



INDIVIDUALLY WE POWER CHANGE.
TOGETHER WE POWER A MOVEMENT.

October 9th, 2020

Texas Department of Housing and Community Affairs
Attn: Matthew Griego, QAP Public Comment
P.O. Box 13941
Austin, Texas 78711-3941
htc.public-comment@tdhca.state.tx.us

RE: Draft 2021 Chapter 11, Qualified Allocation Plan (QAP)

On behalf of the Texas Council on Family Violence (TCFV), we respectfully submit these comments in response to the Texas Department of Housing and Community Affairs (TDHCA) notice regarding the Draft 2021 Chapter 11, Qualified Allocation Plan (QAP).

TCFV is the Texas statewide coalition of family violence service providers and allied programs working to promote safe and healthy relationships by supporting service providers, facilitating strategic prevention efforts, and creating opportunities for freedom from family violence. TCFV is a membership organization with over 1,300 members comprised of family violence programs, survivors of family violence, businesses and professionals, and other concerned citizens. While promoting safe and healthy relationships, TCFV advocates for the well-being and security of all Texans, including those from historically marginalized populations or who face additional barriers to safety such as poverty, homelessness, and housing instability.

TCFV thanks TDHCA for the opportunity to submit public comment for the Draft 2021 Chapter 11, QAP and for their continued commitment to advancing access to housing and support services for all Texans.

TCFV supports the 84 HHSC-funded Family Violence Shelter and Nonresidential Centers, as well as the 13 Special Nonresidential Projects (SNRPs), providing services to over 71,500 survivors and their children in 2019.¹ Still, our family violence shelters were forced to deny 48% of shelter requests in 2019, solely because they lacked space.² TCFV knows some of these denials are directly tied to an inability for survivors currently in shelter to transition to safe, stable, and affordable housing. Similarly, we know that some requests for shelter are prompted by the lack of availability of safe, affordable housing options and assistance for survivors in their communities. In order to address this challenge, TCFV encourages TDHCA to take into account the experiences and needs of all survivors of family violence and their families. Many of these survivors come from communities of color and/or areas with a longstanding history of poverty. With the knowledge we hold about the roots of systemic racism and its intersections with criminalization, we ask TDHCA to revise its draft rules in order to not inadvertently further perpetuate this historical oppression. Specifically, we must acknowledge and recognize the disproportional rate of people of color and poor people and their communities affected by criminalization, including survivors. TCFV encourages TDHCA to consider the following information and remove

¹ Texas Health and Human Services Commission Family Violence Program. Family Violence Program Statistics. Available upon request.

² Id.

additional barriers of criminal history as it relates to the award and allocation of Housing Tax Credits, specifically concerning the Tenant Selection Criteria (pages 14-15) of the QAP.

In Texas, there are only 29 affordable and available homes per every 100 extremely low-income renter households representing a significant shortage.³ With a scarcity of resources already a factor for all Texans, the knowledge that Black, Indigenous, and Latinx people are routinely negatively impacted by systemic and structural racism in housing, employment, and other systems put these survivors at ever mounting odds faced by communities of color.⁴ This systemic and structural racism leads to people of color being disproportionately represented in low and extremely low income communities where the housing crisis is most acute. Further, we know that being a victim of family violence, due to economic abuse and financial fall out associated with leaving a dangerous situation, has profound and lasting ripple effects on survivors' ability to be economically solvent.⁵

As previously mentioned, we know there is a lack of availability of safe and affordable housing inventory in Texas. We are aware of the barriers communities of color face when accessing in housing, but for TCFV we also know survivors face even more barriers. When lack of affordable housing and systematic racism are coupled with a criminal background the outlook is even more dire. While federal legislation, the Violence Against Women Act (VAWA), includes the prohibition against the denial of admission/assistance, eviction, or subsidy termination of an individual based on his/her status as a survivor,⁶ many survivors have a prior arrest or conviction that is related to the violence committed against them. For example, the abuser may have forced the survivor to commit a crime, the survivor may have been mistakenly arrested during an incident of abuse, or the survivor may have used drugs as a way to cope with the abuse.⁷ Additionally, survivors that have been coerced by abusers to participate in criminal activity or that have been forced to take plea deals for assault charges received due to acts of self-defense face yet another barrier to immediate admission into safe housing.

Survivors face staggering rates of homelessness as well, with over 90% of all survivors interviewed during the [Texas State Plan research project](#), experienced homelessness at least once.⁸ Nearly half more than once and many upwards of 5 times. Further, the same study showed that the number one gap impacting service experience and survivor health and safety was the lack of affordable and safe housing.⁹ High demand for housing results in increased rent amounts, which decreases economic options for survivors weighing decisions to leave their relationships and find alternative options. Survivors who have had previous criminal charges, evictions due to partner's past debts, or undocumented status have even fewer options.¹⁰ In order to end homelessness and provide genuine opportunities to start over, we must lower the barriers to safe and affordable housing for all Texans.

³ Depland, Michael. (March 13, 2020). Texas ranks near last in affordable and available housing for the lowest income renters, new report shows. Retrieved on September 28, 2020, from <https://texashousers.org/2020/03/13/the-gap-2020-texas-last-low-income-renters/>.

⁴ Urban Institute. (2020). Five Charts That Explain the Homelessness-Jail Cycle—and How to Break It. Retrieved on September 28, 2020, from <https://www.urban.org/features/five-charts-explain-homelessness-jail-cycle-and-how-break-it>.

⁵ Shoener, S. and Sussman, E. (August/September 2013). Economic Ripple Effect of IPV. Domestic Violence Report. Retrieved on September 29th, 2020, from https://csaj.org/document-library/Shoener_and_Sussman_2013_-_Economic_Ripple_Effect_of_IPV.pdf.

⁶ National Housing Law Project (2014). Violence Against Women Act (VAWA) 2013 Packet. Retrieved on September 28, 2020, from <http://nhlp.org/files/VAWA-2013-Packet.pdf>.

⁷ National Housing Law Project. (2013). Domestic Violence Survivors with Criminal Records: What You Should Know When Applying for Federally Subsidized Housing. Retrieved on September 28, 2020, from <https://www.nhlp.org/wp-content/uploads/2018/05/3-28-13-Crim-Records-Info-Packet-English.pdf>.

⁸ Wood, L., Backes, B.L., McGiffert, M., Wang, A., Thompson, J. & Wasim, A. (2019). *Texas state plan 2018: Availability of services at Texas family violence programs and assessment of unmet needs of survivors of family violence*. The University of Texas at Austin Steve Hicks School of Social Work, Austin Texas.

⁹ Id.

¹⁰ Id.

Homelessness and the criminal justice system are also deeply intertwined.¹¹ The same Urban Institute research found that people experiencing homelessness are more likely to interact with the justice system because being forced to live outside can all too often lead to citations or arrests for low-level offenses like loitering or sleeping in parks. Further, people currently or previously involved in the justice system, who are often disconnected from supports and face housing and job discrimination, are more likely to experience homelessness.¹² By far the most striking disproportionality can be found among African Americans, who make up 40 percent of the homeless population despite only representing 13 percent of the general population.¹³ Formerly incarcerated people typically return to low-income communities where resources, particularly affordable, accessible housing, are scarce. A criminal record poses an additional barrier to accessing affordable, accessible housing for justice-involved individuals, placing them at risk of housing instability, homelessness, and ultimately recidivism.¹⁴

Supportive housing programs exist, in their essence, to provide assistance to those who face the greatest challenges in accessing housing and maintaining stability. While other government supported programs maintain specific mandates in place, such as requiring criminal and credit checks, supportive housing programs are positioned to serve those that are unable to overcome those specific, often interrelated, barriers. Studies have shown the effectiveness of supportive housing programs' in increasing residential stability¹⁵ amongst formerly incarcerated participants by providing wrap around services that account for all risk-factors potentially returning an individual into the vicious cycle of housing and incarceration.¹⁶ Mandatory minimum denial periods of one, two, or three years, as proposed, may only serve to perpetuate the cycle of homelessness experienced specifically by survivors and make the most vulnerable populations susceptible to the criminal coercive methods often employed by predators and abusers as a means of exploiting these individuals and families with no discernable alternatives to access safety, shelter, and the support necessary to achieve stability and self-sufficiency.

In addition, reasonable time limits on the use of criminal history ensure that the information remains relevant to the tenant screening process. Time limits also comport with federal law, which limits the inquiry to criminal activity that occurred during a "reasonable time" before the screening process takes place.¹⁷ Although HUD has suggested that five years is a reasonable lookback period for serious crimes, some Public Housing Authorities (PHA) are looking back seven, ten, and even twenty years for a wide variety of crimes.¹⁸ TDHCA must eliminate unreasonable lookback periods that deter people with criminal records from applying for housing.¹⁹

¹¹ Urban Institute. (2020). Five Charts That Explain the Homelessness-Jail Cycle—and How to Break It. Retrieved on September 28, 2020, from <https://www.urban.org/features/five-charts-explain-homelessness-jail-cycle-and-how-break-it>.

¹² Id.

¹³ National Alliance to End Homelessness. (January 2020). Racial Inequality. Retrieved on October 5, 2020, from <https://endhomelessness.org/homelessness-in-america/what-causes-homelessness/inequality/>.

¹⁴ National Low Income Housing Coalition. (2020). Housing Access for People with Criminal Records. Retrieved on September 28, 2020, from https://nlihc.org/sites/default/files/AG-2020/6-07_Housing-Access-for-People-with-Criminal-Records.pdf.

¹⁵ Gillespie, S., Batko, S., Five Charts Explain Homelessness Jail Cycle and How to Break It. Retrieved September 18, 2020, from <https://www.urban.org/features/five-charts-explain-homelessness-jail-cycle-and-how-break-it>.

¹⁶ Fontaine, J. (November 2013). Examining Housing as a Pathway to Successful Reentry: A Demonstration Design Process. What Work Collaborative. The Urban Institute.

¹⁷ Tran-Leung, M.C. (February 2015). When Discretion Means Denial: A National Perspective on Criminal Records Barriers to Federally Subsidized Housing. The Shriver Center, Sargent Shriver National Center on Poverty Law. Retrieved on September 28, 2020, from <https://www.povertylaw.org/article/when-discretion-means-denial/>.

¹⁸ Id.

¹⁹ Id.

Under federal law and regulation, there are only two permanent admission bans that include households that contain a person who is required to register as a sex offender for life and when a household member has been convicted of manufacturing methamphetamine on federally assisted property.²⁰ Knowing that Texas is lacking in low-income housing, according to a new study, [The Gap Report](#), from the National Low Income Housing Coalition, we must not continue to create these types of barriers to housing Texans.²¹ With fewer housing and economic alternatives, returning to an abusive partner or homelessness can become the only options.²² In addition, we must do better to recognize the systemic racism Texans face when attempting to access affordable housing options. In order to create a better Texas, we have to stand together to knock down barriers to safety and stability. If we want to create a safer and healthier Texas, we must create opportunities for individuals with criminal histories to have a real second chance. When we begin to re-envision a new system that fits the needs of all Texans, we begin working toward eliminating the systemic racism that has permeated housing assistance since its inception.

All too often a survivor's life is lived at the margin. The margin where safety can be found in an abusive home. The margin where a day or little money separates them from a home or homelessness. The margins of being from a community of color seeking to access housing from systems built upon structural racism. A survivor whose partner was friends with law enforcement, and they were pushed into the margins with an unjust criminal history. To support these survivors, or a survivor who faces all of these barriers, TCFV urges TDHCA to take into consideration the comments presented and strike the proposed changes to the Draft 2021 Chapter 11, QAP, specifically the changes below as it relates to the award and allocation of Housing Tax Credits concerning the Supportive Housing definition and Tenant Selection Criteria on pages 15:

- (-b-) Temporary denial for a minimum of three years based on criminal history at application or recertification of any felony conviction for discharge/display or firearm or illegal/deadly weapon, armed offense, stalking, obstruction or retaliation, violation of a protective order, or similar offense involving harm to others;
- (-c-) Temporary denial for a minimum of two years for non-violent felonies; and
- (-d-) Temporary denial for a minimum of one year for Class A misdemeanors.

In addition, TCFV also encourages TDHCA to reconsider the proposed changes related to the criminal screening criteria, Section II (listed below), on page 15, specifically the types of letters of recommendation and the length of time to consider for felony crimes. First, TCFV strongly urges TDHCA to deliberately include and list a family violence advocate or an advocate who assisted the survivor as one of the available options to write and submit a letter of recommendation as one of the provisions for mitigation of temporary denials. Second, TCFV recommends eliminating the lookback period for felony crimes listed below (conviction is more than 20 years old or no additional felony convictions within the last 20 years) altogether or at a minimum adopting HUDs suggested lookback period of 5 years for serious crimes, as it conflicts with HUDs best practice and is another example of an unnecessary barrier.

²⁰ National Low Income Housing Coalition. (2020). Housing Access for People with Criminal Records. Retrieved on September 28, 2020, from https://nlihc.org/sites/default/files/AG-2020/6-07_Housing-Access-for-People-with-Criminal-Records.pdf.

²¹ Houston Public Media. (March 15, 2019). Texas Has 'Significant Shortages' Of Low-Income Rentals, Study Finds Retrieved on October 5, 2020, from <https://www.houstonpublicmedia.org/articles/news/2019/03/15/325402/texas-has-significant-shortages-of-low-income-rentals-study-finds/>.

²² Id.

(II) The criminal screening criteria may include provisions for mitigation of temporary denials including documented drug/alcohol treatment, participation in case management, letters of recommendation from mental health professionals, employers, case managers, or others with personal knowledge of the tenant. The criteria may include provision for individual review of permanent denials if the conviction is more than 20 years old and the prospective resident has no additional felony convictions in the last 20 years.

In summary, Texas must continue to create opportunities and access for survivors of family violence to safe and affordable housing options, because we know that housing and economic stability leads to increased safety for survivors and their children. The proposed Tenant Selection Criteria changes would potentially exclude Texas' most marginalized and vulnerable, including survivors of family violence and their families, from a life free of violence, safety, and affordable housing.

TCFV also sincerely thanks TDHCA for the time and care evident in the draft QAP and looks forward to their consideration of these comments and ongoing partnership with the Department on creating safe housing solutions for all Texans.

Sincerely,

A handwritten signature in cursive script that reads "Gloria Aguilera Terry".

Gloria Aguilera Terry
Chief Executive Officer