

Testimony of
Alison Wilkey, Director of Public Policy
On behalf of
John Jay College Institute for Justice and Opportunity
Before
The Council of the City of New York
Committees on Justice System, Criminal Justice, General Welfare, Public Housing and
Housing and Buildings
Hearing on Housing and Reentry

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Good afternoon. My name is Alison Wilkey and I am the Director of Public Policy at the John Jay College Institute for Justice and Opportunity. I want to thank Councilmembers Lancman, Levine, Powers, Ampry-Samuel, Levin, and Cornegy for the opportunity to present testimony today about the need to address housing issues faced by people with conviction records. The John Jay College Institute for Justice and Opportunity's mission is to create opportunities for people to live successfully in the community after involvement with the criminal legal system by addressing structural racial and economic inequalities.

The widespread use of background checks in tenant selection is a contributor to the housing and shelter crisis and the deep racial inequality in this City. People with conviction histories face perpetual punishment through background checks when they seek a place to call home. In New York City each year, around 5,000 single adults enter shelters directly from institutional settings, like Rikers and state prisons.¹

People living in shelter who have conviction histories have a hard time exiting shelter because they keep getting rejected, even when they have the financial means or assistance to afford an apartment. This is because national surveys found that have 90% of landlords do background checks on conviction history.² Research shows that a conviction record reduces the probability of New York City landlords' allowing prospective tenants to even *view* an apartment by over 50%.³

¹ Routhier, G., *State of the Homeless 2020*, (New York: Coalition for the Homeless, 2020), <https://www.coalitionforthehomeless.org/state-of-the-homeless-2020/>

² Nelson, A., *Broken Records Redux: How Errors by Criminal Background Check Companies Continue to Harm Consumers Seeking Jobs and Housing*, (Boston: National Consumer Law Center, 2019), <https://www.nclc.org/issues/rpt-broken-records-redux.html>.

³ Evans, D.N. & Porter, J.R. Criminal history and landlord rental decisions: a New York quasi-experimental study. (2015). *Journal of Experimental Criminology*, 11(1), 21–42. doi: 10.1007/s11292-014-9217-4

People with the lowest level of conviction—a B misdemeanor—are not eligible for public housing for three years after completing their sentence, and some people are ineligible for up to six years after serving their sentence.

Using background checks and conviction history to deny housing disproportionately impacts Black and Latinx New Yorkers because of well-documented racism in the criminal legal system. We perpetuate this racism when we continue to allow housing providers to make tenancy decisions based on background checks resulting from a criminal legal system that we know unjustly targets Black and Latinx New Yorkers.

There are solutions. If we care about fair housing, if we care about structural racism, if we care about families, and if we care about ending the crisis of homelessness in this City, then we must end the use of background checks to determine who is worthy of having a home.

Federal law requires NYCHA to exclude applicants for only two types of convictions. NYCHA goes far beyond federal law requirements, with sweeping exclusions. Although NYCHA has proposed changes to some of its policies, the proposed changes do not go nearly far enough. NYCHA’s proposal does nothing to change its oppressive eligibility rules.

Instead of significantly changing this unjust rule, NYCHA’s proposal only adds more bureaucracy and places more burden on housing applicants to prove that they deserve safe and affordable housing. Neither does the proposed rule change alter many of the inequities of NYCHA’s practice of evicting families or individuals who are arrested or convicted. NYCHA’s policy still allows eviction of people who have been arrested, but not convicted, in criminal court. Full comments on NYCHA’s proposed policy are appended to my written testimony.

Turning to the private market, we have a solution to end discrimination with Int. 2047-2020. This bill would make it a discriminatory practice to deny a person housing because of their arrest or conviction history. The introduction of this bill by the Council has sparked lot of fear-mongering about safety and liability. It is clear that increasing access to housing increases safety. Research shows that a conviction history “does not provide good predictive information about the potential for housing success.”⁴ Removing the ability of landlords to deny housing based on a background check poses no risk of liability to landlords—landlords have never been expected to future behavior of tenants and this bill does not change that long-standing case law.

We cannot continue to deny people housing based on conviction records that are the product of a racist system. We will not end structural racism, nor will we end the housing crisis, without ending the use of background checks to determine who is worthy to have a home. If you have questions, you can reach me at awilkey@jjay.cuny.edu.

⁴ Malone, D. Assessing Criminal History as a Predictor of Future Housing Success for Homeless Adults With Behavioral Health Disorders. (2009). *Psychiatric Services*, 60, 2.
<https://doi.org/10.1176/ps.2009.60.2.224>