



AFFH – Best Practices & Essential Policies Checklist for PHAs



HOPE Fair Housing Center
www.hopefair.org



Overview of Training Session

- Affirmatively Furthering Fair Housing [AFFH]
 - Best Practices to AFFH for PHAs
 - Section 8 Reforms & Opportunities
 - Mobility Programs
 - Benefits
 - Challenges & Solutions
 - Regional Collaborations
 - Important Mobility Program Elements
 - Moving to Work (MTW)
 - Essential PHA Policies
 - Sample – Criminal Records Policies
 - HOPE Manual Overview
 - Essential Policy Checklist
 - Navigating Resources



Provided Materials

- This presentation will be available as a PDF on HOPE's website after the webinar. If you need alternate formats, please email Kamal@hopefair.org
- HOPE's AFFH Manual will be available at www.hopefair.org on July 1, 2015. We will have some hard copies available on request.



AFFH Obligations

- The specific certification requirements detailed at 24 CFR § 903.7(o) provide that a PHA is compliant in affirmatively furthering fair housing if the PHA fulfills section 903.2(b) and takes action to:

1. Examine programs or proposed programs;
2. Identify any impediments to fair housing choice within those programs;

These items were covered in a September 2014 webinar.

3. Address those impediments in a reasonable fashion in view of the resources available;
4. Work with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing that require PHA involvement;

These items will be covered in this webinar



Housing Mobility and Affirmatively Furthering Fair Housing

Philip Tegeler

HOPE Fair Housing Webinar 2015

PRRAC

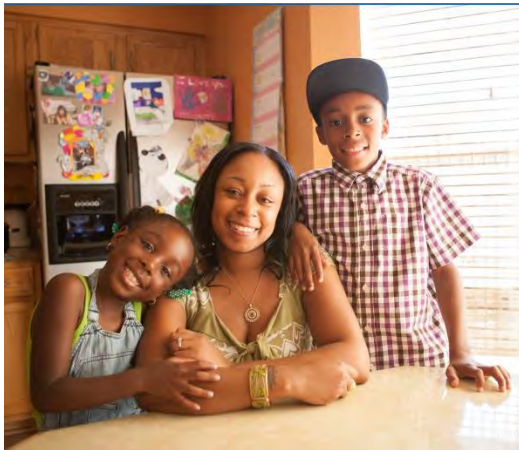
*Poverty & Race
Research Action Council*

Childhood impacts of concentrated poverty



**Creating
Opportunity
for Children**
How Housing Location
Can Make a Difference

By Barbara Sard and Douglas Rice
October 15, 2014



Toxic stress – frequent, prolonged or excessive fear or anxiety leading to the release of stress hormones – is primary vector for cognitive impairment and long term physical and mental health impacts in young children. See, e.g., P. Sharkey, “Stuck in Place”

High poverty neighborhoods also increase children’s potential exposure to airborne pollutants, cockroach allergens, pesticides, and other triggers of asthma. Incidence of lead poisoning is also highest in these neighborhoods.

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Research Action Council

Benefits of “moving to opportunity”

Improved health outcomes

reduced obesity and diabetes rates

improved mental health for women and girls

evidence on asthma reduction

Improved educational and economic outcomes (Chetty)

higher college graduation rates and 130% higher income as adults for children who move at a young age (plus related benefits of school integration – see below)

Benefits of school integration

School integration associated with

higher test scores and better grades

improved high school graduation rates

higher college attendance and completion rates

reduced exposure to criminal justice system

choice of integrated neighborhoods later in life

greatest gains for low income children of color

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Benefits of school integration

Children from all racial and income groups benefit!

improved critical thinking skills (learning to see and anticipate issues from other points of view)

increased racial tolerance and less stereotyping

lower levels of “racial anxiety”

more cross racial friendships

choosing integrated neighborhoods as adults

evidence of achievement gains across all groups
(and no harms to white achievement rates)

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Median Characteristics of Schools Nearest to Assisted Households and Other Households with Children

PRRAC
Poverty & Race
Research Action Council

Civil Rights Research
November 2012

Do Federally Assisted Households Have Access to High Performing Public Schools?

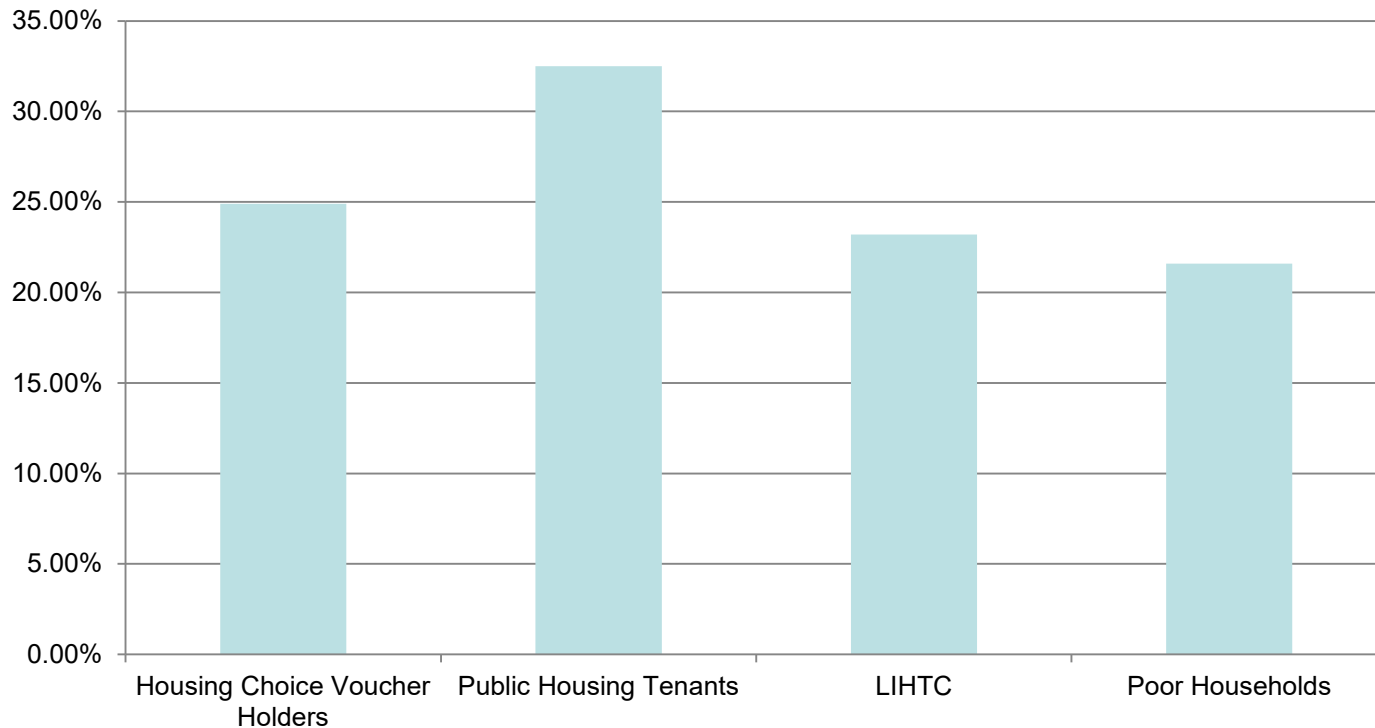


	Proficiency Percentile Rank	% Free/Reduced Price Lunch
Housing Choice Voucher	26	74.1%
Public Housing	19	82.1%
Project Based Section 8	28	68.6%
LIHTC	31	67.1%
All Households	53	45.9%
All Renters	37	66.8%
Poor Households	30	73.1%

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National Share of Households with Children Near to School Ranked in Bottom 10th in State



Barriers to geographic mobility and choice in the Section 8 HCV program

Potentially discriminatory practice?

Possible Solution

Regional FMRs

SAFMRs

Low Payment Standards

exception payment standards

Overpayment in submarkets

enforce rent caps; SAFMRs

Portability issues

inter-PHA protocols on billing, absorption, inspection, screening

Limited search time

extend search times for mobility moves

Apartment lists

map lists; consider HUD complaint; provide oppy list

More barriers to geographic mobility and choice in the Section 8 HCV program

Potentially discriminatory practice?

Possible Solution

Section 8 Admin Fees

New Admin Fee rule – pay for performance

PHA Assessment process

New rule: assess for success

Portability issues

Consortium rule and incentives

Project-based vouchers

regional pooling

Lack of information

housing mobility counseling

Discrimination against families with vouchers

Source of income discrimination protections; enforcement

Racial discrimination

enforcement

***This summer - July 15-16 in
Chicago!***



More Choices for More Families

6th National Conference on Housing Mobility

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For more information....

www.prrac.org

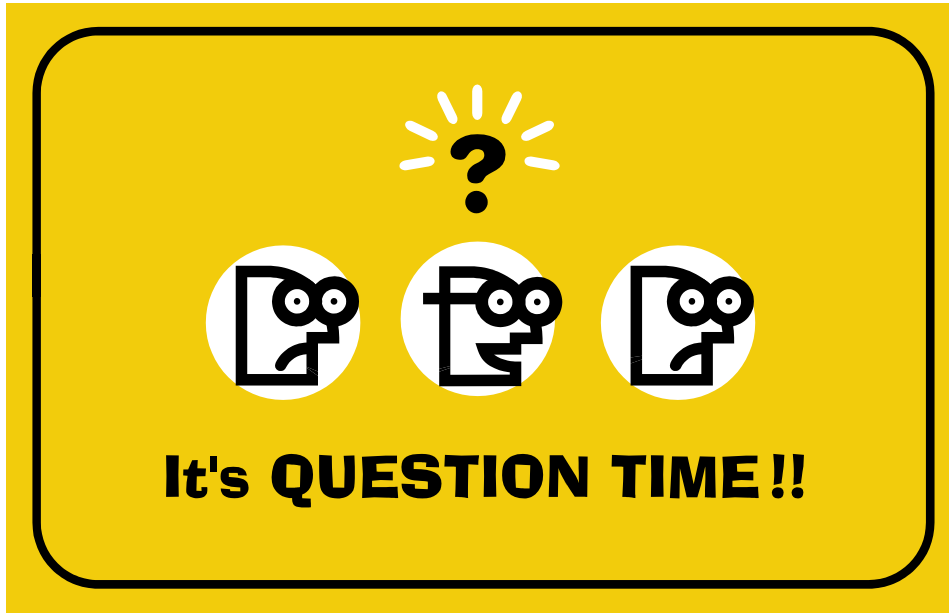
www.housingmobility.org

www.school-diversity.org

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Questions for Philip Tegeler



Basics of Mobility: Because Place Matters



**ANDREA JURACEK, ASSOCIATE DIRECTOR
HOUSING CHOICE PARTNERS OF ILLINOIS
(HCP), CHICAGO, IL**



Chicago Regional Housing Choice Initiative



2011-2014 – Regional Study with 8 PHA and 2 NPO partners

Mobility:

- Mobility Counseling + \$500 Incentive
- Incentive Only
- Control Group – results forthcoming from RAND Corp.

Portability:

- Port Advocate
- Port Administration
 - HCP conducted all port admin between 4 PHAs

Place-Based Voucher Units

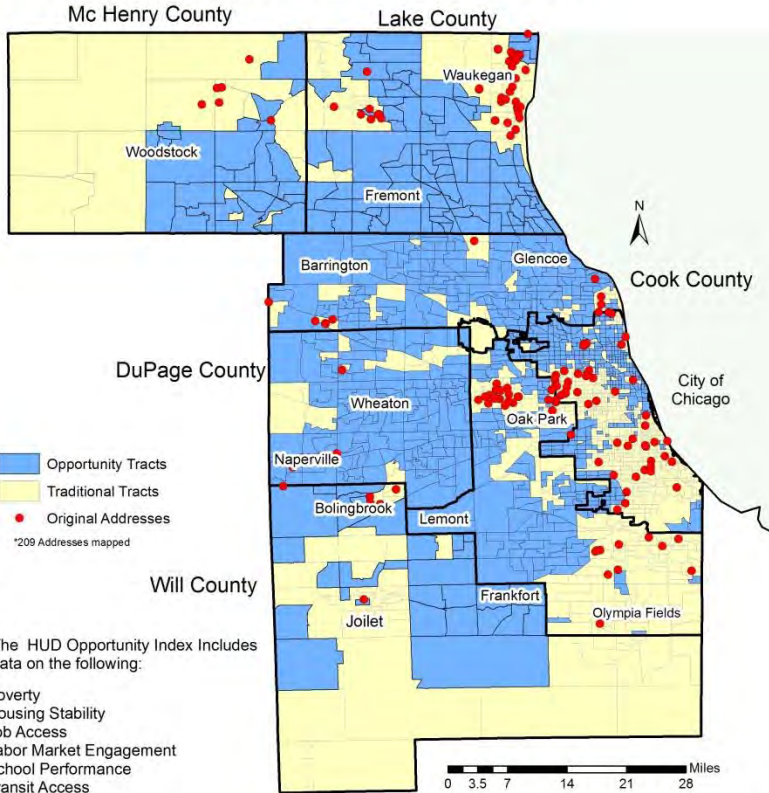
- Regional Waitlist

Families moved from areas with under-performing schools to areas with higher performing schools.

Chicago Regional Housing Choice Initiative



Chicago Regional Housing Choice Initiative
Original Addresses in Traditional Areas

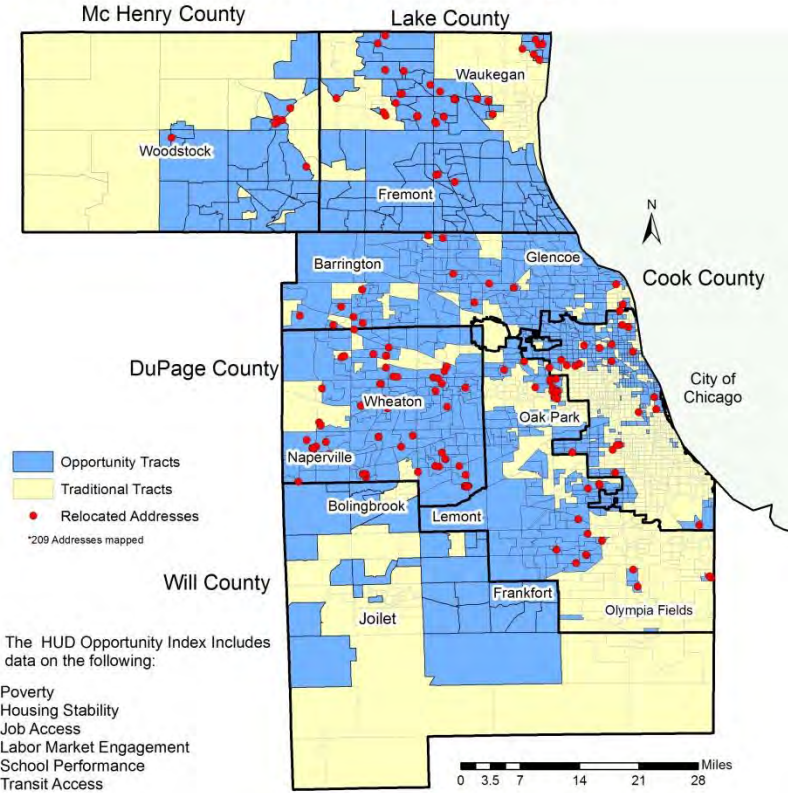


Subsidized housing and racial concentration considered in some cases.

Housing Choice Partners of Illinois
401 S La Salle Suite 1101
Chicago IL, 60605
ph 312-386-1009

Prepared by Housing Choice Partners
2/14/2014
Sources: TIGERLine® State Boundaries,
County Boundaries, Census Tracts;
ArcGIS Online U.S. and Canada
Detailed Streets, 2013;
Natural Earth North American Lakes, 2009

Chicago Regional Housing Choice Initiative
Relocated Addresses in Opportunity Areas



Subsidized housing and racial concentration considered in some cases.

Housing Choice Partners of Illinois
401 S La Salle Suite 1101
Chicago IL, 60605
ph 312-386-1009

Prepared by Housing Choice Partners
2/14/2014
Sources: TIGERLine® State Boundaries,
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Fair Housing & Mobility—An Opportunity



- The Fair Housing Law & AFFH (new rule)
 - Mobility programs are AFFH
 - Strategy to resolve complaints/litigation (Rockford, IL)
 - And improve relocation programs (Port Arthur, TX)
 - Regional planning --entitlement jurisdictions
-
- Fair housing actions and changes in policy have resulted in more mobility programs.
 - Current programs in Chicago, Baltimore, Dallas, and others developing in Philadelphia, Minneapolis, Denver, King County (Washington), etc.

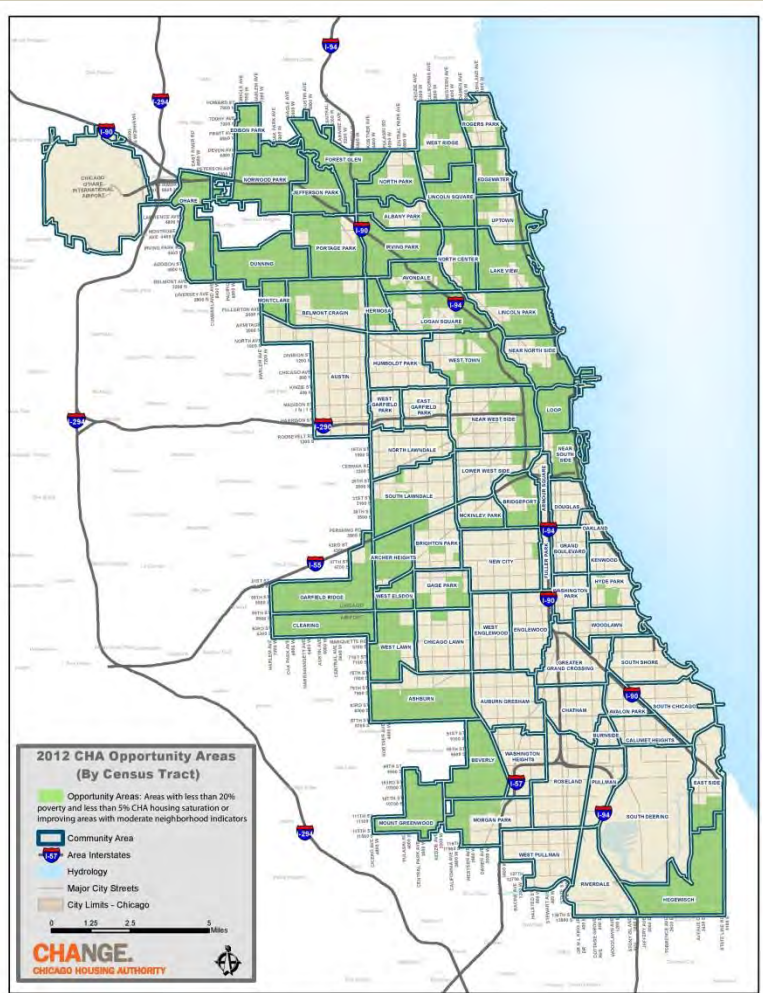
Mobility Program Elements (Mobility in a Box)



- Adequate rents and search time
- Define opportunity
- Educate participants
- Outreach to landlords
- Search assistance
- Supportive services



Defining Opportunity Areas



- Census tract data:
 - Racial makeup (average)
 - Poverty-level
 - Saturation of subsidized housing
- Other indicators:
 - School performance
 - Transportation
 - Crime rates
 - Labor market access/participation
 - Health statistics
 - Food deserts
 - Housing stability

Landlord Outreach



“Sell” the program to landlords and provide good customer service

Provide program materials

Build on existing relationships

Reach out, make personal contact

Regular contact

Advisory committee

Appreciation



Tenant Education/Counseling



- Workshops

- Landlord/tenant rights and responsibilities
- Financial management
- Schools matter
- Home maintenance
- Building community



- One-on-one counseling

- Address fears/concerns about moving into a new community
- Referrals for social service needs and problem-solving assistance
- Unit search assistance

Support Services/Follow-Up



- Throughout the process, provide referrals for social service needs and problem-solving to facilitate lease-up and the move
- Follow-up services:
 - Transition into the new community
 - Referrals for services
 - Assist with any Landlord issues
 - Retention in the community after one-year lease



Other Mobility Activities/Program Additions



- Security deposit loan or grant program
- Source of income protection
- Site-based tax abatement programs
- Regional project-based program
- Regional administration of voucher portability
- Target families with young children in high-poverty areas



Affirmatively Furthering Fair Housing in Public Housing Programs

June 25, 2015

Jessica Mallon, Fair Housing Manager

Office of the General Counsel

Chicago Housing Authority



Affirmatively Furthering Fair Housing In Public Housing Programs

- The CHA engages in several programs that expand housing opportunities for participants and residents.
- CHA has a department of three staff dedicated to addressing issues of fair housing and disability in subsidized housing.
- The Housing Rights and Nondiscrimination Department (HRND) is responsible for bringing and keeping the entire housing authority in compliance with all applicable fair housing, disability-related, and VAWA regulations.
- HRND monitors and addresses fair housing discrimination as well as issues decisions on reasonable accommodations for both public housing and Housing Choice Voucher (HCV) participants.

Physical Housing Stock

- CHA incorporates Uniform Federal Accessibility Standards (UFAS) into its new developments as well as its rehabbed units.
- Most housing authorities provide 5.0% and 2.0% of its public housing units for people with mobility and sensory impairments, respectively.
- CHA stipulates that at least 5.3% and 2.1% is accessible.
- Currently, CHA has certified that 6% of its housing stock is accessible for people with mobility impairments.

Housing Programs- Mobility Counseling

- The Mobility Counseling Program assists families in identifying housing and community needs and desires, as well as locating a unit in an Opportunity Area.
- Participating families work with the Mobility Counselor throughout the move process to assist with transition into new communities (e.g. locating community resources, enrolling children in schools).
- Participants can also take advantage of the following benefits:
 - Workshops on home maintenance, financial management and tenant rights
 - Community tours and unit search assistance
 - A grant of up to \$500 to be used toward a security deposit or move-in fee.

Housing Programs- Modification Fund

- The Modification Fund allows HCV participants to modify private units in order to make them accessible for people with disabilities.
- The fund is utilized for the construction and installation of accessibility features and devices like grab bars, lifts, ramps, and sensory equipment.
- Since its inception, CHA has provided necessary modifications to over 500 HCV participants who may otherwise not have been able to find affordable, accessible private market housing.
- CHA is continuing this program through an intergovernmental agreement with the City of Chicago's Mayor's Office for People with Disabilities.

Housing Programs-Targeted Vouchers

- The CHA partners with the disability advocacy agency, Access Living of Metropolitan Chicago, to administer HCVs to persons transitioning from institutions/nursing homes into the community.
- Every year, CHA delivers up to 3% of its non-targeted funding for this population.
- Access Living and CHA have experienced great success by transitioning over 100 formally institutionalized individuals and their families into private market housing.

Housing Programs- Testing

- The CHA developed a comprehensive fair housing testing and survey project to determine impediments to housing choice.
- CHA contracted with several outside fair housing agencies.
- The protected classes that faced the highest percentage of discrimination were race, disability and Source of Income- the initial two classes correspond with HUD data on national fair housing complaints.
- CHA utilizes the testing and survey findings to develop policies and procedures.

Housing Programs- Training

- HRND organizes and facilitates Authority-wide trainings on issues of fair housing and disability.
- CHA public housing and HCV staff are mandated to attend trainings.
- CHA also trains outside property management and real estate agencies on its programs and Source of Income discrimination.

Chicago Housing Authority

Contact Information:

Jessica Mallon

jmallon@thecha.org

312.913.7074





Essential PHA Policies

Fair Housing Compliance Checklist



<input type="checkbox"/> Family definition updated to reflect HUD LGBT Guidance	<input type="checkbox"/> Occupancy of Accessible Dwellings
<input type="checkbox"/> Zero Civil Rights Violation Policy	<input type="checkbox"/> Language Access Plan
<input type="checkbox"/> VAWA Compliant Transfer Policy	<input type="checkbox"/> Reasonable Accommodation Policy and Process for Persons with Disabilities
<input type="checkbox"/> Affirmative Marketing Plan	<input type="checkbox"/> Criminal Background Statement and Policy
<input type="checkbox"/> UFAS Accessibility Checklist	<input type="checkbox"/> Residency Preference Is Not a Residency Requirement
<input type="checkbox"/> VAWA Compliant Privacy and Confidentiality Policy and Procedures	<input type="checkbox"/> Waitlist policies comply with HUD's HCV Guidebook Chapter 4
<input type="checkbox"/> Zero Tolerance Policy for Harassment (updated to reflect LGBT Guidance)	<input type="checkbox"/> Graffiti Removal Policy
<input type="checkbox"/> VAWA Compliant Lease Termination Exception	<input type="checkbox"/> Deconcentration Policy
<input type="checkbox"/> Demolition/Disposition Assessment, Review and Policy Compliant with Civil Rights Laws	



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***WHEN DISCRETION MEANS DENIAL:
A National Perspective on Criminal Records
Barriers to Federally Subsidized Housing***

June 25, 2015

HOPE Fair Housing Center

“Best Practices & Resources for PHAs to Affirmatively
Further Fair Housing”

Criminal Records Barriers in Assisted Housing

Research studies have demonstrated that:

- Housing barriers for persons with criminal records increase homelessness;
- Without stable housing, the ability to stay out of the criminal justice system diminishes; and
- With stable housing, studies show a significantly less likelihood of recidivism.

No empirical evidence linking criminal record and unsuccessful tenancy.



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Criminal Records & Homelessness

Because incarceration is a risk factor for homelessness, and vice versa, the *U.S. Interagency Council on Homelessness* has called on PHAs to ease their criminal records screening criteria.



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Secretary Donovan's 2011 Letters

- **First Letter to PHAs** – reiterates the importance of “second chances” for people with criminal records and a commitment to “helping ex-offenders gain access to one of the most fundamental building blocks of a stable life – a place to live.”
- **Second Letter to PHAs** – encourages PHAs to use their **wide discretion** to allow people with criminal records to rejoin their families in the public housing and HCV program, where appropriate.



What Are HUD Housing Providers Currently Obligated To Do?



Mandatory Bans

PHAs and project owners **MUST** deny admission to:

- Anyone who has been convicted of **manufacturing methamphetamine on federally assisted property**;
- Anyone subject to **lifetime registration for a sex offense**;
- **Current users** of illegal drugs, abusers of alcohol, or pattern interfering with health, safety, peaceful enjoyment;
- Anyone who, ***within the last 3 years***, has been **evicted from federal housing for drug-related criminal activity** *unless* (1) drug rehabilitation or (2) circumstances leading to eviction no longer exist.



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Discretionary Bans

PHAs and project owners **MAY** deny admission for:

- **Drug-related criminal activity** – manufacture, sale, distribution, use, or possession;
- **Violent criminal activity** – use of or threatened use of physical force that will cause serious bodily injury or property damage;
- Other criminal activity that would **adversely affect the health, safety, or right to peaceful enjoyment** of the premises by other residents, the owner, or public housing employees. *****not a catchall*****



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The Fair Housing Act

Criminal records status is not a protected class.

But criminal record screening may nevertheless violate civil rights laws.

- *Discriminatory treatment* – where criminal record is used as pretext for race discrimination.
- *Disparate impact* – facially neutral policies that have an unjustified disparate impact on racial minorities.



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Problem #1: Unreasonable Look back Periods

What the law says:

- Housing providers **must define “reasonable time”** to look back in written admissions policies. 42 U.S.C. § 13661(c) (2012); 24 C.F.R. § 5.100 (2012).



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Problem #1: Unreasonable Look back Periods

Practice	Example
No time limits	“a history of criminal history by any household member”
Permanent/blanket bans	“NEVER house anyone with an assault/bodily injury charge”
Unreasonably long lookback periods	7 years for bouncing a check, shoplifting, public intoxication, and other misdemeanors
Minimum lookback periods	“a minimum of 5 years”
Unclear starting point	Arrest vs. conviction vs. release



Problem #1: Unreasonable Look back Periods

What PHAs can do:

- Include reasonable, specific time limits on the use of an applicant's criminal history in written admissions policies.
- Specify the event within the lookback period that triggers the denial.



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Problem #2: Use of Arrests to Prove Criminal Activity

What the law says:

- PHAs and project owners may deny admission on the basis of certain types of “criminal activity”



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Problem #2: Use of Arrests to Prove Criminal Activity

PHAs that explicitly equate arrests with criminal activity	
Fayetteville Metropolitan Housing Authority (NC)	1 arrest in 7 years
Housing Authority of the County of Chester (PA)	1 arrest in 5 years
Flint Area Consolidated Housing Authority (GA)	1 arrest in 5 years
Housing Authority of Fort Mill (S.C.)	1 arrest in 5 years
Henderson Housing Authority (NC)	1 arrest in 5 years
Grundy County Housing Authority (IL)	2 arrests in 5 years
Louisville Metro Housing Authority (KY)	2 arrests in 5 years
Housing Authority of the City of Flagstaff (AZ)	1 arrest in 3 years



Problem #2: Use of Arrests to Prove Criminal Activity

Arrest record screening impinges on an applicant's right to be free from discrimination under civil rights laws.

- Racial minorities are arrested at disproportionately higher rates.
- No public safety interest to justify disparity.
 - LA and NYC do not use arrests and yet are still able to fight crime.
 - *Landers v. Chicago Housing Authority*



Problem #2: Use of Arrests to Prove Criminal Activity

Landers v. Chicago Housing Authority, 936 N.E.2d 735 (2010).

- Keith Landers, an African American homeless man, waited from 1995 to 2008 for public housing. During those 13 years, he went through long periods of **homelessness**, which gave rise to a series of **arrests**. However, he was **never convicted** of any crimes.
- CHA denied application on the basis of his arrest record.
- Illinois appellate court overturns CHA's denial: where a criminal record contained only dismissed charges, there was **no evidence** whatsoever that [he] engaged in criminal activity and **no evidence** that he was a threat to the health, safety, and welfare of other people.



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Problem #2: Use of Arrests to Prove Criminal Activity

What PHAs can do:

- Refuse to consider an applicant's arrests where the arrests resulted in dismissed charges, acquittals or anything short of a conviction
- Expressly state this policy in in written admissions policies



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Problem #3: Overbroad Categories of Criminal Activity

What the law says:

1. **Drug-related** criminal activity
2. **Violent** criminal activity
3. Other criminal activity that pose a **threat to the health, safety, and welfare** of other residents



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Problem #3: Overbroad Categories of Criminal Activity

Some housing providers deny admission for ALL criminal activity.

- Creating exhaustive lists (*e.g.*, civil disobedience)
- Using the fact of incarceration, regardless of offense or conviction, as the basis of denial (pre-trial detention)

Other housing providers have vague categories that lack sufficient notice of prohibited activity.

- “negative influence on other residents”
- “Immoral conduct of any type”



Problem #3: Overbroad Categories of Criminal Activity

Many PHAs and project owners impose **felony bans**.

- AIMCO includes public intoxication, shoplifting, and theft by check.
- Felony bans raise similar fair housing concerns as arrest record screening, except for one important point: sometimes, denial on the basis of a prior felony will be justified. Therefore, more narrowly tailored criteria is required.



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Problem #3: Overbroad Categories of Criminal Activity

What PHAs can do:

- Adopt narrowly tailored criteria for screening applicants with criminal records
- Avoid blanket bans (*e.g.*, all criminal activity, felonies)
- Avoid vague categories of criminal activity that could deprive applicants of adequate notice and therefore raise due process issues.



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#4: Underuse of Mitigating Circumstances

For public housing:

- PHAs must consider mitigating circumstances
 - Time, nature & extent of applicant's conduct
 - Seriousness of the offense. 24 C.F.R. § 960.203(d) (2014).
- PHAs **may also** consider factors that indicate a reasonable probability of favorable future conduct (i.e., rehab evidence, family attendance or willingness to attend social services, counseling, and program availability).

For all other HUD programs, HUD encourages consideration of mitigating circumstances.

PHAs should reconsider denial if sufficient evidence of no on going criminal activity during reasonable time before applying.



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#4: Underuse of Mitigating Circumstances

What actually happens:

- Mitigating circumstances are not always mentioned or explained in admissions policies. As a result, applicants do not know of their right to submit mitigating evidence.
- PHAs and project owners often refuse to consider evidence of mitigation/rehabilitation.



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#4: Underuse of Mitigating Circumstances

What PHAs can do:

Use mitigating evidence to conduct an individualized assessment of the applicant.

Take proactive steps to ensure that applicants know of and take the opportunity to present mitigating circumstances, such as:

- Explaining mitigating circumstances in written admissions policies and providing concrete examples
- Providing a list of acceptable evidence (e.g., testimony, letters of support)
- Allowing applicants to present evidence before, rather than after, denial



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Fortune Society v. Sandcastle Towers Housing Development, et al. (E.D.N.Y.) – Relman, Dane & Colfax

- Challenge to a private landlord's blanket ban on renting apartments to people with criminal records as a civil rights violation under the Fair Housing Act because such bans disproportionately and overwhelmingly impact African-Americans and Hispanics.
- Owner automatically denied admission to anyone with a criminal record regardless of nature of conviction, time elapsed, evidence of rehabilitation, or other factors to determine if the person would be a serious threat.
- The case is one of the first to challenge a blanket ban on housing imposed by a private landlord as a civil rights violation.



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A Note about Crime Free Ordinances

Crime free ordinances that require housing providers to evict tenants for making calls to the police likely conflict with federal law.

- Federal good cause
- VAWA
- FHA
- Section 504 of the Rehab Act



For More Information

View the report

at:<http://povertylaw.org/sites/default/files/images//publications/WDMD-final.pdf>

Contact:

Marie Claire Tran-Leung

Of Counsel

Sargent Shriver National Center on Poverty Law

marieclairetran@povertylaw.org



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PHAs & Local Jurisdictions

- The AFFH Regulation says:
 - Work with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing that require PHA involvement;
 - Local fair housing organizations and advocacy groups such as PRRAC, HCP, HOPE and Sargent Shriver National Center on Poverty Law are available to educate and meet with local jurisdictions to assist PHAs and local jurisdictions in aligning their goals and policies.



Contact Information

- These materials and links to resources are all available at www.hopefair.org – click on the resources tab and then click on the PHA Resources tab.

Questions?

