

# Fair Housing and Criminal Screening

April 21, 2016

**hacsb**

Housing Authority of the County of Santa Barbara



# Background

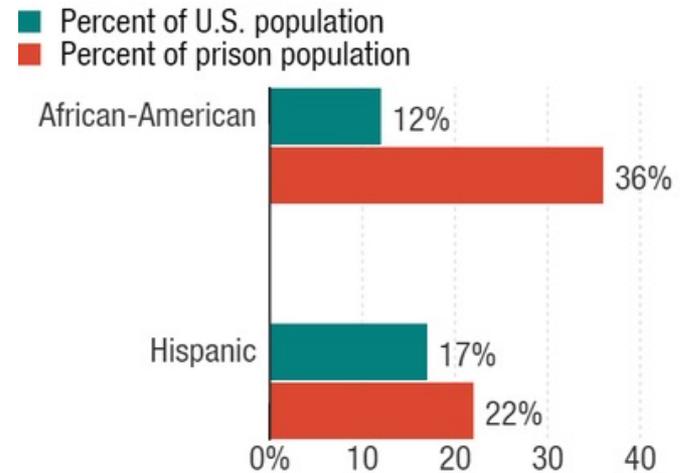
- HUD published PIH Notice, 2015-19 guidance that addresses:
  - Disparate Treatment
  - Discrimination

When a housing provider refuses to rent or renew a lease based on an individual's **criminal history**.

# Background

- Across the United States, African Americans and Hispanics are arrested, convicted and incarcerated at rates disproportionate to their share of the general population.

## Black And Hispanic Prison Populations



E. Ann Carson, Bureau of Justice Statistics, U.S. Department of Justice, "Prisoners in 2014", and Census data via HUD  
Camilla Domonoske/NPR

# Background

- It is a violation of the Fair Housing Act if, *without justification*:
  - Housing opportunities favor one race or national origin (discriminatory effects liability);
  - A housing provider treats individuals with comparable criminal history *differently* because of race, national origin, or other protected characteristic (disparate treatment liability).



**Housing Authority of the County of Santa Barbara**

- During 2015 sixteen (16) out of approximately eight hundred (800) applicants were denied housing based on criminal activity.



# Suitability Screening Criteria

- Designed to protect:
  - Health, safety, welfare of other residents;
  - Physical environment of the project;
  - Financial stability of the project.



# Basis for Denial - Criminal

- Lifetime registered sex offender
- Conviction of manufacturing or producing methamphetamine
- Currently engaged in the use of illegal drugs
  - ***currently engaged*** is defined as activity within the previous twelve months



# Basis for Denial - Criminal

- A household member has been evicted from federally-assisted housing in the last 3 years:
  - *Unless* there is verification that the individual has completed a supervised drug rehabilitation program, or the person who committed the crime is no longer part of the household.



# Basis for Denial - Criminal

- The PHA has *reasonable cause* to believe that any household member's current use of illegal drugs, or current abuse or pattern of abuse of alcohol, may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.
  - PHA will consider all credible evidence that is within the past 3 years. Termination of assistance for criminal activity must be based on a "preponderance of the evidence" that the tenant, or other household member, or guest engaged in such activity.



# Other Considerations

- Violent Crimes
- Crimes that threaten the health, safety, and welfare of others

**Crime Prevention**



# Other Considerations

- HUD Guidance: PHA may consider all relevant circumstances:
  - Time, nature, and seriousness of the case.
  - The extent of participation or culpability of individual family members.
  - Mitigating circumstances related to the disability of a family member, and the effects of denial on other family members who were not involved in the action.

# Other Considerations

- HUD Guidance: PHA may consider all relevant circumstances:
  - Evidence of rehabilitation and the applicant's willingness to participate in social services.
  - Appeal process to review decisions on a case-by-case basis.

# Management Action

- Disseminate Fair Housing information to staff members (completed);
- Conduct staff training in-house and with outside consultants (ongoing);
- Monitor HUD/Fair Housing notices and case law within the industry (ongoing);
- Further evaluate the review process for denials and terminations due to criminal activity.



# Source Documents

- 24 CFR 960.204, 24 CFR 966.4, 24 CFR 982.553 & 24 CFR 982.553(a)
- Administrative Plan for the Housing Choice Voucher Program
- HUD Multifamily Occupancy Handbook 4350.3, including revisions
- Kanovsky, Helen, R., General Counsel; Office of the General Counsel  
Guidance on Application of Fair Housing Act Standards to the Use of  
Criminal Records by Providers of Housing and Real Estate-Related  
Transactions (2016)
- Notice PIH 2015-19, published November, 2, 2015.
- Public Housing Statement of Policies
- United States Interagency Council on Homelessness, PHA Guide to  
Modifying Tenant Screening Policies and Procedures