



**BLAINE COUNTY  
HOUSING AUTHORITY**

## **BOARD MEETING AGENDA MEMO**

Meeting Date:  Staff Member:

Agenda Item:

### Recommended Motion:

“I move to approve BCHA outreach to BCHA landlords on recommended uses of background checks.”

“I move to approve BCHA screening out registered sex offenders and individuals not in good standing with probation officers.”

### Reasons for Recommendation:

- BCHA doesn't currently receive confirmation from landlords that they are screening BCHA-referred housing applicants in an equitable way that complies with fair housing requirements.
- Local service providers have indicated that individuals with criminal records are finding it impossible to secure housing, even when the conduct occurred far in the past and/or was not related to housing stability.

### Policy Analysis and Background (non-consent items only):

The concept of screening for criminal history arose via community conversations and staff experience in property management at Lift Tower Lodge. Criminal history checks and screening can be applied to (1) general applicants for BCHA's permanent rental housing and/or (2) BCHA's transitional housing.

For background on a federal standard for screening criminal history in permanent housing – so not transitional housing – staff looked to HUD. HUD's policy is that “certified Public Housing Authorities [i.e. PHAs, which BCHA is not] are required to permanently ban admission in two situations: (1) when a household includes a person who is required to register as a sex offender for life, and (2) when a household member has ever been convicted of manufacturing methamphetamine on federally assisted property. PHAs... are also required to prohibit admitting a household for three years if a household member has been evicted from federally assisted housing for drug-related criminal activity. However, the PHA... has discretion if the member successfully completed rehabilitation or the circumstances leading to the eviction no longer exist (e.g. the incarceration or death of the person who committed the drug-related criminal activity). Additionally, households must be denied admission if a member is currently engaged in illegal drug use or alcohol abuse. Moreover, PHAs must prohibit admitting households where the PHA has reason to believe

that a household member’s past history or current abuse of illegal drugs or alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.”<sup>1</sup>

Many property managers of income-restricted housing have a Tenant Screening Policy that outlines specific lookback periods for specific crimes. So, for example, for a manslaughter conviction the lookback period could be 10 years, meaning that if the crime was committed 9 years ago the applicant wouldn’t qualify but 11 years ago they would. Staff are not recommending applying this type of structure at this time for either the permanent rental housing nor the transitional housing and are instead recommending reliance on the justice system to do what it was designed to do and monitor applicants convicted of felonies through probation periods, except for registered sex offenders. Use of criminal records also tend to disproportionately impact people of color and – if criminal history-based restrictions fall disproportionately on one race or national origin – would violate fair housing law.<sup>2</sup> Staff also firmly support Housing First as a recognized best practice, whereby people with intersecting vulnerabilities are more likely to recover and reintegrate if they have stable housing. Evidence shows that Housing First results in a substantially lower public cost due to reduced legal, health, and public safety services used if housing is provided.<sup>3</sup>

### **1. BCHA’s transitional housing**

BCHA does not currently conduct background checks for residents in its properties under management, which are primarily transitional housing units.

Transitional housing programs are generally low-barrier and do not background check residents. However, most transitional housing programs are either for adults OR families, rather than mixed populations. The common intake application asks about sex offender status - and staff do not currently check accuracy - but no other criminal activity. The board could consider:

- Asking about criminal background generally or specifically about high-risk crimes such as violent crimes, drug production and arson on the full Application. This would require applicant disclosure and would not be verified and would require the creation and application of a tenant screening policy as described above.
- Conducting full or partial background checks and only considering convictions. This would require creating a tenant selection policy as described above.
- Conducting full or partial background checks and only considering convictions that demonstrate risk to the health and safety of residents or the physical building and when the convicted household member is not in good standing with their probation officer. Ensure that BCHA has the right to regularly check in with the probation officer.
- Only cross referencing the sex offender database with residents.

To comply with fair housing laws, the critical requirement will be that BCHA *uniformly* applies any background check policy to every applicant or resident in its buildings. There are currently no empirically

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<sup>1</sup> Elayne Weiss, “Housing Access for People with Criminal Records,” 2017, National Low Income Housing Coalition. [https://nlihc.org/sites/default/files/AG-2017/2017AG\\_Ch06-S06\\_Housing-Access-Criminal-Records.pdf](https://nlihc.org/sites/default/files/AG-2017/2017AG_Ch06-S06_Housing-Access-Criminal-Records.pdf)

<sup>2</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,” April 4, 2016, U.S. Department of Housing and Urban Development. [https://www.hud.gov/sites/documents/HUD\\_OGCGUIDAPPFHASTANDCR.PDF](https://www.hud.gov/sites/documents/HUD_OGCGUIDAPPFHASTANDCR.PDF)

<sup>3</sup> “Housing First: A review of the Evidence,” 2023, U.S. Department of Housing and Urban Development. <https://www.huduser.gov/portal/periodicals/em/spring-summer-23/highlight2.html>

validated tools predicting the risk of harm a rental applicant might present to other tenants and property available to housing providers and their property managers. More and more housing providers are assessing criminal histories alongside additional contextual information like the seriousness of the crime, whether arrest led to conviction, history of participating in preventive interventions and other rehabilitative programs, history of participating in behavioral health interventions, length of current employment, ties to social and community supports, civic and social engagement, and other protective factors.

Staff recommend the following actions:

<b>Additional Reviews</b>	<b>Deny Applicants if</b>
<u>Staff review for sex offenders:</u> Review the sex offender database for residents and applicants of transitional housing.	Lifetime sex offenders and those whose registration period is still active.
<u>Staff review for other crimes:</u> <ol style="list-style-type: none"> <li>1. Conduct background check for convictions – unless local probation officer can disclose;</li> <li>2. Determine if reason for conviction is a potential risk to the health and safety of residents or the building; then,</li> <li>3. Determine if the Applicant is on probation and seek reference from the probation officer.</li> </ol>	Only if the convicted household member is not in good standing with their probation officer.
<u>Board review for other crimes:</u> <ul style="list-style-type: none"> <li>• If staff are unsure how to decide, or</li> <li>• The Applicant denied for other crimes seeks to appeal.</li> </ul>	Based on Board discretion.

**2. General applicants for BCHA’s permanent rental housing**

When there are open BCHA rental units, BCHA sends landlords a list of applicants who have been vetted by BCHA staff for eligibility criteria in BCHA’s Community Housing Guidelines. Landlords can conduct additional screening and choose among the referred applicants. Different landlords do this in different ways, and BCHA currently has no visibility into these processes, and does not place any requirements or expectations on landlord behavior.

To encourage compliance with Fair Housing laws and to reaffirm BCHA’s commitment to equity, BCHA staff are recommending that, any time a list of applicants or an applicant is referred to a landlord, it is accompanied by a letter with the suggested language below. We could also ask landlords to certify a similar statement during an annual compliance process and provide their tenant screening policies.

*“We appreciate your partnership with BCHA. As you know, the federal Fair Housing Act and other laws limit what you can do when you are screening potential tenants. Please be sure you are following these requirements, and keep in mind:*

- *Be consistent with any additional screenings you conduct.*

- *We have verified the applicants' income and employment, but have not run credit checks or reference checks.*
- *We have not run background checks or collected criminal background information. If you choose to do so, the U.S. Department of Housing and Urban Development (HUD) provides the following guidance to ensure alignment with Fair Housing law:*
  - *Landlords must not:*
    - *Deny housing based on arrest records.*
    - *Place blanket bans on renting to anyone with a criminal history.*
    - *Conduct background checks inconsistently.*
  - *Landlords must:*
    - *Consider individuals on a case-by-case basis and evaluate the nature and severity of the crime and consider the length of time that has passed since that crime was convicted. This can include the circumstances of any conviction, including the age of the applicant at the time of the crime and applicant's subsequent behavior.*
    - *Make a determination based on facts and evidence, and not a perceived threat.*
  - *A person can be denied based on their criminal record, legally, if their recent criminal record makes them dangerous and a risk to other tenants or neighbors. The denial must be based on reliable evidence and not be hypothetical or speculative. This digital toolkit provides additional resources: <https://www.thehousingcenter.org/resources/criminal-history/>*
- *BCHA has staff and resources available to support applicants who cannot communicate in English. Please just let us know if you need these services."*

Attachments:

1. Resolution 2024-08

**RESOLUTION No. 2024-08**

BEFORE THE BOARD OF COMMISSIONERS  
OF THE BLAINE COUNTY HOUSING AUTHORITY  
BLAINE COUNTY, IDAHO

A RESOLUTION OF THE BLAINE COUNTY HOUSING AUTHORITY BOARD OF COMMISSIONERS  
AUTHORIZING THE RECORDING OF THE BLAINE COUNTY HOUSING AUTHORITY COMMUNITY HOUSING  
ADMINISTRATIVE GUIDELINES

WHEREAS, the BCHA administrative staff have developed a criminal history screening policy for BCHA’s transitional housing units; and

WHEREAS, the purpose of the criminal history screening policy is to protect staff, tenants, and the property; and

WHEREAS, the BCHA administrative staff prepared and presented to the BCHA Board for its review and approval an overview of such policies and the recommended approach; and

WHEREAS, BCHA administrative staff have sought feedback from Executive Director of Men’s Second Chance Living, who is intimately familiar with the barriers convicted persons face when seeking housing and with housing such individuals; and

NOW, THEREFORE, be it resolved by the Board of Commissioners of the Blaine County Housing Authority, Blaine County, Idaho, as follows:

Section 1. The Blaine County Housing Authority Board of Commissioners approves and authorizes the request to screen for registered sex offenders and convicted individuals not in good standing with their probation officer, and

Section 2. The Blaine County Housing Authority Board of Commissioners approves and authorizes the request to conduct regular outreach to property owners and managers where BCHA places tenants for educational purposes on criminal history screening, and

Section 2. The Blaine County Housing Authority Board of Commissioners directs the Executive Director to proceed with the implementation of Section 1 and Section 2 in this Resolution.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2024

ATTEST:

BLAINE COUNTY HOUSING AUTHORITY  
BOARD OF COMMISSIONERS

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\_\_\_\_\_

Executive Director

Chair

