



Congress of the United States  
House of Representatives  
Washington, DC 20515

June 10, 2024

The Honorable Adrienne Todman  
Acting Secretary  
U.S. Department of Housing and Urban Development  
451 7th Street, SW  
Washington, DC 20410

Dear Acting Secretary Todman,

We write to support the Department of Housing and Urban Development's (HUD) efforts to reduce housing barriers for formerly incarcerated and convicted people. To ensure that these individuals have equitable access to HUD-assisted housing, we request that the department issue a final rule that establishes the appropriate procedures and protections that support housing access for those with a criminal record.

In the United States, nearly 80 million Americans have a conviction or arrest record.<sup>1</sup> These individuals face significant barriers to housing, such as a lack of financial resources, weak social ties, market-based discrimination, and improper use of arrest records in housing decisions. Without access to safe and stable housing, individuals returning from incarceration are more likely to fall into homelessness and return to prison or jail. These obstacles complicate successful reentry and create a cycle between incarceration, homelessness, and reincarceration.

We appreciate HUD's efforts to reduce barriers to housing by reforming regulations governing public housing authorities (PHA) and HUD-subsidized housing providers. Specifically, we support the proposed reforms to prohibit the automatic denial of applicants with a criminal conviction by requiring an individualized assessment that weighs mitigating factors in admissions to a federally subsidized housing program. We also support HUD's proposal to declare three years as a presumptively "reasonable" time period for evaluating applicants after a disqualifying criminal activity. These reforms are critical to removing housing barriers for our most vulnerable.

To build off these efforts, HUD must consider the entire tenancy cycle and enact policies that help secure and maintain housing for these individuals, who are working towards building a new life but are often targeted due to their past. Therefore, we urge HUD to consider the following policies in the final rule:

<sup>1</sup> [FACT SHEET: Biden-Harris Administration Expands Second Chance Opportunities for Formerly Incarcerated Persons | The White House](#)



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- I. HUD should clarify that PHAs and other HUD-subsidized owners should refrain from using any criminal history other than convictions in housing decisions.** Although the proposed rule prohibits arrest records as the sole basis for denying admission, the proposal states that an arrest record may trigger an inquiry by the PHA or owner into whether the conduct underlying an arrest took place and whether it is evidence of an applicant's risk of engaging in such criminal activity. Without clarification, PHAs and owners run the risk of conflating arrest records with actual conduct, which diminishes HUD's efforts to prohibit the usage of arrest records. It also encourages PHAs and owners to rely on other records outside of a conviction, even if they are not reliable indicators of whether an individual has engaged in criminal activity. Therefore, HUD should clarify that nothing short of a conviction record should be used in housing decisions.
  
- II. Expanded list of Mitigating Factors in Terminations & Evictions:** To further improve housing outcomes for individuals with a criminal record and their families, HUD should expand the list of mitigating factors landlords must consider prior to the termination of assistance or eviction of a tenant. For example, the final rule should explicitly include in the list of mitigating circumstances whether a resident is a survivor of gender-based violence and subject to protections under the Violence Against Women Act (VAWA). The list should also include whether there are feasible alternatives to eviction available to help preserve the tenancy. These protections are a critical step toward eliminating "one strike" eviction policies that have harmed households and led to housing insecurity, particularly for survivors of gender-based violence. The final rule should also encourage housing providers to use discretion that prioritizes housing stability for systems-involved individuals and their families.
  
- III. Definition for "health, safety, and right to peaceful enjoyment."** Although federal law defines "drug-related criminal activity" and "violent criminal activity", the proposed rules fail to define "criminal activity that would threaten health, safety, or right to peaceful enjoyment." Without a definition, some housing providers may interpret this provision more broadly than HUD intends, which may prevent applicants from accessing housing even though their criminal records are unrelated to their ability to meet the responsibilities of tenancy.
  
- IV. Robust Procedural Protections:** We are grateful that HUD included a 15-day period prior to denial where a PHA must provide the applicant household with a copy of the record and an opportunity to dispute its accuracy and relevance. To further provide adequate protection for tenants, HUD should consider extending the period to no less



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than 30 days. A 15-day period may not provide enough time for an applicant, who may not have the services and resources to navigate the various bureaucratic systems and obstacles, to acquire documentation and submit evidence contesting accuracy in the proposed time frame.

We encourage you to adopt a final rule with these recommendations to ensure that individuals with a criminal record can access affordable housing and remain housed.

Thank you for your consideration.

Sincerely,

Nanette Diaz Barragán  
Nanette Diaz Barragán  
Member of Congress

Suzanne Bonamici  
Suzanne Bonamici  
Member of Congress

Delia C. Ramirez  
Delia C. Ramirez  
Member of Congress

Sylvia R. Garcia  
Sylvia R. Garcia  
Member of Congress

Shri Thanedar  
Shri Thanedar  
Member of Congress



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Sheila Cherfilus-McCormick  
Member of Congress

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Jasmine Crockett  
Member of Congress

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Member of Congress

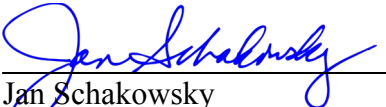
Barbara Lee  
Member of Congress

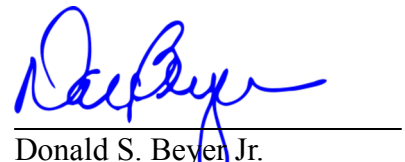
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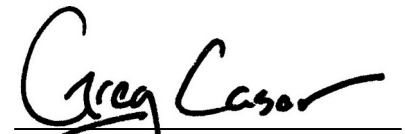
  
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Member of Congress

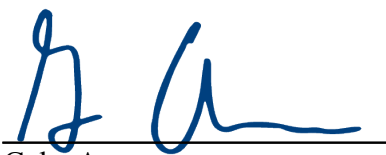
  
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Member of Congress


  
Dwight Evans  
Member of Congress

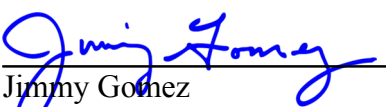
  
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Member of Congress


  
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Member of Congress

  
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Member of Congress



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Alma S. Adams, Ph.D.  
Member of Congress

Sydney Kamlager-Dove  
Member of Congress

Raúl M. Grijalva  
Member of Congress

Ro Khanna  
Member of Congress

Shontel M. Brown  
Member of Congress

Robert J. Menendez  
Member of Congress

Troy Carter  
Member of Congress