

**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**  
**Committee on Public Housing**

**February 24, 2021**

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.

For decades, the New York City Housing Authority’s (NYCHA) approach to safety in public housing has been punitive, not preventative. NYCHA has relied on and supported intrusive and unconstitutional policing methods of the New York Police Department<sup>1</sup> while cutting its social services to residents. NYCHA has used eviction and permanent exclusion as a response to issues that stem from the lack of economic opportunity and endemic state violence experienced by NYCHA residents.

For decades, New York City and NYCHA have responded to social problems—like unemployment, mental health, and substance use disorders—with arrests and incarceration. NYCHA bears a disproportionate load of these social problems because NYCHA communities have been chronically under-resourced. These issues are iatrogenic, a cure that worsens the very thing it is trying to fix.

Findings from a study in which researchers spoke with 330 NYCHA youth who carry guns demonstrates the iatrogenic nature of the city’s response to safety in NYCHA. The study found that youth who carry guns or were at high risk for carrying guns did so because they felt unsafe or were previously victimized—but a significant source of feelings of being unsafe came from fear of law enforcement.<sup>2</sup> What led youth into illegal activity and gun possession were poverty and having a criminal record, which further excludes youth from legal economic opportunity.

Thus, increased reliance on the criminal legal system to solve gun violence is counter-productive. Locking NYCHA residents up or making them homeless drives people further into

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<sup>1</sup> See, e.g., *Davis et al. v. City of New York et al.*, 10 Civ. 0699 (2010).

<sup>2</sup> “‘Gotta Make Your Own Heaven’: Guns, Safety, and the Edge of Adulthood in New York City,” Center for Court Innovation (2020). Available at <https://www.courtinnovation.org/publications/gun-violence-NYC>

desperation. As Ta-Nehisi Coates has said, “That heavy type of aggressive policing that we see mostly in Black neighborhoods makes people feel like they can’t trust the police. And when people can’t trust the police, crimes go unsolved, and people have to find other ways to keep themselves safe.”<sup>3</sup>

NYCHA furthers the harm wrought by under-investment and over-policing by punishing residents caught up in the criminal legal system. NYCHA residents are the only tenants in New York City who systematically have an arrest reported by NYPD directly to their landlord.<sup>4</sup> When NYCHA receives information about the arrest of resident—or the arrest of a guest—NYCHA determines whether to seek termination the lease of the household. In the administrative termination proceedings that follow, most residents do not have legal representation, and they do not have the same rights and due process protections afforded in housing court.

In these termination cases, NYCHA often gives residents the impossible choice to challenge the termination at a hearing and face eviction, or to agree to a settlement requiring permanent exclusion of the member of the household who was arrested. If a resident exercises their right to a hearing, an administrative law judge employed by NYCHA decide the outcome, and legal standards and rules of evidence followed in housing court do not apply. Unsurprisingly, most residents decide that to avoid facing eviction of the entire family it is better to sign a stipulation excluding one member,<sup>5</sup> knowing that it will rip apart their family.

It is a coercive system that impacts families, not just the individual who was arrested. Families rely on each other for support—physical, economic, and emotional support. NYCHA’s policies forcefully separate families, not even allowing an excluded person to visit their family’s home.

While NYCHA has proposed changes to some of its policies, the proposed policy changes do not go nearly far enough. NYCHA’s proposal does not change its draconian ineligibility rules, which bar any person from living in NYCHA for 3 to 6 years after their conviction, depending on the level of conviction. Instead NYCHA should limit its criminal background admissions ineligibility to the three categories of mandatory exclusions required by federal law, instead of the current policy that goes far beyond what HUD requires.

Further, NYCHA must end its practice of evicting and excluding residents who are arrested. This includes ending the practice of evicting and excluding people based on arrest charges where someone has not been convicted. Destabilizing people by separating them from their families and communities, and too often forcing them into the shelter system, does not increase public safety.

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<sup>3</sup> “*Housing Segregation and Redlining in America: A Short History*,” Code Switch, NPR. Available at <https://www.youtube.com/watch?v=O5FBJyqfoLM>.

<sup>4</sup> Memorandum of Understanding – Disclosure of Arrest and Complaint Information By NYPD to NYCHA (December 1996), on file with the Institute for Justice and Opportunity.

<sup>5</sup> “Outcomes of Non-desirability Cases – 2020,” New York City Housing Authority. Available at <https://www1.nyc.gov/assets/nycha/downloads/pdf/2020-Outcomes-of-NonDes-and-PE-Removal.pdf> Note that the number of cases in 2020 is significantly less than prior years due to the COVID-19 closure of the Administrative Law Department. Still, 94% of cases were settled by stipulation.

NYCHA is the largest landlord in New York City, and the largest source of affordable housing. Continued punishment of NYCHA residents will not achieve safety in NYCHA. New York City and NYCHA must end failed punitive policies that do not increase safety and unfairly oppress NYCHA residents.

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