	na				X	X	X					No
Maine	No												No
Maryland	Yes	13											No
Massachusetts	No												No †
Michigan	Yes	136	X										No
Minnesota	Yes	na					X					c	No
Mississippi	No												No
Missouri	No												No
Montana	No												No
Nebraska	No												No
Nevada	No												No
New Hampshire	No												No
New Jersey	Yes	nr											No †
New Mexico	No												No
New York	Yes	na			X	X	X					d	No
North Carolina	No												No
North Dakota	Yes	273										e	No
No. Mariana Islands	nr												nr
Ohio	No												No
Oklahoma	No												No
Oregon	No												No
Pennsylvania	No												nr
Puerto Rico	nr												nr
Rhode Island	No												No
South Carolina	No												No
South Dakota	No												No
Tennessee	Yes	905										a	No
Texas	Yes	nr				X	X					f	No
Utah	No												No †
Vermont	No												No
Virgin Islands	nr												nr
Virginia	No												No
Washington	No												No
West Virginia	No												No
Wisconsin	No												No
Wyoming	No												No

SR_0412

Table 22 explanatory notes:

- na (not available).
- nr (not reported).
- † NGI rap back plans are pending development/programming.

Data footnotes:

- a. Criminal justice employment
- b. Arrests
- c. Crime scene elimination prints
- d. Warrants
- e. CCW revocation advisement
- f. On record searches, updates, and arrests

Table 23. Noncriminal justice rap back services, 2014

State	State provides in-state noncriminal justice rap back service	Authorized by state law or administrative regulation	State law/regulation specifies the purposes in which agencies can be notified	Occupational groups in which agencies can be notified for subsequent record postings						
				Persons working with children	Persons working with the elderly	Healthcare providers	Security guards	Police, fire, public safety personnel	Other	
Alabama	Yes	Yes	Yes	X	X	X	X	X		
Alaska	Yes	Yes	No	X	X	X	X	X	X	a
American Samoa	nr	nr	nr							
Arizona	No									
Arkansas	Yes	Yes	Yes	X	X	X	X		X	b
California	Yes	Yes	Yes	X	X	X	X	X	X	c
Colorado	Yes	Yes	No	X				X	X	d
Connecticut	Yes	Yes	Yes	X	X	X	X	X	X	e
Delaware	Yes	Yes	Yes	X	X	X	X		X	f
District of Columbia	No									
Florida	Yes	Yes	No	X	X	X		X	X	g
Georgia	No									
Guam	No									
Hawaii	No									
Idaho	No									
Illinois	Yes	Yes	Yes	X	X	X	X	X		
Indiana	No									
Iowa	No									
Kansas	Yes	No		X	X	X	X	X	X	h
Kentucky	No									
Louisiana	Yes	No		X		X	X	X		
Maine	Yes	Yes	Yes						X	i
Maryland	Yes	Yes	Yes	X	X			X		
Massachusetts	No									
Michigan	Yes	Yes	Yes	X	X	X		X	X	j
Minnesota	No									
Mississippi	No									
Missouri	Yes	k	Yes							
Montana	No									
Nebraska	Yes	No		X	X	X	X	X		
Nevada	Yes	Yes	Yes			X			X	l
New Hampshire	No									
New Jersey	Yes	Yes	No	X	X	X	X	X		
New Mexico	Yes	Yes	Yes	X	X	X	X	X		
New York	Yes	Yes	m	X	X	X	X	X	X	n
North Carolina	No									
North Dakota	No									
No. Mariana Islands	nr									
Ohio	Yes	Yes	Yes	X	X		X		X	o
Oklahoma	Yes	Yes	No							p
Oregon	No									
Pennsylvania	No									
Puerto Rico	nr									
Rhode Island	No									
South Carolina	Yes	Yes	No				X	X	X	q
South Dakota	Yes	Yes	Yes					X		
Tennessee	No									
Texas	Yes	Yes	Yes	X	X	X	X	X		
Utah	Yes	Yes	Yes	X	X	X		X	X	r
Vermont	Yes	Yes	Yes	X						
Virgin Islands	nr									
Virginia	No									
Washington	No									
West Virginia	Yes	Yes	Yes	X	X	X			X	s
Wisconsin	No									
Wyoming	No									

SR_0414

Table 23 explanatory notes:

- na (not available).
- nr (not reported).

Data footnotes:

- a. Alcohol beverage handlers.
- b. Concealed carry licenses.
- c. Licensing, certification, and permits.
- d. Concealed weapons, real estate, mortgage broker, marijuana sales, gaming, liquor, and lottery.
- e. Board of Education and special revenue employees.
- f. School staff and CCW permits.
- g. Loan originators, professional solicitors, and parimutuel wagering.
- h. Conceal carry permit and real estate licensure.
- i. Department of Education.
- j. Adult foster care, firearms, gaming, certified school employees, and driver's education.
- k. Rap back is scheduled to be completed January 2015 and will be available for school employees.
- l. CCW, Department of Education, and school district personnel.
- m. Unless otherwise precluded by statute, DCJS may notify the print contributor of subsequent arrests.
- n. Pistols, banking/finance, taxi/tow, hazmat, and controlled substance licenses.
- o. Casino Commission.
- p. All noncriminal justice applicants.
- q. All prints stored by SLED.
- r. Driving Privilege Cards, water districts, Motor Vehicle Enforcement Division.
- s. Volunteers.

Table 23a. Noncriminal justice rap back services, continued, 2014

State	Total number of in-state noncriminal justice rap back notifications	Noncriminal justice rap back fingerprint enrollment fee	Noncriminal justice rap back notification fee	In-state noncriminal justice subscriptions require validation similar to NGI	Participant in NGI rap back service
Total	1,119,483				
Alabama	4,688	No	No	No	No
Alaska	na	No	nr	Yes, all subscriptions	No
American Samoa	nr	nr	nr	nr	nr
Arizona					No
Arkansas	16	No	No	Yes, some subscriptions	No
California	537,867	No	No	Yes, some subscriptions	No
Colorado	nr	No	\$1	No	No
Connecticut	120,000	nr	nr	No	No
Delaware	12,499	No	No	No	No
District of Columbia					No
Florida	24,708	\$24	No	Yes, some subscriptions	No
Georgia					No
Guam					No
Hawaii					No
Idaho					No
Illinois	77,209	No	No	No	No
Indiana					No
Iowa					No
Kansas	2,882	No	\$3	a	Yes, all subscriptions
Kentucky					No
Louisiana	na	No	No		No
Maine	20	No	No	No	No
Maryland	35,412	No	No	Yes, all subscriptions	No
Massachusetts					No
Michigan	58,758	No	No	No	No
Minnesota					No
Mississippi					No
Missouri				Yes, all subscriptions	No
Montana					No
Nebraska	nr	No	No		No
Nevada	643	\$10.50	No	No	No
New Hampshire					No
New Jersey	nr	\$10	No	nr	No
New Mexico	10,994	No	No	Yes, all subscriptions	No
New York	173,142	No	No	Yes, some subscriptions	No
North Carolina					No
North Dakota					No
No. Mariana Islands	nr	nr	nr		nr
Ohio	nr	\$5	No	No	No
Oklahoma	nr	b	No	No	No
Oregon					No
Pennsylvania					No
Puerto Rico	nr	nr	nr		nr
Rhode Island					No
South Carolina	na	No	No	No	No
South Dakota	nr	No	No	No	No
Tennessee					No
Texas	58,373	\$15	\$1	Yes, some subscriptions	No
Utah	2,272	\$5	No	No	No
Vermont	nr	No	No	No	No
Virgin Islands	nr	nr	nr		nr
Virginia					No
Washington					No
West Virginia	nr	No	No	No	No
Wisconsin					No
Wyoming					No

SR_0416

Table 23a explanatory notes:

- na (not available).
- nr (not reported).

Data footnotes:

- a. Fee is assessed annually.
- b. The CCH was replaced in 2014. The number of rap back notifications for that time frame is unknown.



OMB No. 1121-0312: Approval Expires 03/31/2018

Survey of State Criminal History Information Systems, 2014

Since 1989, the *Survey of State Criminal History Information Systems* has been used to collect the nation's most complete, comprehensive and relevant data on the number and status of state-maintained criminal history records and on the increasing number of operations and services involving noncriminal justice background checks provided by the state repositories. This data collection is supported by Cooperative Agreement No. 2011-MU-MU-K054 awarded by the Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice. As in previous years, response to this survey is voluntary.

Respondents using the online survey tool, accessible at <http://www.search.org/surveys/repository/>, to enter 2014 data can view previously submitted 2012 data for comparison purposes. Where applicable, your state's 2012 responses are displayed in color within each section of the online survey. It is hoped that this information will assist respondents in completing the survey more accurately and efficiently. **The password to gain access to your state's online survey is provided in the cover letter.** If you have any questions or comments, please contact SEARCH staff Dennis DeBacco at 916-392-2550 ext. 325, email dennis@search.org.

If more convenient, you may print the survey sections, complete them manually, and fax (916-392-8440) or mail them to the attention of Dennis DeBacco at SEARCH, 7311 Greenhaven Drive, Suite 270, Sacramento, CA 95831. **The deadline for survey submission is April 30, 2015.**

The survey is divided into 6 sections, each of which may be submitted independently and not necessarily in the order presented. This was done so that different people on each repository's staff may submit the data for which they are responsible. **Repository directors are responsible to see that the survey is submitted in its entirety.** Please note the following:

1. All reported data should be for calendar year 2014, or as of December 31, 2014.
2. The term "felony" includes any crime classified as a felony under your state's laws. These offenses are generally punishable by a term of incarceration in excess of one year. If your state's laws do not use the term "felony," please substitute functional equivalents, such as class 1, 2, 3 and 4 offenses in New Jersey and class A, B and C offenses in Maine.
3. Questions that seek responses based on a "legal requirement" refer *only* to a *state statute* or a *state administrative regulation having the force of law*.
4. If additional space is needed, please use the "Additional Comments" area at the end of each section.
5. Please use the "Additional Comments" area at the end of each section to identify questions for which "no data is available" and to describe significant changes between the current response and data reported in the 2012 survey.
6. If a question is not applicable to your repository, please indicate "NA" in the "Additional Comments" area at the end of each section.

Burden Statement

Under the Paperwork Reduction Act, we cannot ask you to respond to a collection of information unless it displays a currently valid OMB control number. The survey will be sent to criminal history repositories in 56 jurisdictions, including the 50 States, the District of Columbia, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico and the U.S. Virgin Islands. The average time required for each agency to complete the survey is estimated at 6.3 hours. Send comments regarding this burden estimate or any aspect of this survey, including suggestions for reducing this burden, to the Director, Bureau of Justice Statistics, 810 Seventh Street, NW, Washington DC 20531. Do not send your completed form to this address.

SECTION I: REPOSITORY

This section completed by

Name _____ Title _____

Agency _____

Phone _____ Email _____

Date completed _____

The following questions relate to descriptions of your state's criminal history record information and master name index databases:

1. How many subjects (individual criminal offenders) were in your criminal history file as of December 31, 2014? **Tables 1 and 2**
 - (a) Automated records _____ (include subjects whose records are partially automated)
 - (b) Manual records _____
 - (c) Total records _____

2. Fingerprints processed in 2014: **Tables 1a and 9**

<u>Purpose</u>	<u>Number</u>	<u>Percentage of 2014 volume</u>	<u>Totals</u>
(a) Criminal (retained)	_____	_____ %	
(b) Criminal (not retained)	_____	_____ %	(a+b) _____
(c) Noncriminal (retained)	_____	_____ %	
(d) Noncriminal (not retained)	_____	_____ %	(c+d) _____
(e) What was the <u>total number</u> of fingerprint-based background checks conducted during 2014?			(a+b+c+d) _____

3. (a) Does your state combine both criminal events and noncriminal justice applicant information in the same record? **Table 12**
- Yes No
- (b) Of the total records in your database, _____ % represent records that contain both criminal events and noncriminal justice applicant information.
4. (a) Do you have felony conviction flagging, i.e., does your criminal history record database include a data field or flag enabling you to quickly determine whether a given record subject has a felony conviction? **Table 6**
- Yes, all subjects with felony convictions
 Yes, some subjects with felony convictions
 No
- (b) Do you employ flagging to indicate? (Check all that apply.)
- Ineligible to purchase firearms
 Sex offender registrant
 Convicted drug offender
 Violent offender
 Domestic violence conviction
 Mental health adjudication
 DNA available
 DNA not yet collected
 IFFS, indicating ineligible for firearms purchase under federal law
 IFFS, indicating ineligible for firearms purchase under state law
 Other (describe) _____

The following questions refer to repository administration, procedures and practices.

5. (a) As of December 31, 2014, did your repository conduct “lights out” processing of fingerprints (an identification decision is made without fingerprint technician intervention)? **Table 18**
- Yes No
- (b) If yes, what percentage of fingerprints was handled with “lights out” processing? _____ %
- (c) If yes, what percentage of criminal fingerprints was handled with “lights out” processing? _____ %
- (d) If yes, what percentage of noncriminal applicant fingerprints was handled with “lights out” processing? _____ %
6. (a) Does your state maintain a protection order file? **Table 4**
- Yes No

(b) If yes, which agency(s) enter protection orders onto the state file?
(Check all that apply.)

- Law enforcement
- Courts
- Other (describe) _____

(c) If yes, how many active records were in the state protection order record database as of December 31, 2014?

_____ records

(d) Are protection orders entered onto the FBI-NCIC Protection Order File?

- Yes
- No

(e) If yes, which agency(s) enter protection order information to the FBI-NCIC Protection Order File? (Check all that apply.)

- Law enforcement
- Courts
- Other (describe) _____

7. (a) Does your state maintain a warrant file? **Table 5**

- Yes
- No

(b) If yes, which agency(s) enter warrants onto the state file? (Check all that apply.)

- Law enforcement
- Courts
- Other (describe) _____

(c) If yes, how many records were in the state warrant database as of December 31, 2014?

_____ records **Table 5a**

(d) Of this total, indicate the number of:

- Felony warrants _____
- Misdemeanor warrants _____
- Other (explain) _____

(e) Which agency(s) enter warrant information to the FBI-NCIC Wanted Person File? (Check all that apply.) **Table 5**

- Law enforcement
- Courts
- Other (describe) _____

8. In addition to criminal history information, to what other records does your state's repository provide access? (Check all that apply.) **Table 6a**
- Sex offender registry
 - Orders of protection
 - Wanted persons/warrants
 - Retained applicant prints
 - Rap back services for criminal justice purposes
 - Firearm registration
 - Domestic violence incident reports
 - Other (specify) _____
9. (a) Which of the following most accurately describes the software components of your criminal history system? **Table 10**
- Acquired from a software vendor and configured for the state's environment, but with no software modifications
 - Acquired from a software vendor, but software changes were necessary to customize for the state's environment
 - Built in-house (either by staff or contractors), such that the state's system is unique for our state
 - Other (specify) _____
- (b) Which of the following most accurately describes the software environment or platform used for your criminal history system?
- Microsoft .NET platform
 - Java platform
 - Mainframe platform (e.g., COBOL, Natural, PL/I, etc.)
 - Other (specify) _____

ADDITIONAL COMMENTS:

SECTION II: ARREST/FINGERPRINT REPORTING AND ENTRY

This section completed by

Name _____ Title _____

Agency _____

Phone _____ Email _____

Date completed _____

1. How many felony arrests were reported to your repository during calendar year 2014?
 _____ arrests **Tables 11 and 14**

2. How many arrest fingerprints were submitted to your repository during 2014? (a+b+c = d)
- (a) _____ via livenesscan **Table 11a**
 - (b) _____ via cardscan
 - (c) _____ hard copy fingerprints
 - (d) _____ total arrest fingerprints

3. What types of biometric information are currently utilized in identification search processes conducted by your agency? (Check all that apply, and indicate volume.)
- Latent fingerprints **Table 3** _____ 2014 volume
 - Flat prints _____ 2014 volume
 - 2-finger prints for identification purposes _____ 2014 volume
 - 2-finger prints for updating incarceration or release information to criminal history _____ 2014 volume
 - 10-finger prints for updating incarceration or release information to criminal history _____ 2014 volume
 - Palm prints _____ 2014 volume
 - Facial images/mug shots _____ 2014 volume
 - Scars, marks, and tattoo images _____ 2014 volume
 - Facial recognition data _____ 2014 volume
 - 1- or 2-finger prints for updating disposition information _____ 2014 volume
 - Iris capture _____ 2014 volume
 - Other (specify) _____ 2014 volume

4. (a) Are you using mobile technology to transmit fingerprints for identification purposes?
 Yes No **Table 11d**

(b) Are you using mobile technology to transmit fingerprints for booking purposes?
 Yes No

(c) Do you have plans to implement mobile technology that captures non-fingerprint biometric information?
 Yes No

(d) Is your state employing Rapid ID?
 Yes No

Number of searches conducted in 2014 _____

Number of hits in 2014 _____

5. (a) Total number of law enforcement agencies in your state _____ **Table 11**

(b) Number of law enforcement agencies that submit arrest prints via livescan (including agencies without livescan devices that receive livescan services from agencies that do have that equipment, such as a sheriff that provides booking services for multiple local police departments) _____

(c) Number of agencies that submit arrest fingerprints via cardscan _____

(d) Number of agencies that submit hard copy arrest fingerprint cards _____

(e) Percentage of arrest prints submitted via livescan during 2014 _____ %

ADDITIONAL COMMENTS:

SECTION III: DISPOSITIONS

This section completed by

Name _____ Title _____

Agency _____

Phone _____ Email _____

Date completed _____

The following questions seek to determine to what extent the records in your criminal history record database contain final case disposition information. ("Final case disposition" is defined as release by police after charging; decline to proceed by prosecutor; or final trial court disposition.)

1. If you are a National Fingerprint File (NFF) state, have you elected not to forward disposition information on second and subsequent arrests to the FBI? **Table 7a**
 Yes No N/A (Not an NFF participant)

2. Does your state collect charge tracking information (sometimes referred to as "interim disposition information") on the criminal history record showing the status of a case as it moves through the justice system? (E.g., reporting of an indictment, charges filed that are different than arrest charges, etc.) **Table 7b**
 Yes No

3. (a) How many final case dispositions did your repository receive during 2014? **Table 7** _____ dispositions

- (b) Of those, how many were sent to the FBI? **Table 7a** _____ dispositions

- Of the dispositions forwarded to the FBI:*
- (c) What percentage was sent by Machine Readable Data (MRD) such as tape/CD/DVD? _____ %
- (d) What percentage was sent via hard copy/paper? _____ %
- (e) What percentage was sent by Interstate Identification Index (III) message key? _____ %

4. What percentage of all arrests in the criminal history database have final case dispositions recorded? **Table 1**

(a) Arrests entered within past 5 years _____ %

(b) Arrests in the entire database _____ %

(c) Felony charges _____ %

5. (a) Of the dispositions received at the repository during 2014, what percentage could not be linked to a specific arrest record, either because of failed matching criteria or the arrest had not been reported to the repository? **Table 8a**

_____ %

(b) When a disposition cannot be matched, the following action(s) is taken: (Check all that apply.)

- Placed in a suspense file (no further action)
- Placed in a suspense file for further investigation
- Disposition information is rejected
- Follow-up actions are taken by repository staff
- Court is contacted
- Other _____

6. (a) As of December 31, 2014, was any court disposition data reported directly to the repository by automated means? (Note: "automated" means a method by which data is transmitted by the court to the repository where it is matched against criminal history records and entered on the criminal history record, usually without manual intervention. This does not include dispositions received via fax or email, which require manual activity for criminal history record matching and data entry.) **Table 8**

Yes No

(b) If yes, what percentage of dispositions was reported in 2014 by automated means?

_____ %

(c) How are records matched between the court system and the repository? (Check all that apply.)

- Process Control Number (PCN) or Transaction Control Number (TCN) assigned when fingerprints were taken at time of arrest/booking
- PCN or TCN assigned subsequent to arrest/booking
- State Identification Number
- Arrest Number
- Name
- Date of birth
- Charges

- N/A. My state does not receive automated disposition information from courts
- Other (please explain) _____

7. In 2014, what was the average time elapsed between the occurrence of final felony trial court case dispositions and receipt of information concerning such dispositions by the repository? **Table 14**

_____ Days

8. In 2014, what was the average time elapsed between receipt of final felony trial court disposition information by the repository and entry of that information into the criminal history record database? **Table 14**

_____ Days

9. (a) As of December 31, 2014, was your state using any livescan devices in courtrooms/courthouses to link positive identifications with dispositions? **Table 14**

- Yes No

(b) If yes, how many livescan devices are in courtrooms/courthouses?

_____ Devices

10. (a) As of December 31, 2014, was there a backlog of court disposition data to be entered into the criminal history record database (i.e., not entered within 48 hours of receipt at repository, including dispositions that could not be matched to a criminal history record within 48 hours of receipt at the repository)? **Table 14**

- Yes No

(b) If yes, how many unprocessed or partially processed court case dispositions did you have?

11. (a) Does the repository receive any final case disposition information (e.g., decline to proceed) from local prosecutors or a statewide prosecutors association? **Table 7c**

- Yes No

(b) If yes, this information is: (Check all that apply.)

- Received via automated means
- Received via the prosecutor's case management system
- Paper-based
- A mix of automated and paper-based

(c) If yes, how are records matched between prosecutors and the repository? (Check all that apply.) **Table 7d**

- N/A. My state does not receive automated disposition information from prosecutors
- Process Control Number (PCN) or Transaction Control Number (TCN) assigned when fingerprints were taken at time of arrest/booking
- PCN or TCN assigned subsequent to arrest/booking
- State Identification Number
- Arrest Number
- Name
- Date of birth
- Charges
- Other (please explain) _____

12. Does your state post indictment information to the criminal history record? **Table 7b**

- Yes No

ADDITIONAL COMMENTS:

SECTION IV: NONCRIMINAL BACKGROUND CHECKS

This section completed by

Name _____ Title _____

Agency _____

Phone _____ Email _____

Date completed _____

BACKGROUND CHECKS

1. (a) Does your state charge a fee to conduct a search of the criminal history record database for noncriminal justice purposes? **Table 19**

- Yes No

(b) If yes, how are fees allocated?

- All fees go to the state general fund, with repository funded by general fund allotment
- A percentage of fees go to support repository operations _____ %
- All fees go to support repository operations
- Other _____

2. Please indicate the legal authority your state uses for each of the following background checks. (Check all that apply.) **Table 17**

	N/A (state does not do these checks)	State check only	PL 92-544 statute	NCPA/VCA
Daycare providers				
Caregivers-residential facilities				
School teachers				
Non-teaching school personnel (including volunteers)				
Volunteers working with children				
Prospective foster care parents				
Prospective adoptive parents				
Relative caregivers				
Nurses/Elder caregivers				
Legal guardians				
Hazardous materials licensees				N/A
Medical marijuana (dispensers, caregivers)				N/A

FINGERPRINT-BASED SEARCHES

3. (a) Has your state privatized the taking of fingerprints for noncriminal justice purposes?

Yes No **Table 13**

(b) Is this service provided by?

A single vendor Multiple vendors

(c) Does the vendor(s) assess a fee above what the state charges to perform the background check?

Yes, Fee \$ _____ No

(d) Does the vendor provide any additional services besides the fingerprint capture? (e.g., evaluating responses for the requestor, sending responses back to the requestor, etc.)

4. (a) Total number of noncriminal justice fingerprints submitted to the repository via livescan during 2014 **Table 11c** _____

(b) Total number of noncriminal justice fingerprints submitted to the repository via cardscan during 2014 _____

(c) Percentage of noncriminal justice fingerprints submitted via livescan during 2014 _____

(d) Percentage of noncriminal justice fingerprints submitted via cardscan during 2014 _____

(e) Total number of livescan devices available for noncriminal justice purposes only **Table 11b** _____

(f) Total number of cardscan devices available for noncriminal justice purposes only _____

(g) Total number of livescan devices used for both criminal and noncriminal justice purposes _____

(h) Total number of cardscan devices used for both criminal and noncriminal justice purposes _____

5. What information is contained in the results for fingerprint-based noncriminal justice background checks? (Check all that apply.) **Table 16**

- Full record
- Convictions only
- Juvenile records
- Arrests without disposition—over 1 year old
- Other _____

6. What percentage of fingerprint-based noncriminal justice transactions are identified against arrest fingerprints? **Table 16**

_____ %

7. Does the repository attempt to locate missing disposition information before responding to a fingerprint-based noncriminal justice inquiry? **Table 16**

Yes No

NAME-BASED SEARCHES

8. How many name-based noncriminal justice background checks were performed in 2014? (a+b+c+d = e) **Table 15**

(a) Received via Internet _____

(b) Received via mail _____

(c) Received via telephone _____

(d) Other _____

(e) Total _____

INTERNET ACCESS

9. Does your repository provide web-based noncriminal justice background checks to the public? **Table 20**

Yes No

10. Are fees involved for Internet access for the general public (not including any registration or account fees)? **Table 20**

Yes, Fee \$ _____ No

ADDITIONAL COMMENTS:

SECTION V: CRIMINAL JUSTICE RAP BACK SERVICES

This section completed by

Name _____ Title _____

Agency _____

Phone _____ Email _____

Date completed _____

1. Does your state currently provide an in-state criminal justice rap back service?

Yes No **Table 22**

If you answered "No," skip to question 4.

2. What are the purposes in which criminal justice agencies can be notified of a subsequent inquiry and/or record posting via your in-state criminal justice rap back service? (Check all that apply.) **Table 22**

- Error correction/record management update
- Investigative lead
- Sex offender
- Parolee
- Probationer
- Permit/privileged license revocation (i.e., CCW permit, gaming work card, etc.)
- Noncriminal justice purpose fingerprint search
- Other (describe) _____

3. In 2014, how many in-state criminal justice rap back notifications were made to agencies for criminal justice purposes? **Table 22**

4. Do you currently participate in the FBI's Next Generation Identification (NGI) rap back service for criminal justice purposes? **Table 22**

Yes No

If you answered "No," skip questions 5 through 7.

5. As a participant in NGI's rap back service, do you allow criminal justice agencies in your state to subscribe to the following supervision populations in NGI, as described in the *NGI Rap Back Criminal Justice Policy and Implementation Guide*? (Check all that apply.) **[No table]**
- Sex offenders
 - Parolees
 - Probationers
 - Other supervised persons (describe) _____
 - Uncertain
6. As a participant in NGI's rap back service, do you allow law enforcement agencies in your state to create law enforcement investigative subscriptions in NGI, as described in the *NGI Rap Back Criminal Justice Policy and Implementation Guide*? **[No table]**
- Yes No Uncertain
7. As a participant in NGI's rap back service, do you plan to: (Select one.) **[No table]**
- Keep your in-state criminal justice rap back service
 - Keep your in-state criminal justice rap back service *and* allow enrollment in NGI
 - Retire your in-state criminal justice rap back service and use NGI for both in-state and national rap back services
 - Uncertain
 - My state does not provide an in-state criminal justice rap back service

ADDITIONAL COMMENTS:

SECTION VI: NONCRIMINAL JUSTICE RAP BACK SERVICES

This section completed by

Name _____ Title _____

Agency _____

Phone _____ Email _____

Date completed _____

Note: Questions 1–7 apply to in-state rap back programs for noncriminal justice purposes.

1. Does your state currently provide an in-state noncriminal justice rap back service?

Yes No **Table 23**

If you answered “No,” skip to question 8.

2. (a) Is your in-state noncriminal justice rap back service authorized by state law or administrative regulation? **Table 23**

Yes No

- (b) If yes, does the state law or administrative regulation specify the purposes in which noncriminal justice agencies can be notified of a subsequent inquiry and/or record posting?

Yes No

3. Does your in-state noncriminal justice rap back service have a subscription validation process similar to that required for NGI rap back participation, as described in the *NGI Rap Back Noncriminal Justice Policy and Implementation Guide*? **Table 23a**

Yes, for all subscription populations
 Yes, for some subscription populations
 No

4. What are the occupational groups in which noncriminal justice agencies can be notified of a subsequent record posting? (Check all that apply.) **Table 23**

Individuals working with children
 Individuals working with the elderly

- Individuals providing healthcare
- Security guards
- Police, fire, public safety
- Other (describe) _____

5. In 2014, how many in-state noncriminal justice rap back notifications were made to agencies for noncriminal justice purposes? **Table 23a**

6. Does your in-state noncriminal justice rap back service impose a fee to enroll a subject's fingerprints for a prescribed period of time? **Table 23a**

- Yes \$ _____
- No

7. Does your in-state noncriminal justice rap back service impose a fee for noncriminal justice rap back notifications? **Table 23a**

- Yes \$ _____
- No

8. Do you currently participate in NGI's rap back service for noncriminal justice purposes? **Table 23a**

- Yes No

If you answered "No," skip questions 9 through 10(d).

9. As a participant in NGI's rap back service, does your state restrict NGI subscribers from selecting from any of the available fees and their associated subscription terms? **[No table]**

- Yes, we limit NGI subscribers in our state to the following: (Select all that apply.)
 - Two-year – \$2.25
 - Five-year – \$6.00
 - Lifetime – \$13.00
- No, our subscribers can choose from any of the three fees and their associated subscription terms for their populations
- Yes, we limit our subscribers to using *only* the Lifetime fee (\$13.00) and subscription term
- Yes, we limit our subscriber's choice of fees in a different manner (describe) _____

10. As a participant in NGI's rap back service— [No table]

(a) Do you plan to: (Select one.)

- Keep your in-state noncriminal justice rap back service
- Keep your in-state noncriminal justice rap back service *and* allow enrollment in NGI
- Retire your in-state noncriminal justice rap back service and use NGI for both in-state and national rap back services
- Uncertain
- My state does not provide an in-state noncriminal justice rap back service

(b) Do you restrict the Privacy Risk Mitigation Strategies that your subscribers can choose?

- Yes, we limit the Privacy Risk Mitigation Strategy choices to the following: (Check all that apply.)
 - Pre-notification with mandatory validation/expiration within 3 years
 - Authority for duration of a license
 - Statutory authority for a set period of time
 - One-year validation/expiration
 - Subscription synchronization through automated or formalized procedures
- No, we will allow the subscribers to choose any of the Privacy Risk Mitigation Strategies
- Not certain

(c) Do you restrict the Triggering Events that your subscribers may choose for future NGI Rap Back Activity Notifications?

- Yes, we currently restrict, or plan to restrict, the Triggering Event choices to the following: (Check all that apply.)
 - Criminal Retain Submission
 - Dispositions
 - Expunge/Partial Expungement
 - Warrant entry with FBI Number included
 - Warrant Deletion
 - Warrant Modification
 - Sex Offender Registry Entry
 - Sex Offender Registry Deletion
 - Sex Offender Registry Modification
 - Death Notices
- No, we will allow our subscribers to choose any of the Triggering Events to receive as future Rap Back Activity Notifications
- Not certain

(d) Do you use Event-Based Subscription Management (i.e., multiple enrollment of the same subject into NGI) or Category-Based Subscription Management (i.e., single

enrollment into NGI with additional enrollments held at the state level), as described in the *NGI Rap Back Noncriminal Justice Policy and Implementation Guide*?

- Event-Based Subscription Management
- Category-Based Subscription Management
- Both Event- and Category-Based Subscription Management
- Uncertain

ADDITIONAL COMMENTS:

Center for American Progress



Removing Barriers to Opportunity for Parents With Criminal Records and Their Children

A Two-Generation Approach

By Rebecca Vallas, Melissa Boteach, Rachel West, and Jackie Odum December 2015

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Removing Barriers to Opportunity for Parents With Criminal Records and Their Children

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Introduction and summary

Nearly four decades of mass incarceration and overcriminalization have made the United States the world leader in incarceration and arrests. The number of Americans in federal and state prisons and jails has quintupled over the past four decades—nearly 2.3 million Americans are behind bars today¹—leaving the U.S. incarceration rate at more than six times the average across developed nations. Communities of color—and particularly, men of color—are hit hardest, with black men six times more likely and Latino men two-and-a-half times more likely to be incarcerated than white men.²

An even greater share—between 70 million and 100 million Americans, or as many as one in three American adults—have some type of criminal record.³ Many have been convicted of only minor offenses, such as misdemeanors—and many only have arrests that never led to a conviction. But whether or not an individual has been incarcerated, having a criminal record often carries a lifetime of consequences, lasting long after someone has paid his or her debt to society. As discussed in a previous Center for American Progress report, “One Strike and You’re Out,” having even a minor criminal record can be a life sentence to poverty, presenting obstacles to employment, housing, education and training, public assistance, financial empowerment, and more.⁴

While the effects of parental incarceration on children and families are well-documented, less appreciated are the family consequences that stem from the barriers associated with having a criminal record, whether or not the parent has ever been convicted or spent time behind bars. A child’s life chances are strongly tied to his or her circumstances during childhood. Thus, these barriers may not only affect family stability and economic security in the short term but also may damage a child’s long-term well-being and outcomes.

Our new analysis estimates that between 33 million and 36.5 million children in the United States—nearly half of U.S. children—now have at least one parent with a criminal record.⁵ In this report, we argue that parental criminal records

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significantly exacerbate existing challenges among low-income parents and their families. We explore the intergenerational effects of criminal records through five pillars of family well-being:

- **Income.** Parents with criminal records have lower earning potential, as they often face major obstacles to securing employment and receiving public assistance.
- **Savings and assets.** Mounting criminal justice debts and unaffordable child support arrears severely limit families' ability to save for the future and can trap them in a cycle of debt.
- **Education.** Parents with criminal records face barriers to education and training opportunities that would increase their chances of finding well-paying jobs and better equip them to support their families.
- **Housing.** Barriers to public as well as private housing for parents with criminal records can lead to housing instability and make family reunification difficult if not impossible.
- **Family strength and stability.** Financial and emotional stressors associated with parental criminal records often pose challenges in maintaining healthy relationships and family stability.

Because these challenges affect such a large share of our nation's children, we ignore these intergenerational consequences at our peril. In this report, we make the case for a "two-generation approach" to address barriers to opportunity associated with having a criminal record.⁶ We then offer policy recommendations to give both parents with criminal records and their children a fair shot.

As bipartisan momentum continues to mount in support of criminal justice reform, now is the time to find common ground and enact solutions to ensure that a criminal record does not consign an individual—and his or her children and family—to a life of poverty.

Criminal records: Creating barriers for two generations

The financial and emotional effects of parental incarceration on children and families are well-documented. Two-parent families typically experience a sudden, significant drop in income at the time of incarceration, due to the loss of the incarcerated parent's earnings.⁷ The disruption in the lives of children of lone parents can be even more severe. Many children—and parents—experience feelings of loss and abandonment, which can be exacerbated by the difficulty of maintaining family bonds while a parent is incarcerated. Moreover, a large and growing body of literature connects parental incarceration with childhood illness, behavioral problems, poor educational outcomes, and even a greater likelihood of poor physical and mental health in adulthood.⁸ Thus, it comes as little surprise that parental incarceration is increasingly considered to be an “adverse childhood experience,” or ACE—an experience that is associated with a greater risk of traumatic stress.⁹

Less appreciated, however, are the consequences of parental criminal records—separate from incarceration—on children and families. To that end, we examine five pillars of family well-being—income, savings and assets, education, housing, and family strength and stability—in turn, and how the barriers associated with a parent's criminal record can negatively affect a child's short- and long-term outcomes. As a result, we are able to make the case that a parent's criminal record can itself serve as an ACE, even absent parental incarceration.

A parent's criminal record can hold back the whole family

Ms. N is a 35-year-old mother with three children—ages 9, 11, and 15—whom she supports on her own. More than a decade ago, she was convicted of two minor retail thefts. In both incidents, she was spending time with a friend who shoplifted and was merely in the wrong place at the wrong time. Ms. N found it very difficult to find a job when she moved to Philadelphia in 2010, despite having work experience as a lunch aide at an elementary school and as a direct care worker at a residential facility for people with disabilities. She finally secured a position as a home health aide but was fired after three days when the employer obtained the results from her background check. Desperate to feed her children, Ms. N turned to the Supplemental Nutrition Assistance Program, or SNAP, formerly known as food stamps, but she remains without any other source of income to support her family. She wants nothing more than to put her criminal record behind her so that she can return to being a productive member of society and the breadwinner for her family.

Community Legal Services Inc. provided the Center for American Progress with this story.

Income: Employment, earnings, and public assistance

Family income is one of the strongest predictors of economic mobility: Of those born into the bottom one-fifth of the income distribution, 42 percent of children—and 56 percent of African American children—remain in the bottom one-fifth as adults.¹⁰

On the flip side, a large and growing body of literature finds that addressing struggling families' income constraints not only mitigates hardship but also bolsters children's chances at upward economic mobility in the long term. Research by Greg Duncan and his colleagues finds that boosting a poor child's annual family income by just \$3,000 between the prenatal year and age 5 leads to a 17 percent average increase in the child's annual earnings down the line.¹¹

But having a criminal record can present barriers to employment, earnings, and even the meager benefits available from public assistance. The income-limiting effects of these obstacles, therefore, have broad implications—not just for the tens of millions of individuals who are prevented from moving on with their lives and becoming productive citizens but also for their children and families.

Today, nearly 9 in 10 employers conduct criminal background checks on their job applicants.¹² Even minor offenses such as misdemeanors and arrests without conviction can present major barriers to employment.¹³ Additionally, state laws on hiring and occupational licensing categorically bar individuals with certain types of convictions from more than 800 occupations nationwide.¹⁴ As a result, some 60 percent of formerly incarcerated individuals remain unemployed one year after their release.¹⁵ And for those lucky enough to find steady employment, having a criminal history often comes with a substantial reduction in earnings. Research indicates that formerly incarcerated men, for example, take home an average of 40 percent less pay annually than if they had never been incarcerated, resulting in an earnings loss of nearly \$179,000 by age 48.¹⁶

Notably, an individual need not have spent time behind bars—or even have been convicted of a crime—in order to face barriers to employment due to a criminal record. A study by the National Institute of Justice finds that having any arrest during one's life diminishes job prospects more than any other employment-related stigma, such as long-term unemployment, receipt of public assistance, or having a GED certificate instead of a high school diploma.¹⁷

Moreover, in many states, even public assistance can be out of reach for people with certain types of criminal records. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 includes a lifetime ban on receiving federal public assistance—through the Supplemental Nutrition Assistance Program, or SNAP or Temporary Assistance for Needy Families, or TANF—for individuals with felony drug convictions.¹⁸

Federal law gives states the option to modify or waive the bans, and most have done so to some extent, with Texas and Alabama the most recent to follow suit.¹⁹ Yet the majority of states have retained a ban in whole or in part for TANF, SNAP, or both.²⁰

This outdated and harsh policy has serious consequences for individuals and families. It deprives struggling families of vital nutrition assistance and pushes them even deeper into poverty at precisely the moment when they are seeking to regain their footing. Women are hit especially hard by this policy, as drug offenses accounted for half of the increase in the state female prison population between the mid-1980s and mid-1990s, compared with only one-third of the increase for men over the same period.²¹

When parents face challenges in securing employment or accessing basic income support to help meet basic needs, children suffer both short- and long-term negative consequences. In the early years, from infancy to age 3, children in lower-income households tend to develop vocabulary at a slower rate than their higher-income peers, and they ultimately have more limited language skills, affecting school performance.²² As children enter their school years, parental job instability is associated with lower educational attainment. And when mothers struggle with unstable work, their children are more likely to exhibit absenteeism, bullying, or withdrawal.²³

Research by Hilary Hoynes and her colleagues finds that safety net programs such as SNAP not only alleviate hunger, reduce poverty, and improve children's health in the short run but also improve children's long-term educational, economic, and health outcomes.²⁴ Studies find similar positive long-term benefits from the Earned Income Tax Credit and the Child Tax Credit: These programs not only improve the short-term well-being of children through reducing low birthweight and premature births²⁵ but also lead to improved educational and employment outcomes in adulthood.²⁶

Savings and assets

While families need income to make ends meet, they also need savings to be economically secure and to get ahead. Unfortunately, having a criminal record affects a parent's job prospects, thereby undermining their ability to save for the future. In addition, interaction with the justice system also can result in crushing fines and fees, trapping families in a downward spiral of debt.

In a growing nationwide trend, states and municipalities have increasingly moved toward "offender-funded justice." This approach funds law enforcement and court systems—and in some cases, even substantial shares of a jurisdiction's budget—through fines and fees levied on justice-involved individuals.²⁷ For example, following the tragic death of Michael Brown—an unarmed, young black man who was shot by police in August 2014²⁸—it came to light that his hometown of Ferguson, Missouri, had relied on municipal court fines for a staggering 20 percent of its \$12.75 million total budget in 2013.²⁹

Examples include various sorts of "user fees" that are assessed upon conviction, public defender fees for defendants who exercise their right to counsel, pay-to-stay fees designed to offset states' costs of incarceration, and fees for GPS ankle bracelets while an individual is on community supervision. Many states and localities also assess late-payment fees, steep collection fees, and even fees for entering an installment payment plan.

According to the Ella Baker Center for Human Rights, which promotes the advancement of social and economic justice for low-income families and communities of color, 85 percent of returning citizens face criminal justice debts, up from just 25 percent in 1991.³⁰ Total criminal justice debts can rise into the tens of thousands of dollars.³¹ These debts often come on top of crushing child support arrears, which in many states can pile up while a parent is behind bars.³²

Notably, these criminal justice debts exacerbate the consequences of having a criminal record and transform punishment from a temporary experience into a long-term or even lifelong status. In many states, individuals are not eligible to clean up their criminal records through expungement or sealing until they have paid off all their criminal debts. Outstanding criminal debt can also stand in the way of public assistance, housing, employment, and access to credit. Moreover, while being incarcerated for being unable to pay off debts was long ago declared unconstitutional, missing a payment can be a path back to jail in many states, setting up a modern-day debtor's prison.³³

When families face debt, it not only undermines financial security but can also have negative psychological and mental health effects, affecting children's emotional health.³⁴ In fact, even when adjusting for income and other variables, people with more debt were more likely to have some sort of mental health challenges. And when parents face mental health challenges, it can have adverse effects on their marriage and parenting skills, which in turn affects children.³⁵

Meanwhile, research shows that helping parents build savings has positive short- and long-term effects on children and families. For example, when working-age families can put aside even modest savings in the short term—even sums of less than \$2,000—they are less likely to face hardships such as running short on food, forgoing needed health care, or having the utilities turned off than households with no savings.³⁶ In the long run, assets can have a positive effect on children, not only by ensuring that funding is available for education and other mobility-enhancing opportunities but psychologically as well, affecting children's aspirations to pursue higher education.³⁷ For example, having even modest educational savings set aside is associated with a substantially greater likelihood of children's college attendance and completion.³⁸

When parents can build financial assets, rather than being caught in a cycle of debt due to a criminal record, the whole family benefits.

Education and training

One of the surest pathways to moving up the career ladder and achieving family economic security is securing additional education and training to better compete in the job market. Unfortunately, parents with criminal records face significant barriers to accessing the education and training they need, hindering their odds of finding stable work.

Additionally, parental education has profound effects on children. Children whose parents have less education are more likely to experience poverty, struggle with hunger, and lack health insurance, while the benefits of higher educational attainment among parents can help protect children from hardship even during tough economic times.³⁹

Approximately two out of five Americans behind bars have neither finished high school nor obtained a GED certificate.⁴⁰ Of those with a high school diploma or GED certificate, nearly half—46 percent—lack postsecondary education.⁴¹ Additionally, many struggle with low literacy: About 16 percent have below basic literacy levels, and 3 percent are completely illiterate in English.⁴²

Obviously, limited education and literacy can make it difficult to compete in the labor market, even without a criminal record. It also limits a person's earning potential: The difference in median earnings between an individual with a high school diploma and someone with a bachelor's degree is more than \$23,000 per year, a 70 percent gap.⁴³

Education and training not only boost employment and earnings prospects but also reduce the likelihood that an individual will return to jail or prison. A recent study by the RAND Corporation—the largest-ever analysis of correctional education—found that inmates who participated in correctional education were 43 percent less likely to return to prison than those who did not and were substantially more likely to obtain employment.⁴⁴ Postrelease employment rates were 13 percent higher for individuals who participated in academic or vocational education programs while behind bars and 28 percent higher for those who participated in vocational training.⁴⁵ Furthermore, the study found that every dollar spent on prison education saved \$4 to \$5 in incarceration costs during the three years after the individual's release, the time period when recidivism is most likely.⁴⁶

Unfortunately, despite the cost effectiveness of education and training behind bars, these types of programs are scarce.⁴⁷ In 1995, Congress removed access to Pell Grants for inmates—causing the number of postsecondary prison education programs to drop by more than 90 percent in the decade that followed.⁴⁸

Additionally, formerly incarcerated individuals—and even those with criminal records who have never been incarcerated—can face obstacles to education and training. While there has been some progress in removing barriers to federal financial assistance for people with criminal records,⁴⁹ federal law prohibits individuals with felony drug convictions from receiving the American Opportunity Tax Credit, or AOTC, for life. The AOTC serves as a complement to Pell Grants, providing qualifying students and families with a partially refundable tax credit of up to \$2,500 per academic year to offset some of their educational expenses.⁵⁰ To make matters worse, an estimated 66 percent of colleges and universities use background checks in the admissions process, further decreasing the chance that a person with a record will be able to access higher education.⁵¹

These obstacles for parents with a criminal record can have a profound effect on their children. Analysis by the Urban Institute reveals that even before the Great Recession, there were dramatic variations in child poverty rates by parental educational attainment. But those disparities were even greater after the recession. Between 2007 and 2010, children whose parents lacked a high school diploma saw their poverty rates rise by 8 percentage points, while those whose parents had a high school degree or some college saw theirs increase by 6 percentage points. Children whose parents had an associate's degree or four-year college degree saw their poverty rates rise by 3 percentage points and 2 percentage points, respectively.⁵² The Urban Institute's analysis shows a similar pattern for child food insecurity and lack of health insurance.⁵³

Parental education is not only associated with childhood risk of experiencing poverty and hardship in the near term but also with a child's long-term educational prospects. A mother's education level is strongly correlated with vocabulary and mental processing skills in the first few years of life, and with older children is predictive of school readiness, academic achievement, social engagement, and ability to regulate behavior.⁵⁴

Chronically poor children whose parents have a high school degree or higher are significantly more likely to finish high school themselves than their counterparts whose parents do not have a high school degree.⁵⁵ And indirectly, children whose parents have higher levels of education tend to have higher educational aspirations themselves, leading to higher educational attainment and ultimately greater career prospects.⁵⁶

Therefore, barriers to education and training associated with having a criminal record not only hold parents back from climbing the career ladder but can hamper children's educational and employment prospects as well.

Housing

Safe, decent, and affordable housing is foundational to the economic security of individuals and families. It also has powerful anti-recidivism effects for people with criminal histories. However, even a minor criminal record can affect the stability of a family's housing situation, both through loss of income leading to eviction or foreclosure and through overly harsh "one strike and you're out" public housing policies, which can make it impossible for an individual with a criminal record to physically rejoin his or her family.⁵⁷

The nation's two major housing assistance programs are the Section 8 Housing Choice Voucher Program and Public Housing. Both are federally funded, and their use is governed by federal law and policies. Both are administered by local public housing authorities, or PHAs, however, which have tremendous discretion regarding admission and eviction policies.⁵⁸

Federal public housing law includes a narrow, mandatory ban on access to public housing for people with certain types of criminal histories.⁵⁹ But it also gives local PHAs broad discretion to deny housing to prospective tenants and to evict current tenants on the basis of "criminal activity."⁶⁰ Thus, federal law effectively provides a floor that many PHAs choose to exceed by exercising their discretion in extreme ways. For example, many PHAs will evict or deny housing to an individual or even to an entire household if one household member has had an arrest, even if that arrest did not lead to conviction.⁶¹ Guidance for PHAs published in November 2015 by the Department of Housing and Urban Development clarified the federal "one strike" policy, noting that arrests without conviction may not be considered evidence of "criminal activity" and thus may not serve as the basis for denial of housing or eviction.⁶²

Overly broad interpretations of this policy by local PHAs can put housing out of reach for returning citizens. It also can stand in the way of family reunification because a returning citizen would put his entire family at risk of eviction if he or she went to live with them. Indeed, a 2015 study by the Ella Baker Center found that 79 percent of returning citizens reported being denied housing due to their criminal history, and 18 percent of families reported being evicted or denied housing when their incarcerated family member returned home.⁶³

In addition to the obstacles that people with criminal records face to public housing, private housing can also be unattainable for individuals with criminal records and for their families. Four out of five landlords use criminal background checks to screen out potential tenants.⁶⁴ And as noted previously, the income-limiting effects of criminal records can also lead to eviction and housing instability—and, combined with the savings-limiting effects of a criminal record, can put homeownership far out of reach for many individuals with records and their families.

Housing instability can have harmful and long-lasting consequences for children. In the early years, frequent moves can affect children's mental health and language development. Multiple moves can lead to disruptions in education, residence in lower-quality housing and neighborhoods, and less parental engagement in the

child's education—all of which have negative consequences for children's academic outcomes.⁶⁵ Persistently poor children who experience residential instability before age 18 are significantly less likely to complete high school, enroll in postsecondary education, or complete a degree than their counterparts who had stable housing during childhood.⁶⁶

Housing instability and foreclosure also can affect children's health, with more visits to the emergency room and more delays in preventive care in areas with high foreclosure rates.⁶⁷ And of course, family homelessness during childhood has severe short- and long-term effects as well, affecting physical, cognitive, social, and emotional development. Children who experience homelessness and housing instability are more likely to be separated from their parents, to experience hunger and lack of access to medical and dental care, to repeat a grade or drop out of high school, and to display emotional and behavioral problems such as anxiety and depression.⁶⁸

As a result, the barriers to housing faced by parents with criminal records not only stand in the way of housing stability in the short term but also can carry substantial, negative, and long-term consequences for children.

Family stability and strength

A large and growing body of research documents the profound negative effects that parental incarceration can have on children and on family life.⁶⁹ Importantly, families can continue to face significant challenges long after a parent is released from a correctional facility—or even if the parent has a criminal record but never spent any time behind bars.

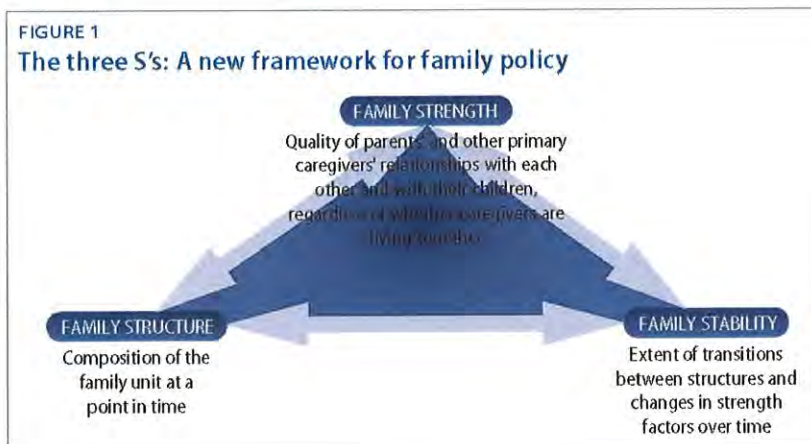
For starters, while child support represents an important contribution to the well-being of children who no longer reside with both parents, unaffordable child support orders can serve as a major driver of postincarceration debt. Many incarcerated parents enter correctional facilities with child support orders in place. While policies vary across states, in 14 states, incarceration is currently not a permissible reason for pausing child support orders, meaning that a noncustodial parent who is behind bars can accumulate sizable arrears and interest despite being unable to make payments while incarcerated.⁷⁰

When this happens, formerly incarcerated parents can return home to find that their child support debts are in the tens of thousands of dollars. Given that, as previously discussed, many individuals leaving prison face barriers to employment and earnings and often have little to no savings, it can be difficult if not impossible to dig out of this hole. Failure to find employment—or a job that pays well enough to afford to meet child support obligations—can trigger a downward spiral of mounting debt, late-payment penalties, and the possibility of reincarceration for failure to pay.⁷¹ Thus, it comes as little surprise that states report that 30 percent to 40 percent of their hard-to-collect child support cases involve noncustodial parents with criminal records or histories of incarceration.⁷²

Making matters worse, noncustodial parents often end up behind bars for nonpayment of child support, again setting up the equivalent of a modern-day debtors' prison and making it even harder for the parent to find employment upon release. It is this vicious cycle that led to the tragic death of Walter Scott, a South Carolina father who was pulled over for a broken tail light: He was shot in the back while trying to flee law enforcement. His brother, Rodney Scott, suspected he fled because he feared being arrested for outstanding child support debt.⁷³

Moreover, in a perverse and unintended consequence, unaffordable child support orders and arrears can take a toll on family bonds and impede family reunification after release. In a survey commissioned by the Ella Baker Center, more than half of survey respondents reported having to make the difficult financial choice between making a child support payment and meeting basic needs. The survey also showed that more than one-third of respondents reported that their inability to pay child support damaged familial relationships, including those with their own children.⁷⁴

As illustrated in the previous sections, whether or not a parent has spent time in prison or jail, having a criminal record carries profound implications for family economic security, which in turn can affect family life, with detrimental consequences for both parents and children. In a recent report, "Valuing All Our Families," CAP set forth a family policy framework, underscoring that, as shown in Figure 1, family structure, stability, and strength are all interconnected and all matter for child as well as adult outcomes in a two-generation approach. Unfortunately, the economic insecurity associated with a criminal record negatively affects all three of these pillars.



When it comes to family stability—regardless of whether the parents are married, cohabiting, single, or in another type of family arrangement—children whose families experience unemployment are more likely to face a destabilizing change, whether it be divorce, doubling up with another family, or other disruptions in family life.⁷⁵ This is important because research suggests that “instability seems to matter more than family structure for [children’s] cognitive and health outcomes, whereas growing up with a single mother (whether that family structure is stable or unstable over time) seems to matter more than instability for children’s behavioral problems.”⁷⁶

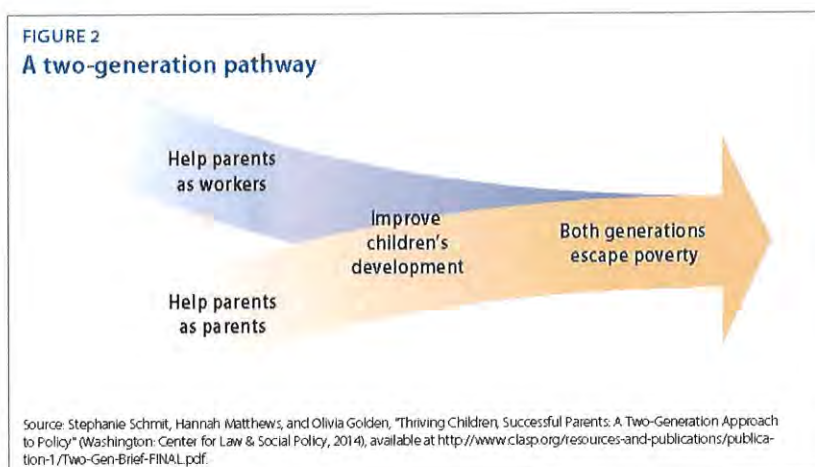
In terms of family strength—or the quality of parents’ relationships with one another and their children—economic security also plays an important role. Financial stress is a key predictor of marital violence, conflict, and divorce, whereas parents with higher incomes and educational attainment are more likely to report happier marriages than counterparts with lower incomes and less education.⁷⁷ Moreover, job loss and economic insecurity can carry over into family interactions. A report by the Brookings Institution and First Focus on the effects of foreclosures on children cites a body of research that points to how parents under financial stress can at times engage in “harsher and less supportive parenting, which in turn can lead to negative behaviors on the part of children, making it harder for them to interact well with peers and in school.”⁷⁸

And in terms of family structure, in cities where lower-income men are more disconnected from the economic mainstream—as measured by the degree to which their income falls below the median—they are less likely to marry. This mirrors a broader long-term trend, with higher levels of inequality being associated with a decline in marriage among men and women over time.⁷⁹ While the most sophisticated reviews of social science conducted to date suggest that the causal effects of a father’s absence alone on child well-being are likely modest,⁸⁰ there is little debate that both children and adults would benefit from stronger, more stable marriages and committed relationships.

Thus, these types of economic stressors not only affect families who are already dealing with the emotional fallout of a parent returning from incarceration but also have implications for family structure, stability, and strength for any family in which a parent’s criminal record is a barrier to the basic building blocks of economic security.

The case for a two-generation approach

In recognition that parent and child well-being are inextricably linked, two-generation approaches set out to address the needs of both disadvantaged parents and children together. While two-generation policy frameworks can vary, one thing remains consistent: Policies that help adults as both parents and workers can have a profound effect on a child's long-term outlook and well-being.⁸¹ Two-generation approaches combat intergenerational poverty by boosting education, health and well-being; economic supports; and social capital for parents and their children.⁸²



As discussed in the previous section, the barriers associated with having a criminal record do not just result in lifelong punishment for the parent with the record; they also can significantly limit a child's life chances. Given that nearly half of all children have a parent with a criminal record, this is an underappreciated driver of economic insecurity among families with children.

Thus, as policymakers work together to reform the nation's criminal justice system, they must enact policies that reflect a two-generation approach. They must begin by removing barriers to opportunity for parents with criminal records, thereby giving both parents and children a fair shot at a better life and an even better future.

Recommendations to remove barriers to opportunity for parents with criminal records and their children

Several recent reports have offered an array of policy recommendations to alleviate the emotional and economic consequences of parental incarceration on children and families. These recommendations include ensuring that parents are not incarcerated at great distance from their families, making visitation more child and family friendly, addressing usurious phone rates,⁸³ and more.⁸⁴ These are steps that policymakers should take.

However, whether or not a parent has been incarcerated, having a criminal record carries tremendous negative consequences for his or her family and children. While by no means an exhaustive list, the following recommendations would go a long way toward mitigating the intergenerational effects of the barriers associated with parents' criminal records.⁸⁵

Enable individuals with records to earn a clean slate

Enabling Americans with criminal records to earn a clean slate upon rehabilitation would permit them to redeem themselves and move on with their lives after they pay their debt to society. To that end, a comprehensive solution that would address many barriers is the automatic sealing of minor records after rehabilitation. Congress and the states should enact clean slate policies to automatically seal low-level, nonviolent records after an individual has proven his or her rehabilitation by remaining crime-free for a set period of time. While most states have expungement and other record-clearing laws in place, they typically require individuals to petition the court one by one on a case-by-case basis. As a result, many people are deprived of the opportunity to clear their record simply because they are unable to secure legal representation.⁸⁶ By contrast, automatic sealing has the benefit of expanding access to record clearing for individuals who have been rehabilitated, while reducing a burdensome and costly workload for the courts.

Congress should also enact the bipartisan Sentencing Reform and Corrections Act of 2015, which includes several important provisions to expand access to record clearing, such as sealing or expungement of juvenile criminal records under certain circumstances. Importantly, it also requires the attorney general to develop a process for individuals who are undergoing employment criminal background checks to challenge the accuracy of their federal criminal records, which would help address the well-documented problem of inaccuracies in criminal records databases.⁸⁷

Remove barriers to employment and income assistance

Fair hiring policies should be enacted at the federal, state, and local levels. To ensure that the federal government is a model employer, the Obama administration should finalize its Office of Personnel Management, or OPM, rule “banning the box” for federal agency hiring, which would delay the point in the hiring process when a criminal record is considered.⁸⁸ Additionally, Congress should pass the bipartisan Fair Chance to Compete for Jobs Act of 2015, which would extend the “ban the box” policy to federal contractors, who are not covered by the OPM rule.

States and localities that have not already done so should follow the lead of the 19 states and more than 100 municipalities that have adopted fair chance hiring policies that incorporate features such as banning the box.⁸⁹ The strongest policies incorporate the Equal Employment Opportunity Commission’s standards for consideration of criminal records in hiring, including that employers should not consider arrests without conviction; that employer demands for applications only from individuals without a criminal record are illegal; and that certain factors must be taken into account, such as the seriousness of the crime, the time that has elapsed since the conviction, and the nature of the job.⁹⁰

In addition, to enable families to access needed income and nutrition assistance while seeking to get back on their feet, Congress should repeal the overly harsh lifetime felony drug ban on Temporary Assistance for Needy Families and the Supplemental Nutrition Assistance Program. In the meantime, states that have not already done so should exercise their authority to opt out of or modify the ban.

Remove barriers to financial empowerment

Despite the emergence of several best practices, many states and localities persist in criminal justice debt policies that present serious barriers to re-entry and trap families in a never-ending cycle of debt. In collaboration with the Consumer Financial Protection Bureau, the U.S. Department of Justice should release guidance that encourages states and localities to adopt best practices in levying and collecting criminal justice debt.⁹¹ In the meantime, states and localities should reform their criminal justice debt policies, including by: conducting impact analysis before adopting new fees; considering ability to pay and permitting individuals to enter into affordable installment plans; implementing statutes of limitation and writing off uncollectible debt; permitting waiver of fees upon completion of re-entry programs;⁹² and avoiding incarceration as a penalty for nonpayment.

Additionally, the Obama administration should finalize its proposed rule to modernize the child support enforcement system. It would go a long way toward breaking the link between unaffordable child support arrears and mass incarceration, while supporting noncustodial parents in obtaining employment so that they can pay more in child support.

Remove barriers to housing

The overly broad and harsh “one strike and you’re out” policy in public housing should be repealed and replaced with a policy that requires individualized assessments. This would address safety concerns while removing the barriers that parents with records face to accessing public housing, and it also would promote family reunification and prevent the family homelessness that can result from a family member with a record joining the household after returning home from incarceration. The Department of Housing and Urban Development, or HUD, guidance released in 2015 clarifying the one-strike policy and laying out best practices for public housing authorities⁹³ marks a good first step, as it makes clear that arrests without conviction are not sufficient grounds for eviction or denial of housing. Even absent reform to the one-strike policy, local PHAs need not and should not exceed the narrow mandatory bans that they are required to implement, and they should adopt the best practices laid out in the recent HUD guidance. They also should follow the lead of New York City and other cities that have launched pilot programs to explore strategies for removing barriers to public housing for individuals with criminal records and their families.

To remove barriers to private housing, states and cities should adopt fair housing policies that prohibit landlords from discriminating on the basis of criminal history. While policies that lay out specific rights—such as Oregon’s recently enacted fair housing law⁹⁴—are optimal, states may be able to issue regulations that construe their own fair housing laws to limit discriminatory denials of housing without the need for new legislation.

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Remove barriers to education and training

While progress has been made in terms of reducing barriers to federal financial aid for students with criminal histories, the harsh lifetime ban on the American Opportunity Tax Credit for individuals with felony drug convictions puts a vital source of financial aid out of reach for current and prospective students who might not otherwise be able to afford to pursue higher education or training. Congress should remove this ban to enable parents with criminal records to obtain the additional qualifications they need to compete in the labor market and provide for their families.

In 2015, the Obama administration announced the launch of a pilot program to test the restoration of Pell Grants to currently incarcerated students.⁹⁵ Upon the release of positive results, Congress should act to restore full access. Additionally, Congress and the states should increase investment in prison education and training to boost parents’ employment and earnings prospects and better equip them to support their families upon release. And colleges and universities should follow New York’s lead by limiting consideration of criminal history in the higher-education admissions process until after a conditional admission has been made; they also should only consider convictions if they indicate that the student poses a threat to public safety or if they have bearing on some aspect of the academic program or student responsibilities.

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Enact policies to support family strength and stability

A previous CAP report offered a framework for family policy and laid out a two-part policy agenda to support strong and stable families. This framework includes an economic plank to bolster family economic security, as well as a social plank to ensure that struggling families are armed with the same tools as higher-income families to

navigate family-related decisions and disruptions.⁹⁶ The recommendations above underscore ways in which we can make many of these economic and social policies—from access to good jobs to removing barriers to income security and education—more fully available to parents with criminal records in ways that are likely to strengthen family structure, stability, and strength.

Given the unique challenges facing parents with criminal records, however, there are also specific policy interventions that would help strengthen family bonds both for formerly incarcerated parents and for the broader swath of Americans with some type of criminal record. Policies that support families in paying child support and strengthening parenting skills are an important set of supports that can help disadvantaged parents, including those facing barriers related to their criminal record.

For example, the Obama administration's proposed rule to modernize the child support system not only prevents child support debt from accumulating while parents are incarcerated but also gives state agencies new options to use federal child support funding for employment services to noncustodial parents who are unemployed and underemployed and thus struggling to make their payments. Efforts at the state level to help noncustodial parents find jobs, rather than setting them on a pathway to incarceration for nonpayment, have resulted in greater and more consistent payments for children.⁹⁷ The rule also allows states to incorporate discussions of visitation into support orders, which provides an opportunity to formalize a noncustodial parent's engagement with his or her child and enables states to offer education and resources to parents on effective co-parenting and family budgeting.⁹⁸ The rule should be finalized to ensure that states have these tools at their disposal to benefit children and families.

Another important policy tool is the administration's Pathways to Responsible Fatherhood Demonstration Grants, administered by the U.S. Department of Health and Human Services' Office of Family Assistance, which help fathers improve their relationship with their partners and/or the mothers of their children, strengthen their parenting skills, and contribute to their children's financial well-being.⁹⁹ This is a relatively small program, but results show that the important models it funds are strengthening families. (see text box on the Center for Urban Families for more information) As additional evidence emerges on best practices for serving parents with criminal records, Congress should consider appropriating additional funds to scale up programs that are showing positive results.

Finally, home visiting is an evidence-based, two-generation approach to improving parenting capabilities and child outcomes for disadvantaged families. Home visitation typically involves regular visits from a professional such as a nurse or social worker, which begin before the child's birth and extend through his or her early childhood. These visits, made only at the parent's request, can help provide information about child development, community resources, and effective parenting practices—and have been associated with better birth outcomes; increased parental action to promote literacy and a stimulating early learning environment; decreased involvement in the criminal justice system by the time participating children are teenagers; and higher grade point averages and graduation rates for children in the longer term.¹⁰² These types of programs can be especially important for parents with a criminal record, but unfortunately, they only serve a fraction of the families who could benefit. To that end, CAP has recommended that policymakers amend the Medicaid statute to add a new home visiting option for states to expand evidence-based home visiting services to all eligible and interested families.¹⁰³

A promising model

The Center for Urban Families

The Center for Urban Families, or CFUF, based in Baltimore, Maryland, is a grantee of the administration's Responsible Fatherhood Demonstration Grants program. Sixty percent of CFUF's clients have been convicted of either a felony or a misdemeanor, and 25 percent are on parole or probation.¹⁰⁰ CFUF's Family Stability and Economic Success, or FSES, model pairs employment services with family-strengthening supports to help parents achieve economic security as well as family stability. CFUF's holistic program serves more than 1,500 parents annually and has helped parents secure more than 6,400 full-time jobs upon completion of the program's employment services component.¹⁰¹

Boost resources for re-entry services

Direct service providers—such as civil legal aid organizations and nonprofit organizations that specialize in re-entry services¹⁰⁴—play a critical role in supporting re-entry by helping individuals with criminal records clean up their records through expungement or sealing so that they can obtain employment; access needed public assistance while they seek to get back on their feet; secure stable housing for themselves and their families; reunify with their families; and more. However, many eligible individuals are turned away for lack of adequate funding; for example, for every client served by legal aid, another is turned away for lack of resources.¹⁰⁵ Resources for legal aid and other re-entry providers should be increased to enable more individuals with criminal records to get the help they need to achieve successful re-entry. To that end, Congress should reauthorize and boost funding for the bipartisan Second Chance Act, which authorizes the Department of Justice to award federal grants to government agencies and nonprofits to provide services designed to support re-entry and reduce recidivism.¹⁰⁶

Enhance data collection efforts on the effects of criminal records

Efforts to engage in evidence-based policymaking to combat the legacy of mass incarceration and overcriminalization would be greatly improved by a better understanding of criminal records on individuals, children, and families—as well as our national economy. In fact, the paucity of data on individuals with criminal records may be a significant reason why individuals with criminal records have received little previous attention in the research literature. The Department of Justice’s Bureau of Justice Statistics should seek ways to make more detailed information available to the research community and work with agencies, such as the Census Bureau, that administer household surveys to produce new data linking criminal records to individual and family characteristics and outcomes, including employment and other financial outcomes. These data should be made available to the research community to help researchers and policymakers better understand the patterns, implications, and effects of criminal records.

Conclusion

Following four decades of mass incarceration and overcriminalization, nearly half of U.S. children now have at least one parent with a criminal record. Given the barriers to economic security and mobility associated with having even a minor record, we ignore the intergenerational consequences at our peril. As bipartisan momentum continues to build in support of criminal justice reform, as well as in support of policies to put second chances within reach, now is the time for federal, state, and local policymakers to find common ground. We must enact solutions to ensure that a criminal record does not consign an individual—and his or her children—to a life of poverty.

Appendix: Methodology

Recent research estimates that between 70.3 million and 100.5 million American adults have a criminal record.¹⁰⁷ But how many minor children today have a parent—or parents—reflected in this statistic, whose criminal record may present a barrier to economic security, family stability, and future opportunity? Due to the scarcity of data on individuals with criminal records, the response provided in this report represents only a rough estimate—but the first of its kind.¹⁰⁸

As a first step, our analysis distinguishes between two groups of individuals with criminal records, whose childbearing behavior is expected to differ for a number of reasons. Population 1 comprises adults who are currently or formerly incarcerated in prison, and Population 2 is made up of individuals who have a criminal record but have never spent time in prison.¹⁰⁹

Population 1 has received a fair amount of attention in the research literature—as have their children, for whom parental incarceration has been shown to have severe and lasting detrimental consequences. Recent research by Sarah Shannon and others estimated that in 2012,¹¹⁰ about 7.7 million Americans were currently or formerly incarcerated in prison.¹¹¹ And a recent Child Trends study estimated that in 2012, 5.2 million children—nearly 1 in 14—had a parent who was currently or formerly incarcerated in either jail or prison.¹¹² Leveraging data on recidivism, average duration of incarceration, and relative size of jail and prison populations, respectively, in 2012, we isolate the subset of these children—nearly 2.1 million—who have a parent in Population 1.¹¹³

However, the population of individuals with criminal records is much broader than those who have spent time behind bars in prison, as a large and growing share of individuals convicted of criminal offenses receive probation-only sentences and many people with records have arrests that did not lead to conviction. Subtracting the estimates given above—the size of Population 1 from the total number of Americans with a criminal record—suggests that between 62.6 million and 92.6 million Americans are part of Population 2. Much less is known about these individuals and their families.

To approximate the number of minor children in the United States who have at least one parent in Population 2, this analysis makes the simplifying assumption that all minor children have parents of “child-raising age”—defined here as the age range of the average age at first childbirth on the low end to 18 years above this age on the high end.¹¹⁴ Because no data are directly available on Population 2—much less on their children or their fertility—this analysis selects a plausibly similar group whose childbearing behavior is knowable to serve as a proxy for Population 2.

In what follows, we develop a demographic profile of this proxy group, focusing on characteristics that are related to both childbearing behavior and the likelihood of having a criminal record. Then, by superimposing this demographic profile on nationally representative survey data, we can predict the expected fertility of a population with these characteristics.

A plausible proxy for Population 2 is the group of adult arrestees in 2012. The FBI’s Universal Crime Reporting, or UCR, system collects detailed arrest records from state law enforcement agencies. For a set of 28 criminal offenses—ranging from minor to severe—the UCR system provides information on arrestees by select categories of age, sex, race, location, and other characteristics. Of course, some arrests result in imprisonment. To exclude these arrest records—which are relevant to Population 1 rather than Population 2—prison admissions data are used to adjust the number of arrests within each offense type according to the likelihood that arrest will result in imprisonment.¹¹⁵ Following this adjustment, the FBI arrest data can be used to construct a demographic profile of arrestees in 2012.

Data and research point to several demographic characteristics that are strongly correlated with the likelihood that an adult has a criminal record and with expected childbearing behavior.¹¹⁶ For example, a person’s sex is strongly correlated with criminal activity, arrest, and incarceration, as well as with the timing of childbirth.¹¹⁷ As discussed earlier in this report, communities of color are disproportionately likely to face arrest and incarceration, making race a strong correlate of both types of outcomes. And whether an individual resides in a metropolitan area or a more rural area is related to both expected number of births and the likelihood of encounters with law enforcement that can lead to a criminal record.¹¹⁸

Filtering the adjusted arrest records to include only adults of child-raising age or younger—that is, age 18 to about age 44 for this population¹¹⁹—we tabulate the shares of arrests in demographic groups defined by sex, race, and metropolitan location status.¹²⁰ A “cell” in this demographic profile might contain, for example, the share of 2012 arrests attributed to white females in nonmetropolitan areas.

Next, we turn to survey data in order to estimate the average number of minor children belonging to Population 2 individuals who were of child-raising age in 2012—taking advantage of the variation in childbearing habits by sex, race,¹²¹ and metropolitan location status¹²² to approximate this more closely. We use the National Survey of Family Growth, or NSFG, a nationally representative survey of men and women ages 15 to 44. The 2011–2013 NSFG had about 10,400 participants. In addition to detailed information on family life, marriage, health, and sexual behavior, the survey contains information on the number of children ever born to male or female respondents.¹²³

The first step, using NSFG microdata, is to identify the subset of adults of child-raising age. We calculate the average age of first childbirth for respondents who have one or more children, within each gender, race, and metropolitan location status cell.¹²⁴ This produces an estimate of the average age of first childbirth of slightly less than 26 across the overall population; across individual demographic groups, the estimates range from age 21.9 to age 27.7.

We next obtain the weighted average number of minor children belonging to respondents in the child-raising age range, within each sex, race, and metropolitan location status cell.¹²⁵ Since each child has both a mother and a father, multiplying each cell-specific average by the corresponding cell-specific population of child-raising age—and then summing the results—produces a prediction of the total number of minor children that is roughly twice the size of this population in 2012.

Of course, not all children are actually born to parents in this stylized child-raising age range. For this reason, this approach will somewhat underestimate the population of minor children when the total number of children attributed to men and women is computed. Furthermore, men may in some cases be unaware of children they have fathered; therefore, the estimate of children born to men is expected to be smaller than that of children born to women. To adjust for these effects, as well as for parents' potential underreporting of children, estimates are calibrated to the total population of children under age 18 in 2012, as reported by the Census Bureau—about 73.7 million—by calculating separate adjustment factors for men and women.¹²⁶ These two adjustment factors are then applied to the quantities that represent the average number of minor children within the sex, race, and metropolitan location status groups.

In the case of some children, both the biological mother and biological father may have a criminal record,¹²⁷ an additional adjustment is made to the set of quantities that represent the average number of children per record-holder of child-raising age to avoid double-counting these children.¹²⁸

To obtain the number of children in each demographic cell, the next step is to multiply these averages by the number of Population 2 individuals of child-raising age in the corresponding demographic cell. To do this, we return to the demographic profile constructed from UCR arrest records, which provides the share of Population 2 individuals of child-raising age in each sex, race, and metropolitan location status cell.

Translating these shares into numbers requires an estimate of Population 2 individuals of child-raising age. In 2012, roughly 32.7 percent of American adults were of child-raising age.¹²⁹ Assuming that a similar proportion of Population 2 falls into this age range,¹³⁰ between 20.4 and 30.2 million people with records—who have never been in prison—were of child-raising age in 2012. To ensure that the estimate is conservative, we rely on the lesser of these estimates.¹³¹ Multiplying this topline number by the shares in each demographic cell—and summing over all of the demographic cells—yields the total number of children with at least one Population 2 parent.

The final step is to add these children to the children of Population 1 parents—that is, parents who are currently or have been formerly incarcerated. This again requires an adjustment for double-counting—this time to account for children who have one parent in Population 1 and the other in Population 2.¹³² After subtracting these children, the remaining Population 1 children are added to the Population 2 children.

The approach yields a rough but conservative range of estimates for the number of children under age 18 who had at least one parent with a criminal record in 2012. We find that the number of U.S. children who have at least one parent with a criminal record ranges from 33 million—44.8 percent of minor children in the United States—to 36.5 million—49.5 percent of minor children.

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- 105 This is a phenomenon known as the "Justice gap." See Legal Services Corporation, "Documenting the Justice Gap in America" (2007), available at <http://archive.lsc.gov/sites/default/files/LSC/pdfs/justicegap.pdf>.
- 106 The Second Chance Reauthorization Act was introduced earlier this year as S. 1513 by Sens. Rob Portman (R-OH) and Patrick Leahy (D-VT) in the Senate and as H.R. 3506 by Reps. Jim Sensenbrenner (R-WI) and Danroy Davis (D-IL) in the House.
- 107 The Department of Justice reports that 100.5 million Americans have state criminal history records on file. Some organizations, such as NELP, have contended that this figure may overestimate the number of Americans with criminal records, as some people may have records in more than one state. NELP thus suggests reducing the Department of Justice figure by 30 percent, which with 2012 data yields the more conservative estimate of 70.3 million American adults with criminal records. For the Department of Justice data, see Bureau of Justice Statistics, *Survey of State Criminal History Information Systems, 2012*. For a discussion of NELP's methodology using 2008 Department of Justice data, see Natividad Rodriguez and Enselmet, "65 Million 'Need Not Apply': The Case for Reforming Criminal Background Checks For Employment." For a general discussion, see Vallas and Dietrich, "One Strike and You're Out: Juvenile records—generally, records acquired when an individual is younger than age 18—are not counted in these estimates, nor are they considered in the analysis in this report.
- 108 To the authors' knowledge, this is the first estimate of children affected by parental criminal records. The authors hope that more extensive data collection on individuals with criminal records and their families—and greater attention to the intergenerational effects of criminal records—will spur additional research.
- 109 People who have been incarcerated in jail, as opposed to prison, are included in Population 2. Typically, jail is where individuals are sent while awaiting trial or upon conviction of a misdemeanor or low-level offense resulting in a sentence of less than one year. As noted, we anticipate the childbearing behavior of the two populations we define to differ for a number of reasons. For example, incarceration disrupts family formation and stability by removing an individual from his or her family members and, thus, may more severely impede one's ability to support a family after release than does a criminal record alone. Furthermore, on average, individuals who are or have been incarcerated tend to have committed more serious offenses. This may be correlated with riskier behavior, which may also be exhibited in sexual behavior or behavior toward family members, affecting childbearing habits. See, for example, Bryan Sykes and Becky Pettit, "Mass Incarceration, Family Complexity, and the Reproduction of Childhood Disadvantage," *Annals of the American Academy of Political and Social Science* 654 (1) (2014): 127–149, available at http://condor.depaul.edu/bsykes1/Publications_files/Sykes_Pettit_2014.pdf; Andrea Knittel and others, "Incarceration and Sexual Risk: Examining the Relationship Between Men's Involvement in the Criminal Justice System and Risky Sexual Behavior," *AIDS and Behavior* 17 (8) (2013): 2703–2714, available at <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3798090/>.
- 110 Since the most recent available data from several key sources used herein is from 2012, the estimation approach in this report is focused on that year.
- 111 Sarah Shannon and others, "Growth in the U.S. Ex-Felon and Ex-Prisoner Population, 1948-2010," available at <http://paa2011.princeton.edu/papers/111687>. Working paper under review at *Demography*.
- 112 Murphey and Cooper, "Parents Behind Bars."
- 113 This procedure is somewhat nuanced because we must account for children of formerly as well as currently incarcerated individuals. While work has been done to examine individuals formerly incarcerated in prison, research is scarce on those formerly incarcerated in jail. In 2012, about 68 percent of those incarcerated, or 1.57 million, were imprisoned, while the remaining 32 percent, or 0.74 million, were in jail. See Todd D. Minton, "Jail Inmates at Midyear 2012 - Statistical Tables" (Washington: Bureau of Justice Statistics, 2013), available at <http://www.bjs.gov/content/pub/pdf/jim12st.pdf>; Lauren E. Glaze and Elinn J. Herberman, "Trends in Admissions and Releases, 1991–2012" (Washington: Bureau of Justice Statistics, 2014), available at <http://www.bjs.gov/content/pub/pdf/cpus12.pdf>. However, these groups' children are unlikely to be divided into similar shares. Notably, the jail population turns over much more quickly, on average, than does the prison population because inmates in jail tend to be held for less time. Thus, we obtain the average duration of jail and prison spells, respectively, using 2002 data from the Bureau of Justice Statistics. See Doris James, "Profile of Jail Inmates, 2002" (Washington: Bureau of Justice Statistics, 2004), table 8 available at <http://www.bjs.gov/content/pub/pdf/pj02.pdf>; Erica Goode, "Average Prison Stay Grew 36 Percent in Two Decades," *The New York Times*, June 6, 2012, available at http://www.nytimes.com/2012/06/06/us/average-prison-stay-grew-36-percent-in-two-decades.html?_r=0. For an individual, though, average duration may not tell the complete story over time: Many—indeed, most—formerly incarcerated individuals will return to incarceration at some point. For this reason, we scale up our estimates of the total time the average individual of each population can expect to be incarcerated, developing a factor based on the average number of incarceration spells within each population. The next step is to estimate how many cohorts will cycle through—or, more specifically, the ratio of cohorts that will cycle through—incarceration of each sort during a given time period. Comparing these numbers, we calculate prison inmates as a share of all incarcerated individuals. We then presume that the ratio of prison inmates to all inmates is the same as the ratio of children of prison inmates to children of all inmates. Finally, using these shares, we are able to identify children in the Child Trends estimate who have an incarcerated parent. This produces a total estimate of Population 1 children—that is, children of current and former prisoners—of just fewer than 2.1 million. See Murphey and Cooper, "Parents Behind Bars."
- 114 Since average age at first childbirth differs somewhat across the demographic groups that we isolate for purposes of our analysis, child-raising age will also differ by demographic group. Ideally, data could be found to determine the lower bound of child-raising age according to the average age across all births—rather than the average age of first birth—for individuals with one or more children. However, the source of fertility data—the National Survey of Family Growth, described below—only contains information on the timing of first birth for male respondents. For this reason, the authors define the lower bound of child-raising age in this exercise according to the age of first childbirth among individuals who report having one or more children. Without further adjustment, this would cause the approach to slightly overestimate the average number of children born to adults of child-raising age. However, as described below, estimates are calibrated to the total number of children in the population in 2012 in order to adjust for this and for other effects.

- 115 For several reasons, new arrests do not translate directly into new criminal records. First, and most importantly, Universal Crime Reporting records include both arrests that eventually result in incarceration as well as those that do not. The authors adjust arrests within offense category according to the likelihood of incarceration in order to exclude arrestees who fall into Population 1. To do this, each of the 28 offenses categories in the UCR records is matched to its closest counterpart(s) in data on admissions to state and federal prisons in recent years. The authors calculate the share of arrests that resulted in incarceration, interpreting this as the likelihood that arrest will result in incarceration. See Bureau of Justice Statistics, "Arrest Data Analysis Tool, national estimates for 2009 by crime type," available at <http://www.bjs.gov/index.cfm?ty=datool&url=/arrests/index.cfm#> (last accessed November 2015); Bureau of Justice Statistics, "Prisoners entering Federal prison, 2009, by offense," available at http://www.bjs.gov/fisc/var.cfm?type=one_variable&agency=BOP&db_type=Prisoners&sf=IN (last accessed November 2015); Bureau of Justice Statistics, "National Corrections Reporting Program: Most serious offense of state prisoners, by offense, admission type, age, gender, race, and Hispanic origin: 2009," available at <http://www.bjs.gov/index.cfm?ty=cdetail&id=268> (last accessed November 2015). There are other discrepancies between arrests and people with records as well. For example, individuals may be arrested multiple times within one year, causing demographic information to be overrepresented in the demographic profile of arrestees. However, these additional discrepancies are expected to have a relatively minor effect on results.
- 116 Correlations may be due to actual patterns of criminal or risky behavior or to law enforcement practices and tactics—or to both.
- 117 For example, males accounted for nearly three-quarters of arrests in 2012 and made up nearly 94 percent of inmates serving sentences of more than one year in state and federal prisons in 2012. Compared with women, men tend to encounter the criminal justice system at earlier ages but have children later in life, on average. Authors' calculations from Federal Bureau of Investigation, "Universal Crime Reporting System, 2012, Tables 39 and 40," available at <https://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2012/crime-in-the-u.s.-2012/table-guide> (last accessed November 2015); Bureau of Justice Statistics, *Prisoners in 2012: Trends in Admissions and Releases, 1991–2012* (U.S. Department of Justice, 2013), Table 18, available at <http://www.bjs.gov/index.cfm?ty=pbdetail&id=4842>; Gladys Martinez, Kimberly Daniels, and Anjani Chandra, "Fertility of Men and Women Aged 15–44 Years in the United States: National Survey of Family Growth, 2006–2010," *National Health Statistics Report* (51) (2012), table 5, available at <http://www.cdc.gov/nchs/data/nhsr/nhsr051.pdf>.
- 118 Multiple other individual characteristics and statuses—such as income level, educational attainment, and marital status—are also strongly related to both expected fertility and the likelihood of a criminal record. However, information on these characteristics is less commonly collected in the context of encounters with law enforcement. On correlates of fertility and childbearing behavior, see, for example, *ibid.* For just two of many well-documented examples of how various personal attributes are related to risky behavior and criminal activity, see, on education, Lance Lochner and Enrico Moretti, "The Effect of Education on Crime: Evidence from Prison Inmates, Arrests, and Self-Reports," *American Economic Review* 94 (1) (2004): 155–189, available at <https://www.aeaweb.org/articles.php?doi=10.1257/000282804322970751>; on marriage, Robert Sampson, John Laub, and Christopher Wilmer, "Does Marriage Reduce Crime? A Counterfactual Approach to Within-Individual Causal Effects," *Criminology* 44 (3) (2006): 465–508, available at http://scholar.harvard.edu/files/sampson/files/2006_criminology_laub-wilmer_1.pdf (file=1360070470).
- 119 As noted above, NELP and Department of Justice statistics pertain to the number of American adults with nonjuvenile criminal records. With a few exceptions—such as for expungement and sealing—adult arrest records only ever accumulate over time. Thus, an individual who was arrested prior to having a minor child—before he or she entered child-raising years, for purposes of this exercise—nonetheless becomes a parent with a criminal record eventually if he or she has a child. For this reason, the demographic profile of arrestees uses data on individuals as young as age 18, the earliest age when an adult record could be acquired. Ideally, this age filter would extend up to the end of individuals' expected child-raising years—about age 44, though this differs somewhat by demographic group. However, data on age are somewhat limited in UCR data. For example, arrests by gender can be obtained for individuals ages 18 to 45, but information by race and metropolitan location status is for all adults ages 18 and older. In these cases, the approach assumes that the distribution of arrestees—and, by extension, of Population 2—by offense across race and metropolitan location status is identical for those of child-raising age and younger for older adults. Moreover, throughout this exercise, an implicit assumption is that the age distribution of arrestees by gender, race, and metropolitan location status has not changed substantially in the past couple decades—that is, that the distribution of parents who were on the younger end of their child-raising years was roughly equivalent to that of parents who were in their older child-raising years.
- 120 Ideally, information could be obtained for the full set of interactions between offense type, age, race, gender, and metropolitan location status. However, the UCR system makes only limited tabulations of arrest data available, allowing researchers to observe the interaction of gender and detailed age categories and the interaction of race and metropolitan location status. To combine gender with race and metropolitan location status, the authors assume that the race and metropolitan location status distribution is equivalent for both genders.
- 121 The UCR arrest records have four categories of race—white, black, American Indian or Alaska Native, and Asian American or other Pacific Islander. The final two available categories are combined to create three categories—white, black, and other. Notably, the arrest records do not have information by ethnicity, or origin. The NSFG data, on the other hand, contain two separate relevant variables—one for race—white, black, and other—and one for Hispanic origin. Unfortunately, there is no way to perfectly align the race and ethnicity categories between the two sources; in particular, the "other race" categories, though small, are not likely to match closely between the two sources.
- 122 In the UCR data, the authors define "metropolitan area" arrests as the total of city arrests and metropolitan county arrests. Nonmetropolitan area arrests include only UCR arrests in nonmetropolitan counties. The UCR system tracks a fourth category of arrests by race—suburban areas—but this geographic unit is not mutually exclusive with the three previously mentioned; for this reason, suburban areas are excluded. In NSFG data, the authors define a metropolitan area resident as a respondent who lives within a metropolitan statistical area, or MSA, and a nonmetropolitan area resident as one who does not live in an MSA. For a description of the UCR system's geographic areas, see Federal Bureau of Investigation, "Area Definitions," available at <https://www.fbi.gov/about-us/cjis/ua/crime-in-the-u.s/2011/crime-in-the-u.s.-2011/area-definitions> (last accessed November 2015). Throughout the analysis, the authors make the simplifying assumption that individuals who reside in metropolitan areas, as observed in NSFG data, tend to be arrested in metropolitan areas and that those who live in nonmetropolitan areas tend to be arrested in nonmetropolitan areas.

- 123 By contrast, most nationally representative surveys, such as the Census Bureau's commonly used household surveys, such as the Current Population Survey, ask only about children who reside with or are dependent on adult respondents. The few surveys that do collect information on total fertility, such as the National Survey of Family Growth, tend to focus solely on women.
- 124 This calculation examines only NSFG participants ages 35 and older, in an attempt to exclude most respondents who were likely to have additional children; including these individuals would bias the estimate of age of first childbirth downward. Ideally, the calculation would be restricted to adults who were well past their childbearing years in 2012, but the limited sample size and age range of the survey—which samples individuals up to age 44—prevents this. Thus, this calculation tends to slightly underestimate the average number of children born to members of each gender, race, and metropolitan location status group, all else being equal. For two demographic groups, the average age of childbirth entails that the child-raising age range extends beyond the upper limit of the NSFG's age range by one year. For this group, the age of first childbirth is rounded down instead of up so as not to truncate the sample of individuals of child-raising age.
- 125 Note that for the overall population, this should produce an estimate equal to about twice the total number of minor children in 2012, since each child has a mother and a father. In theory, the number of children reported by women and by men should be about the same. However, since men may be unaware of children they have fathered—and perhaps for additional reporting-related reasons—the men's estimate is expected to be, and is, lower than the women's estimate.
- 126 This approach implicitly assumes that for each gender, the factor by which the approach underestimates the average number of children is equivalent for each race and metropolitan location status group.
- 127 Given the paucity of data and literature on people with records, it is hardly surprising that very little information exists to suggest how many pairs of co-parents of minor children both have criminal records. However, several factors suggest that the share is likely substantial. For example, research on so-called positive assortative mating documents individuals' tendency to seek partners who are similar to themselves in respects such as education attainment and earning potential. See, for example, Jeremy Greenwood, Nezh Guner and others, "Marry Your Like: Assortative Mating and Income Inequality," Working Paper 19829 (National Bureau of Economic Research, 2014), available at <http://www.nber.org/papers/w19829>. Insofar as individuals with criminal records come disproportionately from certain education, socioeconomic, and income groups, this literature suggests a greater correlation of criminal record status among co-parents than among two randomly chosen members of the population of each gender.
- 128 Because males represent the majority of people with records, the sensitivity of results to the assumption about double-counting can be minimized by adjusting the subset of children attributed to the smaller group, females. To ensure that the estimate is conservative—and in light of the discussion above—the authors presume that the incidence of double-counting is fairly high—that between 50 percent and 80 percent of the children attributed to females with records have a father who also has a record. This double-counting adjustment factor is applied to the average number of children born to women in each race and metropolitan location status cell. This implicitly assumes that double-counting is equally prevalent among all race and metropolitan location status groups.
- 129 According to authors' analysis of 2011–2013 NSFG data, the average age of first childbirth across the population in 2012 was just under 26—about 24.7 for women and 27.1 for men. The authors use Census Bureau population estimates by single year of age to tabulate the share of adults ages 18 and older who fell into the child-raising age range in 2012. See Bureau of the Census, "Annual estimates of the resident population by single year of age and sex for the United States: April 1, 2010 to July 1, 2014 (NC-EST2014-AGESEX-RES)," available at <https://www.census.gov/popest/data/datasets.html> (last accessed November 2015).
- 130 For several reasons, this is likely to be an underestimate—perhaps most notably because upticks in police activity; stringency of convictions and sentencing; and crime, particularly drug crime, coincided with a time when this cohort was at the age where they were most likely to have encounters with law enforcement. For the typical individual, criminal activity and delinquency tend to peak in the late teenage years of 15 to 19 and begin to decline during the early 20s. The cohort of child-raising age in 2012 would thus have lived through the peak years for risky behavior between the late 1980s and early 2000s. This coincides with the period between the late 1970s and 2008 when prison admissions and incarceration rates grew rapidly. See National Institute of Justice, "From Juvenile Delinquency to Young Adult Offending," March 11, 2014, available at <http://www.nij.gov/topics/crime/Pages/delinquency-to-adult-offending.aspx>; The Sentencing Project, "Trends in U.S. Corrections"
- 131 This estimate is based on a recent conservative estimate made by NELP, as discussed in endnote 104 above.
- 132 Before adjusting, the authors first set aside the share of Population 2 children who were already determined to have both parents in Population 2; they cannot also have a parent in Population 1. Once again, there is very little guidance in existing research on the extent of possible double-counting. To produce a conservative estimate—and to take into account the evidence on assortative mating discussed earlier—the authors replicate the earlier assumption that double-counted children make up at least 50 percent, and at most 80 percent, of Population 1 children. These children are then subtracted from Population 1 children.

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FAMILY JUSTICE PROGRAM

Piloting a Tool for Reentry

A Promising Approach to Engaging Family Members

MARCH 2011 (updated)

Margaret diZerega • Sandra Villalobos Agudelo

Executive Summary

Research shows that incarcerated people who maintain supportive relationships with family members have better outcomes—such as stable housing and employment—when they return to the community. Many corrections practitioners and policy makers intuitively understand the positive role families can play in the reentry process, but they often do not know how to help people in prison draw on these social supports.

Staff of the Vera Institute of Justice's Family Justice Program developed the Relational Inquiry Tool (RIT) to help correctional case managers encourage people to better access this untapped source of assistance. The RIT, a series of questions designed to prompt conversations with incarcerated individuals about their family members and other loved ones, can help incarcerated people identify positive support that can be integrated into their plans for the future, after release. The Reentry Is Relational project provided training and technical assistance to pilot the tool in Oklahoma and New Mexico.

As part of the pilot process, Vera program staff interviewed agency staff to learn about current practices. They also gathered information—through surveys and interviews—from incarcerated people and their families about the impact of incarceration on family relationships and the potential for the RIT to help men and women plan for their return to the community.

These inquiries revealed that after leaving prison, incarcerated men and women expect to rely most on their families, followed by their friends; that contact with loved ones by phone or letters remains fairly consistent, but the frequency of visits fluctuates; and that maintaining contact presents financial and other challenges to family members. Forty-two percent of the men and women surveyed said, however, that some of their relationships grew stronger during their incarceration, particularly relationships with parents.

The surveys and interviews showed the potential benefits of using family-focused practices in prison reentry planning. Initial findings from the pilot—as reflected both in interviews with incarcerated people and actions taken by the participating institutions—suggest that these benefits can be reinforced in probation and parole settings. The research also identifies further areas of inquiry that, given some additional investigation, promise to reveal other opportunities to make policies and procedures more family-focused, ultimately leading to better reentry outcomes.

FROM THE PROGRAM DIRECTOR

Families and social networks play important roles for loved ones involved in the criminal justice system. They may, for example, address drug use, help raise children, offer financial support, and encourage loved ones to find and keep jobs—or simply provide motivation to change. Although people who work in corrections, juvenile justice, probation, or parole usually understand this, they typically do not know how to tap families as a resource.

The Vera Institute of Justice's Family Justice Program provides training, tools, and consultation to help correctional, probation, and parole agencies implement family-focused policies and practices. The Family Justice Program offers line staff safe and reliable ways to help incarcerated individuals maintain contact with supportive people in their lives and make constructive plans for their return to the community.

The successful implementation of a family-focused tool like the Relational Inquiry Tool described in this report profits from both guidance and inspiration. Vera's job is to provide the guidance. But the best inspiration comes from those who have benefited from the tool—for example, from the incarcerated woman who told us, "Normally I'm not asked anything about what's going on in my home life, what's going on with me... I'm usually told. It was different to be asked." Or this from a reentry coordinator: "One way the tool really impacted me was the humanization of the offender beyond what a stale file will do... This tool could very well create a good framework for productive dialogue when trying to find resources and support for the offender."

The more corrections, parole, and probation agencies can replicate the experiences and attitudes of these two individuals, the closer they will be to drawing on the unique, cost-effective, and underutilized resources that families provide.



Margaret diZerega
Family Justice Program Director

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Introduction

Approximately 735,000 people are released from prison in the United States every year.¹ Of these, an estimated 66 percent will be rearrested and more than 50 percent will be re-incarcerated within three years.²

Many factors, such as in-prison and community drug treatment, stable housing, and securing and maintaining employment, can contribute to better outcomes for people returning to the community after a period of incarceration.³ Research shows that family and other sources of social support—such as neighbors and godparents—are key to helping incarcerated people return to the community successfully.⁴

It is not surprising that families help improve reentry outcomes. Research has shown that families are the most frequent provider of housing; the most common source of financial support; offer assistance in securing a job; and frequently help out with child care.⁵ Family involvement has been shown to result in better employment outcomes and reductions in use of alcohol and other drugs.⁶ Families also play a significant role in keeping formerly incarcerated individuals from returning to criminal activity. Individuals who had more contact with their families while in prison and report positive family relationships overall are less likely to be arrested again or re-incarcerated.⁷

Despite abundant evidence tying positive social support during incarceration to improved reentry outcomes, many correctional case managers do not routinely discuss such support with the people on their caseload. This may be the result of large caseloads, the profession's traditional focus on people who might negatively influence an incarcerated individual, and concerns about maintaining boundaries between staff and those who are incarcerated.

To facilitate productive conversations about incarcerated individuals' positive social supports, the Vera Institute of Justice's Family Justice Program helps agencies implement the Relational Inquiry Tool (RIT) for use by corrections staff who provide incarcerated people with day-to-day case management and help in reentry planning. The RIT is a list of eight carefully crafted questions, supported by a training module, that was developed with support from the National Institute of Corrections and in partnership with state departments of corrections in Massachusetts, Michigan, Ohio, and Oklahoma, and the non-profit Safer Foundation. As a complement to standard correctional risk and needs assessments, the RIT has been shown to be effective in helping incarcerated people reflect on their social supports and draw on the strengths of their families, leading to better release planning.⁸ (In addition, the Family Justice Program is partnering with the Ohio Department of Youth Services to implement a version of the RIT for use with juvenile populations.)

This report provides an overview of the Reentry Is Relational project, which implemented the RIT in two pilot jurisdictions. It also describes findings that emerged from surveys and interviews conducted as part of the pilot process and discusses the initiative's early outcomes.

Project Overview

Vera's Reentry Is Relational project operated from October 2008 to December 2010 and implemented the RIT at select prisons and community corrections offices in Oklahoma and New Mexico. Participating agency staff were trained to use a strength-based and family-focused approach in their work. This included hands-on practice with the RIT and instruction on complementary communication techniques. Prior to the training, work groups at each site identified policies and practices that could be more supportive of prisoners' relationships.⁹ Vera staff also gathered information from incarcerated people and their families at each site, to shed additional light on existing practices and the current and potential influence of supportive relationships.

Vera partnered with the Oklahoma Department of Corrections (ODOC) and the New Mexico Corrections Department (NMCD) because of their commitment to family-focused approaches and their top administrators' support for this type of work. It fell to each department, however, to select a prison and a probation and parole office to participate in the project.

Oklahoma has the highest rate of incarcerated women in the country, and the ODOC has a long-standing goal of reducing that rate "to at or below the national average."¹⁰ The Reentry Is Relational project worked with the state's largest women's prison outside of Oklahoma City, the Mabel Bassett Correctional Center, and with the Central District Probation and Parole Office in Oklahoma City.

In 2008, New Mexico's then-governor, Bill Richardson, assembled a task force on prison reform that called for strengthening partnerships between corrections and community corrections, involving families and social networks in reentry planning, and providing community-based services to people returning from prison and for their families. Through the Reentry Is Relational project, Vera helped the NMCD implement some of those recommendations at the Central New Mexico Correctional Facility (CNMCF), a men's prison in Los Lunas, and at an Albuquerque-area probation and parole office.

In both Oklahoma and New Mexico, Vera's goal was to improve reentry outcomes by enhancing case management practices and promoting collaboration between prison staff and probation and parole officers.

Gauging Policies and Attitudes

Before implementing the RIT, Vera staff gathered information about the types of family and community resources and support available to incarcerated men and women and the ways people draw on them. They also examined the degree to which the facilities' policies and practices helped or hindered individuals in maintaining contact with their loved ones.

THE RELATIONAL INQUIRY TOOL: SAMPLE QUESTIONS

The Relational Inquiry Tool uses questions like these to prompt corrections case managers and incarcerated individuals to have conversations that might not happen otherwise:

"In thinking about your family support when you get out of prison, what are you most excited about?"

"In thinking about your family support when you get out of prison, what do you think the greatest challenges will be?"

"How did you help your family and friends before you came to prison?"

Project staff met with work groups at both facilities to learn about relevant current practices. To understand the views and experiences of people who would be affected by the pilot, Vera staff interviewed a total of 98 incarcerated men and women from both facilities who expected to be released within six months. Seventy-eight of these people were interviewed before the RIT was implemented. The remaining 20 interviews occurred after the pilot was complete.

Vera staff also conducted a survey of incarcerated men at the CNMCF, in New Mexico, and women at Oklahoma’s Mabel Bassett Correctional Center (n = 267). This includes 122 men (21.3 percent) out of CNMCF’s minimum- and medium-security population of 574. At Mabel Bassett, 145 women (14.1 percent of the total population of 1,032) were surveyed.

It bears noting that the women had spent significantly more time in prison than the men had. For men, the average time spent in prison prior to completing the survey was 7.0 months. Among those in Level I the average was 6.9 months; among those in Level II it was 5.9 months. The women who completed surveys in Oklahoma had an average time served of 48.7 months. (In Oklahoma, the average sentence for women in minimum security is 9 years; women in medium security average 14-year sentences.)

Figure 1, below, provides detailed demographic information about the incarcerated men and women who completed this survey.

Finally, to gather input from family members, project staff distributed

Figure 1: Demographic Information of Survey Participants (n=267) and Facility Populations

	WOMEN			MEN		
	Mabel Bassett Minimum and Medium Security* (n = 1,032)	Vera’s Sample (n = 145)		CNMCF Level I and II: Minimum and Medium Security (n = 574)	Vera’s Sample (n=122)	
AGES						
18-23	17.6%	16	11%	4.2%	5	4.1%
24-29	19.4%	32	22.1%	14.3%	21	17.2%
30-34	17.6%	29	20%	17.8%	25	20.5%
35-39	12.4%	20	13.8%	13.1%	17	13.9%
40-44	11.2%	11	7.6%	12.7%	14	11.5%
45-49	10.5%	13	9.0%	18.6%	16	13.1%
50+	11.2%	19	13.1%	19.3%	20	16.4%
No answer		5	3.4%	0	4	3.3%
RACE/ETHNICITY						
African American	25.1%	20	14%	7.5%	5	4%
White	55.8%	70	50%	27.7%	35	29%
Latino/Hispanic	5.1%	11	8%	53.1%	65	53%
Native American	13.6%	34	24%	11.1%	13	11%
Other	0.4%	4	4%	0.5%	2	2%
No answer		6	4%	0	2	2%

* Note: Age breakdowns provided by Mabel Bassett Correctional Center were <= 20, 21 to 25, 26 to 30, 31 to 35, 36 to 40, 41 to 45, 46 to 50, 51 to 55, and s>= 56.

another survey during weekend visitation at both facilities (n=60) and conducted phone interviews with supportive family members identified by the incarcerated men and women (n=23).

Of the 267 incarcerated people surveyed, 205 reported having children—113 (77.9 percent) women and 92 (75.4 percent) men. More than 320 of the participants' children were younger than age 18.

Major Findings

Four main findings emerged from the research portion of this project:

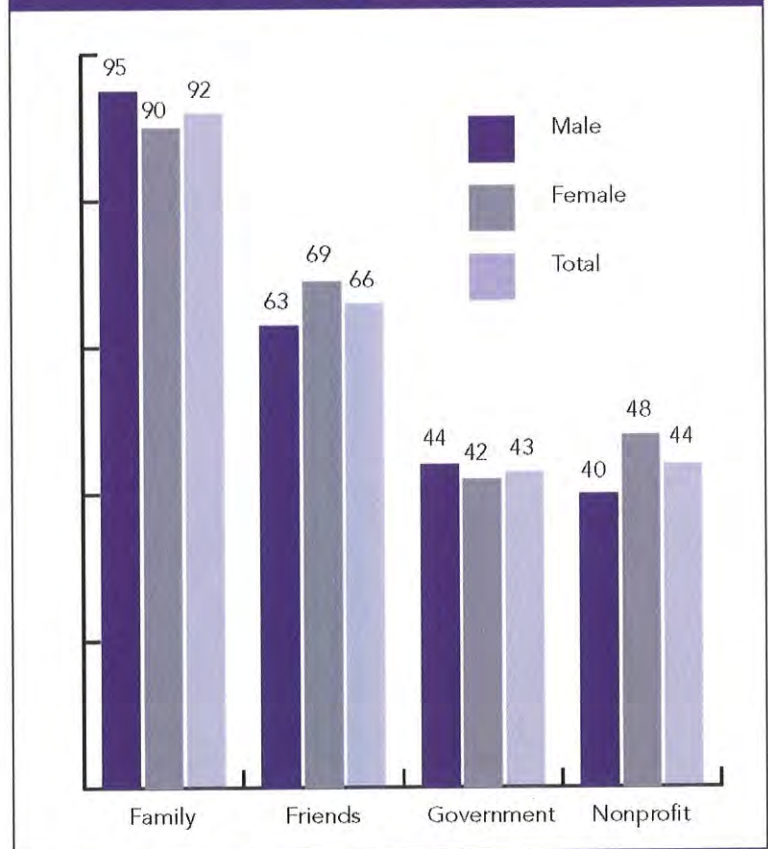
- > In anticipating their needs upon release, incarcerated men and women expected to rely on families, and then friends, as the most important sources of support.
- > Visitation rates fluctuated in frequency, but incarcerated individuals' contact with loved ones by telephone or letters was fairly consistent throughout a person's sentence.
- > Maintaining contact with an incarcerated loved one presented family members with considerable financial burdens and other challenges.
- > Forty-two percent of the incarcerated men and women reported that some of their relationships—particularly with their parents—grew stronger during their incarceration.

These findings are discussed below.

SOURCES OF SUPPORT FOR INCARCERATED MEN AND WOMEN

As Figure 2, right, illustrates, nearly 92 percent of all incarcerated individuals surveyed expected to rely on their families for housing, child care, financial support, and/or finding employment after release from prison. This finding is consistent with other research about the ways family members provide support for their loved ones leaving prison.¹¹ Friends were cited as the second-most common source of support (66 percent of respondents).

Figure 2: Expected Sources of Support After Release from Prison (n= 267)¹²



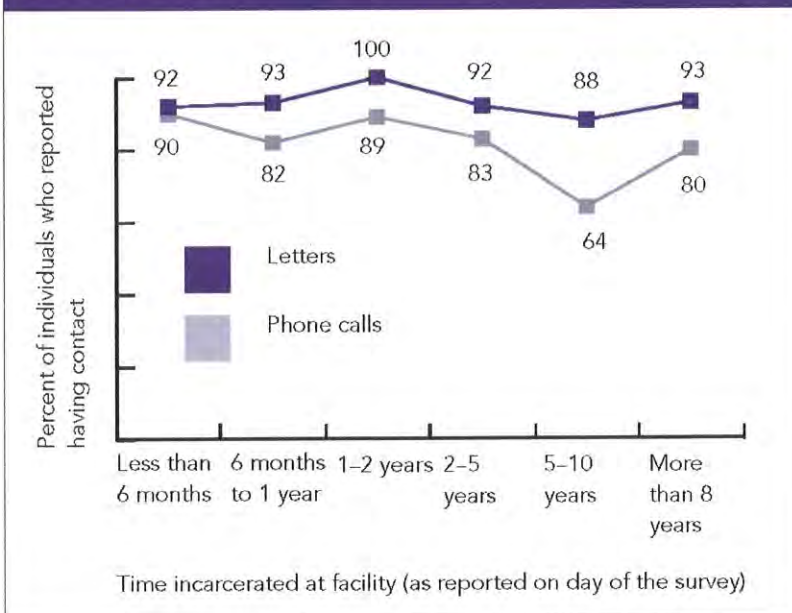
In addition, incarcerated men and women described several other types of support they receive from their families and friends. These include:

- > depositing money in commissary accounts;
- > providing emotional support;
- > taking care of children and/or bringing children for visits;
- > providing guidance and advice as participants prepare for release;
- > motivating participants to do well; and
- > providing care for family members in poor health or in financial need.

CONTACT WITH FAMILY AND OTHER SUPPORTIVE PEOPLE DURING INCARCERATION

Incarcerated individuals listed visitation, letters, and telephone calls as the most common forms of support they receive from their family during incarceration. Visiting family members surveyed by Vera staff also indicated that they contacted the incarcerated person through visits, phone calls, and letters. Seventy-six percent of surveyed family members stated that they maintain weekly contact with the incarcerated person. There was, however, some variation in contact, as discussed below.

Figure 3: Phone and Letter Contact with Family and Friends (n=267)



CONTACT BY TELEPHONE AND MAIL.

The survey of incarcerated men and women asked about the people with whom they have contact and how many they communicate with via telephone or letters. They were asked about contact with their parents, grandparents, siblings, extended family (such as aunts or cousins), significant others, children, and friends. Approximately 80 percent of incarcerated individuals reported that they maintain contact by phone or letter, regardless of their length of stay. Figure 3, left, shows that incarcerated people's reported contact with loved ones by phone or letters remained fairly consistent throughout their sentence.

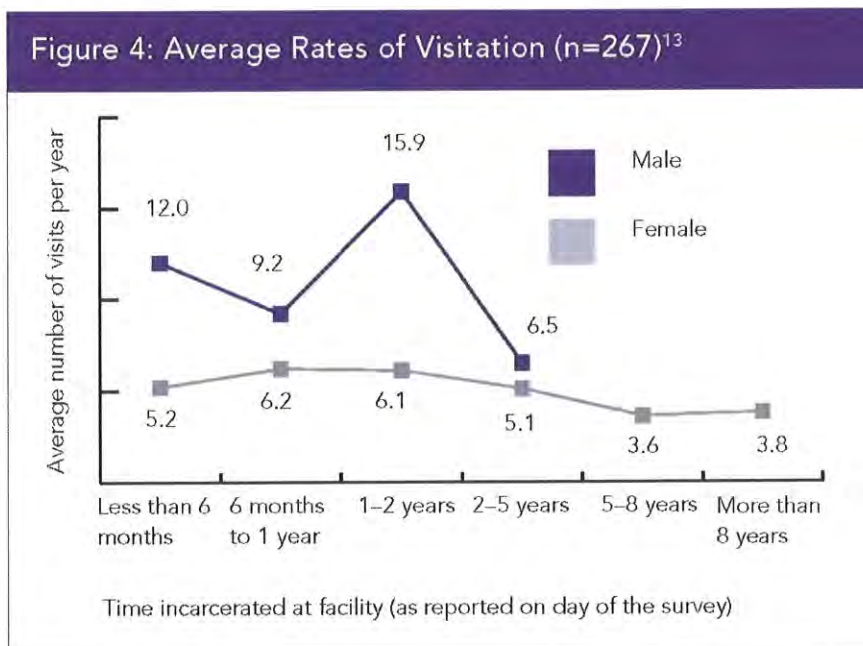
OBSTACLES TO VISITATION AND OTHER FORMS OF CONTACT. Incarcerated men and women alike indicated that it was impor-

tant to them to see family members and expressed a desire for more contact. Their reported rates of visitation were less constant, however, than rates of contact by telephone or mail. Seventy-three (27 percent) of the incarcerated people surveyed indicated that they had not had any visits during their incarceration. Of these, 55 percent mentioned distance as the main reason. Among those who indicated that family members had visited them, 25 percent mentioned distance as the reason that they are not visited more often.

Incarcerated women reported different experiences with visits than incarcerated men did, as Figure 4, below, shows. Women received fewer visits during their first months in prison. This may be partly because of different visitation policies in the states where Vera worked. The New Mexico Corrections Department permits only relatives to visit while people are incarcerated at the Reception and Diagnostic Center (where they typically spend the first 30 days of their incarceration). Oklahoma does not permit visitation during the initial assessment period (also typically 30 days). In both states, non-relatives, including significant others, may submit a visitation application after a person moves to a longer-term prison.

Seventy-six percent of surveyed family members reported significant barriers to maintaining contact. Supportive family members Vera interviewed by telephone described similar challenges. Of these, the cost of calling cards, expensive collect calls, and access to transportation to and from the facility were the most commonly cited barriers. Other barriers mentioned include family responsibilities and work obligations. Many family members also indicated that prison rules and practices—including searches, long waits, and inconsistent interpretations of dress codes for visitors—can be unclear, unpleasant, too restrictive, and even keep people from visiting again.

It was also stated that incarceration of a loved one results in an emotional



and financial gap, as family members may not get to see the person and may lose a source of income. This finding is consistent with research suggesting that family members experience the incarceration of a loved one as a loss and often assume additional responsibilities to fulfill the role of the absent person.⁴⁴

SOME RELATIONSHIPS STRENGTHENED DURING INCARCERATION

The surveys of incarcerated men and women showed that 42 percent reported growing closer to some of their loved ones while in prison. Relationships with parents were most likely to have improved during incarceration: 53 percent of respondents who reported growing closer to someone said they grew closer to their mother; 49 percent grew closer to their father. Romantic relationships and friendships appear to follow different patterns during incarceration: 45 percent of respondents said they grew apart from their significant others and 50 percent reported growing apart from their friends.

Additional Findings

In addition to the findings described above, the research uncovered other findings that, with more study, could have implications for corrections practice.

Vera found, for example, a direct relationship between the time spent in prison and the openness of communication between incarcerated individuals and staff. The longer people stay in prison, the more comfortable they report feeling about discussing their families and other personal information with facility staff.

The research also showed another notable difference when comparing the men and women who participated in the interviews and surveys, although the responses came from women in one state and men in another. Figure 5, below, shows that a greater percentage of women report that they expect to look for formal sources of support, such as government or community-based organizations, to meet their needs.

Figure 5: Expected Sources of Support for Incarcerated Women and Men After Release from Prison (n=267)

	Women (n=145)				Men (n=122)			
	Family	Friends	Government	Nonprofit	Family	Friends	Government	Nonprofit
Housing	78.8%	45.3%	21.2%	28.5%	87.50%	33.6%	13.0%	16.2%
Finding Job	69.7%	45.8%	26.0%	38.2%	81.50%	50.0%	17.8%	25.9%
Child Care	67.7%	36.9%	21.5%	22.1%	89.8%	34.5%	15.5%	12.9%
Financial Support	76.9%	45.6%	26.4%	23.3%	86.1%	38.2%	20.6%	15.7%
Transportation	82.3%	41.5%	13.1%	21.5%	87.5%	40.0%	14.7%	10.5%
Job Training Programs	60.7%	36.4%	29.7%	37.3%	62.8%	32.3%	45.7%	31.2%
Motivation	87.3%	61.9%	7.5%	26.1%	96.1%	57.4%	5.9%	23.5%

Although additional study of these findings would be useful, they suggest that practitioners may want to consider building rapport with incarcerated individuals earlier in their sentence. (Doing so could also create additional opportunities for using the RIT in jail settings, for example, or with people serving shorter prison sentences than were served by men and women in Vera's samples.) Also, using the tool with men in Oklahoma for comparison might explain why women plan to seek help from nonprofit and government agencies more than men in the New Mexico sample do. If it holds true that women more often rely on people outside their social network for housing, practitioners may want to respond accordingly—by expanding transitional housing opportunities in counties where large numbers of women reside immediately after leaving prison.

Early Results from Implementation of the Relational Inquiry Tool

As a result of the Reentry Is Relational project, case managers in Oklahoma and classification officers in New Mexico (whose responsibilities are similar) now administer the RIT three to six months before a prisoner's anticipated release. Responses from the 20 incarcerated people interviewed after completing the RIT suggested that inquiries about family support can lead incarcerated individuals to think more about their reentry plans, contact positive sources of support, and discuss negative influences in their lives.

Eleven out of 20 participants stated that completing the RIT with prison staff motivated them to reach out to positive sources of support. Some also mentioned that going through the RIT process made them reconsider their reentry plans and motivated them to look for support from people who would increase their chances of success after release.

Below are some sample responses from the follow-up interviews that suggest the RIT can help incarcerated men and women think more critically about their reentry plans:

- > "I know I can't go and live with my sister now. That will not be good for me. So maybe I will go to Exodus House."
- > "Before I didn't care. I didn't have a plan. Now I am making plans for the future. I realize that this is serious and I can't go back to the stuff that got me in trouble."
- > "It has furthered my vision of a successful reentry, knowing that I would have a safety net. I have someone that is there for me. I

want to have my own business and help other people.”

- > “My mother’s side of the family is more positive. My dad’s side of the family is always in trouble. I should reach out to my mother’s side of the family. I have always sold drugs—that’s the only life I know.... I want to get ahold of my mom, but I can’t. I am so afraid that she will reject me but I need to make it happen. I have pushed my family away and I can’t keep doing that.”

Developments in the Pilot States

In addition to implementing the Relational Inquiry Tool, the state corrections departments in New Mexico and Oklahoma have taken other steps toward adopting family-focused approaches in facilities, probation, and parole.

CHANGES IN NEW MEXICO

The Central New Mexico Correctional Facility has implemented a number of concrete changes that reflect a focus on family and social support. During an initial meeting about the RIT, work-group members identified the need for a guide for families of incarcerated people. The New Mexico Corrections Department subsequently published “A Guide for Families and Friends of Justice-Involved New Mexicans,” which is also featured on its website. The NMCD plans to distribute the guide in courthouses, jails, and elsewhere, so that families can learn about what to expect when their loved one becomes involved with the criminal justice system.

Work-group members also established a goal of incorporating families in reentry committee meetings, a process that takes place before individuals go before the parole board. At these meetings, various facility staff members make recommendations to people about services they may need after their release. By participating in those conversations, families can help plan for some services while contributing to a loved one’s post-release plan.

In 2010 NMCD received an AmeriCorps award to engage volunteers in a year of service with its Education Bureau. After completing training on departmental policies and the tools of the Family Justice Program, AmeriCorps members will supplement the case management and programming available in a number of the state’s prisons. The NMCD plans to have these volunteers use the RIT and other tools to help prisoners identify sources of social support.

CHANGES IN OKLAHOMA

Since 2008, the Oklahoma Department of Corrections has implemented the Relational Inquiry Tool at various levels within its system. Incarcerated women first encounter the RIT at Mabel Bassett Correctional Center. The tool is revisited twice more: at the community corrections centers and when women are under community supervision. Using the tool more than once provides people

the opportunity to assess any changes in their plans, medical needs, families, and potential housing, and other developments. Consistently emphasizing women's social supports also encourages them to stay in contact with their families.

To underscore the ODOC's emphasis on family and other social supports, work-group members developed a guidebook for visitors called "Guide for Families/Friends of Offenders." The ODOC has made improvements to the visiting area at Mabel Bassett Correctional Center to accommodate large group visits, and made the waiting room of the Central District Probation and Parole Office more welcoming to families.

Conclusion

The successful implementation of new tools and methods in corrections often requires support at the highest level of the organization, as well as from prison staff who are being asked to change how they work.¹⁵ The long-term sustainability of the Reentry Is Relational project, and others like it, depends on how closely aligned the change effort is with the department's and the facility's culture. By documenting current practices and opportunities to make procedures more family-focused, and demonstrating the receptivity of incarcerated people and their families to this approach, the Reentry Is Relational project has helped create conditions that can benefit staff and families.

It bears noting that this pilot was conducted in uncertain times. Both Oklahoma and New Mexico's future leadership was in question while the Relational Inquiry Tool was first being implemented, with gubernatorial races under way in both states. Also, substantial budget cuts had recently been made. In Oklahoma, for example, decreases in drug treatment and staffing (and, as a consequence, visitation) were taking effect as the RIT was becoming a regular part of practice at Mabel Bassett Correctional Center.

Difficult times, however, need not prevent an agency from using a family-focused approach. In fact, when leadership is in flux or resources become scarce, it is arguably even more important to help incarcerated individuals draw on family and friends. Such support—unlike new programs, facilities, or staffing—requires no additional spending, and family members can continue to play a role in a person's life long after corrections agencies are out of the picture.

Both of Vera's partners have made substantial progress toward meeting the main goal of the Reentry Is Relational project. Changes in policy and practice and responses to interviews indicate that the prison, parole, and probation staff involved in this initiative have adopted—and will continue to pursue—a more family-focused approach that can have positive effects on incarcerated people's lives after their release.

ENDNOTES

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- 5 Lauren E. Glaze and Laura Maruschak, *Parents in Prison and Their Minor Children* (Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics, 2008).
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- 7 Damian J. Martinez and Johnna Christian, "The Familial Relationships of Former Prisoners: Examining the Link Between Residence and Informal Support Mechanisms," *Journal of Contemporary Ethnography* 38, no. 2 (2009): 201-24; Creasie Finney Hairston, "Prisoners and Their Families: Parenting Issues During Incarceration," (paper presented at From Prison to Home: The Effect of Incarceration and Reentry on Children, Families and Communities, a conference hosted by the U.S. Department of Health and Human Services and Urban Institute, Washington DC, January 30-31, 2002.; Rebecca Naser and Christy Visser, "Family Members' Experiences with Incarceration and Reentry," *Western Criminology Review* 7, no. 2 (2006): 20-31.
- 8 Margaret diZerega and Carol Shapiro, "Asking About Family Can Enhance Reentry," *Corrections Today* (December 2007): 58-61.
- 9 The work groups included a cross-section of staff from the prison and parole office. Participants ranged from case managers to parole officers and worked in both operations and programs.
- 10 Oklahoma Department of Corrections, Division of Female Offender Operations (2009). *Fiscal Year 2009 Annual Report*.
- 11 Martinez and Christian, 2009.
- 12 This figure represents information gathered from the survey with incarcerated individuals at ODOC and NMCD. Survey respondents completed a table that included the question, "In thinking about when you get out of prison, who do you think will support you in the following areas: finding employment, securing housing, child care, financial support, transportation, finding job training, and motivating you to do well?"
- 13 Survey participants were asked how long they had been at the prison and how often someone visited them. Respondents checked a box that best described how often they received visits. Possible options to check were never, less than once a year, once a year, two to three times a year, once a month, twice a month, or every week. The number of respondents in the >10-year category was low, but all reported frequent visits.
- 14 Bonnie Carlson and Neil Cervera, *Inmates and Their Wives: Incarceration and Family Life*. (Westport, CT: Greenwood, 1992).
- 15 Lore Joplin et al. "Using an Integrated Model to Implement Evidence-based Practices in Corrections," International Community Corrections Association and American Correctional Association (August 2004).

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Edited by Jules Verdone

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For more information about the Family Justice Program, contact the program's director, Margaret diZerega, at mdizerega@vera.org.

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Fact Card

March 31, 2017

Facts about Offenders in Confinement

Number of Prison Facilities	12
Number of Work Release Facilities	14
Total Offenders in Confinement	19,243
Offenders in prison.....	16,044
Offenders in work release.....	683
Offenders in out-of-state rented beds.....	0
Offenders in in-state rented prison beds.....	25
Offenders in in-state rented beds.....	1,691

Prison and Work Release Operational Capacity	17,454
Total operational capacity in prisons.....	16,700
Operational capacity in work release capacity.....	679
In-state rented prison bed capacity.....	75

Percent of Population to Operational Capacity	
Total Prison Confinement Percent of Operational Capacity.....	100.6%
Work Release Percent of Capacity.....	100.6%

Gender	
Male.....	92.0%
Female.....	8.0%

Race	
White.....	71.0%
Black.....	18.5%
American Indian/Alaska Native.....	4.8%
Asian/Pacific Islander.....	4.0%
Other.....	0.9%
Unknown.....	0.8%

Hispanic Origin	13.3%
Average Age	38.6

Length of Sentence	
Less than Two Years.....	15.3%
Two to Five Years.....	24.1%
Five to Ten Years.....	20.5%
Over Ten Years.....	24.4%
Life with the possibility of Parole or Release.....	12.1%
Life without Release.....	3.6%

Facts about Offenders in Confinement, cont.

Offense Types	
Murder 1 and 2.....	13.9%
Manslaughter.....	2.2%
Sex Crimes.....	19.7%
Robbery.....	9.2%
Assault.....	25.7%
Property Crimes.....	17.6%
Drug Crimes.....	7.5%
Other/Unknown.....	4.2%

Avg. Length of Stay for Offenders Released in the past year	23.7 MO
Return to Institutions for 2013 Releases (Three-Year Period)	31.4%

Facts about Offenders Supervised in the Community

Number of Offenders on Active Supervision	18,029
Risk Level Classification (Offender Risk to Reoffend)	
High Violent (HV).....	42.4%
High Non-Violent (HNW).....	27.2%
Moderate Risk to Reoffend (MOD).....	13.6%
Low Risk to Reoffend (LOW).....	16.0%
Unclassified.....	0.8%
Unreleased.....	137

Special Sentence Types

Drug Offender Sentencing Alternative.....	2,304
Special Sex Offender Sentencing Alternative.....	659
First Time Offender Waiver.....	1,493
Family Offender Sentencing Alternative.....	35
From-Out-of-State.....	1,926

Offense Types

Murder 1 and 2.....	1.1%
Manslaughter.....	0.7%
Sex Crimes.....	17.7%
Robbery.....	4.5%
Assault.....	22.2%
Property Crimes.....	10.7%
Drug Crimes.....	31.4%
Other/Unknown.....	5.8%

Offender Location Prior to Supervision

Offenders who served time in prison prior to supervision.....	43.7%
Offenders who came directly from jail or the courts.....	56.3%

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100-0A001 (03/2017)

N.Y.U. Journal of Legislation and Public Policy
QUORUM



MERF EHMAN & ANNA REOSTI

**TENANT SCREENING IN AN ERA OF
MASS INCARCERATION: A CRIMINAL
RECORD IS NO CRYSTAL BALL**

March 3, 2015

Abstract: This article focuses on Washington landlord liability in the tenant screening context and increasing housing access for rental applicants with criminal records. Part I examines the concept of foreseeability as it pertains to potential landlord liability for renting to an applicant with a criminal record whose actions harm another tenant. Part II surveys the relevant sociological research on the relationship between a criminal record and the ability to meet the obligations of tenancy. Based upon this review, we conclude that there is no empirical evidence establishing a relationship between a criminal record and an unsuccessful tenancy. Part III posits that since research demonstrates that a criminal record is not a reliable indicator for future tenant behavior, it should not serve as a proxy to determine future tenant dangerousness. Washington landlords should not be liable for future harm to tenants based solely upon renting to an applicant with a criminal record. Refusing to hold landlords liable in this way, would increase housing opportunities for this population which in turn will reduce recidivism thereby increasing public safety and promoting the rehabilitation of people with a criminal history.

Author: Merf Ehman is a Staff Attorney in the Institutions Project at Columbia Legal Services. Anna Reosti is a sociology graduate student at the University of Washington.

the affordability protections that implement the governing housing program.

An evaluation of five such approaches in this two-part article demonstrates that successful efforts must observe six key principles:

- meeting short-term and long-term physical and financial needs;
- reinvesting excess proceeds back into affordable housing;
- guaranteeing affordability for current and future tenants;
- weeding out poorly performing owners and managers;
- providing for tenant participation in the decision-making process; and
- ensuring clarity in the governing law and regulations.

Passage of Congressman Frank's draft omnibus preservation bill would be a significant step in the right direction for several of the types of properties reviewed here. Other innovative long-term measures should be explored as well, such as providing stronger incentives to transfer these projects to mission-driven nonprofits or to local land trusts, in order to provide greater assurances of long-term public benefit from responsible recapitalization.²⁰ By combining the lessons learned from prior approaches with new innovative proposals, this important housing stock can remain a viable and valuable asset long into the future. ■

²⁰Exit tax relief is one such important proposal that would help address the issue of many private owners being unwilling to sell due to the steep capital gains taxes they would incur as a result of having taken prior significant depreciation deductions. Many owners thus hold onto their property to secure the step up in basis that occurs upon transfer at death, thus eliminating both the tax revenue to the government, as well as potentially failing to recapitalize the property. Exit tax relief would eliminate this tax burden in cases of a sale to a preservation-motivated purchaser.

The Importance of Stable Housing for Formerly Incarcerated Individuals

Each year more than 725,000 people leave state and federal prisons.¹ An additional 230,000 people leave county jails every week.² Formerly incarcerated individuals struggle to secure employment, obtain medical care and avoid substance abuse. According to criminal justice officials, however, finding housing is the biggest challenge faced by individuals returning to the community.³ This article will identify the barriers to accessing stable housing, describe the housing arrangements of individuals returning to the community and explore the relationship between residential instability and recidivism.

Obstacles to Stable Housing

A number of institutional and legal barriers prevent formerly incarcerated individuals from finding stable housing after release. Private housing represents 97% of the total housing stock in the United States.⁴ Due to soaring prices, however, private housing is simply out of reach for many formerly incarcerated individuals living in urban areas.⁵ Moreover, most landlords conduct criminal background checks on prospective tenants.⁶ Given the short supply of affordable housing, landlords can afford to deny housing to applicants with criminal records. Screening for sex offenders is especially prevalent.

Federally assisted housing is the only option for many people leaving correctional facilities. Harsh admission

¹HEATHER C. WEST & WILLIAM J. SABOL, U.S. DEP'T OF JUSTICE, BUREAU OF JUSTICE STATISTICS, PRISONERS IN 2007 (2008), available at <http://www.ojp.usdoj.gov/bjs/pub/pdf/p07.pdf>.

²AMY L. SOLOMON ET AL., LIFE AFTER LOCKUP: IMPROVING REENTRY FROM JAIL TO THE COMMUNITY XV (2008), available at <http://www.jjay.cuny.edu/centers/institutes/pri/pdfs/Final%20Life%20After%20Lockup.pdf>.

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⁴JOAN PETERSILIA, CALIFORNIA POLICY RESEARCH CENTER, UNDERSTANDING CALIFORNIA CORRECTIONS 69 (2006).

⁵See NAT'L LOW INCOME HOUS. COALITION, OUT OF REACH 2009, <http://www.nlihc.org/oor/oor2009/data.cfm?getstate=on&getmsa=on&msa=2243&state=CA>. For example, the fair market rent for a one-bedroom apartment in Oakland, California, is \$1,093.

⁶See Maria Foscarinis & Rebecca K. Troth, *Reentry and Homelessness: Alternatives to Recidivism*, 39 CLEARINGHOUSE REV. 440, 446 (2005). All 50 states allow private landlords to screen an applicant for a criminal record. *But see* Madison, Wis. Code of Ordinances, Ch. 39.03(1) and (4) (Renumbered by Ord. 12,039, Adopted 2-17-98), available at <http://www.municode.com/resources/gateway.asp?pid=50000&sid=49>; Urbana, Ill. Code of Ordinances, Ch. 12 Art. III, Div. 1, §§ 12-37 and 12-64. (Ord. No. 7879-92, § 1(29), 4-24-79; Ord. No. 9798-49, § 1, 10-6-97), available at <http://www.city.urbana.il.us/>. Both Madison, Wisconsin and Urbana, Illinois passed ordinances that prevent discrimination on the basis of an arrest or conviction record.

policies, however, prevent many people with criminal records from accessing federally assisted housing. Public housing authorities (PHAs) must reject lifetime registered sex offenders and individuals convicted of manufacturing or producing methamphetamine on the premises of federally assisted housing.⁷ In addition, federal law permits PHAs to deny admission to applicants with histories of violent criminal activity, drug-related criminal activity, or criminal activity that may threaten the health, safety or peaceful enjoyment of the premises by other residents.⁸ The statute directs PHAs to consider criminal activity that occurred within a “reasonable time” prior to the admission decision.⁹ Nevertheless, some PHAs consider criminal activity that occurred as long as 10 years prior to the admission decision.¹⁰

Housing Arrangements After Release

Because of the barriers to obtaining stable housing, many formerly incarcerated individuals end up in unstable housing arrangements. A total of 10% of parolees are homeless nationwide.¹¹ In large urban areas such as Los Angeles and San Francisco, 30% to 50% of parolees are homeless.¹² A large portion of formerly incarcerated individuals rely on family members to provide shelter after release.¹³ Some family members, however, set limits on the amount of time that a returning relative can stay.¹⁴ Consequently, formerly incarcerated individuals end up “shuttling” between relatives, friends, shelters and the street.¹⁵ A study of men returning to the metropolitan

Cleveland area reveals the extent of the shuttling:¹⁶ 63% of the study participants reported living in two, three, four, or five places within the first year after release.¹⁷ At the end of the first year, 46% of the men referred to their housing arrangements as temporary and expected to move within a few weeks or months.¹⁸ Conversely, a small portion of formerly incarcerated individuals manage to secure their own apartment or house after release. In a study of men returning to Chicago, only 19% of the study participants reported living in their own place 16 months after release.¹⁹

Relationship Between Unstable Housing and Recidivism

Ultimately, many individuals are not able to avoid re-incarceration. In California, for example, 79% of parolees return to prison or abscond.²⁰ Research suggests that securing stable housing is crucial to successful re-entry. The study of men returning to the Cleveland metropolitan area found that obtaining stable housing within the first month after release inhibited re-incarceration.²¹ As stated in an Urban Institute study, “The importance of finding a stable residence cannot be overestimated: men who found such housing within the first month after release were less likely to return to prison during the first year out.”²² The study of men returning to Chicago reinforces the idea. Study participants who reported living in their own apartment or house two months after release faced a lower risk of re-incarceration.²³

Moreover, a study of over 40,000 individuals returning to New York City from state correctional facilities reveals the correlation between shelter use and risk of recidivism.²⁴ Individuals who entered a homeless shelter within the first two years after release faced a higher risk of re-incarceration.²⁵ Perhaps more significantly, individuals who reported living in a shelter before incarceration faced a higher risk of both shelter use after release and re-incarceration.²⁶ The figures suggest that “the crossing

⁷42 U.S.C.A. §§ 1437n(f), 13663 (Westlaw Oct. 27, 2009). The ban on individuals convicted of manufacturing or producing methamphetamine does not apply to project-based Section 8, Section 202, Section 811, Section 221(d)(3), Section 236, or USDA housing. The ban on lifetime registered sex offenders does not apply to USDA housing.

⁸42 U.S.C.A. § 13661(c) (Westlaw Oct. 27, 2009).

⁹*Id.*

¹⁰See San Francisco Housing Authority Admissions and Continued Occupancy Plan 2008, available at <http://www.sfha.org/about/pha/pdf/2008ACOP.pdf>.

¹¹LITTLE HOOVER COMM’N, BACK TO THE COMMUNITY: SAFE & SOUND PAROLE POLICIES 39 (2003).

¹²*Id.*

¹³See Nancy La Vigne et al., The Urban Institute, CHICAGO PRISONERS’ EXPERIENCES RETURNING HOME 16 (2004), available at http://www.urban.org/UploadedPDF/311115_ChicagoPrisoners.pdf. In a study of men returning to Chicago, 88% of the men reported living with family members or intimate partners four to eight months after release.

¹⁴TRACEY L. SHOLLENBERGER, THE URBAN INST., WHEN RELATIVES RETURN: INTERVIEWS WITH FAMILY MEMBERS OF RETURNING PRISONERS IN HOUSTON, TEXAS 9-10 (2009), available at http://www.urban.org/UploadedPDF/411903_when_relatives_return.pdf. The study followed family members of men and women returning to Houston. Of the family members who provided housing to a returning relative, over half imposed limits on the duration of the housing arrangements. Some of the study participants said that the returning relative could stay until he or she found an apartment or a job. Others said that the returning relative could stay as long as he or she did not use drugs or engage in criminal activity.

¹⁵JEREMY TRAVIS, BUT THEY ALL COME BACK: FACING THE CHALLENGES OF PRISONER REENTRY 219 (The Urban Inst. Press 2005).

¹⁶CHRISTY A. VISHER & SHANNON M.E. COURTNEY, THE URBAN INST., ONE YEAR OUT: EXPERIENCES OF PRISONERS RETURNING TO CLEVELAND 1 (2007), available at http://www.urban.org/UploadedPDF/311445_One_Year.pdf.

¹⁷*Id.* at 3.

¹⁸*Id.*

¹⁹JENNIFER YAHNER & CHRISTY VISHER, THE URBAN INST., ILLINOIS PRISONERS’ REENTRY SUCCESS THREE YEARS AFTER RELEASE 3 (2008), available at http://www.urban.org/UploadedPDF/411748_reentry_success.pdf.

²⁰LITTLE HOOVER COMM’N, *supra* note 11, at 55.

²¹VISHER & COURTNEY, *supra* note 16, at 11.

²²*Id.*

²³YAHNER & VISHER, *supra* note 19, at 3.

²⁴Stephen Metraux & Dennis P. Culhane, *Homeless Shelter Use and Reincarceration Following Prison Release*, 3 CRIMINOLOGY & PUB. POLICY 139 (2004).

²⁵*Id.* at 147.

²⁶*Id.* During the first two years after release, roughly 11% of the study participants entered a homeless shelter and 33% returned to prison. Among the study participants with a record of shelter use prior to incarceration, however, roughly 45% entered a homeless shelter and 42% returned to prison.

over from incarceration to homelessness, and vice versa, threatens to transform spells of incarceration or homelessness into more long-term patterns of social exclusion."²⁷ Directing housing assistance to individuals with a history of residential instability before incarceration could reduce the rate of homelessness and re-incarceration among the re-entry population.²⁸

Conclusion

Many formerly incarcerated individuals end up in unstable housing arrangements after release. As the research above indicates, stable housing is a vital component of effective re-entry. By working to reduce the barriers that prevent formerly incarcerated individuals from accessing stable housing, advocates can reduce recidivism and improve public safety and community wellbeing. ■

Recent Cases

The following are brief summaries of recently reported federal and state cases that should be of interest to housing advocates. Copies of the opinions can be obtained from a number of sources including the cited reporter, Westlaw,¹ Lexis,² or, in some instances, the court's website.³ Copies of the cases are *not* available from NHLP.

Housing Choice Voucher Program: Police Report Insufficient to Establish Drug-Related Criminal Activity

Weekes v. Boston Hous. Auth., No. 09H784CV00531 (Mass. Hous. Ct. Dec. 10, 2009). In terminating a voucher tenant's assistance, a hearing officer relied on a police report stating that officers seized clear plastic bags containing a substance "believed to be Class D marijuana" from the tenant's apartment. The court found that the statements in the police report, standing alone, were insufficient to establish by a preponderance of the evidence that the substance seized from the tenant's apartment was marijuana. The court therefore found that the hearing officer's conclusion that the tenant allowed her apartment to be used for drug-related criminal activity in violation of her Section 8 lease was legally erroneous. The court vacated the hearing officer's decision and ordered the housing authority to reinstate the tenant's voucher.

Housing Choice Voucher Program: Evidence Supported Hearing Officer's Finding that Tenant Was Evicted

Morford-Garcia v. Metro. Council Hous. & Redev. Agency, 2009 WL 4909435 (Minn. Ct. App. Dec. 22, 2009) (unreported). An owner filed an eviction action against a voucher tenant. The parties later entered into a settlement agreeing to a mutual termination of the lease. The settlement stated that if the tenant violated its terms, the landlord would be entitled to an immediate writ of recovery. The tenant violated the settlement, and a writ of recovery was issued but later canceled. The tenant argued that the record did not support the hearing officer's finding that she was evicted. The court disagreed, finding that an eviction judgment must have been entered in the owner's favor, or else a writ of recovery would not have been issued. The court also found that there was substantial evidence to support the

²⁷*Id.* at 142.

²⁸*Id.* at 151; *see also* CORP. FOR SUPPORTIVE HOUS., GETTING OUT WITH NOWHERE TO GO: THE CASE FOR RE-ENTRY SUPPORTIVE HOUSING, available at http://www.csh.org/_data/global/images/ReEntryBooklet.pdf. Research shows that supportive housing—permanent affordable housing linked to services—works to break the cycle of homelessness and incarceration.

¹<http://www.westlaw.com>.

²<http://www.lexis.com>.

³For a list of courts that are accessible online, see <http://www.uscourts.gov/links.html> (federal courts) and <http://www.ncsc.dni.us/COURT/SITES/courts.htm#state> (for state courts). See also <http://www.courts.net>.

SCARLET LETTERS AND RECIDIVISM: DOES AN OLD CRIMINAL RECORD PREDICT FUTURE OFFENDING?*

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Research Summary:

This research explores the issue of old prior records and their ability to predict future offending. In particular, we are interested in the question of whether, after a given period of time, the risk of recidivism for a person who has been arrested in the distant past is ever indistinguishable from that of a population of persons with no prior arrests. Two well-documented empirical facts guide our investigation: (1) Individuals who have offended in the past are relatively more likely to offend in the future, and (2) the risk of recidivism declines as the time since the last criminal act increases. We find that immediately after an arrest, the knowledge of this prior record does significantly differentiate this population from a population of nonoffenders. However, these differences weaken dramatically and quickly over time so that the risk of new offenses among those who last offended six or seven years ago begins to approximate (but not match) the risk of new offenses among persons with no criminal record.

Policy Implications:

Individuals with official records of past offending behavior encounter a barrier when they try to obtain employment, even if a person's most recent offense occurred in the distant past. There are many reasons for such obstacles, but they are at least partially premised on the concern that individuals with arrest records—even from the distant past—are more likely to offend in the future than persons with no criminal history. Our analysis questions the logic of such practices and suggests that after a given period of remaining crime free, it may be prudent to

* We would like to thank Maurice Emsellem for asking the question that instigated this research effort. We would also like to thank Alfred Blumstein, Alex Piquero, Debbie Mukamal, participants at the University of Maryland's Economics and Crime Seminar, NCOVR's Workshop on Criminal Career Research and Sentencing Policy, and John Jay College's Prisoner Reentry Institute for helpful comments and feedback. All errors remain our own.

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wash away the brand of “offender” and open up more legitimate opportunities to this population.

KEYWORDS: Collateral Consequences, Recidivism, Desistance

INTRODUCTION

Legal restrictions on employing ex-offenders in certain types of jobs are an example of what is known in the legal literature as a “collateral consequence” of an arrest or conviction.¹ Collateral consequences are ethically, if not legally, problematic because they amplify punishment beyond the sanctions imposed by the criminal justice system. There is also a pragmatic public safety concern that ex-offenders who are restricted from jobs might resort to further criminal activity. Although it is important not to overstate the evidence supporting a link between work and crime, most researchers do conclude that employment is at least moderately helpful in the desistance process (see Bushway and Reuter, 2002; Fagan and Freeman, 1999; Sampson and Laub, 1993).

Despite the growing evidence that employment might decrease crime, the use of criminal history records in employment decisions has been increasing over the last 10 years. A recent employer survey suggests that over 50% of employers now check some type of criminal history records in the Los Angeles area (Stoll et al., 2006), and another survey of large employers reports that over 80% now use criminal history records checks in the hiring process. Moreover, new federal rules about background checks for workers in the transportation industry have dramatically increased the number of employees covered by background checks.

Concern about this widespread access to criminal history records has led to a renewed national conversation on the topic. For example, Congress has asked the Attorney General for feedback on the proper use of criminal history records in background checks, and the national consortium of state criminal history record repositories (SEARCH) has commissioned two national task forces to look into different aspects of the use of criminal history records by employers. The Second Chance Act of 2005, currently in Congress, specifically calls on states that request funds for dealing with prisoner reentry to reconsider statutory guidelines that explicitly limit employment opportunities for ex-offenders.

Much of this attention has focused not on denying access to the records

1. In the narrow legal definition, “collateral consequences” are formal legal restrictions imposed by the state on such rights as voting, owning a firearm, parental custody, and employment. For a discussion of the collateral consequences related to employment, see Rubin (1971). For a discussion of collateral consequences more generally, see Burton et al. (1987).

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but on better defining the relevance of criminal history records. There is a consensus that the blanket exclusion of individuals with criminal history records makes little sense. Indeed, such a blanket exclusion has been explicitly disallowed as discriminating against minorities under Title VII of the Civil Rights Act.² The question is how to decide when a criminal history record is relevant. The Equal Employment Opportunity Commission, while outlawing blanket exclusion, allowed the use of an arrest or conviction record as evidence in an employment decision provided the employer considers the nature and gravity of the offense, *the time that has passed since the arrest*, and the nature of the job held or sought. According to the *Report of the National Task Force on the Commercial Sale of Criminal Justice Record Information* (SEARCH, 2005):

The relevancy model of the collection, use, and disclosure of criminal justice record information remains in a very nascent stage. Information is increasingly readily available, but relevancy determinations are unclear. As a society, we know very little about whether, and under what circumstances, criminal justice record information (and different kinds of criminal justice record information) is relevant to various determinations involving employment. . . . As a result, the current default, especially in an increasingly dangerous and risk averse society, is to allow all (or virtually all) criminal justice information to reach end-users and then permit end-users, based on their own needs, culture, and law, to sort out the relevancy of the information (SEARCH, p. 75).

The goal of this article is to contribute to the discussion about the relevance of criminal history records for predicting employment behavior. In particular, we focus on the issue of timing. We start with the observation that lifetime bans for all felony convictions are not consistent with the research about desistance from developmental criminology. Recent analysis of data on offenders from adolescence to age 70 shows that most offenders desist, with the bulk of offenders not experiencing additional arrests after age 40 (Blokland et al., 2005; Laub and Sampson, 2003). But if lifetime bans are not appropriate, what exactly is the appropriate “window” on the use of criminal history records? The most recent statistics from the U.S. Department of Justice indicate that over two thirds of prison releasees commit a new offense or violate parole within three years of release (Langan and Levine, 2002) and the probability of failure declines the longer the time since the last offense. Therefore, it is reasonable to ask, from the perspective of the employer, whether the risk of offending

2. The Equal Employment Opportunity Commission (EEOC) issued a policy statement in September 1990 explicitly disallowing the “blanket exclusion” of individuals with criminal records.

for an ex-felon ever becomes similar, or equal to, the risk of offending for someone who has never offended at all? If so, after what period of time since the last arrest or conviction does this occur?

In phrasing the question this way, we want to be clear from the beginning that this article is fundamentally a policy exercise and not an exercise in developmental criminology. The article is specifically designed to help employers and public policy makers determine the relevance of criminal history records for predicting future behavior, including but not limited to future arrest and conviction. Therefore, we base our assessment on the types of criminal history records to which employers might have access, although we acknowledge that these are not a perfect reflection of criminality.

To be specific, we use arrest data from the Philadelphia police records for a cohort of individuals born in 1958. We imagine a scenario in which a Philadelphia native applies to a Philadelphia employer for a job. Our data approximate what a Philadelphia employer would have found had he/she gone to the local courthouse and conducted his/her own search. Such a search is relatively easy to conduct, and it is considered the gold standard of searches by the private records industry (Peterson, 2005). We begin in the next section with a discussion of the literature on the use of criminal history records to predict future behavior.

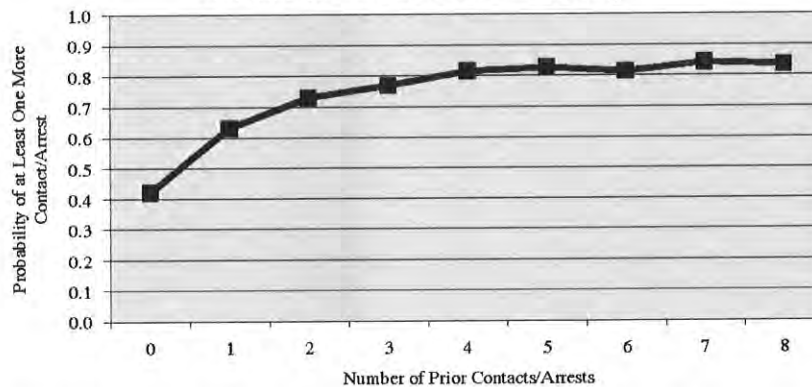
LITERATURE REVIEW

The notion that past behavior is one of the best predictors of future behavior has been accepted as fact in a variety of fields. For example, in the field of education, entrance to college depends on past academic performance in high school and on standardized tests to predict future success. In personal finance matters, creditors rely on an individual's past reliability in paying bills on time and meeting financial obligations to assign a credit score. This score is then used to determine future lending opportunities. Similarly, when applying for auto insurance, one is almost always asked a question such as: "Have you had any traffic violations in the past 3 years?" The answer to this all-important question directly impacts one's insurance premium.

The field of criminal justice has also relied heavily on this basic knowledge. For example, it is known that about 30% to 60% of juvenile delinquents go on to have at least one adult offense (Brame et al., 2003; Farrington, 1987; McCord, 1978; Shannon, 1982). Analysis of recidivism data in several cohorts reported by Blumstein et al. (1985) reveals that most individuals with multiple past official records of offending accumulate new official records of offending in the future [see also, Greenberg

(1991)]. Figure 1 illustrates this point with data from the 1958 (where individuals are followed through age 26). Knowledge of an offender's prior record is, therefore, used as a general indicator of dangerousness and propensity to reoffend at all key decision-making points in the criminal justice process from the police decision to arrest, to the prosecutor's charging decision, to the final sentence handed down by the criminal court judge (Blumstein et al., 1986:75-76; Gottfredson and Gottfredson, 1985).³

FIGURE 1. RISK OF NEW OFFENSES BY NUMBER OF PRIOR OFFENSE (1958 PHILADELPHIA BIRTH COHORT MALES, N=13,160)



Perhaps then it is also not surprising that employers would also want to use criminal history records to help them assess applicants. However, there are two primary differences between the employer use of criminal justice records and the other fields' use of past information. First, employers are using criminal justice records to predict employment behavior, whereas other fields rely more heavily on information specific to their own realm (educational achievement used to grant/restrict future educational opportunities, financial failures used to limit financial opportunities). Second, credit scoring companies and insurance companies explicitly restrict the time period for which prior behavior is considered relevant (e.g., credit scores typically look back seven years, whereas insurance records often limit their inquiry to three years).

In contrast, employers are given wide discretion to make decisions about the relevance of the record. The Fair Credit Reporting Act, which

3. At the same time, most researchers warn about the limits of these predictions, given that most measures of predictive accuracy are modest at best (Gottfredson and Gottfredson, 1994). This concern about the limits of our ability to predict future offending is absent in the discussion about employer use of criminal history record.

governs the use of consumer information like criminal history records, was amended in 1998 to eliminate any restrictions on how far back conviction records could be reported (SEARCH, 2005). Moreover, many (but not all) of the statutory prescriptions against employment by ex-offenders are lifetime bans. For example, 24 states have laws mandating lifetime disqualification from unarmed private security guard jobs for any felony conviction, with only 4 states providing offense age limits (Emsellem, 2005). This point becomes particularly significant when considering the criminological findings regarding past criminal behavior. Only about 5% to 10% of young offenders actually go on to become “chronic” criminals over time (see, e.g., Dunford and Elliott, 1984; Moffitt, 1993; Shannon, 1982; Wolfgang, Figlio and Sellin, 1972). Most people with a criminal justice contact at some point early in life actually pose little or no risk of going on to become long-term recidivists. Moreover, existing research suggests that the ignored element of “time since last arrest/conviction” may indeed prove to be useful for understanding the connection between past and future criminal activity.

For example, in an analysis of a sample of the original 1945 Philadelphia birth cohort, Raskin (1987) found the hazard rate for reoffending, defined as the probability of offending this period given that the individual has not yet offended, decreases steadily with time since last incident. The hazard rate for a new police contact was the greatest during the first six months following a previous contact, after which time it continually decreased. In fact, during the last month of the study, he found that none of the prior offenders who had “survived” to this point were rearrested. These findings lead Raskin (1987:63) to conclude that, “the longer an individual is able to survive without committing his next offense, the better his chances of desisting from crime.”

There is considerable ambiguity about why individuals who have refrained from offending for an extended period of time tend to recidivate at lower rates than individuals who last offended recently. One possibility is that the actual experience of offending abstinence has a causal effect on risk of reoffending; the more a life is lived crime-free, the more one comes to see the benefits of desistance. Another possibility is that individuals with a high risk of recidivism tend to recidivate quickly, whereas others who sincerely try to avoid new offenses tend to dominate the population of lower risk individuals. Regardless of the reason, however, it is clear that individuals who have offended in the distant past seem less likely to recidivate than individuals who have offended in the recent past.

Classic volumes on recidivism by Maltz (1984) and Schmidt and Witte (1988) are especially emphatic in pointing out that parametric models of time to the next recidivism event should be chosen with typical features of recidivism data in mind, the most prominent of which is a highly skewed

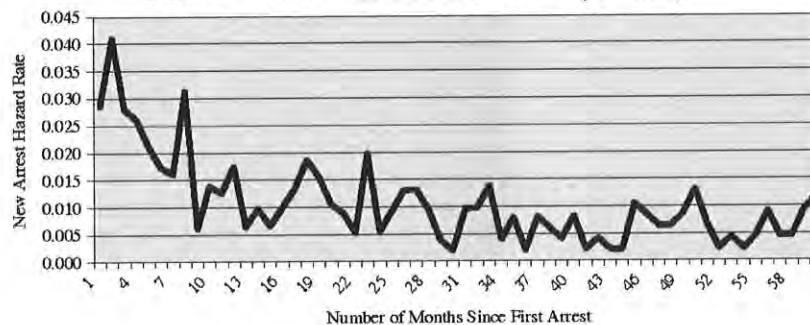
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time-to-recidivism distribution. For example, Schmidt and Witte (1988) followed two cohorts of North Carolina prison releasees to estimate the percentage of released inmates who return to prison. Their analysis shows that the percentage of inmates returning to prison peaked before those inmates had been in the community for 10 months. At the 20-month mark, the percentage dropped to half of the peak level. By the 40-month mark, the estimated percentage returning to prison was half of its 20-month level. These results imply that risk of recidivism for a cohort of offenders returning to the community peaks fairly quickly and then diminishes considerably with the passage of time. Many studies exhibit this same time-to-recidivism pattern (see, e.g., Greenberg, 1978; Harris and Moitra, 1978; Harris et al., 1981; Lattimore and Baker, 1992; Maltz, 1984; Schmidt and Witte, 1988; Visher et al., 1991). In addition, most of the studies of which we are aware indicate that the percentage of the population recidivating begins to approach zero after several years of follow-up (see, e.g., Schmidt and Witte, 1988:50).

Figure 2 summarizes the five-year time-to-recidivism distribution for adult male offenders arrested for the first time between ages 18 and 20 in the 1958 Philadelphia cohort data examined later in this article. Over the five-year follow-up period, a total of 47.4% of these young adult arrestees were rearrested. But, as Figure 2 indicates, the risk of rearrest is not evenly distributed over the five-year follow-up period. The hazard rate plotted in Figure 2 represents the probability that an individual who successfully makes it to a particular time point in the follow-up period is arrested at that time point. This analysis indicates that time-to-recidivism patterns in the Philadelphia data are broadly congruent with those in other recidivism studies.

FIGURE 2. 5-YEAR ARREST RECIDIVISM HAZARD RATE AMONG OFFENDERS ARRESTED FOR THE FIRST TIME AT AGES 18-20 (N=805)



We are, therefore, led to the basis for a useful policy implication: Individuals who have official records of past offending are relatively more likely to offend in the future, but individuals who have managed to refrain from offending for a long period of time, even though they too offended in the past, consistently exhibit much lower risk of future offending than individuals who have offended in the recent past. This finding implies that the length of time that has passed since the last record of offending should accompany information about prior offending records. However, this information cannot be properly interpreted in a vacuum. Even individuals whose last offense record occurred years ago will, as a group, generally exhibit some nonzero risk of reoffending in the future. A logical point of comparison is needed. The likelihood that an individual who has no record will offend can serve as a comparative benchmark. For example, an individual whose last offense record was seven years ago may have much lower objective risk of new offenses now than six years ago. But such an analysis cannot, on its own, tell us anything about whether that person presents a substantially greater risk to the community than someone who has no record of offending.

In this article, we use data from the Second Philadelphia Birth Cohort Study to examine recidivism patterns for people who have a record of past offending in comparison to onset patterns for people who have no record of past offending. In the following sections, we further describe the data, present our analytical results, and offer concluding thoughts and priorities for future research.

DATA DESCRIPTION

For this study, we use a dataset of all males born in the city of Philadelphia in 1958 and who resided in the city between the ages of 10 and 17 years old ($N = 13,160$). The dates of juvenile police contacts for criminal events were collected on all subjects through age 17. After age 17, arrest dates were collected on all subjects through age 26.⁴ Although some collateral consequences are dependent on a conviction, employers are not explicitly barred from taking arrests into account. Alternative data sources would include the FBI NCIC database that is mandated for truck drivers carrying hazardous materials, or the state repository background check from Pennsylvania that is mandated for private security guards. Although the Philadelphia search is less expansive geographically, it is more inclusive; prior research shows that there is substantial “slippage” as records move from the police to the courts and then finally into the repository systems (Briggs et al., 2006; Geerken, 1994). It also contains complete information on arrest, which can be used in employment background

4. Maximum age of subject in dataset is 26.9 years.

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checks, and involves a broader measure of criminal activity. Having said that, we also accept that this is a first attempt to answer the question, and we hope that future research will help to answer the question more completely.

Other strengths of this dataset for this particular study include the availability of information about the offense that led to each contact or arrest, which allows us to assess potential differences across several types of offense categories and the inclusion of a population of both offenders and nonoffenders to provide a logical comparison group.

One potential weakness of our analysis is that some individuals may have moved out of the city after age 17, leading to attrition in the dataset. The extent to which this issue is problematic depends on whether moving is more or less likely for those who get arrested versus those who do not. Generally speaking, wealthier individuals and whites are more likely to move out of a city as they age. These characteristics are negatively correlated with arrest. Therefore, it is reasonable to assume that those who are arrested are less likely to move than those who are not arrested at age 18 or 19 (Geerken, 1994). As a result, our estimates are likely to be overestimates rather than underestimates of the recidivism probabilities.

Finally, the results are unadjusted for periods of incarceration (Eggleston et al., 2004). On the one hand, it is not necessarily a problem. Most statutes and other restrictions are specifically tied to the time since conviction, not the time since release from prison. Therefore, the relevant framework for this policy analysis is the time since conviction. And information about incarceration is typically not available to employers, which makes it hard to think about incorporating incarceration information in any decision rule about past records. However, like developmental criminologists, we want to assess the current criminality of the people in our sample. As a result of this problem, the recidivism probabilities are likely underestimated (Eggleston et al., 2004). In this cohort, we expect the underestimation to be a minor problem.

We rely on two different but complementary analytic frameworks to study the Philadelphia data. First, we use the concept of a hazard rate. As our data are arrayed in discrete time, the hazard rate definition used in this article is straightforward. For any given group, G , comprising $i = 1, 2, \dots, N$ individuals observed at discrete time points, $t = 1, 2, \dots, T$, we estimate the hazard rate by

$$h(t|G) = \frac{\text{\# of Individuals in Group } G \text{ Arrested at Time } t}{\text{\# of Individuals in Group } G \text{ Avoiding Arrest Prior to Time } t}$$

This formula means that individuals who are arrested at time $t - 1$ are no longer considered to be at risk for experiencing a new arrest at time t . That is, once they are rearrested, they are removed from the at-risk population.

The hazard rate as defined above is particularly useful for policy purposes because it represents the case with which a decision maker is often faced. Someone with a criminal record at some point in the past who has avoided new criminal activities for a particular period of time seeks a favorable decision. In this situation, an estimate of the hazard rate would provide helpful information above and beyond simply knowing that an individual had offended at some point in the past. Our hazard rate analysis divides the adult follow-up period into four-month periods through age 26.

Next we calculate the conditional probability that an individual is arrested during the two year period of ages 25 and 26. We denote this probability by $p(a | G)$, which implies that we condition our estimate of the probability on membership in a particular group G :

$$p(a | G) = \frac{\# \text{ of Individuals in Group } G \text{ Arrested at Age 25-26}}{\# \text{ of Individuals in Group } G}$$

Our objective here is to determine whether different groups of individuals can be distinguished by their probability of experiencing new arrests during the 25–26 age period.

ANALYSIS RESULTS

In this section, we present several analyses based on records of juvenile police contacts for criminal offenses and adult arrests in the Philadelphia data. As noted, we first estimate the probability that an arrest occurs at a particular time, conditional on no arrest having occurred prior to that time (i.e., the hazard rate). We then estimate the probability that an arrest occurs during the age-25–26 time period for various groups of past offenders and nonoffenders.

HAZARD RATE ANALYSIS

Although there are many ways of dividing a population like the Philadelphia cohort, several are of particular interest to us and we will be referring to them throughout our presentation of the results. Table 1 presents a summary of three different groups used in our hazard rate analysis. Each of these groups can be described in terms of their age-18 arrest records. Our analysis will compare the post-age-18 arrest experiences of the first two groups; in a supplementary analysis, we will also study the post-age-18 arrest experiences of the violent arrestee group.

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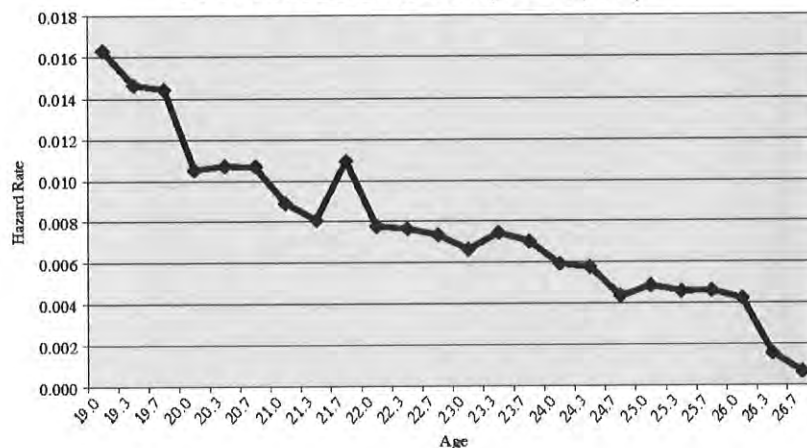
TABLE 1. GROUPS OF INDIVIDUALS USED IN HAZARD RATE ANALYSIS

Group Description	Number of Cases	Percent of Population
Exactly Zero Arrests at Age 18	12,151	92.3
At Least One Arrest at Age 18	1,009	7.7
At Least One Arrest for a Violent Crime at Age 18	375	2.8
At Least One Arrest at Age 18 But No Violence	634	4.8

NOTE: Violent Offenses include homicide/non-negligent manslaughter, rape, robbery, aggravated assault, and simple assault.

Our hazard rate analysis divides the entire period from age 19 to 26 into 24 consecutive four-month periods. At the beginning of each of those time periods, we identify all individuals who have not yet been arrested and the subset of those individuals who are arrested during the time period. The hazard rate at any of these 24 time points is obtained by dividing the latter number by the former. Figure 3 presents the arrest hazard rate from age 19 through age 26 for those individuals who were not arrested at all when they were age 18. The hazard rate for this group declines in nearly monotonic fashion over this eight-year period. At age 19, for example, the hazard rate is approximately 1.5%, which implies that about 1.5% of individuals at risk to be arrested for the first time since turning age 19

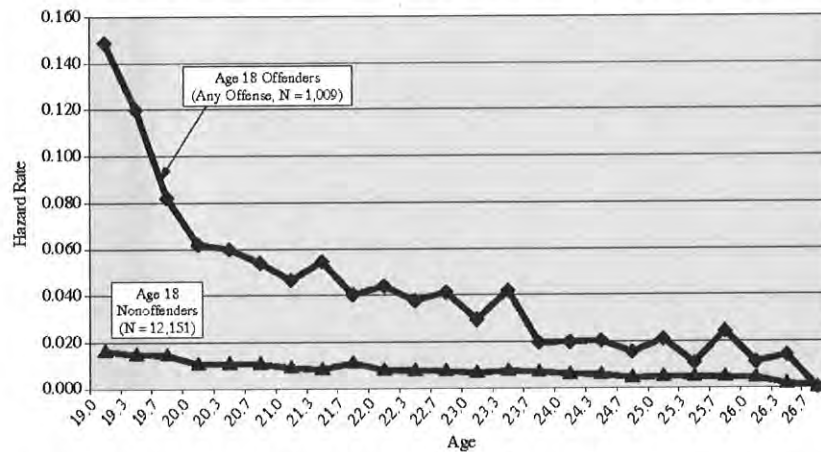
FIGURE 3. ARREST HAZARD RATE BY AGE (AGE 18 NONOFFENDERS, N=12,151)



actually are arrested. By age 25, however, the hazard rate has dropped to less than one half of 1%.

Despite the impressive decreasing trend in the hazard rate from Figure 3, the actual hazards are all very small. This point is best illustrated by comparing the hazard rate of these nonoffenders with those of the age 18 offenders (N = 1,009). Figure 4 presents this comparison. The analysis indicates that the hazard rate for the age-18 offenders is much higher than the age-18 nonoffender hazard rate during the early years of our follow-up period. Like the nonoffenders, the hazard rate for the age-18 offenders declines throughout the early twenties. However, unlike the nonoffenders, the hazard rate decreases in a much more dramatic fashion so that by age 24 the hazard rate for the age-18 offenders drops below 2%. Although this hazard rate is still higher than the comparable hazard rate for the age-18 nonoffenders, the magnitude of the difference is substantively small.

FIGURE 4. ARREST HAZARD RATE BY AGE

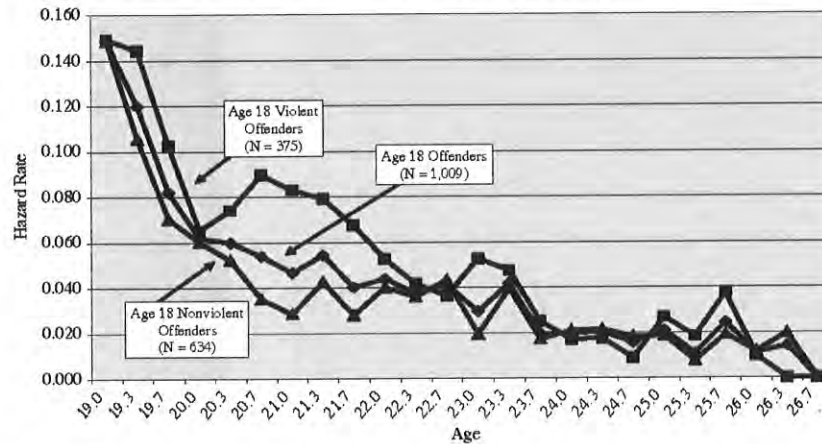


To explore the possibility that violent and nonviolent age-18 offenders have different underlying hazard rate patterns, we created two groups: (1) individuals with at least one violent arrest at age 18 (N = 375) and (2) individuals with at least one arrest but no arrests for violence at age 18 (N = 634). As Figure 5 indicates, the hazard rate for the age-18 violent offenders tends to be somewhat higher than for the age-18 offender group. On the whole, however, they are hard to distinguish statistically.

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FIGURE 5. ARREST HAZARD RATE BY AGE AMONG AGE-18 OFFENDERS (N=1,009)



CONDITIONAL PROBABILITIES AT AGE 25–26

Next, we turn our attention to a comparison of age-25–26 arrest probabilities for several different groups of individuals. Table 2 provides a description of each group used for this analysis. The first group includes individuals who have no record of any juvenile criminal contacts or adult arrests prior to age 25. This group of “clean record” individuals represents a logical point of comparison with groups with some type of juvenile police contact or adult arrest record. Another reasonable comparison group includes individuals in the first group as well as individuals who have a record of at least one juvenile contact for a criminal offense but no adult arrests through age 24. This group is relevant for policies excluding consideration of juvenile offense records.

We also consider a variety of groups defined by the type and last occurrence of officially recorded criminal activity. The first and largest of these groups is comprised of individuals with at least one juvenile police contact for a criminal offense but no adult arrests through age 24 (N = 2,197). In addition, we study the subset of this group with juvenile contacts for non-violent offenses only (N = 1,517). Next, we turn our attention to individuals who were arrested at least once at age 18 but had no new arrests through age 24 (N = 432). A subset of this group including those who were arrested exclusively for nonviolent offenses at age 18 was also examined (N = 257). Finally, we identified individuals who were, prior to age 25, last arrested at ages 19 (N = 341), 20 (N = 292), 21 (N = 361), 22 (N = 403), 23 (N = 497), and 24 (N = 594).

TABLE 2. CONDITIONAL POSTERIOR PROBABILITY OF ARREST AT AGE 25–26

Group	N=	Proportion Offending at Age 25–26	Median of Distribution	Lower 95% Limit	Upper 95% Limit
No Record	8,043	0.0133	0.0134	0.0110	0.0160
No Record + Juvenile Contacts Only	10,240	0.0204	0.0204	0.0178	0.0233
Juvenile Contacts Only	2,197	0.0464	0.0467	0.0384	0.0560
Juvenile Non-VO Contacts Only	1,517	0.0435	0.0439	0.0343	0.0549
Last Arrested at Age 18	432	0.0718	0.0730	0.0511	0.1001
Last Arrested at Age 18 (No VO Record)	257	0.0623	0.0645	0.0388	0.0987
Last Arrested at Age 19	341	0.1085	0.1100	0.0798	0.1460
Last Arrested at Age 20	292	0.0890	0.0909	0.1091	0.1273
Last Arrested at Age 21	361	0.1413	0.1425	0.1091	0.1810
Last Arrested at Age 22	403	0.1861	0.1871	0.1511	0.2270
Last Arrested at Age 23	497	0.1871	0.1879	0.1553	0.2238
Last Arrested at Age 24	594	0.2963	0.2967	0.2609	0.3342

Our objective for each of these groups is to estimate the probability of an arrest during the two-year period of ages 25 and 26. This analysis framework maps onto the following policy problem: a 25-year old individual approaches a decision maker and seeks a favorable decision. The individual has an official record of some type (i.e., a juvenile record only, or an arrest at age 18). The question is whether the estimated probability of an arrest at age 25–26 [$p(a|G)$ as described] differs between that individual compared to someone with no record at all. To develop inferences about the probability of an arrest at age 25 or 26, we calculate the full posterior probability distribution of this parameter for each of the groups described. The posterior distribution is given by

$$p(a|G) = \pi \times \binom{N_G}{r_G} p_j^{r_G} (1-p_j)^{N_G-r_G}$$

where π represents our prior uninformed belief about the magnitude of $p(a|G)$, which we assume to be identical for each value of $p(a|G)$ between 0.0001 and 0.9999

$$\text{(i.e., } \pi = \frac{1}{9999} \text{)}.$$

Next, we allow j to index the binomial probability from 0.0001 to 0.9999; this allows us to calculate the full posterior probability distribution of $p(a|G)$ conditional on N_G individuals in group G where a subset of the

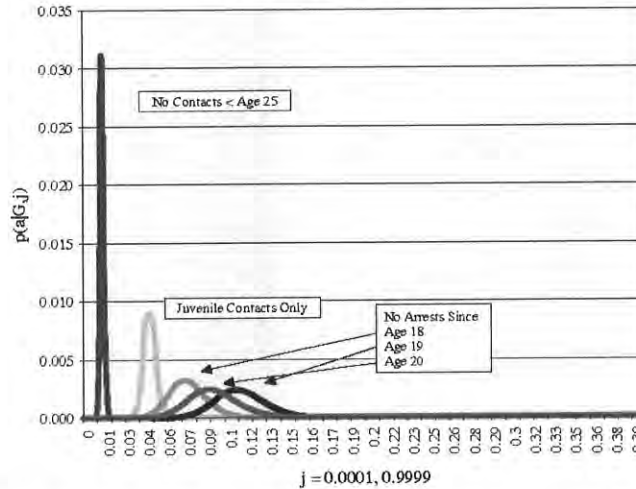
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individuals in that group, r_G , are arrested at ages 25 or 26. With an uninformed or flat prior distribution (π), the value of p_i that maximizes the posterior probability of $p(a|G)$ is simply

$$\frac{r_G}{N_G}$$

But, as Table 2 indicates, the proportion of individuals arrested at age 25–26 is less than 0.08 for six groups in the analysis.⁵ Figure 6 displays the full posterior probability distribution for $p(a|G)$ for these five different groups of individuals: those with no record at all; those with juvenile contacts only; and those whose last arrest occurred at ages 18, 19, and 20, respectively.

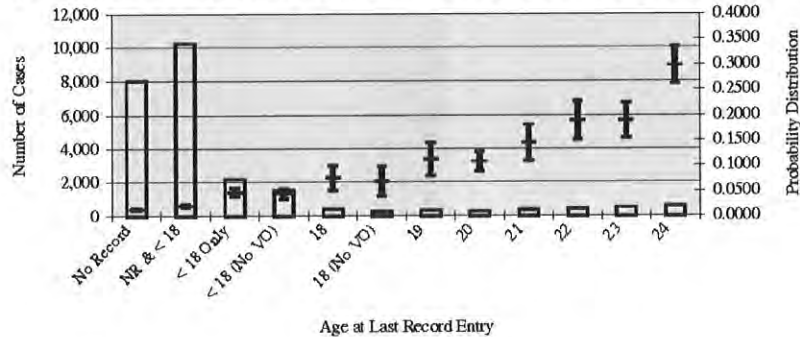
FIGURE 6. POSTERIOR DISTRIBUTION OF $p(a|G)$ FOR 5 GROUPS



The most salient feature of these distributions is the amount of separation between those with and without offending records and their close proximity to zero (i.e., the probability of an arrest at age 25–26 is low regardless of the group to which one belongs). Figure 7 summarizes the analysis results for all groups, including the maximum posterior estimates, the posterior medians (i.e., the 50th percentile of the posterior distribution), and the 95% confidence limits (2.5th and 97.5th percentiles). Based

5. In cases where $p(a|G)$ lies close to the boundary of the parameter space (i.e., in this case, 0), standard confidence interval calculations can yield negative numbers at various confidence limits).

FIGURE 7. PROBABILITY OF ARREST AT AGE 25-26



on this information, we conclude that individuals with no record have a statistically lower risk of arrest at ages 25–26 than all other groups. We also conclude that individuals last arrested in the few years leading up to age 25 are much more likely to be arrested than individuals who were last contacted as juveniles or arrested as 18-year-olds. In other words, the groups included here represent a continuum of risk where those with no record at all have the lowest risk and those with recent records have much higher risk. Individuals in the middle, such as those who were last arrested at age 18, occupy a position on the continuum that is much closer to the no-record group than the recent-record group.

DISCUSSION AND CONCLUSIONS

We began our study with a specific policy question: How do we determine when a criminal history record is relevant to employment decisions? We base our approach on the knowledge that (1) a person who has offended in the past has been found to have a high probability of future offending, but (2) this risk of recidivism is highest in the time period immediately after arrest or release from custody and, thereafter, decreases rapidly and dramatically. This marked and consistent decrease in the risk of future criminal activity then begged the question as to whether this risk ever becomes so small as to be indistinguishable from the risk of persons with no prior offending record. If so, we implied that current social practices of continued civil and social consequences of arrest and conviction may be ill informed.

Our answer to this question based on the current analysis of a cohort of young males from Philadelphia is twofold. First, statistically, we must conclude that persons with a prior police contact or arrest do not, at any time in the given follow-up period, become completely indistinguishable from those without a prior contact in regard to risk of offending. In Figure 4, we

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see that although the hazard rate for persons with a prior offense rapidly approaches the lower hazard rate of persons without a prior record, at the five-year follow up, the two hazard rates are still separated by over 1 percentage point: a difference that achieves statistical significance in this population. Based on the age-25–26 outcome analysis, we again find that there is a statistically significant difference between those who have never been arrested and those whose first and last arrest occurred at age 18.

Second, the difference is substantively small in magnitude and decreases with time since last criminal event. That is, after some period of time has passed, the risk of a new criminal event among a population of nonoffenders and a population of prior offenders becomes similar. We are struck by the concordance between our results and the new federal statute on background checks for truckers driving hazardous materials. This statute explicitly limits the use of criminal history records to 7 years since the time of conviction. Although further research is clearly needed, we believe that our research supports explicit time limits in any statutory restrictions on employment.

Third, the substantive size of the difference depends on the length of the reference period. In the hazard analysis, we used an exposure period of 4 months and found that the difference in the probability of an arrest between those with no records and those with an arrest at age 18 is about one percentage point (2% vs. 1%) at age 26. When we use the entire two-year period of ages 25 and 26, the difference is almost 6 percentage points (7.2% vs. 1.3%). Although some of this difference can be explained by the fact that the hazard is continuing to decline somewhat rapidly as individuals age, the main reason for the difference is that the nonoffenders have an arrest probability that is close to zero. As we watch the offenders for longer periods of time, we expect that they will acquire disproportionately higher numbers of arrests than will the nonoffenders.

Suppose, for example, that we have two groups, Group A with a starting probability of being arrested in the next month of 0.004 and Group B with the probability of being arrested in the next month of 0.01. At first glance, this difference does not seem large. However, let us consider what happens if we expand our time horizons (assuming a continued declining arrest rate for both populations). After 6 months about 2% of Group A will have an arrest as compared with 7% of Group B. After 1 year, about 3.5% of Group A will have an arrest as compared with 12% of Group B. Moreover, this cumulative difference in arrests will continue to increase until such time, if ever, that the two hazards completely converge—a feat that was not observed within the 7-year time-frame of this particular analysis.

This empirical pattern suggests that the answer to the policy questions concerning the level of elevated risk that is acceptable will depend in part

on the decision maker's time horizon. An employer in an industry with high turnover will rationally expect to have relatively short-term contact with the employee, and might therefore be more willing to tolerate the risk than an employer looking to hire individuals for longer time periods. In fact, employer surveys have shown that employers in the secondary market with high turnover are more willing to hire ex-offenders than are those in the primary labor market where employees have long tenure (Holzer et al., 2006).

We must also note that these findings are but a first look at this important question. Our analyses are limited to one cohort of individuals representing one location during one time period. We were also artificially limited to a pre-age-27 follow-up period. To further understand patterns of desistance, we encourage further inquiry into this issue. Areas for future research include the examination of alternative populations from other locations and other time periods. We encourage studies designed to examine longer follow-up periods as our analyses clearly reveal a continued converging trend over time in the risk of new offending for nonoffenders and one-time offenders. We would also encourage a more detailed examination of patterns of desistance as they relate to type of prior offense and demographic characteristics of the population. For example, research suggests that certain statuses such as "being employed" and "being married" promote desistance (Sampson and Laub, 1993).

In addition, a thorough analysis would focus on both employment and criminal history. It strikes us as counter-intuitive that the new statutes requiring background checks have required employees who have been stable employees for several years to be fired if they have a criminal history record. The implicit assumption here is that the past conviction tells the employer more about this individual than the present period of employment. Although we can only speculate at this point, this assumption strikes us as problematic. A simple review of the reentry literature demonstrates that ex-offenders often have a very hard time holding a job (Travis, 2002). The fact that someone keeps the same job for over a year is an excellent predictor of ultimate desistance.

Clearly, there is much more work to be done on this topic. Our analysis provides but one important step toward creating the necessary information for informed discussion about the relative risks of offending presented by individuals with fading scarlet letters.

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Robert Brame is an Associate Professor in the Department of Criminology and Criminal Justice at the University of South Carolina. He received his Ph.D. in Criminology and Criminal Justice in 1997 from the University of Maryland. His current research emphasizes continuity and cessation of offending, collateral consequences of a criminal record, estimation of treatment effects in observational data, and law enforcement responses to domestic violence.

Shawn D. Bushway is an Associate Professor of Criminology in the Department of Criminology and Criminal Justice at the University of Maryland. He received his Ph.D. in Public Policy Analysis and Political Economy in 1996 from the H. John Heinz III School of Public Policy and Management at Carnegie Mellon University. His current research focuses on the process of desistance, the impact of a criminal history on subsequent outcomes, and the distribution of discretion in the criminal justice sentencing process. He is also the Associate Director of the Program on the Economics of Crime and Justice Policy at the University of Maryland.

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Record No: CB 119015 Version: Council Bill No: CB 119015
 Type: Ordinance (Ord) Status: Passed
 Current Controlling Legislative Body: City Clerk
 Ordinance No: Ord 125393

Title: AN ORDINANCE relating to housing regulations; adding a new Chapter 14.09 (Fair Chance Housing) to the Seattle Municipal Code to regulate the use of criminal history in rental housing; authorizing the Seattle Office for Civil Rights to enforce the regulations set out in this new chapter; and amending Section 3.14.931 of the Seattle Municipal Code to expand the Seattle Human Rights Commission's duties.

Sponsors: Lisa Herbold, Bruce Harrell

Supporting documents: [1. Proposed Substitute](#), [2. Summary and Fiscal Note v2](#), [3. Summary Att 1 - Racial Equity Toolkit - Fair Chance Housing](#), [4. Summary and Fiscal Note v1](#), [5. Mayor's Letter](#), [6. Office for Civil Rights Memo](#), [7. Presentation](#), [8. Central Staff Memo \(added 7/25/17\)](#), [9. Memo Att A: Proposed Amendment \(added 7/25/17\)](#), [10. Central Staff Memo](#), [11. Memo Att A: Proposed Amendment](#), [12. CF 320351: Documents and Research Supporting CB 119015](#), [13. Signed Ordinance 125393](#), [14. Affidavit of Publication](#)

[History \(11\)](#) [Text](#)

11 records		Group	Export				
Date	Ver.	Action By	Action	Result	Action Details	Meeting Details	Seattle Channel
8/23/2017	3	City Clerk	attested by City Clerk		Action details	Meeting details	
8/23/2017	3	Mayor	Signed		Action details	Meeting details	
8/23/2017	3	Mayor	returned		Action details	Meeting details	
8/16/2017	3	City Clerk	submitted for Mayor's signature		Action details	Meeting details	
8/14/2017	1	City Council	passed as amended	Pass	Action details	Meeting details	
8/8/2017	1	Civil Rights, Utilities, Economic Development, and Arts Committee	pass as amended	Pass	Action details	Meeting details	
7/25/2017	1	Civil Rights, Utilities, Economic Development, and Arts Committee	discussed		Action details	Meeting details	
6/26/2017	1	City Council	referred		Action details	Meeting details	
6/22/2017	1	Council President's Office	sent for review		Action details	Meeting details	
6/20/2017	1	City Clerk	sent for review		Action details	Meeting details	
6/20/2017	1	Mayor	Mayor's leg transmitted to Council		Action details	Meeting details	

SEATTLE CITY COUNCIL - Action Details

Details

Record No: CB 119015 Version: 1

Type: Ordinance (Ord)

Title: AN ORDINANCE relating to housing regulations; adding a new Chapter 14.09 (Fair Chance Housing) to the Seattle Municipal Code to regulate the use of criminal history in rental housing; authorizing the Seattle Office for Civil Rights to enforce the regulations set out in this new chapter; and amending Section 3.14.931 of the Seattle Municipal Code to expand the Seattle Human Rights Commission's duties.

Result: Pass

Agenda note: **Discussion and Possible Vote**
(45 minutes, to 10:10 a.m.)

Minutes note: **Presenter: Dan Eder, Council Central Staff**
Councilmember Bagshaw entered Council Chambers at 9:50 a.m.
Councilmember Juarez entered Council Chambers at 9:55 a.m.
Councilmember González, Councilmember Bagshaw and Councilmember Juarez exited Council Chambers at 10:30 a.m.

Action: pass as amended

Action text: The Committee recommends that Full Council pass as amended the Council Bill (CB).

Votes (6:0)

Person Name	Vote
Lisa Herbold	In Favor
Kshama Sawant	In Favor
Mike O'Brien	In Favor
Sally Bagshaw	In Favor
M. Lorena González	In Favor
Debra Juarez	In Favor

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Record No: CB 119015 Version:
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Sponsors: Lisa Herbold, Bruce Harrell

Supporting documents: 1. [Proposed Substitute](#), 2. [Summary and Fiscal Note v2](#), 3. [Summary Att 1 - Racial Equity Toolkit - Fair Chance Housing](#), 4. [Summary and Fiscal Note v1](#), 5. [Mayor's Letter](#), 6. [Office for Civil Rights Memo](#), 7. [Presentation](#), 8. [Central Staff Memo \(added 7/25/17\)](#), 9. [Memo Att A: Proposed Amendment \(added 7/25/17\)](#), 10. [Central Staff Memo](#), 11. [Memo Att A: Proposed Amendment](#), 12. [CF 320351: Documents and Research Supporting CB 119015](#), 13. [Signed Ordinance 125393](#), 14. [Affidavit of Publication](#)

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 Result: Pass
 Agenda note:
 Minutes note: ACTION 1:

Motion was made by Councilmember Herbold, duly seconded and carried, to amend Council Bill 119015, by substituting version 5 for version 4.

ACTION 2:

Motion was made and duly seconded to pass Council Bill 119015 as amended.

Action: passed as amended
 Action text: The Motion carried, the Council Bill (CB) was passed as amended by the following vote, and the President signed the Bill:

Votes (8:0)

Person Name	Vote
Sally Bagshaw	In Favor
Tim Burgess	In Favor
M. Lorena González	In Favor
Bruce Harrell	In Favor
Lisa Herbold	In Favor
Rob Johnson	In Favor
Debora Juarez	In Favor
Mike O'Brien	In Favor

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CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

..title

AN ORDINANCE relating to housing regulations; adding a new Chapter 14.09 (Fair Chance Housing) to the Seattle Municipal Code to regulate the use of criminal history in rental housing; authorizing the Seattle Office for Civil Rights to enforce the regulations set out in this new chapter; and amending Section 3.14.931 of the Seattle Municipal Code to expand the Seattle Human Rights Commission’s duties.

..body

WHEREAS, the U.S. Department of Justice has estimated one in every three adults in the United States has either an arrest or conviction record¹; and

WHEREAS, the Center for American Progress reports that nearly half of all children in the U.S. have one parent with a criminal record²; and

WHEREAS, over the past two decades, there has been a rise in the use of criminal background checks to screen prospective tenants for housing; and

WHEREAS, a study by the Vera Institute of Justice has shown that people with stable housing are more likely to successfully reintegrate into society and are less likely to reoffend;³ and

WHEREAS, individuals and parents who have served their time must be able to secure housing if they are to re-enter into society to successfully rebuild their lives and care for their families; and

¹ Bureau of Justice Statistics, U.S. Department of Justice, “Survey of State Criminal History Information Systems,” 2012, available at <https://www.ncjrs.gov/pdffiles1/bjs/grants/249799.pdf>
² Vallas, Boteag, West, Odum. “Removing Barriers to Opportunity for Parents with Criminal Records and Their Children: A Two Generation Approach,” Center for American Progress. December 2015.
³ Vera Institute of Justice, “Piloting a Tool for Reentry: A Promising Approach to Engaging Family Members,” 2011, available at <http://archive.vera.org/sites/default/files/resources/downloads/Piloting-a-Tool-for-Reentry-Updated.pdf>

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1 WHEREAS, African Americans are 3.4 percent of Washington’s population but account for
2 nearly 18.4 percent of Washington’s prison population;⁴ Latinos are 11.2 percent of
3 Washington’s population but account for 13.2 percent of Washington’s prison
4 population;⁵ and Native Americans are 1.3 percent of the state population but account for
5 4.7 percent of Washington’s prison population;⁶ and

6 WHEREAS, racial inequities in the criminal justice system are compounded by racial bias in the
7 rental applicant selection process, as demonstrated by fair housing testing conducted by
8 the Seattle Office for Civil Rights in 2013 that found evidence of different treatment
9 based on race in 64 percent of tests, including some cases where African American
10 applicants were told more often than their white counterparts that they would have to
11 undergo a criminal background check as part of the screening process; and

12 WHEREAS, there is no sociological research establishing a relationship between a criminal
13 record and an unsuccessful tenancy;⁷ and

14 WHEREAS, an Urban Institute study stated, “men who found [stable] housing within the first
15 month after release were less likely to return to prison during the first year out”;⁸ and

16 WHEREAS, a study performed in Cleveland found that “obtaining stable housing within the first
17 month after release inhibited re-incarceration”;⁹ and

⁴ <http://www.ofm.wa.gov/pop/census2010/default.asp#demo>; <http://www.doc.wa.gov/docs/publications/reports/100-QA001.pdf>

⁵ <http://www.ofm.wa.gov/pop/census2010/default.asp#demo>; <http://www.doc.wa.gov/docs/publications/reports/100-QA001.pdf>

⁶ <http://www.ofm.wa.gov/pop/census2010/default.asp#demo>; <http://www.doc.wa.gov/docs/publications/reports/100-QA001.pdf>

⁷ Ehman and Reosti, “Tenant Screening in an Era of Mass Incarceration: A Criminal Record is No Crystal Ball”, *N.Y.U. Journal of Legislation and Public Policy Quorum*, March 2015.

⁸ *The Importance of Stable Housing for Formerly Incarcerated Individuals*, Housing Law Bulletin, Volume 40, http://nhlp.org/files/Importance%20of%20Stable%20Housing%20for%20Formerly%20Incarcerated_0.pdf

⁹ *Id.*

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1 WHEREAS, studies show that, after four to seven years where no re-offense has occurred, a
2 person with a prior conviction is no more likely to commit a crime than someone who has
3 never had a conviction;¹⁰ and

4 WHEREAS, research shows higher recidivism occurs within the first two years of release and is
5 mitigated when individuals have access to safe and affordable housing and
6 employment;¹¹ and

7 WHEREAS, a 2015 study reported that juveniles on the sex offender registry had considerable
8 difficulty in accessing stable housing because of their registration status, which
9 contributed to negative mental health outcomes;¹² and

10 WHEREAS, more than 90 percent of arrests of juveniles for sex offenses represent a one-time
11 event that does not recur,¹³ and studies have repeatedly shown low recidivism rates
12 ranging from three percent to four percent;¹⁴ and

13 WHEREAS, documents and research relating to the information cited in the recitals is located in
14 Clerk File 320351; and

15 WHEREAS, The City of Seattle has developed a Race and Social Justice Initiative (RSJI) to
16 eliminate institutional racism and create a community where equity in opportunity exists
17 for everyone; and

¹⁰ Kurlychek, et al. "Scarlet Letters & Recidivism: Does an Old Criminal Record Predict Future Criminal Behavior?" (2006), http://www.albany.edu/bushway_research/publications/Kurlychek_et_al_2006.pdf. and "'Redemption' in an Era of Widespread Criminal Background Checks," *NIJ Journal*, Issue 263 (June 2009), at page 10 - preliminary study with group of first-time 1980 arrestees in New York - the findings depend on the nature of the 2009), at page 10 - preliminary study with group of first-time 1980 arrestees in New York- the findings depend on the nature of the prior offense and the age of the individual.

¹¹ Ehman and Reosti, "Tenant Screening in an Era of Mass Incarceration: A Criminal Record is No Crystal Ball", *N.Y.U. Journal of Legislation and Public Policy Quorum*, March 2015.

¹² Harris, Andrew J. et al. (2015). "Collateral Consequences of Juvenile Sex Offender Registration and Notification," <http://journals.sagepub.com/doi/abs/10.1177/1079063215574004>

¹³ Zimring, F.E. (2004). *An American travesty: Legal responses to adolescent sexual offending*, p. 66. University of Chicago.

¹⁴ *Ibid*, Appendix C.

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1 WHEREAS, the City's Office for Civil Rights (OCR) works to advance civil rights and end
2 barriers to equity; and
3 WHEREAS, in 2010, residents of Sojourner Place Transitional Housing, Village of Hope, and
4 other community groups called on the City to address barriers to housing faced by people
5 with prior records; and
6 WHEREAS, in response, OCR and the Seattle Human Rights Commission held two public
7 forums in 2010 and 2011, bringing together over 300 people including community
8 members with arrest and conviction records, landlords, and employers to share their
9 concerns; and
10 WHEREAS, in 2013, the City Council passed the Seattle Jobs Assistance Ordinance, now titled
11 the Fair Chance Employment Ordinance, to address barriers in employment; and
12 WHEREAS, since 2013, the Office of Housing has worked with nonprofit housing providers to
13 share best practices in tenant screening to address racial inequities; and
14 WHEREAS, in September 2014 the Council adopted Resolution 31546, in which the Mayor and
15 Council jointly convened the Seattle Housing Affordability and Livability Agenda
16 (HALA) Advisory Committee to evaluate potential strategies to make Seattle more
17 affordable, equitable, and inclusive; and in particular, to promote the development and
18 preservation of affordable housing for residents of the City; and
19 WHEREAS, in July 2015, HALA published its Final Advisory Committee Recommendations
20 and the Mayor published *Housing Seattle: A Roadmap to an Affordable and Livable City*,
21 which outlines a multi-pronged approach of bold and innovative solutions to address
22 Seattle's housing affordability crisis; and

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1 WHEREAS, in October 2015, the Mayor proposed and Council adopted Resolution 31622,
2 declaring the City’s intent to expeditiously consider strategies recommended by the
3 Housing Affordability Livability Agenda (HALA) Advisory Committee; and
4 WHEREAS, the Mayor’s Housing and Affordability and Livability Agenda recommended that
5 the City address barriers to housing faced by people with criminal records, and the Mayor
6 responded by creating a Fair Chance Housing Committee; and

7 WHEREAS, the Fair Chance Housing Committee provided input to OCR on a legislative
8 proposal to address these barriers; and

9 WHEREAS, in 2016, the Department of Housing and Urban Development (HUD) issued
10 guidance on the application of the Fair Housing Act to the use of arrest and conviction
11 records in rental housing, stating that a housing provider may be in violation of fair
12 housing laws if their policy or practice does not serve a substantial, legitimate,
13 nondiscriminatory interest, due to the potential for criminal record screening to have a
14 disparate impact on African American and other communities of color; and

15 WHEREAS, except for landlords operating federally assisted housing programs, conducting a
16 criminal background check to screen tenants is a discretionary choice for landlords that
17 they have no legal duty under City or state law to fulfill; and

18 WHEREAS, in 2016, the Seattle City Council passed Resolution 31669, affirming HUD’s
19 guidance and the work of the Mayor’s Fair Chance Housing Committee; NOW,
20 THEREFORE,

21 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

22 Section 1. The Council expresses the following concerning implementation of Seattle
23 Municipal Code Chapter 14.09:

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D344 - revised

- 1 A. The implementation of Seattle Municipal Code Chapter 14.09 will consist of:
- 2 1. Seattle Office for Civil Rights will conduct regular fair housing testing to
- 3 ensure compliance, decrease racial bias, and evaluate the impacts of Chapter 14.09; and
- 4 2. Seattle Office for Civil Rights will launch a Fair Housing Home Program
- 5 for landlords. The program’s goal will be to reduce racial bias and biases against other protected
- 6 classes in tenant selection. Completion of the training program will result in a certification of a
- 7 Fair Housing Home program. For pre-finding settlement and conciliation agreements under
- 8 Chapter 14.09, landlords will be required to participate in the Fair Housing Home program; and
- 9 3. The City of Seattle will work at the state level to reduce the impact of
- 10 criminal convictions; and
- 11 4. The City of Seattle will explore additional mechanisms to reduce the
- 12 greatest barriers to housing for individuals with criminal conviction records through the Re-Entry
- 13 Taskforce, convened by the Seattle Office for Civil Rights.

14 Section 2. A new Chapter 14.09 is added to the Seattle Municipal Code as follows:

15 **Chapter 14.09 USE OF CRIMINAL RECORDS IN HOUSING**

16 **14.09.005 Short title**

17 This Chapter 14.09 shall constitute the “Fair Chance Housing Ordinance” and may be cited
18 as such.

19 **14.09.010 Definitions**

20 “Accessory dwelling unit” has the meaning defined in Section 23.84A.032’s definition of
21 “Residential use.”

22 “Adverse action” means:

- 23 A. Refusing to engage in or negotiate a rental real estate transaction;

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- 1 B. Denying tenancy;
- 2 C. Representing that such real property is not available for inspection, rental, or lease
- 3 when in fact it is so available;
- 4 D. Failing or refusing to add a household member to an existing lease;
- 5 E. Expelling or evicting an occupant from real property or otherwise making
- 6 unavailable or denying a dwelling;
- 7 F. Applying different terms, conditions, or privileges to a rental real estate
- 8 transaction, including but not limited to the setting of rates for rental or lease, establishment of
- 9 damage deposits, or other financial conditions for rental or lease, or in the furnishing of facilities
- 10 or services in connection with such transaction;
- 11 G. Refusing or intentionally failing to list real property for rent or lease;
- 12 H. Refusing or intentionally failing to show real property listed for rent or lease;
- 13 I. Refusing or intentionally failing to accept and/or transmit any reasonable offer to
- 14 lease, or rent real property;
- 15 J. Terminating a lease; or
- 16 K. Threatening, penalizing, retaliating, or otherwise discriminating against any
- 17 person for any reason prohibited by Section 14.09.025.

18 "Aggrieved party" means a prospective occupant, tenant, or other person who suffers
19 tangible or intangible harm due to a person's violation of this Chapter 14.09.

20 "Arrest record" means information indicating that a person has been apprehended,
21 detained, taken into custody, held for investigation, or restrained by a law enforcement
22 department or military authority due to an accusation or suspicion that the person committed a

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1 crime. Arrest records include pending criminal charges, where the accusation has not yet resulted
2 in a final judgment, acquittal, conviction, plea, dismissal, or withdrawal.

3 “Charging party” means any person who files a charge alleging a violation under this
4 Chapter 14.09, including the Director.

5 “City” means The City of Seattle.

6 “Commission” means the Seattle Human Rights Commission.

7 “Consumer report” has the meaning defined in RCW 19.182.010 and means a written,
8 oral, or other communication of information by a consumer reporting agency bearing on a
9 consumer’s creditworthiness, credit standing, credit capacity, character, general reputation,
10 personal characteristics, or mode of living that is used or expected to be used or collected in
11 whole or in part for purposes authorized under RCW 19.182.020.

12 “Conviction record” means information regarding a final adjudication or other criminal
13 disposition adverse to the subject. It includes but is not limited to dispositions for which the
14 defendant received a deferred or suspended sentence, unless the adverse disposition has been
15 vacated or expunged.

16 “Criminal background check” means requesting or attempting to obtain, directly or
17 through an agent, an individual’s conviction record or criminal history record information from
18 the Washington State Patrol or any other source that compiles, maintains, or reflects such records
19 or information.

20 “Criminal history” means records or other information received from a criminal
21 background check or contained in records collected by criminal justice agencies, including
22 courts, consisting of identifiable descriptions and notations of arrests, arrest records, detentions,
23 indictments, informations, or other formal criminal charges, any disposition arising therefrom,

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1 including conviction records, waiving trial rights, deferred sentences, stipulated order of
2 continuance, dispositional continuance, or any other initial resolution which may or may not later
3 result in dismissal or reduction of charges depending on subsequent events. The term includes
4 acquittals by reason of insanity, dismissals based on lack of competency, sentences, correctional
5 supervision, and release, any issued certificates of restoration of opportunities and any
6 information contained in records maintained by or obtained from criminal justice agencies,
7 including courts, which provide individual's record of involvement in the criminal justice system
8 as an alleged or convicted individual. The term does not include status registry information
9 obtained from a county, statewide, or national sex offender registry.

10 "Date of disposition" means the date of conviction, judgment, and sentence, and/or date
11 on which any criminal charge is initially resolved or adjudicated, whichever is latest, specifically
12 including the imposition of a deferred sentence, stipulated order of continuance, dispositional
13 continuance, or any other initial resolution which may or may not later result in dismissal or
14 reduction of charges depending on subsequent events. "Date of disposition" does not refer to
15 ultimate resolution of the findings in the case or to any adjustment to findings that may occur as
16 a result of appeal, post-conviction litigation, post-disposition motions, or agreement to continue
17 for dismissal or reduction of charges.

18 "Date of rental application" means the date and time when a landlord receives a complete
19 rental application, whether submitted through the mail, electronically, or in person.

20 "Department" means the Seattle Office for Civil Rights and any division therein.

21 "Detached accessory dwelling unit" has the meaning defined in Section 23.84A.032's
22 definition of "Residential use."

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1 "Director" means the Director of the Seattle Office for Civil Rights or the Director's
2 designee.

3 "Dwelling unit" has the meaning as defined in Section 22.204.050.D.

4 "Fair chance housing" means practices to reduce barriers to housing for persons with
5 criminal records.

6 "Juvenile" means a person under 18 years old.

7 A "legitimate business reason" shall exist when the policy or practice is necessary to
8 achieve a substantial, legitimate, nondiscriminatory interest. To determine such an interest, a
9 landlord must demonstrate, through reliable evidence, a nexus between the policy or practice and
10 resident safety and/or protecting property, in light of the following factors:

- 11 A. The nature and severity of the conviction;
- 12 B. The number and types of convictions; except that pursuant to 14.09.025.A.5
13 convictions are limited to those found in registry information;
- 14 C. The time that has elapsed since the date of conviction;
- 15 D. Age of the individual at the time of conviction;
- 16 E. Evidence of good tenant history before and/or after the conviction occurred; and
- 17 F. Any supplemental information related to the individual's rehabilitation, good
18 conduct, and additional facts or explanations ~~circumstances surrounding the conviction~~ provided
19 by the individual, if the individual chooses to do so. For the purposes of this definition, review of
20 conviction information is limited to those convictions included in registry information.

21 "Person" means one or more individuals, partnerships, organizations, trade or
22 professional associations, corporations, legal representatives, trustees, trustees in bankruptcy, or
23 receivers. It includes any owner, lessee, proprietor, manager, agent, or employee, whether one or

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1 more natural persons, and any political or civil subdivision or agency or instrumentality of the
2 City.

3 "Prospective occupant" means any person who seeks to lease, sublease, or rent real
4 property.

5 "Registry information" means information solely obtained from a county, statewide, or
6 national sex offender registry, including but not limited to, the registrant's physical description,
7 address, and conviction description and dates.

8 "Respondent" means any person who is alleged or found to have committed a violation of
9 this Chapter 14.09.

10 "Supplemental information" means any information produced by the prospective
11 occupant or the tenant, or produced on their behalf, with respect to their rehabilitation or good
12 conduct, including but not limited to:

- 13 A. Written or oral statement from the prospective occupant or the tenant;
- 14 B. Written or oral statement from a current or previous employer;
- 15 C. Written or oral statement from a current or previous landlord;
- 16 D. Written or oral statement from a member of the judiciary or law enforcement,
17 parole or probation officer, or person who provides similar services;
- 18 E. Written or oral statement from a member of the clergy, counselor, therapist, social
19 worker, community or volunteer organization, or person or institution who provides similar
20 services;
- 21 F. Certificate of rehabilitation;
- 22 G. Certificate of completion or enrollment in an educational or vocational training
23 program, including apprenticeship programs; or

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1 H. Certificate of completion or enrollment in a drug or alcohol treatment program; or
2 certificate of completion or enrollment in a rehabilitation program.

3 "Tenant" means a person occupying or holding possession of a building or premises
4 pursuant to a rental agreement.

5 **14.09.015 Applicability**

6 A person is covered by this Chapter 14.09 when the physical location of the housing is within the
7 geographic boundaries of the City.

8 **14.09.020 Notice to prospective occupants and tenants**

9 ~~If a landlord screens prospective occupants for conviction records, the landlord shall provide~~
10 ~~written notice of screening criteria on all applications for rental properties. The written notice~~
11 ~~shall also include that the landlord is prohibited from requiring disclosure, asking about,~~
12 ~~rejecting an applicant, or taking an adverse action based on any arrest record, conviction record,~~
13 ~~or criminal history, subject to the exclusions and legal requirements in section 14.09.110, will~~
14 ~~consider for tenancy qualified applicants with criminal histories and applicants may provide any~~
15 ~~supplemental information related to an individual's rehabilitation, good conduct, and facts or~~
16 ~~circumstances surrounding any conviction record within two years from the date of the rental~~
17 ~~application. If a landlord screens prospective occupants pursuant to section 14.09.025.A.3 for~~
18 ~~conviction records, the landlord shall provide written notice of screening criteria on all~~
19 ~~applications for rental properties. Pursuant to section 14.09.025.A.3, applicants may provide any~~
20 ~~supplemental information related to an individual's rehabilitation, good conduct, and facts or~~
21 ~~explanations regarding their registry information. The Department shall adopt a rule or rules to~~
22 enforce this Section 14.09.020.

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1 **14.09.025 Prohibited use of criminal history**

2 A. It is an unfair practice for any person to:

3 1. Advertise, publicize, or implement any policy or practice that
4 automatically or categorically excludes all individuals with any arrest record, conviction record,
5 or criminal history from any rental housing that is located within the City.

6 2. ~~Require disclosure, inquire about, or carry out an adverse action in~~
7 ~~housing, based on an arrest record of a prospective occupant, a tenant, or a member of their~~
8 ~~household. An arrest record is not proof that a person has engaged in unlawful conduct.~~

9 32. ~~Require disclosure, inquire about, or take an adverse action in housing~~
10 ~~against a prospective occupant, a tenant or a member of their household, based on any arrest~~
11 ~~record, conviction record, juvenile record, or(a) criminal history, except for conviction records~~
12 ~~information pursuant to subsection 14.09.025.A.3 and subject to the exclusions and legal~~
13 ~~requirements in section 14.09.110.4; (b) juvenile records; (c) convictions that have been~~
14 ~~expunged, sealed, or vacated; and/or (d) conviction records that, from the date of disposition,~~
15 ~~precede the date of the rental application by more than two years;~~

16 4. ~~Carry out an adverse action based on a conviction record with a~~
17 ~~disposition date within two years from the date of the rental application of a prospective~~
18 ~~occupant, a tenant or a member of their household, unless the landlord has a legitimate business~~
19 ~~reason for taking such action.~~

20 53. ~~Carry out an adverse action based on status registry information obtained~~
21 ~~from a county, state, or national sex offender registry, of a prospective adult occupant, an adult~~
22 ~~tenant, or an adult member of their household, unless the landlord has a legitimate business~~
23 ~~reason for taking such action.~~

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1 64. Carry out an adverse action based on registry information obtained from
2 any county, statewide, or national sex offender registry regarding any juvenile prospective
3 juvenile occupant, a juvenile tenant, or juvenile member of their household.

4 5. Carry out an adverse action based on registry information regarding a
5 prospective adult occupant, an adult tenant, or an adult member of their household if the
6 conviction occurred when the individual was a juvenile.

7 B. If a landlord takes an adverse action based on a legitimate business reason, the
8 landlord shall provide written notice by email, mail, or in person of the adverse action to the
9 prospective occupant or the tenant and state the specific ~~record or records~~ registry information
10 that ~~was~~ was the basis for the adverse action.

11 C. If a consumer report is used by a landlord as part of the screening process, the
12 landlord must provide the name and address of the consumer reporting agency and the
13 prospective occupant's or tenant's rights to obtain a free copy of the consumer report in the event
14 of a denial or other adverse action, and to dispute the accuracy of information appearing in the
15 consumer report.

16 **14.09.030 Retaliation prohibited**

17 A. No person shall interfere with, restrain, or deny the exercise of, or the attempt to
18 exercise, any right protected under this Chapter 14.09.

19 B. No person shall take any adverse action against any person because the person has
20 exercised in good faith the rights protected under this Chapter 14.09. Such rights include but are
21 not limited to the right to fair chance housing and regulation of the use of criminal history in
22 housing by this Chapter 14.09; the right to make inquiries about the rights protected under this
23 Chapter 14.09; the right to inform others about their rights under this Chapter 14.09; the right to

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1 inform the person's legal counsel or any other person about an alleged violation of this Chapter
2 14.09; the right to file an oral or written complaint with the Department for an alleged violation
3 of this Chapter 14.09; the right to cooperate with the Department in its investigations of this
4 Chapter 14.09; the right to testify in a proceeding under or related to this Chapter 14.09; the right
5 to refuse to participate in an activity that would result in a violation of City, state, or federal law;
6 and the right to oppose any policy, practice, or act that is unlawful under this Chapter 14.09.

7 C. No person shall communicate to a person exercising rights protected in this
8 Section 14.09.030, directly or indirectly, the willingness to inform a government employee that
9 the person is not lawfully in the United States, or to report, or to make an implied or express
10 assertion of a willingness to report, suspected citizenship or immigration status of a prospective
11 occupant, a tenant or a member of their household to a federal, state, or local agency because the
12 prospective occupant or tenant has exercised a right under this Chapter 14.09.

13 ED. It shall be a rebuttable presumption of retaliation if a landlord or any other person
14 takes an adverse action against a person within 90 days of the person's exercise of rights
15 protected in this Section 14.09.030. The landlord may rebut the presumption with clear and
16 convincing evidence that the adverse action was taken for a permissible purpose.

17 DE. Proof of retaliation under this Section 14.09.030 shall be sufficient upon a
18 showing that a landlord or any other person has taken an adverse action against a person and the
19 person's exercise of rights protected in this Section 14.09.030 was a motivating factor in the
20 adverse action, unless the landlord can prove that the action would have been taken in the
21 absence of such protected activity.

22 EE. The protections afforded under this Section 14.09.030 shall apply to any person
23 who mistakenly but in good faith alleges violations of this Chapter 14.09.

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1 FG. A complaint or other communication by any person triggers the protections of this
2 Section 14.09.030 regardless of whether the complaint or communication is in writing or makes
3 explicit reference to this Chapter 14.09.

4 **14.09.035 Enforcement power and duties**

5 A. The Department shall have the power to investigate violations of this Chapter
6 14.09, as defined herein, and shall have such powers and duties in the performance of these
7 functions as are defined in this Chapter 14.09 and otherwise necessary and proper in the
8 performance of the same and provided for by law.

9 B. The Department shall be authorized to coordinate implementation and
10 enforcement of this Chapter 14.09 and shall promulgate appropriate guidelines or rules for such
11 purposes.

12 C. The Director is authorized and directed to promulgate appropriate guidelines and
13 rules consistent with this Chapter 14.09 and the Administrative Code. Any guidelines or rules
14 promulgated by the Director shall have the force and effect of law and may be relied on by
15 landlords, prospective occupants, tenants, and other parties to determine their rights and
16 responsibilities under this Chapter 14.09.

17 D. The Director shall maintain data on the number of complaints filed pursuant to
18 this Chapter 14.09, demographic information on the complainants, the number of investigations
19 it conducts and the disposition of every complaint and investigation. The Director shall submit
20 this data to the Mayor and City Council every six months for the two years following the
21 effective date of the ordinance introduced as Council Bill 119015.

22 **14.09.040 Violation**

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1 The failure of any person to comply with any requirement imposed on the person under this
2 Chapter 14.09 is a violation.

3 **14.09.045 Charge—Filing**

4 A. An aggrieved person may file a charge with the Director alleging a violation. The
5 charge shall be in writing and signed under oath or affirmation before the Director, one of the
6 Department’s employees, or any other person authorized to administer oaths. The charge shall
7 describe the alleged violation and should include a statement of the dates, places, and
8 circumstances, and the persons responsible for such acts and practices. Upon the filing of a
9 charge alleging a violation, the Director shall cause to be served upon the charging party a
10 written notice acknowledging the filing, and notifying the charging party of the time limits and
11 choice of forums provided in this Chapter 14.09.

12 B. A charge shall not be rejected as insufficient because of failure to include all
13 required information if the Department determines that the charge substantially satisfies the
14 informational requirements necessary for processing.

15 C. A charge alleging a violation or pattern of violations under this Chapter 14.09
16 may also be filed by the Director whenever the Director has reason to believe that any person has
17 been engaged or is engaging in a violation under this Chapter 14.09.

18 **14.09.050 Time for filing charges**

19 Charges filed under this Chapter 14.09 must be filed with the Department within one year after
20 the alleged violation has occurred or terminated.

21 **14.09.055 Charge—Amendments**

- 22 A. The charging party or the Department may amend a charge:
23 1. To cure technical defects or omissions;

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- 1 2. To clarify allegations made in the charge;
- 2 3. To add allegations related to or arising out of the subject matter set forth
- 3 or attempted to be set forth in the charge;
- 4 4. To add as a charging party a person who is, during the course of the
- 5 investigation, identified as an aggrieved person; or
- 6 5. To add or substitute as a respondent a person who was not originally
- 7 named as a respondent, but who is, during the course of the investigation, identified as a
- 8 respondent. For jurisdictional purposes, such amendments shall relate back to the date the
- 9 original charge was first filed.

10 B. The charging party may amend a charge to include allegations of retaliation which
 11 arose after the filing of the original charge. Such amendment must be filed within one year after
 12 the occurrence of the retaliation, and prior to the Department’s issuance of findings of fact and
 13 determination with respect to the original charge. Such amendments may be made at any time
 14 during the investigation of the original charge so long as the Department will have adequate time
 15 to investigate the additional allegations and the parties will have adequate time to present the
 16 Department with evidence concerning the additional allegations before the issuance of findings
 17 of fact and a determination.

18 C. When a charge is amended to add or substitute a respondent, the Director shall
 19 serve upon the new respondent within 20 days:

- 20 1. The amended charge;
- 21 2. The notice required under subsection 14.09.060.A; and

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1 3. A statement of the basis for the Director's belief that the new respondent
2 is properly named as a respondent. For jurisdictional purposes, amendment of a charge to add or
3 substitute a respondent shall relate back to the date the original charge was first filed.

4 **14.09.060 Notice of charge and investigation**

5 A. The Director shall promptly, and in any event within 20 days of filing of the
6 charge, cause to be served on or mailed, by certified mail, return receipt requested, to the
7 respondent, a copy of the charge along with a notice advising the respondent of respondent's
8 procedural rights and obligations under this Chapter 14.09. The Director shall promptly make an
9 investigation of the charge.

10 B. The investigation shall be directed to ascertain the facts concerning the violation
11 alleged in the charge, and shall be conducted in an objective and impartial manner.

12 C. During the period beginning with the filing of the charge and ending with the
13 issuance of the findings of fact, the Department shall, to the extent feasible, engage in settlement
14 discussions with respect to the charge. A pre-finding settlement agreement arising out of the
15 settlement discussions shall be an agreement between the charging party and the respondent and
16 shall be subject to approval by the Director. Each pre-finding settlement agreement is a public
17 record. Failure to comply with the pre-finding settlement agreement may be enforced under
18 Section 14.09.100.

19 D. During the investigation, the Director shall consider any statement of position or
20 evidence with respect to the allegations of the charge which the charging party or the respondent
21 wishes to submit, including the respondent's answer to the charge. The Director shall have
22 authority to sign and issue subpoenas requiring the attendance and testimony of witnesses, the
23 production of evidence including but not limited to books, records, correspondence, or

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1 documents in the possession or under the control of the person subpoenaed, and access to
2 evidence for the purpose of examination and copying, and conduct discovery procedures which
3 may include the taking of interrogatories and oral depositions.

4 E. The Director may require a fact-finding conference or participation in another
5 process with the respondent and any of respondent's agents and witnesses and the charging party
6 during the investigation in order to define the issues, determine which elements are undisputed,
7 resolve those issues which can be resolved, and afford an opportunity to discuss or negotiate
8 settlement. Parties may have their legal counsel present if desired.

9 **14.09.065 Procedure for investigations**

10 A. A respondent may file with the Department an answer to the charge no later than
11 ten days after receiving notice of the charge.

12 B. The Director shall commence investigation of the charge within 30 days after the
13 filing of the charge. The investigation shall be completed within 100 days after the filing of the
14 charge, unless it is impracticable to do so. If the Director is unable to complete the investigation
15 within 100 days after the filing of the charge, the Director shall notify the charging party and the
16 respondent of the reasons therefor. The Director shall make final administrative disposition of a
17 charge within one year of the date of filing of the charge, unless it is impracticable to do so. If
18 the Director is unable to make a final administrative disposition within one year of the filing of
19 the charge, the Director shall notify the charging party and the respondent of the reasons
20 therefor.

21 C. If the Director determines that it is necessary to carry out the purposes of this
22 Chapter 14.09, the Director may, in writing, request the City Attorney to seek prompt judicial

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1 action for temporary or preliminary relief to enjoin any violation pending final disposition of a
2 charge.

3 **14.09.070 Findings of fact and determination of reasonable cause or no reasonable cause**

4 A. The results of the investigation shall be reduced to written findings of fact and a
5 determination shall be made by the Director that there is or is not reasonable cause for believing
6 that a violation has been, is being or is about to be committed, which determination shall also be
7 in writing and issued with the written findings of fact. The findings and determination are
8 “issued” when signed by the Director and mailed to the parties.

9 B. Once issued to the parties, the Director’s findings of fact, determination, and
10 order may not be amended or withdrawn except upon the agreement of the parties or in response
11 to an order by the Commission after an appeal taken pursuant to Section 14.09.075; provided,
12 that the Director may correct clerical mistakes or errors arising from oversight or omission upon
13 a motion from a party or upon the Director’s own motion.

14 **14.09.075 Determination of no reasonable cause—Appeal from and dismissal**

15 If a determination is made that there is no reasonable cause for believing a violation under this
16 Chapter 14.09 has been, is being, or is about to be committed, the charging party may appeal
17 such determination to the Commission within 30 days of the date the determination is signed by
18 the Director by filing a written statement of appeal with the Commission. The Commission shall
19 promptly deliver a copy of the statement to the Department and respondent and shall promptly
20 consider and act upon such appeal by either affirming the Director’s determination or, if the
21 Commission believes the Director should investigate further, remanding it to the Director with a
22 request for specific further investigation. In the event no appeal is taken, or such appeal results in
23 affirmance, or if the Commission has not decided the appeal within 90 days from the date the

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1 appeal statement is filed, the determination of the Director shall be final and the charge deemed
2 dismissed and the same shall be entered on the records of the Department.

3 **14.09.080 Determination of reasonable cause—Conciliation**

4 A. If the Director determines that reasonable cause exists to believe that a violation
5 has occurred, is occurring, or is about to occur, the Director shall endeavor to eliminate the
6 violation through efforts to reach conciliation. Conditions of conciliation may include, but are
7 not limited to, the elimination of the violation, rent refunds or credits, reinstatement to tenancy,
8 affirmative recruiting or advertising measures, payment of actual damages, and reasonable
9 attorney's fees and costs, or such other remedies that will carry out the purposes of this Chapter
10 14.09. The Director may also require payment of a civil penalty as set forth in Section 14.09.100.

11 B. Any post-finding conciliation agreement shall be an agreement between the
12 charging party and the respondent and shall be subject to the approval of the Director. The
13 Director shall enter an order setting forth the terms of the agreement, which may include a
14 requirement that the parties report to the Director on the matter of compliance. Copies of such
15 order shall be delivered to all affected parties and shall be subject to public disclosure.

16 C. If conciliation fails and no agreement can be reached, the Director shall issue a
17 written finding to that effect and furnish a copy of the finding to the charging party and to the
18 respondent. Upon issuance of the finding, except a case in which a City department is a
19 respondent, the Director shall promptly cause to be delivered the entire investigatory file,
20 including the charge and any and all findings made, to the City Attorney for further proceedings
21 and hearing under this Chapter 14.09, pursuant to Section 14.09.085.

22 **14.09.085 Complaint and hearing**

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- 1 A. Following submission of the investigatory file from the Director, the City
2 Attorney shall, except as set forth in subsection 14.09.085.B, prepare a complaint against such
3 respondent relating to the charge and facts discovered during the Department's investigation.
4 The City Attorney shall file the complaint with the Hearing Examiner in the name of the
5 Department and represent the interests of the Department at all subsequent proceedings.
- 6 B. If the City Attorney determines that there is no legal basis for a complaint to be
7 filed or proceedings to continue, a statement of the reasons therefor shall be filed with the
8 Department. The Director shall then dismiss the charge. Any party aggrieved by the dismissal
9 may appeal to the Commission.
- 10 C. The City Attorney shall serve a copy of the complaint on respondent and furnish a
11 copy of the complaint to the charging party and to the Department.
- 12 D. Within 20 days of the service of such complaint upon it, the respondent shall file
13 its answer with the Hearing Examiner and serve a copy of the same on the City Attorney.
- 14 E. Upon the filing of the complaint, the Hearing Examiner shall promptly establish a
15 hearing date and give notice thereof to the Commission, City Attorney, and respondent, and shall
16 thereafter hold a public hearing on the complaint which shall commence no earlier than 90 days
17 nor later than 120 days from the filing of the complaint, unless otherwise ordered by the Hearing
18 Examiner.
- 19 F. After the complaint is filed with the Hearing Examiner, it may be amended only
20 with the permission of the Hearing Examiner, which permission shall be granted when justice
21 will be served and all parties are allowed time to prepare their case with respect to additional or
22 expanded charges.

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1 G. The hearing shall be conducted by the Hearing Examiner, a deputy hearing
2 examiner, or a hearing examiner pro tempore appointed by the Hearing Examiner from a list
3 approved by the Commission, sitting alone or with representatives of the Commission if any are
4 designated. Such hearings shall be conducted in accordance with written rules and procedures
5 consistent with this Chapter 14.09 and the Administrative Code, Chapter 3.02.

6 H. The Commission, within 30 days after receiving notice of the date of hearing from
7 the Hearing Examiner, at its discretion, may appoint two Commissioners, who have not
8 otherwise been involved in the charge, investigation, fact finding, or other resolution and
9 proceeding on the merits of the case, who have not formed an opinion on the merits of the case,
10 and who otherwise have no pecuniary, private, or personal interest or bias in the matter, to hear
11 the case with the Hearing Examiner. Each Commissioner shall have an equal vote with the
12 Hearing Examiner. The Hearing Examiner shall be the chairperson of the panel and make all
13 evidentiary rulings. The Hearing Examiner shall resolve any question of previous involvement,
14 interest, or bias of an appointed Commissioner in conformance with the law on the subject. Any
15 reference in this Chapter 14.09 to a decision, order, or other action of the Hearing Examiner shall
16 include, when applicable, the decision, order, or other action of a panel constituted under this
17 subsection.

18 **14.09.090 Decision and order**

19 A. Within 30 days after conclusion of the hearing, the Hearing Examiner shall
20 prepare a written decision and order, file it as a public record with the City Clerk, and provide a
21 copy to each party of record and to the Department.

22 B. Such decision shall contain a brief summary of the evidence considered and shall
23 contain findings of fact, conclusions of law upon which the decision is based, and an order

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1 detailing the relief deemed appropriate, together with a brief statement of the reasons supporting
2 the decision.

3 C. In the event the Hearing Examiner or a majority of the panel composed of the
4 Hearing Examiner and Commissioners determines that a respondent has committed a violation
5 under this Chapter 14.09, the Hearing Examiner may order the respondent to take such
6 affirmative action or provide for such relief as is deemed necessary to correct the violation,
7 effectuate the purpose of this Chapter 14.09, and secure compliance therewith, including but not
8 limited to rent refund or credit, reinstatement to tenancy, affirmative recruiting and advertising
9 measures, or payment of reasonable attorney’s fees and costs, or to take such other action as in
10 the judgment of the Hearing Examiner will carry out the purposes of this Chapter 14.09. An
11 order may include the requirement for a report on the matter of compliance.

12 D. The Department in the performance of its functions may enlist the aid of all
13 departments of City government, and all said departments are directed to fully cooperate with the
14 Department.

15 **14.09.095 Appeal from Hearing Examiner order**

16 A. The respondent may obtain judicial review of the decision of the Hearing
17 Examiner by applying for a Writ of Review in King County Superior Court within 14 days from
18 the date of the decision in accordance with the procedure set for in chapter 7.16 RCW, other
19 applicable law, and court rules.

20 B. The decision of the Hearing Examiner shall be final and conclusive unless review
21 is sought in compliance with this Section 14.09.095.

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14.09.100 Civil penalties in cases alleging violations of this Chapter 14.09

A. In cases either decided by the Director or brought by the City Attorney alleging a violation filed under this Chapter 14.09, in addition to any other award of damages or grant of injunctive relief, a civil penalty may be assessed against the respondent to vindicate the public interest, which penalty shall be payable to The City of Seattle and the Department. Payment of the civil penalty may be required as a term of a conciliation agreement entered into under subsection 14.09.080.A or may be ordered by the Hearing Examiner in a decision rendered under Section 14.09.090.

B. The civil penalty assessed against a respondent shall not exceed the following amount:

1. \$11,000 if the respondent has not been determined to have committed any prior violation;
2. \$27,500 if the respondent has been determined to have committed one other violation during the five-year period ending on the date of the filing of this charge; or
3. \$55,000 if the respondent has been determined to have committed two or more violations during the seven-year period ending on the date of the filing of this charge; except that if acts constituting the violation that is the subject of the charge are committed by the same person who has been previously determined to have committed acts constituting a violation, then the civil penalties set forth in subsections 14.09.100.B.2 and 14.09.100.B.3 may be imposed without regard to the period of time within which those prior acts occurred.

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1 **14.09.105 Enforcement of Department and Hearing Examiner orders and agreements**

2 A. In the event a City respondent fails to comply with any final order of the Director
3 or of the Hearing Examiner, a copy of the order shall be transmitted to the Mayor, who shall take
4 appropriate action to secure compliance with the final order.

5 B. In the event a respondent fails to comply with any final order issued by the
6 Hearing Examiner not directed to the City or to any City department, the Director shall refer the
7 matter to the City Attorney, for the filing of a civil action to enforce such order.

8 C. Whenever the Director has reasonable cause to believe that a respondent has
9 breached a settlement or conciliation agreement, the Director shall refer the matter to the City
10 Attorney for filing of a civil action to enforce such agreement.

11 **14.09.110 Evaluation**

12 The Department shall ask the Office of the City Auditor to conduct an evaluation of the Fair
13 Chance Housing Ordinance to determine if the program should be maintained, amended, or
14 repealed. The evaluation should include an analysis of the impact on discrimination based on
15 race and the impact on the ability of persons with criminal records to obtain housing. The highest
16 quality evaluation will be performed based on available resources and data. The Office of the
17 City Auditor, at its discretion, may retain an independent, outside party to conduct the
18 evaluation. The evaluation shall be submitted to City Council by the end of 2019.

19 **14.09.110-115 Exclusions and other legal requirements**

20 A. This Chapter 14.09 shall not be interpreted or applied to diminish or conflict with
21 any requirements of state or federal law, including but not limited to Title VIII of the Civil
22 Rights Act of 1968, the Federal Fair Credit Reporting Act, 15 U.S.C. 1681 et seq., as amended;
23 the Washington State Fair Credit Reporting Act, chapter 19.182 RCW, as amended; and the

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1 Washington State Criminal Records Privacy Act, chapter 10.97 RCW, as amended. In the event
2 of any conflict, state and federal requirements shall supersede the requirements of this Chapter
3 14.09.

4 B. This Chapter 14.09 shall not apply to an adverse action taken by landlords of
5 federally assisted housing subject to federal regulations that require an adverse action denial of
6 tenancy, including but not limited to when any member of the household is subject to a lifetime
7 sex offender registration requirement under a state sex offender registration program and/or
8 convicted of manufacture or production of methamphetamine on the premises of federally
9 assisted housing.

10 C. This Chapter 14.09 shall not apply to the renting, subrenting, leasing, or
11 subleasing of a dwelling unit in which the owner or subleasing tenant or subrenting tenant,
12 occupy part of the dwelling unit and in which the owner or subleasing tenant or subrenting
13 tenant, shares a kitchen or bathroom with a prospective occupant, single-family dwelling; or a
14 residence housing one family or household or one that is designed for one family only or a unit
15 so designed; wherein the owner or person entitled to possession thereof maintains a permanent
16 residence, home, or abode.

17 D. ~~This Chapter 14.09 shall not apply to rooms or units in dwellings containing~~
18 ~~living quarters occupied or intended to be occupied by no more than four families living~~
19 ~~independently of each other, if the owner actually maintains and occupies one of such living~~
20 ~~quarters as their residence.~~

21 ~~ED.~~ This Chapter 14.09 shall not apply to the renting, subrenting, leasing, or
22 subleasing of an accessory dwelling unit or detached accessory dwelling unit wherein the owner

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1 or person entitled to possession thereof maintains a permanent residence, home, or abode on the
2 same lot.

3 FE. This Chapter 14.09 shall not be construed to discourage or prohibit landlords from
4 adopting screening policies that are more generous to prospective occupants and tenants than the
5 requirements of this Chapter 14.09.

6 GE. This Chapter 14.09 shall not be construed to create a private civil right of action.

7 **14.09.115-120 Severability**

8 The provisions of this Chapter 14.09 are declared to be separate and severable. If any
9 clause, sentence, paragraph, subdivision, section, subsection, or portion of this Chapter 14.09, or
10 the application thereof to any landlord, prospective occupant, tenant, person, or circumstance, is
11 held to be invalid, it shall not affect the validity of the remainder of this Chapter 14.09, or the
12 validity of its application to other persons or circumstances.

13 Section 3. Section 3.14.931 of the Seattle Municipal Code, last amended by Ordinance
14 125231, is amended as follows:

15 **3.14.931 Seattle Human Rights Commission—Duties**

16 The Seattle Human Rights Commission shall act in an advisory capacity to the Mayor, City
17 Council, Office for Civil Rights, and other City departments in respect to matters affecting
18 human rights, and in furtherance thereof shall have the following specific responsibilities:

19 A. To consult with and make recommendations to the Director of the Office for Civil
20 Rights and other City departments and officials with regard to the development of programs for
21 the promotion of equality, justice, and understanding among all citizens of the City;

22 B. To consult with and make recommendations to the Director of the Office for Civil
23 Rights with regard to problems arising in the City which may result in discrimination because of

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1 race, religion, creed, color, national origin, sex, marital status, parental status, sexual orientation,
2 gender identity, political ideology, age, ancestry, honorably discharged veteran or military status,
3 genetic information, the presence of any ((~~sensory, mental, or physical~~)) disability, alternative
4 source of income, ((~~the possession or use of~~)) participation in a Section 8 ((rent certificate)) or
5 other subsidy program, right of a mother to breastfeed her child, or the use of a ((~~trained guide~~
6 ~~or~~)) service ((~~dog~~)) animal by a ((~~handicapped~~)) disabled person, and to make such investigations
7 and hold such hearings as may be necessary to identify such problems;

8 C. As appropriate, recommend policies to all departments and offices of the City in
9 matters affecting civil rights and equal opportunity, and recommend legislation for the
10 implementation of such policies;

11 D. Encourage understanding between all protected classes and the larger Seattle
12 community, through long range projects;

13 E. Hear appeals and hearings as set forth in Chapters 14.04, 14.06, ((~~and~~)) 14.08, and
14 14.09 of the Seattle Municipal Code;

15 F. Report on a semi-annual basis to the Mayor and the City Council. The reports
16 shall include an annual or semi-annual work plan, a briefing of the Commission's public
17 involvement process for soliciting community and citizen input in framing their annual work
18 plans, and updates on the work plans; and

19 G. Meet on a quarterly basis through a designated representative with the Seattle
20 Women's Commission, the Seattle LGBTQ (Lesbian, Gay, Bisexual, Transgender, Queer)
21 Commission, and the Seattle Commission for People with Disabilities to ensure coordination and
22 joint project development.

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1 Section 4. Sections 1, 2, and 3 of this ordinance shall take effect and be in force 150 days
2 after the effective date of this ordinance, to ensure there is adequate time for rule-making and
3 any adjustments in business practices needed.

4 Section 5. This ordinance shall take effect and be in force 30 days after its approval by
5 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
6 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

7 Passed by the City Council the _____ day of _____, 2017,
8 and signed by me in open session in authentication of its passage this ____ day of
9 _____, 2017.

10 _____
11 President _____ of the City Council

12 Approved by me this _____ day of _____, 2017.

13 _____
14 Edward B. Murray, Mayor

15 Filed by me this _____ day of _____, 2017.

16 _____
17 Monica Martinez Simmons, City Clerk

18 (Seal)

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SUMMARY and FISCAL NOTE*

Department:	Dept. Contact/Phone:	Executive Contact/Phone:
Seattle Office for Civil Rights	Erika Pablo/684-4509	Leslie Price/386-9136

* Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.

1. BILL SUMMARY

- a. **Legislation Title:** relating to housing regulations; adding a new Chapter 14.09 (Fair Chance Housing) to the Seattle Municipal Code to regulate the use of criminal history in rental housing; authorizing the Seattle Office for Civil Rights to enforce the regulations set out in this new chapter, and amending Section 3.14.931 of the Seattle Municipal Code to expand the Seattle Human Rights Commission’s duties.
- b. **Summary and background of the Legislation:** This legislation is a part of the Mayor’s Action Plan under HALA, fulfilling the recommendation to address barriers faced by people with criminal history when accessing housing. The legislation prohibits blanket exclusions based on criminal records when advertising a rental unit; prohibits landlords from asking about or considering arrests that did not lead to a conviction, including pending criminal charges; convictions that have been expunged, vacated or sealed; juvenile records, including information about a juvenile obtained from a sex offender registry; and convictions that are older than two years. The legislation requires a business justification when a landlord takes an adverse action based on an applicant’s conviction record that is less than two years old or on an adult applicant’s status on a sex offender registry. The legislation also addresses requirements on the landlord to ensure the applicant is given notice of this law, and an opportunity to correct erroneous records. The legislation includes exemptions for certain types of housing and federal requirements.

2. CAPITAL IMPROVEMENT PROGRAM

- a. Does this legislation create, fund, or amend a CIP Project? Yes No

3. SUMMARY OF FINANCIAL IMPLICATIONS

- a. Does this legislation amend the Adopted Budget? Yes No

Budget program(s) affected:				
Appropriation change (\$):	General Fund \$		Other \$	
	2017	2018	2017	2018
		99,000		
Estimated Revenue change (\$):	Revenue to General Fund		Revenue to Other Funds	
	2017	2018	2017	2018

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Positions affected:	No. of Positions		Total FTE Change	
	2017	2018	2017	2018

- b. Does the legislation have other financial impacts to the City of Seattle that are not reflected in the above, including direct or indirect, short-term or long-term costs?**

There may be financial impacts associated with the Fair Housing Home Program. The Office for Civil Rights will work with the City Budget Office to determine whether additional resources are necessary to implement this program.

The Auditor's office is required to conduct an evaluation of the Fair Chance Housing legislation. The funding need anticipated for the evaluation is an additional \$99,000 in 2019.

- c. Is there financial cost or other impacts of *not* implementing the legislation?**

Yes. Not implementing this legislation means that individuals will continue to face barriers to housing. We know these barriers have resulted in homelessness for many in our community. Beyond the many other reasons for addressing this issue that are outlined in the Racial Equity Toolkit, there is a financial cost to not ensuring people who face these barriers can secure stable and safe housing.

4. OTHER IMPLICATIONS

- a. Does this legislation affect any departments besides the originating department?**
 This legislation will be enforced by the Seattle Office for Civil Rights.

- b. Is a public hearing required for this legislation?**
 No.

- c. Does this legislation require landlords or sellers of real property to provide information regarding the property to a buyer or tenant?**
 Yes, the legislation includes a provision requiring the landlord to notify the tenant in writing on the application of the new law. Once the legislation is passed, SOCR will place a summary of the ordinance with a link to the chapter in the Seattle Municipal Code on our website. We will send this information to Municipal Research Services to have it included in ordinances applying within Seattle city limits.

- d. Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?**
 No.

- e. Does this legislation affect a piece of property?**
 No.

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f. Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities?

Please see completed Racial Equity Toolkit attached.

g. If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program's desired goal(s).

N/A.

h. Other Issues:

List attachments/exhibits below:

Attachment 1: Racial Equity Toolkit – Fair Chance Housing



SEATTLE CITY COUNCIL

Legislative Summary

CB 119015

Record No.: CB 119015

Type: Ordinance (Ord)

Status: Passed

Version: 3

Ord. no: Ord 125393

In Control: City Clerk

File Created: 06/19/2017

Final Action: 08/23/2017

Title: AN ORDINANCE relating to housing regulations; adding a new Chapter 14.09 (Fair Chance Housing) to the Seattle Municipal Code to regulate the use of criminal history in rental housing; authorizing the Seattle Office for Civil Rights to enforce the regulations set out in this new chapter; and amending Section 3.14.931 of the Seattle Municipal Code to expand the Seattle Human Rights Commission's duties.

Date

Notes:

Filed with City Clerk:

Mayor's Signature:

Sponsors: Herbold, Harrell

Vetoed by Mayor:

Veto Overridden:

Veto Sustained:

Attachments:

Drafter: adam.schaefer@seattle.gov

Filing Requirements/Dept Action:

History of Legislative File

Legal Notice Published:

Yes

No

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Mayor	06/20/2017	Mayor's leg transmitted to Council	City Clerk			
1	City Clerk	06/20/2017	sent for review	Council President's Office			
1	Council President's Office	06/22/2017	sent for review	Civil Rights, Utilities, Economic Development, and Arts Committee			

Action Text: The Council Bill (CB) was sent for review, to the Civil Rights, Utilities, Economic Development, and Arts Committee

Notes:

Legislative Summary Continued (CB 119015)

- 1 Full Council 06/26/2017 referred Civil Rights, Utilities, Economic Development, and Arts Committee
- Action Text:** The Council Bill (CB) was referred to the Civil Rights, Utilities, Economic Development, and Arts Committee
- Notes:**
- 1 Civil Rights, Utilities, Economic Development, and Arts Committee 07/13/2017
- 1 Civil Rights, Utilities, Economic Development, and Arts Committee 07/25/2017 discussed
- Action Text:** The Council Bill (CB) was discussed.
- Notes:** At 10:30 a.m., Councilmember Lorena Gonzalez and Councilmember Sally Bagshaw entered Council Chambers. At 11:20 a.m., Councilmember Lorena Gonzalez and Councilmember Sally Bagshaw exited Council Chambers.
- 1 Civil Rights, Utilities, Economic Development, and Arts Committee 08/08/2017 pass as amended Pass
- Action Text:** The Committee recommends that Full Council pass as amended the Council Bill (CB).
- Notes:** Councilmember Bagshaw entered Council Chambers at 9:50 a.m. Councilmember Juarez entered Council Chambers at 9:55 a.m.
- Councilmember González, Councilmember Bagshaw and Councilmember Juarez exited Council Chambers at 10:30 a.m.
- In Favor: 6 Chair Herbold, Vice Chair Sawant, Member O'Brien, Bagshaw, González, Juarez
- Opposed: 0
- 1 Full Council 08/14/2017 passed as amended Pass
- Action Text:** The Motion carried, the Council Bill (CB) was passed as amended by the following vote, and the President signed the Bill:
- Notes:** ACTION 1:
- Motion was made by Councilmember Herbold, duly seconded and carried, to amend Council Bill 119015, by substituting version 5 for version 4.
- ACTION 2:
- Motion was made and duly seconded to pass Council Bill 119015 as amended.
- In Favor: 8 Councilmember Bagshaw, Councilmember Burgess, Councilmember González, Council President Harrell, Councilmember Herbold, Councilmember Johnson, Councilmember Juarez, Councilmember O'Brien
- Opposed: 0
- 3 City Clerk 08/16/2017 submitted for Mayor's signature Mayor
- Action Text:** The Council Bill (CB) was submitted for Mayor's signature. to the Mayor
- Notes:**

Legislative Summary Continued (CB 119015)

- 3 Mayor 08/23/2017 Signed
Action Text: The Council Bill (CB) was Signed.
Notes:

 - 3 Mayor 08/23/2017 returned City Clerk
Action Text: The Council Bill (CB) was returned. to the City Clerk
Notes:

 - 3 City Clerk 08/23/2017 attested by City Clerk
Action Text: The Ordinance (Ord) was attested by City Clerk.
Notes:
-

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CITY OF SEATTLE

ORDINANCE 125393

COUNCIL BILL 119015

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AN ORDINANCE relating to housing regulations; adding a new Chapter 14.09 (Fair Chance Housing) to the Seattle Municipal Code to regulate the use of criminal history in rental housing; authorizing the Seattle Office for Civil Rights to enforce the regulations set out in this new chapter; and amending Section 3.14.931 of the Seattle Municipal Code to expand the Seattle Human Rights Commission’s duties.

WHEREAS, the U.S. Department of Justice has estimated one in every three adults in the United States has either an arrest or conviction record¹; and

WHEREAS, the Center for American Progress reports that nearly half of all children in the U.S. have one parent with a criminal record²; and

WHEREAS, over the past two decades, there has been a rise in the use of criminal background checks to screen prospective tenants for housing; and

WHEREAS, a study by the Vera Institute of Justice has shown that people with stable housing are more likely to successfully reintegrate into society and are less likely to reoffend;³ and

WHEREAS, individuals and parents who have served their time must be able to secure housing if they are to re-enter into society to successfully rebuild their lives and care for their families; and

¹ Bureau of Justice Statistics, U.S. Department of Justice, “Survey of State Criminal History Information Systems,” 2012, available at <https://www.ncjrs.gov/pdffiles1/bjs/grants/249799.pdf>
² Vallas, Boteacg, West, Odum. “Removing Barriers to Opportunity for Parents with Criminal Records and Their Children: A Two Generation Approach,” Center for American Progress, December 2015.
³ Vera Institute of Justice, “Piloting a Tool for Reentry: A Promising Approach to Engaging Family Members,” 2011, available at <http://archive.vera.org/sites/default/files/resources/downloads/Piloting-a-Tool-for-Reentry-Updated.pdf>

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1 WHEREAS, African Americans are 3.4 percent of Washington's population but account for
2 nearly 18.4 percent of Washington's prison population;⁴ Latinos are 11.2 percent of
3 Washington's population but account for 13.2 percent of Washington's prison
4 population;⁵ and Native Americans are 1.3 percent of the state population but account for
5 4.7 percent of Washington's prison population;⁶ and

6 WHEREAS, racial inequities in the criminal justice system are compounded by racial bias in the
7 rental applicant selection process, as demonstrated by fair housing testing conducted by
8 the Seattle Office for Civil Rights in 2013 that found evidence of different treatment
9 based on race in 64 percent of tests, including some cases where African American
10 applicants were told more often than their white counterparts that they would have to
11 undergo a criminal background check as part of the screening process; and

12 WHEREAS, there is no sociological research establishing a relationship between a criminal
13 record and an unsuccessful tenancy;⁷ and

14 WHEREAS, an Urban Institute study stated, "men who found [stable] housing within the first
15 month after release were less likely to return to prison during the first year out";⁸ and

16 WHEREAS, a study performed in Cleveland found that "obtaining stable housing within the first
17 month after release inhibited re-incarceration";⁹ and

⁴ <http://www.ofm.wa.gov/pop/census2010/default.asp#demo>; <http://www.doc.wa.gov/docs/publications/reports/100-QA001.pdf>

⁵ <http://www.ofm.wa.gov/pop/census2010/default.asp#demo>; <http://www.doc.wa.gov/docs/publications/reports/100-QA001.pdf>

⁶ <http://www.ofm.wa.gov/pop/census2010/default.asp#demo>; <http://www.doc.wa.gov/docs/publications/reports/100-QA001.pdf>

⁷ Ehman and Reosti, "Tenant Screening in an Era of Mass Incarceration: A Criminal Record is No Crystal Ball", *N.Y.U. Journal of Legislation and Public Policy Quorum*, March 2015.

⁸ *The Importance of Stable Housing for Formerly Incarcerated Individuals*, Housing Law Bulletin, Volume 40, http://nhlp.org/files/importance%20of%20Stable%20Housing%20for%20Formerly%20Incarcerated_0.pdf

⁹ *Id.*

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1 WHEREAS, studies show that, after four to seven years where no re-offense has occurred, a
2 person with a prior conviction is no more likely to commit a crime than someone who has
3 never had a conviction;¹⁰ and

4 WHEREAS, research shows higher recidivism occurs within the first two years of release and is
5 mitigated when individuals have access to safe and affordable housing and
6 employment;¹¹ and

7 WHEREAS, a 2015 study reported that juveniles on the sex offender registry had considerable
8 difficulty in accessing stable housing because of their registration status, which
9 contributed to negative mental health outcomes;¹² and

10 WHEREAS, more than 90 percent of arrests of juveniles for sex offenses represent a one-time
11 event that does not recur,¹³ and studies have repeatedly shown low recidivism rates
12 ranging from three percent to four percent;¹⁴ and

13 WHEREAS, documents and research relating to the information cited in the recitals is located in
14 Clerk File 320351; and

15 WHEREAS, The City of Seattle has developed a Race and Social Justice Initiative (RSJI) to
16 eliminate institutional racism and create a community where equity in opportunity exists
17 for everyone; and

¹⁰ Kurlychek, et al. "Scarlet Letters & Recidivism: Does an Old Criminal Record Predict Future Criminal Behavior?" (2006), http://www.albany.edu/bushway_research/publications/Kurlychek_et_al_2006.pdf and "'Redemption' in an Era of Widespread Criminal Background Checks," *NIJ Journal*, Issue 263 (June 2009), at page 10 - preliminary study with group of first-time 1980 arrestees in New York - the findings depend on the nature of the 2009), at page 10 - preliminary study with group of first-time 1980 arrestees in New York- the findings depend on the nature of the prior offense and the age of the individual.

¹¹ Ehman and Reosti, "Tenant Screening in an Era of Mass Incarceration: A Criminal Record is No Crystal Ball", *N.Y.U. Journal of Legislation and Public Policy Quorum*, March 2015.

¹² Harris, Andrew J. et al. (2015). "Collateral Consequences of Juvenile Sex Offender Registration and Notification," <http://journals.sagepub.com/doi/abs/10.1177/1079063215574004>

¹³ Zimring, F.E. (2004). *An American travesty: Legal responses to adolescent sexual offending*, p. 66. University of Chicago.

¹⁴ *Ibid*, Appendix C.

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1 WHEREAS, the City’s Office for Civil Rights (OCR) works to advance civil rights and end
2 barriers to equity; and

3 WHEREAS, in 2010, residents of Sojourner Place Transitional Housing, Village of Hope, and
4 other community groups called on the City to address barriers to housing faced by people
5 with prior records; and

6 WHEREAS, in response, OCR and the Seattle Human Rights Commission held two public
7 forums in 2010 and 2011, bringing together over 300 people including community
8 members with arrest and conviction records, landlords, and employers to share their
9 concerns; and

10 WHEREAS, in 2013, the City Council passed the Seattle Jobs Assistance Ordinance, now titled
11 the Fair Chance Employment Ordinance, to address barriers in employment; and

12 WHEREAS, since 2013, the Office of Housing has worked with nonprofit housing providers to
13 share best practices in tenant screening to address racial inequities; and

14 WHEREAS, in September 2014 the Council adopted Resolution 31546, in which the Mayor and
15 Council jointly convened the Seattle Housing Affordability and Livability Agenda
16 (HALA) Advisory Committee to evaluate potential strategies to make Seattle more
17 affordable, equitable, and inclusive; and in particular, to promote the development and
18 preservation of affordable housing for residents of the City; and

19 WHEREAS, in July 2015, HALA published its Final Advisory Committee Recommendations
20 and the Mayor published *Housing Seattle: A Roadmap to an Affordable and Livable City*,
21 which outlines a multi-pronged approach of bold and innovative solutions to address
22 Seattle’s housing affordability crisis; and

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1 WHEREAS, in October 2015, the Mayor proposed and Council adopted Resolution 31622,
 2 declaring the City’s intent to expeditiously consider strategies recommended by the
 3 Housing Affordability Livability Agenda (HALA) Advisory Committee; and
 4 WHEREAS, the Mayor’s Housing and Affordability and Livability Agenda recommended that
 5 the City address barriers to housing faced by people with criminal records, and the Mayor
 6 responded by creating a Fair Chance Housing Committee; and
 7 WHEREAS, the Fair Chance Housing Committee provided input to OCR on a legislative
 8 proposal to address these barriers; and
 9 WHEREAS, in 2016, the Department of Housing and Urban Development (HUD) issued
 10 guidance on the application of the Fair Housing Act to the use of arrest and conviction
 11 records in rental housing, stating that a housing provider may be in violation of fair
 12 housing laws if their policy or practice does not serve a substantial, legitimate,
 13 nondiscriminatory interest, due to the potential for criminal record screening to have a
 14 disparate impact on African American and other communities of color; and
 15 WHEREAS, except for landlords operating federally assisted housing programs, conducting a
 16 criminal background check to screen tenants is a discretionary choice for landlords that
 17 they have no legal duty under City or state law to fulfill; and
 18 WHEREAS, in 2016, the Seattle City Council passed Resolution 31669, affirming HUD’s
 19 guidance and the work of the Mayor’s Fair Chance Housing Committee; NOW,
 20 THEREFORE,

21 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

22 Section 1. The Council expresses the following concerning implementation of Seattle
 23 Municipal Code Chapter 14.09:

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1 A. The implementation of Seattle Municipal Code Chapter 14.09 will consist of:

2 1. Seattle Office for Civil Rights will conduct regular fair housing testing to
3 ensure compliance, decrease racial bias, and evaluate the impacts of Chapter 14.09; and

4 2. Seattle Office for Civil Rights will launch a Fair Housing Home Program
5 for landlords. The program’s goal will be to reduce racial bias and biases against other protected
6 classes in tenant selection. Completion of the training program will result in a certification of a
7 Fair Housing Home program. For pre-finding settlement and conciliation agreements under
8 Chapter 14.09, landlords will be required to participate in the Fair Housing Home program; and

9 3. The City of Seattle will work at the state level to reduce the impact of
10 criminal convictions; and

11 4. The City of Seattle will explore additional mechanisms to reduce the
12 greatest barriers to housing for individuals with criminal conviction records through the Re-Entry
13 Taskforce, convened by the Seattle Office for Civil Rights.

14 Section 2. A new Chapter 14.09 is added to the Seattle Municipal Code as follows:

15 **Chapter 14.09 USE OF CRIMINAL RECORDS IN HOUSING**

16 **14.09.005 Short title**

17 This Chapter 14.09 shall constitute the “Fair Chance Housing Ordinance” and may be cited
18 as such.

19 **14.09.010 Definitions**

20 “Accessory dwelling unit” has the meaning defined in Section 23.84A.032’s definition of
21 “Residential use.”

22 “Adverse action” means:

23 A. Refusing to engage in or negotiate a rental real estate transaction;

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- 1 B. Denying tenancy;
- 2 C. Representing that such real property is not available for inspection, rental, or lease
- 3 when in fact it is so available;
- 4 D. Failing or refusing to add a household member to an existing lease;
- 5 E. Expelling or evicting an occupant from real property or otherwise making
- 6 unavailable or denying a dwelling;
- 7 F. Applying different terms, conditions, or privileges to a rental real estate
- 8 transaction, including but not limited to the setting of rates for rental or lease, establishment of
- 9 damage deposits, or other financial conditions for rental or lease, or in the furnishing of facilities
- 10 or services in connection with such transaction;
- 11 G. Refusing or intentionally failing to list real property for rent or lease;
- 12 H. Refusing or intentionally failing to show real property listed for rent or lease;
- 13 I. Refusing or intentionally failing to accept and/or transmit any reasonable offer to
- 14 lease, or rent real property;
- 15 J. Terminating a lease; or
- 16 K. Threatening, penalizing, retaliating, or otherwise discriminating against any
- 17 person for any reason prohibited by Section 14.09.025.

18 “Aggrieved party” means a prospective occupant, tenant, or other person who suffers
19 tangible or intangible harm due to a person’s violation of this Chapter 14.09.

20 “Arrest record” means information indicating that a person has been apprehended,
21 detained, taken into custody, held for investigation, or restrained by a law enforcement
22 department or military authority due to an accusation or suspicion that the person committed a .

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1 crime. Arrest records include pending criminal charges, where the accusation has not yet resulted
2 in a final judgment, acquittal, conviction, plea, dismissal, or withdrawal.

3 "Charging party" means any person who files a charge alleging a violation under this
4 Chapter 14.09, including the Director.

5 "City" means The City of Seattle.

6 "Commission" means the Seattle Human Rights Commission.

7 "Consumer report" has the meaning defined in RCW 19.182.010 and means a written,
8 oral, or other communication of information by a consumer reporting agency bearing on a
9 consumer's creditworthiness, credit standing, credit capacity, character, general reputation,
10 personal characteristics, or mode of living that is used or expected to be used or collected in
11 whole or in part for purposes authorized under RCW 19.182.020.

12 "Conviction record" means information regarding a final adjudication or other criminal
13 disposition adverse to the subject. It includes but is not limited to dispositions for which the
14 defendant received a deferred or suspended sentence, unless the adverse disposition has been
15 vacated or expunged.

16 "Criminal background check" means requesting or attempting to obtain, directly or
17 through an agent, an individual's conviction record or criminal history record information from
18 the Washington State Patrol or any other source that compiles, maintains, or reflects such records
19 or information.

20 "Criminal history" means records or other information received from a criminal
21 background check or contained in records collected by criminal justice agencies, including
22 courts, consisting of identifiable descriptions and notations of arrests, arrest records, detentions,
23 indictments, informations, or other formal criminal charges, any disposition arising therefrom,

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1 including conviction records, waiving trial rights, deferred sentences, stipulated order of
2 continuance, dispositional continuance, or any other initial resolution which may or may not later
3 result in dismissal or reduction of charges depending on subsequent events. The term includes
4 acquittals by reason of insanity, dismissals based on lack of competency, sentences, correctional
5 supervision, and release, any issued certificates of restoration of opportunities and any
6 information contained in records maintained by or obtained from criminal justice agencies,
7 including courts, which provide individual's record of involvement in the criminal justice system
8 as an alleged or convicted individual. The term does not include status registry information.

9 "Department" means the Seattle Office for Civil Rights and any division therein.

10 "Detached accessory dwelling unit" has the meaning defined in Section 23.84A.032's
11 definition of "Residential use."

12 "Director" means the Director of the Seattle Office for Civil Rights or the Director's
13 designee.

14 "Dwelling unit" has the meaning as defined in Section 22.204.050.D.

15 "Fair chance housing" means practices to reduce barriers to housing for persons with
16 criminal records.

17 "Juvenile" means a person under 18 years old.

18 A "legitimate business reason" shall exist when the policy or practice is necessary to
19 achieve a substantial, legitimate, nondiscriminatory interest. To determine such an interest, a
20 landlord must demonstrate, through reliable evidence, a nexus between the policy or practice and
21 resident safety and/or protecting property, in light of the following factors:

- 22 A. The nature and severity of the conviction;
- 23 B. The number and types of convictions;

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- 1 C. The time that has elapsed since the date of conviction;
- 2 D. Age of the individual at the time of conviction;
- 3 E. Evidence of good tenant history before and/or after the conviction occurred; and
- 4 F. Any supplemental information related to the individual’s rehabilitation, good
- 5 conduct, and additional facts or explanations provided by the individual, if the individual
- 6 chooses to do so. For the purposes of this definition, review of conviction information is limited
- 7 to those convictions included in registry information.

8 “Person” means one or more individuals, partnerships, organizations, trade or
9 professional associations, corporations, legal representatives, trustees, trustees in bankruptcy, or
10 receivers. It includes any owner, lessee, proprietor, manager, agent, or employee, whether one or
11 more natural persons, and any political or civil subdivision or agency or instrumentality of the
12 City.

13 “Prospective occupant” means any person who seeks to lease, sublease, or rent real
14 property.

15 “Registry information” means information solely obtained from a county, statewide, or
16 national sex offender registry, including but not limited to, the registrant’s physical description,
17 address, and conviction description and dates.

18 “Respondent” means any person who is alleged or found to have committed a violation of
19 this Chapter 14.09.

20 “Single family dwelling” has the meaning as defined in Section 22.204.200.A.

21 “Supplemental information” means any information produced by the prospective
22 occupant or the tenant, or produced on their behalf, with respect to their rehabilitation or good
23 conduct, including but not limited to:

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- 1 A. Written or oral statement from the prospective occupant or the tenant;
- 2 B. Written or oral statement from a current or previous employer;
- 3 C. Written or oral statement from a current or previous landlord;
- 4 D. Written or oral statement from a member of the judiciary or law enforcement,
- 5 parole or probation officer, or person who provides similar services;
- 6 E. Written or oral statement from a member of the clergy, counselor, therapist, social
- 7 worker, community or volunteer organization, or person or institution who provides similar
- 8 services;
- 9 F. Certificate of rehabilitation;
- 10 G. Certificate of completion or enrollment in an educational or vocational training
- 11 program, including apprenticeship programs; or
- 12 H. Certificate of completion or enrollment in a drug or alcohol treatment program; or
- 13 certificate of completion or enrollment in a rehabilitation program.

14 “Tenant” means a person occupying or holding possession of a building or premises
15 pursuant to a rental agreement.

16 **14.09.015 Applicability**

17 A person is covered by this Chapter 14.09 when the physical location of the housing is within the
18 geographic boundaries of the City.

19 **14.09.020 Notice to prospective occupants and tenants**

20 The written notice shall include that the landlord is prohibited from requiring disclosure, asking
21 about, rejecting an applicant, or taking an adverse action based on any arrest record, conviction
22 record, or criminal history, except for information pursuant to subsection 14.09.025.A.3 and
23 subject to the exclusions and legal requirements in section 14.09.110. If a landlord screens

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1 prospective occupants pursuant to section 14.09.025.A.3, the landlord shall provide written
2 notice of screening criteria on all applications for rental properties. Pursuant to section
3 14.09.025.A.3, applicants may provide any supplemental information related to an individual's
4 rehabilitation, good conduct, and facts or explanations regarding their registry information. The
5 Department shall adopt a rule or rules to enforce this Section 14.09.020.

6 **14.09.025 Prohibited use of criminal history**

7 A. It is an unfair practice for any person to:

8 1. Advertise, publicize, or implement any policy or practice that
9 automatically or categorically excludes all individuals with any arrest record, conviction record,
10 or criminal history from any rental housing that is located within the City.

11 2. Require disclosure, inquire about, or take an adverse action against a
12 prospective occupant, a tenant or a member of their household, based on any arrest record,
13 conviction record, or criminal history, except for information pursuant to subsection
14 14.09.025.A.3 and subject to the exclusions and legal requirements in section 14.09.110.

15 3. Carry out an adverse action based on registry information of a prospective
16 adult occupant, an adult tenant, or an adult member of their household, unless the landlord has a
17 legitimate business reason for taking such action.

18 4. Carry out an adverse action based on registry information regarding any
19 prospective juvenile occupant, a juvenile tenant, or juvenile member of their household.

20 5. Carry out an adverse action based on registry information regarding a
21 prospective adult occupant, an adult tenant, or an adult member of their household if the
22 conviction occurred when the individual was a juvenile.

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1 B. If a landlord takes an adverse action based on a legitimate business reason, the
2 landlord shall provide written notice by email, mail, or in person of the adverse action to the
3 prospective occupant or the tenant and state the specific registry information that was the basis
4 for the adverse action.

5 C. If a consumer report is used by a landlord as part of the screening process, the
6 landlord must provide the name and address of the consumer reporting agency and the
7 prospective occupant’s or tenant’s rights to obtain a free copy of the consumer report in the event
8 of a denial or other adverse action, and to dispute the accuracy of information appearing in the
9 consumer report.

10 **14.09.030 Retaliation prohibited**

11 A. No person shall interfere with, restrain, or deny the exercise of, or the attempt to
12 exercise, any right protected under this Chapter 14.09.

13 B. No person shall take any adverse action against any person because the person has
14 exercised in good faith the rights protected under this Chapter 14.09. Such rights include but are
15 not limited to the right to fair chance housing and regulation of the use of criminal history in
16 housing by this Chapter 14.09; the right to make inquiries about the rights protected under this
17 Chapter 14.09; the right to inform others about their rights under this Chapter 14.09; the right to
18 inform the person’s legal counsel or any other person about an alleged violation of this Chapter
19 14.09; the right to file an oral or written complaint with the Department for an alleged violation
20 of this Chapter 14.09; the right to cooperate with the Department in its investigations of this
21 Chapter 14.09; the right to testify in a proceeding under or related to this Chapter 14.09; the right
22 to refuse to participate in an activity that would result in a violation of City, state, or federal law;
23 and the right to oppose any policy, practice, or act that is unlawful under this Chapter 14.09.

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1 C. No person shall communicate to a person exercising rights protected in this
2 Section 14.09.030, directly or indirectly, the willingness to inform a government employee that
3 the person is not lawfully in the United States, or to report, or to make an implied or express
4 assertion of a willingness to report, suspected citizenship or immigration status of a prospective
5 occupant, a tenant or a member of their household to a federal, state, or local agency because the
6 prospective occupant or tenant has exercised a right under this Chapter 14.09.

7 D. It shall be a rebuttable presumption of retaliation if a landlord or any other person
8 takes an adverse action against a person within 90 days of the person's exercise of rights
9 protected in this Section 14.09.030. The landlord may rebut the presumption with clear and
10 convincing evidence that the adverse action was taken for a permissible purpose.

11 E. Proof of retaliation under this Section 14.09.030 shall be sufficient upon a
12 showing that a landlord or any other person has taken an adverse action against a person and the
13 person's exercise of rights protected in this Section 14.09.030 was a motivating factor in the
14 adverse action, unless the landlord can prove that the action would have been taken in the
15 absence of such protected activity.

16 F. The protections afforded under this Section 14.09.030 shall apply to any person
17 who mistakenly but in good faith alleges violations of this Chapter 14.09.

18 G. A complaint or other communication by any person triggers the protections of this
19 Section 14.09.030 regardless of whether the complaint or communication is in writing or makes
20 explicit reference to this Chapter 14.09.

21 **14.09.035 Enforcement power and duties**

22 A. The Department shall have the power to investigate violations of this Chapter
23 14.09, as defined herein, and shall have such powers and duties in the performance of these

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1 functions as are defined in this Chapter 14.09 and otherwise necessary and proper in the
2 performance of the same and provided for by law.

3 B. The Department shall be authorized to coordinate implementation and
4 enforcement of this Chapter 14.09 and shall promulgate appropriate guidelines or rules for such
5 purposes.

6 C. The Director is authorized and directed to promulgate appropriate guidelines and
7 rules consistent with this Chapter 14.09 and the Administrative Code. Any guidelines or rules
8 promulgated by the Director shall have the force and effect of law and may be relied on by
9 landlords, prospective occupants, tenants, and other parties to determine their rights and
10 responsibilities under this Chapter 14.09.

11 D. The Director shall maintain data on the number of complaints filed pursuant to
12 this Chapter 14.09, demographic information on the complainants, the number of investigations
13 it conducts and the disposition of every complaint and investigation. The Director shall submit
14 this data to the Mayor and City Council every six months for the two years following the
15 effective date of the ordinance introduced as Council Bill 119015.

16 **14.09.040 Violation**

17 The failure of any person to comply with any requirement imposed on the person under this
18 Chapter 14.09 is a violation.

19 **14.09.045 Charge—Filing**

20 A. An aggrieved person may file a charge with the Director alleging a violation. The
21 charge shall be in writing and signed under oath or affirmation before the Director, one of the
22 Department's employees, or any other person authorized to administer oaths. The charge shall
23 describe the alleged violation and should include a statement of the dates, places, and

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1 circumstances, and the persons responsible for such acts and practices. Upon the filing of a
2 charge alleging a violation, the Director shall cause to be served upon the charging party a
3 written notice acknowledging the filing, and notifying the charging party of the time limits and
4 choice of forums provided in this Chapter 14.09.

5 B. A charge shall not be rejected as insufficient because of failure to include all
6 required information if the Department determines that the charge substantially satisfies the
7 informational requirements necessary for processing.

8 C. A charge alleging a violation or pattern of violations under this Chapter 14.09
9 may also be filed by the Director whenever the Director has reason to believe that any person has
10 been engaged or is engaging in a violation under this Chapter 14.09.

11 **14.09.050 Time for filing charges**

12 Charges filed under this Chapter 14.09 must be filed with the Department within one year after
13 the alleged violation has occurred or terminated.

14 **14.09.055 Charge—Amendments**

15 A. The charging party or the Department may amend a charge:

- 16 1. To cure technical defects or omissions;
- 17 2. To clarify allegations made in the charge;
- 18 3. To add allegations related to or arising out of the subject matter set forth
19 or attempted to be set forth in the charge;

20 4. To add as a charging party a person who is, during the course of the
21 investigation, identified as an aggrieved person; or

22 5. To add or substitute as a respondent a person who was not originally
23 named as a respondent, but who is, during the course of the investigation, identified as a

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1 respondent. For jurisdictional purposes, such amendments shall relate back to the date the
2 original charge was first filed.

3 B. The charging party may amend a charge to include allegations of retaliation which
4 arose after the filing of the original charge. Such amendment must be filed within one year after
5 the occurrence of the retaliation, and prior to the Department's issuance of findings of fact and
6 determination with respect to the original charge. Such amendments may be made at any time
7 during the investigation of the original charge so long as the Department will have adequate time
8 to investigate the additional allegations and the parties will have adequate time to present the
9 Department with evidence concerning the additional allegations before the issuance of findings
10 of fact and a determination.

11 C. When a charge is amended to add or substitute a respondent, the Director shall
12 serve upon the new respondent within 20 days:

- 13 1. The amended charge;
- 14 2. The notice required under subsection 14.09.060.A; and
- 15 3. A statement of the basis for the Director's belief that the new respondent
16 is properly named as a respondent. For jurisdictional purposes, amendment of a charge to add or
17 substitute a respondent shall relate back to the date the original charge was first filed.

18 **14.09.060 Notice of charge and investigation**

19 A. The Director shall promptly, and in any event within 20 days of filing of the
20 charge, cause to be served on or mailed, by certified mail, return receipt requested; to the
21 respondent, a copy of the charge along with a notice advising the respondent of respondent's
22 procedural rights and obligations under this Chapter 14.09. The Director shall promptly make an
23 investigation of the charge.

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1 B. The investigation shall be directed to ascertain the facts concerning the violation
2 alleged in the charge, and shall be conducted in an objective and impartial manner.

3 C. During the period beginning with the filing of the charge and ending with the
4 issuance of the findings of fact, the Department shall, to the extent feasible, engage in settlement
5 discussions with respect to the charge. A pre-finding settlement agreement arising out of the
6 settlement discussions shall be an agreement between the charging party and the respondent and
7 shall be subject to approval by the Director. Each pre-finding settlement agreement is a public
8 record. Failure to comply with the pre-finding settlement agreement may be enforced under
9 Section 14.09.100.

10 D. During the investigation, the Director shall consider any statement of position or
11 evidence with respect to the allegations of the charge which the charging party or the respondent
12 wishes to submit, including the respondent's answer to the charge. The Director shall have
13 authority to sign and issue subpoenas requiring the attendance and testimony of witnesses, the
14 production of evidence including but not limited to books, records, correspondence, or
15 documents in the possession or under the control of the person subpoenaed, and access to
16 evidence for the purpose of examination and copying, and conduct discovery procedures which
17 may include the taking of interrogatories and oral depositions.

18 E. The Director may require a fact-finding conference or participation in another
19 process with the respondent and any of respondent's agents and witnesses and the charging party
20 during the investigation in order to define the issues, determine which elements are undisputed,
21 resolve those issues which can be resolved, and afford an opportunity to discuss or negotiate
22 settlement. Parties may have their legal counsel present if desired.

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1 **14.09.065 Procedure for investigations**

2 A. A respondent may file with the Department an answer to the charge no later than
3 ten days after receiving notice of the charge.

4 B. The Director shall commence investigation of the charge within 30 days after the
5 filing of the charge. The investigation shall be completed within 100 days after the filing of the
6 charge, unless it is impracticable to do so. If the Director is unable to complete the investigation
7 within 100 days after the filing of the charge, the Director shall notify the charging party and the
8 respondent of the reasons therefor. The Director shall make final administrative disposition of a
9 charge within one year of the date of filing of the charge, unless it is impracticable to do so. If
10 the Director is unable to make a final administrative disposition within one year of the filing of
11 the charge, the Director shall notify the charging party and the respondent of the reasons
12 therefor.

13 C. If the Director determines that it is necessary to carry out the purposes of this
14 Chapter 14.09, the Director may, in writing, request the City Attorney to seek prompt judicial
15 action for temporary or preliminary relief to enjoin any violation pending final disposition of a
16 charge.

17 **14.09.070 Findings of fact and determination of reasonable cause or no reasonable cause**

18 A. The results of the investigation shall be reduced to written findings of fact and a
19 determination shall be made by the Director that there is or is not reasonable cause for believing
20 that a violation has been, is being or is about to be committed, which determination shall also be
21 in writing and issued with the written findings of fact. The findings and determination are
22 "issued" when signed by the Director and mailed to the parties.

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1 B. Once issued to the parties, the Director's findings of fact, determination, and
2 order may not be amended or withdrawn except upon the agreement of the parties or in response
3 to an order by the Commission after an appeal taken pursuant to Section 14.09.075; provided,
4 that the Director may correct clerical mistakes or errors arising from oversight or omission upon
5 a motion from a party or upon the Director's own motion.

6 **14.09.075 Determination of no reasonable cause—Appeal from and dismissal**

7 If a determination is made that there is no reasonable cause for believing a violation under this
8 Chapter 14.09 has been, is being, or is about to be committed, the charging party may appeal
9 such determination to the Commission within 30 days of the date the determination is signed by
10 the Director by filing a written statement of appeal with the Commission. The Commission shall
11 promptly deliver a copy of the statement to the Department and respondent and shall promptly
12 consider and act upon such appeal by either affirming the Director's determination or, if the
13 Commission believes the Director should investigate further, remanding it to the Director with a
14 request for specific further investigation. In the event no appeal is taken, or such appeal results in
15 affirmance, or if the Commission has not decided the appeal within 90 days from the date the
16 appeal statement is filed, the determination of the Director shall be final and the charge deemed
17 dismissed and the same shall be entered on the records of the Department.

18 **14.09.080 Determination of reasonable cause—Conciliation**

19 A. If the Director determines that reasonable cause exists to believe that a violation
20 has occurred, is occurring, or is about to occur, the Director shall endeavor to eliminate the
21 violation through efforts to reach conciliation. Conditions of conciliation may include, but are
22 not limited to, the elimination of the violation, rent refunds or credits, reinstatement to tenancy,
23 affirmative recruiting or advertising measures, payment of actual damages, and reasonable

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1 attorney's fees and costs, or such other remedies that will carry out the purposes of this Chapter
2 14.09. The Director may also require payment of a civil penalty as set forth in Section 14.09.100.

3 B. Any post-finding conciliation agreement shall be an agreement between the
4 charging party and the respondent and shall be subject to the approval of the Director. The
5 Director shall enter an order setting forth the terms of the agreement, which may include a
6 requirement that the parties report to the Director on the matter of compliance. Copies of such
7 order shall be delivered to all affected parties and shall be subject to public disclosure.

8 C. If conciliation fails and no agreement can be reached, the Director shall issue a
9 written finding to that effect and furnish a copy of the finding to the charging party and to the
10 respondent. Upon issuance of the finding, except a case in which a City department is a
11 respondent, the Director shall promptly cause to be delivered the entire investigatory file,
12 including the charge and any and all findings made, to the City Attorney for further proceedings
13 and hearing under this Chapter 14.09, pursuant to Section 14.09.085.

14 **14.09.085 Complaint and hearing**

15 A. Following submission of the investigatory file from the Director, the City
16 Attorney shall, except as set forth in subsection 14.09.085.B, prepare a complaint against such
17 respondent relating to the charge and facts discovered during the Department's investigation.
18 The City Attorney shall file the complaint with the Hearing Examiner in the name of the
19 Department and represent the interests of the Department at all subsequent proceedings.

20 B. If the City Attorney determines that there is no legal basis for a complaint to be
21 filed or proceedings to continue, a statement of the reasons therefor shall be filed with the
22 Department. The Director shall then dismiss the charge. Any party aggrieved by the dismissal
23 may appeal to the Commission.

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1 C. The City Attorney shall serve a copy of the complaint on respondent and furnish a
2 copy of the complaint to the charging party and to the Department.

3 D. Within 20 days of the service of such complaint upon it, the respondent shall file
4 its answer with the Hearing Examiner and serve a copy of the same on the City Attorney.

5 E. Upon the filing of the complaint, the Hearing Examiner shall promptly establish a
6 hearing date and give notice thereof to the Commission, City Attorney, and respondent, and shall
7 thereafter hold a public hearing on the complaint which shall commence no earlier than 90 days
8 nor later than 120 days from the filing of the complaint, unless otherwise ordered by the Hearing
9 Examiner.

10 F. After the complaint is filed with the Hearing Examiner, it may be amended only
11 with the permission of the Hearing Examiner, which permission shall be granted when justice
12 will be served and all parties are allowed time to prepare their case with respect to additional or
13 expanded charges.

14 G. The hearing shall be conducted by the Hearing Examiner, a deputy hearing
15 examiner, or a hearing examiner pro tempore appointed by the Hearing Examiner from a list
16 approved by the Commission, sitting alone or with representatives of the Commission if any are
17 designated. Such hearings shall be conducted in accordance with written rules and procedures
18 consistent with this Chapter 14.09 and the Administrative Code, Chapter 3.02.

19 H. The Commission, within 30 days after receiving notice of the date of hearing from
20 the Hearing Examiner, at its discretion, may appoint two Commissioners, who have not
21 otherwise been involved in the charge, investigation, fact finding, or other resolution and
22 proceeding on the merits of the case, who have not formed an opinion on the merits of the case,
23 and who otherwise have no pecuniary, private, or personal interest or bias in the matter, to hear

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1 the case with the Hearing Examiner. Each Commissioner shall have an equal vote with the
2 Hearing Examiner. The Hearing Examiner shall be the chairperson of the panel and make all
3 evidentiary rulings. The Hearing Examiner shall resolve any question of previous involvement,
4 interest, or bias of an appointed Commissioner in conformance with the law on the subject. Any
5 reference in this Chapter 14.09 to a decision, order, or other action of the Hearing Examiner shall
6 include, when applicable, the decision, order, or other action of a panel constituted under this
7 subsection.

8 **14.09.090 Decision and order**

9 A. Within 30 days after conclusion of the hearing, the Hearing Examiner shall
10 prepare a written decision and order, file it as a public record with the City Clerk, and provide a
11 copy to each party of record and to the Department.

12 B. Such decision shall contain a brief summary of the evidence considered and shall
13 contain findings of fact, conclusions of law upon which the decision is based, and an order
14 detailing the relief deemed appropriate, together with a brief statement of the reasons supporting
15 the decision.

16 C. In the event the Hearing Examiner or a majority of the panel composed of the
17 Hearing Examiner and Commissioners determines that a respondent has committed a violation
18 under this Chapter 14.09, the Hearing Examiner may order the respondent to take such
19 affirmative action or provide for such relief as is deemed necessary to correct the violation,
20 effectuate the purpose of this Chapter 14.09, and secure compliance therewith, including but not
21 limited to rent refund or credit, reinstatement to tenancy, affirmative recruiting and advertising
22 measures, or payment of reasonable attorney's fees and costs, or to take such other action as in

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1 the judgment of the Hearing Examiner will carry out the purposes of this Chapter 14.09. An
2 order may include the requirement for a report on the matter of compliance.

3 D. The Department in the performance of its functions may enlist the aid of all
4 departments of City government, and all said departments are directed to fully cooperate with the
5 Department.

6 **14.09.095 Appeal from Hearing Examiner order**

7 A. The respondent may obtain judicial review of the decision of the Hearing
8 Examiner by applying for a Writ of Review in King County Superior Court within 14 days from
9 the date of the decision in accordance with the procedure set for in chapter 7.16 RCW, other
10 applicable law, and court rules.

11 B. The decision of the Hearing Examiner shall be final and conclusive unless review
12 is sought in compliance with this Section 14.09.095.

13 **14.09.100 Civil penalties in cases alleging violations of this Chapter 14.09**

14 A. In cases either decided by the Director or brought by the City Attorney alleging a
15 violation filed under this Chapter 14.09, in addition to any other award of damages or grant of
16 injunctive relief, a civil penalty may be assessed against the respondent to vindicate the public
17 interest, which penalty shall be payable to The City of Seattle and the Department. Payment of
18 the civil penalty may be required as a term of a conciliation agreement entered into under
19 subsection 14.09.080.A or may be ordered by the Hearing Examiner in a decision rendered under
20 Section 14.09.090.

21 B. The civil penalty assessed against a respondent shall not exceed the following
22 amount:

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1 1. \$11,000 if the respondent has not been determined to have committed any
2 prior violation;

3 2. \$27,500 if the respondent has been determined to have committed one
4 other violation during the five-year period ending on the date of the filing of this charge; or

5 3. \$55,000 if the respondent has been determined to have committed two or
6 more violations during the seven-year period ending on the date of the filing of this charge;
7 except that if acts constituting the violation that is the subject of the charge are committed by the
8 same person who has been previously determined to have committed acts constituting a
9 violation, then the civil penalties set forth in subsections 14.09.100.B.2 and 14.09.100.B.3 may
10 be imposed without regard to the period of time within which those prior acts occurred.

11 **14.09.105 Enforcement of Department and Hearing Examiner orders and agreements**

12 A. In the event a City respondent fails to comply with any final order of the Director
13 or of the Hearing Examiner, a copy of the order shall be transmitted to the Mayor, who shall take
14 appropriate action to secure compliance with the final order.

15 B. In the event a respondent fails to comply with any final order issued by the
16 Hearing Examiner not directed to the City or to any City department, the Director shall refer the
17 matter to the City Attorney, for the filing of a civil action to enforce such order.

18 C. Whenever the Director has reasonable cause to believe that a respondent has
19 breached a settlement or conciliation agreement, the Director shall refer the matter to the City
20 Attorney for filing of a civil action to enforce such agreement.

21 **14.09.110 Evaluation**

22 The Department shall ask the Office of the City Auditor to conduct an evaluation of the Fair
23 Chance Housing Ordinance to determine if the program should be maintained, amended, or

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1 repealed. The evaluation should include an analysis of the impact on discrimination based on
2 race and the impact on the ability of persons with criminal records to obtain housing. The highest
3 quality evaluation will be performed based on available resources and data. The Office of the
4 City Auditor, at its discretion, may retain an independent, outside party to conduct the
5 evaluation. The evaluation shall be submitted to City Council by the end of 2019.

6 **14.09.115 Exclusions and other legal requirements**

7 A. This Chapter 14.09 shall not be interpreted or applied to diminish or conflict with
8 any requirements of state or federal law, including but not limited to Title VIII of the Civil
9 Rights Act of 1968, the Federal Fair Credit Reporting Act, 15 U.S.C. 1681 et seq., as amended;
10 the Washington State Fair Credit Reporting Act, chapter 19.182 RCW, as amended; and the
11 Washington State Criminal Records Privacy Act, chapter 10.97 RCW, as amended. In the event
12 of any conflict, state and federal requirements shall supersede the requirements of this Chapter
13 14.09.

14 B. This Chapter 14.09 shall not apply to an adverse action taken by landlords of
15 federally assisted housing subject to federal regulations that require denial of tenancy, including
16 but not limited to when any member of the household is subject to a lifetime sex offender
17 registration requirement under a state sex offender registration program and/or convicted of
18 manufacture or production of methamphetamine on the premises of federally assisted housing.

19 C. This Chapter 14.09 shall not apply to the renting, subrenting, leasing, or
20 subleasing of a single family dwelling unit in which the owner or subleasing tenant or subrenting
21 tenant occupy part of the single family dwelling unit.

22 D. This Chapter 14.09 shall not apply to the renting, subrenting, leasing, or
23 subleasing of an accessory dwelling unit or detached accessory dwelling unit wherein the owner

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1 or person entitled to possession thereof maintains a permanent residence, home, or abode on the
2 same lot.

3 E. This Chapter 14.09 shall not be construed to discourage or prohibit landlords from
4 adopting screening policies that are more generous to prospective occupants and tenants than the
5 requirements of this Chapter 14.09.

6 F. This Chapter 14.09 shall not be construed to create a private civil right of action.

7 **14.09.120 Severability**

8 The provisions of this Chapter 14.09 are declared to be separate and severable. If any
9 clause, sentence, paragraph, subdivision, section, subsection, or portion of this Chapter 14.09, or
10 the application thereof to any landlord, prospective occupant, tenant, person, or circumstance, is
11 held to be invalid, it shall not affect the validity of the remainder of this Chapter 14.09, or the
12 validity of its application to other persons or circumstances.

13 Section 3. Section 3.14.931 of the Seattle Municipal Code, last amended by Ordinance
14 125231, is amended as follows:

15 **3.14.931 Seattle Human Rights Commission—Duties**

16 The Seattle Human Rights Commission shall act in an advisory capacity to the Mayor, City
17 Council, Office for Civil Rights, and other City departments in respect to matters affecting
18 human rights, and in furtherance thereof shall have the following specific responsibilities:

19 A. To consult with and make recommendations to the Director of the Office for Civil
20 Rights and other City departments and officials with regard to the development of programs for
21 the promotion of equality, justice, and understanding among all citizens of the City;

22 B. To consult with and make recommendations to the Director of the Office for Civil
23 Rights with regard to problems arising in the City which may result in discrimination because of

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1 race, religion, creed, color, national origin, sex, marital status, parental status, sexual orientation,
2 gender identity, political ideology, age, ancestry, honorably discharged veteran or military status,
3 genetic information, the presence of any ~~((sensory, mental, or physical))~~ disability, alternative
4 source of income, ~~((the possession or use of))~~ participation in a Section 8 ((rent certificate)) or
5 other subsidy program, right of a mother to breastfeed her child, or the use of a ~~((trained guide~~
6 ~~or))~~ service ~~((dog))~~ animal by a ~~((handicapped))~~ disabled person, and to make such investigations
7 and hold such hearings as may be necessary to identify such problems;

8 C. As appropriate, recommend policies to all departments and offices of the City in
9 matters affecting civil rights and equal opportunity, and recommend legislation for the
10 implementation of such policies;

11 D. Encourage understanding between all protected classes and the larger Seattle
12 community, through long range projects;

13 E. Hear appeals and hearings as set forth in Chapters 14.04, 14.06, ~~((and))~~ 14.08, and
14 14.09 of the Seattle Municipal Code;

15 F. Report on a semi-annual basis to the Mayor and the City Council. The reports
16 shall include an annual or semi-annual work plan, a briefing of the Commission's public
17 involvement process for soliciting community and citizen input in framing their annual work
18 plans, and updates on the work plans; and

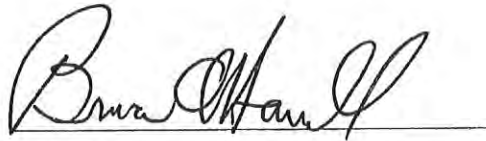
19 G. Meet on a quarterly basis through a designated representative with the Seattle
20 Women's Commission, the Seattle LGBTQ (Lesbian, Gay, Bisexual, Transgender, Queer)
21 Commission, and the Seattle Commission for People with Disabilities to ensure coordination and
22 joint project development.

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1 Section 4. Sections 1, 2, and 3 of this ordinance shall take effect and be in force 150 days
2 after the effective date of this ordinance, to ensure there is adequate time for rule-making and
3 any adjustments in business practices needed.

4 Section 5. This ordinance shall take effect and be in force 30 days after its approval by
5 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
6 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

7 Passed by the City Council the 14th day of August, 2017,
8 and signed by me in open session in authentication of its passage this 14th day of
9 August, 2017.



10 President _____ of the City Council

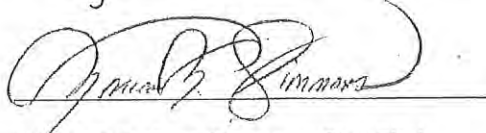
(2340-AS.)

11
12 Approved by me this 7th day of August, 2017.



13
14 Edward B. Murray, Mayor

15 Filed by me this 23rd day of August, 2017.



16
17 Monica Martinez Simmons, City Clerk

18 (Seal)

The Honorable John C. Coughenour

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

YIM, et al.,

Plaintiffs,

v.

CITY OF SEATTLE,

Defendants.

CASE NO. 2:18-cv-736-JCC

CITY OF SEATTLE’S COMBINED
OPPOSITION TO PLAINTIFFS’ MOTION
FOR SUMMARY JUDGMENT
AND CROSS MOTION FOR SUMMARY
JUDGMENT

NOTED ON MOTION CALENDAR: Friday,
January 11, 2019

ORAL ARGUMENT REQUESTED

CITY OF SEATTLE’S COMBINED OPPOSITION TO
PLAINTIFFS’ MOTION FOR SUMMARY JUDGMENT
AND CROSS MOTION FOR SUMMARY JUDGMENT

SUMMIT LAW GROUP PLLC
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I. Introduction and Relief Requested.....1

II. Statement of Undisputed Facts2

 A. Seattle residents with criminal histories—disproportionately people of color—face significant barriers to accessing housing.2

 B. The City comprehensively analyzed the problem.....3

 C. The City adopted the Fair Chance Housing Ordinance to address the problem.5

 A. Plaintiffs challenge the Ordinance.6

III. Authority.....7

 A. Subsection 2 does not run afoul of the First Amendment.....7

 1. The prohibitions on disclosure of and inquiry about criminal history do not implicate the First Amendment.8

 2. If Subsection 2 implicates the First Amendment, it is subject only to the intermediate scrutiny of commercial speech regulations.....10

 3. Subsection 2 satisfies intermediate scrutiny.13

 4. Subsection 2 satisfies strict scrutiny.19

 B. Plaintiffs fail to carry their burden of proving Subsection 2 facially violates landlords’ substantive due process rights.....21

 1. Federal courts apply the “rational basis” analysis, not “substantially advances.”22

 2. The Washington Supreme Court applies the “rational basis” analysis, not “undue oppression.”23

 3. The Ordinance is constitutional under the “rational basis” analysis.....27

 4. The Ordinance would pass muster even under the “undue oppression” analysis.....28

 C. If any portion of Subsection 2 fails Plaintiffs’ constitutional challenges, the remainder of the Ordinance should be severed and enforced.30

IV. Conclusion31

1 Because Subsection 2 regulates *unlawful* activity by prohibiting landlords from inquiring
2 about or forcing tenants to hand over criminal history, the *Central Hudson* inquiry ends.

3 Subsection 2 satisfies the First Amendment.

4 Even if this Court were to apply the remaining prongs of the *Central Hudson* test, they
5 would yield the same conclusion.

6 **b. The City’s interest is substantial.**

7 Subsection 2 satisfies the second prong of *Central Hudson*. Plaintiffs assume the
8 Ordinance “furthers a compelling interest”⁶⁶ necessary to satisfy strict scrutiny. Indeed, stopping
9 discrimination a compelling interest.⁶⁷ The purpose of Subsection 2—and the Ordinance—is to
10 reduce barriers to housing faced by people with criminal records and to lessen the use of criminal
11 history as a proxy to discriminate against people of color disproportionately represented in the
12 criminal justice system.⁶⁸

13 **c. The Ordinance directly advances the City’s interest.**

14 Under the third prong of *Central Hudson*, the Ordinance satisfies the First Amendment if
15 it is supported by more than “mere speculation or conjecture” and “the harms it recites are real
16 and . . . its restriction will in fact alleviate them to a material degree.”⁶⁹ But the government need
17 not produce empirical data to substantiate the need for a commercial speech restriction; it may
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23 ⁶⁶ Pls.’ Mot. for Summ. J., Dkt. # 23 at 14:4-5.

24 ⁶⁷ Combating age discrimination is a “compelling” interest under the more searching strict scrutiny test applied to
25 core First Amendment speech. *IMDB.com, Inc. v. Becerra*, No. 16-cv-06535-VC, 2018 WL 979031, *2 (N.D. Cal.
26 Feb. 20, 2018), *appeal filed* (9th Cir. Mar. 23, 2018).

⁶⁸ *See supra* Part II.

⁶⁹ *Edenfield v. Faine*, 507 U.S. 761, 770-71 (1993).

1 rely on history, consensus, and common sense.⁷⁰ “It is well established that a law need not deal
2 perfectly and fully with an identified problem to survive intermediate scrutiny.”⁷¹ As Plaintiffs
3 correctly note, the First Amendment “does not require a law to ‘address all aspects of a problem
4 in one fell swoop.’”⁷² A regulation satisfies this standard if it has exceptions for “narrow and
5 well-justified circumstances.”⁷³ Where exceptions to a regulation “have a minimal effect on the
6 overall scheme,” a regulation is not unduly underinclusive.⁷⁴ A court should find no
7 constitutional infirmity in government’s decision not to exhaust the full breadth of its authority
8 by regulating every instance of a certain harm.⁷⁵

10 Subsection 2 and the Ordinance satisfy this test. Studies demonstrate criminal histories
11 pose the largest barrier to those seeking housing⁷⁶ and have a disparate impact on communities
12 of color.⁷⁷ Reducing landlords’ ability to screen applicants’ criminal histories reduces landlords’
13 ability to commit the unlawful act of denying tenancy based on criminal history.

15 Plaintiffs wrongly suggest the Court should disregard the effectiveness of Subsection 2
16 and the rest of the Ordinance because of its narrow, well-justified, and required exemption for
17 providers of federally-assisted housing. The City cannot overrule federal law. The exemption for
18 those providers is limited to their decisions to deny tenancy (or take other “adverse actions”)

20 ⁷⁰ *Tracy Rifle & Pistol LLC v. Harris*, ___ F. Supp. 3d ___, No. 2:14-cv-02626-TLN-DB, 2018 WL 4362089, *3
21 (E.D. Cal. Sept. 11, 2018); accord *Florida Bar v. Went For It, Inc.*, 515 U.S. 618, 628 (1995); *Burson v. Freeman*,
504 U.S. 191, 211 (1992).

22 ⁷¹ *Contest Promotions, LLC v. City & County of San Francisco*, 874 F.3d 597, 604 (9th Cir. 2017).

23 ⁷² Pls.’ Mot. for Summ. J., Dkt. # 23 at 14:16-17 (quoting *Williams-Yulee*, 135 S. Ct. at 1670).

24 ⁷³ *Sorrell*, 564 U.S. at 573.

25 ⁷⁴ *Retail Digital Network*, 861 F.3d at 850.

26 ⁷⁵ See *Contest Promotions*, 874 F.3d at 604.

⁷⁶ City App. at SR 272-274.

⁷⁷ *Id.*

1 where federal regulations require that decision because of certain convictions.⁷⁸ The exemption
2 has a minimal effect on the Ordinance’s overall scheme because those providers—like other
3 Seattle landlords—remain subject to the Ordinance’s other requirements.⁷⁹

4 The Ordinance directly advances the City’s interest. The federal housing provider
5 exception, required by federal law, is narrow and well-justified. It has a minimal effect on the
6 Ordinance’s overall scheme, and does not render the Ordinance unduly underinclusive.

7
8 **d. The Ordinance is not more extensive than necessary.**

9 The final prong of *Central Hudson* requires “a reasonable fit between the government’s
10 legitimate interests and the means it uses to serve those interests.”⁸⁰ “Government’s fit need not
11 be the least restrictive means, and it need not be perfect, but it must be reasonable.”⁸¹
12 Subsection 2 and the Ordinance satisfy this requirement.

13 Plaintiffs offer several alternatives they say the City could have employed. None of those
14 alternatives, even if effective, would have made Subsection 2 an unreasonable legislative choice.
15 But none of Plaintiffs’ seven alternatives is effective.

16
17 First, they suggest a change to “Washington tort law.”⁸² The City cannot change state
18 law.

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22 ⁷⁸ SMC 14.09.115.B. City App. at SR 613.

23 ⁷⁹ The exception is only for “adverse actions.” SMC 14.09.115.B. City App. at SR 613. These providers remain
24 liable for, among other things, other unfair practices and prohibited retaliation. *See* SMC 14.09.025.A and 030. City
25 App. at SR 599-601.

26 ⁸⁰ *Valle del Sol*, 709 F.3d at 825 (quotation marks & citations omitted).

⁸¹ *Tracy Rifle*, 2018 WL 4362089 at *7 (citing *Greater New Orleans Broad. Ass’n, Inc. v. United States*, 527 U.S.
173, 188 (1999)); *accord Retail Digital Network*, 861 F.3d at 846.

⁸² Pls.’ Mot. for Summ. J., Dkt. # 23 at 18:24-25.