



Delaware State Housing Authority

2016 Governor's Housing Conference Criminal Background Checks and Housing

Panelist: Kim Brockenbrough
Delaware State Housing Authority



DSHA's Introduction to Reentry

- Governor Markell's Executive Order Seven, signed on May 15, 2009 charged the Department of Correction (DOC), the Delaware State Housing Authority (DSHA), the Department of Labor (DOL), the Department of Education (DOE), the Department of Health and Social Services (DHSS) and the Department of Services for Children, Youth and Their Families (DSCYF), to create a comprehensive plan to reduce recidivism.
- DSHA as a part of the Individual Assessment, Discharge and Planning Team (IADAPT) worked to identify strategies to improve access to affordable housing for those reentering the community from incarceration.





Delaware State Housing Authority Policies

- DSHA is a Public Housing Authority (PHA) serving Kent and Sussex Counties excluding the City of Dover, with approximately 500 units of public housing and 900 Housing Choice Vouchers (HCV).
- In 2011, DSHA implemented a new way of reviewing criminal backgrounds as a result of our participation in Governor Markell's Reentry Initiative known as Individual Assessment, Discharge and Planning Team (IADAPT).





A & O Policies

- A&O Policies are the Admittance and Occupancy policies that govern how a PHA screens applicants and make decisions regarding evictions.
- HUD provides some requirements and guidance, but leaves discretion to the PHA's to develop policies that ensures the **health and safety** of the community.





Common issues with Occupancy Policies as related to Criminal History

- The use of long lookback periods for determining whether past criminal Activity is relevant to admissions decision;
- Use of arrest without subsequent convictions as proof of past criminal activity;
- Use of overbroad categories of criminal activity that sweep in activity tenuously related to housing provider's public safety interest; and
- The underuse of mitigating evident as a means for overcoming criminal records-based denials.

* From *When Discretion Means Denial: A National Perspective on Criminal Records Barriers to Federally Subsidized Housing* Marie Claire Tran-Leung | February 2015 (Page 4)





DSHA Policies Pre-2011

<i>Federal Requirements</i>	<i>DSHA's Public Housing Requirements prior to 2011</i>
Require termination or denial of assistance:	
<i>Drug Offenses</i>	
Eviction from federally assisted housing for drug-related criminal activity within past three years. May still be admitted if: (a) the evicted HH member has successfully completed a supervised drug rehab program; or (b) the circumstances leading to the eviction no longer exist (e.g. HH member has died or is imprisoned).	Any HH member evicted from federally assisted housing for drug-related activity within five years Any HH member committed a felony within ten years or a misdemeanor within past five years (admission possible if evicted HH member who engaged in drug-related activity has successfully completed a supervised drug rehab program).
HH member is currently engaging in illegal use of a drug.	Any HH member is currently engaging in illegal use of a drug (more than one incident during the previous 12 months).
Reason to believe current use or pattern of use of a drug may threaten health, safety, or right to enjoyment of the premises by other residents.	If any HH member is currently engaging in illegal use of a drug (recent enough to indicate it is current, or a pattern over time)Info from a drug abuse treatment facility indicating reasonable cause to believe HH member is currently engaging in illegal use of controlled substance.
Any HH member convicted of manufacture or production of methamphetamine on premises of federally assisted housing.	If any HH member has ever been convicted of manufacturing or producing methamphetamine in any location.
Any HH member abuses or shows a pattern of abuse of alcohol.	Any HH member abuses or shows a pattern of abuse of alcohol.
<i>Sex Offenses</i>	
Any HH member is subject to lifetime registration requirement under a state sex offender registration program.	Any HH member is subject to a registration requirement under a state sex offender registration program .





DSHA Policies Pre-2011

Federal	DSHA
PHA may consider/terminate or deny assistance:	
<i>Violent Offenses</i>	
History of criminal activity involving crimes of physical violence to persons or property or other criminal acts which would adversely affect the health, safety or welfare of other residents .	History of criminal activity involving crimes of physical violence to persons or property or other criminal acts which would adversely affect the health, safety or welfare of other residents or staff.
<i>Other</i>	
Where a statute requires that the PHA prohibit admission for a prescribed period of time after some disqualifying behavior or event, continue that prohibition for a longer period of time than required by HUD.	
A record of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences which may adversely affect the health, safety or welfare of other residents.	





DSHA Policies Post 2011

Review of Criminal Activity

- DSHA shall employ the following considerations in each case
 - a. Whether the potential resident's offense bears a relationship to the **safety and security** of the other residents;
 - b. The level of violence, if any, of the offense for which potential resident was convicted;
 - c. Length of time since the conviction;
 - d. The number of convictions that appear on the potential resident's conviction history;
 - e. If the potential resident is now in recovery for an addiction whether the potential resident was under the influence of alcohol or illegal drugs at the time of the offense;
 - f. Any rehabilitation efforts that the potential resident has undertaken since the time of his/her conviction.





DSHA Policies Post 2011

Rehabilitative Evidence to be Considered

- a. Potential/existing resident's participation in treatment program for addiction, if any, to illegal drugs or alcohol.
- b. Potential/existing resident's employment status or efforts to seek employment.
- c. Potential/existing resident's participation in any work training program or improvements in education.
- d. Potential/existing resident's participation in counseling or other behavioral management. Involvement of family, friends or community groups in support network for potential/existing resident.
- e. Recommendations on behalf of potential/existing resident by probation officer, case worker, counselor, family member, clergy, employer, community leader or other involved individuals.
- f. Any other information relevant to the current lifestyle of the individual.





DSHA Post 2011 Policies

DELAWARE STATE HOUSING AUTHORITY PUBLIC HOUSING/HCV/SRAP PROGRAMS
STANDARDS FOR ADMISSION: CRIMINAL ACTIVITY MATRIX

CATEGORY	DSHA RESPONSE
1	Applicant will be admitted once ineligibility time period ceases.
2	Once Ineligibility period ends, applicant will be asked for information about the conviction and asked to provide extensive evidence of rehab, including but not limited to, recommendations from social workers, parole or probation officers, treatment centers, and others. Approval required by supervisor.
3	DSHA will deny admission indefinitely.





DSHA Matrix for Reviewing Criminal Activity

DELAWARE STATE HOUSING AUTHORITY (DSHA) PUBLIC HOUSING, HOUSING CHOICE & SRAP VOUCHER PROGRAMS			
STANDARDS FOR ADMISSION: CRIMINAL ACTIVITY FACTORS & END OF INELIGIBILITY PERIODS			
CRIMINAL ACTIVITY FACTOR	INELIGIBILITY PERIOD	EXPLANATION	MATRIX CATEGORY
FEDERAL REQUIREMENTS:			
Persons subjected to lifetime registration requirement under a state sex offender registration program.	Indefinite	DSHA Policy covers any person on registry, until the convicted person is no longer on the sex offender registry.	3
Persons convicted of drug-related criminal activity for the manufacture or production of methamphetamines on the premises of any federally-assisted housing.		N/A	3
FELONY CONVICTIONS:			
Class A	5 Years	After convicted person has served his/her sentence (including the completion of probation), and has no convictions or pending charges. However, where the convicted person cannot be released earlier than ten years from the date of the eligibility interview, the family shall not be ineligible on these grounds.	2
Class C (Violent)	2 Years	After convicted person has served his/her sentence (including the completion of probation), and has no convictions or pending charges.	2
Class C (Nonviolent)	1 Year	After convicted person has served his/her sentence (including the completion of probation), and has no convictions or pending charges.	2





DSHA Matrix for Reviewing Criminal Activity

FELONY CONVICTIONS:	
Class A	Child Murder by Abuse/Neglect 1st Degree; Murder 2nd Degree; Murder 1 st Degree; Rape 1st Degree; Sex Offender Unlawful Sexual Conduct Against a Child; Trafficking of Persons & Involuntary Servitude; Hate Crime; Adulteration: Death; Abuse/Neglect of Patient: Death; Abuse/Neglect of Infirm Adult: Death; Murder 2nd Degree; Murder 1st Degree; Rape 1st Degree; Sex Offender Unlawful Sexual Conduct Against a Child; Trafficking of Persons and Involuntary Servitude; Hate Crime.
Class B (Violent & Nonviolent)	Assault 1st Degree; Assault of Child by Abuse/Neglect; Manslaughter; Child Murder by Abuse/Neglect 2nd Degree; Rape 3rd Degree; Rape 2nd Degree; Dangerous Crime Against Child; Sex Offender Unlawful Sexual Conduct Against a Child; Kidnapping 1st Degree; Burglary 1st Degree; Robbery 1st Degree; Carjacking 1st Degree; Sexual Exploitation of Child; Possession of Deadly Weapon during Commission of a Felony; Manufacture/Delivery Narcotic: Death; Trafficking in Controlled Substances.
Class C (Violent)	Abuse of Pregnant Female 2nd Degree; Assault 2nd Degree; Rape 4th Degree; Sex Offender Unlawful Sexual Conduct Against a Child; Kidnapping 2nd Degree; Trafficking of persons and involuntary servitude; Arson 1st Degree; Burglary 2nd Degree (Vt> 62 y.o.a.); Burglary 1st Degree; Carjacking 1st Degree; Child Sex Solicitation; Stalking w/ Deadly Weapon; Promoting Prostitution 1st Degree; Sex Offender Unlawful Sexual Conduct Against a Child.
Class C (Nonviolent)	Criminal Solicitation 1st Degree; Theft (> \$100,000); Criminal Impersonation of a Police Officer w/Injury or Felonies; Removing Firearm from a Law Enforcement Officer; Purchase Drugs from Minor; Criminal Impersonation of a Police Officer w/Injury or Felonies; Purchase Drugs from Minor.





DSHA 2nd Chance Act Grant

Expected Performance over 2 years

- Expected to serve approximately **125** unduplicated people (\$200,000/Avg. cost per person \$1,600 =125)
- **130 people** funding to reduce housing barriers
- **60 individuals** assisted with crisis housing
- **50 individuals** with short –term rental assistance

Year One Performance

- Year 1, program has served **83** unduplicated people (79,750.75/ Avg. cost per person \$961=83)
- **10 people** funding to reduce housing barriers
- **8 individuals** assisted with crisis housing
- **73 individuals** with short –term rental assistance





Accessing Information

- April 4, 2016 HUD Guidance on housing people with criminal records:
http://portal.hud.gov/hudportal/documents/huddoc?id=HUD_OGCGuidAppFHASandCR.pdf
- ***When Discretion Means Denial: A National Perspective on Criminal Records Barriers to Federally Subsidized Housing***
Marie Claire Tran-Leung | February 2015 – Also known as the Shirver Report: <http://povertylaw.org/wdmd>
- Delaware State Housing Authority Housing policies:
<http://destatehousing.com/FormsAndInformation/mtwplan.php>