

Landlord Forum: Criminal Backgrounds

Presenters:

Jeremy Hayes, Tenfold Jhayes@wearetenfold.org

Deborah Gable, HDC Midatlantic Dgable@hdcweb.org

Carrie Kurtz, Lancaster County Reentry Coalition Ckurtz@caplanc.org

Chris Dreisbach, CEO Blueprints Recovery Cdreisbach@blueprintsrecovery.com



TENFOLD



Fair Housing and Criminal Backgrounds

Know Your Rights



TENFOLD

Importance of Understanding Fair Housing Law

If a fair housing complaint is filed against you, and the judge rules against you, you can be responsible for any of the following:

- Actual damages
 - including victim's out of pocket costs incurred while searching for other housing
- Compensatory damages
- Damages for humiliation or emotional distress
- Punitive damages
- Victim's attorney's fees
- Federal Penalties:
 - \$21,663 for first violation
 - \$54,157 for second violation within five years
 - \$108,315 for third violation within seven years

- Federal: Fair Housing Act of 1968, Section 504, Rehabilitation Act of 1973
- Pennsylvania Human Relations Act
- Protected Classes
 - Race
 - Color
 - Religion
 - National Origin
 - Sex (Including Sexual Orientation & Gender Identity)
 - Familial Status
 - Disability
 - Age (over 40)*
 - Ancestry*
- *Protected at the state level
- Many localities have their own Fair Housing ordinances



TENFOLD
Unlocking Opportunity

Exemptions To Fair Housing Laws

Single family residence

- Sale or rental of a single-family home
- Owner does not own or have interest in more than 3 single-family homes at any one time
- Does not use the services of a real estate agent or broker
- “A man’s home is his castle”
- This is a federal exemption, but does not apply to PA Human Relations Act

Housing for older persons (familial status):

- Policies and procedures demonstrate an intent to provide housing for persons 55 and over

Ms. Murphy’s exemption:

- Owner-occupied dwelling that includes housing for no more than 4 families living independently.
- Under PA Human Relations Act, this exemption only applies to housing with 2 or fewer units.

Religious organizations can show a preference for members of their religion if

- Not operated for profit
- Religion not limited by race, color, or gender
- No Exemptions if using a professional advertising agency
 - ✓ ex. Property management company



TENFOLD

Fair Housing & Criminal Records

- Landlords may require a background check
- Recent federal guidance requires landlords to take into consideration:
 - The nature & severity of the crime
 - How old the record is
 - Rehabilitative efforts since the conviction
- This is required because “blanket bans” on people with criminal records can have a disparate impact on people in protected classes
- Determinations cannot be made on arrest records alone for the same reason
- A criminal background is not necessarily indicative of whether or not an individual will be a good tenant



TENFOLD

Examples of housing discrimination against persons with criminal backgrounds

- A leasing agent only requires certain applicants to undergo a criminal background check
- A leasing agent makes decisions about applicants based on arrest records
- You have a criminal record related to your disability, and request a reasonable accommodation to a criminal records screening, but are denied
- Applicants are discouraged from submitting an application because of a conviction on their record
- A housing provider's policy rejects all applicants with any criminal record
- A property manager tells a tenant they must move (or won't rent to an applicant) because they've been arrested for domestic violence, even if they were the victim





HDC
MidAtlantic

Revising Resident Selection Criteria to Remove Barriers

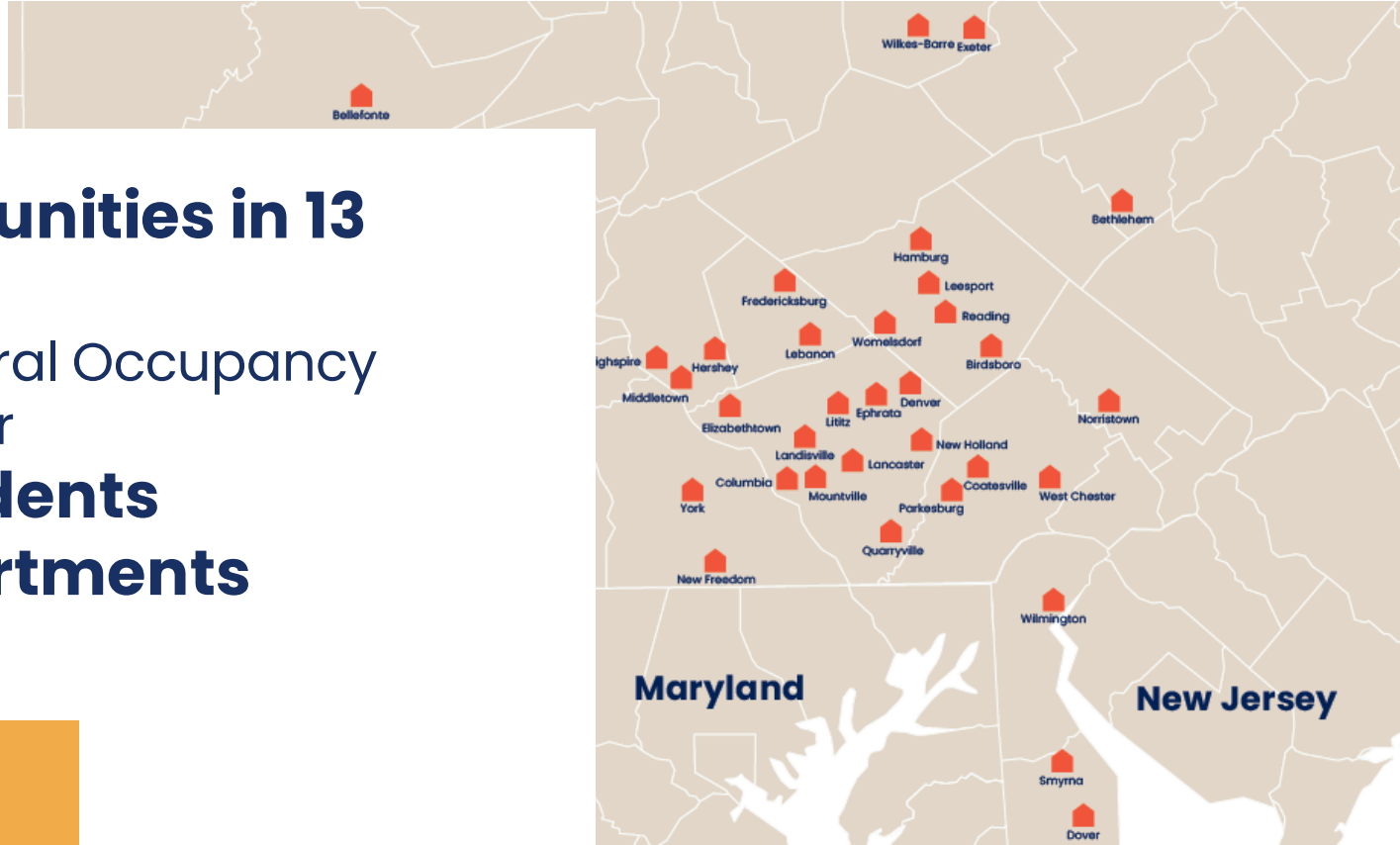
*Tenfold Landlord Forum
December 15, 2021*

A photograph of a family of three. On the left, a woman with long, curly brown hair and a tattoo on her shoulder is smiling. In the center, a man with a beard and a green sweater over a pink shirt is smiling. On the right, a young girl with curly hair, wearing a pink bow and a colorful striped dress, is looking towards the camera. The background is a plain, light-colored wall.

We are dedicated developers and providers of, and advocates for, affordable housing.

We believe housing is a human right and are committed to ensuring everyone has a safe, welcoming, affordable place to call home.

Where We Work



- **55 Communities in 13 Counties**
 - 29 General Occupancy
 - 26 Senior
- **4,115 Residents**
- **3,001 Apartments**

Columbia

Saint Peter Apartments
Trinity House Apartments

Denver

The Apartments at
Heatherwoods

Elizabethtown

Market House Apartments
Whistlestop View
Apartments

Ephrata

Franklin Street
Apartments

Lancaster

The Apartments at
Mulberry Corners
Duke Manor Apartments
King Theatre Apartments
Lancaster Apartments
Plum Tree Apartments
Ruoff Tower
Tabor Place Apartments
Umbrella Works
Apartments

Landisville

Landisville Apartments I
Landisville Apartments II

Lititz

Aster Place Apartments
Larkspur Crossing
Townhomes

Mountville

Rockford Chase Apartments
Sylvan Retreat Apartments

New Holland

Mountain View Terrace

Quarryville

Oak Bottom Village

Lancaster County
24 communities; 1,282 apartments



**Resident
Selection
Criteria
Revised
January 2021**





Why?

HDC Policy was outdated

Revisions

2015 HUD Notice

Issued to inform housing providers that their admission policies must comply with the Fair Housing Act.

Discretion is given to housing agencies to consider:

- the seriousness,
- the tenant history of the individual,
- and the actions the individual has taken since the offense occurred such as participation in a rehabilitation program.

The notice made it clear that arrest records could no longer be used to deny admission, only convictions.



Why?

Reduces risk and liability to HDC

Revisions

2016 HUD MESSAGE

Blanket bans on individuals with criminal records violate the Fair Housing Act.

Housing providers are required to demonstrate that their policies and practices differentiate between demonstrable risk to resident safety and/or the property and criminal behavior that does not pose a threat to resident safety and/or the property.



Why?

**Aligns with HDC's
new strategic
direction, 5-Year
Strategic Plan,
2020-25**

Revisions

ADVANCE EQUITY

Apply the lens of racial equity, diversity and inclusion to organizational policies and procedures

PERSON-CENTERED SERVICE

Implementing trauma-informed strategies that create a welcoming and engaging culture for all residents.



Why?

Helps to reduce barriers for people in need of housing and advance HDC mission

Revisions

Offers opportunity for applicants to share history for HDC to better understand circumstances and path to re-entry

Obtaining stable housing is a critical need for individuals returning from incarceration to the community.

Revision Process



**Collaborative
process between
Property
Management,
Compliance and
Resident
Services**

- Fall 2019 – Internal Discussions & Organizational Buy-In
- Spring 2020: Draft of Revised Resident Selection Policy
- Summer 2020: Engaged Regional Housing Legal Services for technical assistance and guidance and HDC’s general counsel for review and feedback.
- Fall 2020: Presented to HDC’s Racial Equity, Diversity and Inclusion Work Group and HDC’s Board of Directors
- Fall 2020: Sign-offs received by third party owners; PHFA, HUD, Investor notifications
- Fall 2020 HDC Training on Revised Policy: Community Managers, Resident Services Coordinators
- Rollout: January 1, 2021

Timeline

2 Federally Mandated reasons for denial

- A household member convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.
- A household member who is subject to lifetime registration requirement under a state sex offender registration program.

Critical Components

The health, safety and security of HDC residents, employees and community members remain our #1 priority.

- ✓ Look-back time for most convictions was reduced
- ✓ With the exception of federally-mandated denials, all other charges are eligible for further review
- ✓ Many minor misdemeanors were removed
- ✓ Created “**Further Review**” process instead of “**Rejection and Appeal**” for applicants with convictions that are outlined in criminal screening process

Further Review Committee



**3 Member Committee:
Property Management,
Compliance and
Resident Services**

**Reviews applicants that
may suggest a
significant level of risk
to the community.**

**Conducts an
individualized
assessment of
applicant.**

Review Process

Applicants are given the opportunity to explain details of circumstance and are invited to submit the following:

- Letter or comments from a probation/parole officer
- Proof of payment for fines/costs
- Letter or comments from a case worker, counselor, or therapist
- Certificates of treatment completion as relevant to the conduct underlying the conviction(s)
- Letter or comments from family members or others who know the applicant well
- Document from a community organization with which the applicant has been engaged
- Letter or comments from employers or teachers
- Certificate of completion of a training program
- Statement from the applicant of mitigating circumstances

LESSONS LEARNED



A culture shift within the organization, staff and board members

Training delivered to staff who manage the application process and to board members

- Shifting from the historical practice within housing which excluded individuals with criminal records on the premise of providing safety
- Providing the facts about the impact of mass incarceration and the disparate impact on individuals of color
- Applying a trauma-informed and racial equity lens
- Increasing understanding of the importance of removing barriers to housing for returning individuals



Further Review Committee Learning & Reflection

Taking steps to decrease re- traumatization

- The opportunity to provide written documentation, rather than a verbal interview, decreased the feeling of putting the person in the position that they need to “plead their case”
- Many applicants will not come to Further Review due to the revised screening process
- As of November 2021, 19 applicants came to Further Review
 - 53% female, 47% male
 - 58% felony offenses
 - All approved based on documentation provided
 - 17 still in apartment, 1 removed from waiting list, 1 on waiting list

Trauma-Informed
Approach

Further Review Committee Learning & Reflection

Taking steps to decrease re- traumatization

- The opportunity to provide written documentation, rather than a verbal interview, decreased the feeling of putting the person in the position that they need to “plead their case”
- Many applicants will not come to Further Review due to the revised screening process
- As of November 2021, 19 applicants came to Further Review
 - 53% female, 47% male
 - 58% felony offenses
 - All approved based on documentation provided
 - 17 still in apartment, 1 removed from waiting list, 1 on waiting list

What we are seeing

- As of November 2021, 19 applicants came to Further Review
 - 53% female, 47% male
 - 58% felony offenses
 - All approved based on documentation provided
 - 17 still in apartment, 1 removed from waiting list, 1 on waiting list

Resource

National Low Income Housing Coalition

- <https://nlihc.org/search?search=criminal+records&issue-area=All&resource-type=All>
- <https://nlihc.org/sites/default/files/One-Strike-to-Second-Chances.pdf>

Questions?

Debbie Gable

Vice President of Resident
Services

HDC MidAtlantic

Dgable@hdcweb.org

Learn more at

www.hdcweb.org



Lancaster County Reentry Coalition

Lancaster, Pennsylvania



Our Vision

Lancaster County Reentry Coalition

*Lancaster County will welcome Reentrants and provide them with every opportunity for **success**.*

Who We Serve

Lancaster County Reentry Coalition

6,000 } Approximate inmates committed and released annually from Lancaster County Prison.

10,000 } Current Lancaster County Residents are under supervision with the Lancaster County Adult Probation & Parole.

1,250 } Number of Lancastrians who are currently paroled from Pennsylvania State Prisons.

Who We Are and What We Do

Lancaster County Reentry Coalition

Coordinate and collaborate with over 80 stakeholders who are united in addressing the unique needs of individuals returning to our communities.

The commitment is to ensure successful reentry opportunities exist for every reentrant, improving our communities, their lives and the lives of their families.

Wilder Report (2019)

Lancaster County Reentry Coalition

- Commissioned by 4 nonprofit landlords in Minnesota.
- Asked: How much does a criminal background matter in terms of housing success?

Conclusion: For the most part a criminal background has little to no effect

Wilder Report Results

Lancaster County Reentry Coalition

11 of 15 criminal offenses had no significant effect on housing outcomes, including:

- Marijuana possession
- Alcohol-related offenses (other than DUI)
- Serious traffic offenses (other than DUI)
- Minor public order offenses
- DUI/DWI or reckless driving
- Minor drug related offenses
- Disorderly conduct
- Prostitution
- Domestic Violence

Myths #1

Lancaster County Reentry Coalition

I should deny all applicants with a criminal record. Once someone has committed an offense, they are more likely to commit another.

FACT #1

Lancaster County Reentry Coalition

- Landlords should establish a more tailored screening policy. The policy should consider that the likelihood of committing another offense decreases quickly over time.
- A study of 15,000 individuals renting from four nonprofits in Minnesota from 2010 to 2017 found that a criminal record had no significant effect on a resident's ability to meet tenant obligations after two years for misdemeanors and after five years for felonies (Warren 2019 "Success in Housing").
- At six to seven years, it is just as likely that a person with no conviction history will commit an offense. (Kurlychek et al. 2006 "Scarlet Letters and Recidivism")

Myth #2

Lancaster County Reentry Coalition

I shouldn't rent to anyone with a criminal record unless they have been out of incarceration for more than two years.

Fact #2

Lancaster County Reentry Coalition

- The most critical time for someone with a criminal conviction to have access to housing is upon release from incarceration. In fact, a lack of housing is a major cause of re-arrest or re-incarceration (Shah et al. 2013 “Achieving Successful Community Reentry”; Prison Policy Initiative “Nowhere to Go”).
- Stable housing is the platform through which individuals access comprehensive services, improve health outcomes, find employment, fulfill any system requirements, reunite with family, and build for the future (See Vera Institute 2020 “No Access to Justice”; Pollak et al. 2010 “Housing Affordability and Health”).

Myth #3

Lancaster County Reentry Coalition

Criminal record background checks are always right and trustworthy.

The Philadelphia Reentry Coalition

Fact #3

Lancaster County Reentry Coalition

- Screening companies often make mistakes on criminal background screenings. This is despite requirements set forth by the Fair Credit Reporting Act for companies to verify the accuracy of their reports.
- Background checks often carry name misspellings or clerical errors, which connect people to the wrong identity and background.
- Online record databases are commonly out of date and inaccurate. As a result, many reports include sealed or expunged convictions, missing case disposition information (such as a misdemeanor written as a felony charge), juvenile records, and dropped cases.
- According to the Fair Housing Act's disparate impact rule, landlords are prohibited from using arrests that do not result in convictions to reject an applicant.
- Landlords should provide applicants the opportunity to correct any mistakes.
- PA State Police reports are no different

Myth #4

Lancaster County Reentry Coalition

Renting to someone on parole or probation is a big risk and has no upsides

The Philadelphia Reentry Coalition

Fact #4

Lancaster County Reentry Coalition

- People on parole or probation must frequently check in with their parole or probation officer, which may benefit both the tenant and landlord.
- The officer can act as an intermediary between landlord and tenant, verify the condition of the unit, and handle any issues before the landlord.
- People on parole or probation must also meet certain conditions beneficial to a landlord, such as maintaining employment and being a positive presence in the community, and people on parole may be required to undergo regular urine testing for illegal drugs.

Myth #5

Lancaster County Reentry Coalition

I shouldn't accept any referrals of people with a criminal record from community or government agencies.

Fact #5

Lancaster County Reentry Coalition

- Unlike other applicants, someone referred by a community or government agency is receiving “case management” and other supportive services intended to ensure they succeed as a tenant.
- The community agency can act as an intermediary between landlord and tenant, mediating any conversations or issues that arise.
- Access to supportive services improves a tenant’s chances of meeting rental obligations, especially for those with serious mental illness or chronic substance use (Malone 2019 “Assessing criminal history”).
- Some agencies may provide other assistance and financial incentives to landlords.

Myth #6

Lancaster County Reentry Coalition

It is never a good idea to rent to someone who has committed a sex offense.

The Philadelphia Reentry Coalition

Fact #6

Lancaster County Reentry Coalition

- Contrary to popular belief, research finds that people convicted of a sexual offense have low rates of recidivism and are less likely to commit another offense (PARSOL “Fact Sheet on Prevention”).
- PA Megan’s Law also requires registration for a broad spectrum of offenses, which obscure the circumstances and nature of the offense.
 - For example, people may be required to register for urinating in public or indecent exposure, even if committed as a teen.
- It is a best practice to conduct an individualized review to provide an opportunity for the applicant to respond and determine trustworthiness (Sterling Glen’s model policy).

4 Takeaways

Lancaster County Reentry Coalition

- No legitimate basis for exclusion based on arrest records alone.
- No blanket bans on convictions. severity of criminal conduct amount of time since conviction.
- It is best to perform an individualized review of each application that considers the totality of the circumstances
 - Age of individual at time of criminal conduct
 - Evidence of subsequent good behavior
 - History before/after criminal conviction or conduct
 - Supports in place

Today's incarcerated are tomorrows neighbors



Tenfold Programs

Know Your Rights



TENFOLD

Community Rental Equity Fund

- Referral-based tenancy support program/Landlord Risk Mitigation program
- For clients with bad credit, reentry, past evictions, newly arrived Americans
- Landlords have access to inspections, communication support, and monetary compensation at move out
- Tenants have access to Housing Location program, support throughout tenancy, added assistance on application



TENFOLD

York Rental Stability Network

- Referral-based tenancy support program/Landlord Risk Mitigation program
- For clients with bad credit, reentry, past evictions, domestic violence victims, or another identifiable barrier to housing.
- Landlords have access to inspections, communication support, and monetary compensation at move out.
- Tenants have access to support throughout tenancy and added assistance on application.
- Additional services include mediated conversations and legal service referrals when appropriate.



TENFOLD

Stay connected with us!



Tenfold



tenfoldorg



@tenfoldorg



Tenfold



www.wearetenfold.org

Follow us on our Social Media platforms and visit our website at www.WeAreTenfold.org.



TENFOLD

Tabor & LHOP are now Tenfold

Events & Classes

Search Tenfold



HOME

ABOUT US

GET HELP

GET INVOLVED

CONNECT WITH US



UNLOCKING OPPORTUNITY

Whether you're experiencing homelessness, need help budgeting, are considering homeownership, or are somewhere in between, our team is here to help you. We invite you to fill out this form. Our team will assess your request and get in touch with you.

REACH OUT TO US

Jeremy Hayes

Director of Housing Rights and Resources Center

jhayes@wearetenfold.org

717-291-9945 ext. 8

Barbara Rivera

Intake Specialist

brivera@wearetenfold.org

717-291-9945 ext. 4

Alaina Herbst

York Rental Stability Network Manager

aherbst@wearetenfold.org

717-827-4334



TENFOLD

Unlocking Opportunity

Questions?