

The Federal Housing Finance Agency  
Office of Multifamily Analytics and Policy  
400 7<sup>th</sup> Street S.W., 9<sup>th</sup> Floor  
Washington, D.C., 20219

**Re: Partnership for Just Housing’s Response to Request for Input on Tenant Protections for Enterprise-Backed Multifamily Properties**

To Federal Housing Finance Agency Director Sandra Thompson:

Thank you for the opportunity to respond to the Request for Input released by the Federal Housing Finance Agency (FHFA). We view this request as a crucial first step in eventually implementing robust tenant protections in properties financial backed by Fannie Mae and Freddie Mac, referred to here as the Enterprises.

We write on behalf of the Partnership for Just Housing (PJH). Convened by the Shriver Center on Poverty Law, the National Low Income Housing Coalition (NLIHC), VOICE of the Experienced, the Formerly Incarcerated and Convicted People and Families Movement (FICPFM), and the National Housing Law Project (NHLP), the Partnership for Just Housing is a national collaborative of directly impacted leaders and other advocates working to end housing discrimination against people with arrest and conviction histories. Together, we work to advance economic and racial equity at the intersection of housing and the criminal-legal system.

In forming and executing its agenda, PJH centers the expertise of people with direct criminal-legal system involvement. The substance of this response is thus based on the experience of directly impacted individuals and other advocates who are members or allies of PJH, responses to a survey administered by PJH to people with arrest and conviction histories, and secondary source research. Please note that FICPFM, a national network of organizations composed of formerly incarcerated persons and their families, may submit its own comment, which we support.

Housing is foundational to successful reentry, providing people impacted by the criminal-legal system the stability needed to find employment, reunite with loved ones, and thrive after incarceration. However, too often housing providers and landlords impose blanket bans on leasing to people with conviction or arrest records, so that people with records need not apply. Broad exclusion of people with records from housing causes immense harm to impacted people, their families, and their communities.<sup>1</sup> These blanket bans are especially harmful to and

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<sup>1</sup> 3 See, e.g., The Public Health Implications of Housing Instability, Eviction, and Homelessness, The Public Health Network, (Apr. 21, 2021) (“Housing instability is a public health crisis that causes and exacerbates health problems, erodes communities, and drives health inequities.”), <https://www.networkforphl.org/resources/legal-and-policy-approaches-towards-preventing-housing-instability/the-public-health-implications-of-housing-instability-eviction-and-homelessness>; Opening the Door, FHFJC, at supra, p. 14 (“Rejections based on criminal history can present significant and unique barriers for multigenerational households and can prevent people who are leaving incarceration from creating and maintaining the social support systems they need to be successful.”).

discriminatory against members of protected classes – including Black and Brown people,<sup>2</sup> persons with disabilities,<sup>3</sup> and members of the LGBTQ+ community<sup>4</sup> – more likely to have contact with the criminal-legal system due to structural biases.

This RFI response outlines the unfair practices that many housing providers engage in, often to deny housing access to a person with a conviction or arrest record, and recommends actions the FHFA should take to increase access to housing for people with conviction and arrest histories.

Indeed, one of FHFA’s primary goals, in concert with the Enterprises, is “Improving affordable housing opportunities and supply for homebuyers and renters – particularly the underserved.”<sup>5</sup> This cannot be achieved if developers within the Enterprises’ portfolios are permitted to widely discriminate against people with criminal records. Between 70-100 million Americans have criminal records.<sup>6</sup> People with records are especially likely to experience homelessness and poverty. Data from the Prison Policy Initiative indicates that individuals with one conviction on their record are seven times more likely to experience homelessness; individuals with more than one conviction are thirteen times more likely to experience homelessness.<sup>7</sup>

Further, people with conviction histories face an “annual income reduction of around 52 percent” compared to their peers without records.<sup>8</sup> A RAND Corporation study found that, among unemployed men, “64% had been arrested at least once and slightly more than 46% had a conviction.”<sup>9</sup>

The housing insecurity forced upon individuals with arrest and conviction histories snowballs to further destabilize their families, communities, and society at large.<sup>10</sup> Forty-five percent of

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<sup>2</sup> Ashley Nellis, *The Color of Justice: Racial and Ethnic Disparity in State Prisons* (Sentencing Project, October 13, 2021), <https://www.sentencingproject.org/publications/color-of-justice-racial-and-ethnic-disparity-in-state-prisons>

<sup>3</sup> Becky Crowe and Christine Drew, *Orange is the New Asylum: Incarceration of Individuals with Disabilities* (Behavior Analysis in Practice, 14, 387-395, February 22, 2021), <https://link.springer.com/article/10.1007/s40617-020-00533-9>

<sup>4</sup> Alexi Jones, *Visualizing the Unequal Treatment of LGBTQ People in the Criminal Justice System* (Prison Policy Initiative, March 2, 2021), <https://www.prisonpolicy.org/blog/2021/03/02/lgbtq>

<sup>5</sup> FHFA 2022-26 Strategic Plan, p. 10,

[https://www.fhfa.gov/AboutUs/Reports/ReportDocuments/FHFA\\_StrategicPlan\\_2022-2026\\_Final.pdf](https://www.fhfa.gov/AboutUs/Reports/ReportDocuments/FHFA_StrategicPlan_2022-2026_Final.pdf).

<sup>6</sup> <https://www.themarshallproject.org/2023/04/01/criminal-record-job-housing-barriers-discrimination>

<sup>7</sup> *Id.*

<sup>8</sup> Terry-Ann Craigie, Ames Grawert, Cameron Kimble, Joseph E. Stiglitz, “Conviction, Imprisonment, and Lost Earnings: How Involvement with the Criminal Justice System Deepens Inequality,” Brennan Center for Justice (Sept. 15, 2020), <https://www.brennancenter.org/our-work/research-reports/conviction-imprisonment-and-lost-earnings-how-involvement-criminal>.

<sup>9</sup> Rodrigo Perez Ortega, “‘Staggering’ study reveals nearly half of unemployed U.S. men have criminal convictions,” *Science* (Feb. 18, 2022), <https://www.science.org/content/article/staggering-study-reveals-nearly-half-unemployed-u-s-men-have-criminal-convictions>.

<sup>10</sup> *See, e.g.*, The Public Health Implications of Housing Instability, Eviction, and Homelessness, The Public Health Network, (Apr. 21, 2021) (“Housing instability is a public health crisis that causes and exacerbates health problems, erodes communities, and drives health inequities.”), <https://www.networkforphl.org/resources/legal-and-policy-approaches-towards-preventing-housing-instability/the-public-health-implications-of-housing-instability-eviction-and-homelessness/>; Opening the Door, FHFJC, at *supra*, p. 14 (“Rejections based on criminal history can present

people have an immediate family member who has been jailed or imprisoned.<sup>11</sup> Lack of protection for people with criminal records thus “often affects entire families, as [family members] can be denied housing if they live with a relative who has a criminal record.”<sup>12</sup> People with records and their families epitomize the “underserved” that FHFA “particularly” strive to help.

Importantly, there is little evidence suggesting conviction history is a valid predictor of future recidivism.<sup>13</sup> There is even less evidence that a criminal record is a meaningful predictor of negative housing outcomes.<sup>14</sup> There is, however, strong evidence indicating that access to stable housing after incarceration is fundamental to successful reentry, and can help break the cycle between incarceration, homelessness, and recidivism.<sup>15,16</sup>

### General Questions on Tenant Protections

FHFA, Fannie Mae, and Freddie Mac have a duty to prevent broad criminal records discrimination within their portfolio. As stated, enhancing housing access to underserved Americans is integral to FHFA and the Enterprises’ mission. This mission cannot be realized if the nearly 100 million Americans with arrest and conviction histories can readily be excluded from Enterprise-backed rental housing. Limiting criminal discrimination with its portfolio is

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significant and unique barriers for multigenerational households and can prevent people who are leaving incarceration from creating and maintaining the social support systems they need to be successful.”)

<sup>11</sup> Susan Kelley, “Study: Nearly half of Americans have had a family member jailed, imprisoned,” Cornell Chronical, March 4, 2019, <https://news.cornell.edu/stories/2019/03/study-nearly-half-americans-have-had-family-member-jailed-imprisoned#:~:text=The%20study%20is%20the%20first,would%20find%20half%20that%20rate>.

<sup>12</sup> See, e.g. Romina Ruiz-Goiriena, “Exclusive: HUD unveils plan to help people with a criminal record find a place to live,” USA Today, Apr. 12, 2022, <https://www.usatoday.com/story/news/nation/2022/04/12/can-get-housing-felony-hud-says-yes/9510564002/>.

<sup>13</sup> Johnson, C. 2022. “Tenant Screening with Criminal Background Checks: Predictions and Perceptions Are Not Reality.” HUD. Retrieved from: <https://www.huduser.gov/portal/pdredge/pdr-edge-firm-asst-sec-051722.html>

<sup>14</sup> Suzanne Zerger, Q&A with Daniel Malone: Criminal History Does Not Predict Housing Retention, Homeless Hub, 2009, <https://www.homelesshub.ca/resource/qa-daniel-malone-criminal-history-does-not-predict-housing-retention>, referencing Malone DK, Assessing criminal history as a predictor of future housing success for homeless adults with behavioral health disorders. *Psychiatr Serv.* 2009;60(2):224–230 (finding “absolutely no criminal background predictors of housing success or failure.”); Cael Warren, “Criminal Background’s Impact on Housing Success: What We Know (And What We Don’t),” Wilder Foundation, Jul. 16, 2019, <https://www.wilder.org/articles/criminal-backgrounds-impact-housing-success-what-we-know-and-what-we-dont> (finding that out of 15 broad categories of offense, conviction records for 11 have no statistically significant consequences for housing outcomes. Even within the four remaining categories, a misdemeanor conviction has no statistically significant predictive effect after two years and a felony has no statistically significant predictive effect after five. Also conceding that even the findings of statistical significance are largely uncertain and are likely over estimations).

<sup>15</sup> Couloute, L. 2018. *Nowhere to Go: Homelessness Among Formerly Incarcerated People*. Prison Policy Institute. Retrieved from: <https://www.prisonpolicy.org/reports/housing.html>

<sup>16</sup> Connecticut Coalition to End Homelessness. 2021. “Justice and Homes for All – HMIS and OPM Data Match Shows Intersection of Homelessness and Incarceration.” Retrieved from: <https://www.cceh.org/justice-and-homes-for-all-hmis-and-opm-data-match-shows-intersection-of-homelessness-and-incarceration/>

particularly prescient in light of the intersection of the Enterprises' existing business goals with the Duty to Serve requirements and the Equitable Housing Finance Plans.

Criminal records discrimination poses a compliance risk for FHFA, landlords in the Enterprises' portfolios and, arguably, to the Enterprises themselves if they allow discrimination to go unchecked. In 2016, HUD released guidance under the Fair Housing Act significantly limiting housing providers' discretion to exclude households based on their arrest and conviction histories.<sup>17</sup> In June 2022, new HUD enforcement guidance suggested that housing providers forgo criminal background checks altogether unless required by federal law.<sup>18</sup> In February 2023, HUD published a proposed rule governing the duty to Affirmatively Further Fair Housing. The proposed rule specifically lists "persons with criminal records" as an "underserved community" and mandates that "When prioritizing fair housing issues, program participants must give consideration to fair housing issues faced by underserved communities."<sup>19</sup>

Indeed, FHFA, and therefore the Enterprises they oversee, have a duty to affirmatively further fair housing.<sup>20</sup> The Enterprises also commit to similar duties in the Equitable Housing Finance Plan.<sup>21</sup> Per the above, HUD has made clear that this duty, at the very least, obligates these entities to take measures to prevent broad discrimination against people with criminal records. Immediately below, this letter discusses the tools FHFA and the Enterprises may use to protect renters and prospective renters with arrest and conviction histories. In the final section of the letter, we discuss particular housing provider practices that FHFA and the Enterprises should target.

### *Potential Tenant Protection Tools*

We greatly appreciate that FHFA and the Enterprises seek to enhance tenant protections. Assuring equitable access to people with arrest and conviction histories is vital to this mission. FHFA and the Enterprises have multiple tools at their disposal to prevent housing provider practices which unfairly exclude people with records and their families from GSE-backed housing; for example:

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<sup>17</sup> Office of General Counsel 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. DEPT. OF HOUSING AND URBAN DEV. (April 4, 2016), [www.hud.gov/sites/documents/HUD\\_OGCGUIDAPPFHASTANDCR.PDF](http://www.hud.gov/sites/documents/HUD_OGCGUIDAPPFHASTANDCR.PDF).

<sup>18</sup> See Demetria McCain, "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. DEPT. OF HOUSING AND URBAN DEV., p. 8 (June 10, 2022), available at <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>.

<sup>19</sup> Affirmatively Furthering Fair Housing, Proposed Rule, HUD, published page 8534 (Feb. 9, 2023), available at <https://www.federalregister.gov/documents/2023/02/09/2023-00625/affirmatively-furthering-fair-housing>.

<sup>20</sup> 42 U.S. Code 3608(d).

<sup>21</sup> See "NCRC Letter to FHFA re Fair Lending, Fair Housing, and Equitable Housing Finance Plans Proposed Rule," National Community Investment Corporation (June 27, 2023), <https://www.ncrc.org/ncrc-letter-to-fhfa-re-fair-lending-fair-housing-and-equitable-housing-finance-plans-proposed-rule/> [public comment].

•**Uniform Instruments:** The Enterprises have broad discretion to amend the UIs and already utilize the UIs to regulate residential leases, ensure tenants live in well-maintained buildings, and monitor the hiring of property management companies. The Enterprises could also incorporate limits on landlord discretion with arrest and conviction histories.

•**Seller/Service Guides:** Seller/service Guides provide useful tools for reining in discriminatory tenant screening practices in a number of ways. Most obviously, the Guides are incorporated into the UIs. Already, the Guides include requirements for residential leases. These requirements could be amended to limit the discretion of landlord-borrowers to evict or refuse to rent to households with members with records. Further, the Guides can ask lenders to use underwriting process to weed out borrowers who are likely to violate the rights of people with records. Additionally, because both lender and borrowers agree to the terms of the Guides by executing the UI, the Guides could also include direct limitations of landlord-borrower screening practices.

•**Securitization Process:** At the front end, the Enterprises could condition their acquisition of loans on lenders and landlords committing to the above.

•**Duty to Serve:** As the FHFA is already in the process of codifying their fair housing practices, and the proposed AFFH rule explicitly states that federal entities like FHFA must take measures to protect and monitor the treatment of people with records, FHFA should specifically integrate protections for people with records into the Duty to Serve. FHFA should also integrate monitoring and data collection for its annual report to Congress;

•**Exclusionary Lists:** Fannie Mae has begun to curate a list of properties that it will not fund due to dangerously deferred maintenance.<sup>22</sup> This 2021 Lender Letter followed the tragic condo tower collapse in Surfside, FL, and led to various financing policy changes, including revoking the possibility of a “project eligibility waiver”, led to an “unavailable” status for condo projects that do not meet the repairs guidelines. A similar scheme could be used to require or prohibit certain terms in residential leases at Enterprise-backed multifamily properties, including, for example, limiting the use of criminal background checks in leasing decisions. FHFA and the Enterprises should engage in outreach and listening sessions with people with arrest and conviction histories in order to learn about properties with the most egregious records of these practices. These lists should in turn be made publicly available.

•**Incentives:** The Enterprises each already have incentive program to encourage landlord-borrowers to enhance housing opportunities for low-income renters. Freddie Mac provides closing cost credits and discounted fees to borrowers who help renters build

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<sup>22</sup> Fannie Mae Lender Letter (LL-2021-14), <https://singlefamily.fanniemae.com/media/29411/display>.

their credit.<sup>23</sup> Fannie Mae, per its April 2023 Equitable Housing Finance Plan (EHFP), has created multifamily loan products that incentivize landlords to maintain affordable rents and rent to Housing Choice Voucher participants in exchange for favorable loan terms. These and other incentives could be offered to borrowers who forgo tenant screening not mandated by federal law or take other steps to enhance housing access for people with arrest and conviction histories and their families.

## Access to Housing

### *Tenant Screening*

In recent years, the use of criminal background checks for tenant screening purposes has become ubiquitous. It is well established that the criminal records screening practices of landlords and screening companies create major difficulties for the almost 100 million Americans with arrest and conviction records. In response to a qualitative survey administered by PJH to persons with criminal records, one respondent described the futility of his search for housing: “I gave up on applying to places once I realized the reality – that almost all landlords have blanket bans against people with legal system involvement.”

Two screening practices pose particular barriers to housing access: 1) exclusion of applicants based on arrest records, or other records that did not result in a conviction; and 2) broad exclusions based on convictions, with no individualized analysis of the person applying, or of the relationship between the specific conviction and the likelihood of being a successful tenant.<sup>24</sup> Often, landlords and property owners utilized third-party background check companies to screening potential tenants. These companies typically rely on a largely automatic process that pulls available data from various criminal record databases, which is compiled into a report. These reports are often given to landlords as a yes-or-no recommendation as to whether they should admit a tenant; however, they can contain inaccurate, incomplete, or misleading information, including mistaking an arrest for a conviction and vice versa, or even mixing up the records of two people with the same name.<sup>25</sup>

Consideration of arrest and other pre-conviction records excludes tenants simply because they have been accused of a crime, without any determination as to whether a crime was actually committed. Further, pre-conviction records on screening reports are especially likely to be misreported or incomplete, leading to a greater likelihood of denial. Broad exclusion of those with criminal convictions harms large swaths of people passed on generalizations and stereotypes; because of the disproportionate impact of the criminal-legal system on protected classes, blanket exclusions may also violate the Fair Housing Act of 1968.

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<sup>23</sup> New Freddie Mac Initiative Helps Renters Build Credit, <https://freddiemac.gcs-web.com/node/24051/pdf> (Nov. 3, 2021).

<sup>24</sup> See HUD Criminal Records Guidance, at pp. 4-7.

<sup>25</sup> Ariel Nelson, Broken Records Redux: How errors by criminal background check companies continue to harm consumer seeing jobs and housing (National Consumer Law Center, December 2019). <https://www.nclc.org/resources/report-broken-records-redux/>

When their applications are denied, prospective tenants rarely receive an explanation for the denial, or the opportunity to refute any inaccurate, incomplete, or misleading information. Many do not receive a response at all. By “ghosting” these applicants, or denying their applications without sufficient explanation, housing providers are denying applicants housing based on screening reports without provided the required adverse action notice under the Fair Credit Reporting Act.

These practices make it more difficult for people with records to find housing, and more likely to experience homelessness and wind up in the cycle of poverty and incarceration.<sup>26</sup> Moreover, there is no countervailing benefit that outweighs these harms – stringent and exclusionary screening practices are not significantly or meaningfully linked to enhanced tenant safety, the likelihood of housing success, or other legitimate measures of successful tenancy. In fact, more often these measures are counterproductive to positive outcomes.<sup>27</sup>

FHFA should develop guidance and protections that would rein in the discretion owners of FHFA-backed multifamily properties have in screening out applicants with conviction or arrest records. As stated above, in its June 2022 guidance, HUD, citing the lack of statistical correlation between conviction history and negative housing outcomes, encouraged landlords to forgo use of background altogether, outside of the few instances where records screening is mandated by federal law. FHFA and the Enterprises should thus take their cue from HUD and either broadly prohibit use of criminal background checks or provide incentives to landlords who broadly forgo them through the above-discussed tools. However, either in addition or alternative to taking this action, FHFA and the Enterprises should consider the following measures, including:

- Banning overly broad exclusions of tenant applicants based on criminal history reports
- Banning the use of arrest records, juvenile records, and other records that have been sealed, expunged, or that did not result in a conviction.
- Limiting the lookback period to no more than three years from the time of the offense in criminal records.
- Reducing the scope of convictions on which reporting entities can base denials to only those that may affect the applicant’s success as a tenant.
- Mandating an individualized assessment of applicants with criminal histories, and allowing applicants to review information on their screening reports, correct any incorrect, incomplete, or misleading information, and provide mitigating evidence.
- Clarifying that conducting an individualized assessment alone is not sufficient grounds to reject an application; a housing provider must also consider other factors when deciding whether rejecting an applicant is reasonable, including the nature of the offense; how old

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<sup>26</sup> Matthew Doherty, *Incarceration and Homelessness: Breaking the Cycle*, COPS OFF. NEWSLETTER (Dept. of Justice/U.S. Interagency Council on Homelessness, Wash., D.C.), Dec. 2015, [www.cops.usdoj.gov/html/dispatch/12-2015/incarceration\\_and\\_homelessness.asp](http://www.cops.usdoj.gov/html/dispatch/12-2015/incarceration_and_homelessness.asp).

<sup>27</sup> See, e.g., Doherty, at id.; Zarger at *infra*; Patrick Smith, *Report: Stable Housing For Former Prisoners Could Save Illinois \$100M A Year*, NPR, Jul. 31, 2019, <https://www.npr.org/local/309/2019/07/31/746909431/report-stablehousing-for-former-prisoners-could-save-illinois-100-m-a-year>; 2016 HUD Guidance, at *supra*, discussing how excluding applicants from housing based on arrest records or based on convictions with no individual assessment do not serve a substantial legitimate interest or embrace a reasonable less discriminatory alternative.

the applicant was when the offense was committed; and information provided by or on behalf of the applicant evidencing good conduct since the offense.

- Prohibiting landlords from imposing blanket bans on tenants based on the tenant's lawful source of income, including tenants attempting to rent using housing assistance like Housing Choice Vouchers or local rental assistance. When a person with a conviction history is able to obtain a voucher or other form of housing assistance, they face the challenge of overcoming discrimination on the basis of both their criminal history and their source of income.

### *Application Fees*

Housing providers can often extract excessive application and background check fees from consumers. Tenants often have no way to know a landlord's or housing provider's selection criteria before they pay the application fee. The practice of using application fees to turn profit is especially cruel if the prospective tenant will almost certainly be rejected, based on criteria the applicant has no way of knowing in advance. As one respondent to PJH's survey noted, "I have been searching for affordable housing for months, and am having a very hard time obtaining a place that is within my budget and which will also accept someone with a felony conviction. I have paid several hundred dollars in application fees to places which originally seemed ok with my history, but then was rejected."

FHFA should limit how much housing providers with Enterprise-backed multifamily properties can charge in application and background check fees, if they are able to charge these fees at all. Landlords and property owners should not be able to charge application or screening fees exceeding the actual costs of the screening, and should be required to fully refund application fees to tenants not selected for housing, and those who were not evaluated. Further, and as discussed in greater detail below, applicants should have access to the landlord's screening criteria in advance of paying an application or screening fee, so tenants need not waste their time, money, or effort applying for a unit for which they will not even be considered.

### *Portable Screening Reports*

Portable screening reports would allow applicants to pay a one-time cost for a report they can use to apply to multiple housing providers,<sup>28</sup> allowing tenants with low incomes the ability to apply for housing repeatedly – too often a necessity for people with conviction or eviction records. However, many housing providers refuse to accept these reports, and require applicants to instead pay an application fee to apply, even if the tenant has a portable screening report available.

While housing providers with FHFA-backed properties should be able to use the tenant screening report of their choice, charging an application fee to a tenant who is readily providing a recent and complete portable report is unjustifiable. This practice can frustrate tenants, who are proactively trying to provide required background information, and can cost tenants hundreds of

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<sup>28</sup> Marin Scott, How to Avoid Hidden Rental and Application Fees as a Renter, Avail, Sept. 17, 2021, <https://www.avail.co/education/articles/how-to-avoid-hidden-rental-fees-and-application-fees-as-a-renter>.



dollars in repeated application and screening fees. Enterprise-backed multifamily property owners and operators should either be required to accept portable tenant screening reports or, absent a requirement, be barred from charging tenants who supply their own screening reports screening fees.

## **Access to Information**

### *Transparent Tenant Screening Criteria*

As mentioned above, applicants should have access to the landlord's screening criteria in advance of paying an application or screening fee. The lack of transparency in screening criteria forces tenants to waste their time, money, and effort applying for a unit for which they may not even be considered. Transparency would also act as an important check against unfair screening practices.

Enterprise-backed multifamily properties should be required to publicly post their screening criteria, potentially on the rental application itself, and in enough detail to give prospective tenants the information they need to make an informed decision about whether to apply for a particular unit.

## **Tenant Housing Stability**

### *Protections From Rent Gouging*

While some states have laws to prevent price or rent gouging, the majority of renters have few protections against exorbitant rent increases. Rent increases are driven by several factors, including growing demand for rental housing, limited supply, and high inflation, and rent increases can also be attributed to a largely unregulated rental market that allows landlords and property owners to raise rents as high as the market will allow. Rampant rent increases can put tenants at risk of unjust treatment, housing instability, and evictions. For people with conviction histories and those exiting incarceration, sudden spikes in the cost of rent can be especially destabilizing, as people struggle to overcome barriers and discrimination in both employment and housing.

### *“Just Cause” Eviction Standards*

In many states and localities across the country, landlords are not required to provide a reason for evicting a tenant at the end of their lease term, or for evicting a tenant without a lease. Landlords and property owners who are unable to evict a tenant during their lease term may choose not to renew the tenant's lease, and use the lease holdover as grounds for eviction. Tenants at the end of their lease are also at risk of unreasonable rent increases that may force them out of their apartment; when faced with these obstacles, some tenants choose to leave – or “self-evict” – rather than going through a court process.

For people with conviction histories, who already struggle to find stable housing, facing an unjustified eviction can be incredibly destabilizing, forcing them to go through the sometimes monthslong process of securing safe, stable, affordable housing again. Moreover, having an

eviction judgement on their record – in addition to a criminal record – creates further barriers to obtaining and maintaining future housing.

### **Conclusion**

We thank FHFA for conducting this RFI, and for the opportunity to weigh-in with important considerations for formerly incarcerated and convicted people. We look forward to continuing to engage FHFA as they develop, release, and implement rules and guidance that strengthen tenant protections for all residents of Enterprise-backed properties.

Sincerely,

Drug Policy Alliance  
Formerly Incarcerated and Convicted People and Families Movement  
Forward Justice  
Franciscan Action Network (FAN)  
Illinois Alliance for Reentry & Justice  
Illinois Justice Project  
International Community Justice Association  
Justice Impact Alliance  
Justice In Aging  
JustLeadership USA  
JustUS Coordinating Council  
Legal Action Center  
Mass Liberation Project NV  
National Housing Law Project  
National Low Income Housing Coalition  
NETWORK Lobby for Catholic Social Justice  
Open Communities  
Pioneer Human Services  
Safe Return Project  
Safer Foundation  
Second Chance Center  
Shriver Center on Poverty Law  
Sponsors, Inc.  
TASC, Inc. (Treatment Alternatives for Safe Communities)  
Uptown People's Law Center  
Vera Institute of Justice  
Voice of the Experienced  
Who Speaks For Me?  
William E. Morris Institute for Justice  
Women Against Registry