

# THE STATE OF FAIR HOUSING IN INDIANA REPORT

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*No Way Home:  
Tenant Screening  
Barriers to  
Housing*



## DISCLAIMERS

The Fair Housing Center of Central Indiana (FHCCI) is an organization that works to be inclusive. Languages change over time, and we are still learning and improving in this capacity. We acknowledge that “labels” are a challenge as it relates to race and ethnicity. Particularly, there are significant challenges in the broad or very specific ways that public data, in particular Census and Indiana court system data, is gathered and reported as it relates to race and ethnicity. When possible, we have tried to be inclusive while still trying to be consistent with the data as reported to not confuse the public if they gather their own data. Census data use the terms “Black or African American” and “Hispanic or Latino.” We have used the term “Black” to be broader than “African American.” Throughout this report, the FHCCI combined Hispanic and Latino statistics under “Hispanic” and mean no disrespect in doing so. The FHCCI acknowledges the significant cultural differences between Hispanics and Latinos, as well as the preference by some of “Latinx.” Both the Census and Indiana court data use “Asian” instead of “Asian American” in referring to the broad demographics of that population. The Census and Indiana court data most often combine “Native Hawaiian and Pacific Islander” together. Census data also combine “American Indian or Alaskan Native” together as well. We again mean no disrespect in using these categories to match data. There is also debate about whether to capitalize “white” when referring to that population. We have chosen to not capitalize “white.” We also grouped white and white non-Hispanic applicants together since not all white applicants indicated their ethnicity in the data reviewed. We have tended to use “neighborhoods of color,” “communities of color,” “people of color,” or specify the predominant race(s) or ethnicities rather than utilizing the term “minority.” We also use “disability” instead of “handicap” and err toward the use of people first language when appropriate. For this report, we draw upon data on the multifamily rental market available by CoStar, real estate data on single-family properties available from ATTOM Data Solutions, criminal and eviction case filings from the Indiana Office of Judicial Administration, and other sources.

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## ABOUT THE FAIR HOUSING CENTER OF CENTRAL INDIANA

The Fair Housing Center of Central Indiana (FHCCI) offers an array of programs and activities to ensure that discrimination does not impact a Hoosier’s choice of housing. We were incorporated in August 2011 by a small group of dedicated fair housing advocates. The FHCCI began operations in January 2012 and is a 501(c)(3) nonprofit organization.

**Mission:** The mission of the FHCCI is to ensure equal housing opportunities by eliminating housing discrimination through advocacy, enforcement, education, and outreach.

**Vision:** The FHCCI recognizes the importance of “home” and envisions a country free of housing discrimination where every individual, group, and community enjoys equal housing opportunity and access in a bias-free and open housing market. We envision a country where integrated neighborhoods are the norm, and private and public sectors guarantee civil rights in an open and barrier-free community committed to healing the history of discrimination in America.

**Programs:** The FHCCI offers four main programs to fight housing discrimination and promote equal housing opportunity: Advocacy, Education, Inclusive Communities, and Public Policy.

**Service Area:** The FHCCI primarily serves 24 counties in Central Indiana: Bartholomew, Boone, Brown, Clinton, Decatur, Delaware, Fayette, Franklin, Hamilton, Hancock, Hendricks, Henry, Johnson, Madison, Marion, Monroe, Morgan, Putnam, Randolph, Rush, Shelby, Tipton, Union, and Wayne. We are available to assist other Indiana counties as staff resources and budgets allow. We are the only nonprofit organization in all of Indiana, at this time, focusing exclusively on fair housing.

To learn more about the FHCCI, its activities, programs; or about fair housing laws; or to review breaking news or donate, please visit our website [www.fhcci.org](http://www.fhcci.org)

# **The State of Fair Housing in Indiana Report No Way Home: Tenant Screening Barriers to Housing**

## **Executive Summary**

In Marion County's already tight rental housing market with increasingly rising rents, area renters face mounting barriers to finding housing due to tenant screening policies and services, which deny rental applicants based on long-term systemic policies or their past history, such as credit score, past evictions, and criminal records.

Through interactions with FHCCI clients, fair housing testing, and review of area landlord policies, the FHCCI found that renters are frequently denied housing for incorrect information on their screening reports, such as mismatched names, expunged records being considered, and other misleading or distorted reports. The process of obtaining a reason for denial is also difficult and burdensome for renters. Very often, renters do not know their rights, and housing providers frequently do not give them the information required under law.

Housing providers and tenant screening companies share responsibility for the approval or denial of rental applicants, with screening companies encouraging providers to rely on their recommendations but yet providers being the final decision makers. However, both groups give potential renters and customers mixed messages on who is to blame for a decision. Screening decisions that rely on factors like bad credit, flawed rental history, or criminal records to deny housing will inevitably have a harsher impact on individuals in protected classes under fair housing law—Black individuals, people with disabilities, immigrants, families with children, and survivors of domestic violence:

- Despite clear racial disparities and the impact on domestic violence survivors, local housing providers in Indianapolis screen out tenants or charge higher costs based on raw credit scores, with some housing providers setting minimum credit scores as high as 650 or 700 for rent consideration.
- Black, female renters, and families with children are acutely affected by eviction filings, especially in Marion County where the overall eviction rate is nearly 50 percent higher than the national rate. Because of a lack of tenant protections, local renters are especially vulnerable to retaliatory, threatening, and/or other unlawful protections, and have few legal resources to fight eviction disputes.
- Tenant screening services reportedly do not distinguish between eviction filings and actual eviction orders, and some local housing providers explicitly reject tenants based on filings alone. This means that tenants can be denied housing for years for situations where they were entirely blameless.
- Disparities in the criminal justice system mean that Black residents are disproportionately likely to have convictions on their records, due to higher exposure to policing and arrests, and lower likelihood of having cases dismissed or charges lowered. Domestic violence survivors and people with disabilities are also unfairly targeted by restrictions on renters with criminal histories.
- Local housing providers frequently adopt stringent criminal history policies that exceed their legitimate interest in ensuring tenant safety and reliability. These include blanket lifetime bans on renters with felonies and/or misdemeanors, bans for arrests or other non-guilty dispositions, lumping in minor offenses with "violent crimes," and instituting bans for unreasonable long periods of time.
- Renters applying for housing also face heightened costs of entry in the Indianapolis market. An FHCCI audit of recent fair housing tests of housing providers showed that the average application fee is \$50 per adult. Renters with negative screening records apply and get denied over and over again, spending potentially hundreds of dollars on application fees, and months or years of time, to finally secure housing. Renters who do find housing are locked in by the prohibitive costs of moving—thousands of dollars on various fees and deposits—making them vulnerable to violations of their rights and unlivable conditions.

Housing providers provide prospective renters with vague and confusing information about screening policies, usually requiring them to apply and pay fees before providing information specific to their situation. Intentional discrimination by housing providers continues to occur, with FHCCI testing revealing an alarming number of instances of race-based discrimination against testers with negative tenant screening profiles. The FHCCI has also heard reports of housing providers lying to renters with criminal backgrounds about availability or overriding the recommendation of the screening report to deny a renter. By making the housing search so difficult, even impossible, for renters with marks on their backgrounds, tenant screening barriers drive them into substandard housing and put them at risk of homelessness—again, unduly affecting Black renters, immigrants, families with children, people with disabilities, and domestic violence survivors.

## ***The State of Fair Housing in Indiana Report*** ***No Way Home: Tenant Screening Policies and Barriers to Housing***

The Fair Housing Center of Central Indiana (FHCCI) issues this report to demonstrate what it is like to go through the tenant screening process while searching for rental housing in the City of Indianapolis/Marion County, Indiana.<sup>1</sup> This report also shares recently submitted comments by the FHCCI to the Federal Trade Commission and the Consumer Financial Protection Bureau's "Tenant Screening Request for Information."<sup>2</sup>

This report draws from the experiences of FHCCI clients, research and investigation of local housing provider policies and practices, and conversations with community organizations that work with tenants most often to experience barriers to housing acquisition. First, we will identify how prospective renters with errors on their tenant screening report face confusion and difficulty getting those errors corrected. Then, we will review the three main areas of tenant screening that most impact prospective renters—credit scores, eviction history, and criminal records—and how their use creates potential discrimination against renters based on race, gender, presence of children, disability status, and national origin. Finally, we will outline the barriers renters face during the application process and the impact of their outcomes on the safety and well-being of residents. It is important to emphasize that across Indiana, there is a housing crisis. In urban and rural areas, housing consumers are struggling to pay rent, find safe places to live, locate affordable housing options to rent or own, and stay housed. However, the situation is more acute in high population areas like Marion County due to the sheer number of people struggling.

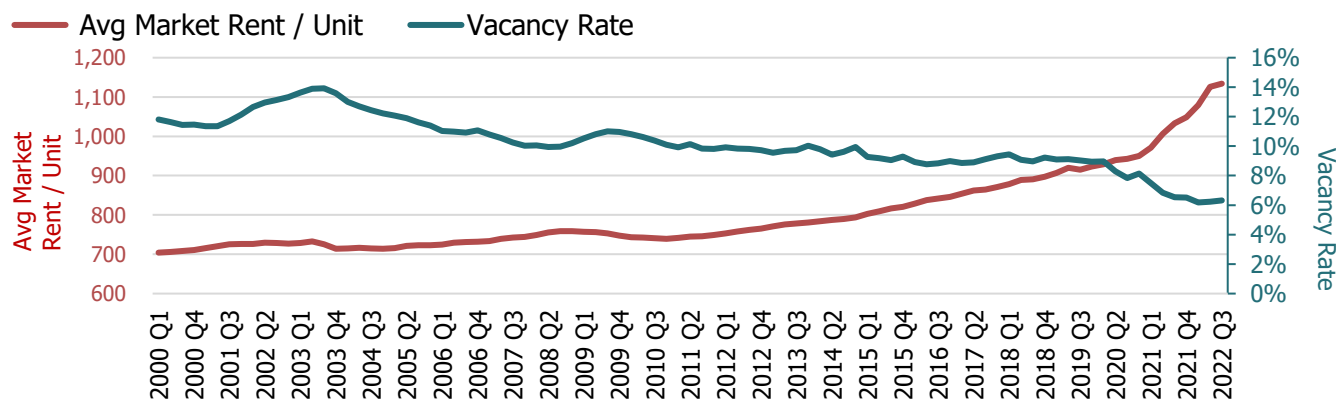
### *Who are Indianapolis/Marion County renters?*

The City of Indianapolis is our nation's 16<sup>th</sup> largest city and encompasses the majority of Marion County. The County has a homeownership rate of 59% but a significant racial gap in homeownership with 68% of whites being homeowners, while only 38% of Blacks, 49% of Hispanics, and 62% of Asians. This results in more people of color being renters than homeowners and losing out on an opportunity, if so desired, to build equity and generational wealth. This leaves less than half of Marion County's households (40%) as rental households, but there are wide disparities. Only 31% of white households are renters, while 50% of Hispanic and 61% of Black households are renters. 39% of households with people with disabilities are renters, across racial breakouts. 44% of households with children are renter households while female-headed households with children rent at a rate of 69%.<sup>3</sup>

As the FHCCI documented in a September 2022 report,<sup>4</sup> the Marion County rental market is extremely competitive due to vacancy rates hovering around 6% – their lowest point in at least 20 years. Renters have been paying, on average, \$200-\$300 more per month in rent, increases of 20% or more since the COVID-19 pandemic began.

### **Estimated Average Market Rate per Unit and Vacancy Rate**

*In Marion County\*, vacancy rates have fallen to historic lows, while rent continues to rise.*



Source: CoStar Group

\*Estimates based on weighted average of Marion County submarkets including Southeast Indianapolis submarket which includes a portion of Hancock County

<sup>1</sup> The City of Indianapolis and Marion County are a consolidated city-county.

<sup>2</sup> Federal Trade Commission & Consumer Finance Protection Bureau Tenant Screening Request for Information  
<https://www.regulations.gov/docket/FTC-2023-0024>

<sup>3</sup> Source: U.S. Census American Community Survey, 2020.

<sup>4</sup> Fair Housing Center of Central Indiana (FHCCI). *The State of Fair Housing in Indiana – At What Cost? Rents, Burdens, Evictions, and Profits*, September 2022. <https://www.fhcci.org/wp-content/uploads/2022/09/Rising-Rents-Report- FINAL.pdf>

More recently in 2023, new reports highlight falling rents in major cities due to more supply coming to the market and increasing vacancies - but not for Indianapolis. As the FHCCI was going to publication on this report, Redfin reported Indianapolis having a 10.9% monthly rent increase since last April 2022, the third highest of major metro areas analyzed, leading to an average monthly rent of \$1,582.<sup>5</sup>

All the while, wages have only increased 4-5% annually. Half of renters in Marion County earn \$35,000 or less annually, but only an estimated 35% of the County's multifamily rental units are affordable to them. This disproportionately affects households of color. While households of color represent 36% of all County households, roughly half of the households earning less than \$35k in income are Black and 13% are Hispanic. In 2020, 50% of Marion County renters were cost-burdened, paying 30% or more of their income to rent. Nearly 25% of renters were severely cost-burdened, paying more than 50% of their income to rent. For renters earning less than \$35,000 annually, the share of rent-burdened households increased from 78% to 87% over the past decade in Marion County.<sup>6</sup>

Finally, there is an eviction problem. Indianapolis has been ranked for several years as having one of the highest eviction rates in the nation. Since the start of the pandemic, Indianapolis has had over 65,000 eviction filings.<sup>7</sup> From 2021 to 2022, eviction filings increased by a staggering 30% in Indianapolis – from 18,000 to 24,000. Several other Indiana cities make the highest eviction cities lists whether large urban centers, mid-sized cities, or small towns. All this means that renters in search of new housing already experience significant barriers in their housing search. Tenant screening errors or problems will only make those situations worse.

### Minor Errors, Major Consequences

Here in Central Indiana, hundreds of renters have contacted the FHCCI because they were rejected on a rental application for reasons they cannot understand. For some, past mistakes from years ago continue to be held against them; for others, the housing provider gave a justification that they know is incorrect. For others, the reason for the denial remains a mystery because these individuals had no reason to think they had any negative records, prior to applying for this unit.

Getting answers is a process that overwhelmingly puts a major burden on renters, at a time that they are already under extreme stress in their search for new housing. The prospective renter has to know their right to request a copy of their tenant screening report *and* that they encounter a housing provider who knows they are required to provide that information and does so. However, too often, housing providers do not provide denial letters at all. If they do, they may do so in language that is confusing and discouraging to renters and not what is required by law.

Most often, rather than providing reports directly, housing providers instead instruct renters to contact the third-party tenant screening company to get a copy of the report. In addition to this extra burden on the renter, third-party companies do not always respond or may be difficult to reach.

All this leaves renters in limbo. They need to seek alternative housing but cannot predict whether they will be accepted. Responses from landlords can take weeks, if they arrive at all. They may be approaching the end of a lease that they need to navigate or be forced to renew. The result is a substantial loss of valuable time and the risk that the renter might not find housing on a schedule that works best for them or at all.

#### FHCCI Clients Denied Housing for Arbitrary Reasons

*Since the FHCCI began tracking this information, among the reasons why FHCCI clients have been denied are:*

- Having a felony conviction on their record, which was actually a misdemeanor.
- Having a monthly income of zero, when they were in fact employed.
- Having a criminal conviction that has been expunged.
- Having an arrest, which did not result in a conviction.
- Having an eviction that actually belongs to a relative who shares their name.
- Having an eviction that has been expunged.
- Having outstanding debts, which have in fact been paid off.
- Having debts in collections, when they actually had previously filed for bankruptcy.
- Having felony convictions on their record that belong to an unrelated person who shares their name and/or date of birth.
- Having medical debt.
- Some reason that is undetectable on the tenant screening report.

<sup>5</sup> Redfin. "Rental Market Tracker: Asking Rents Flattened in April as Landlords Faced Rising Vacancies," May 11, 2023. <https://www.redfin.com/news/redfin-rental-report-april-2023/>

<sup>6</sup> FHCCI, "At What Cost? Rents, Burdens, Evictions, and Profits," September 2022.

<sup>7</sup> Eviction Lab – Indianapolis. <https://evictionlab.org/eviction-tracking/indianapolis-in/>



Through the FHCCI's work in uncovering fair housing concerns, the FHCCI has been helping renters experiencing barriers to understand their rights and what follow up they need to complete to get a copy of their tenant screening report(s). What we have discovered is that the reasons prospective renters uncover for their denials range from unfair errors to mundane coincidences.

Finding a mistake is just the beginning for a busy renter. The renter then has to reach out to the tenant screening company and inform them of the mistake. If the screening company agrees that there is a mistake, then the renter has to ask the company to correct the error and to provide documentation that the tenant can show to the housing provider. Then, the tenant has to wait until the correction is made or face similar denials at other properties.

However, the tenant screening company may not agree that information is incorrect. Even if the screening company does agree and makes a timely update, the housing provider still may not accept the tenant screening company's decision that the previous information was incorrect. The landlord may allege the renter still falls outside their criteria or pivot and claim the denial was for some other reason. After all that work by the tenant, they lose the housing, possibly any fees paid, and a substantial amount of critical time during their housing search. They then must start again hoping the same thing doesn't happen and having very little control if it does.

### **Shifting Blame, Evading Responsibility**

The FHCCI has found that throughout this process, there is a blame-game occurring between the landlord and tenant screening company with the prospective tenant caught in the middle. This is not a flaw in the system—it is by design. In denials to applicants who have contacted the FHCCI and shared their documents or stories, housing providers will tell renters that tenant screening companies "played no part in our decision." But in advertising their services to housing providers, tenant screening companies present a different narrative. These companies tout their ability to make "automated recommendations,"<sup>8</sup> offer scoring systems that "identify tenants who are more likely to pay rent on time,"<sup>9</sup> and claim to use artificial intelligence (AI) to predict which applicants are not just able, but "willing to pay."<sup>10</sup> When screening tenants, landlords are often presented with a highlighted recommendation<sup>11</sup> or color-coded flag,<sup>12</sup> telling them whether or not an applicant would be a "good" tenant.

Then, there are tenant screening companies that specialize in security deposit alternatives or insurance. These companies screen applicants based on their credit and other factors, and then provide landlords with "customized cash or coverage amounts."<sup>13</sup> Essentially, they dictate how much a landlord will charge each tenant for a deposit or other fees, based on a determination about the prospective tenant's supposed reliability.

Tenant screening companies encourage housing providers to believe that their screening determinations are better than human judgment by on-site employees. Screening companies tell potential housing provider customers these services will make them more compliant with fair housing rules, invoking scientific-seeming language such as "our advanced technology models are statistically validated based on facts."<sup>14</sup>

In reality, on-site employees still do make judgment calls, but they do so on top of the automated screening process, which introduces a host of new possible forms of housing discrimination. Screening companies can scrape and purchase and trawl vast amounts of data, far more than any human eyes, but the accuracy<sup>15</sup> and relevance<sup>16</sup> of that data can be highly suspect. Despite this, the advertising pitch of tenant screening companies is to encourage their customers to rely on their recommendations and discourage them from considering applicants on a case-by-case basis.

At the same time, tenant screening companies correctly disclaim that they only give housing providers the information they ask for. Housing providers commonly set their own eligibility criteria, such as the lookback period for evictions, the types of accepted criminal convictions, the minimum credit score, and so on, which shapes the recommendations on the screening reports. Ultimately, screening companies cannot compel a housing provider to accept or deny an applicant if the housing

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<sup>8</sup> Redacted Tenant Screening Company A

<sup>9</sup> Redacted Tenant Screening Company B

<sup>10</sup> Redacted Tenant Screening Company C

<sup>11</sup> Redacted Tenant Screening Company D

<sup>12</sup> Redacted Tenant Screening Company B

<sup>13</sup> Redacted Tenant Screening Company E

<sup>14</sup> Redacted Tenant Screening Company B

<sup>15</sup> Consumer Financial Protection Bureau (CFPB). "Tenant Background Checks Market," November 2022.

<sup>16</sup> [https://files.consumerfinance.gov/f/documents/cfpb\\_tenant-background-checks-market\\_report\\_2022-11.pdf](https://files.consumerfinance.gov/f/documents/cfpb_tenant-background-checks-market_report_2022-11.pdf).

<sup>16</sup> Cael Warren. "Success in Housing: How Much Does Criminal Background Matter?" *Wilder Research*, January 2019.

[https://www.wilder.org/sites/default/files/imports/AEON\\_HousingSuccess\\_CriminalBackground\\_Report\\_1-19.pdf](https://www.wilder.org/sites/default/files/imports/AEON_HousingSuccess_CriminalBackground_Report_1-19.pdf)

provider does not want to, because housing providers do have the ability to override a screening company's recommendation if they choose to.

The practical result of this shared liability between housing providers and tenant screening providers is that neither party wants to take responsibility for an adverse decision against a rental applicant. Leaving prospective renters in the middle battling an ever-present ticking clock to find new housing. Our clients report being passed back and forth between apartment complex employees, 1-800 numbers of tenant screening companies, and back again in their attempts to correct mistakes or even simply find out why they were denied. Most often, their inquiries end with silence from one or both parties - effectively ghosted - despite their rights under the Fair Credit Reporting Act (FCRA) to understand and clarify rental application decisions.

What other recourse do renters have in these situations? If housing providers violate their rights under FCRA, renters could file legal challenges or complain to government agencies – assuming the renter knew that such protections exist and has the time and capacity to navigate the process. Too often, these solutions are neither realistic nor fruitful. Renters do not have a right to be automatically assigned legal counsel in these matters and legal services agencies are overstretched as it is. Paying to hire a private lawyer and encountering the long legal process with it, just to find out the reason for a denial—while still searching for a place to live—would be a challenge to prioritize for most renters. And as we have pointed out previously, a significant portion of Indianapolis renters are already housing cost burdened and could not afford this option.

For example, an FHCCI client reported that after being denied housing even though she had no visible issues on her screening report, she filed a complaint with the CFPB. She was told by the CFPB they were unable to assist due to the unique nature of her complaint. As a result, she lost valuable time navigating the CFPB process, lost out on the housing, and was forced to continue applying to apartments without knowing why she was denied in the first place, worried it would happen again.

## **The Fair Housing Case Against Tenant Screening Policies**

Most of the FHCCI's clients come to us because they know something is wrong—the reason for their denial was incorrect and they need or want to fix it. They believe that they have been treated unfairly and have contacted our agency in hope of a solution. But we know that these clients, victims of unfortunate coincidences or unlawful evasions of federal law, make up only part of those renters blocked from housing by tenant screening policies. Many renters know for certain that they have a mark on their record, and they know it is not an error. Discrimination against individuals with criminal backgrounds, bad credit, eviction filings (justified or not), or flawed rental history is so widely accepted, and lawful in many places that renters may not believe they have any recourse. This is particularly true in states like Indiana which have passed several state laws diminishing the rights and options for tenants to live in habitable spaces, know of their legal rights, challenge incidents of retaliation, and have affordable housing options.

Renters experiencing these barriers encounter the disparate impact of tenant screening policies impacting protected classes under fair housing laws. National and local research has shown again and again that tenant screening policies disproportionately impact Black individuals, immigrants, people with disabilities, families with children, and survivors of domestic violence. While the discrimination is not explicit, the data used to screen out applicants—a lack of generational wealth, low credit scores, evictions, and criminal records—disproportionately disadvantages these marginalized groups who already make up a larger share of renters. We explain this in more detail in the next sections.

## **Credit Scores**

Screening out tenants for unsatisfactory credit creates a significant disadvantage for Black and Hispanic renters, as well as domestic violence survivors. National research shows that Black and Hispanic consumers have on average lower credit scores than white consumers. They are also more likely to be “credit-invisible” or unscored, due to not having a sufficient credit history.<sup>17</sup> The disparity in credit scores arises from the factors that make up these scores—Black individuals are more

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<sup>17</sup> Jung Hyun Choi, Alanna McCargo, Michael Neal, Laurie Goodman, & Caitlin Young. “Explaining the Black-White Homeownership Gap: A Closer Look at Disparities across Local Markets.” *Urban Institute*, October 2019. [https://www.urban.org/sites/default/files/publication/101160/explaining\\_the\\_black-white\\_homeownership\\_gap\\_2.pdf](https://www.urban.org/sites/default/files/publication/101160/explaining_the_black-white_homeownership_gap_2.pdf); Jaya Dey & Lariece M. Brown. “The Role of Credit Attributes in Explaining the Homeownership Gap Between Whites and Minorities Since the Financial Crisis, 2012–2018.” *Housing Policy Debate*, 32:2, 275-336 (2022). <https://doi.org/10.1080/10511482.2020.18>; Kenneth P. Brevoort, Philipp Grimm, & Michelle Kambara. “Data Point: Credit Invisibles.” CFPB Office of Research, May 2015. [https://files.consumerfinance.gov/f/201505\\_cfpb\\_data-point-credit-invisibles.pdf](https://files.consumerfinance.gov/f/201505_cfpb_data-point-credit-invisibles.pdf)

likely to lack access to intergenerational wealth and have lower incomes, to have a shorter credit history, to have experienced bankruptcy or delinquency, or to have been sued by a debt collector.<sup>18</sup>

There are also systemic problems with how credit scores are calculated. Credit scores often do not take into account timely rent or utility payments. This is despite the fact a struggling household will pay rent first, possibly resulting in missed payments on debts, like credit card bills. Note: Some tenant screening companies have begun prioritizing data on past rent payments, rather than other financial history. However, like all other data points used by screening companies, it is subject to the same inaccuracies and misuse, such as tenants being penalized for narrowly missed rent payments from many years ago. For example, tenants who missed payments during the COVID pandemic could be vulnerable.<sup>19</sup>

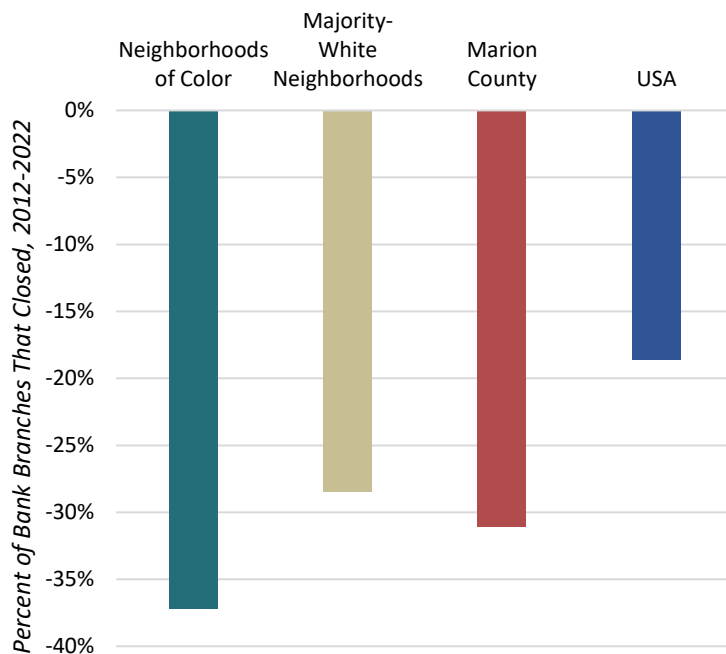
The debt-to-income ratio used in credit scoring is also problematic. Basically, people of color pay more for services and that has an impact on their credit. Credit scores are impacted by how much debt a person has taken on—for a mortgage, a car, credit cards, installment loans, and so on—as well as how much, if at all, a person has fallen behind on those payments. But a person of color, with the same income as a white person, is more likely to receive less favorable terms for their debt, such as higher interest rates, resulting in them paying more each month for the same amount of credit. This has a cumulative effect on lowering credit scores.<sup>20</sup>

Another systemic issue is that Black Americans are more likely to be unbanked, or underbanked, than their white counterparts. Predominantly Black neighborhoods have fewer bank branches, especially as large national banks consolidate. In Marion County, an FHCCI analysis<sup>21</sup> found that between 2012 to 2022, 37% of bank branches closed in the County, a rate nearly double that of the national bank closure rate. To no surprise, bank branch closures were more concentrated in neighborhoods of color. In 2012, there were 78 bank branches in Marion County neighborhoods of color but by 2022, there were only 49 bank branches. In contrast, in 2022 there were twice as many bank branches per capita in majority-white neighborhoods compared to neighborhoods of color.

Although online and mobile banking is becoming more common, in-person services are still in wide use by bank customers, with 83% visiting a bank branch at least once in the past year, and nearly half visiting five or more times.<sup>22</sup> This would be especially true for older adults and communities that lack access to reliable internet services (which are often historically redlined neighborhoods).<sup>23</sup> In place of traditional banks, check-cashing facilities and unscrupulous payday lenders proliferate. Both options contribute to lower credit scores: Check-cashing facilities charge high fees and enforce a reliance on cash; payday lenders give predatory loans with high interest rates, which are hard to pay back and trap consumers in a cycle of debt. Lack of trust in financial institutions and a greater sense of trust in cash compounds this issue, especially in neighborhoods of color that saw their parents and

### Bank Branch Closures in Indy Neighborhoods of Color Outpace County and Nation, 2012-2022

*The number of bank branches decreased nationwide between 2012 and 2022. But the percent of branches that closed in Indianapolis is higher than the national rate, and even higher in Indy neighborhoods of color.*



Source: FHCCI analysis of Federal Deposit Insurance Corporation data

<sup>18</sup> Paul Kiel & Annie Waldman. "How We Analyzed Racial Disparity in Debt Collection Lawsuits." *ProPublica*, October 8, 2015.

<https://www.propublica.org/article/how-we-analyzed-racial-disparity-in-debt-collection-lawsuits>

<sup>19</sup> Chi Chi Wu & Stacey Tutt. "Why rent reporting can harm rather than help vulnerable tenants." *The Hill*, February 26, 2023.

<https://thehill.com/opinion/finance/3872880-why-rent-reporting-can-harm-rather-than-help-vulnerable-tenants/> /

<sup>20</sup> William Spivey. "Are Credit Scores Racist?" *The Good Men Project*, March 14, 2023. <https://goodmenproject.com/featured-content/are-credit-scores-racist/>

<sup>21</sup> FHCCI analysis of Federal Deposit Insurance Corporation data.

<sup>22</sup> FDIC. "How America Banks: Household Use of Banking and Financial Services: 2019 FDIC Survey." October 2020.

<https://www.fdic.gov/analysis/household-survey/2019report.pdf#page=12>

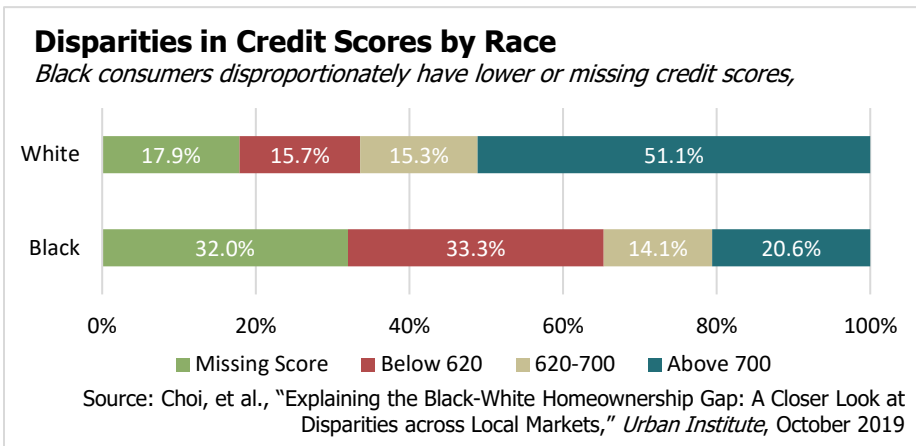
<sup>23</sup> Benjamin Skinner, Hazel Levy, & Taylor Burtch. "Digital redlining: the relevance of 20th century housing policy to 21st century broadband access and education." *EdWorkingPaper*: 21-471 (April 2023). <https://doi.org/10.26300/q9av-9c93>



grandparents lose homes due to predatory lending in the foreclosure crisis.<sup>24</sup>

Black and Hispanic consumers are more than twice as likely to use non-bank credit as white consumers, and at least three times as likely to use non-bank financial services like money orders and check cashing. Even at higher income levels, Black and Hispanic consumers are less likely to use bank credit.<sup>25</sup> All of these factors create a systemic bias against Black and Hispanic consumers in credit scores. Housing providers that use credit scores to screen out rental applicants will inevitably screen out Black and Hispanic consumers at higher rates.

A reliance on credit scores also negatively affects domestic violence survivors, especially female survivors. 43% of Indiana women have experienced intimate partner violence (physical or sexual violence, or stalking) in their lifetime, compared to 28% of men.<sup>26</sup> Financial abuse is a form of domestic violence that falls under “coercive control,” which is overwhelmingly perpetuated by male abusers against female survivors. Survivors can suffer terrible consequences due to the negative marks on their credit left by their abusers. Abusers often carry out financial abuse in the forms of “coerced debt,” by taking out credit cards or loans in the victim’s name, without their knowledge, or under the threat of violence. Abusers rack up huge amounts of debts under their victim’s name, with missed payments going into debt collection. The result for victims is severely damaged credit. This not only prevents them from accessing jobs, housing, car insurance, utilities, and other services in the future. It may even prevent current victims from being able to leave their abusers, given the precarity they (and often their children) will face on their own. It can take years or decades for negative credit events to expire from reports, with little to no remedy.<sup>27</sup>



Finally, as we become more and more reliant on data, companies can make mistakes which will have far-reaching implications. An example of this was documented last fall when Equifax was found to have sent out wrong credit scores to lenders for millions of Americans.<sup>28</sup> How many of these Americans were denied an apartment or charged a higher security deposit due to this error? We are unlikely to ever know.

### *Local Screening Policies on Credit Scores*

Despite the shaky evidence behind the use of credit scores to predict rental success, housing providers continue to screen out tenants based on raw credit scores. In reviewing the policies of Indianapolis-area housing providers, we found that many housing providers increase rental security deposit amounts based on the applicant’s credit score. This creates an additional barrier to tenants who need to move into new housing, keeping many stuck in unideal and potentially unsafe living situations.

Some local housing complexes had minimum credit score requirements as high as 650.<sup>29</sup> By contrast, there are a growing number of mortgage products being created to assist lower-income Americans, or those who have suffered from systemic racism, to allow people to obtain a mortgage with a credit score as low as 580 or 620, or sometimes without a minimum score at all. There is no reason why the bar for purchasing a home with a mortgage should be lower than for renting one.

In another example, an Indianapolis housing provider claimed on its website that “Offering an approval based upon total credit score below a 700 comes with more inherent risk.” As a result, the provider stated it would charge non-refundable

<sup>24</sup> Kimberly Atkins Stohr. “Giving credit where it’s due.” *Boston Globe*, April 24, 2022. <https://www.bostonglobe.com/2022/04/24/opinion/giving-credit-where-its-due/>

<sup>25</sup> Federal Deposit Insurance Corporation. “How America Banks: Household Use of Banking and Financial Services: 2019 FDIC Survey.” (October 2020). <https://www.fdic.gov/analysis/household-survey/2019report.pdf#page=25>

<sup>26</sup> Sharon G. Smith, Jieru Chen, Kathleen C. Basile, Leah K. Gilbert, Melissa T. Merrick, Nimesh Patel, Margie Walling, & Anurag Jain. “The National Intimate Partner and Sexual Violence Survey (NISVS): 2010-2012 State Report.” National Center for Injury Prevention and Control, Centers for Disease Control and Prevention, 2017. <https://www.cdc.gov/violenceprevention/pdf/NISVS-StateReportBook.pdf>

<sup>27</sup> Angela Littwin. “Coerced Debt: The Role of Consumer Credit in Domestic Violence.” *California Law Review*, 100, no. 4, 951-1026 (August 2012). <https://doi.org/10.15779/Z38VR6G>

<sup>28</sup> Alexandra Peers. “Equifax issued wrong credit scores for millions of consumers.” CNN, August 3, 2022. <https://www.msn.com/en-us/money/companies/equifax-issued-wrong-credit-scores-for-millions-of-consumers/ar-AA10gPbr?fromMaestro=true>

<sup>29</sup> Redacted Housing Provider A

fees of several hundred dollars to households with lower average scores.<sup>30</sup> A policy like this would not only penalize 80% of Black households,<sup>31</sup> but would also penalize fully half of the entire rental market.<sup>32</sup>

## Evictions

Another major component of tenant screening is the use of court data on evictions to screen out tenants who are viewed to have negative rental history due to an eviction filing. This is another screening practice that disproportionately harms people of color, but most acutely in our area, Black and female renters, especially families with children.

National research shows that Black renters are far over-represented among eviction filing defendants, making up 32.7% of the renters who received an eviction filing but only 19.9% of renters overall. White renters, on the other hand, are underrepresented. The eviction filing rate for Black renters is nearly double that of white renters. Women are more likely to receive an eviction filing than men (16% more often), especially Black women (36% more likely than Black men).<sup>33</sup>

Families with children are at special risk for eviction, with researchers finding that having children triples a household's risk of losing their home, even when their economic situations are similar.<sup>34</sup> This effect is amplified for families with children who experienced adverse birth outcomes, like low birthweight or prematurity<sup>35</sup>, and for families of color, with Black children being nearly twice as likely to be evicted.<sup>36</sup>

Female renters also may disproportionately face retaliatory evictions due to sexual harassment by their housing providers. Sexual harassment cases spiked during the COVID-19 pandemic, as predatory housing providers tried to take advantage of economic desperation. In many cases, the housing provider would demand sexual favors in exchange for rent or threaten to evict tenants who refused.<sup>37</sup> In most cases filed by the Department of Justice in its *Sexual Harassment in Housing Initiative*,<sup>38</sup> the victims of harassment are female. In Indianapolis, the FHCCI assisted a female tenant with a child in a fair housing lawsuit when she experienced job loss at the start of the pandemic and was solicited for sex in exchange for rent by her landlord.<sup>39</sup>

During the COVID-19 pandemic, as states began rolling out rental assistance, as we noted earlier, there were significant problems with landlords refusing to accept rental assistance money or refusing to comply with requirements to receive the funds. Or worse, taking the assistance funds and evicting the tenant anyway under false pretenses such as violation of other lease rules, normally not enforced or alleged. In Indianapolis, in the early days of the pandemic when landlords were required to approve a tenant's receipt of needed emergency assistance funds to combat eviction, city staff reported that "9,266 tenants who applied for rental assistance did not receive aid either because their landlord did not want to participate in the program or didn't respond."<sup>40</sup> That's over 9,000 tenants whose rental history records would be impacted. These renters now have an eviction filing or a judgement for unpaid rent that will follow them for years in their housing searches, even though they were eligible for rent assistance and did not receive it *solely* due to their landlord's lack of response or outright refusal to participate in the government program. As a result, hundreds or even thousands of Marion County renters now have an eviction on their record, despite qualifying for rental assistance due to COVID-related hardship, even though their only shortcoming was being a casualty of a global pandemic.<sup>41</sup> In Marion County in 2021, there were 15 eviction filings

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<sup>30</sup> Redacted Housing Provider B

<sup>31</sup> Choi, et al., "The Role of Credit Attributes," October 2019.

<sup>32</sup> Wei Li & Lauri Goodman. "Comparing Credit Profiles of American Renters and Owners." *Urban Institute*, March 2016.

<https://www.urban.org/sites/default/files/publication/78591/2000652-Comparing-Credit-Profiles-of-American-Renters-and-Owners.pdf>

<sup>33</sup> Peter Hepburn, Renee Louis, & Matthew Desmond. "Racial and Gender Disparities among Evicted Americans." *Eviction Lab*, December 16, 2020.

<https://evictionlab.org/demographics-of-eviction/>

<sup>34</sup> Matthew Desmond, Weihua An, Richelle Winkler, & Thomas Ferriss. "Evicting Children." *Social Forces*, 92, no. 1: 303–327 (September 2013).

<https://doi.org/10.1093/sf/sot047>

<sup>35</sup> Gabriel L. Schwartz, Kathryn M. Leifheit, Lisa F. Berkman, Jarvis T. Chen, & Mariana C. Arcaya. "Health Selection Into Eviction: Adverse Birth Outcomes and Children's Risk of Eviction Through Age 5 Years." *American Journal of Epidemiology*, 190, no. 7: 1260–1269 (January 18, 2021).

<https://doi.org/10.1093/aje/kwab007>

<sup>36</sup> Hepburn, Louis, & Desmond. "Racial and Gender Disparities," 2020.

<sup>37</sup> Amber Jamieson. "Her Landlord Asked To Spend The Night With Her After She Lost Her Job And Couldn't Afford Rent." *Buzzfeed News*, May 14, 2020.

<https://www.buzzfeed.com/amberjamieson/renter-sexually-harassed-by-landlord-during-coronavirus>

<sup>38</sup> Department of Justice. "Sexual Harassment In Housing Initiative – News." May 4, 2023. <https://www.justice.gov/crt/sexual-harassment-housing-initiative-news>

<sup>39</sup> Fair Housing Center of Central Indiana. "Fair Housing Center and Indianapolis Resident Reach Settlement with Landlord Accused of Sexual Harassment." November 30, 2020. <https://www.fhcci.org/wp-content/uploads/2020/11/11-30-20-Long-Settlement.pdf>

<sup>40</sup> Amelia Pak-Harvey. "'The walls were closing in': How Indianapolis spent money to try to curb COVID fallout." *Indianapolis Star*, March 31, 2021.

<https://www.indystar.com/story/news/local/marion-county/2021/03/31/indianapolis-cast-safety-net-curb-coronavirus-fallout/4723951001/>

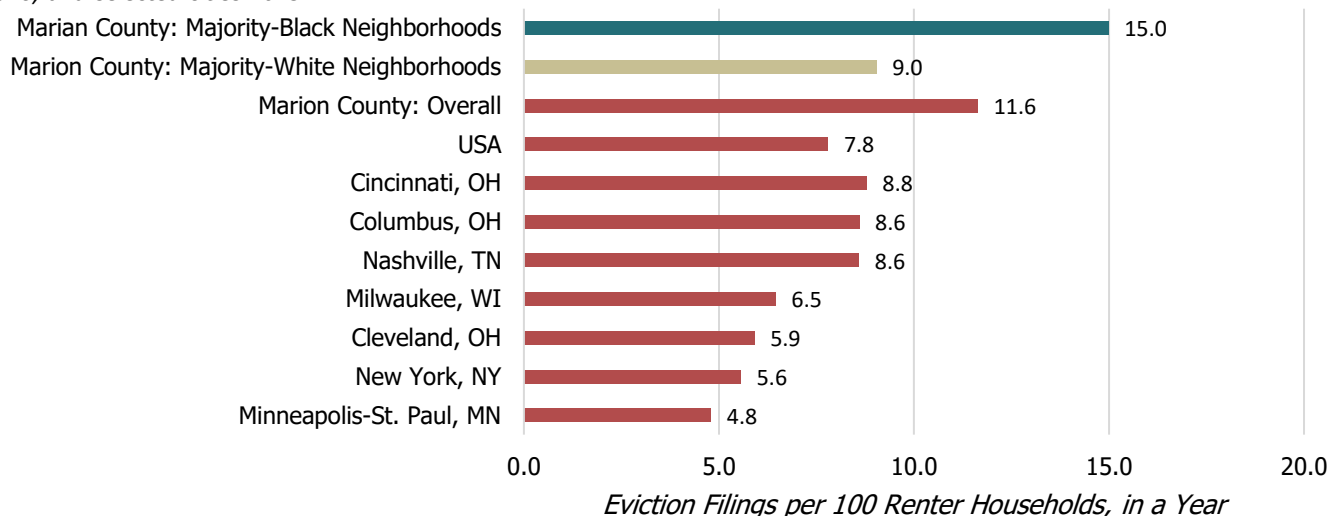
<sup>41</sup> Casey, Michael. "Landlords finding ways to evict after getting rental aid." *Associated Press*, February 11, 2022.

<https://apnews.com/article/coronavirus-pandemic-eviction-rental-assistance-539e1e1155d0e51eced4ae96e6e8cd14>; Hoosier Housing Needs Coalition.;

per 100 rental households in predominantly Black census tracts while there were 10 eviction filings per 100 rental households in predominantly white tracts.<sup>42</sup> Previous reports have found Indianapolis ranking only behind New York City in its volume of eviction filings. This makes for staggering numbers of evictions and persons impacted in their future housing searches.

### Eviction Filing Rates in Marion County Outstrip Nation's, Especially in Black Neighborhoods

*Eviction filing rates in Black neighborhoods in Marion County are far higher than in white neighborhoods or in the city overall. Compared to eviction filing rates nationally, or other U.S. cities, Marion County's eviction filing rate is especially high. Note: These are annual estimates of eviction filing rates; due to inconsistent availability of data, Marion County rates are from 2021, national rate 2018, and selected cities 2023.*



Source: FHCCI analysis of eviction filing data, 2021; Gromis, Ashley, Ian Fellows, James R. Hendrickson, Lavar Edmonds, Lillian Leung, Adam Porton, & Matthew Desmond. Estimating Eviction Prevalence across the United States. Princeton University Eviction Lab. <https://data-downloads.evictionlab.org/#estimating-eviction-prevalence-across-us/>

Research shows that large landlords file evictions at a disproportionate rate, compared to small landlords.<sup>43</sup> This is a particular problem in Marion County, where institutional investors have bought up properties at a rapid rate. This is especially true in the single-family rental market, which now makes up a large share of Indianapolis' overall rental market. According to FHCCI analysis, an estimated 27,000 single-family rental properties in Marion County are now owned by investors and of those, we estimate that over 13,000 (and growing) are owned by out-of-state investors. Last fall, ATTOM's analysis had Indianapolis in the top 10 of major cities due to the number of Q3 institutional investor sales of single-family homes<sup>44</sup> resulting in our market far outpacing national averages.

Indiana renters are also particularly vulnerable to evictions because the state has very few legal protections for tenants. Reporting one's landlord to the health department for uninhabitable living conditions, for example, can result in a retaliatory eviction filing. This is unlawful, but the law has no teeth and the burden is on the tenant to prove the retaliation. Indiana is also one of only six states where tenants do not have the right to withhold rent for essential repairs.<sup>45</sup> Renters sometimes still do so, especially when their situation has become unlivable, which puts them at risk of eviction. In eviction court hearings, judges will not hear tenant's evidence about lack of repairs or uninhabitability, telling tenants it is irrelevant at that stage of the proceeding and that tenants can only raise the issue of "damages" after a judgment has already been made on the grounds for the eviction. Given that withholding of rent is grounds for eviction, no matter if it is due to a lack of repairs or habitability, this often makes the eviction "justified" for the court.

Indiana renters who are being evicted also have no guaranteed right to counsel, drastically reducing their chances of staying in their homes and preventing the eviction filing from becoming an eviction judgment. The state legislature has preempted

<sup>42</sup> "Restrictions On Reopened Indiana Rental Assistance Portal Will Prevent Many Needy Hoosiers From Getting Help." October 19, 2020.

<https://housing4hoosiers.org/2020/10/19/restrictions-on-reopened-indiana-rental-assistance-portal-will-prevent-many-needy-hoosiers-from-getting-help/>

<sup>43</sup> Fair Housing Center of Central Indiana. "The State of Fair Housing in Indiana Report: At What Cost? Rents, Burdens, Evictions, and Profits,"

September 12, 2022. <https://www.fhcci.org/wp-content/uploads/2022/09/Rising-Rents-Report-FINAL.pdf>

<sup>44</sup> Gomory, Henry. "Do Large Landlords' Eviction Practices Differ from Small Landlords?" *Urban Institute*, February 1, 2023.

<https://housingmatters.urban.org/research-summary/do-large-landlords-eviction-practices-differ-small-landlords> a

<sup>45</sup> Christine Stricker. "Top 10 U.S. Housing Markets with Greatest Shares of Institutional Investor Sales." ATTOM, October 21, 2022.

<https://www.attomdata.com/news/market-trends/figuresfriday/top-10-u-s-housing-markets-with-greatest-shares-of-institutional-investor-sales/>

<sup>45</sup> Purcell, Jacob. "A Decent Place to Live: Improving Indiana's Public and Private Habitability Enforcement Mechanisms." February 2023.

<https://mckinneylaw.iu.edu/practice/clinics/docs/DecentPlaceToLive-20123.pdf>

localities like Indianapolis from making rules to protect renters from adverse outcomes in eviction court. Marion County municipalities cannot pass ordinances requiring tenants to be informed of their rights during eviction proceedings, mandating tenants' right to legal counsel, or reducing the speed and ease with which landlords can evict their tenants. Municipalities are also preempted from affordable housing policies like rent regulation to protect from gouging or affordable housing development mandates which would address some of the factors behind rampant evictions.

There is also a great deal of reporting that tenant screening companies overall do not distinguish between eviction filings and eviction judgments.<sup>46</sup> This means that tenants could be screened out of housing for an eviction case where they were not found to be at fault or the case was dismissed. For example, the tenant may have caught up on payments, the landlord and tenant had worked the issues in dispute out, or their landlord may have filed a discriminatory or retaliatory eviction or filed an eviction during the COVID-19 moratorium. Some landlords also use eviction filings as a threat against tenants who are late on their rent, to procure both back rent and additional late fees, without actually intending to force the tenant out.

Renters' ability to fight off an eviction judgment is especially relevant to tenant screening because of Indiana's new eviction expungement law (HEA 1214<sup>47</sup>) which went into effect July 1, 2022. The law allows tenants to request that their eviction record be sealed, but only if the eviction was dismissed, decided in favor of the tenant, or overturned or vacated on appeal. This new law is limited by tenants' lack of legal counsel to help them win their cases when an eviction is pending and to later apply for eviction sealing. Also, it does not seal eviction records at the time of filing, allowing those filings to be collected by tenant screening companies and used against them before the tenant is able to seal them. Even when expunged, the tenant screening companies may not keep their data updated to reflect the expungement. In April 2023, the FHCCI received an allegation that a tenant had been denied housing due to an eviction on their record, an eviction record that had been expunged with legal assistance.

It is well-documented that experiencing an eviction is linked to a lifetime of harm and hardship. Individuals who have been evicted experience mental health problems and adverse outcomes for maternal and fetal health. Neighborhoods with higher eviction rates also have higher mortality rates, especially in areas with more Black residents and women.<sup>48</sup> At least in part, these outcomes are because of the way one eviction can lead to years of housing instability. This is especially true in the immediate aftermath of an eviction; while housing provider policies on past evictions vary, most providers will not accept a tenant immediately after they have been evicted.

A housing provider may be justified in wanting to evict a family that fell behind on rent and failed to pay their due; maybe the adult in the household lost their job, or suffered a pay cut, or had an unexpected emergency expense. When that family applies to another housing provider, that provider may justifiably be concerned about their ability to keep paying rent. But as a society, we should still be concerned that most housing providers would then refuse to rent to that household—where else are they supposed to go? Housing assistance for low-income families is woefully underfunded, with years-long waiting lists, and in Indianapolis, extremely mismanaged.<sup>49</sup> As a result, for many households who have just been evicted, the eviction could very well be a sentence to homelessness, or at the very least, to living in substandard housing conditions.

### *Local Screening Policies on Eviction History*

Based on the FHCCI's analysis of area policies, a significant number of housing providers in Marion County have eviction screening policies that deny applicants for evictions or eviction filings, anywhere from within the last two to five years, to indefinitely. Some housing providers institute even longer bans on applicants who have received civil judgments for rental housing, or who have rent-related collections<sup>50</sup>. Contrary to the Fair Credit Reporting Act, multiple tenant screening companies and housing providers still consider eviction actions from more than 7 years ago in determining if a tenant should be approved. Several housing provider policies reviewed by the FHCCI explicitly reject applicants because of previous

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<sup>46</sup> CFPB, "Tenant Background Checks Market," November 2022; Housing Action Illinois. "Prejudged: The Stigma of Eviction Records." March 2018. <https://housingactionil.org/downloads/EvictionReport2018.pdf>; Lauren Kirchner. "Data Brokers May Report COVID-19-Related Evictions for Years." *The Markup*, August 4, 2020. <https://themarkup.org/locked-out/2020/08/04/covid-evictions-renter-background-reports>.

<sup>47</sup> HEA 1214. <https://iga.in.gov/legislative/2022/bills/house/1214>

<sup>48</sup> Shreya Rao, Utibe R. Essien, Tiffany M. Powell-Wiley, Bhumi Maddineni, Sandeep R. Das, Ethan A. Halm, Ambarish Pandey, & Andrew Sumarsono. "Association of US County-Level Eviction Rates and All-Cause Mortality." *Journal of General Internal Medicine*, 38: 1207-1213 (November 7, 2022).

<http://doi.org/10.1007/s11606-022-07892-9>

<sup>49</sup> WRTV. "8,000 people on IHA's Section 8 waiting list with a 5 year average wait time." May 24, 2022. <https://www.wrtv.com/news/wrtvinvestigates/8-000-people-on-ihass-section-8-waiting-list-with-a-5-year-average-wait-time>; WRTV. "Indianapolis Housing Agency independent audit shows more than \$1 million due in bills," July 27, 2022. <https://www.wrtv.com/news/wrtv-investigates/indianapolis-housing-agency-independent-audit-shows-more-than-1-million-due-in-bills>

<sup>50</sup> Redacted Housing Provider L



eviction filings.<sup>51</sup> This makes the sheer filing of an eviction against someone, whether justified as not, as impactful as a court-ordered one when trying to locate new housing.

Without stronger legal protections, Indiana tenants—especially Black and female renters with children—continue to amass eviction filings on their records and be screened out of new housing, for reasons that are out of their control or tremendously burdensome to attempt to address.

## Criminal History

A major reason used by housing providers to screen prospective tenants is to keep out renters who would potentially endanger the property or other residents. This means banning large swaths of prospective tenants who have a criminal record from the past several years or ever in their life. In Indiana as well as across the nation, the disproportionate rate at which Black and Hispanic individuals are criminalized means these renters will be locked out of housing even as they try to rebuild their lives. Domestic violence survivors and people with disabilities are also unfairly targeted by policies like these.

Racial bias in how police interact with residents of color, particularly Black individuals, means that they are more likely to end up with criminal convictions. Black individuals are more likely to be exposed to police through school disciplinary actions,<sup>52</sup> more likely to be pulled over, more likely to be searched,<sup>53</sup> and more likely to live in communities with greater police presence. As a result, 50% of cases filed by the Marion County Prosecutor's Office are filed against Black individuals, despite them making up only 27% of the population.<sup>54</sup>

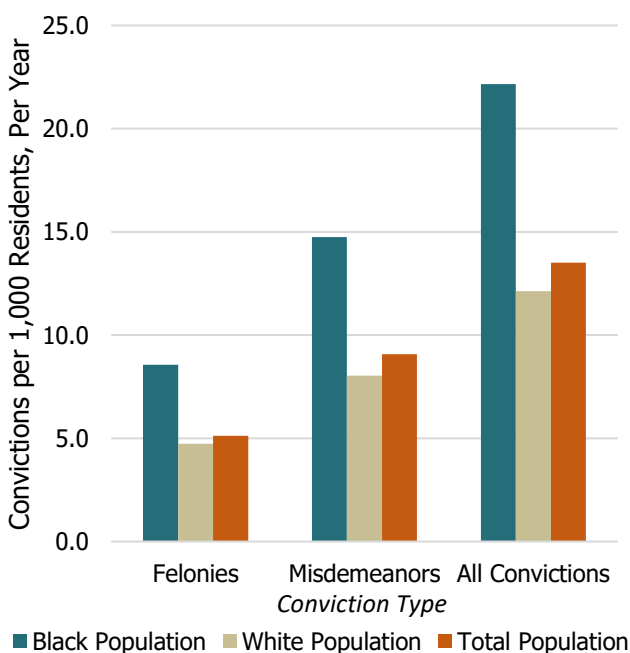
Once in the legal system, Black and Hispanic individuals are given higher bail amounts, meaning they cannot go home after their arrest if they cannot afford to pay.<sup>55</sup> This endangers their jobs, their custody of their children, medical treatment, and much more—all without being found guilty of any crime. They also have a hard time preparing a legal defense from behind bars. As a result, many defendants plead guilty just to get home faster.<sup>56</sup>

Contrary to popular imagination of the justice process, the vast majority of arrests on criminal charges end in a guilty plea, rather than a trial.<sup>57</sup> This does not mean that all these people are guilty as charged, but rather that many defendants may not have the resources to mount a defense and the legal system, unfortunately, favors speed over due process. In addition, when Black defendants receive convictions, they are less likely to be convicted for a lower charge or to have their more serious charge dismissed, compared to white defendants.<sup>58</sup>

The outcome, in Marion County, is that Black individuals are jailed at twice the rate of white residents and imprisoned at four times the rate. One out of every 50 Black residents are currently

### Racial Disparities in Convictions in Marion County

*Black residents experience more felony, misdemeanor, and overall convictions per capita, compared to white*



Source: FHCCI analysis of criminal case filings, 2018-2021

<sup>51</sup> Redacted Housing Providers B, C, D, E, and F

<sup>52</sup> Rebecca Nannery, Erik Steiner, Sarah Smith, Unai Miguel Andres, Jay Colbert, & Matt Nowlin. "Equity and Criminal Justice: The Cradle to Prison Pipeline in Indianapolis." *SAVI*, November 17, 2021. [https://www.savi.org/feature\\_report/equity-and-criminal-justice-the-cradle-to-prison-pipeline-in-indianapolis/](https://www.savi.org/feature_report/equity-and-criminal-justice-the-cradle-to-prison-pipeline-in-indianapolis/)

<sup>53</sup> Frank Baumgartner, Derek Epp, & Kelsey Shoub. "Suspect Citizens: What 20 Million Traffic Stops Tell Us About Policing and Race," (Cambridge: Cambridge University Press, 2018). <https://doi.org/10.1017/9781108553599>.

<sup>54</sup> Aaron Olson, Matt Nowlin, Jay Colbert, & Matt Dietrich. "Equity in Criminal Prosecutions: Analyzing Case Filings from the Marion County Prosecutor's Office." *SAVI*, March 23, 2023. [https://www.savi.org/feature\\_report/equity-in-criminal-prosecutions-analyzing-case-filings-from-the-marion-county-prosecutors-office/](https://www.savi.org/feature_report/equity-in-criminal-prosecutions-analyzing-case-filings-from-the-marion-county-prosecutors-office/)

<sup>55</sup> Wendy Sawyer. "How race impacts who is detained pretrial." *Prison Policy Initiative*, October 9, 2019. [https://www.prisonpolicy.org/blog/2019/10/09/pretrial\\_race/](https://www.prisonpolicy.org/blog/2019/10/09/pretrial_race/)

<sup>56</sup> Claire Chevrier. "Why Individuals Who Are Held Pretrial Have Worse Case Outcomes." *Handbook on Pretrial Justice* (New York: Routledge, 2021). <https://www.taylorfrancis.com/chapters/edit/10.4324/9781003149842-6/individuals-held-pretrial-worse-case-outcomes-claire-chevrier>

<sup>57</sup> Ram Subramanian, Léon Digard, Melvin Washington II, & Stephanie Sorage. "In the Shadows: A Review of the Research on Plea Bargaining." *Vera Institute*, September 2020. <https://www.vera.org/downloads/publications/in-the-shadows-plea-bargaining.pdf>

<sup>58</sup> Equal Justice Initiative. "Research Finds Evidence of Racial Bias in Plea Deals." October 26, 2017. <https://eji.org/news/research-finds-racial-disparities-in-plea-deals/>

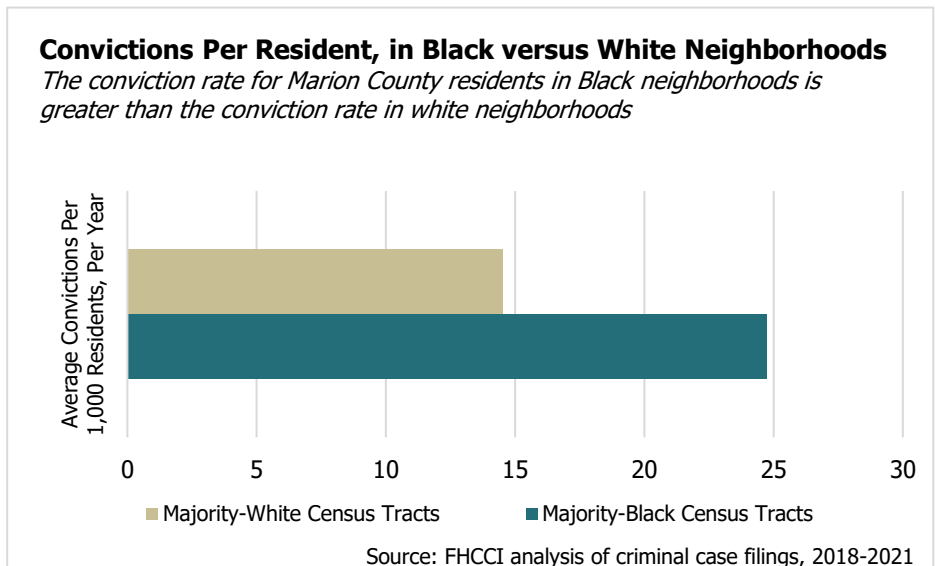


imprisoned in Marion County, compared to one out of every 250 white residents.<sup>59</sup> When these individuals are released, they will face the sadly inevitable challenge of finding housing with a criminal conviction on their records. Housing providers often use the language of “violent crimes” in their screening policies, to distinguish certain categories of crimes as more severe, and therefore subject to longer, or lifetime bans. However, these categories often include offenses not typically thought of involving violence against another person, such as drug crimes and property crimes. This also has a disproportionate effect on Black residents.

Because of the War on Drugs and its ongoing legacy, law enforcement practices have targeted Black communities for decades, through greater surveillance, more police presence, and more police stops.<sup>60</sup> As a result, Black individuals experience drug-related arrests and convictions at higher rates. These offenses also hold greater stigma, which may be the reason why they are singled out in housing screening policies for longer bans. Despite all this, a wealth of research shows that drug-related activities occur at equal rates among white and Black individuals, with most illicit drug sales occurring between people of the same race.<sup>61</sup>

Property crimes which do not involve violence against people or firearms are sometimes considered as violent crimes as well. For example, one housing provider reviewed by the FHCCI groups shoplifting and vandalism with violent felonies, subjecting applicants to an 8-year ban on tenancy.<sup>62</sup> Another regional provider has a blanket ban on misdemeanors for theft and damage to property.<sup>63</sup>

There is a particular irony to Indiana housing providers’ treatment of weapons convictions, which are often categorized as violent crimes and subject to longer bans. The most common weapons offense is carrying a handgun without a license—but as of 2022, this offense is obsolete.<sup>64</sup> Under a 2022 state law, anyone in Indiana can carry a handgun without a license, with some exceptions for people with felonies and domestic violence convictions, among others.<sup>65</sup> Nevertheless, thousands of Marion County residents still have a misdemeanor conviction for carrying a handgun without a license, or a felony conviction for a subsequent offense. While gun ownership (licensed or not) is more common in white households than Black households,<sup>66</sup> the racial disparity for carrying without a license is stark in Marion County, with 70% to 85% of these being convictions against Black defendants, and 15% to 25% against white defendants.<sup>67</sup>



Housing providers distinguish between felony and misdemeanor convictions, supposedly, to distinguish individuals who are less or more likely to be a reliable and safe tenant. In reality, the case outcome for a defendant is also highly dependent on the defendant’s race. The rate of felony convictions per capita is nearly twice as high for Black residents of Marion

<sup>59</sup> Nannery, et al., “The Cradle to Prison Pipeline in Indianapolis”, November 17, 2021.

<sup>60</sup> German Lopez. “The war on drugs, explained.” *Vox*, May 8, 2016. <https://www.vox.com/2016/5/8/18089368/war-on-drugs-marijuana-cocaine-heroin-meth>; Emily Ponder Williams. “Fair Housing’s Drug Problem: Combatting the Racialized Impact of Drug-Based Housing Exclusions Alongside Drug Law Reform.” *Harvard Civil Rights-Civil Liberties Law Review*, 54, no. 2: 769-793 (Summer 2019). <https://harvardcrlr.org/wp-content/uploads/sites/10/2019/07/54.2-Williams.pdf>

<sup>61</sup> Diane Whitmore Schanzenbach, Ryan Nunn, Lauren Bauer, Audrey Breitwieser, Megan Mumford, Greg Nantz. “Twelve Facts about Incarceration and Prisoner Reentry.” *Hamilton Project*, October 20, 2016. <https://www.hamiltonproject.org/publication/economic-fact/twelve-facts-about-incarceration-and-prisoner-reentry/>; Marc Mauer. “Addressing Racial Disparities in Incarceration.” *The Prison Journal*, 91 no. 3: 87S-101S (2011). <https://doi.org/10.1177/0032885511415227>; Mona Lynch, Marisa Omori, Aaron Roussell, & Matthew Valasik. “Policing the progressive city: The racialized geography of drug law enforcement.” *Theoretical criminology*, 17: 335-357 (2013). <https://doi.org/10.1177/1362480613476986>; Sentencing Project. “Report to the United Nations on Racial Disparities in the U.S. Criminal Justice System.” April 19, 2018. <https://www.sentencingproject.org/reports/report-to-the-united-nations-on-racial-disparities-in-the-u-s-criminal-justice-system/>

<sup>62</sup> Redacted Housing Provider G

<sup>63</sup> Redacted Housing Provider H (West Lafayette, IN)

<sup>64</sup> FHCCI analysis of criminal case filings in Marion County, 2018-2022; Indiana Code, Ind. Code § 35-47 (1983, rev. 2022).

<sup>65</sup> Indiana State Police. “Permitless Carry Information.” July 1, 2022. <https://www.in.gov/isp/files/Permitless-Carry-Website-Messaging.pdf>

<sup>66</sup> <https://www.pewresearch.org/social-trends/2017/06/22/the-demographics-of-gun-ownership/>

<sup>67</sup> FHCCI analysis of criminal case filings in Marion County, 2018-2022; Indiana Code, Ind. Code § 35-47 (1983, rev. 2022).

County as for white residents.<sup>68</sup> Research shows that a white defendant is not only more likely than a Black defendant to have their case dismissed or acquitted, but also more likely to have a felony-level charge at arrest dropped to a misdemeanor at conviction, including when both defendants have no prior convictions.<sup>69</sup>

Hispanic individuals are vastly more likely to be convicted for a certain type of non-violent crime—vehicle cases. In Marion County 60% of the cases filed against Hispanic individuals were for vehicle charges, and more specifically, 44% were for driving without a license.<sup>70</sup>

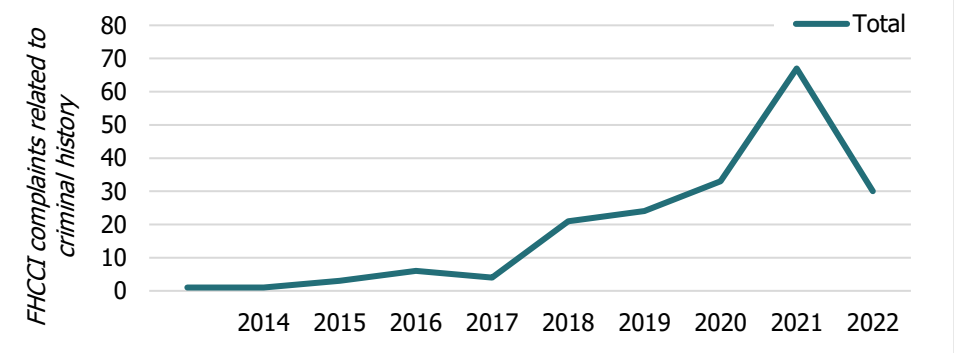
While many of these are low-level charges that may be filed as infractions, the charge of driving without ever having been issued a license can lead to a misdemeanor charge,<sup>71</sup> or suspension of one's license and higher criminal charges as a habitual traffic offender.<sup>72</sup> This is a particular risk for undocumented immigrants, who are not able to obtain a driver's license in the state of Indiana, but due to Indianapolis' limited public transit options, usually must drive to work and make ends meet. This presents an issue of national origin discrimination under fair housing law, as undocumented immigrants in Indiana are primarily Hispanic.<sup>73</sup> These individuals are disproportionately likely to develop a criminal record of vehicle cases, which despite having no bearing on their ability to be a good tenant, would keep them out of housing. It is worth noting that court data on the ethnicity of defendants (Hispanic or non-Hispanic) is extremely incomplete, with the vast majority of defendants not being labeled either way. Our understanding of how Hispanic individuals are affected by criminal case filings and convictions is thus incomplete.

Domestic violence survivors are also unfairly targeted by bans on renters with criminal convictions. Over half of female inmates in state prisons have experienced physical or sexual abuse prior to incarceration.<sup>74</sup> In many cases, the criminalization of survivors is a direct result of their experience of domestic violence. When police respond to calls of domestic violence, they often arrest victims alongside the perpetrators.<sup>75</sup> This problem is especially acute for Black female survivors.<sup>76</sup> Survivors who act in self-defense can face charges of violent crimes.<sup>77</sup> Indiana, unlike other states, does not have a mandatory arrest law, which would require police to arrest anyone involved in an incident of domestic violence. Even without such a law, there are a multitude of ways that domestic violence survivors can be dragged into criminal justice interactions.

Survivors can face charges under failure to protect laws, which blame survivors for harm done to their children by their abuser and which overwhelmingly affect female survivors.<sup>78</sup> Survivors may also face charges due to being coerced into

## Complaints to FHCCI About Criminal History on the Rise

*The FHCCI has received an escalating number of complaints about barriers to housing due to criminal history. Note: This trend is likely understated, due to the decrease in housing availability in recent years.*



<sup>68</sup> FHCCI analysis of criminal case filings in Marion County, 2018-2022.

<sup>69</sup> Judicial Council of California. "Disposition of Criminal Cases According to the Race and Ethnicity of the Defendant." (2018)

[https://www.courts.ca.gov/documents/lr-2019-JC-disposition-of-criminal-cases-race-ethnicity-pc1170\\_45.pdf](https://www.courts.ca.gov/documents/lr-2019-JC-disposition-of-criminal-cases-race-ethnicity-pc1170_45.pdf); Equal Justice Initiative, "Research Finds Evidence of Racial Bias in Plea Deals," 2017.

<sup>70</sup> Olson, et al., "Analyzing Case Filings from Marion County," March 23, 2023.

<sup>71</sup> Indiana Code, Ind. Code § 9-24-18-1 (1991, rev. 2021).

<sup>72</sup> Indiana Code, Ind. Code § 9-30-10-4 (1991, rev. 2019); Indiana Code, Ind. Code § 9-30-10-5 (1991, rev. 2015); Indiana Code, Ind. Code § 9-30-10-16 (1991, rev. 2015).

<sup>73</sup> Jeffrey S. Passel, D'Vera Cohn, Mark Hugo Lopez, & Jessica Pumphrey. "U.S. Unauthorized Immigrant Total Dips to Lowest Level in a Decade." *Pew Research Center*, November 27, 2018. [https://www.pewresearch.org/hispanic/wp-content/uploads/sites/5/2019/03/Pew-Research-Center\\_2018-11-27\\_U-S-Unauthorized-Immigrants-Total-Dips\\_Updated-2019-06-25.pdf](https://www.pewresearch.org/hispanic/wp-content/uploads/sites/5/2019/03/Pew-Research-Center_2018-11-27_U-S-Unauthorized-Immigrants-Total-Dips_Updated-2019-06-25.pdf)

<sup>74</sup> Caroline Wolf Harlow. "Prior Abuse Reported by Inmates and Probationers." Bureau of Justice Statistics, April 1999.

<https://bjs.ojp.gov/content/pub/pdf/parip.pdf>

<sup>75</sup> David Hirschel. "Domestic Violence Cases: What Research Shows About Arrest and Dual Arrest Rates." National Institute of Justice, July 2008.

<https://www.ojp.gov/ncjrs/virtual-library/abstracts/domestic-violence-cases-what-research-shows-about-arrest-and-dual>

<sup>76</sup> Claire Hodges. "From Abuse to Arrest: How America's legal system harms victims of domestic violence." *Brown Political Review*, August 23, 2021.

<https://brownpoliticalreview.org/2021/08/abuse-to-arrest/>

<sup>77</sup> Alisa Bierria & Colby Lenz. "Defending Self Defense." *Survived & Punished*, March 2022. <https://survivedandpunished.org/wp-content/uploads/2022/03/DSD-Report-Mar-21-final.pdf>; Anne O'Dell. "Why Do Police Arrest Victims of Domestic Violence? The Need for Comprehensive Training and Investigative Protocols." *Journal of Aggression, Maltreatment & Trauma*, 15, no. 304: 53-73 (2007).

<https://doi.org/10.1080/10926770802097210>

<sup>78</sup> O'Dell, "Why Do Police Arrest Victims," 2007; Samantha Michaels. "She Never Hurt Her Kids. So Why Is a Mother Serving More Time Than the Man Who Abused Her Daughter?" *Mother Jones*, August 9, 2022. <https://www.motherjones.com/crime-justice/2022/08/failure-to-protect-domestic-abuse-child-oklahoma-women-inequality-prison/>

criminal acts by their abuser, being charged as an accomplice, or taking the blame for crimes committed by their abusers. They may also face retaliatory accusations by their abuser. Down the line, survivors may be charged with drug usage, a form of self-medication for their trauma, or committing crimes due to financial distress caused by the abuse.<sup>79</sup>

People with disabilities are also affected by housing restrictions based on criminal records. People with disabilities are disproportionately likely to be stopped or arrested by police, and are jailed and imprisoned at rates that far exceed their presence in the broader population.<sup>80</sup> This is in part because, due to our starved social services systems, police are the ones to respond to reports of people in mental health crisis. This can have deadly consequences, as it did in 2022 for an Indianapolis Black man, Herman Whitfield III, whose parents called 911 for help during an episode of disorientation. Officers held him in a prone restraint until he stopped breathing with the tragic result of him dying there in his parents' home.<sup>81</sup> Even when a person with a disability survives an encounter with police, they still are left with an arrest or conviction. Due to a lack of accommodations in the court system, a defendant with a disability may have a harder time responding to an arrest or fighting a guilty conviction.<sup>82</sup> A conviction, and a subsequent criminal record, that will have long-ranging consequences for their ability to find housing long-term.

### *Evaluating Tenant Safety and Reliability*

The arbitrariness and racial bias in how defendants are convicted and sentenced means that these are not helpful measures of whether a person would be a safe and reliable tenant, without an individualized assessment. As the previous section shows, people of color, domestic violence survivors, and people with disabilities can be caught in the criminal justice system at disparate rates, often for minor offenses that are nevertheless considered "violent" by housing providers. Research also shows that some of the crime categories that are singled out for longer bans, such as drug possession—and in fact, most crime categories overall—have no effect on resident safety or negative housing outcomes (such as lease violations or nonpayment of rent). Only a few categories of criminal convictions, including drug distribution, theft, assault, and fraud, have a significant effect on housing outcomes for 2 to 5 years after conviction, after which the conviction no longer matters.<sup>83</sup>

Other research on repeat arrests shows that arrest rates for many crime categories, ranging from drug charges to forgery to even homicides, peak in defendants' teens and early 20s. Arrests tend to slow down in defendants' 20s for property crime arrests, 30s for violent crime arrests, and mid-30s for drug crime arrests.<sup>84</sup> Most re-arrests occur within two years of release from incarceration. It is worth noting, however, that re-arrest rates can only tell us so much because of the racial bias in the justice system described above—being arrested may be a result of race and circumstance rather than misbehavior. Also, the fact that individuals with criminal records have so much difficulty finding housing, as well as employment, means that they are also more likely to be driven into poverty and commit crimes of desperation. But the evidence certainly shows that a large portion of people who have been convicted of crimes in the past, within a few years, are no longer likely to do so again.

This is not to say that individuals with violent crime records or who have just been released from incarceration should be banned from housing at will. While an individual housing provider might consider such a person to be a risk to property and resident safety, as a society, we must recognize that it is inhumane to block individuals even with severe criminal records from housing. People need housing. By making the housing search impossible for individuals with records of crime – even violent crime - whether it was just one mistake or a bad time in their lives, or a long history—we condemn them to the worst living conditions. In terms of public safety, we also do ourselves no favors. Indianapolis has a few agencies working to try to help those who were recently incarcerated. One staff member at a local re-entry organization explained to FHCCI staff, what is more unsafe for a neighbor or community—a person across the street who committed a violent act in the past, and is now unhoused, struggling to keep a job, isolated from friends and family, and doing what they have to do to

<sup>79</sup> Oregon Justice Resource Center. "HerStory Oregon Survey Intimate Partner Violence And Trauma." February 2019. <https://ojrc.info/s/HSS-IPV-and-Trauma-Report-FINAL.pdf>

<sup>80</sup> Elliot Oberholtzer. "Police, courts, jails, and prisons all fail disabled people." *Prison Policy Initiative*, August 23, 2017. <https://www.prisonpolicy.org/blog/2017/08/23/disability/>

<sup>81</sup> Jill Sheridan & Katrina Pross. "An Indianapolis mother called for mental health help. System failures led to her son's death." *WFYI*, March 22, 2023. <https://www.wfyi.org/news/articles/an-indianapolis-man-was-killed-in-police-custody-nearly-one-year-ago-experts-and-advocates-say-it-was-preventable>

<sup>82</sup> Oberholtzer, "Police, courts, jails, and prisons all fail disabled people," 2017.

<sup>83</sup> Cael Warren. "Success in Housing: How Much Does Criminal Background Matter?" *Wilder Research*, January 2019. [https://www.wilder.org/sites/default/files/imports/AEON\\_HousingSuccess\\_CriminalBackground\\_Report\\_1-19.pdf](https://www.wilder.org/sites/default/files/imports/AEON_HousingSuccess_CriminalBackground_Report_1-19.pdf)

<sup>84</sup> Dana Goldstein. "Too Old to Commit Crime?" *Marshall Project*, March 20, 2015. <https://www.themarshallproject.org/2015/03/20/too-old-to-commit-crime>; Bill Keller. "Seven Things to Know About Repeat Offenders." *Marshall Project*, March 9, 2016. <https://www.themarshallproject.org/2016/03/09/seven-things-to-know-about-repeat-offenders>

survive; or such a person living next door, safely housed, able to sustain employment, and keep up with family and social connections?

### *Local Screening Policies on Criminal History*

Nationally, we have seen examples of truly illogical tenant screening policies and actions: For example, a 2018 fair housing lawsuit in Georgia revolved around a 99-year criminal history ban put in place by the housing provider for current and new residents.<sup>85</sup> A separate lawsuit against the screening company CoreLogic alleges that a tenant with disabilities was denied housing because of a shoplifting charge from years before, even though the tenant had since suffered a debilitating accident and would no longer physically be able to repeat such an offense.<sup>86</sup> Locally, the FHCCI has spoken to renters who have been wrongly denied due to arrests (meaning they were not found guilty of anything), expunged convictions, incorrect conviction information, and convictions belonging to other people.

In our review of area policies, many Marion County housing providers have blanket criminal history bans, where renters with felonies are often banned for life or for upwards of a decade. A few housing providers even ban renters with misdemeanors for life. These policies appear to violate HUD-issued guidance applying to both public and private housing providers,<sup>87</sup> in that they deny applicants with criminal histories for years and years, regardless of whether or not the applicant would pose any threat to the property or resident safety, regardless of any efforts at rehabilitation, and for unreasonably long periods of time after the criminal charge occurred.

Some housing providers even ban renters for a period of time after a criminal charge that ended with deferred or withheld adjudication, meaning there was no guilty conviction. FHCCI client experiences tell us that renters are also sometimes banned for arrests that did not result in any type of conviction. This has serious implications for due process in the justice system and the presumption of innocence, when individuals who were not found guilty by a court are still being held guilty by housing providers.

Based on our review, for housing providers who do not have blanket bans, the length of time for which a rental applicant is banned based on their criminal conviction type (also known as a lookback period), can range from one or two years for minor offenses or up to thirty years or lifetime bans for more severe offenses. The way their screening policies are expressed is also extremely varied, resulting in a difficult and time-consuming process to determine the length of a ban for each type of offense for each housing provider. Often, these policies are not identified to prospective tenants on company websites, meaning that the individual has to take the time to interact with the property, losing valuable time in their housing search.

Several major housing providers reviewed by the FHCCI consider time spent in incarceration to be irrelevant. Rather than counting time since the criminal charge, or even when the conviction occurred, they count time since “exit from incarceration.” As our country has grappled with racial inequality in the criminal justice process, more and more reports have shown that racial bias plays a devastating role in whether bail is granted, whether a conviction occurs, and the length of sentence that defendants of different races receive for similar convictions. Research shows that Black and Hispanic defendants are both more likely to be incarcerated and receive longer sentences than white defendants,<sup>88</sup> in part because prosecutors charge Black defendants more often with crimes that are associated with longer sentences.<sup>89</sup>

One major area housing provider reviewed by the FHCCI even counts time in years after completing probation or parole for pending cases, as part of their evaluation for tenancy.<sup>90</sup> This is despite the fact that both incarceration and probation or parole are consequences of the initial criminal charge, not negative behaviors in themselves. Twice as many Indiana residents are on probation and parole, compared to in prisons or jails. To remain on parole or probation, defendants must

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<sup>85</sup> Jan Skutch. “Fair-housing suit settled with Garden City defendants.” *Savannah Morning News*, January 15, 2018.

<https://www.savannahnow.com/story/news/crime/2018/01/15/fair-housing-suit-settled-garden-city-defendants/13842279007/>

<sup>86</sup> Cohen Milstein. “Connecticut Fair Housing Center, et al. v. CoreLogic Rental Property Solutions.” <https://www.cohenmilstein.com/case-study/connecticut-fair-housing-center-et-al-v-corelogic-rental-property-solutions>

<sup>87</sup> U.S. Department of Housing & Urban Development. “HUD Memo on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions,” April 4, 2016. <http://www.fhcci.org/wp-content/uploads/2011/12/HUD-Criminal-History-Memo-4-4-16.pdf>

<sup>88</sup> American Civil Liberties Union. “Racial Disparities in Sentencing.” October 27, 2014.

[https://www.aclu.org/sites/default/files/assets/141027\\_iachr\\_racial\\_disparities\\_aclu\\_submission\\_0.pdf](https://www.aclu.org/sites/default/files/assets/141027_iachr_racial_disparities_aclu_submission_0.pdf)

<sup>89</sup> M. Marit Rehani & Sonja B. Starr. “Racial Disparity in Federal Criminal Sentences.” *Journal of Political Economy*, 122, no. 6: 1320-54 (2014). <https://repository.law.umich.edu/cgi/viewcontent.cgi?article=2413&context=articles>

<sup>90</sup> Redacted Housing Provider I

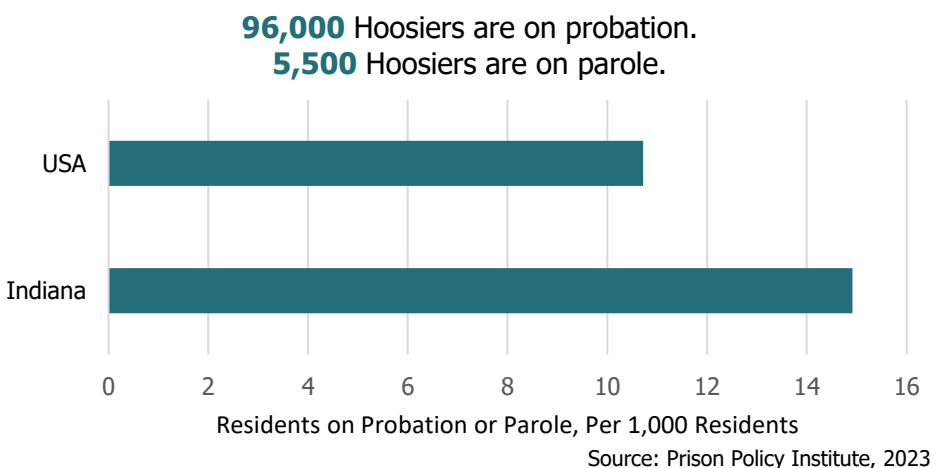


meet onerous requirements, such as maintaining full-time employment, having a consistent residence, and meeting curfews, all of which demand having stable housing.<sup>91</sup>

Many of the reviewed policies by the FHCCI deny applicants with nonviolent felonies for 7 to 10 years. But even the term “nonviolent” is highly subjective in its application. Housing providers frequently list drug possession or distribution convictions as “violent” crimes, with drug manufacturing and distribution often being grouped with murder, arson, sex offenses, and kidnapping—subjecting them to lifetime bans. Felony and even misdemeanor drug possession convictions are often singled out for longer bans. One FHCCI client reported being told by a property manager that his years-old misdemeanors for drug possession and driving under the influence would subject him to a 10-year ban at their property.

### 14 out of 1,000 Indiana Residents are on Probation or Parole

*Indiana has an especially high rate of residents on probation or parole.*



### Other Forms of Tenant Screening Services

In addition to tenant screening based on criminal records, credit score, and eviction, there are also new tenant screening services being used by housing providers to further restrict or place additional requirements on rental applicants.

One type of screening is income verification screening. Income verification services are an alternative to having tenants provide paystubs, instead compelling renters to provide screening companies with access to their bank statements and transactions. This is meant to allow the screening company to see regular payments into the applicant’s bank account, which indicates stable income. However, it makes it difficult to prove employment or stable income if the renter is a freelancer, gig worker, or otherwise receives income on an irregular basis (i.e. not a consistent amount every two weeks). At least one of these companies, which is used by local housing providers, provides landlords with an income verification screening report, which gives the applicant a “green” or “red” flag, based on the landlord’s criteria<sup>92</sup>—thus discouraging individualized assessment.

In 2022, the Federal Housing Administration announced a new program<sup>93</sup> which allows for inclusion of a first-time homebuyer’s positive rental payment history as an additional factor in their credit assessment for becoming a homeowner and accessing a mortgage. However, even if the tenant provides proof of on-time payments to their mortgage company, the lender must verify with the housing provider. The FHCCI has begun to receive complaints where housing providers are refusing to provide this necessary verification, or taking too long to do so, which is impacting the ability of renters to become homeowners. One such recent example is a large national housing provider<sup>94</sup> who informed an area resident that it was their policy to not conduct rent verification. The result was the applicant losing out on being approved for a needed downpayment assistance program.

There are also screening services that evaluate not applicants themselves, but their pets and/or supportive animals for people with disabilities. These services claim to help housing providers determine how much of a risk each individual animal poses to the property. Based on this evaluation, applicants could be required to pay different amounts of pet fees or pet rent. The screening company requires rental applicants to submit information about the animal’s breed, vaccinations, medical and behavioral history, and photos, and provides landlords with a risk score for the animal. The other purpose of these screening services for animals is to root out landlords’ suspicions that renters might be making false requests for accommodations for assistance or service animals related to a disability or impairment, which would exempt them from pet

<sup>91</sup> Whitney Downard. “Probation, parole an overlooked population of the criminal justice system.” *Indiana Capital Chronicle*, May 10, 2023. <https://indianacapitalchronicle.com/2023/05/10/probation-parole-an-overlooked-population-of-the-criminal-justice-system/>

<sup>92</sup> Redacted Tenant Screening Company F

<sup>93</sup> U.S. Department of Housing & Urban Development. “Federal Housing Administration Expands Access to Homeownership for First-Time Homebuyers Who Have Positive Rental History.” September 27, 2022. [https://www.hud.gov/press/press\\_releases\\_media\\_advisories/HUD\\_No\\_22\\_187](https://www.hud.gov/press/press_releases_media_advisories/HUD_No_22_187)

<sup>94</sup> Redacted Housing Provider J



fees or pet rent. However, the services accomplish this by requiring applicants, particularly those with assistance animals, to submit documentation that appears to be more onerous than fair housing law requires, placing a burden on renters with disabilities and which may result in their exclusion from housing or the loss of a needed accommodation.

Security deposit “insurance” is another service offered to housing providers by companies that screen tenants. These services, which are increasingly popular in Indianapolis, evaluate rental applicants for their “risk” of not paying rent or of damaging their property, based on some proprietary algorithm, and customizes an amount of security deposit insurance that the renter would pay every month, in place of the larger security deposit that the renter would typically pay during move-in. This is advertised to renters as a major reduction in move-in costs, but that does not take into consideration that the monthly security deposit insurance fee is non-refundable, unlike the regular security deposit, meaning that the renter could be spending hundreds of dollars over the course of their tenancy that they would never get back. Of course, despite Indiana law, renters sometimes do not get their full security deposit back in a timely manner, regardless of the condition of their apartment, so this may seem like a fair trade-off to some. However, this system of security deposit insurance can confuse or even mislead renters, because it is not the same as renters’ insurance, which would cover major damage to property; security deposit insurance only covers small amounts.<sup>95</sup>

**One screening service for animals promises to “boost opportunities for pet revenue.”**

**A security deposit insurance company advertises to customers that they will “never have to deal with deposit refunds ever again.”**

The bottom line for housing providers who use these additional tenant screening services is time and money—but money is a big one. One screening service for pets promises to “boost opportunities for pet revenue” while a security deposit insurance company advertises to landlord customers that they will “never have to deal with deposit refunds ever again.”

In addition to the tenant screening policies which involve third-party companies, housing providers often have screening criteria that makes it incredibly difficult for a low-income individual to pass muster. Numerous housing providers in Marion County ask for tenants to have income that is 3 or even 3.5 times the monthly rent. Some even specify that renters must have “permanent income” or “W-2 income,” cutting out renters who work in gig or nontraditional employment (as many low-income renters often do). Some area providers refuse to allow for payment of rent from SSDI or SSI or to use that income in qualifying for rental disproportionately impacting those with disabilities or who are older.

Numerous housing providers reviewed also require that the renter provide their social security number, which impacts renters based on national origin; because many immigrants, both documented and undocumented, do not have social security numbers, or may not have them right away. These housing providers often do not make it clear if or how applicants could provide alternative documentation to prove their income or identity.

Some housing providers in Indiana are asking for even more invasive information, which opens the door to discrimination. One of these practices is asking for a photo of the individual’s photo ID and a separate photo of the individual’s face, in order to even tour the housing unit<sup>96</sup>—which tells the housing provider what the applicant’s race, gender, other demographic info is from the get-go. Although landlord safety is a true concern, too often discrimination plays a much powerful role. Another practice is requiring applicants to submit to a walk-through of their current home by the property manager of the housing they are applying for.<sup>97</sup> This is not only incredibly burdensome and invasive, it opens up opportunity for discrimination as the property manager gets to view a whole host of personal information about the renter that they have no business needing to know.

For every new piece of information that housing providers require and collect, there is a new opportunity for simple errors and inaccuracies to deny qualified applicants for rental housing. For example, in the case of the housing provider who asked for photos of the applicant’s ID and face, applicants were required to take these images via a link on a website, which would then use facial recognition to match the two images. On one of the FHCCI’s fair housing tests, invariably, one out of the two testers who went through this process were incorrectly flagged as not having an accurate match.

<sup>95</sup> National Housing Law Project. “Regarding Security Deposit Replacement Products.” January 5, 2022. <https://www.nhlp.org/wp-content/uploads/2023.01.05-Regarding-Security-Deposit-Replacement-Products.pdf>

<sup>96</sup> Redacted Tenant Screening Company A

<sup>97</sup> Redacted Housing Provider K

## Tenant Screening is Not a Pass for Fair Housing Responsibility

Tenant screening companies claim that searching through an applicant's record for their credit scores, eviction history, criminal convictions, and more provides an unbiased judgment about their qualification as a tenant. They even claim explicitly that this will help housing providers avoid violations of fair housing law, with one stating that their tenant scoring system is based on "past behavior, NOT demographic data".<sup>98</sup> But as the previous sections outlined, for many renters what the data really captures is past circumstances and historical structures of inequality, which are inextricable from a tenant's demographic profile, including race, national origin, gender, and disability status.

As we described at the beginning of the report, tenant screening companies often provide housing providers with incorrect information. This problem too is heightened for renters who are Black, female, have a disability, and/or are a domestic violence survivor, because screening mistakes often arise from a minor, non-disqualifying incident that is misconstrued into a disqualifying problem. On a tenant screening report, a small run-in with the law that gets dismissed can become a felony; a day-late rent payment can become an eviction; an illness or injury resulting in medical debt can become a ding on your credit score. The more likely you are to have a minor background issue, as people in these protected classes are, the more likely it is that the issue will get blown out of proportion on a screening report.

Housing providers who rely on tenant screening reports are not off the hook, either. Housing providers are responsible if they depend solely on data-driven tenant screening reports, which have inherent biases, or if they choose to deviate from the screening tools in ways that are discriminatory (such as making policy exceptions to some types of renters but not others). But housing providers are also responsible for how they set up tenant screening services, including for what negative events they exclude applicants and how long ago. Just as important, housing providers are responsible for how they interact with applicants, from how they advertise housing opportunities to how they treat applicants in person.

### The Ever-Increasing Fees and Costs to Obtain New Housing

Application fees are one of the most significant barriers to finding housing for individuals with negative tenant screening records. An audit of fair housing tests conducted by the FHCCI in the past year revealed that fees due at the time of application vary widely across housing providers. The average fee is around \$50 per adult in the household. Some housing providers, however, charge application fees as high as \$100. Some also require an administrative fee to be paid at the time of application, to the tune of \$100 to \$200. This can add up to hundreds of dollars for a single application, especially for households with more than one adult. In our testing, a few housing providers have verbally offered to refund some part of the fee if an applicant is denied, but that is far from the norm.

National research shows that renters of color and LGBTQ+ renters are more likely to pay an application fee, and more likely to pay a higher fee, compared to white renters and heterosexual cisgender renters. Renters of color are also more likely to pay a security deposit, one that is more expensive.<sup>99</sup>

#### The Cost of Entry

*FHCCI clients and testers encounter heightened costs to apply to a rental housing unit, receive a screening decision, and then move in.*

#### Application Fees, due at application

**\$25 – \$100 per adult**

#### Administrative Fees, due at application

**\$50 – \$200**

#### Holding Fees, due at time of application, usually refunded if applicant is denied.

**\$50 – \$300, or  
Half month's rent**

#### Security Deposits, due after approval

**\$100 – \$1600, or  
Half – three month's rent, or  
Varies depending on  
screening**

#### Pet Fees and Rent, due after approval

**\$150 – \$350, and/or  
\$15 – \$60 per month**

#### Other Fees, generally due after approval

- + Monthly admin fee: 1% monthly rent
- + Document preparation fee: \$50 – \$100
- + Credit reporting fee
- + Liability insurance fee: \$13/month
- + Pest control fee
- + Redecoration fee \$200
- + Lease administration fee: \$125
- + Credit/debit card payment fee: \$35 – \$100

Source: FHCCI audit of tests, 2023

<sup>98</sup> Redacted Tenant Screening Company C

<sup>99</sup> Garcia, Manny. "Renters: Results from the Zillow Consumer Housing Trends Report 2022." *Zillow*, July 27, 2022. <https://www.zillow.com/research/renters-consumer-housing-trends-report-2022-31265/>

Many tenants with negative screening records will apply to multiple housing providers, only to be denied again and again, spending months or years to finally find a home - income they cannot afford to spend. Prospective applicants will spend thousands of dollars on application fees that they never get back. Following a denial, clients rarely receive a clear answer from the housing provider about why they were denied, and even more rarely receive a copy of their tenant screening report. Few receive any reimbursement of their paid fees impacting their ability to apply somewhere else.

If a tenant does manage to find housing, they end up being stuck there due to the prohibitive costs of moving, and the fact that what marks them in tenant screening as a blemish means they are unlikely to find housing anywhere else. In addition to the cost of applying for a unit, including application and administrative fees, renters have to pay increasingly burdensome security deposits—as high as 3 times the first month’s rent. Although their security deposits may be returned, in Indiana, landlords have 45 days after move-out to do so. Money not available to the tenant for a new deposit. Then, there are other costs to move such as document preparation fees, risk mitigation fees, holding fees, move-in fees, credit card payment fees, and more.

More than half of Americans cannot afford to drop \$1,000 in savings on an emergency expense<sup>100</sup>—they certainly cannot afford to pay the costs of moving. This is all on top of the fact that if they resume their housing search, they will be blocked by tenant screening policies, just as before. Being trapped in unlivable or unaffordable housing means renters are vulnerable to violations of their rights, including sexual harassment and uninhabitable living conditions. Without any leverage in the landlord-tenant relationship, the renter has to put up with mistreatment, or face being turned out on the streets.

### **What it Takes to Find Housing with a Blemished Record**

Anyone who attempts to secure rental housing while carrying negative information on their record faces significant barriers. Just by viewing tenant screening policies online, on the website of an apartment complex or other housing provider, many renters with criminal records, past evictions, or low credit scores will see right away that they will be denied based on the criteria. For other renters, the answer is less clear. Even a fairly succinct policy, like “No evictions,” can be ambiguous to an applicant—does this include eviction filings, or just eviction judgments? What about evictions from more than seven years ago (which should not be considered, according to FCRA)? Credit restrictions are often simply described as “unsatisfactory,” “unfavorable,” or “unacceptable,” without elaboration on what credit score range or types of negative credit events would result in denial.

For criminal history, some local housing providers will outline which types of criminal offenses will result in a denial, and for how long after the event occurs. But the categories of crimes that they mention can be overly broad. Several major housing providers use language like crimes related to “weapons, drugs, or violence,” or crimes “that pose a threat” would be denied—this could encompass anything from a single marijuana possession to a recent, lengthy history of assault. Another housing provider laid out an 8-year ban, for “violent felony offenses,” but a single category containing extremely broad offenses of “terroristic threats” and “shoplifting.” Putting even minor offenses in the same category as more serious ones.

Some housing providers choose to be vague, stating that they “may consider” a variety of “convictions of illegal activity,” without elaborating on how they would consider them, or even more vaguely, stating that they require “positive criminal history.” In other cases, the more detailed the screening criteria, the more confusing. One housing provider relayed a confusing set of timelines for bans on various criminal offense categories: 10 years for felonies and 3 for misdemeanors, but also 5 years after incarceration for felonies and 3 for misdemeanors, and 5 years after probation, parole, or deferred or withheld adjudications. An applicant would likely have a hard time figuring out which of these bans would apply to them.

Vague, confusing, or overly prohibitive language in screening criteria may deter renters from even applying, when they may in fact be qualified. But applicants often want clarity on their specific situation, or to explain an extenuating circumstance behind their record. They can contact the housing provider directly, describe their situation, and ask if they would be approved or denied. However, according to the FHCCI’s fair housing testing, as well as staff of a local re-entry organization, almost every time, the prospective renter will be told that they have to apply and see. In our fair housing tests, even testers who clearly indicated that they would not be qualified, according to the housing provider’s published screening criteria, were told that they could not be given an answer without submitting an application. In order to submit an application for new housing, of course, the renter will have to pay the requisite fees.

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<sup>100</sup> Lane Gillespie. “Bankrate’s 2023 annual emergency savings report.” *Bankrate*, February 23, 2023.  
<https://www.bankrate.com/banking/savings/emergency-savings-report/#n3i>

Also, the fact is, many renters will have overlapping reasons for why they may have been denied. Because of racial and economic segregation in our society, the same groups of people who are disproportionately affected by evictions may also have disproportionately lower credit, may be more likely to be criminalized or have been arrested, or have a filed eviction on their record that may or may not have been justified. Therefore, if a person has more than one risk factor for rejection, it can be legitimately difficult to know which if any of these were the reason.

On top of being denied under tenant screening rules, FHCCI clients also face discriminatory behavior by individual housing providers. FHCCI testing finds an alarming number of instances where a Black tester with a criminal record or eviction history is given different information or less favorable treatment, compared to a white tester with a similar background. Staff members at an area re-entry organization on multiple occasions have witnessed property managers directly lying to clients, often Black, who reveal their history, telling the client that they have no units available, but soon afterward, telling a staff member who calls that they have multiple units available. One FHCCI client, who was denied after submitting an application and did manage to get a copy of his screening report, found that the report actually recommended he be “accept[ed] with conditions” but the housing provider still chose to deny him. This same client also had drug charges on his record which should not have appeared because they were expunged after he completed a rehabilitation program.

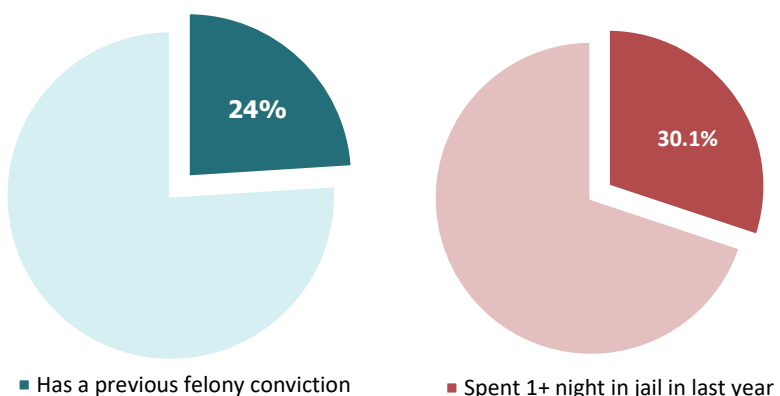
At this point, many applicants will give up on housing providers that use screening services and seek out housing that they know will have few if any restrictive screening standards. These invariably are less available, lower quality, and in lower opportunity areas. Case managers at the re-entry organization report that in the rare instances that their clients do secure housing, it is often housing in the worst condition. These units have serious maintenance issues like pest infestations or broken windows, are overcrowded, in areas that are not safe, and still not affordable to a low-income renter. And they are increasingly rare—since the pandemic especially with low rental vacancy rates, staff at the re-entry organization report that there are no longer large property management companies, even local ones, that accept individuals with significant criminal records. Instead they must find individual landlords who are willing to take them on, a long and difficult process.

During these apartment searches, which can take months, even years, and hundreds of dollars, where do renters stay? FHCCI clients, as well as staff of the local re-entry organization, tell us that often they are unhoused—sleeping on a couch at a friend or family member’s home for a short period of time, staying in a shelter, or living in an encampment outside. Even staying with friends and family can be difficult: some individuals simply do not have anyone who is willing or able to house them, particularly if their loved ones are not allowed to have overnight guests according to their lease or their lease requires long-term guests to be added to the lease—which would mean submitting an application and dealing with tenant screening all over again. When an individual has a criminal background, friends and family members may also be concerned about a recurrence of criminal activity: for example, if the individual relapses into drug usage or trade while under their roof, they themselves could be charged with “maintaining a common nuisance,” which can be a felony.

Some individuals are coming directly out of incarceration and have nowhere to stay. The Department of Corrections has been found to be releasing these individuals directly into homeless shelters.<sup>101</sup> Other individuals may be coming out of drug treatment or other rehabilitation programs, only to find that once their time in the program is up, no one else will take them. Not having stable housing can lead to recidivism and people in these situations being set up to fail. Being unhoused, especially in certain shelters, can be dangerous. Some choose to live on the street instead. Neither condition is suited for finding or maintaining a job, making income that is necessary to apply for an apartment and get out of homelessness. This traps unhoused people in an impossible situation, surrounded on all sides by barriers to stable housing. For this reason, it

### ***Criminal Records as a Risk Factor for Homelessness***

*A large share of individuals experiencing homelessness in Indianapolis report having a felony conviction on their record, or having recently spent a night in jail.*



Source: Public Policy Institute, “Homelessness In Indianapolis: 2020 Marion County Point-in-Time Count,” August 2020

<sup>101</sup> Ryan Martin. “How Indiana’s prison system contributes to homelessness in Indianapolis.” State Affairs, February 14, 2023. <https://stateaffairs.com/indiana/justice-civil-rights/how-indianas-prison-system-contributes-to-homelessness-in-indianapolis/>



is unsurprising that 24% of unhoused adults, in a 2020 point-in-time survey in Marion County, reported having a felony conviction, and 30% had spent a night in jail in the past year.<sup>102</sup> Having a criminal record, especially a felony record, both introduces and keeps individuals in homelessness. At the same time, nationally, 10% to 15% of currently incarcerated people were unhoused in the year prior to their incarceration. Being unhoused is a risk factor for being arrested on the numerous criminal charges—trespassing, panhandling, sleeping in public spaces—that criminalize homelessness. This is often called the “revolving door” of incarceration and homelessness.<sup>103</sup>

Housing providers are well aware of the impossibility of the position they are putting renters under, through tenant screening policies that restrict housing only to those with unblemished records or the ability to pay extra costs. One tenant screening company reviewed by the FHCCI, touting its artificial intelligence system, laid it out in the barest of terms: “Some people prioritize their rent payment ahead of their other expenses, and others don’t. A person strapped for a car payment or even food money might feel that having a place to live comes first. This is a renter you want.”<sup>104</sup>

**One screening service, touted its artificial intelligence system: “Some people prioritize their rent payment ahead of their other expenses, and others don’t. A person strapped for a car payment or even food money might feel that having a place to live comes first. This is the renter you want.”**

## Conclusion

Finding a home in Marion County with a negative mark on your record, whether correct or not, is an absolute nightmare—especially for Black residents, immigrants, women, and people with disabilities. Housing in our area is unaffordable and unavailable as it is. Renters in Indiana have few rights and protections leaving them with little recourse, assuming they have the time to pursue it. Without regulations around how housing providers can use tenant screening policies to filter out tenants, and without enforcement of a tenant’s right to a fair and transparent process, thousands and thousands of Marion County residents with low credit scores, eviction history, or criminal records are put at risk of insecure housing, unlivable or discriminatory conditions, and even homelessness. This does not make our communities safer or our neighborhoods more stable.

We need stronger enforcement of existing laws, such as the Fair Credit Reporting Act, to make sure tenants have the right to understand why they have been denied housing, and to make sure they are not denied for reasons that are excluded by law (such as evictions over 7 years old). We also need to make this process easier for tenants, who are already struggling to find housing, and for whom a weeks- or months-long wait to get an approval or reconsideration is simply untenable. In addition, it is imperative that screening services are held accountable for not keeping their data current and have easier mechanisms for correcting errors. Housing providers also need to be held accountable for screening policies that have obvious discriminatory effects. HUD’s guidance on the use of criminal records—which acknowledges racial disparities and recommends that housing providers use an individualized assessment of criminal history—is a promising start. Similar guidance from federal agencies on the use of credit scores, eviction history, and other tenant screening factors like income or residency status would also be important. But guidance without enforcement cannot fully address the problem. Government agencies need to take an active role in identifying and holding accountable housing providers with unfair screening policies.

There is a vast array of policies that local governments could take to mitigate the harm of tenant screening policies: from sealing of eviction records at the time of filing, to making application fees refundable in the case of a denial, to requiring a conditional approval before housing providers can run a background check. In Marion County, and elsewhere in Indiana, municipalities would likely be pre-empted by state law from passing any such policy, so the responsibility falls on our state legislature to take on this important issue. Finally, it is undeniable that when housing is unaffordable and unavailable, when landlords have the upper hand, with plenty of applications for just a few vacant units, discriminatory policies and actions can thrive. A comprehensive approach to addressing housing insecurity and homelessness in our community means tackling problems like affordability and tenant screening, hand in hand, to ensure that all our neighbors have access to a safe, affordable, accessible home, free from discrimination.

<sup>102</sup> Public Policy Institute: Center for Research on Inclusion & Social Policy. “Homelessness In Indianapolis 2020 Marion County Point-in-Time Count.” August 2020. <https://policyinstitute.iu.edu/doc/pit-count-2020-brief.pdf>

<sup>103</sup> Lucius Couloute. “Nowhere to Go: Homelessness among formerly incarcerated people.” *Prison Policy Initiative*, August 2018. <https://www.prisonpolicy.org/reports/housing.html>

<sup>104</sup> Redacted Tenant Screening Company C



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## *No Way Home: Tenant Screening Barriers to Housing*



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