



Date: Friday, November 6, 2020

To: Chairwoman Hunter and Honorable Members of the Human Services and Public Health Joint Committee

From: Ahmadou Dramé, Housing and Community Development Manager, Metropolitan Planning Council

Subject: MPC Testimony on HB206

I submit this written testimony on behalf of the Metropolitan Planning Council in support of HB206.

My name is Ahmadou Dramé and I serve as the Housing and Community Development Manager at the Metropolitan Planning Council (MPC) in Chicago. Prior to joining MPC, I served as the Director of Policy at Safer Foundation. At Safer, I was involved in the passage of the Cook County Just Housing Ordinance, an ordinance that brought fair housing protections to millions of people and families with arrest and conviction records living in Cook County.

Background on Housing Issues Impacting People with Records

We have a problem in Illinois where people with records are discriminated against in their attempts to access public housing after they already paid their debt to society. We need to establish consistent admission standards for public housing throughout Illinois. And we need admission standards that provide returning residents reasonable access to public housing. HB206 achieves these goals in ways that encourage rehabilitation, public safety and housing stability.

Each year, more than 630,000 people reenter to society from prison in the United States—and 11 million people cycle in and out of our nation’s jails. In Illinois, more than 28,000 people are released from the Illinois Department of Corrections annually. More than 10 percent of those coming in and out of prisons and jail are homeless in the months before and after their incarceration.¹ Individuals with arrest and conviction records encounter persistent barriers to securing federally subsidized public and private housing. Underlying the housing crisis is the fact that people released from incarceration are competing for housing with the 37 million other Americans who live at or below the federal poverty level.²

Individuals with arrest and conviction records experience wage inequality, earning 40% less than their counterparts who do not have records.³ Wage inequality and housing discrimination place huge strains on returning residents and their families, depriving them of a necessary foundation for a stable life, and results in several social costs when people become homeless and unemployed, relapse, or are re-incarcerated.

Housing is a stabilizing force that is also crucial component of successful reentry—a key building block that promotes steady employment, fosters mental and physical health, supports individuals in their recovery from substance use, and provides the other advantages of stable shelter that are vital to basic human wellbeing.⁴

Board of Governors

Chair

Ellen Carnahan •

Vice Chair

Ann M. Drake •

Vice Chair Development

James P. Stirling •

Vice Chair Development Secretary

Paul C. Carlisle •

Vice Chair Government Relations

Robert V. Fitzsimmons •

Treasurer

Bruce W. Taylor •

Immediate Past Chair

Todd Brown •

Ramiro J. Atristain-Carrión •

Erica Marquez Avitia

Kyle Barnett

Carol Ross Barney

Matthew Brewer •

Carole Brown

Christopher B. Burke

Pedro J. Cevallos-Candau

Eileen Chin

Chris Conley

Lester Crown

Francesca DeBiase

Zena Diggs

James C. Franczek, Jr.

Linda Goodman

Jacques N. Gordon •

M. Hill Hammock

Andy Hesselbach

Laurie Holmes ••

Charles R. Kaiser

Christopher J. King

Martha Linsley

Laritz Lopez

Bernard Loyd

Mary K. Ludgin

James E. Mann

Lee M. Mitchell

Matthew Moog

David Mook

Juan G. Moreno •

Sameer Patel

J. Scot Pepper

Julian G. Posada

George A. Ranney, Jr.

Matthew R. Reilein •

Robert Reiter

Shawn Riegsecker

Alana Ward Robinson

Emma Rodriguez-Ayala

Unmi Song

Tyronne Stoudemire

Michael A. Thomas

Mary White Vasys

Melissa Y. Washington •

Paula Wolff •

Jessica Droste Yagan •

President

MarySue Barrett •

Executive Committee •

General Counsel ••

Executive Advisors

Nicholas W. Alexos
Univar Solutions Inc.

Wilfried Aulbur
Roland Berger

Carol L. Bernick
Polished Nickel Capital Management LLC

John Bucksbaum
Bucksbaum Retail Properties, LLC

David Casper
BMO Financial Group

Robert M. Chapman
CenterPoint Properties

Keating Crown
Sterling Bay

Marsha Cruzan
U.S. Bank

J. Michael Drew
Structured Development, LLC

Craig J. Duchossois
The Duchossois Group, Inc

John Ettelson
William Blair & Company

Robert Frentzel
CIBC U.S.

John S. Gates, Jr.
PortaeCo LLC

Nancy S. Gerrie
Winston & Strawn LLP

Ari F. Glass
Mansueto Office Inc.

Michael L. Keiser
Bandon Dunes Golf Resort

Karen Layng
M.A.I.T. Co.

Steven N. Miller
Origin Ventures

Charles J. Moore
The Banc Funds

J. Marshall Peck
InterPark Holdings LLC

Shawn Riegsecker
Centro

Joan Rockey
Cerity Partners LLC

Katherine M. Scherer
Deloitte LLP

Michael Scudder
First Midwest Bancorp, Inc.

Mark Skender
Skender

Kristofer Swanson
Charles River Associates

Scott Swanson
PNC Bank, Illinois

Stephan B. Tanda
AptarGroup, Inc.

Jim TenBroek
Growth Catalyst Partners

Edward J. Wehmer
Wintrust Financial Corp.

Theodore Weldon
Lend Lease

Inconsistent and Inequitable Admission Policies in Illinois and Throughout the US

There are four general ways in which Public Housing Authorities (PHAs) create barriers for the admission of applicants with arrest and conviction records:

1. The use of long lookback periods for determining whether past criminal history is relevant to the admissions process;
2. PHAs frequently consider arrests without subsequent convictions as proof of current and past criminal activity;
3. PHAs often use overbroad categories of criminal activity that sweep in activity tenuously related to the housing provider's public safety interest and;
4. PHAs typically fail to use mitigating evidence as a means for overcoming criminal records-based denials.⁵

HB206 attempts to address the above issues by doing the following:

1. Presuming rehabilitation upon release from incarceration and defining a reasonable lookback period as 6 months from the point of application.

The PHA or project owner maintains the discretion to determine that the criminal activity occurred within a "reasonable period" of time prior to the admission decision. However, the term "reasonable period" of time is not defined in the statute of regulations, therefore; some PHA's have admissions policies that look back ten, twenty, and even thirty years for a wide variety of crimes. Admissions policies neglect to include lookback periods or specify which events in the lookback period triggered a denial. HUD has suggested that five years is a reasonable lookback period however, greater transparency is needed throughout the admissions process.⁶ Unreasonable lookback periods are posing a challenge to individuals with arrest and conviction records as applicants are unaware of how their criminal history factors into the application process. **HB206 addresses the use of unreasonable lookback periods by presuming that an individual is rehabilitated upon being released from incarceration and by limiting the lookback period to six months prior to the date of application.**

2. Performing individualized assessments of applications and considering each applicants' mitigating information.

Federal law requires PHA's to consider the following mitigating circumstances of time, nature, and extent of the applicant's conduct. Some written admissions policies lack reference to the consideration of mitigating circumstances in deciding whether to admit an applicant. As a result, applicants are unaware of their right to present mitigating evidence. **HB206 would require Public Housing Authorities in Illinois to perform an individualize assessment for each applicant. And each applicant would have an opportunity to present mitigating information.**

3. Use of arrests without subsequent convictions /Equating arrests with criminal activity.

Housing providers treat a criminal arrest the same as criminal activity even if the applicant was never convicted of the underlying offense.⁷ For example, PHA's in localities such as Pennsylvania, Georgia, South Carolina, North Carolina, Connecticut, Maine, and California define criminal activity as being arrested within the past five years.⁸ The Chicago Housing

Authority also considers arrests not leading to convictions in their housing decisions. The use of arrests as conclusive proof of criminal activity threatens to infringe upon fair housing rights which provide that “facially neutral policies disparately impacts racial minorities because their rate of arrest is disproportionate to the arrest rate of the general population.”⁹ PHAs should limit their assessment to criminal convictions. **HB206 bans the use of non-conviction records in PHA applicant housing decisions.**

Illinois has an opportunity to lead the nation by creating fair standards for Illinois Public Housing Authorities. I strongly urge you all to support this legislation. Thank you for your consideration of this testimony. Please contact me at adrane@metroplanning.org or (312) 863-6044 if you have any questions.

¹ Langan, P.A., Levin, D.J. (2002). US Department of Justice, Bureau of Justice Statistics. Recidivism of Prisoners Released in 1994. (NCJ 193427) Washington, DC.

² McKernan, P. (n.d.). Homelessness and Prisoner Re-Entry: Examining Barriers to Housing | Volunteers of America. Retrieved from <https://www.voa.org/homelessness-and-prisoner-reentry#Pat>

³ Saluja, S., Rosen, H. (2015). Why public health practitioners should care about job prospects for people with criminal records: Employment challenges and successful prison and jail reentry. *Harvard Public Health Review*, 6. Retrieved from: <http://harvardpublichealthreview.org/why-public-health-practitioners-should-care-about-job-prospects-for-people-with-criminal-records-employment-challenges-and-successful-prison-and-jail-reentry/>

⁴ Business and Professional Peace for the Public Interest (2018) *No Place To Call Home: Navigating Reentry Housing in Chicago*. Retrieved from <https://www.bpichicago.org/wp-content/uploads/2018/09/No-Place-To-Call-Home.pdf>

⁵ Leung-Tran, M. (2015). *When Discretion Means Denial: A National Perspective on Criminal Records Barriers to Federally Subsidized Housing* Retrieved from: <https://www.povertylaw.org/files/docs/WDMD-final.pdf>

⁶ <https://povertylaw.org/files/docs/WDMD-final.pdf>

⁷ Leung-Tran, M. (2015). *When Discretion Means Denial: A National Perspective on Criminal Records Barriers to Federally Subsidized Housing* Retrieved from: <https://www.povertylaw.org/files/docs/WDMD-final.pdf>

⁸ Leung-Tran, M. (2015). *When Discretion Means Denial: A National Perspective on Criminal Records Barriers to Federally Subsidized Housing* Retrieved from: <https://www.povertylaw.org/files/docs/WDMD-final.pdf>

⁹ Leung-Tran, M. (2015). *When Discretion Means Denial: A National Perspective on Criminal Records Barriers to Federally Subsidized Housing* Retrieved from: <https://www.povertylaw.org/files/docs/WDMD-final.pdf>