



# #FightforHousingJustice: How HUD's Proposed Disparate Impact Rule Jeopardizes Fair Chance Housing for People with Arrest and Conviction Records

On August 19, 2019, the U.S. Department of Housing and Urban Development (HUD) published a [proposal](#) that will make it easier for landlords to discriminate, and harder for tenants and advocates to prove discrimination. The proposed HUD rule will undermine efforts to give people with arrest and conviction records a fair chance at the housing they need to leave the criminal legal system behind them.

Due to vast, systemic inequities in the criminal legal system – something that HUD itself has previously recognized – housing policies that exclude persons with arrests or convictions can raise fair housing concerns, even if those policies appear to apply to everyone in the same way. As **many as 100 million people in the United States** have a criminal record, and a disproportionate number of people who interact with the criminal legal system are members of groups protected by the Fair Housing Act, such as people of color and people with disabilities.

HUD is trying to make it much harder (if not impossible) for people experiencing housing discrimination to use the legal theory of disparate impact to challenge housing policies that do not explicitly discriminate against protected classes, but that unjustifiably harm some groups more than others.

Disparate impact theory under the Fair Housing Act is crucial to ensuring that everyone has a fair chance at housing and a fair chance to show that they are more than their arrest or conviction record.

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## What should I know?

Despite progress made to expand housing opportunities since the passage of the federal Fair Housing Act in 1968, housing discrimination is still very real across the country. For decades, disparate impact has been used to challenge discriminatory housing policies.

Disparate impact theory can help protect applicants and tenants from policies that deny housing on the basis of:



- A person's arrest record, particularly where the arrest did not lead to a conviction and where the arrest is not supported by corroborating evidence that shows wrongdoing



- Blanket bans against anyone with a prior conviction, even if the prior conviction is very old, minor, or tangential to the question of whether that person would make a good tenant



- Arrest and convictions records that arise from the criminalization of homelessness and do not pose a public safety concern

*HUD's proposed disparate impact rule would make it basically impossible for people with arrest and conviction records to challenge these types of housing policies, even if the burden of such policies fall most heavily on members of protected classes, such as people of color and people with disabilities.*

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## What can I do?

**Fight back!** Tell HUD that you oppose this proposed rule by submitting a comment at [www.fightforhousingjustice.org](http://www.fightforhousingjustice.org) by **October 18, 2019**.



For more information, visit [www.fightforhousingjustice.org](http://www.fightforhousingjustice.org) or contact [marieclairetran@povertylaw.org](mailto:marieclairetran@povertylaw.org).