



CRIMINAL HISTORY RECORD CHECKS FOR FEDERALLY ASSISTED HOUSING APPLICATIONS

Progress Report



CRIMINAL HISTORY RECORD CHECKS FOR FEDERALLY ASSISTED HOUSING APPLICATIONS: A PROGRESS REPORT

SUBMITTED TO THE ILLINOIS GOVERNOR
AND GENERAL ASSEMBLY

Prepared by:

Ryan Maranville

Research Fellow

Center for Justice Research and Evaluation
Illinois Criminal Justice Information Authority

Jessica Reichert

Senior Research Scientist

Manager, Center for Justice Research and Evaluation
Illinois Criminal Justice Information Authority

WITH ASSISTANCE FROM:

Alan Zais, NI ReACH

Bob Palmer, Housing Action Illinois

Cristin Evans, Illinois Criminal Justice Information Authority

Doresah Ford-Bey, Illinois Criminal Justice Information Authority

Gianna Baker, Chicago Area Fair Housing Alliance

Javon Gregoire, Illinois Criminal Justice Information Authority

Matthew Smith, Cabrini Green Legal Aid

Millicent McCoy, Illinois Criminal Justice Information Authority

Niya Kelly, Chicago Coalition for the Homeless Operations Chicago

Rosemary Mendez, U.S. Department of Housing and Urban Development, Office of Field

Scott Risolute, Illinois Criminal Justice Information Authority

Tim Lavery, Illinois Criminal Justice Information Authority

Suggested citation: Maranville, R., & Reichert, J. (2023). *Criminal history record checks for federally assisted housing applications: Progress report*. Illinois Criminal Justice Information Authority.

Illinois Criminal Justice Information Authority
60 E. Van Buren St., Suite 650
Chicago, Illinois 60605
Phone: 312.793.8550
<https://icjia.illinois.gov>

INTRODUCTION

Section 8.10a of the Housing Authorities Act requires all Illinois public housing programs to collect and report to the Illinois Criminal Justice Information Authority (ICJIA) the following on an annual basis:

- (1) The number of applications submitted for admission to federally assisted housing.
- (2) The number of applications submitted for admission to federally assisted housing of individuals with a criminal history record, if the authority is conducting criminal history records checks of applicants or other household members.
- (3) The number of applications for admission to federally assisted housing that were denied on the basis of a criminal history record, if the authority is conducting criminal history records checks of applicants or other household members.
- (4) The number of criminal records assessment hearings requested by applicants for housing who were denied federally assisted housing on the basis of a criminal history records check.
- (5) The number of denials for federally assisted housing that was overturned after a criminal records assessment hearing (310 ilcs 10/8.10a).

The reported information must be disaggregated by the race, ethnicity, and sex of housing applicants (Appendix).

The statutory provision was effective on March 23, 2021. ICJIA will provide annual reports to the General Assembly in compliance with Section 8.10a annually on or before March 31. The agency is gathering information to provide the General Assembly with a complete report.

This progress report provides background describing issues associated with housing for individuals with criminal records, highlights ICJIA's progress in data collection, and details the agency's plans to complete remaining data collection and reporting activities.

BACKGROUND

Over 10 million U.S. arrests occurred in 2019 (Office of Juvenile Justice and Delinquency Prevention, 2022) and one of every three persons had a criminal arrest record in 2014 (Bureau of Justice Statistics, 2014). Criminal background checks are regularly used to screen job applicants (Holzer et al., 2007), college and university enrollment (Pierce et al., 2014), and housing (Schneider, 2018). Technology makes conducting criminal background checks more routine and accessible (Murphy et al., 2011). Criminal background checks can create a barriers to housing access even when arrests are ultimately resolved, such as dismissed or unfiled charges (Goggins & DeBacco, 2020). Individuals who possess criminal histories struggle to obtain suitable and stable housing due, in part, to stigma and bias associated with arrest or incarceration (Clark, 2007). As a result, these individuals recidivate at a higher rate (Schneider, 2018).

Using criminal histories to make housing decisions can be illegal under the Fair Housing Act (McCain, 2022). In 2016, the U.S. Department of Housing and Urban Development (HUD) released guidance for housing providers on navigating criminal record checks to avoid illegal discrimination (U.S. Dept. of Housing and Urban Development, 2016). In 2022, HUD informed housing providers using discriminatory language in housing listings, unjust and inaccurate screening practices by way of online record checks, and unmerited evictions of individuals or their families could violate the Fair Housing Act (McCain, 2022).

More than 10 million Americans and over 440,000 Illinoisans access federal rental assistance. Rising rents and stagnant wages have contributed to homelessness or unaffordable housing for four in every 10 individuals with low incomes (Center on Budget and Policy Priorities, 2022). While obtaining and maintaining affordable, safe, and stable housing is a well-documented issue throughout the United States, individuals with low incomes and criminal records often face additional barriers, such as poor credit and employment deficits contributing further to housing insecurity. In addition, racial and ethnic disparities exist in arrests occurring in communities of color. With an increased risk for arrest, people of color often face more denial or expulsion from housing due to criminal records (Crowell, 2017). In sum, stigma, bias, discrimination, and criminal histories can create housing barriers, potentially jeopardizing the health and safety of individuals, families, and communities (Schneider, 2018).

PROGRESS UPDATE

ICJIA staff are poised to begin collecting the required data through an online survey. However, additional engagement with housing authorities will ensure that ICJIA's statewide data collection will take into account current housing authority data collection practices, considers equitable access, and produces accurate, quality data.

Methodologically, ICJIA seeks to align demographic classifications, such as gender, race, and ethnicity, between the survey and data collected by housing authorities and outlined under the Housing Authorities Act. Additionally, ICJIA will review the housing application process, including general rules, guidelines, and practices. ICJIA also seeks clarity on the application process, including the timeline and the extent to which waitlists exist and occur. Further, ICJIA must confirm that housing authorities follow unified definitions and practices associated with conducting criminal records checks, as differentiations will influence data congruency and validity. Finally, ICJIA will examine potential application undercounts or duplications across housing authorities to improve how applications are counted and organized and enhance data accuracy.

Logistically, ICJIA must verify housing authorities named in the Act have the infrastructure and capacity to complete the survey, including staff to manage it and methods for data collection and storage. Also, ICJIA needs guidance to identify and make contact with housing authority personnel best suited to provide requested data. These steps will support compliance on behalf of surveyed authorities and guarantee survey completion in a timely and accurate manner.

The ICJIA project to collect data in the Act was approved by the ICJIA Institutional Review Board secretary as non-research on October 19, 2022.

In November 2022, the U.S. Department of Housing and Urban Development's Chicago Field Office provided ICJIA with a comprehensive statewide directory containing executive-level contact information at all Illinois public housing authorities. ICJIA will consult this directory to establish contact for survey input and eventual implementation.

ICJIA staff has consulted with Illinois housing authority representatives and other stakeholders to understand current data practices. On October 26, 2022, ICJIA staff hosted a meeting with agency representatives and other involved parties to discuss in detail Section 8.10a of the Housing Authorities Act. Attendees shared information about public housing authorities and applications for federally assisted funding. ICJIA staff presented operational and logistical project inquiries that required additional engagement. ICJIA will meet with public housing authority experts in early 2023 to address unresolved methodological and logistical concerns.

Table 1 lists ICJIA data collection and reporting tasks to be completed.

Table 1*Tasks to Complete*

| Tasks | Anticipated Completion Date |
|---|------------------------------------|
| Gather information from public housing stakeholders for logistics and survey refinement. | January - February 2023 |
| Pilot survey with selected public housing authorities to ensure readability, usability, and clarity. | February - March 2023 |
| Submit annual report to the Illinois Governor and General Assembly. | March 2023 |
| Distribute and administer online survey to all housing voucher programs and public housing authorities organized under statute 310 ILCS 10/8.10a. | March - April 2023 |
| Begin data analysis and report formation. | May - June 2023 |
| Complete final report and disseminate information to the public. | June - July 2023 |
| Continued annual reporting. | Annually, by March 31 |

REFERENCES

- Bureau of Justice Statistics. (2014). *Survey of state criminal history information systems, 2012*. U.S. Department of Justice, Office of Justice Programs.
<https://www.ojp.gov/pdffiles1/bjs/grants/244563.pdf>
- Center on Budget and Policy Priorities. (2022) *Illinois federal rental assistance fact sheet*.
<https://www.cbpp.org/sites/default/files/atoms/files/12-10-19hous-factsheet-il.pdf>
- Clark, L. M. (2007). Landlord attitudes toward renting to released offenders. *Federal Probation*, 71(1), 1-24. https://www.uscourts.gov/sites/default/files/71_1_4_0.pdf
- Crowell, H. (2017). A home of one's own: The fight against illegal housing discrimination based on criminal convictions, and those who are still left behind. *Texas Law Review*, 95. 1103-1143.
- Goggins, B.R., & DeBacco, D.A., (2020). *Survey of state criminal history systems, 2018*. SEARCH, The National Consortium for Justice Information and Statistics.
<https://www.ojp.gov/pdffiles1/bjs/grants/255651.pdf>
- Holzer, H. J., Raphael, S., & Stoll, M. A. (2007). The effect of an applicant's criminal history on employer hiring decisions and screening practices: Evidence from Los Angeles. In Bushway, S. D., Stoll, M. A., & Weiman, D. (Eds.), *Barriers to reentry? The labor market for released prisoners in post-industrial America*. (pp. 117-150). Russell Sage Foundation.
- McCain, D. L., (2022). *Implementation of the Office of General Counsel's Guidance on Application of Fair Housing Act Standards to the use of criminal records by providers of housing and real estate-related transactions*. U.S. Department of Housing and Urban Development.
<https://www.hud.gov/sites/dfiles/FHEO/documents/Implementation%20of%20OGC%20Guidance%20on%20Application%20of%20FHA%20Standards%20to%20the%20Use%20of%20Criminal%20Records%20-%20June%2010%202022.pdf>
- Murphy, D. S., Fuleihan, B., Richards, S. C., & Jones, R. S. (2011). The electronic "scarlet letter": Criminal backgrounding and a perpetual spoiled identity. *Journal of Offender Rehabilitation*, 50(3), 101-118. <https://doi.org/10.1080/10509674.2011.560548>
- Office of Juvenile Justice and Delinquency Prevention. (2022). *Trends in the number of arrests by race for all offenses age: All ages*. U.S. Department of Justice, Office of Justice Programs.
https://www.ojjdp.gov/ojstatbb/crime/ucr_trend.asp?table_in=2
- Pierce, M. W., Runyan, C. W., & Bangdiwala, S. I. (2014). The use of criminal history information in college admissions decisions. *Journal of School Violence*, 13(4), 359-376.
<https://doi.org/10.1080/15388220.2013.870061>
- Schneider, V. (2018). The prison to homelessness pipeline: Criminal record checks, race, and disparate impact. *Indiana Law Journal*, 93(2), 421-455.
<https://www.repository.law.indiana.edu/ilj/vol93/iss2/4>

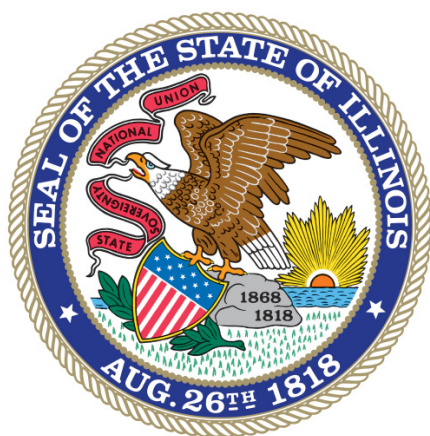
U.S. Department of Housing and Urban Development. (2016). *Office of General Counsel guidance on application of Fair Housing Act standards to the use of criminal records by the providers of housing and real estate-related transactions.*

https://www.hud.gov/sites/documents/HUD_OGCGUIDAPPFHASTANDCR.PDF

APPENDIX: 310 ILCS 10/8.10A

- (A) Every Authority organized under the provisions of this Act shall collect the following:
1. The number of applications submitted for admission to federally assisted housing;
 2. The number of applications submitted for admission to federally assisted housing by individuals with a criminal history record, if the Authority is conducting criminal history records checks of applicants or other household members;
 3. The number of applications for admission to federally assisted housing that were denied on the basis of a criminal history record, if the Authority is conducting criminal history records checks of applicants or other household members;
 4. The number of criminal records assessment hearings requested by applicants for housing who were denied federally assisted housing on the basis of a criminal history records check; and
 5. The number of denials for federally assisted housing that were overturned after a criminal records assessment hearing.
- (B) The information required in this Section shall be disaggregated by the race, ethnicity, and sex of applicants for housing. This information shall be reported to the Illinois Criminal Justice Information Authority and shall be compiled and reported to the General Assembly annually by the Illinois Criminal Justice Information Authority. The Illinois Criminal Justice Information Authority shall also make this report publicly available, including on its website, without fee.

Source: P.A. 101-659, eff. 3-23-21



Illinois Criminal Justice Information Authority

60 E. Van Buren Boulevard, 6th Floor

Chicago, Illinois 60605

Phone: (312) 793-8550

TDD: (312)793-4170

ICJIA.Illinois.Gov