

STAND WITH DIGNITY

NEW ORLEANS WORKERS' CENTER FOR RACIAL JUSTICE
217 N. PRIEUR STREET. NEW ORLEANS, LA 70112

January 18, 2013

VIA EMAIL

Mr. David Gilmore
Administrative Receiver
Housing Authority of New Orleans
4100 Touro Street
New Orleans, LA 70122
DGilmore@HANO.org

Re. Comments on HANO's Criminal Background Policy

Dear Mr. Gilmore,

We the undersigned organizations would like to celebrate your thoughtful preamble noting the role that HANO has played in perpetuating the cycle of incarceration. We applaud your work with Stand with Dignity to address criminalization in our communities and create career ladders for structurally unemployed workers in New Orleans.

As you are considering the change in your policy on criminal backgrounds in employment and housing we believe that you must understand the reality from those who are impacted by your policy. As organizations who have members and clients who will be directly impacted by this policy we submit that the following changes must be made prior to implementation:

Proposed Changes to Bring HANO's policy in Compliance with Community Norms, HUD Recommendations, and Federal Anti-discrimination Law

On certain policy issues identified herein, HANO's policy violates Title VII which limits broadly applied prohibitions on criminal background in employment. In these instances, HANO must either broaden its policies to comply with Title VII or employ different policies relating to housing and employment.

1. The policy should state clearly that criminal history review will be limited to the past three years in both housing and employment.
2. The policy should limit categories of criminal history subjected to a permanent ban in both housing and employment. HUD bans admission to HOUSING ONLY for LIFETIME sex offenders and to persons convicted of manufacturing or producing methamphetamine on the premises of an assisted housing project (see 42 U.S.C. § 1437n(f)(1), 42 U.S.C.A. § 13663; 24 C.F.R. § 5.856). HANO's current policy expands

the permanent bans to housing *and* employment and also uses vague terms “sexual predation, child abuse, and domestic violence” which are not defined to permanently bar applicants for housing and employment.¹

HANO’s housing policy should be limited to those permanent bans required by HUD and should not expand the collateral consequences of convictions.

HANO’s employment policy should not include any permanent bars, which are bad policy and also violate Title VII of the Civil Rights Act.

This is consistent with best practices nationally and with well documented misconduct by the NOPD in making unlawful arrests and specifically overcharging domestic violence including, in some cases, charging both the victim and the perpetrator. This policy would not promote stability and safety.² It is well documented that increased economic stress, including prohibition from housing and employment, increases the likelihood of domestic violence.³

3. The policy should include language prohibiting all applications for employment used by HANO or its contractors from asking about criminal background and shall prohibit this questioning in the interview process.
4. The policy should make clear that HANO and its contractors will only conduct a criminal background check under the following circumstances:
 - a. HANO or its contractors have made a conditional job offer to the applicant;
 - b. the applicant is given an opportunity to provide information on background and rehabilitation to HANO or its contractor;
 - c. if HANO or its contractor decides at that point that the criminal background of the applicant is directly related to the position and precludes the hiring of that person, HANO or its contractors will give a written notice as to the reasoning for not hiring the applicant.
 - d. Upon receipt of notice and reasons, the applicant has the opportunity to appeal that decision to an independent committee including elected HANO residents and representatives with a criminal background from independent stakeholder

¹ In HUD Secretary Shaun Donovan’s June 17, 2011 letter to PHA’s he states that there are “only two explicit bans on occupancy based on criminal activity” and “The Department encourages you to allow ex-offenders to rejoin their families... when appropriate.”

² See Findings by the United States Department of Justice, Civil Rights Division *available at* http://www.justice.gov/crt/about/spl/nopd_letter.pdf.

³ Recently during and after the BP oil disaster there were many news articles pointing to a correlation between increase in domestic violence and financial stress in homes related to that disaster for the fishing communities dependent on the water for income. Removing access to work for people with histories of domestic violence increases crisis in homes which has the opposite effect of this policy’s intent.

http://blog.al.com/live/2011/02/rise_in_domestic_violence_may.html

organizations who have knowledge of the civil and labor rights of persons with criminal backgrounds.

5. The policy should state that only convictions will be considered under the policy. No arrest that fails to result in a conviction will impact an individual's housing or employment.
6. The policy must include a clear anti-discrimination provision including consequences for staff and contractors who violate the policy and an appeals process for applicants.
7. The policy should state that families will not face eviction for the action of one family member. Rather, if the family member is taking action which threatens the health, safety, or right to peaceful enjoyment of the premises by other residents HANO may ban that family member from the premises but should have a clear understanding of how he/she may return to the property in the future.
8. The policy should state that if there are conflicts in the community which appear to be escalating HANO will work with residents and neighbors to find an appropriate resolution before attempting to evict or before violent actions are taken.
9. The policy should also be written to ensure that each housing related provision addresses the need for re-entry plans including adding new individuals to existing leases, as part of a new lease, and allowing new leases. This is critical to ensure family reunification and stability.
10. The policy should specifically include details regarding a strong community consultation process regarding implementation, training and monitoring of these policies including collecting data and making it publicly available to monitor the effectiveness on family stability and safety.

We are excited about the policy which Stand with Dignity proposed to you in October, 2012 and encourage you to enter into a real community dialogue starting with this policy.

Sincerely,