

Implementation of the Housing Justice Act

Janmarie Peña

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OLO Report 2025-2

Executive Summary

January 14, 2025

Summary. The County Council requested this Office of Legislative Oversight (OLO) report to obtain information about the implementation of the Housing Justice Act and use of the law since its enactment. Several key findings emerge from a review and analysis of available information:

- There is strong demand in the County for housing solutions that prevent housing instability and homelessness among returning citizens and others with criminal records.
- Since the Housing Justice Act has been in effect, the Office of Human Rights has only received one intake inquiry related to the law. The office’s enforcement efforts have primarily been focused on outreach and education.
- Data from Services to End and Prevent Homelessness suggests there are housing providers that are violating the Housing Justice Act and other fair housing laws.
- Staffing cuts in the Office of Human Rights have likely had an adverse impact on effective enforcement of fair housing laws, including the Housing Justice Act.
- County and community partners raised several challenges that may help explain the limited number of complaints related to the Housing Justice Act and opportunities for improving enforcement of fair housing laws.

Based on these findings, OLO offers four recommendations for Council consideration.

Housing Justice Act Overview

The Housing Justice Act is a law that was passed by the Montgomery County Council in 2021. The goal of the act is to increase access to rental housing for community members who have criminal records – specifically, arrest records that did not result in conviction and conviction records for low-level offenses. The law is enforced by the Office of Human Rights. The Housing Justice Act has two main components:

- The **Ban the Box component** of the Housing Justice Act prohibits housing providers from asking an applicant about criminal records in a rental application or doing a criminal background check before making a conditional offer to rent housing; and
- The **anti-discrimination component** of the Housing Justice Act prohibits housing providers from considering arrest records that did not result in conviction and with conviction records for eight low-level offenses that can often arise from experiencing homelessness. The law also covers conviction records for any misdemeanor where more than two years has passed since the date of conviction and incarceration.

Unless the records are confidential or expunged, community members with conviction records for felonies are not protected from housing discrimination through the Housing Justice Act. Further, community members with pending criminal accusations and conviction records related to sex crimes are explicitly excluded from the Housing Justice Act’s anti-discrimination protections.

In August 2024, the Council enacted Bill 8-24 with amendments to the Housing Justice Act. The Bill intended to improve compliance to the law by housing providers and better inform renters of their rights under the law. The final Bill included new requirements for housing providers to visibly disclose information related to the Housing Justice Act and to collect and retain a criminal history and background screening addendum from applicants. The Bill also included new requirements for the Office of Human Rights to monitor compliance to the act and collect and report data to the Council.

Policy Context

Housing instability is a common collateral consequence of involvement in the criminal legal system, especially for returning citizens who are reentering communities after incarceration. OLO identified three main barriers that contribute to housing instability for people with criminal records:

- Discrimination by housing providers;
- Restrictive public housing policies; and
- Lack of affordable housing options.

Historical and contemporary racial inequities drive the overrepresentation of Black, Indigenous, and other people of color (BIPOC), especially Black community members, in the criminal legal system and among people with criminal records. This causes BIPOC to be disproportionately impacted by the legal system and by collateral consequences such as housing instability. The interaction of housing instability for people with criminal records with the criminalization of survival behaviors while unhoused can create a self-perpetuating cycle of homelessness and legal system involvement. Racial inequities in various domains place BIPOC at highest risk of entering this cycle.

There is strong demand in the County for housing solutions that prevent housing instability and homelessness among returning citizens and other community members with criminal records. Data compiled by OLO suggests that in the near-term, at least 1,500 returning citizens and community members who are unhoused may experience housing instability due to having criminal records. Black people are overrepresented among these community members.

Based on a review of research and literature, OLO identified three best practices for addressing housing barriers among people with criminal records:

- Adopting fair chance housing policies such as the Housing Justice Act;
- Amending public housing restrictions related to criminal background checks; and
- Investing in targeted housing programs for returning citizens.

Most criminal cases in the County are for misdemeanors. Thus, most community members convicted of criminal offenses in the County are likely protected by the Housing Justice Act's anti-discrimination provisions, provided at least two years have passed from the date of their last conviction or incarceration. However, thousands of community members who have criminal cases for felonies would not be protected from housing discrimination through the Housing Justice Act if convicted.

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Implementation in the Office of Human Rights. After its enactment, complaints related to the Housing Justice Act were integrated into the Office of Human Rights' existing complaints process. Since the Housing Justice Act has been in effect, the Office of Human Rights has only received one intake inquiry related to the law. Due to lack of response from the complainant following staff attempts to contact, the inquiry was not processed into a formal complaint.

Since its enactment, the Office of Human Rights has primarily focused on outreach efforts to educate and inform community members about the Housing Justice Act. The office's outreach efforts on the Housing Justice Act have mostly been combined with outreach on the County's Ban the Box in employment law and has particularly emphasized the Ban the Box component of the law. Outreach methods have included updating the office's Ban the Box webpage, running periodic public education campaigns (e.g., bus and movie theater advertisements) and developing written educational materials.

With the recent passage of Bill 8-24, the Office of Human Rights is required to conduct a quarterly inspection of rental applications in buildings with 10 or more rental units to ensure compliance with the Housing Justice Act. The process for selecting the buildings and conducting quarterly inspections is currently being developed by the Office of Human Rights.

Staffing cuts in the Office of Human Rights have likely had an adverse impact on effective enforcement of the Housing Justice Act and other fair housing laws. Prior to FY12, 9.5 FTEs were dedicated to the office's administration, community mediation and public affairs, and fair housing programs. While the Office of Human Rights' responsibilities have increased considerably since FY12, only 2.6 FTEs in the office jointly manage these three programs today. Further, fiscal analysis for Bill 8-24 found amendments to the Housing Justice Act would require two additional investigators in the Office of Human Rights. The office has not received funding for these positions as of the writing of this report.

Work in other County departments. Outside the Office of Human Rights, Services to End and Prevent Homelessness (SEPH) within the Department of Health and Human Services (DHHS) has engaged in the most efforts to implement the Housing Justice Act. Among other responsibilities, housing locators within SEPH work with rental property owners to increase housing opportunities for community members transitioning from homelessness. This includes outreach and education to inform housing providers on the Housing Justice Act and other fair housing laws that help prevent housing discrimination against community members who are unhoused.

In 2022, SEPH implemented a voluntary survey for homeless services staff in community-based organizations (CBO) to report cases of clients being refused or denied housing by housing providers. Since the survey was implemented, CBO staff have reported 69 instances of potential discrimination against clients by housing providers. Five of the instances (7 percent) included potential discrimination based on criminal history. Most reported instances (36 instances) included potential discrimination based on source of income, which is prohibited in Maryland.

Feedback from County and Community Partners

OLO engaged with several partners – including the People’s Committee, housing locators, and administrative staff in several County departments – to understand perspectives on progress with the implementation of the Housing Justice Act and the impact the law has had since its enactment. Partners identified three main challenges that may help explain the low number of complaints received by the Office of Human Rights related to the Housing Justice Act:

- Resource constraints in the Office of Human Rights;
- Rental property owner tactics to avoid accountability to fair housing laws; and
- Impracticality of challenging housing denials and filing complaints.

Partners also identified two main opportunities for improving enforcement of the Housing Justice Act and other fair housing laws: increasing collaboration on fair housing enforcement and increasing outreach and education on fair housing laws.

Recommendations for Council Consideration

Based on the findings from this report, OLO recommends that the County Council consider asking the County Executive to convene two separate collaborative efforts that center BIPOC stakeholders and focus on developing solutions to reentry and fair housing issues that advance racial equity and social justice (RESJ):

- **Convene a collaborative effort (“Reentry Collaborative”) to jointly develop, implement, and evaluate housing solutions for returning citizens and other community members with criminal records.** Policy and program options that could be considered by the Reentry Collaborative include amendments to the Housing Justice Act, amendments to Housing Opportunities Commission (HOC) policies, and targeted housing programs for returning citizens.
- **Convene a collaborative effort (“Fair Housing Collaborative”) to jointly develop, implement, and evaluate outreach, education, and enforcement of fair housing laws.** Policy and program options that could be considered by the Fair Housing Collaborative include incorporating the Housing Justice Act into the County’s Fair Housing Program, creating a separate pathway to proactively enforce fair housing laws, and enhancing outreach, education, and advocacy on fair housing laws.

OLO also recommends the Council consider two additional action steps to understand and advance RESJ in fair housing for returning citizens and others with criminal records:

- **Commission an additional study of fair chance housing policies in other jurisdictions.**
- **Increase funding to the Office of Human Rights to support implementation of the Housing Justice Act and other human rights laws.**

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Introduction

The Housing Justice Act is a law that has been effective in Montgomery County since July 2021. The goal of the Housing Justice Act is to increase access to rental housing for community members who have criminal records – specifically, arrest records that did not result in conviction and conviction records for low-level criminal offenses. The law is enforced by the Office of Human Rights.

The County Council requested this Office of Legislative Oversight (OLO) report for information about the implementation of the Housing Justice Act and use of the law since its enactment.

Several key findings emerge from the information reviewed for this report:

- There is a strong demand in the County for housing solutions that prevent housing instability and homelessness among returning citizens and other community members with criminal records.
- Since the Housing Justice Act has been in effect, the Office of Human Rights has only received one intake inquiry related to the law. The Office’s enforcement efforts have primarily been focused on outreach and education.
- Data from Services to End and Prevent Homelessness (SEPH) suggests there are housing providers that are violating the Housing Justice Act and other fair housing laws.
- Staffing cuts in the Office of Human Rights have likely had an adverse impact on effective enforcement of fair housing laws, including the Housing Justice Act.
- County and community partners raised several challenges that may help explain the limited number of complaints related to the Housing Justice Act and opportunities for improving enforcement of fair housing laws.

Based on these findings, OLO offers four recommendations for Council consideration:

- Convene a collaborative effort to jointly develop, implement, and evaluate housing solutions for returning citizens and other community members with criminal records.
- Convene a collaborative effort to jointly develop, implement, and evaluate outreach, education, and enforcement of fair housing laws.
- Commission an additional study of fair chance housing policies in other jurisdictions.
- Increase funding to the Office of Human Rights to support implementation of the Housing Justice Act and other human rights laws.

This report is organized as follows:

- **Chapter 1** provides an overview of the Housing Justice Act and the legislative history of the law;
- **Chapter 2** provides policy context on the Housing Justice Act, including background on racial inequities in the criminal legal system, estimates of returning citizens that may experience housing barriers in the County, and best practices for addressing these housing barriers;
- **Chapter 3** describes the implementation of the Housing Justice Act by the Office of Human Rights and work in other County departments related to the law;
- **Chapter 4** summarizes feedback on the Housing Justice Act from County and community partners;
- **Chapter 5** presents OLO’s findings and recommendations and;
- **Chapter 6** provides Agency Comments.

Methodology. OLO staff member Janmarie Peña conducted this study with assistance from OLO staff members Elsabett Tesfaye, Elaine Bonner-Tompkins and Karen Pecoraro and Central Council staff member Ludeen McCartney-Green. To prepare this report, OLO gathered information through document and literature reviews, data analysis, and interviews with community members and staff in County departments and community organizations.

OLO received a high level of cooperation from everyone involved in this study and appreciates the information and insights shared by all who participated, including:

- Members of the People’s Committee of the Interagency Commission on Homelessness;
- Housing locators working in SEPH and in community-based organizations that serve community members experiencing homelessness; and
- The following County staff:

Office of the County Executive
Fariba Kassiri, Deputy Chief Admin. Officer
Monisola Brobbey

Office of Human Rights
James Stowe, Director

**Department of Health and Human Services,
Services to End and Prevent Homelessness**
Cassandre Bolton
Rozina Adhanom

**Department of Correction and Rehabilitation,
Pre-Release and Reentry Services**
Tyrone Alexander
Gina Thompson

**Department of Housing and Community
Affairs, Office of Landlord-Tenant Affairs**
Nicolle Katrivanos

Chapter 1. Housing Justice Act Overview

The Housing Justice Act is a law that has been effective in Montgomery County since July 2021. The goal of the Housing Justice Act is to increase access to rental housing for community members who have criminal records – specifically, arrest records that did not result in conviction and conviction records for low-level criminal offenses. The law is enforced by the Office of Human Rights.

This chapter describes the Housing Justice Act and the legislative history of the law. This chapter is presented in two sections:

- **Section A** describes the Housing Justice Act, including terms and definitions, key provisions, and enforcement requirements of the law.
- **Section B** describes the legislative history of the Housing Justice Act, including the law’s introduction and enactment and updates to the law since 2021.

Two findings emerge from the information reviewed in this chapter:

- The Housing Justice Act prohibits housing providers from making inquiries about criminal history before making conditional offers for housing and from considering arrests and certain lower-level convictions when making a final housing offer.
- Recent amendments to the Housing Justice Act intend to improve compliance by housing providers and better inform renters of their rights under the law.

A. The Housing Justice Act

The Housing Justice Act has been in effect in the County since July 20, 2021.¹ Figure 1.1 includes definitions for terms in the Housing Justice Act.

¹ [Bill 49-20](#), Legislative Information System, Montgomery County Council.

Figure 1.1. Housing Justice Act Terms and Definitions²

<p>Applicant: a person who applies to rent housing in the County.</p> <p>Arrest record: information indicating that a person was taken into custody by law enforcement for accusation or suspicion of committing a crime.</p> <p>Conditional offer: an initial offer to rent housing that is contingent upon a criminal record check or other factors.</p> <p>Conviction record: information indicating that a person was sentenced for committing a crime.</p> <p>Criminal record report: a record of a person’s arrest or conviction history from any source.</p> <p>Housing provider: an individual, company, or other entity that is offering to rent housing in the County.</p> <p>Inquiry or inquire: any direct or indirect action to gather information.</p> <p>Pending criminal accusation: formal charge or accusation that a person has committed a crime.</p>

The Housing Justice Act requires housing providers to:³

1. Disclose how they inquire into an applicant's criminal and credit histories and how they use this information.
2. Not ask an applicant about arrest or conviction records in a rental application and any time before making a conditional offer to rent housing.
3. Not do a criminal background check or any other inquiries into an applicant's arrest or conviction records before making a conditional offer to rent housing.
4. Not consider certain arrest and conviction records when making a final decision to rent housing (Figure 1.2).
5. Not raise a stated rent after making a conditional offer to rent housing in certain situations.

² Adapted from definitions in [Bill 49-20](#).

³ The remainder of this section summarizes [Bill 49-20](#).

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Figure 1.2. Criminal Records Covered by the Housing Justice Act

Under the Housing Justice Act, housing providers cannot base rental decisions on:

- Arrest records for any matter that did not result in a conviction;
- Arrest or conviction records that are confidential or expunged; and
- Arrest or conviction records for the following low-level offenses:
 - Trespassing;
 - Misdemeanor theft;
 - Refusal or failure to leave public buildings or grounds;
 - Indecent exposure;
 - Public urination;
 - Open container violation;
 - Misdemeanor marijuana possession;
 - First conviction of disturbance of the peace or disorderly conduct;
 - Vehicle law violation; and
 - Misdemeanor where two years has passed since the date of conviction and incarceration.

Of note, unless the records are confidential or expunged, housing providers are allowed to base rental decisions on all other criminal records not covered by the Housing Justice Act, including for felonies. Further, as described in 'Exceptions,' (next) the law explicitly allows housing providers to base rental decisions on certain criminal records related to sex crimes.

If a housing provider intends to rescind a conditional offer for housing based on an applicant's criminal record report, the Housing Justice Act requires the housing provider to:

1. Provide the applicant with a copy of the criminal record report;
2. Inform the applicant of which items in the report are the basis for potentially rescinding the conditional offer for housing; and
3. Give the applicant seven days to clarify any inaccuracies in the report.

If the housing provider ultimately decides to rescind the conditional offer for housing based on an applicant's criminal record report, they must notify the applicant of this decision in writing.

Exceptions. The following groups are exempt from the Housing Justice Act:

- Owners who are renting accessory dwelling units or units in a property where they live if it contains two units or less;
- Faith organizations that are renting units as a part of their religious activities; and

- Federal and state housing providers.

After a conditional offer of housing is made, the Housing Justice Act explicitly allows housing providers to inquire into pending criminal accusations and conviction records for sex crimes, and into an applicant's presence on a sex offender registry. Housing providers are allowed to base their rental decision on this information.

Implementation and enforcement. The Housing Justice Act requires the Office of Human Rights to receive complaints on potential violations of the law. Housing providers are prohibited from retaliating against anyone who files a complaint or cooperates with an investigation on potential violations of the Housing Justice Act. Of note, opportunities for housing providers to retaliate against complainants are limited since complainants are unlikely to become tenants if their housing applications are denied.

The Housing Justice Act also requires the County Executive to inform prospective applicants and housing providers of their rights and responsibilities under the law. The law does not include guidelines on how this outreach should be done. The County Executive is allowed to adopt Method (2) regulations to implement the law, however, no regulations have been adopted to date.

B. Legislative History

The Housing Justice Act was introduced as Bill 49-20, Human Rights and Civil Liberties – Discrimination in Rental Housing – Fair Criminal History and Credit Screenings on December 8, 2020. The Lead Sponsors were Councilmembers Glass and Katz and Co-Sponsors Councilmembers Jawando, Rice, Navarro and Riemer.⁴ The Bill intended “to mitigate discrimination and other impediments to permanent housing, especially for homeless individuals who might have histories of certain low-level misdemeanors.”⁵

During the public hearing, residents and community groups expressed strong support for the Bill. Several speakers noted how community members experiencing homelessness were often criminalized for carrying out survival activities like using the bathroom. One resident who was previously unhoused shared how they were cited for trespassing at a fast-food restaurant despite being a paying customer. Speakers frequently noted the Bill's potential to:⁶

- Strengthen existing housing anti-discrimination laws;
- Remove barriers to housing for people experiencing homelessness; and

⁴ [Introduction Staff Report for Bill 49-20](#), Montgomery County Council, Introduced December 8, 2020.

⁵ Ibid.

⁶ Video: “[January 12, 2021 - Council Session \(pm\)](#),” Montgomery County Council YouTube, January 12, 2021, public hearing starts at 26:32.

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- Advance racial equity and social justice given the overrepresentation of Black and Latinx community members among people who are unhoused and/or involved in the criminal justice system.

An amendment proposed by the Homeless Persons Representation Project (HPRP) was discussed at length by the joint Public Safety and Planning, Housing, and Economic Development Committees.⁷ As introduced, Bill 49-20 would prohibit housing providers from inquiring into and basing rental decisions on arrest records, except those related to certain sex crimes. The HPRP noted this exception conflicted with U.S Housing and Urban Development (HUD) guidance. They recommended that housing providers be prohibited from making any inquiry into arrest records or from considering them in rental decisions. Ultimately, the Committees amended the Bill to allow housing providers to inquire into and base rental decisions on pending criminal accusations related to certain sex crimes instead of arrest records.⁸

The Council voted unanimously to pass Bill 49-20 with amendments.⁹ The Housing Justice Act was signed into law on April 30, 2021 and became effective on July 20, 2021.¹⁰

To implement Bill 49-20, the County's Office of Management and Budget found the Office of Human Rights would need \$77,000 to conduct outreach and education on the Housing Justice Act.¹¹ In FY22, the Office of Human Rights was approved for one-time funding of \$154,000 to conduct a public education campaign on the Housing Justice Act and the County's Ban the Box in employment law.^{12,13} While this funding was discontinued in FY23,¹⁴ \$40,000 in funding to promote both laws was restored to the Office in FY24.¹⁵

Updates since enactment. On March 5, 2024, Councilmember Sayles introduced Bill 8-24, Human Rights and Civil Liberties – Fair Criminal History and Credit Screenings – Amendments, with Co-Sponsors Councilmembers Glass and Katz. The Bill intended to strengthen existing compliance requirements for housing providers under the Housing Justice Act and better inform renters of their

⁷ [Action Staff Report for Bill 49-20](#), Montgomery County Council, April 20, 2021, pgs. 3-4.

⁸ Ibid.

⁹ ["Council Approves the Housing Justice Act,"](#) Montgomery County Council, April 20, 2021.

¹⁰ Bill 49-20, Legislative Information System.

¹¹ Fiscal Impact Statement for Bill 49-20, Office of Management and Budget, March 26, 2021.

¹² [Office of Human Rights FY22 Operating Budget](#), Health and Human Services Committee Worksession Staff Report, Montgomery County Council, May 12, 2021, PDF pg. 1.

¹³ Human Rights, [FY22 Operating Budget and Public Services Program FY22-27](#), Montgomery County Office of Management and Budget, pg. 33-2.

¹⁴ Human Rights, [FY23 Operating Budget and Public Services Program FY23-28](#), Montgomery County Office of Management and Budget, pg. 35-2.

¹⁵ Human Rights, [FY24 Operating Budget and Public Services Program FY24-29](#), Montgomery County Office of Management and Budget, pg. 36-2.

rights under the law. The Council enacted Bill 8-24 on July 30, 2024 and the law went into effect on November 7, 2024. The final Bill included the following changes to the Housing Justice Act:¹⁶

- Requires housing providers to post a visible disclosure on website and in leasing office informing prospective renters they cannot be asked questions related to criminal arrest or conviction before receiving a conditional offer to rent housing;
- Requires housing providers to include a criminal history and background screening addendum in every rental application (using [form](#) provided by the Department of Housing and Community Affairs) and retain each applicant’s completed addendum for one year;
- Requires housing providers to include completed criminal history and background screening addendum in lease for each occupying tenant;
- Requires the Office of Human Rights to randomly select at least one building with 10 or more rental units every quarter and inspect their rental applications to ensure compliance with the law; and
- Requires the Office of Human Rights to report on several data points to the Council every year (Figure 1.3).

The County’s Office of Management and Budget found the Office of Human Rights would need two additional staff members to implement Bill 8-24.¹⁷ The Office has not received funding for these positions as of the writing of this report.

Figure 1.3. Office of Human Rights Annual Report Requirements for Housing Justice Act¹⁸

Bill 8-24 requires the Office of Human Rights to compile and report the following measures annually:

- The number of complaints received by the Office of Human Rights regarding the denial of rental applications by a housing provider and the specific reason for each denial.
- The number of complaints filed with the Office of Human Rights for violations of the Housing Justice Act.
- The number of complaints filed with the Office of Human Rights for violations of the Housing Justice Act compared to other types of discriminatory complaints received by the office.
- Summary findings of quarterly inspections of rental applications.

¹⁶ [Action Staff Report for Bill 8-24](#), Montgomery County Council, Action on July 30, 2024.

¹⁷ Ibid, OMB Fiscal Impact Statement, PDF pg. 29.

¹⁸ [Bill 8-24](#).

Chapter 2. Policy Context

Community members with criminal records, especially returning citizens, face considerable barriers to obtaining housing. Black, Indigenous, and other people of color (BIPOC) are disproportionately impacted by these barriers. Fair chance housing policies like the Housing Justice Act are among the best practices for addressing housing barriers experienced by community members with criminal records.

This chapter describes housing barriers experienced by community members with criminal records and data that estimates the number of local community members that may experience these barriers in the near-term and that may be protected by the Housing Justice Act. This chapter also describes best practices for addressing housing barriers among community members with criminal records. This chapter is presented in three sections:

- **Section A** describes housing barriers experienced by community members with criminal records and racial inequities in the criminal legal system.
- **Section B** describes data on returning citizens, homelessness, and court cases in Montgomery County that provides context on the extent of local community members that experience housing barriers from having criminal records, and the extent to which community members with criminal records are protected by the Housing Justice Act’s anti-discrimination provisions.
- **Section C** describes best practices for addressing housing barriers experienced by people with criminal records identified by researchers and advocates.

Four findings emerge from the information reviewed in this chapter:

- Housing instability is a common collateral consequence of involvement in the criminal legal system, especially for community members returning from incarceration.
- Racial inequities drive racial disparities in the criminal legal system and homelessness.
- There is a strong demand in the County for housing solutions that prevent housing instability and homelessness among returning citizens and other community members with criminal records.
- Fair chance housing policies such as the Housing Justice Act are one of three recognized best practices for reducing housing barriers for people with criminal records.

A. Housing Barriers for Community Members with Criminal Records

Community members who are involved in the criminal legal system can experience a range of collateral consequences, even for minor interactions. These include, but are not limited to:¹⁹

¹⁹ S. McCann, “[How ‘Collateral Consequences’ Keep People Trapped in the Legal System](#),” Vera Institute of Justice, November 29, 2023.

- Family separation;
- Unemployment;
- Loss of immigration status;
- Loss of access to public benefits and higher education;
- Long-term surveillance; and
- Loss of fundamental civil rights such as voting.

Housing instability is a common collateral consequence of involvement in the criminal legal system. This is especially true for returning citizens who are reentering communities after incarceration. A 2018 study by the Prison Policy Initiative found that people who were formerly incarcerated were nearly 10 times more likely to experience homelessness than the general public.²⁰ There are several barriers that contribute to housing instability for community members with criminal records. These include:²¹

- **Discrimination by housing providers.** Criminal background checks are a widespread practice used by housing providers to screen out tenants for housing opportunities. For instance, in a national community-driven study of over 700 people who were formerly incarcerated, 79 percent indicated they were ineligible or denied for housing because of their conviction history.²² Unless otherwise prohibited by state or local law, housing providers can legally discriminate against people with criminal records when making rental decisions.
- **Restrictive public housing policies.** Returning citizens often experience economic instability because of challenges obtaining and maintaining employment.²³ This limits their housing opportunities to those that can only be afforded on very low incomes. Given its affordability, public housing can be a viable housing option for returning citizens. However, many public housing authorities have used their individual discretion to set admissions policies that prevent returning citizens from renting units on their own or living in units with family members who are existing tenants.²⁴

²⁰ L. Couloute, [“Nowhere to Go: Homelessness Among Formerly Incarcerated People.”](#) Prison Policy Initiative, August 2018.

²¹ Adapted from [“Providing a Fair Chance at Housing: Strategies for Addressing Housing Insecurity Among People with Criminal Record,”](#) Webinar, PolicyLink, December 16, 2019.

²² [“Who Pays? The True Cost of Incarceration on Families,”](#) Ella Baker Center for Human Rights, Forward Together, & Research Action Design, September 2015, pg. 27.

²³ L. Wang and W. Bertram, [“New Data on Formerly Incarcerated People’s Employment Reveal Labor Market Injustices,”](#) Prison Policy Initiative, February 8, 2022.

²⁴ [“Looking Beyond Conviction History: Recommendations for Public Housing Authority Admissions Policies,”](#) Vera Institute of Justice, April 2021.

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- **Lack of affordable housing options.** Returning citizens are competing with other community members for a very limited supply of housing that is affordable at low incomes. According to the National Low Income Housing Coalition, there are only 32 affordable and available rental homes for every 100 renter households with extremely low incomes in Maryland.²⁵ Locally, a study from Montgomery Planning found there was a shortage of nearly 25,000 housing units for households with incomes below 50% AMI in 2018.²⁶ The shortage of affordable housing also incentivizes housing providers to use practices such as background checks to select among the numerous prospective tenants applying for a limited number of units.

BIPOC are disproportionately impacted by the criminal legal system and by collateral consequences such as housing instability. The following section describes racial inequities in the criminal legal system that drive the overrepresentation of BIPOC among people with criminal records. This section also describes the increased risk for BIPOC community members to experience a cycle of homelessness and legal system involvement.

1. Racial Inequities in the Criminal Legal System

Historically, the criminal legal system in the U.S. has been used to sanction the exploitation and control of Black people. Today, BIPOC experience all stages of the criminal legal system at disproportionate rates – from traffic stops and arrests, to prosecution and incarceration.²⁷ Racial inequities in the criminal legal system foster racial disparities among people with criminal records.

In the research brief, *Unjust Burden: The Disparate Treatment of Black Americans in the Criminal Justice System*, authors Elizabeth Hinton, LeShae Henderson, and Cindy Reed from Harvard University and the Vera Institute of Justice describe historical and contemporary racial inequities that have driven the mass incarceration of Black people and other racial disparities in the criminal legal system; these include:²⁸

- **The legacy of discriminatory criminal laws that intentionally targeted Black people.** In the South, discriminatory policies and practices such as the Black codes, vagrancy laws and convict leasing "intentionally targeted newly emancipated [B]lack people as a means of surveilling them and exploiting their labor." In the North, laws such as "suspicious characters," disorderly conduct, and drunkenness were enforced in racially disparate ways "to exert social control over free [B]lack Americans."²⁹

²⁵ [The Gap: A Shortage of Affordable Homes](#), National Low Income Housing Coalition.

²⁶ Stephanie Bryant, Natalia Carrizosa, and Leslie Rubin, "[OLO Report 2023-5: Rent Regulations and the Montgomery County Rental Housing Market](#)," Office of Legislative Oversight, June 13, 2023, pg. 65 citing [Housing Needs Assessment](#), Montgomery Planning, July 2020.

²⁷ [Racial Disparity](#), National Association of Criminal Defense Lawyers.

²⁸ E. Hinton, L. Henderson, and C. Reed, "[An Unjust Burden: The Disparate Treatment of Black Americans in the Criminal Justice System](#)," Vera Institute of Justice, May 2018.

²⁹ *Ibid*, pg. 2.

- **Policymaking based on false narratives about criminal behavior among Black people.** While racially inequitable policies have driven disproportionate arrest and incarceration rates among Black people, policymakers throughout history have pointed to these and other faulty statistics to falsely associate Black people with criminality and justify harsh crime control strategies in BIPOC communities.
- **Race-neutral policies that have disparate impacts on BIPOC.** Race-neutral policies today, such as drug-free zones, “three strikes” laws, and hot spots policing are often characterized by implicit biases that lead to racially disparate outcomes. For instance, while drug use is roughly equivalent across race and ethnicity, “the risk of incarceration in the federal system for someone who uses drugs monthly and is [B]lack is more than seven times that of his or her [W]hite counterpart.”³⁰
- **Bias by actors at all stages of the criminal legal system.** Various studies have found “the bias of individual actors in the criminal justice system – police, prosecutors, judges, and juries”³¹ can lead to harsher outcomes for Black people at all stages of the system.
- **Structural inequities in BIPOC communities.** Racial inequities such as the racial wealth gap – rooted in the country’s legacy of land theft, slavery, and other tactics that economically exploited and excluded BIPOC –³² have created conditions of concentrated poverty in BIPOC communities. Structural inequities that are characteristic of high-poverty BIPOC communities – including high unemployment, low quality education, and scarce neighborhood resources – “are known drivers of criminal conduct, independent of race or ethnicity.”³³

BIPOC throughout the U.S. are disproportionately impacted by the criminal legal system and its collateral consequences. Locally, while Black community members account for 18 percent of the County’s population, they account for 30 percent, 48 percent, and 60 percent of traffic stops, arrests, and use of force incidents by the Montgomery County Police Department (MCPD) and 52 percent of Circuit Court defendants.^{34,35,36,37}

As described by Vera, “even minor interactions with the legal system can have a far-reaching impact” as they can “can spill over into people’s lives for years, or decades” and “compound the damage of interaction with the legal system.”³⁸ These consequences often extend beyond individuals, negatively

³⁰ Ibid, pg. 6.

³¹ Ibid, pg. 7.

³² E. Bonner-Tompkins, J. Peña, and E. Tesfaye, OLO Report 2024-11, “[Racial Equity and Social Justice Policy Handbook: Land Use, Housing, and Economic Development](#),” Office of Legislative Oversight, June 18, 2024, pgs. 52-57.

³³ Hinton, Henderson, and Reed, pg. 10.

³⁴ N. Carrizosa, OLO Memorandum Report 2022-12, “[Analysis of dataMontgomery Traffic Violations Dataset](#),” Office of Legislative Oversight, October 25, 2022, pg.9.

³⁵ OLO analysis of ‘[Police Arrests](#)’ dataset between January 1, 2023 and December 31, 2023, dataMontgomery.

³⁶ [MCPD 2022 Annual Use of Force Report](#), Montgomery County Police Department, pg. 12.

³⁷ B. Johnson et. al., “[Final Report on Racial Justice in Prosecution in Montgomery County](#),” Montgomery County Office of the State’s Attorney, October 2023, pg. 1.

³⁸ McCann

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impacting BIPOC children and families and “the economic and political infrastructures” of BIPOC communities with high rates of incarceration.³⁹

Legal system involvement and homelessness.⁴⁰ The interaction of housing instability for people with criminal records with the criminalization of survival behaviors while unhoused can create a self-perpetuating cycle of homelessness and legal system involvement.⁴¹ As observed by researchers at the Urban Institute, “being forced to live outside can lead to citations or arrests for low-level offenses like loitering or sleeping in parks,” which makes it more likely for people who are unhoused to interact with the criminal legal system.⁴²

Racial inequities in various domains – including the legal system and housing⁴³ – place BIPOC, especially Black community members, at highest risk of experiencing the cycle of homelessness and legal system involvement. For instance, in addition to the overrepresentation of Black people in the criminal legal system:

- Black community members are also overrepresented among people experiencing homelessness, as they account for 18 percent of the County’s population but 60 percent of single people who are unhoused and 73 percent of people in families who are unhoused;⁴⁴
- Several studies have found that Black people are subject to criminal background checks more frequently when applying for housing and are “treated less favorably when found to have a criminal history;”⁴⁵ and
- The 2018 study from the Prison Policy Initiative found that BIPOC returning from incarceration were more likely to experience homelessness than their White peers.⁴⁶

Homelessness undermines health and well-being in many ways,⁴⁷ including through continued involvement in the criminal legal system. Yet, research overwhelmingly shows that permanent housing for people who are unhoused can improve outcomes “across a range of domains including physical and mental health, well-being, mortality rates, and criminal justice interaction.”⁴⁸

³⁹ T. Clear, [The Effects of High Imprisonment Rates on Communities](#), Crime and Justice, 2008, pg. 102.

⁴⁰ This section borrows language from the [Racial Equity and Social Justice Impact Statement for Bill 8-24](#), Office of Legislative Oversight, March 27, 2024.

⁴¹ [Responding to Homelessness](#), Police-Mental Health Collaboration (PMHC) Toolkit, Bureau of Justice Assistance, U.S. Department of Justice.

⁴² [Five Charts that Explain the Homelessness-Jail Cycle – and How to Break It](#), Urban Institute, September 16, 2020.

⁴³ Bonner-Tompkins, Peña, and Tesfaye, pgs. 15-28.

⁴⁴ [Point in Time Survey](#), Services to End and Prevent Homelessness.

⁴⁵ T. Stanley-Becker, “[Breaking the Cycle of Homelessness and Incarceration: Prisoner Reentry, Racial Justice, and Fair Chance Housing Policy](#),” University of Pennsylvania Journal of Law & Public Affairs, May 2022, pgs. 272-273.

⁴⁶ Couloute

⁴⁷ L.A. Taylor, “[Housing And Health: An Overview Of The Literature](#),” Health Affairs, June 7, 2018.

⁴⁸ P. Carnemolla, “[Outcomes Associated with Providing Secure, Stable, and Permanent Housing for People Who Have Been Homeless: An International Scoping Review](#),” Journal of Planning Literature, May 21, 2021.

B. Data on Returning Citizens, Homelessness, and Court Cases

To estimate the number of local community members in the near-term that may experience housing barriers from having criminal records, OLO compiled data on returning citizens and homelessness in Montgomery County. OLO also compiled data on court cases to estimate the extent to which community members with criminal records are protected by the Housing Justice Act’s anti-discrimination provisions. The following sections describe this data.

1. Data on Returning Citizens in Montgomery County

Community members who are involved in any stage of the criminal legal system may experience barriers to housing. However, these barriers are most acute for returning citizens – community members who are reentering communities after being incarcerated. As previously described, returning citizens are 10 times more likely to experience homelessness than the general public.⁴⁹

Currently, the County does not track data on community members who are unhoused upon release from incarceration.⁵⁰ To estimate the population of returning citizens that may experience housing instability, OLO compiled available data on local community members who are incarcerated in Montgomery County jails and state prisons. OLO also compiled available data on racial disparities among people who are incarcerated. Of note, this overview does not include information on local community members who are incarcerated in federal prisons who could also experience housing instability upon reentering the County.

Returning citizens from local jails. In Montgomery County, community members are incarcerated in the following facilities, which are overseen by the County’s Department of Correction and Rehabilitation:

- **Montgomery County Detention Center (MCDC):** Intake facility providing screening and initial care, custody and security of community members who are incarcerated for up to 72 hours prior to their transfer to the Montgomery County Correctional Facility. MCDC has the capacity to hold up to 200 community members who are incarcerated.⁵¹
- **Montgomery County Correctional Facility (MCCF):** Facility responsible for the custody and care of community members who are incarcerated either in a pre-trial status or serving sentences of up to 18 months. MCCF has the capacity to hold up to 1,028 community members who are incarcerated.⁵²

⁴⁹ Couloute

⁵⁰ C. Bailey, J. Hayes, and H. Jacobson, “[Reentry Housing in Montgomery County](#),” Summer Fellows Project, Montgomery County Council, August 10, 2023, pgs. 8-9.

⁵¹ [Montgomery County Detention Center](#), Montgomery County Department of Correction and Rehabilitation.

⁵² [Montgomery County Correctional Facility](#), Montgomery County Department of Correction and Rehabilitation.

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- **Pre-Release Center (PRC):** Facility that provides transitional services to soon-to-be released sentenced and incarcerated adults from MCDC and MCCF, and from state and federal prisons who are returning to Montgomery County. PRC is a 144-bed facility.⁵³

On average, 990 community members were incarcerated across these three facilities in September 2024 – 109 in MCDC, 820 in MCCF, and 61 in PRC.⁵⁴ Thus, nearly 1,000 community members who are currently incarcerated in County facilities could be reentering communities in the County within the next year and a half.⁵⁵

Returning citizens from state prisons. In 2022, the Justice Policy Institute and the Prison Policy Initiative published a report on the residency of people incarcerated in Maryland State prisons.⁵⁶ This report was part of a larger study by the Prison Policy Institute that used available 2020 redistricting data to determine the residency of people incarcerated in 12 states.⁵⁷ According to their analysis:

- 649 people incarcerated in Maryland State prisons were Montgomery County residents,⁵⁸ and
- Half of these community members resided in six County neighborhoods: Germantown, Gaithersburg, Glenmont, Rockville, Fairland, and Montgomery Village.⁵⁹ These neighborhoods would likely have the highest numbers of returning citizens from state prisons. The remainder of community members who were incarcerated resided across 30 other County neighborhoods.

Based on these estimates from the Prison Policy Initiative, approximately 315 people exiting incarceration from state prisons return to Montgomery County every year.⁶⁰

Racial disparities among community members who are incarcerated. Black community members are overrepresented among returning citizens. As previously described, BIPOC are disproportionately impacted by all stages of the criminal legal system, including incarceration. For instance, according to the Prison Policy Initiative:⁶¹

- In 2021, Black and Indigenous people in Maryland were incarcerated in state prisons at five and seven times the rate of White people; and

⁵³ [Pre-Release and Reentry Services](#), Montgomery County Department of Correction and Rehabilitation.

⁵⁴ [Correctional Facility Average Daily Population](#), dataMontgomery, last updated October 8, 2024.

⁵⁵ Community members are incarcerated in County facilities for up to 18 months. This is an estimate, as some community members who are currently incarcerated may not reside in the County upon release.

⁵⁶ [“Where People in Prison Come From: The Geography of Mass Incarceration in Maryland,”](#) Justice Policy Institute & Prison Policy Initiative, June 2022.

⁵⁷ Emily Widra, [“Where People in Prison Come From: The Geography of Mass Incarceration,”](#) Prison Policy Initiative, January 2023.

⁵⁸ [“Number of People in Prison in 2020 from Each Maryland County,”](#) Prison Policy Initiative.

⁵⁹ [“Number of People in Prison in 2020 from Each Montgomery County Neighborhood,”](#) Prison Policy Initiative.

⁶⁰ Estimate based on suggested methodology from Prison Policy Initiative in [“Since You Asked: How Many People are Released from Each State’s Prisons and Jails Every Year,”](#) Prison Policy Initiative, August 25, 2022.

⁶¹ [“Racial Disparities in Maryland State Prison and Jail Incarceration Rates,”](#) Maryland Profile, Prison Policy Initiative.

- In 2019, Black people in Maryland were incarcerated in County jails at nearly three times the rate of White people.

Locally, the overrepresentation of Black community members among people arrested by MCPD suggests they are also overrepresented among people who are incarcerated in the County's correctional facilities.⁶²

2. Data on Homelessness in Montgomery County

The County's Housing Justice Act specifies several low-level offenses that housing providers cannot consider when making rental decisions, including trespassing, failure to leave public buildings, and open container violations.⁶³ These are offenses that can often arise from experiencing homelessness.

The U.S. Department of Housing and Urban Development (HUD) measures homelessness by using Point-in-Time (PIT) counts. PIT counts are unduplicated one-night estimates of both sheltered and unsheltered populations experiencing homelessness.⁶⁴ They are conducted every year by states and localities throughout the country during the last week in January. Based on PIT counts, HUD estimated that 653,100 people throughout the U.S. were unhoused on a single night in 2023. This was the highest PIT count since HUD began reporting in 2007.⁶⁵

Local PIT counts suggest homelessness is also growing in Montgomery County. The latest counts found that 894 community members – including 625 single people and 269 people in families (adults and children) – were unhoused on a single night in January 2023.⁶⁶ This was a 54 percent increase from the prior year and marked the largest one-year increase in PIT counts in the last 10 years. Figure 2.1 shows the County's annual PIT counts since 2013.

⁶² Refer to 'Racial Inequities in the Criminal Legal System,' Chapter 2, pgs. 12-13.

⁶³ Refer to Figure 1.2, Chapter 1, pg. 6.

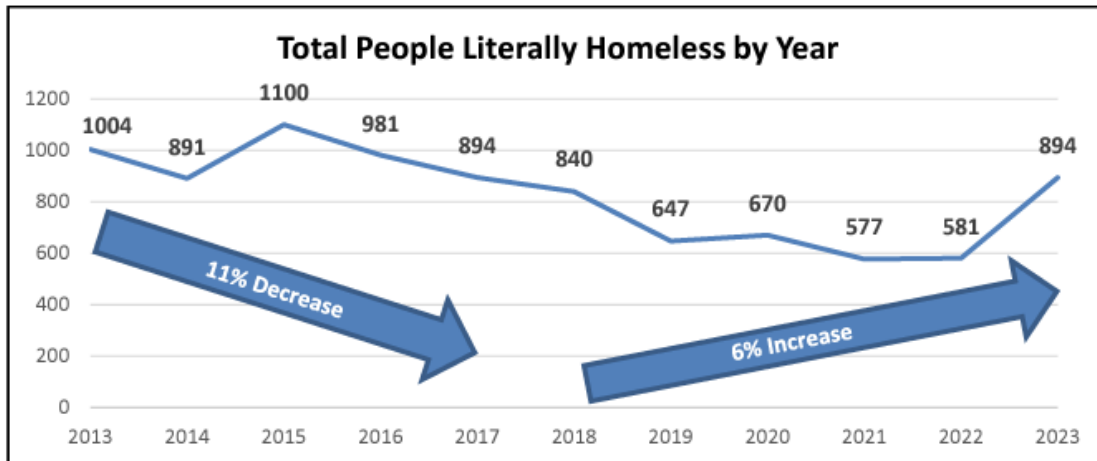
⁶⁴ [The 2023 Annual Homelessness Assessment Report \(AHAR\) to Congress](#), HUD, December 2023, pg.5.

⁶⁵ Ibid, pg. 2.

⁶⁶ [2023 Point in Time Survey](#), Services to End and Prevent Homeless, Montgomery County Department of Health and Human Services.

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Figure 2.1. PIT Counts, 2013-2023, Montgomery County



Source: [2023 Annual Report](#) (page 17), Interagency Commission on Homelessness, Department of Health and Human Services.

Of note, while PIT counts are helpful for monitoring trends in homelessness, the most recent annual report from the County’s Interagency Commission on Homeless notes they have “the potential to minimize the prevalence of homelessness in our communities.”⁶⁷ For instance, while PIT counts indicated that 408 households without children were unhoused in 2022, nearly 1600 households without children were served by homeless service providers that same year.⁶⁸

Currently, the County does not track data on whether community members who are unhoused have previously been incarcerated.⁶⁹ In a survey of 1,052 community members experiencing homelessness in neighboring Washington, DC, 57 percent reported they had a history of incarceration.⁷⁰ Using this as an estimate, considering that 740 of the community members experiencing homelessness in Montgomery County were adults,⁷¹ approximately 422 of these community members may have a history of incarceration that poses additional barriers to obtaining housing.

Racial disparities among community members experiencing homelessness. As described in ‘Legal system and involvement and homelessness’ (page 14), BIPOC community members are disproportionately impacted by homelessness in Montgomery County. Table 2.1 summarizes data on the percent of single people and people in families who were experiencing homelessness in 2023 by race. The data shows that Black community members are overrepresented among people who are unhoused – while Black community members account for 19 percent of the County population, they account for 60 percent of single people who are unhoused and 73 percent of people in families who

⁶⁷ [2023 Annual Report](#), Interagency Commission on Homelessness, Department of Health and Human Services, pg. 17.

⁶⁸ Ibid, pg. 18.

⁶⁹ Bailey, Hayes, and Jacobson, pg. 9.

⁷⁰ [2019 Point in Time Plus Survey: Part One, Initial Findings](#), DC Interagency Council on Homelessness, May 2019, pg. 28.

⁷¹ Of the 894 community members experiencing homeless in 2023, 154 were children in shelters; thus, 740 were adults. Refer to 2023 Point in Time Survey, Services to End and Prevent Homelessness.

are unhoused. Native American community members are also overrepresented particularly among single people experiencing homelessness. Conversely, White and Asian people are underrepresented among people experiencing homelessness in the County, while Pacific Islander people are proportionately represented.

Table 2.1. Percent of Single People and People in Families Experiencing Homelessness by Race, Montgomery County

Race ⁷²	Single People	People in Families	Percent of County Population
Asian	3.5	1.9	15.3
Black	59.8	72.9	18.5
Native American	8.5	2.6	0.4
Pacific Islander	1.1	0.7	0.0
White	27.0	21.9	46.6

Source: [2023 Point in Time Survey](#), Services to End and Prevent Homelessness, Montgomery County Department of Health and Human Services and [Table DP05](#), 2022 American Community Survey 5-Year Estimates, Census Bureau.

3. Data on Court Cases in Montgomery County

Community members who have been convicted of criminal offenses have a higher risk of being denied housing based on a criminal background screening. The Housing Justice Act’s anti-discrimination provisions protect community members who have certain low-level convictions (e.g., trespassing, failure to leave buildings, open container violations, etc.) from housing discrimination. The law also broadly protects community members who have misdemeanor convictions that are more than two years old.⁷³ Generally, the law does not protect community members from being denied housing if they have convictions for felonies or sex crimes.

To estimate the extent to which community members with criminal records may be protected by the Housing Justice Act’s anti-discrimination provisions, OLO reviewed data on the number of criminal cases filed in the courts. These cases could eventually lead to convictions that would pose a barrier to housing. In 2023, a total of 12,063 criminal cases were filed across the County’s District and Circuit courts; of these cases:

⁷² Separate estimates for Latinx people are not provided for this data point.

⁷³ The Housing Justice Act’s anti-discrimination provisions also broadly protect community members who have arrest or conviction records related to vehicle law violations. However, since housing providers are less likely to deny housing based on vehicle law violations, OLO excluded these violations from the analysis of understanding the scope of the Housing Justice Act.

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- 8,208 (or 65 percent of) criminal cases were filed in District Court,⁷⁴ which has jurisdiction over all misdemeanors;⁷⁵ and
- 3,855 (or 35 percent of) criminal cases were filed in Circuit Court,⁷⁶ which has jurisdiction over most felonies.⁷⁷

Given that most criminal cases are misdemeanors,⁷⁸ most community members convicted of criminal offenses in the County are likely protected by the Housing Justice Act's anti-discrimination provisions, provided that at least two years have passed from the date of their last conviction or incarceration. Nonetheless, the number of cases filed in Circuit Court suggests a considerable number of community members are likely not protected from housing discrimination through the law.

C. Best Practices for Addressing Housing Barriers

Researchers and advocates have identified several best practices for addressing housing barriers among people with criminal records. These include:

1. Adopting fair chance policies that address housing discrimination against people with criminal records;
2. Amending public housing restrictions related to criminal background checks; and
3. Investing in targeted housing programs for returning citizens.

The following sections describe these best practices. This section is based on research and literature from the following organizations, groups, and academic journals:

- PolicyLink;
- National Housing Law Project;
- Vera Institute of Justice;
- University of Pennsylvania Journal of Law & Public Affairs;
- U.S. Department of Housing and Urban Development (HUD);
- Fair Housing Center for Rights & Research;
- Montgomery County Council Summer Fellows Program;
- Center for American Progress; and

⁷⁴ [District Court Filings](#), Maryland Judiciary Data Dashboard, Maryland Courts. The following filters were used to obtain this figure: Fiscal Year-2023; Case Type-All Cases; County-Montgomery.

⁷⁵ The County's District Court also has jurisdiction over some felonies, which would not be protected by the Housing Justice Act. Refer to "[About District Court](#)," Maryland Courts.

⁷⁶ [Circuit Court Filings](#), Maryland Judiciary Data Dashboard, Maryland Courts. The following filters were used to obtain this figure: Fiscal Year-2023, Case Type-All Cases; County-Montgomery.

⁷⁷ "[Circuit Courts](#)," Maryland Courts.

⁷⁸ The prevalence of misdemeanor cases in the County is consistent with one study that estimates that misdemeanors account for 80 percent of criminal cases throughout the U.S. Refer to "[America's Massive Misdemeanor System Deepens Inequality](#)," Equal Justice Initiative, January 9, 2019.

- National Association of Counties.

Of note, as observed by the National Housing Law Project regarding fair chance housing policies, the strategies presented in this section “solve a problem that appears at the back end of an individual’s involvement in the criminal justice system.” Reducing the need for strategies that address housing barriers for people with criminal records will require strategies that address racial inequities in the criminal legal system.⁷⁹

1. Fair Chance Housing Policies

Fair chance housing policies refer to laws that limit the use of criminal records by housing providers when they are screening prospective tenants.⁸⁰ The County’s Housing Justice Act is an example of a fair chance housing policy. At least three states and 15 local jurisdictions throughout the U.S. have passed fair chance housing policies, most since 2014.⁸¹ In 2024, the Maryland General Assembly introduced a bill to establish a statewide fair chance housing law, but it did not move out of committee.⁸²

Fair Chance Housing Policies and Ban the Box Movement

Fair chance housing policies emerged from a larger movement of Ban the Box policies nationwide. All of Us or None – a national civil rights coalition of people who were formerly incarcerated – organized the Ban the Box movement in 2004 with the goal of “dismantling the structural discrimination faced by people with criminal records in society.”^{83,84} As described in *The Benefits of Ban the Box: A Case Study for Durham, NC* from The Southern Coalition for Justice:

“The movement’s central strategy is to advocate for the removal of questions about criminal history from the early stages of the employment process...Many applicants report they are discouraged from applying for jobs because they doubt their job application will receive serious consideration once they check the box. In addition...[b]y removing questions about criminal history from the early stages of the employment process, employers are able to select the most qualified applicants without the distraction of the criminal record and its attendant stigma.”⁸⁵

⁷⁹ “[Fair Chance Ordinances: An Advocate’s Toolkit](#),” National Housing Law Project, February 25, 2020, pg. 4.

⁸⁰ Adapted from definition in “[Fair Chance Ordinances: An Advocate’s Toolkit](#),” pg. 1.

⁸¹ Stanley-Becker, pg. 280. Several local jurisdictions have adopted fair chance housing ordinances since this author’s analysis, including Montgomery County ([Bill 49-20](#)), Prince George’s County, MD ([CB-097-2023](#)), and New York City, NY ([Int. No. 632-A](#)).

⁸² [HB 0964: Landlords and Prospective Tenants - Residential Leases - Criminal History Review \(Maryland Fair Chance in Housing Act\)](#), Maryland General Assembly, Introduced February 2, 2024.

⁸³ [About: The Ban the Box Campaign](#), All of Us or None.

⁸⁴ D.V. Atkinson and K. Lockwood, “[The Benefits of Ban the Box: A Case Study for Durham, NC](#),” The Southern Coalition for Justice, pg.2.

⁸⁵ *Ibid*, pg. 3.

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The movement’s initial focus on public employers drove the spread of public-sector Ban the Box policies nationwide.⁸⁶ According to the National Employment Law Project, 37 states and over 150 cities and counties have adopted fair chance hiring policies for public employers, with several also extending requirements to private employers.⁸⁷ Montgomery County joined the Ban the Box in employment movement in 2014 with the passage of Bill 36-14.⁸⁸ A statewide Ban the Box in employment law was put into effect in Maryland in 2020.⁸⁹ Over time, the Ban the Box movement has grown to encompass policies in housing, education, voting and other areas.^{90,91}

Key features of fair chance housing policies. *Fair Chance Ordinances: An Advocate’s Toolkit* from the National Housing Law Project describes key features of fair chance housing policies.⁹² Figure 2.2 summarizes the key features, important considerations for each, and observations on the Housing Justice Act and other fair chance ordinances with respect to each feature.

Figure 2.2. Key Features of Fair Chance Housing Policies

Key feature	Important considerations	Observations on the Housing Justice Act and other fair chance ordinances
<i>Which housing providers will the ordinance cover?</i>	<ul style="list-style-type: none"> Types of housing providers to include in ordinance (e.g., all rental housing providers or affordable housing providers only) Types of housing providers to exempt from ordinance (e.g. owner-occupied properties) 	<ul style="list-style-type: none"> The Housing Justice Act applies to all rental housing providers in Montgomery County with some exceptions.⁹³ Most existing fair chance ordinances apply to all rental housing within their jurisdictions.⁹⁴

⁸⁶ About: The Ban the Box Campaign

⁸⁷ B. Avery and H. Lu, “[Ban the Box: U.S. Cities, Counties, and States Adopt Fair Hiring Policies](#),” National Employment Law Project, October 1, 2021.

⁸⁸ “[Montgomery County Council Unanimously Enacts ‘Ban the Box’ Law Law Addresses When Certain Employers Can Ask Applicant About Criminal Background During Job Application Process](#),” Press Releases, Montgomery County Council, October 28, 2014.

⁸⁹ “[What Does Maryland’s New ‘Ban the Box’ Law Actually Do?](#)” Employment Law Center of Maryland, August 16, 2023.

⁹⁰ [Ban the Box](#), Legal Services for Prisoners with Children.

⁹¹ L. Evans, “[Ban the Box in Housing, Education, and Voting: A Grassroots History](#),” All of Us or None, 2016.

⁹² “Fair Chance Ordinances: An Advocate’s Toolkit,” pgs. 9-24

⁹³ Refer to ‘Exceptions,’ Chapter 1, pgs. 6-7.

⁹⁴ Stanley-Becker, pg. 284

Key feature	Important considerations	Observations on the Housing Justice Act and other fair chance ordinances
<i>Who will be protected by the ordinance?</i>	<ul style="list-style-type: none"> Community members who will be protected by ordinance (e.g., applicants to rental housing, existing tenants, prospective applicants, people seeking to join existing tenant household) 	<ul style="list-style-type: none"> The Housing Justice Act protects any person who applies to rent housing in the County. All existing fair chance ordinances protect people who are applying to begin a tenancy.⁹⁵
<i>What type of criminal history will the ordinance prohibit housing providers from considering?</i>	<ul style="list-style-type: none"> How far back criminal screening can go Type of criminal history landlords can and/or cannot consider 	<ul style="list-style-type: none"> The Housing Justice Act lists specific criminal records that housing providers cannot base rental decisions on. This includes arrest records that did not result in conviction and conviction records for several low-level offenses.⁹⁶

⁹⁵ “Fair Chance Ordinances: An Advocate’s Toolkit,” pg. 11

⁹⁶ Refer to Figure 1.2, Chapter 1, pg. 6.

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Key feature	Important considerations	Observations on the Housing Justice Act and other fair chance ordinances
<p><i>What procedures will landlords have to follow?</i></p>	<ul style="list-style-type: none"> • How and where landlords can obtain criminal history information • When in the screening process can criminal history be considered • What steps must landlords take if they intend to deny an application 	<ul style="list-style-type: none"> • The Housing Justice Act requires housing providers to not make any inquiries into an applicant’s arrest or conviction records before making a conditional offer to rent housing. • Most existing fair chance ordinances delay inquiries into criminal history until after a conditional offer of housing is made.⁹⁷ • Most existing fair chance ordinances also require landlords to conduct an individualized assessment before denying an applicant with a criminal record.⁹⁸ The Housing Justice Act does not require this.

⁹⁷ Stanley-Becker, pg. 282

⁹⁸ “Fair Chance Ordinances: An Advocate’s Toolkit,” pg. 15

Key feature	Important considerations	Observations on the Housing Justice Act and other fair chance ordinances
<p><i>What type of notices will the ordinance require?</i></p>	<ul style="list-style-type: none"> • Requiring housing providers to provide applicants informational notices, adverse action notices, or copies of criminal background report • Ensuring notices are accessible to all prospective tenants 	<ul style="list-style-type: none"> • The Housing Justice Act requires housing providers to provide applicants with a copy of their criminal record report if they intend to rescind a conditional housing offer based on criminal history. Applicants have seven days to clarify inaccuracies in the report. If the offer is ultimately rescinded, housing providers must notify applicants in writing. • Recent amendments to the Housing Justice Act require housing providers to post a visible disclosure that informs prospective applicants of certain rights under the law. The amendments also require housing providers to include a criminal history and background screening addendum in every rental application.⁹⁹ • Existing fair chance ordinances typically require housing providers to post a visible notice of applicant rights.¹⁰⁰

⁹⁹ Refer to ‘Updates since enactment,’ Chapter 1, pgs. 8-9.

¹⁰⁰ Stanley-Becker, pg. 282

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Key feature	Important considerations	Observations on the Housing Justice Act and other fair chance ordinances
<i>How will the ordinance be enforced?</i>	<ul style="list-style-type: none"> • Assigning enforcement responsibility • Establishing primary enforcement mechanism (i.e., administrative complaint process and/or private right of action) • Additional enforcement measures to ensure compliance, including outreach and education, testing, and data collection 	<ul style="list-style-type: none"> • The Housing Justice Act requires the Office of Human Rights to receive complaints on potential violations of the law. • Recent amendments to the Housing Justice Act require the Office of Human Rights to conduct quarterly audits of housing providers and collect and report certain data points. • The Office of Human Rights has periodically engaged in public education campaigns to promote the Housing Justice Act.¹⁰¹ • All existing fair chance ordinances use some form of an administrative complaint process.¹⁰²

Fair housing laws. The Federal Fair Housing Act is the foundation of fair housing laws. It is a key provision of the Civil Rights Act of 1968 – landmark legislation that emerged from the Civil Rights Movement following the assassination of Dr. Martin Luther King, Jr.¹⁰³

The Fair Housing Act “protects people from discrimination when they are renting or buying a home, getting a mortgage, seeking housing assistance, or engaging in other housing-related activities.”¹⁰⁴ The law prohibits discrimination in housing based on *race, color, national origin, religion, sex* (including gender identity and sexual orientation),¹⁰⁵ *familial status* (families with children under 18) and *disability* throughout the U.S.^{106,107} State fair housing laws establish the additional protected

¹⁰¹ Refer to ‘Outreach and education,’ Chapter 3, pgs. 39-40.

¹⁰² “Fair Chance Ordinances: An Advocate’s Toolkit,” pg. 20

¹⁰³ “[History](#),” Congressional Black Caucus Foundation.

¹⁰⁴ [Housing Discrimination Under the Fair Housing Act](#), U.S. Department of Housing and Urban Development.

¹⁰⁵ Gender identity and sexual orientation are not explicitly named as protected characteristics in the Fair Housing Act. However, as of 2021, HUD is considering discrimination based on gender identity and sexual orientation as types of sex discrimination. Refer to “[HUD Announces Sexual Orientation & Gender Identity are Protected by Federal Fair Housing Act](#),” Fair Housing Project, February 9, 2021.

¹⁰⁶ Housing Discrimination Under the Fair Housing Act.

¹⁰⁷ [The Fair Housing Act](#), Civil Rights Division, U.S. Department of Justice, updated June 22, 2023.

characteristics of *marital status, sexual orientation, gender identity, and source of income* in Maryland.¹⁰⁸ Local fair housing laws establish the additional protected characteristics of *ancestry, family responsibilities* (financial or legal responsibility for the support or care of persons of any age), and *age* in Montgomery County.¹⁰⁹

Criminal background screening and fair housing laws. Given racial and ethnic disparities in the criminal legal system, criminal background screening practices can have a disparate impact on BIPOC who are applying for housing. Recognizing this disparate impact, HUD issued guidance in 2016 and 2022 to help housing providers apply Fair Housing Act Standards to their criminal background screening practices.¹¹⁰

As explained in the *Fair Housing for People with a Criminal Record* toolkit from the Fair Housing Center for Rights & Research, HUD generally recommends that housing providers avoid using criminal history to screen tenants for housing. Further, to avoid violations of the Fair Housing Act, the guidance prohibits housing providers from:¹¹¹

- Denying housing based on arrest records;
- Blanket bans of anyone with a criminal record; and
- Conducting background checks inconsistently, performing them on some and not others based on stereotypes or fear.

The guidance further requires that housing providers:¹¹²

- 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 the crime was committed; and
- Make a determination based on facts and evidence, and not a perceived threat.

The toolkit provides further explanation on HUD guidance and includes information on recent criminal background and fair housing law cases, related protections for people with disabilities and victims of domestic violence, and other information and resources.

Fair chance housing policies and fair housing laws. Some studies have found that Ban the Box laws can have the unintended consequence of worsening racial discrimination against BIPOC, as employers and housing providers use race as a proxy for criminal history.^{113,114} For instance, one study of a new policy in Minneapolis that restricted the use of background checks, credit history, and eviction history found

¹⁰⁸ [Housing Discrimination](#), State of Maryland Commission on Civil Rights.

¹⁰⁹ [Montgomery County Code § 27-12](#).

¹¹⁰ [Fair Housing for People with Criminal Records](#), Fair Housing Center for Rights & Research, 2022.

¹¹¹ *Ibid.*

¹¹² *Ibid.*

¹¹³ M.M. Gorzig and D. Rho, “The Impact of Renter Protection Policies on Rental Housing Discrimination,” Federal Reserve Bank of Minneapolis, May 19, 2023, pgs. 1-2.

¹¹⁴ Stanley-Becker, pgs. 307-309.

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that it worsened discrimination against Somali American and African American rental applicants.¹¹⁵ In an analysis of fair chance housing policies in *Breaking the Cycle of Homelessness and Incarceration*, Thomas Stanley-Becker explains that “robust and proactive enforcement of fair housing laws is needed so fair chance laws do not lead to unintended, adverse, and discriminatory consequences.”¹¹⁶

Testing is frequently cited as a best practice for proactively enforcing fair housing laws. The National Housing Law Project notes that local jurisdictions can consider partnering with local fair housing testing organizations to also engage in testing for fair chance ordinances.¹¹⁷ As described by HUD, “[t]esting involves covert investigation by testers who pose as housing applicants and document the treatment they receive from housing providers.”¹¹⁸ For example, the Office of Housing in Alexandria, Virginia “conducts fair housing testing annually using pairs of trained testers” that “are closely matched in all variables other than the selected characteristic being tested” to identify housing discrimination.¹¹⁹ Of note, the Montgomery County Office of Human Rights last published results for fair housing testing in the County in the 2015 Analysis of Impediments to Fair Housing Choice report.¹²⁰

Some jurisdictions promote fair chance laws as part of their broader fair housing initiatives. For instance, Seattle and Washington, DC include information on criminal history screening requirements in their educational materials on fair housing.^{121,122} In Montgomery County, the Housing Justice Act is not promoted as being part of the County’s Fair Housing Program. However, given its aim to prevent discrimination in housing for people with certain criminal records, OLO will refer to the Housing Justice Act as part of the County’s fair housing laws for the remainder of this report.

¹¹⁵ Gorzig and Rho, pgs. 2-4.

¹¹⁶ Stanley-Becker, pg. 309.

¹¹⁷ “Fair Chance Ordinances: An Advocate’s Toolkit,” pg. 24.

¹¹⁸ [“Fair Housing Enforcement Organizations Use Testing to Expose Discrimination,”](#) HUD Office of Policy Development and Research, 2014.

¹¹⁹ [Fair Housing Testing Program](#), Office of Housing, City of Alexandria, Virginia, November 2022.

¹²⁰ [2015 Analysis of Impediments to Fair Housing Choice](#), Department of Housing and Community Affairs.

¹²¹ [“Seattle’s Fair Housing Laws,”](#) Seattle Office of Civil Rights.

¹²² [“Fair Housing Resource Portal,”](#) DC Office of Human Rights, last updated September 9, 2024.

2. Amending Public Housing Restrictions

Public housing can be a viable affordable housing option for returning citizens as they often experience economic instability upon reentering communities. Yet, many public housing authorities have used their individual discretion to set admissions policies that prevent returning citizens from renting units on their own or reuniting with family members who are existing tenants.

Through their Opening Doors to Housing Initiative, the Vera Institute of Justice has worked with 22 Public Housing Authorities (PHAs) and multiple community stakeholders across 12 states to help increase access to housing for people with criminal records.¹²³ Based on this effort, Vera developed eight policy recommendations for PHAs throughout the country to effectively address barriers to housing for people with criminal records.¹²⁴ Figure 2.3 describes each recommendation and how the admissions policy of Montgomery County’s PHA – the Housing Opportunities Commission (HOC) – is aligned with each recommendation.¹²⁵ Based on OLO’s review, HOC’s admissions policy is mostly aligned on three of the eight recommendations, which are marked with an asterisk (*) on Figure 2.3.

Figure 2.3. Recommendations for PHAs to Address Barriers to Housing

Recommendation	Description	HOC admissions policy
<i>Shorten the lookback period to three years or less*</i>	<ul style="list-style-type: none"> Setting the lookback period for conviction records to determine eligibility for housing to a maximum of three years from the date of release from incarceration or the date of conviction, whichever is more recent 	<ul style="list-style-type: none"> Applicants can be denied for history of criminal activity by any household member in the past three years¹²⁶ Can also deny applicants who were evicted from federally assisted housing for drug-related criminal activity up to five years before the projected admission date depending on the type of substance¹²⁷ Does not specify whether lookback period is from date of incarceration or conviction

¹²³ [Opening Doors to Housing Initiative](#), Vera Institute of Justice.

¹²⁴ [Looking Beyond Conviction History: Recommendations for Public Housing Authority Admissions Policies](#), Vera Institute of Justice, April 2021.

¹²⁵ Comparison is based on review of [HOC Admissions & Continued Occupancy Policy](#), Housing Opportunities Commission, April 2013.

¹²⁶ Ibid, pg. 16

¹²⁷ Ibid

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Recommendation	Description	HOC admissions policy
<p><i>Screen for a limited number of convictions and not for arrests</i></p>	<ul style="list-style-type: none"> • Screening only for convictions, not arrests, and limiting to the narrowest set possible • Identifying in policies the types of convictions that are deemed irrelevant to success as a tenant and to public safety and discontinuing screening for them 	<ul style="list-style-type: none"> • Policy broadly states that criminal activity by any household member “that would adversely affect the health, safety, or well-being of other tenants or staff or cause damage to the property” is grounds for denial¹²⁸ • Specifically identifies drug-related criminal activity for certain controlled substances as grounds for denial¹²⁹ • Also specifically identifies convictions for manufacture or production of methamphetamine in federally assisted housing and lifetime registration on state sex offender registration program as lifetime bans (required per federal law)¹³⁰ • Does not specify whether arrest records are considered as part of criminal history • Does not identify specific convictions that are not grounds for denial

¹²⁸ Ibid, pg. 16

¹²⁹ Ibid.

¹³⁰ Ibid, pg. 17

Recommendation	Description	HOC admissions policy
<p><i>Conduct an individualized assessment of applicants' conviction histories</i></p>	<ul style="list-style-type: none"> • Conducting an individualized review of conviction history when evaluating housing application rather than automatic denial • Giving applicants the opportunity to see record and verify or dispute its accuracy • Encouraging applicants to submit supporting evidence (e.g., steady employment, participation in rehabilitation programs, letters of support from community groups, etc.) 	<ul style="list-style-type: none"> • Policy includes a broad “informal review” process where applicants who are deemed ineligible for HOC programs are provided a written explanation and opportunity to request an informal review of decision¹³¹ • As part of informal review, applicants must be given opportunity to present written and oral objections to HOC’s decision • Does not specify any specific requirements for assessing criminal history, such as providing applicant with copy of criminal record used as basis for decision or considering evidence of rehabilitation
<p><i>Discontinue the use of “one-strike” policies and adopt a case-by-case decision-making approach*</i></p>	<ul style="list-style-type: none"> • Adopting case-by-case decision-making policies that allow for discretion and consideration of mitigating circumstances or evidence of rehabilitation rather than automatic denial or eviction of applicants/tenants with a criminal record 	<ul style="list-style-type: none"> • With exception of lifetime bans, policy does not identify “one-strike” rules • Conversely, with exception of informal review process, policy does not include process for case-by-case decision-making for applicants with criminal records

¹³¹ Ibid, pg. 17

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Recommendation	Description	HOC admissions policy
<i>Allow people on probation and parole to live in public housing</i>	<ul style="list-style-type: none"> Admitting people under probation or parole supervision using the same case-by-case decision-making method used to evaluate any applicant with a conviction history 	<ul style="list-style-type: none"> Policy does not identify allowances or prohibitions for people on probation or parole, except for prohibition on “fugitive felons, parole violators and persons fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony”¹³²
<i>Limit the use of past evictions to determine successful tenancy in public housing</i>	<ul style="list-style-type: none"> Not relying on evidence of past evictions to deny housing and evaluating factors such as the family’s income and composition at the time of eviction, the grounds for eviction, and excessive rent burdens in the local private rental market 	<ul style="list-style-type: none"> Policy specifies having “a household member who has ever been evicted from public housing” as grounds for denial¹³³

¹³² Ibid.

¹³³ Ibid, pg. 17

Recommendation	Description	HOC admissions policy
<p><i>Specify and limit denials connected to illegal drug use*</i></p>	<ul style="list-style-type: none"> Defining “currently engaged in the illegal use of a drug” – a common PHA policy for denying housing to applicants – as a period of no more than the previous three months and limit use to that related to convictions Allowing tenancy for applicants who have completed drug rehabilitation 	<ul style="list-style-type: none"> Policy specifies “illegally using a controlled substance or abusing alcohol in a way that may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents” as grounds for denial Identifies several circumstances where requirement may be waived, including successful completion of supervised drug or alcohol rehabilitation program Does not specify period of time that amounts to current use
<p><i>Include absence as a result of incarceration as a permitted temporary absence and allow people to stay housed while completing diversion or alternative-to-incarceration programs</i></p>	<ul style="list-style-type: none"> Allowing continued housing for people who are in jail pretrial or those whose sentences permit them to stay in the community (e.g., diversion programs, probation) 	<ul style="list-style-type: none"> Policy does not specify rules related to temporary absences

3. Targeted Housing Programs

Targeted housing programs provide affordable housing opportunities dedicated to returning citizens. In addition to housing, these programs often include support services that help returning citizens successfully reenter into communities. The 2023 *Reentry Housing in Montgomery County* report prepared by Montgomery County Council Summer Fellows observes that “[d]ue to the lack of viable housing options for returning residents [in Montgomery County], many are released into

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homelessness.”¹³⁴ The report describes three approaches to targeted housing programs that could improve housing outcomes for returning citizens; these include:¹³⁵

- **Transitional housing.** Transitional housing refers to temporary housing (up to 24 months) with supportive services that aims to provide households with interim stability and support to successfully move to and maintain permanent housing.¹³⁶ The report notes that transitional housing immediately upon release can be effective in preventing homelessness and recidivism among returning citizens who have lower support needs. It also notes that expanding and tailoring existing housing assistance programs or re-establishing the discontinued Comprehensive Reentry Project could be promising frameworks for implementing transitional housing programs for returning citizens in Montgomery County.
- **Permanent supportive housing.** Permanent supportive housing refers to permanent housing that combines housing assistance (e.g., long-term leasing or rental assistance) and supportive services to assist households in achieving housing stability.¹³⁷ Permanent supportive housing is a proven strategy for achieving long-term housing stability among people experiencing homelessness.¹³⁸ Permanent supportive housing is typically targeted to community members who are chronically homeless and who have serious health conditions, including mental health and substance use disorders. The report notes that in the reentry context, permanent supportive housing programs are often targeted to community members who have a history of cycling through jails, shelters, and emergency rooms.¹³⁹
- **Public housing set-asides.** The report notes that several PHAs throughout the country have established programs that set-aside designated units or vouchers for returning citizens. For instance, the Baltimore Housing Authority sets aside up to 250 vouchers for community members who are participating in city-funded reentry programs and the Mayor’s Office of Returning Citizen Affairs in Washington, DC sets aside 20 vouchers for returning citizens.

Promising models of targeted housing programs for returning citizens have been implemented throughout the country. Examples of promising models for each approach can be found in the *Reentry Housing in Montgomery County* report as well as in the following resources:

- 2023 Center for American Progress article, [“Strengthening Access to Housing for People With Criminal Records Is Key to Successful Reentry;”](#)
- 2019 Policy Link webinar, [“Providing a Fair Chance at Housing: Strategies for Addressing Housing Insecurity Among People with Criminal Record;”](#) and

¹³⁴ Baily, Hayes, and Jacobson, pgs. 10-11.

¹³⁵ Ibid, pgs. 12-15.

¹³⁶ [Transitional Housing](#), HUD Exchange.

¹³⁷ [Permanent Supportive Housing](#), HUD Exchange.

¹³⁸ T. Aubry, et. al., [“Effectiveness of Permanent Supportive Housing and Income Assistance Interventions for Homeless Individuals in High-Income Countries: A Systematic Review,”](#) The Lancet, June 2020.

¹³⁹ Bailey, Hayes, and Jacobson, pg. 5.

- 2018 National Association of Counties report, "[Housing for the Justice Involved: The Case for County Action.](#)"

Chapter 3. Implementation of the Housing Justice Act

County law requires the Office of Human Rights to implement and enforce the Housing Justice Act, primarily by receiving complaints from the public. Other County departments also serve community members who are impacted by the Housing Justice Act – including landlords and tenants, community members who are transitioning from incarceration, and community members who are unhoused.

This chapter describes the implementation of the Housing Justice Act by the Office of Human Rights and work in other County departments related to the law based on document reviews and interviews with County staff. This chapter is presented in two sections:

- **Section A** describes the implementation of the Housing Justice Act by the Office of Human Rights, including the Office’s enforcement efforts and staffing trends over the last twelve years.
- **Section B** describes work related to the Housing Justice Act in the Department of Housing and Community Affairs, the Department of Correction and Rehabilitation, and the Department of Health and Human Services.

Four findings emerge from the information reviewed in this chapter:

- Since the Housing Justice Act has been in effect, the Office of Human Rights has only received one intake inquiry related to the law. The Office’s enforcement efforts have primarily been focused on outreach and education.
- Staffing cuts in the Office of Human Rights have likely had an adverse impact on effective enforcement of fair housing laws, including the Housing Justice Act.
- Outside of the Office of Human Rights, Services to End and Prevent Homelessness has engaged in the most efforts to implement the Housing Justice Act.
- Data from Services to End and Prevent Homelessness suggests there are housing providers that are violating the Housing Justice Act and other fair housing laws.

A. Implementation by the Office of Human Rights

The Housing Justice Act is enforced by the Montgomery County Office of Human Rights. The Office of Human Rights enforces various local human rights laws under Chapter 27 of the Montgomery County Code. These include:¹⁴⁰

- **Article I, Commission on Human Rights:** This article includes County laws that prohibit discrimination in public accommodations, housing, and employment based on race, color, national origin, sex, and other protected characteristics. It also includes County laws that

¹⁴⁰ [Compliance & Complaints](#), Montgomery County Office of Human Rights.

prohibit discrimination through intimidation. The Housing Justice Act is a part of this article, specifically under the County’s anti-discrimination in housing laws.

- **Article X, Displaced Service Workers Protection Act:** This law provides some temporary job protection for non-management service workers when their employer's service contract is terminated.
- **Article XI, County Minimum Wage:** This law establishes the local minimum wage for private sector employees working in the County.
- **Article XII, Fair Criminal Record Screening Standards:** Also known as the County’s Ban the Box in employment law. This law prohibits employers in the County from inquiring into an applicant's criminal record before a conditional job offer is extended.
- **Article XIII, Earned Sick and Safe Leave:** This law requires employers operating in the County to provide earned sick and safe leave to each employee for work performed in the County.
- **Article XV, Minimum Work Week for Building Maintenance Workers:** This law requires employers to provide a minimum work week of at least 30 hours for each employee performing janitorial services at an office building occupying at least 350,000 square feet in the County.
- **Article XVI, Employee Health Care Privacy:** This law limits health care information that employers in the County can inquire into regarding a job applicant.

The Office of Human Rights also oversees the Commission on Human Rights, the Committee Against Hate/Violence, the Commission on Remembrance and Reconciliation,¹⁴¹ and the Interagency Fair Housing Coordinating Group.¹⁴² Additionally, the office organizes several high-profile events in the County, including the annual Martin Luther King, Jr. and Juneteenth celebrations.

The Office of Human Rights’ budget is organized into the following four programs:¹⁴³

- **Administration:** Overall management and leadership of the office, including policy development.
- **Community Mediation and Public Affairs:** Outreach and education efforts of the Human Rights Commission, Interagency Fair Housing Coordinating group, and other groups that are overseen by the office.
- **Compliance:** Investigating and resolving formal complaints of violations of human rights laws.
- **Fair Housing:** Monitoring the County’s Fair Housing Ordinance through the Interagency Fair Housing Coordinating Group.

¹⁴¹ [Commissions & Committees](#), Office of Human Rights.

¹⁴² [Fair Housing](#), Office of Human Rights.

¹⁴³ [Human Rights](#), Montgomery County Operating Budget.

Implementation of the Housing Justice Act

The following sections describe enforcement of the Housing Justice Act by the Office of Human Rights, and staffing trends in the office over the last 12 years.

1. Housing Justice Act Enforcement

Complaints process. The Office of Human Rights primarily enforces human rights laws by receiving complaints from the public.¹⁴⁴ The Compliance Section is staffed by nine investigators who review all categories of complaints that are received by the office. After its enactment, complaints related to the Housing Justice Act were integrated into the Compliance Section's existing complaints process.

The process of filing a formal complaint with the Office of Human Rights starts with an intake inquiry. To make an intake inquiry, community members can:¹⁴⁵

- Complete a [Claim and Intake Inquiry Form](#) online; or
- Make an in-person or virtual appointment with the Office of Human Rights.

Community members that use the online form to submit an intake inquiry related to the Housing Justice Act would select the option for the 'Fair Criminal Record Screening Standards, Section 27-72' law under the 'Type of Claim' question. Of note, this option technically references the County's Ban the Box in employment law. The office reported they plan to include an additional category in the online form that references the Housing Justice Act for clarity and proper classification.

Plain Language in Government Materials

As noted in OLO Report 2024-8, *Community Engagement for Racial Equity and Social Justice*, writing materials in plain language that avoids technical jargon is a promising practice among County staff for making government information more accessible to Black, Indigenous, and other people of color (BIPOC) and all community members.¹⁴⁶ Plain language principles can be helpful for improving the accessibility of government materials such as complaint forms. For instance, instead of referencing laws, the [Human Rights Complaint Form for Cook County, IL](#) references complaint types such as 'County Services,' 'Paid Leave,' and 'Minimum Wage' that are easy to recognize. The form also includes criminal history among the options for basis of housing discrimination.

After receiving an intake inquiry, investigators review the inquiry to determine whether the Office of Human Rights has jurisdiction over the complaint. An inquiry becomes a formal complaint if it is signed by the complainant and accepted by the office. Formal complaints can proceed in various ways, including with mediation or investigation. The flowchart in Appendix A shows the potential paths for

¹⁴⁴ [Compliance and Complaints](#), Montgomery County Office of Human Rights.

¹⁴⁵ Ibid.

¹⁴⁶ J. Peña and C. Kalyandurg, OLO Report 2024-8, "Community Engagement for Racial Equity and Social Justice," Office of Legislative Oversight, March 12, 2024, pg. 98.

intake inquiries and formal complaints within the Office of Human Rights. Complainants to the Housing Justice Act may be entitled to damages of up to \$5,000 for complaints that are substantiated by the Office of Human Rights and the Case Review Board of the Commission on Human Rights.¹⁴⁷

Since the Housing Justice Act has been in effect, the Office of Human Rights has only received one intake inquiry related to the law. Due to lack of response from the complainant following staff attempts to contact, the inquiry was not processed into a formal complaint.

Outreach and education. The addition of the Housing Justice Act to the scope of the Office of Human Rights generally did not change the office's process for accepting and managing intake inquiries and complaints. Thus, since the law became effective in 2021, the office has primarily focused on outreach efforts to educate and inform community members about the law. Outreach efforts are organized by the director of the office with some staff support from the Office Services Coordinator. The office's outreach efforts on the Housing Justice Act have mostly been combined with outreach on Ban the Box in employment law and has particularly emphasized the provisions of the Housing Justice Act that prohibit housing providers from making inquiries into an applicant's criminal history before a conditional offer of housing is made. Outreach efforts include:

- **Updating website:** The office updated its existing Ban the Box in employment webpage to add language on housing protections.¹⁴⁸
- **Public education campaigns:** In 2022, several months after the law was passed, the office hired a contractor to run a public education campaign on Ban the Box in employment and housing. Key promotional messages through the campaign included informing community members of the laws and their rights, and how to connect with the Office of Human Rights for help. Figure 3.1 shows the schedule of activities for the campaign, which included public service announcements, bus and movie theater advertisements, and direct mailings to employers and housing providers. While many of the activities in the campaign were completed, some activities had to be cut due to funding constraints.

Using a contractor, the office has conducted an ongoing Ban the Box ad campaign in local movie theaters in Silver Spring, Gaithersburg, and Germantown. Appendix B includes examples of Ban the Box in housing advertisements that have been run in various campaigns.

- **Written educational materials:** Using a contractor, the office recently completed a one-page summary that describes the Housing Justice Act. This document will be distributed to service providers that work with community members who are most impacted by the law. The one-page summary is included in Appendix C.

Since the Housing Justice Act became effective, the Office of Human Rights has also informally collaborated with other County departments – including the Department of Housing and Community

¹⁴⁷ OLO communication with the Office of the County Attorney, January 9, 2025.

¹⁴⁸ [Ban the Box](#), Office of Human Rights.

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Affairs, the Department of Health and Human Services, and the Department of Correction and Rehabilitation – to share information on the law and provide guidance on specific cases as needed.

Figure 3.1. Schedule of Activities for 2022 Ban the Box Public Education Campaign



Source: Office of Human Rights.

Expected changes with Bill 8-24. With the passage of Bill 8-24 in August 2024, to ensure compliance with the Housing Justice Act, the Office of Human Rights will also conduct a quarterly inspection of rental applications in buildings with 10 or more rental units.¹⁴⁹ According to the Fiscal Impact Statement from the County’s Office of Management and Budget (OMB), adequate implementation of Bill 8-24 will require two additional staff members.¹⁵⁰ However, absent funding for these new positions, this responsibility will be distributed among existing investigators within the office. The process for selecting the buildings and conducting quarterly inspections is currently being developed by the Office of Human Rights.

Fair Housing Program. The Office of Human Rights’ Fair Housing Program specifically focuses on addressing anti-discrimination in housing. Program activities include:¹⁵¹

¹⁴⁹ Refer to, ‘Updates since enactment,’ Chapter 1, pgs. 8-9.

¹⁵⁰ OMB Fiscal Impact Statement, [Action Staff Report for Bill 8-24](#), Montgomery County Council, PDF pg. 29.

¹⁵¹ “[Fair Housing](#),” Montgomery County Office of Human Rights.

- Training for the general public, landlords, real estate professionals, and other housing professionals;
- Testing for discrimination in the rental or sale of housing and home mortgage financing; and
- Periodic studies and surveys to determine the level of housing discrimination in the County.

The Interagency Fair Housing Coordinating Group (IFHCG) supports the activities of the Fair Housing Program. The IFHCG is a cross-departmental workgroup tasked by law with facilitating the County’s efforts to prevent housing discrimination. The IFHCG lost members during the COVID pandemic and has been dormant since.

As described in Chapter 2, testing is frequently cited as a best practice for proactively enforcing fair housing laws like the Housing Justice Act. The Office of Human Rights last published results for fair housing testing in the County in 2015.¹⁵² The office noted that when it undergoes fair housing testing again with assistance from the IFHCG, it will likely include testing housing providers for compliance to the Housing Justice Act.

2. Staffing Trends in the Office of Human Rights

Staff from the Office of Human Rights reported that limited funding and staffing have created general administrative challenges in the office that have extended to the implementation of the Housing Justice Act. Following the Great Recession of the 2000s, the Office of Human Rights underwent a series of budget cuts that drastically reduced the office’s staffing over several years. Table 3.1 summarizes approved full-time equivalents (FTEs) for the office for select years between FY09 and FY25.

Table 3.1. Office of Human Rights Approved FTEs, FY09, FY12, FY18, & FY25

Program	FY09 Approved	FY12 Approved	FY18 Approved	FY25 Approved	Change FY09 to FY25
Administration	2.5	1.0	1.0	1.0	-1.5
Compliance	12.0	6.0	6.0	9.0	-3.0
Community Mediation and Public Affairs	2.0	0.0	0.5	0.5	-1.5
Fair Housing	5.0	1.0	1.1	1.1	-3.9
Total	21.5	8.0	8.6	11.6	-9.9

Source: FY10 and FY12 Approved Operating Budget (pgs. 4-78 and 3-75) and FY18 and FY25 [Approved Expenditures for Human Rights Program](#), Montgomery County Operating Budget.

Table 3.1 shows that from FY09 to FY12, overall staffing in the Office of Human Rights was reduced by more than half from 21.5 FTEs to 8 FTEs. Today, the Office of Human Rights has 11.6 approved FTEs for FY25. Staffing increases since the cuts have almost exclusively been concentrated in the Compliance

¹⁵² [2015 Analysis of Impediments to Fair Housing Choice](#), Department of Housing and Community Affairs.

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Section. Conversely, a total of only 2.6 FTEs today are dedicated to the administration, community mediation and public affairs, and fair housing programs – nearly 7 FTEs less than in FY09. Limited staffing for these three programs – which are managed by the director of the Office of Human Rights and one Office Services Coordinator with partial support from one Compliance Manager – places significant constraints on effective administration of the office, outreach and education on all human rights laws, and proactive enforcement of fair housing laws.

As staffing in the Office of Human Rights has decreased over the years, the office’s responsibilities have increased considerably. OLO identified at least 16 laws that have been enacted since 2012 that have expanded the scope of the office by increasing oversight and enforcement of new and existing human rights laws; these include:

- Bill 19-12, Human Rights and Civil Liberties - Displaced Service Workers
- Bill 27-13, Human Rights and Civil Liberties - County Minimum Wage - Dollar Amount
- Expedited Bill 36-14, Human Rights and Civil Liberties - Fair Criminal Record Screening Standards
- Bill 51-14, Discriminatory Employment Practices - Retaliation for Wage Disclosure - Prohibited
- Bill 60-14, Human Rights and Civil Liberties - Earned Sick and Safe Leave
- Expedited Bill 24-15, Human Rights - Minimum Wage - Tipped Employee - Amendments
- Expedited Bill 32-16, Human Rights and Civil Liberties - Earned Sick and Safe Leave - Use of Earned Sick and Safe Leave - Parental Leave
- Bill 34-18, Human Rights and Civil Liberties - County Minimum Wage - Definitions - Employer
- Bill 12-19, Human Rights and Civil Liberties - Building Maintenance Worker - Minimum Work Week
- Bill 30-19, Human Rights and Civil Liberties - Race Discrimination - Protective Hairstyles (CROWN Act)
- Bill 14-20, Human Rights and Civil Liberties - Discriminatory Employment Practices - Workplace Harassment
- Bill 28-20, Human Rights and Civil Liberties - Discrimination in Public Accommodations - LGBTQ Bill of Rights
- Bill 35-20, Human Rights and Civil Liberties - Fair Criminal Record Screening Standards - Amendments
- Bill 49-20, Human Rights and Civil Liberties - Discrimination in Rental Housing - Fair Criminal History and Credit Screenings (“Housing Justice Act”)
- Bill 44-23, Human Rights and Civil Liberties - Prospective Employees - Health Care Privacy
- Bill 8-24, Human Rights and Civil Liberties - Fair Criminal History and Credit Screenings - Amendments

Descriptions of each of these laws are included in Appendix D.

Of note, the most recent Bill, Bill 8-24, added additional oversight responsibilities for the office to enforce the Housing Justice Act.¹⁵³ While fiscal analysis found the changes would require two additional investigators,¹⁵⁴ the office currently lacks funding for these positions.

B. Work in Other County Departments

To understand efforts related to the Housing Justice Act in other County departments, OLO interviewed staff within the following programs that serve community members impacted by the law:

- **Office of Landlord-Tenant Affairs** within the Department of Housing and Community Affairs, which serves tenants and landlords;
- **Pre-Release and Reentry Services** within the Department of Correction and Rehabilitation, which serves community members transitioning from incarceration; and
- **Services to End and Prevent Homelessness** within the Department of Health and Human Services, which serves community members experiencing homelessness.

The following sections describe each of these programs and their efforts related to the Housing Justice Act.

1. Office of Landlord-Tenant Affairs

The Office of Landlord-Tenant Affairs (OLTA) enforces state and local laws that govern landlord-tenant relations in the County. OLTA is also responsible for educating landlords and tenants on their rights and responsibilities. The office does this through developing and publishing educational resources and holding informational events for the public. Additionally, OLTA receives and investigates complaints from landlords and tenants to help resolve disputes outside the court system.^{155,156}

On occasion, OLTA receives complaints from tenants who claim that a landlord has failed to renew their lease because of discrimination. According to staff, these claims are often coupled with claims of retaliation. While OLTA can address retaliation claims, discrimination claims fall outside their jurisdiction. Thus, OLTA staff direct tenants with discrimination claims to the complaint forms for the Office of Human Rights and the Maryland Commission for Civil Rights. OLTA primarily works with tenants who have a signed lease and do not typically receive complaints from prospective tenants who are applying for housing. Since the Housing Justice Act mostly imposes requirements at the application stage, it is not common for OLTA to encounter cases that are related to the law.

¹⁵³ [Action Staff Report for Bill 8-24](#), Montgomery County Council, Action on July 30, 2024.

¹⁵⁴ OMB Fiscal Impact Statement, Action Staff Report for Bill 8-24, PDF pg. 29.

¹⁵⁵ [Landlord-Tenant Handbook](#), Department of Housing and Community Affairs, PDF pg. 7.

¹⁵⁶ [The Complaint Process](#), Department of Housing and Community Affairs.

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OLTA's outreach and education primarily covers the rights and responsibilities enforced by their office and does not extensively cover anti-discrimination in housing. However, the Landlord-Tenant Handbook published by OLTA discusses landlord responsibilities to comply with fair housing laws and the Housing Justice Act.¹⁵⁷ OLTA also provides a sample addendum that landlords can use to comply with the applicant disclosures that are required by the Housing Justice Act.¹⁵⁸ With the recent passage of Bill 8-24, landlords will now be required to include the OLTA-developed addendum in every rental application. A copy of the addendum is included in Appendix E.

2. Pre-Release and Reentry Services

The Pre-Release and Reentry Services Division (PRRS) oversees the County's 144-bed Pre-Release Center (PRC). The PRC houses community members who are serving incarceration sentences and who are soon to be released from the County's detention centers or state prisons. PRRS staff provide transitional services to PRC residents, working with them "to develop an individualized reentry plan that addresses their specific transitional needs including employment, housing, treatment, family and medical services."¹⁵⁹ Of note, the PRC was forced to close in 2020 due to the COVID pandemic and recently re-opened in April 2023. Thus, the facility was closed when the Housing Justice Act was enacted in 2021.

To encourage successful reentry, PRRS focuses on helping PRC residents to build a strong support system by strengthening their relationships with family members. One outcome of this effort is most residents are able to transition into stable housing with family after they leave the PRC. Since residents do not usually apply for housing independently, PRRS staff do not typically encounter cases related to the Housing Justice Act. Nonetheless, PRRS staff recognize the importance of informing residents of their rights under the law for future housing searches.

Prior to PRC's closure, PRRS partnered with the Office of Human Rights to include education on Ban the Box in employment in the orientation program for new residents. PRRS staff also directed residents to inform them if they found criminal history questions in job applications so staff could inform employers of the laws and encourage them to remove the questions. Education on Ban the Box in employment and housing is currently not included in the PRC orientation program. PRRS and the Office of Human Rights expressed interest in re-launching education and support to PRC residents on these laws.

3. Services to End and Prevent Homelessness

Services to End and Prevent Homelessness (SEPH) oversees a range of services that address homelessness in the County, including housing stabilization, homeless diversion, and permanent

¹⁵⁷ Landlord-Tenant Handbook, pgs. 6 & 10.

¹⁵⁸ [Addendum to Rental Application](#), Department of Housing and Community Affairs.

¹⁵⁹ [Pre-Release and Reentry Services](#), Department of Correction and Rehabilitation.

housing programs.¹⁶⁰ SEPH provides some services in-house and contracts with several community-based organizations (CBOs) to provide homeless services throughout the County.

Housing location services are among the various services coordinated by SEPH. Housing locators working in County- and community-based programs help to identify, secure, and/or increase housing opportunities for community members who are experiencing homelessness. Given their role, housing locators have a comprehensive understanding of the housing barriers experienced by community members who are unhoused and frequently serve as a front-line in addressing these barriers. Housing locators have differing roles depending on the program they work in:

- **SEPH housing locators:** SEPH housing locators work within the County’s SEPH program. There are three SEPH housing locators that serve as County liaisons to CBO staff and offer them training on best practices, state and local laws, and other topics that support service delivery to community members who are unhoused. SEPH housing locators also work with landlords throughout the County to increase housing opportunities for community members transitioning from homelessness. This includes outreach and education to inform housing providers on the Housing Justice Act and other fair housing laws that help prevent housing discrimination against community members who are unhoused. SEPH housing locators also conduct targeted outreach, education, and advocacy to housing providers that have a demonstrated pattern of denying housing to clients who are unhoused based on reports from CBO staff.
- **HIP housing locators:** Housing Initiative Program (HIP) housing locators work within the County’s HIP permanent supportive housing program. They primarily work to identify and secure housing opportunities for HIP clients.
- **Community-based housing locators:** Community-based housing locators work within CBOs that the County funds to provide homeless services. This includes organizations such as the Housing Opportunities Commission, Interfaith Works, and the Montgomery County Coalition for the Homeless. Community-based housing locators primarily work to identify and secure housing opportunities for clients served by their respective organizations.

One Program Manager within SEPH manages a team of three SEPH housing locators along with other responsibilities. The Program Manager also organizes the following activities related to housing-location services:

- **Housing locator network meetings:** Bi-monthly meeting that convenes County and community-based housing locators to discuss challenges and share resources related to housing location for community members experiencing homelessness.
- **Landlord lunch and learn:** Annual convening of 100+ housing providers that provides education on County programs and landlord rights and responsibilities. Recent program included representatives from SEPH housing subsidy programs, the Department of Housing and Community Affairs (licensing and OLTA), the Housing Opportunities Commission, the Sheriff’s

¹⁶⁰ [Services to End and Prevent Homelessness](#), Montgomery County Operating Budget.

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Office (Eviction Section) and mental health court. The convening was held for the first time in March 2024. SEPH plans to host the next convening in March 2025.

- **Landlord refusal or denial form:** On-going voluntary survey for CBO staff to report cases of clients being refused or denied housing by housing providers. SEPH staff use information from this survey to provide CBO staff real-time support to directly intervene with housing providers or to escalate cases to the Office of Human Rights. Staff also analyze this information to identify broader patterns of potential discrimination by housing providers. Survey was implemented after SEPH staff noticed frequent reports from CBO staff of housing denials among unhoused clients. Link to the survey is included in the weekly resource e-mail to all staff working in the homelessness continuum of care. A copy of the survey is included in Appendix F.

Insights from landlord refusal or denial form. Since the landlord refusal or denial form was implemented in September 2022, CBO staff have reported 69 instances of potential discrimination against clients by housing providers. Five of the instances (7 percent) included potential discrimination based on criminal history. As explained by SEPH staff:

“Of those who were denied, four of them were prior to the conditional offer being made and two did not receive a copy of their denial letter. None of the applicants (despite four of five denied applicants requesting special consideration) were provided another option or alternative to secure housing opportunity/overtake the denial decision.”¹⁶¹

Of note, 36 instances (52 percent) reported in the landlord refusal or denial form included potential discrimination based on source of income, while 24 instances (35 percent) included potential discrimination based on credit or rental history. As described in Chapter 2, it is illegal for housing providers in Maryland to discriminate based on an applicant’s source of income.¹⁶² The full summary of SEPH’s analysis of data from the landlord refusal or denial form is included in Appendix G.

¹⁶¹ “Summary of Data Tracking Landlord Discrimination Issues,” Services to End and Prevent Homelessness, September 2024. Document is included in Appendix G.

¹⁶² [Housing Discrimination](#), State of Maryland Commission on Civil Rights

Chapter 4. Feedback from County and Community Partners

OLO engaged with several partners to understand perspectives on progress with the implementation of the Housing Justice Act and the impact the law has had since its enactment. Feedback from partners revealed themes around challenges implementing the Housing Justice Act and opportunities to improve implementation of the law.

This chapter describes feedback OLO received from partners on the Housing Justice Act. This chapter is presented in two sections:

- **Section A** describes the engagement activities and partners who shared their perspectives for the project.
- **Section B** describes feedback themes that emerged from partners around challenges implementing the Housing Justice Act and opportunities to improve implementation of the law.

One finding emerges from the information reviewed in this chapter:

- County and community partners raised several challenges that may help explain the limited number of complaints related to the Housing Justice Act and opportunities for improving enforcement of fair housing laws.

A. Engagement Activities and Partners

OLO engaged with several partners to gather perspectives on the implementation of the Housing Justice Act. Engagement activities and partners included:

- Participating in standing meeting of the **People’s Committee of the Interagency Commission on Homelessness** whose members have lived experience of homelessness;
- Participating in standing meeting of **County and community-based housing locator staff** who help obtain housing opportunities for community members who are unhoused;
- Offering office hours and a brief survey for community-based housing locator staff; and
- Interviews with **administrative staff** from the Office of Human Rights, Office of Landlord Tenant Affairs (OLTA), Pre-Release and Reentry Services (PRRS), and Services to End and Prevent Homelessness (SEPH).

Approximately 30 people participated in these engagement activities. Seventeen partners – including six members of the People’s Committee, six County and community-based housing locators and five administrative staff members in County departments – completed a demographic survey. Among these partners:

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- 41 percent (7 partners) were Black, 29 percent (5 partners) were Latinx, and 18 percent (3 partners) were White. Two partners each identified as some other race and multiracial. None identified as Asian, Native American, or Pacific Islander.
- 76 percent (13 partners) were native-born, and 24 percent (4 partners) were foreign-born. Additionally, 24 percent (4 partners) spoke other languages in addition to English, including Spanish and Greek.
- 71 percent (12 partners) identified as women, 24 percent (4 partners) identified as men, and 6 percent (1 partner) identified as non-binary. Most of the partners were between 35 and 54 years of age.

B. Feedback Themes

Feedback from partners revealed some common themes around challenges implementing the Housing Justice Act and opportunities to improve implementation of the law.

1. Implementation Challenges

On challenges with implementing the Housing Justice Act, four themes emerged from the feedback shared by partners.

Resource constraints in the Office of Human Rights. Staff from the Office of Human Rights noted that limited funding and staffing have created general administrative challenges in the office that have extended to the implementation of the Housing Justice Act. These include limitations with conducting outreach and education, processing complaints, and proactively enforcing the Housing Justice Act and other human rights laws. Administrative staff in other County departments also recognized challenges in collaborating with the office to support the enforcement of the Housing Justice Act and other fair housing laws. As described in Chapter 3, staffing cuts in the Office of Human Rights over the last 12 years have placed significant constraints on effective administration of the office, outreach and education on all human rights laws, and proactive enforcement of fair housing laws, including the Housing Justice Act.

Loose compliance to fair housing laws by housing providers. Members of the People’s Committee, housing locator staff, and administrative staff in SEPH noted frequent experiences with housing providers failing to comply with fair housing laws. While source of income discrimination appeared to be the most common form of illegal housing discrimination, concerns shared by partners also extended to criminal records-related discrimination covered by the Housing Justice Act. Partners noted they have observed housing providers avoid accountability for anti-discrimination laws by:

- Passively denying housing opportunities after learning an applicant’s situation (e.g., claiming that housing units are no longer available or not responding to follow-up inquiries);

- Providing a pre-text for denying housing that is legal (e.g., applicant does not meet income or credit requirements)¹⁶³; and
- Not providing required written documentation after denying housing or failing to answer follow-up inquiries in writing, and thus withholding helpful evidence for filing a discrimination complaint.

Several housing providers are well-known among County and community-based organization (CBO) staff for consistently denying housing to community members experiencing homelessness. SEPH staff noted discrimination among housing providers is pervasive enough that it is a considerable barrier to housing for community members who are unhoused. They also noted that housing discrimination pushes community members who are unhoused into specific pockets in the County, reinforcing racial and economic segregation.

Impracticality of challenging housing denials and filing complaints. Some members of the People’s Committee and housing locator staff noted that community members are often discouraged after being denied for housing opportunities. Instead of challenging housing providers on their denial decisions and/or pursuing a discrimination complaint with the Office of Human Rights, they prefer to continue their housing search. OLO observed the urgency of finding housing while experiencing homelessness may also prevent community members who are unhoused from challenging housing denials and filing complaints.

Inequities in Complaint-Based Enforcement

The County’s Interagency Commission on Homelessness has expressed concern with the complaint-based system for housing discrimination, suggesting that “the process is too complicated and time-intensive.”¹⁶⁴ In contexts such as housing code enforcement, researchers have noted how sole reliance on enforcement systems that put the onus of complaints on tenants can be ineffective and perpetuate inequities.¹⁶⁵

In 2022, the Interagency Commission on Homelessness recommended policy changes that would “develop an independent pathway to investigate housing discrimination and illegal practices at housing complexes that is not client driven.”¹⁶⁶ Research suggests supplementing a complaint-based system with a proactive enforcement system that regularly monitors housing provider compliance to

¹⁶³ While not illegal, SEPH staff noted several problematic practices with income and credit-based denials that can create unique barriers to housing for community members experiencing homelessness. For instance, income requirements can often disadvantage community members with fixed or lower incomes, despite their having subsidies that can make the units affordable. Additionally, vague explanations on credit screening criteria and denial documentation can make it difficult for community members who are unhoused to challenge denials based on credit.

¹⁶⁴ C. Bailey, J. Hayes, and H. Jacobson, “[Reentry Housing in Montgomery County](#),” Summer Fellows Project, Montgomery County Council, August 10, 2023, pg. 21.

¹⁶⁵ [A Guide to Proactive Rental Inspections](#), ChangeLab Solutions, 2022, pg. 10.

¹⁶⁶ [Interagency Commission on Homelessness 2022 Annual Report](#), Department of Health and Human Services, December 2022, pg. 24.

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laws and regulations can be more effective in addressing housing issues and generate a range of benefits for communities, tenants, and landlords.¹⁶⁷

Education and advocacy with housing providers on fair housing laws. In using the Housing Justice Act and other fair housing laws to advocate for housing opportunities for community members experiencing homelessness, housing locator and administrative staff within SEPH noted several challenges, including:

- Housing providers with corporate offices outside Montgomery County not being up to date on local laws;
- Difficulty communicating and advocating for change across various levels of property management staff (e.g., leasing agents, management, and corporate leadership);
- Automated decision-making in electronic rental applications that do not allow opportunities for applicants to provide additional context; and
- Need for constant education and re-education of fair housing laws among property management staff given high turnover among leasing agents.

SEPH staff emphasized their role as educators and advocates of fair housing laws since enforcement of these laws is outside their jurisdiction. They also noted that robust outreach, education, and advocacy on fair housing laws by housing locators is likely limited to their team in SEPH, as housing locators working in CBOs are constrained by limited staffing and tight timelines to secure housing for individual clients in their caseloads.

2. Opportunities to Improve Implementation

On opportunities to improve implementation of the Housing Justice Act, two themes emerged from the feedback shared by partners.

Increasing collaboration around fair housing. Partners generally acknowledged that more action is needed to hold housing providers accountable to fair housing laws. Many noted that addressing housing discrimination in a holistic way will require increased partnership and collaboration across stakeholders – including County departments, CBOs, housing providers, and community members with lived experience of housing discrimination. Based on feedback from partners and OLO's observations, increasing coordination could help to:

- Improve proactive enforcement of fair housing laws beyond investigations of individual discrimination complaints, including through sharing existing knowledge on housing providers who appear to be violating laws and coordinating testing of housing providers; and

¹⁶⁷ A Guide to Proactive Rental Inspections, pg. 11-15.

- Improve outreach, education, and advocacy on fair housing laws by organizing the knowledge, resources, and expertise of stakeholders who are involved in the collaboration to more effectively reach housing providers and community members who are most impacted by housing discrimination.

In 2024, SEPH and the Department of Housing and Community Affairs launched an informal workgroup to address housing instability, which has included discussion on fair housing issues. Separately, the Office of Human Rights highlighted the importance of reconstituting the Interagency Fair Housing Coordinating Group (IFHCG), which was disrupted by the COVID pandemic. As noted in Chapter 3, the IFHCG is a cross-departmental workgroup tasked by law with facilitating the County's efforts to prevent housing discrimination.¹⁶⁸ All the County's fair housing activities are planned with assistance from this workgroup, including training for housing providers, outreach and education to community members, and testing to ensure that housing providers are adhering to fair housing laws. Of note, administration of the IFHCG and support for its efforts falls under the office's Fair Housing Program, which has no dedicated staffing.

Increasing outreach and education on the Housing Justice Act and other fair housing laws. Partners generally acknowledged there is a need to increase outreach and education to housing providers and community members on the Housing Justice Act and other fair housing laws. Several members of the People's Committee expressed they were not aware of the protections under the Housing Justice Act prior to the discussion with OLO.

Partners emphasized that education should include a clear explanation on what community members should do if they experience discrimination or other violations of the laws. To improve outreach and education to community members, partners suggested that information be distributed through more channels, such as in the orientation for Pre-Release Center (PRC) residents and intake materials for people who are entering shelter. For the Housing Justice Act, PRRS staff also identified other community members that could benefit from more information on the law, including community members who are not incarcerated but who are involved in the criminal legal system through probation and parole, and community members who exit incarceration from the Montgomery County Correctional Facility or Montgomery County Detention Center without going through the PRC.

¹⁶⁸ [Fair Housing](#), Montgomery County Office of Human Rights.

Chapter 5. Findings and Recommendations

The Housing Justice Act is a law that was passed by the Montgomery County Council in 2021. The goal of the Housing Justice Act is to increase access to rental housing for community members who have criminal records – specifically, arrest records that did not result in conviction and conviction records for low-level criminal offenses. The law is enforced by the Office of Human Rights, primarily by receiving complaints from the public.

This OLO report responds to the County Council’s request for information about the implementation of the Housing Justice Act and use of the law since its enactment. This report describes:

- The Housing Justice Act and the legislative history of the law;
- Policy context on the Housing Justice Act, including background on racial inequities in the criminal legal system, estimates of returning citizens that may experience housing barriers in the County, and best practices for addressing these housing barriers;
- The implementation of the Housing Justice Act by the Office of Human Rights and work in other County departments related to the law; and
- Feedback on the Housing Justice Act from County and community partners.

This chapter is presented in two parts to describe the project’s findings and recommendations for Council consideration.

A. Project Findings

Finding #1: Housing instability is a common collateral consequence of involvement in the criminal legal system, especially for community members returning from incarceration.

OLO identified three main barriers that contribute to housing instability for community members with criminal records, especially for returning citizens who are reentering communities after incarceration:

- **Discrimination by housing providers.** Criminal background checks are a widespread practice used by housing providers to screen out tenants for housing opportunities. Unless otherwise prohibited by state or local law, housing providers can legally discriminate against people with criminal records when making rental decisions.
- **Restrictive public housing policies.** Given its affordability, public housing can be a viable housing option for returning citizens. However, many public housing authorities have used their individual discretion to set admissions policies that prevent returning citizens from renting units on their own or living in units with family members who are existing tenants.
- **Lack of affordable housing options.** Returning citizens are competing with other community members for a very limited supply of housing that is affordable at low incomes. The shortage of affordable housing also incentivizes housing providers to use practices such as background

checks to select among the numerous prospective tenants applying for a limited number of units.

Finding #2: Racial inequities drive racial disparities among community members with criminal records.

Historical and contemporary racial inequities drive the overrepresentation of Black, Indigenous, and other people of color (BIPOC), especially Black community members, in the criminal legal system and among people with criminal records. Thus, BIPOC are disproportionately impacted by the criminal legal system and by collateral consequences such as housing instability. Racial inequities include:

- The legacy of discriminatory criminal laws that intentionally targeted Black people;
- Policymaking based on false narratives about criminal behavior among Black people;
- Race-neutral policies that have disparate impacts on BIPOC;
- Bias by actors at all stages of the criminal legal system; and
- Structural inequities in BIPOC communities.

Racial inequities in the criminal legal system foster racial disparities among people with criminal records. Locally, while Black community members account for 18 percent of the County’s population, they account for 30 percent, 48 percent, and 60 percent of traffic stops, arrests, and use of force incidents by the Montgomery County Police Department and 52 percent of Circuit Court defendants.

The interaction of housing instability for people with criminal records with the criminalization of survival behaviors while unhoused can create a self-perpetuating cycle of homelessness and legal system involvement. Racial inequities in various domains place BIPOC, especially Black community members, at highest risk of experiencing this cycle. For instance, in addition to the overrepresentation of Black community members in the criminal legal system, they are also overrepresented among people experiencing homelessness, accounting for 60 percent of single people who are unhoused and 73 percent of people in families who are unhoused in the County.

Finding #3: There is a strong demand in the County for housing solutions that prevent housing instability and homelessness among returning citizens and other community members with criminal records.

Data compiled by OLO suggests that in the near-term, at least 1,500 returning citizens and community members who are unhoused may experience housing instability due to having criminal records; this estimate includes:

- 990 community members incarcerated in County facilities who may be reentering communities in the County within the next year and a half;
- 315 community members exiting incarceration from state prisons who return to Montgomery County every year; and

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- 422 community members who are unhoused and who may have a history of incarceration that poses additional barriers to obtaining housing.

Black people are overrepresented among each of these groups of community members.

Sixty-five percent of criminal cases in the County are misdemeanors. Thus, most community members convicted of criminal offenses in the County are likely protected by the Housing Justice Act's anti-discrimination provisions, provided at least two years have passed from the date of their last conviction or incarceration. Yet, thousands of community members who have criminal cases for felonies would not be protected from housing discrimination through the Housing Justice Act if convicted.

Finding #4: Fair chance housing policies such as the Housing Justice Act are one of three recognized best practices for reducing housing barriers for people with criminal records.

Based on a review of research and literature, OLO identified three best practices for addressing housing barriers among people with criminal records:

- **Adopting fair chance housing policies.** Fair chance housing policies refer to laws that limit the use of criminal records by housing providers when they are screening prospective tenants. These laws aim to prevent housing discrimination against people with criminal records. The County's Housing Justice Act is an example of a fair chance housing policy. Fair chance housing policies are closely related to fair housing laws that prevent discrimination in housing based on protected characteristics such as race, sex, and disability. Testing – a practice where testers from different backgrounds pose as housing applicants and document the treatment they receive from housing providers – is frequently cited as a best practice for enforcing fair housing laws.
- **Amending public housing restrictions related to criminal background checks.** Public housing can be a viable affordable housing option for returning citizens as they often experience economic instability upon reentering communities. Yet, many public housing authorities have used their individual discretion to set admissions policies that prevent returning citizens from renting units on their own or reuniting with family members who are existing tenants. The Vera Institute of Justice has developed eight policy recommendations for public housing authorities to effectively address barriers to housing for people with criminal records. OLO found that the admissions policies of the County's public housing authority – the Housing Opportunities Commission (HOC) – is mostly aligned on three of the eight recommendations.
- **Investing in targeted housing programs for returning citizens.** Targeted housing programs provide affordable housing opportunities that support successful reentry for returning citizens. The *2023 Reentry Housing in Montgomery County* report prepared by Montgomery County Council Summer Fellows found that many returning citizens in Montgomery County are released into homelessness due to a lack of viable housing options. Targeted housing

approaches that could improve housing outcomes for returning citizens include transitional housing programs, permanent supportive housing programs, and public housing set-asides.

Finding #5: The Housing Justice Act prohibits housing providers from making inquiries about criminal history before making conditional offers for housing and from considering arrests and certain lower-level convictions when making a final housing offer.

The Housing Justice Act, enforced by the County’s Office of Human Rights, has two main components:

- The **Ban the Box component** of the Housing Justice Act prohibits housing providers from:
 - Asking an applicant about arrest or conviction records in a rental application and any time before making a conditional offer to rent housing; and
 - Doing a criminal background check or any other inquiries into an applicant's arrest or conviction records before making a conditional offer to rent housing.
- The **anti-discrimination component** of the Housing Justice Act prohibits housing providers from considering certain arrest and conviction records when making a final decision to rent housing. Figure 5.1 lists the criminal records that are covered by the Housing Justice Act.

Figure 5.1. Criminal Records Covered by the Housing Justice Act

Under the Housing Justice Act, housing providers cannot base rental decisions on:

- Arrest records for any matter that did not result in a conviction;
- Arrest or conviction records that are confidential or expunged; and
- Arrest or conviction records for the following low-level offenses:
 - Trespassing;
 - Misdemeanor theft;
 - Refusal or failure to leave public buildings or grounds;
 - Indecent exposure;
 - Public urination;
 - Open container violation;
 - Misdemeanor marijuana possession;
 - First conviction of disturbance of the peace or disorderly conduct;
 - Vehicle law violation; and
 - Misdemeanor where two years has passed since the date of conviction and incarceration.

As shown in Figure 5.1, the anti-discrimination component of the Housing Justice Act protects community members with arrest records that did not result in conviction and with conviction records for low-level criminal offenses. The law specifically covers conviction records for eight low-level

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offenses that can often arise from experiencing homelessness, including trespassing, failure to leave buildings, and open container violations. More broadly, the law also covers conviction records for any misdemeanor where more than two years has passed since the date of conviction and incarceration.

Conversely, unless the records are confidential or expunged, community members with conviction records for felonies are not protected from housing discrimination through the Housing Justice Act. Further, community members with pending criminal accusations and conviction records related to sex crimes are explicitly excluded from the Housing Justice Act's anti-discrimination protections.

After its enactment, complaints related to the Housing Justice Act were integrated into the work of the Office of Human Rights. Complainants to the Housing Justice Act may be entitled to damages of up to \$5,000 for complaints that are substantiated by the Office of Human Rights and the Case Review Board of the Commission on Human Rights.

Finding #6: Recent amendments to the Housing Justice Act intend to improve compliance by housing providers and better inform renters of their rights under the law.

On August 8, 2024, the Council enacted Bill 8-24 with amendments to the Housing Justice Act. The final Bill included the following changes to the law:

- Requires housing providers to post a visible disclosure on website and in leasing office informing prospective renters they cannot be asked questions related to criminal arrest or conviction before receiving a conditional offer to rent housing;
- Requires housing providers to include a criminal history and background screening addendum in every rental application (using [form](#) provided by the Department of Housing and Community Affairs) and retain each applicant's completed addendum for one year;
- Requires housing providers to include completed criminal history and background screening addendum in lease for each occupying tenant;
- Requires the Office of Human Rights to randomly select at least one building with 10 or more rental units every quarter and inspect their rental applications to ensure compliance with the law; and
- Requires the Office of Human Rights to report on several data points to the Council every year.

The County's Office of Management and Budget found the Office of Human Rights would need two additional staff members to implement Bill 8-24. The office has not received funding for these positions as of the writing of this report.

Finding #7: Since the Housing Justice Act has been in effect, the Office of Human Rights has only received one intake inquiry related to the law.

Since the Housing Justice Act has been in effect, the Office of Human Rights has only received one intake inquiry related to the law. Due to lack of response from the complainant following staff attempts to contact, the inquiry was not processed into a formal complaint.

Finding #8: The Office of Human Rights’ enforcement efforts on the Housing Justice Act have primarily been focused on outreach and education.

Since the Housing Justice Act became effective in 2021, the Office of Human Rights has primarily focused on outreach efforts to educate and inform community members about the law. The office’s outreach efforts on the Housing Justice Act have mostly been combined with outreach on the County’s Ban the Box in employment law and has particularly emphasized the Ban the Box component of the Housing Justice Act, which prohibits housing providers from making inquiries into an applicant’s criminal history before a conditional offer of housing is made. Outreach methods have included updating the office’s Ban the Box webpage, running periodic public education campaigns (e.g., bus and movie theater advertisements) and developing written educational materials.

With the passage of Bill 8-24 in August 2024, the Office of Human Rights is required to conduct a quarterly inspection of rental applications in buildings with 10 or more rental units to ensure compliance with the Housing Justice Act. The process for selecting the buildings and conducting the quarterly inspections is currently being developed by the Office of Human Rights. Additionally, the office reported they will likely include testing for the Housing Justice Act in future fair housing testing. Testing is widely recognized as a best practice for enforcing fair housing laws (Finding 4). Results for fair housing testing in the County were last published in 2015.

Finding #9: Staffing cuts in the Office of Human Rights have likely had an adverse impact on effective enforcement of fair housing laws, including the Housing Justice Act.

Table 5.1 summarizes approved full-time equivalents (FTEs) for the Office of Human Rights for select years between FY09 and FY25. The data shows the office experienced a significant cut in staffing in FY12. While the office has slowly recovered staffing since these cuts, it has almost exclusively been concentrated in the office’s Compliance Section. Conversely, only 2.6 FTEs – which includes the director of the Office of Human Rights, one Office Services Coordinator, and partial support from one Compliance Manager – are dedicated to the office’s administration, community mediation and public affairs, and fair housing programs. Limited staffing for these programs places significant constraints on effective administration of the Office of Human Rights, outreach and education on all human rights laws, and proactive enforcement of fair housing laws.

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Table 5.1. Office of Human Rights Approved FTEs, FY09, FY12, FY18, & FY25

Program	FY09 Approved	FY12 Approved	FY18 Approved	FY25 Approved	Change FY09 to FY25
Administration	2.5	1.0	1.0	1.0	-1.5
Compliance	12.0	6.0	6.0	9.0	-3.0
Community Mediation and Public Affairs	2.0	0.0	0.5	0.5	-1.5
Fair Housing	5.0	1.0	1.1	1.1	-3.9
Total	21.5	8.0	8.6	11.6	-9.9

Source: FY10 and FY12 Approved Operating Budget (pgs. 4-78 and 3-75) and FY18 and FY25 [Approved Expenditures for Human Rights Program](#), Montgomery County Operating Budget.

As staffing in the Office of Human Rights has decreased over the years, the office’s responsibilities have increased considerably. OLO identified at least 16 laws that have been enacted since 2012 that have expanded the scope of the office by increasing oversight and enforcement of new and existing human rights laws. Most recently, Bill 8-24 added additional oversight responsibilities for the office to enforce the Housing Justice Act. While fiscal analysis found the changes would require two additional investigators, the office currently lacks funding for these positions.

Finding #10: Outside the Office of Human Rights, Services to End and Prevent Homelessness has engaged in the most efforts to implement the Housing Justice Act.

To understand efforts related to the Housing Justice Act in other County departments, OLO interviewed staff from County programs that serve community members impacted by the law: the Office of Landlord-Tenant Affairs in the Department of Housing and Community Affairs, Pre-Release and Reentry Services in the Department of Correction and Rehabilitation, and Services to End and Prevent Homelessness in the Department of Health and Human Services.

The Office of Landlord-Tenant Affairs (OLTA) refers tenant complaints related to housing discrimination to the County’s Office of Human Rights and the Maryland Commission for Civil Rights, though it is not common for OLTA to encounter cases that are related to the Housing Justice Act. OLTA’s outreach and education to landlords and tenants primarily covers the rights and responsibilities enforced by their office and does not extensively cover fair housing laws. However, information on the Housing Justice Act and other fair housing laws are outlined in the Landlord-Tenant Handbook that is published by OLTA. OLTA also provides the criminal history and background screening addendum that housing providers are required to include in every rental application per the Housing Justice Act.

Pre-Release and Reentry Services (PRRS) does not typically encounter cases related to the Housing Justice Act, since most residents of the Pre-Release Center (PRC) transition to stable housing with family after exiting the program. Prior to the PRC’s temporary closure in 2020, PRRS partnered with the Office of Human Rights to include education on Ban the Box in employment in the orientation program

for new residents. PRRS and the Office of Human Rights have expressed interest in re-launching education and support to PRC residents on Ban the Box in employment and the Housing Justice Act.

Among other responsibilities, housing locators within Services to End and Prevent Homelessness (SEPH) work with landlords to increase housing opportunities for community members transitioning from homelessness. This includes outreach and education to inform housing providers on the Housing Justice Act and other fair housing laws that help prevent housing discrimination against community members who are unhoused. SEPH housing locators also conduct targeted outreach, education, and advocacy to housing providers that have a demonstrated pattern of denying housing to clients who are unhoused based on reports from homeless services staff in community-based organizations (CBOs).

Finding #11: Data from SEPH suggests there are housing providers that are violating the Housing Justice Act and other fair housing laws.

SEPH's landlord refusal or denial form is an on-going voluntary survey for homeless services staff in CBOs to report cases of clients being refused or denied housing by housing providers. SEPH staff use information from this survey to provide CBO staff with real-time support to directly intervene with housing providers or to escalate cases to the Office of Human Rights. Staff also analyze information from the survey to identify broader patterns of potential discrimination by housing providers.

Since the landlord refusal or denial form was implemented in September 2022, CBO staff have reported 69 instances of potential discrimination against clients by housing providers. Five of the instances (7 percent) included potential discrimination based on criminal history. Thus, there is some evidence that housing providers may be violating the Housing Justice Act. Yet, as described in Finding 7, the Office of Human Rights has only received one intake inquiry related to the law in the last three years.

Of note, 36 instances (52 percent) reported in the landlord refusal or denial form included potential discrimination based on source of income, which is prohibited in Maryland. Further, 24 instances (35 percent) included potential discrimination based on credit or rental history.

Finding #12: County and community partners raised several challenges that may help explain the limited number of complaints related to the Housing Justice Act and opportunities for improving enforcement of fair housing laws.

Members of the People's Committee, housing locator staff, and administrative staff in SEPH noted frequent experiences with housing providers failing to comply with fair housing laws. Several housing providers are well-known among County and CBO staff for consistently denying housing to community members experiencing homelessness. Source of income discrimination appeared to be the most common form of illegal housing discrimination based on feedback from partners and data from SEPH's landlord refusal or denial form. However, concerns shared by partners also extended to criminal records-related discrimination covered by the Housing Justice Act. SEPH staff noted discrimination

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among housing providers is pervasive enough that it is a considerable barrier to housing for community members who are unhoused.

Three main challenges identified by partners may explain the low number of complaints received by the Office of Human Rights related to the Housing Justice Act:

- **Resource constraints in the Office of Human Rights.** As described in Finding 9, staffing cuts in the Office of Human Rights over the last 12 years have placed significant constraints on effective administration of the office, outreach and education on all human rights laws, and proactive enforcement of fair housing laws, including the Housing Justice Act.
- **Landlord tactics to avoid accountability to fair housing laws.** Partners identified several tactics that housing providers use to avoid accountability for fair housing laws, including passive denials of housing opportunities, providing a pre-text to deny housing that is legal, and failing to provide required written documentation after denying housing.
- **Impracticality of challenging housing denials and filing complaints.** Several partners noted that community members who are unhoused often prefer to continue their housing search instead of challenging housing providers on their denial decisions and/or pursuing a discrimination complaint. The urgency of finding housing while experiencing homelessness may also prevent community members from taking these actions. The Interagency Commission on Homelessness previously recommended the County develop an independent pathway to investigate housing discrimination that is not client driven.

Partners also identified two main opportunities for improving enforcement of the Housing Justice Act and other fair housing laws:

- **Increasing collaboration on fair housing enforcement.** County and community partners generally acknowledged that more action is needed to hold housing providers accountable to fair housing laws. Many noted that addressing housing discrimination more effectively will require increased partnership and collaboration across stakeholders – including County departments, community groups, housing providers, and community members with lived experience of housing discrimination.
- **Increasing outreach and education on fair housing laws.** Partners also acknowledged there is a need to increase outreach and education to housing providers and community members on the Housing Justice Act and other fair housing laws. They emphasized that education should include a clear explanation on what community members should do if they experience discrimination or other violations of the laws. Partners also recommended that information be distributed through channels that are more likely to reach community members who are most impacted by housing discrimination.

B. Project Recommendations

This OLO report responds to the County Council’s request for information about the implementation of the Housing Justice Act and use of the law since its enactment.

Findings from this report suggest there is a strong need in the County for solutions that can prevent housing instability and homelessness among returning citizens and other community members with criminal records. Findings also suggest there is a need to improve enforcement of fair housing laws such as the Housing Justice Act more broadly.

BIPOC, especially Black community members, are disproportionately impacted by housing barriers experienced by people with criminal records and by all forms of housing discrimination. As described in OLO Report 2024-11, *Racial Equity and Social Justice Policy Handbook*, centering BIPOC stakeholders in co-developing, implementing, and evaluating policy efforts is a key element to advance racial equity and social justice (RESJ) in policymaking.¹⁶⁹ Towards this end, OLO offers two recommendations to convene separate collaborative efforts that center BIPOC stakeholders and that focus on developing solutions to reentry and fair housing issues in the County that advance RESJ. OLO also offers two additional recommendations for consideration – one for an additional study to support the work of the proposed collaborative efforts and one to increase funding to the Office of Human Rights. A description of each recommendation follows.

Recommendation #1: Convene a collaborative effort to jointly develop, implement, and evaluate housing solutions for returning citizens and other community members with criminal records.

There is a strong demand for housing solutions that prevent housing instability and homelessness among returning citizens in the County (Finding 3). To address this demand, OLO recommends the County Council consider asking the County Executive to convene a collaborative effort (the “Reentry Collaborative”) to jointly develop, implement, and evaluate housing solutions for returning citizens and other community members with criminal records.

OLO recommends the following representatives be included in the Reentry Collaborative:

- County representatives from SEPH, the Department of Correction and Rehabilitation, the Department of Housing and Community Affairs, the Housing Opportunities Commission (HOC), and the Office of Human Rights.

¹⁶⁹ E. Bonner-Tompkins, J. Peña, and E. Tesfaye, OLO Report 2024-11, “[Racial Equity and Social Justice Policy Handbook: Land Use, Housing, and Economic Development](#),” Office of Legislative Oversight, June 18, 2024, pgs. 87-88.

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- Community representatives from the Interagency Commission on Homelessness and community groups that advocate for racial equity in the criminal legal system, including the Silver Spring Justice Coalition, IMPACT Silver Spring, and the Collaboration Council.
- Community members with lived experience of involvement in the criminal legal system, especially returning citizens who are BIPOC.

As noted in the *Reentry Housing in Montgomery County* report, a Reentry Collaborative focused on the housing needs of returning citizens could be achieved through a joint subcommittee of the County's existing Criminal Justice Coordinating Commission and Interagency Commission on Homelessness or through a standalone Reentry Council.¹⁷⁰

Based on the findings from this report, the following policy and program options could be considered by the Reentry Collaborative:

- **Amendments to the Housing Justice Act.** A considerable number of community members that have criminal records for felonies are not protected by the Housing Justice Act's anti-discrimination provisions (Finding 3). Further, community members that have criminal records for most misdemeanors are only protected if their records are more than two years old. To improve the reach of the Housing Justice Act, the Reentry Collaborative could consider and propose amendments to the law that expand anti-discrimination protections for returning citizens with felony convictions and with misdemeanors that are less than two years old.
- **Amendments to HOC policies.** HOC policies are aligned on three of eight recommendations proposed by the Vera Institute of Justice for public housing authorities to effectively address housing barriers for people with criminal records (Finding 4). Based on recommendations from Vera and other resources, the Reentry Collaborative could consider and propose amendments to HOC policies that would improve access to housing for returning citizens.
- **Targeted housing programs for returning citizens.** Many returning citizens in the County are released into homelessness because of a lack of viable housing opportunities (Finding 4). The Reentry Collaborative could consider and propose targeted housing programs that support successful reentry for returning citizens.

The Reentry Collaborative could also consider other recommendations from the *Reentry Housing in Montgomery County* report, including:¹⁷¹

- Establishing data collection processes within SEPH and the Department of Correction and Rehabilitation to better understand the housing needs of clients who are involved in the legal system;

¹⁷⁰ C. Bailey, J. Hayes, and H. Jacobson, "[Reentry Housing in Montgomery County](#)," Summer Fellows Project, Montgomery County Council, August 10, 2023, pg. 19.

¹⁷¹ Bailey, Hayes, and Jacobson, pgs. 19-22.

- Re-instituting processes that allow community members who are exiting incarceration without housing to receive homeless services immediately upon release; and
- Providing additional funding for housing locator staff.

Recommendation #2: Convene a collaborative effort to jointly develop, implement, and evaluate outreach, education, and enforcement of fair housing laws.

While housing providers appear to be violating the Housing Justice Act, the Office of Human Rights has only received one intake inquiry related to the law (Finding 7, 11). Data from SEPH and feedback from County and community partners suggest there is a broader challenge with housing providers complying with fair housing laws (Finding 12). Partners further suggest there is a need to increase collaboration on fair housing enforcement (Finding 12).

To improve enforcement of the Housing Justice Act and other fair housing laws, OLO recommends the County Council consider asking the County Executive to convene a collaborative effort (the “Fair Housing Collaborative”) to jointly develop, implement, and evaluate outreach, education, and enforcement of fair housing laws.

OLO recommends the following representatives be included in the Fair Housing Collaborative:

- County representatives from the Office of Human Rights, SEPH, the Department of Housing and Community Affairs, and HOC.
- Community representatives from the Interagency Commission on Homelessness and groups that advocate for fair housing, including the Montgomery County NAACP, CASA, Economic Action MD Fund, and the Equal Rights Center.
- Community members with lived experience of housing discrimination, especially community members who are BIPOC.

A Fair Housing collaborative could be achieved by reactivating the Interagency Fair Housing Coordinating Group (IFHCG) and extending membership to community representatives currently not included in the group. By law, the IFHCG must include representatives from several County departments and agencies, including the Office of Human Rights, HOC, the Department of Housing and Community Affairs, and the Department of Health and Human Services.¹⁷²

Based on the findings from this report, the following policy and program options could be considered by the Fair Housing Collaborative:

- **Including the Housing Justice Act in the County’s Fair Housing Program.** The Housing Justice Act is not currently promoted as being part of the County’s Fair Housing Program. Current promotion on the Housing Justice Act emphasizes the Ban the Box component of the law

¹⁷² [Montgomery County Code § 27-26A](#)

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(Finding 8). The Fair Housing Collaborative could consider including the Housing Justice Act as part of the Fair Housing Program to better promote and enforce the law's anti-discrimination in housing protections for people with certain criminal records. The collaborative could also consider updating current outreach materials on the Housing Justice Act to emphasize the anti-discrimination component of the law.

- **Creating a separate pathway to proactively enforce fair housing laws.** Because of the impracticality of filing discrimination complaints, the Interagency Commission on Homelessness previously recommended the County develop an independent pathway to investigate housing discrimination that is not client driven (Finding 12). The Fair Housing Collaborative could consider mechanisms to proactively enforce fair housing laws separate from individual discrimination complaints. This could include sharing existing knowledge on housing providers who appear to be violating laws, coordinating testing of housing providers, and recommending actions to hold violating housing providers accountable to fair housing laws.
- **Enhancing outreach, education, and advocacy on fair housing laws.** County and community partners suggest there is a need to increase outreach and education on the Housing Justice Act and other fair housing laws (Finding 12). The Fair Housing Collaborative could consider organizing the knowledge, resources, and expertise of stakeholders who are involved in the collaborative to more effectively reach housing providers and community members who are most impacted by housing discrimination.

Recommendation #3: Commission an additional study of fair chance housing policies in other jurisdictions.

To support the work of the proposed collaboratives, OLO recommends the County Council consider commissioning an additional study of fair chance housing policies in other jurisdictions. This study could support the Reentry Collaborative to identify amendments to the Housing Justice Act that would expand anti-discrimination protections and other potential improvements to the law. This study could also support the Fair Housing Collaborative by describing strategies for including fair chance housing policies in broader fair housing initiatives and penalties for violations of fair chance housing laws in other jurisdictions.

Recommendation #4: Increase funding to the Office of Human Rights to support implementation of the Housing Justice Act and other human rights laws.

The Office of Management and Budget's recent fiscal analysis for Bill 8-24 found the amendments to the Housing Justice Act would require two additional investigators in the Office of Human Rights (Finding 6, 9). Absent funding, the office will have to distribute new responsibilities for enforcing the law among existing investigators. To improve the implementation of the Housing Justice Act, OLO recommends the County Council consider asking the County Executive to increase funding to the Office of Human Rights to provide the necessary staffing to implement Bill 8-24.

More broadly, limited staffing in the Office of Human Rights places significant constraints on effective administration of the office, outreach and education on all human rights laws, and proactive enforcement of fair housing laws (Finding 9). Prior to FY12, 9.5 FTEs were dedicated to the office's administration, community mediation and public affairs, and fair housing programs. While the Office of Human Rights' responsibilities have increased considerably since FY12, only 2.6 FTEs in the office jointly manage these three programs today. To improve the office's capacity to implement its current scope of human rights laws, OLO recommends the County Council consider asking the County Executive to increase funding to the Office of Human Rights to provide more staffing for the administration, community mediation and public affairs, and fair housing programs.

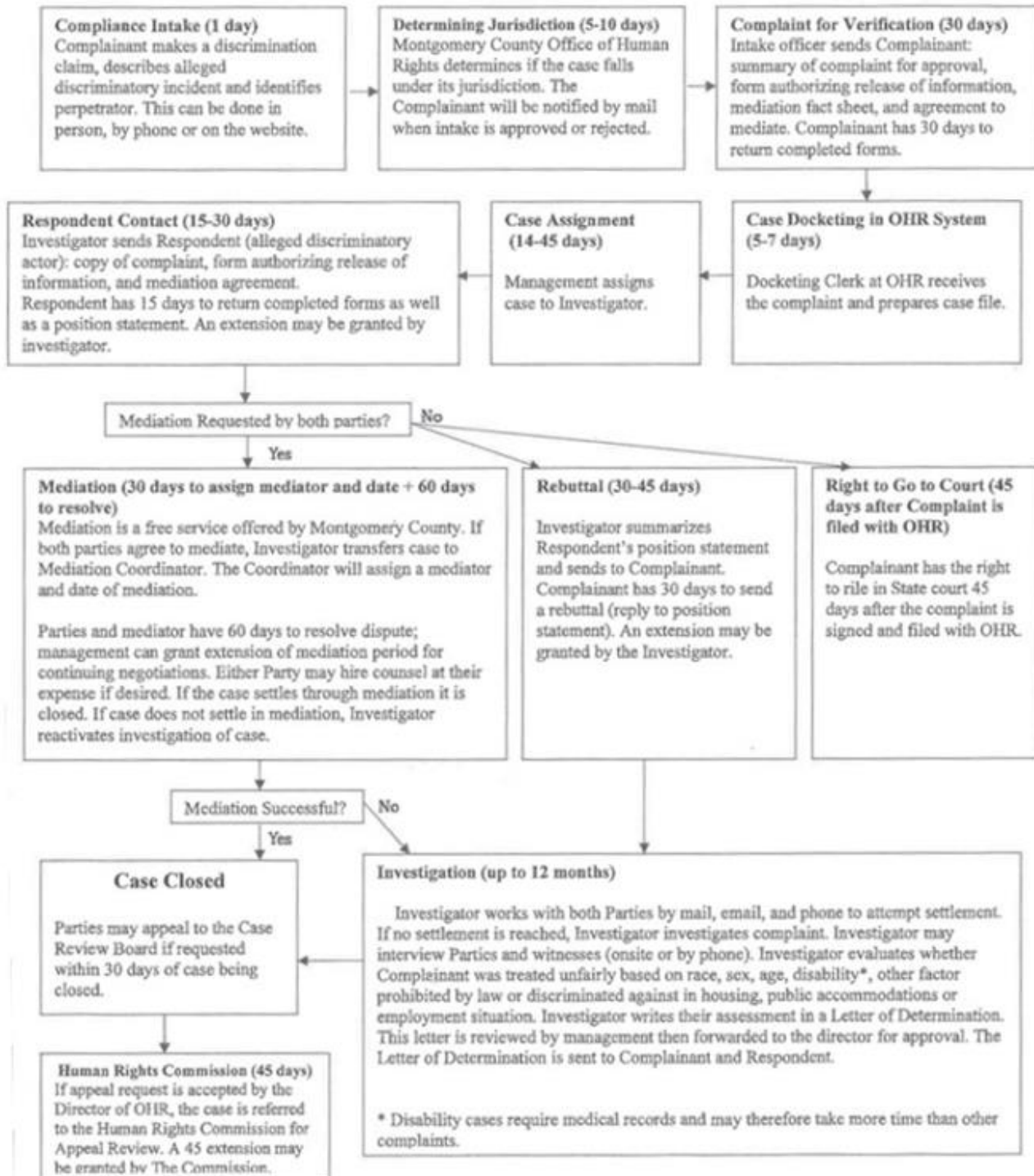
Chapter 6. Agency Comments

OLO shared drafts of this report with staff from Montgomery County Government and other community partners who provided feedback for the report. OLO appreciates the time taken by staff and community partners to review the draft report and to provide technical feedback. This final report incorporates technical corrections and feedback from government and community partners.

Written comments from the Chief Administrative Officer are forthcoming.

Appendix A: Office of Human Rights Compliance Flow Process

Office of Human Rights Compliance Flow Process



Appendix B: Housing Justice Act Public Education Campaign Ads

Bus Advertisement – English



BAN THE BOX

A **Second Chance** at Building a New Life

A New County Law Prevents Landlords from Asking About Criminal History Before Extending a Conditional Offer to Rent to You

Contact the Office of Human Rights: bit.ly/bantheboxmoco or (240) 777-8450

The advertisement features a dark blue background with white and light blue text. On the right side, there is a graphic of a document titled 'RENTAL AGREEMENT' with a pen and a house-shaped keychain. A circular seal for 'MONTGOMERY COUNTY MARYLAND' is also visible on the document.

Bus Advertisement – Spanish



BAN THE BOX

Mejor Oportunidad Para Crear Una Nueva Vida

La Nueva Ley En El Condado Prohíbe A Propietarios De Viviendas Hacer Preguntas Respecto A Su Historial Criminal Antes De Hacer Una Oferta De Alquiler

Contact the Office of Human Rights: bit.ly/bantheboxmoco or (240) 777-8450

The advertisement features a dark blue background with white and light blue text. On the right side, there is a graphic of a document titled 'RENTAL AGREEMENT' with a pen and a house-shaped keychain. A circular seal for 'MONTGOMERY COUNTY MARYLAND' is also visible on the document.

Movie Theater Website Ad

HOUSING APPLICATION


HAVE YOU EVER BEEN CONVICTED OF A CRIMINAL OFFENSE?

KNOW YOUR RIGHTS

BAN THE BOX

- Removes barriers to housing opportunities and options.
- Aids reintegration into the community for those with criminal records and some misdemeanor offenses.
- Restricts inquiry about criminal record history until conditional offer to sale or to rent is made to applicant.
- Ensures housing decisions based on relevant qualifications, not criminal history.
- Requires the housing provider to list the credit screening requirements on the application.

LEARN MORE



Source: Office of Human Rights

Appendix C: Housing Justice Act One-Page Summary

BAN THE BOX

KNOW YOUR RIGHTS

A Second Chance at Building a New Life

A New County Law Prevents Landlords from Asking About Criminal History Before Extending a Conditional Offer for Housing to You

The law:

- ✓ removes barriers to housing opportunities and options.
- ✓ aids reintegration into the community for those with criminal records.
- ✓ restricts inquiry about criminal record and credit history until a conditional offer for housing or rental is made to applicant.
- ✓ ensures housing decisions based on relevant qualifications, not criminal history.
- ✓ requires housing providers to post a visible notice, obtain a signed addendum from each prospective tenant, and report data every year to the Office of Human Rights.

Contact the Montgomery County Office of Human Rights: bit.ly/bantheboxmoco or (240) 777-8450.

Source: Office of Human Rights

Appendix D: Enacted Laws Expanding Scope of Office of Human Rights since 2012

Bill Number	Signed into Law	Name	Description
19-12	9/24/2012	Human Rights and Civil Liberties - Displaced Service Workers	Provides some temporary job protection for non-management service workers when their employer's service contract is terminated.
27-13	12/10/2013	Human Rights and Civil Liberties - County Minimum Wage - Dollar Amount	Established County minimum wage for private sector employees working in the County unless the state or federal minimum wage is higher.
36-14	11/10/2014	Human Rights and Civil Liberties - Fair Criminal Record Screening Standards	Prohibited employers with 15 or more FTEs in the County from inquiring into an applicant's criminal record before the conclusion of a first interview.
51-14	2/11/2015	Discriminatory Employment Practices - Retaliation for Wage Disclosure - Prohibited	Prohibits an employer from retaliating against an employee for disclosing the wages of the employee or another employee.
60-14	7/7/2015	Human Rights and Civil Liberties - Earned Sick and Safe Leave	Requires an employer operating and doing business in the County to provide earned sick and safe leave to each employee for work performed in the County.
24-15	7/7/2015	Human Rights - Minimum Wage - Tipped Employee - Amendments	Set base pay of \$4.00 for tipped employees in County and requires employers to file quarterly wage reports for tipped employees with the Office of Human Rights.
32-16	11/14/2016	Human Rights and Civil Liberties - Earned Sick and Safe Leave - Use of Earned Sick and Safe Leave - Parental Leave	Amended Bill 60-14 to provide that certain employees may use earned sick and safe leave for parental purposes.
34-18	11/27/2018	Human Rights and Civil Liberties - County	Expanded County minimum wage requirement (Bill 27-13) to employers of "1 or more persons in the County in addition to the owners."

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		Minimum Wage - Definitions - Employer	
12-19	11/7/2019	Human Rights and Civil Liberties - Building Maintenance Worker - Minimum Work Week	Requires employers to provide a minimum work week of at least 30 hours for each employee performing janitorial services at an office building occupying at least 350,000 square feet in the County.
30-19	11/7/2019	Human Rights and Civil Liberties - Race Discrimination - Protective Hairstyles (CROWN Act)	Prohibits discrimination based on certain protective hairstyles by clarifying that for purposes of the County's anti-discrimination law, race includes traits historically associated with race, including hair texture and protective hairstyles.
14-20	10/16/2020	Human Rights and Civil Liberties - Discriminatory Employment Practices - Workplace Harassment	Defines and prohibits discriminatory "harassment" and "sexual harassment" by employers in the County.
28-20	10/16/2020	Human Rights and Civil Liberties - Discrimination in Public Accommodations - LGBTQ Bill of Rights	Defines and prohibits certain discriminatory practices based upon sexual orientation, gender expression, gender identity, and HIV status in places of public accommodation, including nursing homes and other healthcare and personal care facilities
35-20	11/20/2020	Human Rights and Civil Liberties - Fair Criminal Record Screening Standards - Amendments	Expanded scope of Bill 36-14 to prohibit employers with 1 or more FTEs in the County from inquiring into an applicant's criminal record before a conditional job offer is extended.
49-20	4/30/2021	Human Rights and Civil Liberties - Discrimination in Rental Housing - Fair Criminal History and Credit Screenings ("Housing Justice Act")	Prohibits housing providers from inquiring into an applicant's criminal record before making conditional offer for rental housing and prohibits housing providers from considering certain criminal records for making rental decisions.
44-23	3/28/2024	Human Rights and Civil Liberties - Prospective Employees - Health Care Privacy	Prohibits an employer in the County from asking for, or seeking, healthcare information that is not necessary to determine if the applicant meets published job qualifications.

8-24	8/8/2024	Human Rights and Civil Liberties - Fair Criminal History and Credit Screenings - Amendments	Amended Bill 49-20 to require additional disclosures related to law by housing providers. Also requires the Office of Human Rights to conduct quarterly inspections of housing providers and report on certain data points to the Council annually.
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Source: OLO search of [Legislative Information System](#), Montgomery County Council

Appendix E: Criminal History and Background Screening Addendum for Housing Providers

ADDENDUM TO RENTAL APPLICATION
Criminal History and Background Screening

This addendum **must** be presented as part of a rental application and acknowledged by applicant.

Applicant _____
Print Name

Applicant _____ Initial _____
Signature

Date _____

1. The landlord has attached the following steps/processes that the landlord will follow regarding inquiries into criminal history and credit history in evaluating this application to determine your eligibility to rent:

- The landlord may not require the applicant to disclose any criminal background history unless the landlord has made a conditional offer to the applicant.
- The landlord may **only** conduct a criminal background check concerning the applicant **after** the landlord has made a conditional offer to lease the property to the applicant.
- These processes cannot be changed during the application process.

Applicant Initial: _____

2. The landlord **must not** require applicant to reveal any arrest or criminal record prior to making a conditional offer to rent.

Applicant Initial: _____

3. The landlord may not raise the rent offered in this application within 7 days after receiving the completed application.

Per Section 27-15A and 29-28 (h) and (i), Montgomery County Code. Call 240-777-0311 if you have questions.

<https://mcgov.sharepoint.com/teams/DHCA/Housing/Landlord-Tenant/Shared Documents/Publications/Other/criminal history addendum.docx>

Source: [Tenant Application](#), Department of Housing and Community Affairs

Appendix F: Landlord Refusal or Denial Form

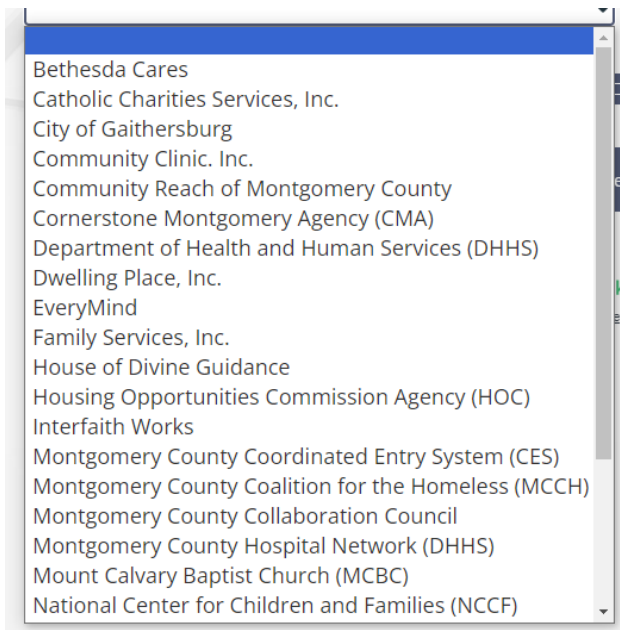
Weekly Resource E-mail Message

Are Landlords Denying your Client Access to Housing?

If someone you are working with receives a denial from a landlord, gets push back about working with certain programs, is told they can't/shouldn't apply, or anything that may be a discriminatory or questionable practice, please use the link below to share that information with us. Real time incidents and tracking data trends is how we advocate for accountability and change!

Landlord Refusal or Denial Form

- * 1. Client HMIS # or Full Name if no HMIS#
- * 2. Select Provider



- * 3. Please Enter "Other" Project Name (specific project under agency)
- * 4. Assisting Case Manager/Support Worker **Name** and **Email**
 - Name:
 - Email:

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* 5. What supporting documents or letters were provided with the application to advocate for consideration?

- ID
- Social Security Card
- Program Benefit Letter
- Voucher
- Payment Plan Letter
- Letter of Recommendation
- Proof of Income (ex: pay stub)
- None
- Other (please specify)

* 6. Name of Property/Private Landlord

* 7. Date of landlord refusal/denial

- Date / Time

* 8. Reason for refusal or denial (check all that apply)

- Poor/Low Credit
- Criminal History
- Income
- Missing Identification Documents
- Debt/Collections
- Did not want to work with specific housing program
- Reason Unclear
- No reason given
- Other (please specify)

9. **Please review:**

Income: In Maryland, SOURCE OF INCOME means any lawful source of money paid directly or indirectly to or on behalf of a renter or buyer of housing including income from a lawful profession, occupation, or job, any government or private assistance, grant, loan, or rental assistance program, including low-income housing assistance certificates and vouchers issued under the United States Housing Act of 1937, a gift, an inheritance, a pension, an annuity, alimony, child support, or any other consideration or benefit, or the sale of pledge of property or an interest in property

Criminal History: The Housing Justice Act requires that a landlord must disclose in any rental application the process and method for evaluating the applicant's criminal and credit history. A landlord must NOT change the processes and requirements for an applicant whose application is pending, require an applicant to disclose the existence or details of the applicant's arrest or conviction record, or inquire of the applicant or others as to whether the applicant has an arrest record,

conviction record or has otherwise been accused of a crime, conduct a criminal record check regarding the applicant prior to the extension of a conditional offer to the applicant and the applicant for rental housing completes a Criminal History Addendum.

OK

* 10. If the client was denied, was it before or after a conditional offer was made?

- Before a conditional offer was made
- After a conditional offer was made

* 11. Was a copy of the refusal/denial document obtained by client or provider?

- Yes
- No

* 12. Please upload a copy of the refusal/denial document here.

* 13. If a refusal/denial document was not received, was a copy requested? If not, please select why.

- **N/A**- A copy was received
- **Yes**- a copy was requested
- **No**- Could not get in touch with property/private landlord
- **No**- Client no longer interested in housing opportunity
- **No**- Better opportunity opened up
- **No**- Client stopped engaging/no longer available
- **No**- Other (please specify)

* 14. After formal denial, was any special reconsideration requested from management or the corporate office?

- Yes
- No

* 15. What item(s) was provided?

- Social Security Card
- Program Benefit Letter
- Voucher
- Payment Plan Letter
- Letter of Recommendation
- Proof of Income
- Other (please specify)

Source: Services to End and Prevent Homelessness

Appendix G: Analysis of Data from Landlord Refusal or Denial Form

Summary of Data Tracking Landlord Discrimination Issues

The Housing Justice Act of 2021 was a pivotal step toward reducing barriers to housing for the most vulnerable residents of Montgomery County. Its aim at creating a more fair, consistent, clear, and equitable application process is key to addressing housing instability and homelessness.

SEPH continually partners with non-profit providers through our homeless services continuum of care to support the residents of Montgomery County who are experiencing a housing emergency. Since the SEPH housing locator team began tracking data in late 2022, we have seen instances of both direct and indirect discrimination occur. Often, landlords circumvent or misinterpret the law. Other times, they violate it. We work with other housing locators in the continuum to educate landlords on local, state, and federal laws as well as connect them to the resources and supports available to them. Through the information we have tracked over the past almost two years, we see the biggest impact when it comes to increased barriers to housing, are related to source of income and credit history bias.

When reviewing our data, we found that the following tracked instances occurred between 9/2022 and 8/2024:

1. **Source of Income/Program Subsidy Discrimination: 36**
 - a. Denied, discouraged, dissuaded, and/or refused to consider an applicant because of their source of income or participation in a specific housing subsidy program.
 - b. Used the information documented on program benefit letters to misinterpret the law when trying to understand how the applicant's subsidy worked. One property denied or refused to consider applicants working with an up to 12-month housing subsidy program called SHARP (short term housing and resolution program).
 - c. Stated that they did not have good experiences in the past with certain programs, like RRH (Rapid Rehousing) for example, so they would no longer accept applicants with this type of program subsidy support.
 - d. Did not understand and/or apply the law correctly when reviewing the applicant's portion or contribution to the rent amount while using a subsidy thus stated the participant did not meet the property's income requirements.
2. **Credit/Rental History Discrimination: 24**
 - a. Landlords are letting applicants know about their screening criteria in various ways, so applicants must ask/inquire based on the property. Sometimes the information is found on the landlord's website, in a document that is a part of application packet, shared when discussing a vacancy on the phone, and/or sent via email. It is not a uniform process.
 - b. Third party companies are completing verifications and listing reasons for denial, for example, as collection from utility provider, insufficient income to support rent, limited credit experience, or no credit, etc. Other times the denial letter states broadly that the information contained in the consumer report(s) was obtained from or through another company (i.e. SafeRentSolutions LLC) which may include credit or consumer information from one or more credit bureaus or consumer reporting agencies. With this

- general response, applicants are now forced to go on a wild goose chase searching for more information to appeal the decision which prolongs their housing instability.
3. **Criminal History Discrimination: 5**
 - a. Of those who were denied, four of them were prior to the conditional offer being made and two did not receive a copy of their denial letter. None of the applicants (despite four of five denied applicants requesting special consideration) were provided another option or alternative to secure the housing opportunity/overtake the denial decision.
 4. **Other Notable Issues: 4**
 - a. Family size/presentation: A private landlord refused to accept an application submission for a family of seven that included six children stating he believed the family would disturb his other tenant.
 - b. No Reason Given/No Follow-Up: Two denials without explanation and/or no follow up after initial meeting or conversation where the applicant and subsidy were discussed. One of the applicants was even discouraged from visiting unit/setting up a tour.
 - c. Perceived Retaliation: The denial came after the subsidy program contacted the property's corporate offices to inquire about status of application process.

Source: Services to End and Prevent Homelessness