

Implementing Housing First Practices for People Involved with the Criminal Justice System

People involved with the criminal justice system (CJS) are disproportionately represented among those experiencing homelessness¹ and criminal convictions can result in lifelong barriers to housing. These barriers range from background checks as part of housing applications, denial of constitutional fair housing law protections, eviction and housing forfeiture, denial of rental or sale, and other impacts of stigma. This tool provides practical guidance to Continuum of Care's (CoCs), direct service providers, and other homeless system partners to implement a Housing First approach to support people with criminal records secure safe and stable housing.

Key Strategies and Action Steps

- **Implement the Housing First approach** to reduce barriers to safe and stable housing
- **Understand and address the unique housing barriers facing special populations involved with the CJS**, including survivors of domestic violence and persons with limited English proficiency (LEP)

Implement the Housing First Approach

Housing First is an evidence-based practice that emphasizes the importance of safe and stable housing prior to addressing the underlying causes of a person's experience of homelessness. Housing First projects focus, first and foremost, on ensuring that individuals and families experiencing homelessness are quickly and successfully connected to permanent housing. To do so, projects must reduce barriers to the extent possible, providing access to housing without preconditions such as sobriety, treatment, or agreement to participate in services.

In addition to the strategies and action steps outlined below, HUD's [Housing First Implementation Guide](#) is an excellent starting point to better understand the Housing First philosophy, find materials to self-assess your community or project's Housing First implementation, and plan for organizational change.

¹ The Prison Policy Initiative, *Nowhere to Go: Homelessness among formerly incarcerated people* (2018), available at: <https://www.prisonpolicy.org/reports/housing.html>.

Note that projects that represent themselves to HUD as adopting the Housing First model are contractually bound to implement this approach and reduce discretionary barriers to accessing housing.

Understand HUD Program Requirements

We cannot end homelessness without making provision for the disproportionate number of people experiencing homelessness who have criminal records. To support effective Housing First practices across the homeless system of care, CoCs can educate housing providers and other local partners to dispel common myths, ensure they understand the requirements of HUD-funded homelessness programs, and eliminate unnecessary barriers to housing for individuals with criminal records.

- **HUD-funded homeless providers [are not required](#) to disqualify individuals based on criminal history:** Neither the CoC nor ESG Program Interim Rule requires recipients to disqualify individuals based on criminal history.
- While CoC and ESG recipients have discretion in establishing their own project-level policies and procedures, **HUD strongly encourages recipients to adopt Housing First practices that remove unnecessary barriers for clients with criminal records.** Choosing to not serve people with a criminal record with CoC or ESG Program funds [is not consistent with a Housing First approach](#).
- **Blanket bans likely violate [the Fair Housing Act](#):** Bans that exclude entire categories of convictions regardless of the circumstances surrounding the crime, how long ago the conviction occurred, or any efforts the applicant has made at rehabilitation likely violate the FHA because they do not take into consideration the actual risk posed by the applicant.

Too often, criminal histories are used to screen out or evict individuals who pose no actual threat to the health and safety of their neighbors. And this makes our communities less safe because providing returning citizens with housing helps them reintegrate and makes them less likely to reoffend.

*Secretary of Housing and Urban Development
Marcia L. Fudge*

Most restrictions in HUD-funded homelessness programs based on criminal records are discretionary and inconsistent with Housing First principles.

Review and Revise Existing Policies and Procedures to Align with Housing First

Low-barrier screening criteria can significantly improve housing opportunities for people with criminal records. Housing First projects should limit barriers to entry solely to those imposed by the terms of the grants under which they are funded; required by federal, state, or local law; or as necessary to protect the health and safety of other residents.

Any additional, discretionary requirements (such as those related to sobriety or rental, credit, income, or criminal histories) should be removed, and are not permitted in Housing First programs. Providers should undertake a systematic review of their current policies and procedures to ensure that applicants are not screened out based on their criminal records or other impacts of the criminal justice system.

The following samples may be instructive as to how other communities have approached reviewing and revising policies and procedures to ensure alignment with Housing First:

- [Chicago CoC Governance Charter](#)
- [The Way Home – Houston CoC Governance Charter](#)
- [Contra Costa Coordinated Entry System Policies and Procedures](#)
- [San Diego Community Standards](#)

Community Spotlight: Multnomah County, OR

In Multnomah County, OR, the CoC and provider Central City Concern partnered with the Multnomah County Department of Criminal Justice to reserve housing units in the Henry, a mixed-income housing development for people exiting jails and prisons. The [Project Screening Criteria at the Henry](#) utilizes screening criteria that seeks to lower barriers for applicants with criminal records.

The Henry encourages applicants to **submit supplemental screening information** and mitigating information to provide a more complete picture of the applicant's current situation and to support their housing application. The policies provide specific examples such as:

- Applicant statement specifically addressing the issue of concern
- Letter from parole or probation officer
- Letter from caseworker, mentor, therapist, counselor, etc.
- Proof of participation in a substance use treatment program
- Certification of completed trainings
- Letter from an employer, teacher, etc.

While the criteria for the Henry's fair market units does identify certain convictions as possible grounds for denial, the policies incorporate efforts to tailor these limitations narrowly and make them time limited. Where negative information is revealed through the background screening that would lead to a denial, Central City Concern provides an **Individualized Assessment** with the applicant, considering:

- The nature, severity, number, and type of incidents that would lead to a denial.
- How much time has elapsed since the incident occurred.
- The age of the housing applicant at the time the incidents occurred.
- Evidence that the individual has maintained a good tenant history before and/or after the conviction or conduct.
- Any rehabilitation efforts.

Applicants receive **written communication** of the determination within two weeks of the application. If the determination is anything other than acceptance, the notification will include the reason for the decision and, if supplemental evidence was submitted, why the supplemental evidence did not adequately compensate for the factors informing the decision.

Applicants have the **opportunity to appeal** within 30 days of denial and can provide information to explain or correct negative information that arose during the screening process. Applicants who appeal receive a second Individualized Assessment with two staff members that were not part of the initial screening process.

Recognize and Address Limitations of Criminal Records in Screening Processes

While a criminal record review may be important for case managers to understand and address clients' potential housing barriers, these records have significant limitations. The chart below outlines common limitations of criminal records and strategies for housing providers to counteract these limitations.

Limitation of Criminal Records	Housing Provider Strategies to Counteract Criminal Record Limitations
Criminal records can be inaccurate	Give clients an opportunity to respond and correct any errors in their criminal records. Do not rely solely on third-party background check companies that use algorithms to make decisions for a provider about a tenant. Obtain complete records that have details about the convictions in question.
Criminal records are not predictors of housing success	Consider the nature and severity of the conviction, including whether it directly relates to a person's ability to be a good tenant. A study of a Housing First project found similar housing performance for tenants, regardless of criminal histories.
Criminal records don't provide context (e.g., when a criminal act is an act of survival)	<p>Ask for and consider any information that helps explain why the applicant's conviction would not impact their tenancy, or any information that lessens their culpability for the crime. For example:</p> <ul style="list-style-type: none"> • Were they a survivor of domestic violence when they were convicted? • Do they have any disabilities underlying the criminal conviction? • Do they have a solid work history? • Can they obtain letters from past landlords vouching for them? <p>This mitigating information will help the landlord complete an individualized risk assessment that accounts for the whole person and not just their record. Housing providers should list any circumstances they consider in their background check policy.</p>
Criminal records may create additional barriers by tapping into the bias of housing	Advocate for look-back periods. Limiting the amount of time that a provider will look back in time at a person's record helps ensure that

Limitation of Criminal Records	Housing Provider Strategies to Counteract Criminal Record Limitations
and service providers about who “deserves” housing in an environment of housing scarcity	they are not considering irrelevant or outdated information.

Provide Training for Staff to Overcome Stigma and Bias

Implementing low barrier, Housing First policies may be a substantial and controversial transition for some projects. Frontline staff may express doubts and/or reservations regarding these changes. Staff may worry that people with criminal records (and those with other housing-related barriers) may be more difficult to support. In those circumstances, it is necessary to provide additional training to ensure that staff understand and buy in to the new policies and have the support needed to ensure success.

- ❑ **Develop a plan to orient all staff to the new Housing First model.** Consider ongoing training needs and include an established and regular training schedule. The training itself may be provided through multiple avenues (e.g., in-service training provided by agency staff or external technical assistance providers, etc.).
- ❑ **Support staff to understand the cycle of CJS involvement and homelessness.** With [one-in-three Americans](#) having some type of criminal record, a criminal record is not an effective predictor of housing success. Demystifying criminal records and the barriers faced by individuals involved with the CJS can help overcome myths and misunderstanding.
- ❑ **Establish regular open channels of communication** with staff regarding the implementation of the new approach to encourage dialogue and engagement with the transition and for providing ongoing training and support. Many individuals may have bias or preconceived misconceptions about individuals with criminal records. Safe spaces to discuss these issues directly can help to change hearts and minds.
- ❑ **Provide appropriate staff supervision** to ensure effective implementation (e.g., case managers should meet regularly and frequently with supervisors to review difficult cases, brainstorm the best methods of helping program participants to achieve their goals, and to address challenges they themselves may be experiencing in the transition process). Ensure staff have spaces to debrief difficult situations to support their well-being.
- ❑ **Invest in ongoing training for staff** to build capacity and provide opportunities for professional development. This can include harm reduction training to help staff learn to confront and mitigate the harms of drug and alcohol use through non-judgmental communication, and training on skillsets related to motivational interviewing, wellness self-management, and trauma-informed care. These best practices require continual

reinforcement through effective clinical supervision, which is key to supporting long-term housing stability.

Understand and Address the Unique Housing Barriers Facing Special Populations

While all individuals with criminal records commonly face barriers to housing, these barriers can be particularly challenging for certain populations. This section outlines strategies for addressing the unique housing barriers faced by:

- Survivors of domestic violence, stalking, sexual assault, and human trafficking
- Persons with limited English proficiency

Survivors of Domestic Violence and Human Trafficking

While many CoCs have systems to support survivors of domestic violence, stalking, sexual assault, and human trafficking, CoCs should consider additional practices to ensure support for survivors who are involved with the criminal justice system. These individuals face a dual set of challenges that can significantly exacerbate barriers to housing.

- **Housing Location:** Survivors involved with the CJS may need or desire to find housing in locations where they can be safe from the people who have harmed them (which may rule out the survivor's past neighborhoods), while also complying with terms of court orders, parole, probation, or bail. While this can significantly limit potential locations for housing, providers should honor client choice in determining what is safe for them.
- **Vulnerability:** Survivors involved with the CJS may experience trauma and behavioral health issues associated with the abuse, sexual assault, stalking or other violence they experienced, that may be compounded by their experiences of incarceration or other CJS-related trauma.
- **Housing Access:** Survivors may have eviction histories resulting from the actions or conditions created by their domestic violence situation that further increase the challenges of overcoming barriers associated with policies that screen out individuals with criminal records. The Violence Against Women Act ([VAWA](#)) prohibits survivors from being denied admission to VAWA-covered housing they otherwise qualify for solely as a result of their status as a survivor.
- **Financial Challenges:** Survivors may quit jobs to flee abuse or have inconsistent work performance resulting from the violence; those who have been isolated or controlled by the people who have harmed them often have limited credit, employment history, savings, or income. At the same time, criminal histories may result in barriers to obtaining benefits and employment due to policies or stigma, and individuals may have lost jobs due to arrest or conviction.

To overcome these compounded barriers and challenges, it is important to ensure that both CoC and CJS partners are equipped to:

- Identify** individuals who are dually impacted by domestic violence and CJS involvement
- Provide trauma-informed services** that are responsive to the client's unique history and honors client choice
- Avoid language that is stigmatizing or shaming** and follow the client's lead about how they talk about experiences of sex work, sexual trafficking, or abuse – not everyone is comfortable with language such as “survivor” or “abuser”
- Gather information about legal issues** the client may be facing that may be complicating their situation, including in family court
- Work with your client's attorneys, social workers, or other individuals** engaged in supporting your client, and connect your client with local reentry and survivor support resources
- Effectively assess barriers to housing locations**, taking into consideration any mandatory requirements related to the CJS involvement and safety considerations relating to the survivor's experience

Contact with law enforcement and the broader criminal justice system can result in various consequences, such as arrest, prosecution, incarceration, and criminal records that can increase barriers to obtaining and maintaining housing.

People with Limited English Proficiency

To better address the needs of people for whom English is not their first language, CoC and CJS partners can:

- Work with the CoC's coordinated entry system** to make sure that people with limited English proficiency and access to transportation know how to get help with housing and feel safe doing so.
- Partner with community-based organizations, faith communities, and schools that have pre-existing relationships with persons for whom English is not their first language** and can act as outreach points or otherwise bridge clients to your services.
- Revise program policies and procedures** to ensure that people are not excluded unnecessarily based on criminal histories or because they do not speak English proficiently.
- Staff programs with people who come from the communities you serve**, including those who are fluent in the languages spoken by your clients. Actively involve such staff in developing policies, procedures, and strategies to support clients.

- ❑ **Train staff regularly on best practices** for engaging with and supporting, bringing in community partners from the diverse communities you serve.

Additional Resources

- [Housing First Implementation Resources \(HUD Exchange\)](#): A compilation of resources to support partners in implementing the housing first approach
- [CoC and ESG Virtual Binders - CoC and ESG Additional Requirements - Criminal History \(HUD Exchange\)](#): An FAQ providing guidance regarding CoC and ESG requirements for applicants with criminal history
- [Housing Discrimination Under the Fair Housing Act \(HUD\)](#): An overview of the Fair Housing Act and its protections and prohibitions
- [Barriers to Housing Security for People with Criminal Convictions \(Center for American Progress\)](#): An article discussing the harmful housing policies that discriminate against people with criminal records and perpetuate racial discrimination
- [Housing Considerations for Domestic Violence and Human Trafficking Survivors Involved with the Criminal Legal System \(Homebase\)](#): An overview of barriers to housing commonly faced by domestic violence and trafficking survivors, and resources that can be helpful