

People Coming Home from Prison Face Structural Barriers in Accessing ALL Types of Housing. According to President Obama's Administration, This Violates Federal Fair Housing Laws.

- Research shows that about 80% of large apartment owners conduct criminal background checks on potential tenants.¹ Small landlords, public housing authorities, and nonprofit affordable housing providers also conduct criminal background checks.
- People returning from prison are often prevented from living with family members by arbitrary landlord policies. Research shows that family support is a critical element to successful reentry.²
- This impacts an estimated 1 in 5 (8 million) Californians³ and 1 in 4 (375,000) residents of Alameda County⁴ with criminal records.
- In 2016, President Obama's Administration issued guidelines that, given the racial disparities of the criminal justice system, "blanket ban" housing policies that refuse to rent to people with criminal records violate federal fair housing laws.⁵

The Fair Chance Housing Proposals for Berkeley and Oakland DO NOT Remove Landlord Discretion in Selecting a Tenant. They Only Remove Structural Barriers that Exclude People with Criminal Records from Accessing Housing.

- Unlike Seattle and Portland, the cities of Berkeley and Oakland do not have a "first in time" tenant application law. If the Fair Chance Housing policies pass in Berkeley and Oakland, landlords would not be forced to rent to formerly incarcerated people.
- Instead, landlords would have the opportunity to judge ALL people on the merits of their individual applications, rather than automatically turning some away because of their criminal records.

Structural Housing Exclusion Has Forced a Disproportionate Number of Formerly Incarcerated People into Homelessness.

- State law dictates that people on parole must return to their county of last legal residence. So a large number of recently incarcerated people are required to live in Alameda County cities.
- Given the structural barriers, like preventing people from living with family members, many people returning from prison or jail become homeless. A recent survey in Oakland encampments found that 73% of residents surveyed were formerly incarcerated.⁶ Nationwide, formerly incarcerated people are 10 times more likely to be homeless than members of the general public.⁷
- Research shows that formerly incarcerated people with access to stable housing are 20% less likely to commit a crime.⁸ In Ohio, giving supportive housing to prisoners with disabilities upon reentry led to a 40% drop in recidivism.⁹
- Fair Chance Housing would reduce barriers that prevent many formerly incarcerated people from accessing stable housing and successfully reintegrating into society. It would thus fight both crime and homelessness.

Criminal Background Check Databases Are Flawed and Inaccurate.

- The lack of up-to-date data on the outcome of criminal cases—an issue that plagues an estimated 50% of FBI arrest records¹⁰ and 32% of state records,¹¹ according to the U.S. Department of Justice—means that arrests are routinely listed in background reports even when the charges were dropped, reduced, or disproven in court.
- Name-based checks, a method often used by screening companies, result in a false-positive rate of 5.5%.¹² This means that 1 in 20 “hits” are identified with people who did not commit the crime in question, and may never have committed a crime.
- Once these records have been reported, however inaccurate, it’s hard to “unsee” them. Fair Chance Housing thus protects all applicants from potentially misleading data.

There Are Extreme Racial Disparities at Every Step of the Criminal Justice System. Background Checks Extend Those Disparities into Housing.

- In California, Black men are ten times more likely than White men to be incarcerated. Black women are five times more likely than White women.¹³
- In Alameda County, Black people make up 47% of the population on probation¹⁴ but only 11% of the population at large.¹⁵
- This means that a disproportionate number of African Americans are denied access to housing due to the widespread use of criminal background checks.

Not All People with Criminal Records Are “Violent,” Even When Convicted of Violent Crimes.

- Many of the people released under California’s recent criminal justice reforms were convicted of non-serious, non-violent, and non-sexual crimes. Prior to Prop 47, the Alameda County DA’s Office was charging around 6,000 people per year with low-level theft and drug possession.¹⁶ Statewide, an estimated 1 million Californians are now eligible to have their records changed for these crimes.¹⁷
- Over 90% of felony convictions result from plea bargains.¹⁸ Research shows that elected prosecutors, who are 95% White,¹⁹ excessively charge people to increase conviction rates and avoid costly trials. People thus often plead guilty to crimes they did not commit, even serious ones. By signing a plea, they lose their right to appeal this conviction, even when exonerating information becomes available.
- After serving time, people should be given a chance to reclaim their lives. Stable housing is critical to that process.

There is a Growing Movement of Cities and Counties Adopting Fair Chance Housing Policies.

- After the success of ban the box/fair chance employment policies across the nation, an increasing number of jurisdictions have passed fair chance housing policies. These include New York City, Newark, Seattle, Portland, Cook County (Chicago), Madison, WI, Urbana, IL, San Francisco, and Richmond, CA.

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- ¹ Thacher, D. (2008). “[The Rise of Criminal Background Screening in Rental Housing.](#)” *Law and Social Inquiry*, 33(1), p. 12.
- ² Center for Law and Social Policy and Community Legal Services. (2002). [Every Door Closed: Barriers Facing Parents with Criminal Records](#), Ch. 3.
- ³ Kendall, M. (2019, June 21). “From Behind Bars to...the Streets? Bay Area residents with records struggle to find housing.” *The Mercury News*.
- ⁴ Justice Reinvestment Coalition. (No Date). [Get the Facts](#). Online.
- ⁵ U.S. Department of Housing and Urban Development. (2016). [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](#).
- ⁶ Tsai, T. (2019). [Standing Together: A Prevention-Oriented Approach to Ending Homelessness in Oakland](#), p. 12. Report by Just Cities, UC Berkeley Goldman School of Public Policy Center on Civility and Democratic Engagement, and the Village.
- ⁷ Prison Policy Initiative. (2018). [Nowhere to Go: Homelessness among Formerly Incarcerated People](#).
- ⁸ U.K. Office of the Prime Minister. (2002). [Reducing Re-Offending by Ex-Prisoners](#), p. 94.
- ⁹ Urban Institute. (2012). [Supportive Housing for Returning Prisoners: Outcomes and Impacts of the Returning Home-Ohio Pilot Project](#), p. vii.
- ¹⁰ U.S. Department of Justice. (2006). [The Attorney General’s Report on Criminal History Background Checks](#), p. 3.
- ¹¹ National Consortium of Justice Statistics. (2018). [Survey of State Criminal History Information Systems, 2016: A Criminal Justice Information Policy Report](#), p. 2.
- ¹² National Association of Professional Background Screeners. (2005). [The National Crime Information Center: A Review and Evaluation](#), pp. 11-2.
- ¹³ Public Policy Institute of California. (2019). [California’s Prison Population](#), p. 1.
- ¹⁴ See [Alameda County Probation Department’s data](#) on the number of people on probation for the fourth quarter of 2018.
- ¹⁵ See U.S. Census Bureau’s estimate of the total population that identified as “Black or African American alone” in 2018.
- ¹⁶ Alameda County District Attorney’s Office. (No Date). [Proposition 47: Assessment of Programmatic and Financial Impacts](#), pp. 5-7.
- ¹⁷ Californian’s for Safety and Justice. (2017). [Second Chances and System Changes: How Proposition 47 Is Changing California](#), p. 4.
- ¹⁸ Bureau of Justice Assistance, U.S. Department of Justice. (2011). [Plea and Charge Bargaining: Research Summary](#), p. 1. National Association of Criminal Defense Attorneys. (2018). [The Trial Penalty: The Sixth Amendment Right to Trial on the Verge of the Extinction and How to Save It](#), p. 14.
- ¹⁹ Justice for All? (2015). [Key Findings](#), p. 1.