

HOUSING JUSTICE

National Housing Law Project

Newsletter July 2011

HUD Issues Guidance on Housing Access for Individuals with Criminal Records

Department of Housing and Urban Development (HUD) Secretary Shaun Donovan recently sent a letter to public housing authority (PHA) directors encouraging PHAs to grant program access to people re-entering society following incarceration. The letter highlighted the importance of making housing available to individuals being released from incarceration and emphasized the discretion PHAs have to admit formerly incarcerated individuals. Although the informal guidance did not create any policy changes, the letter marks an important step forward in providing people with access to housing upon release from incarceration. The letter may be particularly helpful for advocates assisting domestic violence survivors who have criminal records stemming from self-defense, mutual arrest, or coercion by the abuser.

Background

Upon release from incarceration, individuals face countless barriers to re-entering society, and one of the biggest hurdles is finding a place to live. Research shows that the majority of formerly incarcerated individuals plan to live with family members upon release, many of whom live in federally subsidized housing. For those that do not have families to rejoin, public or subsidized housing is often the only affordable option for rental housing. However, many HUD-assisted housing programs have admissions policies that exclude

people with criminal records. Because of such broad policies, formerly incarcerated individuals are denied the opportunity to reunite with their families and secure affordable housing.

Current PHA Admissions Policies

Many PHAs have adopted overly restrictive screening policies that go far beyond Congress's intent and HUD's guidance. For example, when Congress authorized PHAs or owners to screen for criminal activity, it required that the applicant's criminal activity be current or have occurred within a "reasonable period" of time prior to the admission decision. The statute did not define the term "reasonable period," but HUD guidance states that "five years may be reasonable for serious offenses." Instead of looking back five or even fewer years for less serious crimes, many PHAs look back as far as 10 years to determine housing eligibility for any crime.

Further, Congress established that PHAs could deny admission for criminal activity that might threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or the PHA staff. Despite this directive, many PHAs have policies that exclude applicants for any criminal activity—even crimes unrelated to the safety of others, such as shoplifting, prostitution, or writing bad checks. Similarly, PHAs often reject applicants on the basis of an arrest record, even if a charge was ultimately dropped. By employing such broad exclusionary policies, many PHAs have made it virtually impossible for someone with a criminal record to live in affordable housing.

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Secretary Donovan's Letter

The Secretary's letter clarified HUD's position regarding eligibility of people re-entering society upon release from incarceration. The letter acknowledged the importance of providing stable housing for formerly incarcerated individuals and emphasized the role PHAs can play in this process. By encouraging PHAs to permit people being released from incarceration to reunite with families living in public housing or participating in the Section 8 voucher program, HUD highlighted the Obama Administration's commitment to helping people re-enter society.

The letter also explained that HUD statutes and regulations contain only two explicit bans on occupancy based on criminal activity. PHAs must deny admission to: (1) any individual convicted of producing methamphetamines in federally assisted housing, and (2) sex offenders subject to a lifetime registration requirement. Additionally, PHAs must prohibit admission of an applicant for three years if a household member has been evicted from federally assisted housing for drug-related activity. However, PHAs have discretion in that situation to consider mitigating circumstances, such as completion of a drug rehabilitation program.

Aside from these restrictions, PHAs have broad discretion regarding admissions policies and criminal history. Thus the Secretary reminded PHAs to consider all relevant information when screening applicants, especially evidence of rehabilitation or willingness to participate in social services. Advocates should also encourage PHAs to consider the role that domestic violence played in a survivor's criminal history.

Conclusion

The Secretary's letter sends a key message to PHAs that they have broad discretion to allow formerly incarcerated individuals into subsidized housing. However, the letter is only a first step, and advocates should continue to work at the local level to expand housing opportunities for domestic violence survivors with criminal records. ■

Report Analyzes Year One of the Homelessness Prevention and Rapid Re-Housing Program

The Department of Housing and Urban Development (HUD) has released a report providing a national summary of the first year of the Homelessness Prevention and Rapid Re-Housing Program. HPRP funds were awarded to state and local governments, and several domestic violence agencies received HPRP funds to assist survivors who needed help in paying rent, security deposits, utilities, and moving costs. The report includes data from HPRP's initial implementation in fall 2009 through September 2010. It discusses the number of persons served, the types of assistance provided, and HPRP's impact.

Background

The American Recovery and Reinvestment Act of 2009 allocated \$1.5 billion for HPRP. The program has a homelessness prevention component and a rapid re-housing component. To qualify for HPRP homelessness prevention assistance, a household must demonstrate that it would become homeless but for the assistance. To qualify for HPRP rapid re-housing assistance, a household must meet HUD's definition of homeless. Common uses of HPRP funds include rental assistance, security deposits, utility payments, and moving costs.

Persons Served and Funds Spent

According to HUD, in its first year, HPRP prevented and ended homelessness for approximately 690,000 people. Approximately 55% of people receiving assistance were adults, and 44% were children. Many grantees began serving households in January 2010. The number of persons served began accelerating in July 2010 and continued at a steady, consistent increase through September 2010. As of June 13, 2011, grantees had

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drawn \$986 million, or 66% of HPRP funds, through HUD's disbursement system.

Types of Assistance Provided

During HPRP's first year, approximately 78.2% of persons served received homelessness prevention assistance, and 24.2% received rapid re-housing assistance (2.4% received both types of assistance). Of the persons who received homelessness prevention assistance, 75.1% received financial assistance, and 89.1% received housing relocation and stabilization services. Of those who received rapid re-housing assistance, 61.1% received financial assistance, and 89.1% received housing relocation and stabilization services. The most common HPRP services provided were rental assistance and case management. Overall, 58.4% of persons served received rental assistance, and 77.3% received case management.

Impact of HPRP

HPRP funds have served a variety of special needs populations. Victim service providers used HPRP funds to assist over 23,000 persons. These programs were mainly domestic violence shelters that were assisting individuals to move to permanent housing. Of these persons, 76.5% were families with children. Approximately 0.6% of all persons served by HPRP were unaccompanied youth.

The report also provides data on the length of HPRP assistance. HPRP assistance can be provided for up to 18 months, but grantees have discretion to determine the duration of assistance. Overall, 43.9% of HPRP participants received services for less than 30 days, 59% left the program within two months, and 92% left within 6 months. According to HUD, the large percentage of participants receiving services for less than 30 days may indicate that these participants only needed assistance with rental arrears, security deposits, or one month's rent.

The report also examines participants' housing status before and after their receipt of HPRP services. Overall, 22% of households were homeless

upon entry into HPRP. An additional 50.6% were at imminent risk of losing their housing and 23.9% were unstably housed. Of those who were homeless at entry, 64.2% were stably housed at exit. The rest exited to unstable housing or homelessness. For those who were at imminent risk of losing their housing or were unstably housed at entry, 52.2% exited to stable housing. Overall, approximately 87.9% of participants exited to permanent housing.

Conclusion

At the time of the publication of HUD's report, one-third of HPRP funds remained to be drawn by grantees. As a result, some grantees still have time to adjust their local programs to better target the populations HPRP can serve, such as domestic violence survivors. HUD encourages grantees to compare their own local outcomes with the national data to make strategic decisions regarding remaining HPRP funds. Jurisdictions that have used all of their HPRP funds can use the report to gauge their level of success under the HPRP program and to set goals for effectively using Emergency Solutions Grant funds. ■

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