

# Expanding Housing Access for People with Conviction Histories in Oklahoma: Methodology and Limitations

Vera estimates that at least 233,000 adults and 77,000 children in Oklahoma who are otherwise eligible for federally assisted affordable housing are potentially rendered ineligible due to discretionary policies by public housing authorities (PHAs) in the state that exclude people with a conviction history. Vera also estimates that at least 152,000 adults and 50,000 children in Oklahoma are potentially ineligible for residence in developments supported by low-income housing tax credits (LIHTC) due to developer policies. This methodological appendix to Vera’s factsheet provides additional detail on the assumptions and calculations by which Vera’s researchers came to these estimates, as well as the limitations of their process.

## Methodology overview

Vera researchers needed to understand PHA and developer policies around eligibility criteria for people with a conviction history; the number of people who had a conviction history of the type, timing, and location that could lead to their exclusion under these policies; and, of those adults, how many would have otherwise been income-eligible for public housing. To estimate how many adults are ineligible for public and low-income housing due to discretionary policies around conviction histories, Vera researchers considered the following:

1. public housing authorities’ and developers’ discretionary policies around the eligibility of people with convictions—including criteria relating to the timing of the conviction relative to application and the type of the conviction (violent, drug-related, or other);
2. the number of adult Oklahomans living in the community with a conviction by the year, county, severity, and type of conviction;
3. the estimated incomes of people with a conviction—with and without a custodial sentence—and the time elapsed since their conviction or release from incarceration; and
4. the number of adults in Oklahoma who were excluded from federally assisted affordable housing due to federal mandates rather than PHA discretionary policies.

Vera drew upon six main data sources:

1. public housing authority and developer policies establishing eligibility criteria for people with conviction histories;
2. county-level income eligibility thresholds for public housing and low-income units supported through LIHTC for 2022 from the Department of Housing and Urban Development (HUD);
3. publicly available, individual-level data on people with one or more state conviction in Oklahoma;
4. aggregate data on jail admissions, discounted to serve as a proxy for misdemeanor convictions;
5. aggregate data on people with federal convictions and prison releases; and
6. the Oklahoma sex offender registry.<sup>1</sup>

As the exact data required to make a *calculation* was not available, Vera instead performed an *estimate* using existing data and several simplifying assumptions, detailed in the sections below. These assumptions are grounded in research on housing policy, impoverishment, and the criminal legal system. Whenever possible, the researchers made assumptions to promote a conservative estimate, allowing Vera to say that these estimates represent the minimum number of people potentially excluded from federally assisted affordable housing due to their conviction history.

The figures in the appendix illustrate how Vera made these estimates using the simplified assumptions detailed below.

### **Public Housing Authority and developer policies on lookback periods for different types of conviction**

There are 101 public housing authorities across 77 counties in Oklahoma. Vera attempted to contact each of these PHAs to obtain Admissions and Continued Occupancy Plans (ACOPs) and/or Administrative Plans. Vera was able to obtain 32 written policies, either from websites, over email, or through postal mail. In addition, several PHAs did not have publicly available ACOPs or Admin Plans and lacked the capacity to send them to Vera; these PHAs provided Vera with verbal descriptions of policies over the telephone. A few PHAs were unclear on rules governing the release of their public policies or were unwilling to collaborate with Vera. For these PHAs, the researchers adopted a strategy common to Fair Housing Centers in which two Vera staff members assumed the role of a friend of an adult with a conviction history in need of housing and requested information about eligibility criteria for people with a conviction history. In total, Vera researchers obtained 24 verbal descriptions of policies. With 77 counties and 101 PHAs, multiple counties in Oklahoma have more than one PHA. Due to the nature of conviction data, which is not available at a geographic level more granular than the county level, Vera had to select a policy to apply to the entire county. In most counties, policies between PHAs agreed, sometimes using the same language. In cases where there was a potential conflict, Vera selected a written policy over a verbal policy, or if the policies were provided in the same format (both verbal or both written), Vera selected the less restrictive policy to keep the estimate of people excluded due to their conviction history to a minimum. Several PHAs had policies that did not specify a lookback period or the types of convictions that could make an applicant ineligible. Vera considered PHAs with policies that were so open to a range of interpretations as equivalent to having no policy. For PHAs with vague policies, and for those PHAs with policies that the researchers were unable to obtain, Vera assumed that those PHAs were following guidance from HUD issued in 2015, which was to limit lookback periods to five years and to consider only serious convictions—such as felony convictions for violent and drug-related offenses.<sup>2</sup>

Tenant Selection Plans submitted by developers applying for LIHTC proved much more challenging to obtain; Vera was able to obtain only two, which serve as examples of more and less restrictive eligibility criteria and tenant screening policies. Given the limited availability of developer policies and the unavailability of national guidance (as there is for public housing authorities), Vera selected the Tenant Selection Plan with less restrictive eligibility criteria and applied it to the whole state to provide a more conservative estimate of the number of people rendered ineligible due to their conviction histories.

Multiple PHAs had policies that exclude people for prior evictions related to criminal activity, patterns of arrest, or other evidence indicative of alleged criminal activities. As data on arrests and on evictions that result from criminal activity is challenging to obtain and open to interpretation, Vera chose to use only data on convictions. As with other choices, the researchers made this decision in order to promote a conservative estimate.

### **Income eligibility thresholds**

Federally assisted affordable housing is available to individual people and households with incomes lower than certain thresholds. In Vera's estimates of people potentially excluded from federally assisted affordable housing due to their conviction history, Vera only included people who were likely to be below these income eligibility thresholds and therefore otherwise eligible for housing. For this analysis, the researchers used county-level area median incomes (AMIs), low-income thresholds for public housing, and Multifamily Tax Subsidy Income Limits for 2022.<sup>3</sup>

Research from the Brennan Center for Justice and the Brookings Institute describes incomes of people in the years following an incarceration or conviction, using data from the National Longitudinal Survey of Youth, 1997 (NLSY97).<sup>4</sup> These institutions describe average income trajectories for these justice-involved populations in terms of time from the last contact with the criminal legal system, with incomes lowest immediately following release from incarceration or conviction and somewhat increasing with the distance from that last contact. Vera used this research to estimate the proportion of people with a conviction who are likely to be below the income threshold for various forms of federally assisted public housing in their county based on their distance from release or conviction. However, as the NLSY97 survey collects incomes for people with a conviction history as a categorical variable, Vera made the simplifying assumption that income followed a stepwise function with a uniform distribution within each income category.

Income thresholds for public housing increase with household size, but in a non-linear way. Vera assumed that people with a conviction history would be living by themselves in public housing, were they to have their eligibility restored. While people with a conviction may live with family members in public housing, were they to be admitted, Vera had no basis for estimating or making assumptions about the number of other potential household members or their incomes.

### **State felony convictions**

The Oklahoma Department of Corrections (ODOC) publishes and regularly updates online data on each person who has ever been in contact with ODOC. This data includes the date, county, statute code, and short description of each conviction; sentence information (whether custodial or not and length of sentence); and whether the individual person is currently incarcerated, on probation or parole, or no longer under any ODOC supervision or custody. For Vera's analyses, the researchers used a dataset downloaded on November 3, 2022. Vera classified each person in this dataset as being eligible or not for housing in their county of residence according to the eligibility rules of the PHA of their county of residence through a review of the timing, type (violent, drug-related, or other),

and severity (felony or misdemeanor) of each of their convictions. To assign an eligibility status to each person, Vera made three assumptions. First, Vera assumed that people under community supervision were living in the county where their community supervision office was located. For people living in the community but not under community supervision, Vera assumed they were living in the county of their most recent conviction. Second, when the violation of a statute could result in either a misdemeanor or felony conviction depending on the details of the case (for example, such as the value of stolen property), Vera assumed the conviction was for a misdemeanor. This was done to promote a conservative estimate of people potentially excluded from housing, as fewer PHA policies exclude people convicted of misdemeanors. Finally, there were over 20,000 people in this dataset who did not have a year attached to any conviction. Given the importance of time since conviction to most PHA and developer policies around background checks, researchers were unable to accurately assign an eligibility status to these people. In order to avoid overestimating the impact of exclusionary policies, Vera assumed all these people were eligible for public housing.

### **Misdemeanor convictions**

Although data on state felony convictions is centralized in Oklahoma, the same is not true of misdemeanor convictions. In the absence of individual-level data on misdemeanor convictions, Vera used county-level aggregate statistics on the numbers of jail admissions. This data is available from Vera's Incarceration Trends project, which compiles and manages data from the Bureau of Justice Statistics Annual Survey of Jails, Census of Jails, and Mortality in Correctional Institutions.<sup>5</sup>

Because misdemeanors often do not carry a custodial sentence or have a sentence of time served, and because jail admissions may not result in a conviction, these admissions serve as a floor for all misdemeanor convictions. First, Vera scaled down county-level counts of jail admissions to convictions using estimates of dismissed misdemeanor cases from the Brennan Center for Justice.<sup>6</sup> Second, as a person may have more than one misdemeanor conviction within a single year (intra-year recidivism) or may have multiple convictions across years (inter-year recidivism), counting *convictions* would overestimate the number of *individual people* potentially ineligible for housing due to a conviction within the lookback period. Vera also scaled down county-level counts of convictions to individuals by using estimates of intra-year and inter-year recidivism from the same research by the Brennan Center for Justice.<sup>7</sup>

Several PHA policies rendered ineligible people under community supervision. Although the ODOC's data lists whether someone was on probation or parole as of the data-download date, there is no similar data source for misdemeanor probation sentences per county. Without a basis for estimating a count, Vera assumed there were no people on probation as a sentence for a misdemeanor conviction to avoid overestimating the number of people potentially ineligible for federally assisted affordable housing in Oklahoma.

### **Federal convictions and releases**

To estimate the number of people convicted of a federal offense of a type, timing, and location that could make them ineligible for public housing, Vera needed to identify the number of people in Oklahoma who had federal convictions and how many of those people were no longer incarcerated. Vera used state-level aggregate data on convictions from the Bureau of Justice Statistics (BJS) Federal Criminal Case Processing Statistics and state-level aggregate data on releases from the Federal Bureau of Prisons.<sup>8</sup> Vera assumed that the county-level distribution of federal convictions and releases and the distribution of convictions and releases by the type of conviction (violent, drug-related, or neither) followed the same pattern as state cases.

## **People excluded from public and low-income housing due to federal mandates**

There are two types of convictions that make people ineligible for public housing due to federal mandates: convictions that require people to register as a sex offender for their lifetime and convictions for manufacturing methamphetamine in federally subsidized housing. Vera downloaded lists of people with lifetime registration requirements from the Oklahoma sex offender registry on the same date the researchers downloaded the ODOC data, November 3, 2022, and excluded those people from the estimates.

The publicly available data from ODOC allowed Vera to identify people who had been convicted of manufacturing methamphetamine, but not the location of the manufacture. To minimize Vera's estimate of people excluded due to PHA discretionary policies and whose access would be potentially restored by changes to state law, Vera assumed that all convictions for methamphetamine manufacture resulted from incidents in federally subsidized housing.

## **The number of children potentially affected**

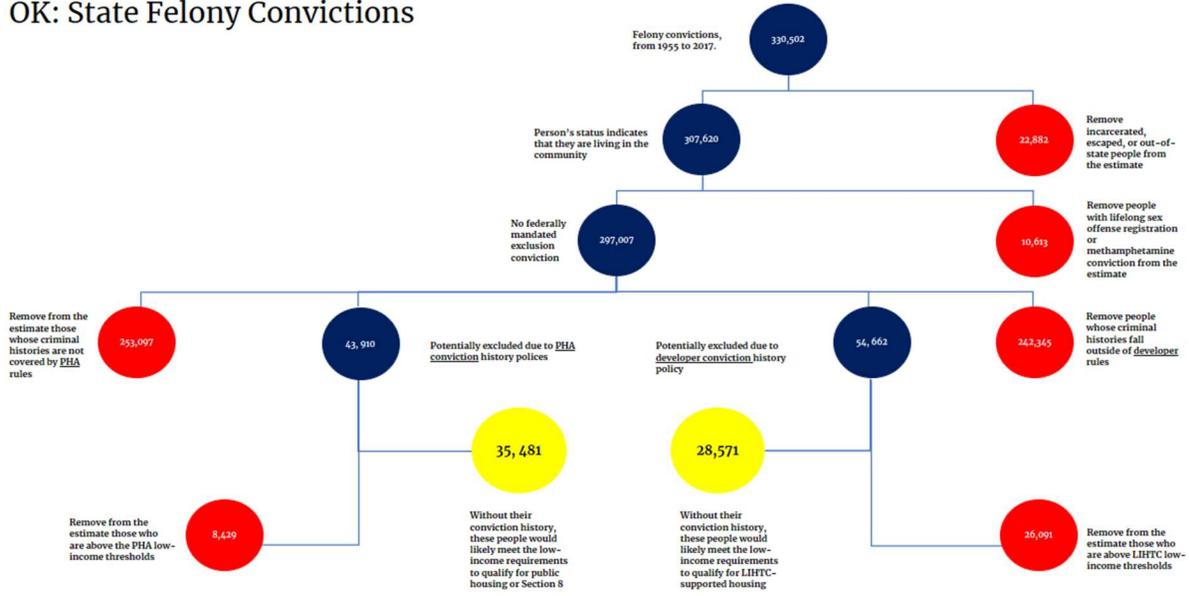
Children of one or more parents excluded from public housing may be affected in two different ways. First, if the family stays together, parental exclusion results in exclusion for the child or children. Second, a parent may end up living elsewhere from the rest of the family so that the family may gain access to public housing, resulting in family separation.

The Center for American Progress (CAP) conducted an analysis of the number of minor children of a parent with a conviction—including those who have and have not served custodial sentences.<sup>9</sup> CAP estimated that the 100 million American adults with a conviction history are parents to between 33 and 36.4 million children, for a ratio of about three adults with a conviction to every minor child with one or more parents with a conviction. Assuming that this ratio holds for Oklahoma, this would lead to approximately 78,000 children for 234,000 parents potentially affected by PHA discretionary policies.

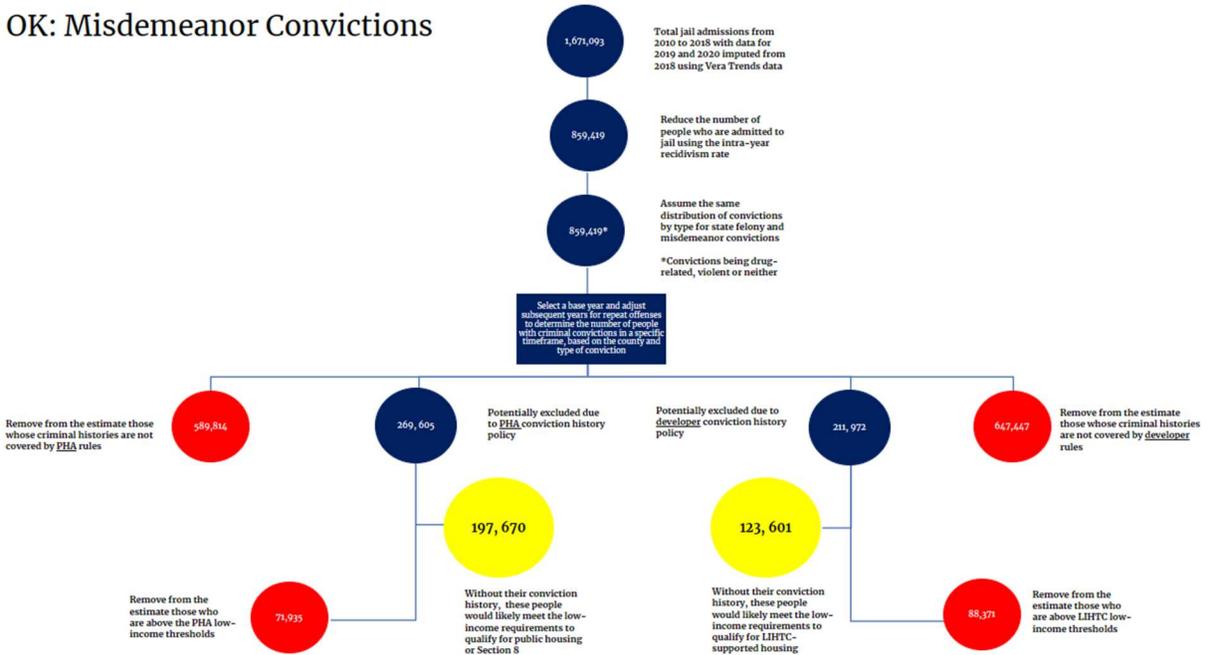
Vera believes that this estimate may be the minimum number of children affected by PHA and developer discretionary policies—either through being excluded from public housing or being separated from a parent. Vera believes this for two reasons. First, CAP's methodology indicates that their estimate is itself a minimum. Second, Vera's analysis of ODOC data indicates that people with a recent conviction (i.e., one that is more likely to be within a PHA or developer's lookback period) are more likely to be younger and therefore more likely to be a parent of a minor child compared to people with convictions outside a lookback period. This suggests that adults who are potentially ineligible for public housing may be more likely to be parents of minor children than people whose convictions do not lead to ineligibility due to the age of those convictions. This indicates that Vera's estimates of children affected by these policies is likely a conservative or minimum estimate.

# Appendix

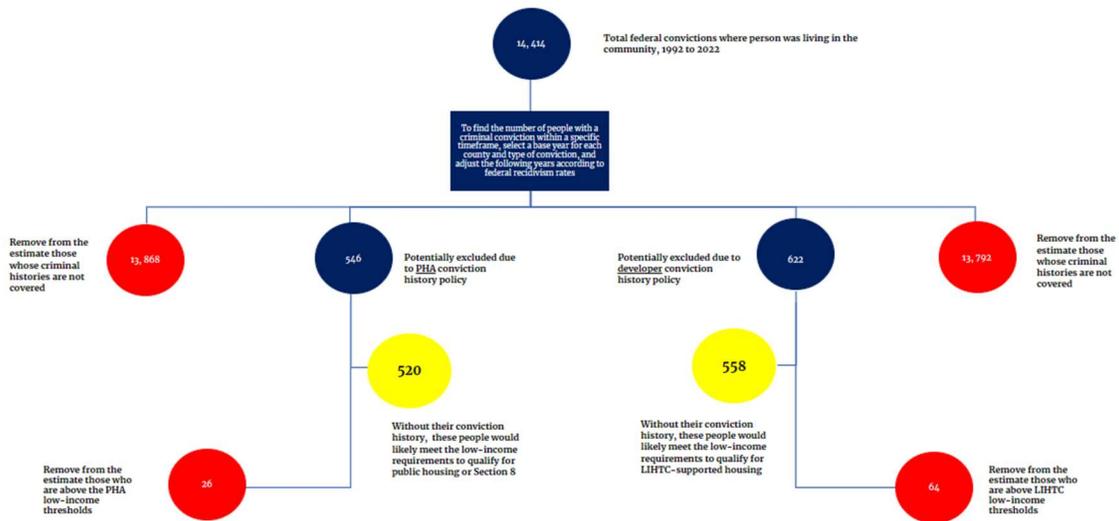
## OK: State Felony Convictions



## OK: Misdemeanor Convictions



## OK: Federal Felony Convictions



## Endnotes

- <sup>1</sup> U.S. Department of Housing and Urban Development (HUD), “Income Limits,” 2022, <https://www.huduser.gov/portal/datasets/il.html>; and HUD, “Multifamily Tax Subsidy Income Limits,” 2022, <https://www.huduser.gov/portal/datasets/mtsp.html>.
- <sup>2</sup> Helen R. Kanovsky, *Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions* (Washington, DC: U.S. Department of Housing and Urban Development, 2016), [perma.cc/Z3MC-SNGA](https://www.huduser.gov/portal/datasets/mtsp.html).
- <sup>3</sup> HUD, “Income Limits,” 2022; and HUD, “Multifamily Tax Subsidy Income Limits,” 2022.
- <sup>4</sup> Terry-Ann Craigie, Ames Grawert, and Cameron Kimble, et al., *Conviction, Imprisonment, and Lost Earnings: How Involvement with the Criminal Justice System Deepens Inequality* (New York: Brennan Center for Justice at NYU Law, 2020), [perma.cc/B3N6-9BB9](https://www.brennancenter.org/conviction-imprisonment-and-lost-earnings); Adam Looney and Nicholas Turner, *Work and Opportunity Before and After Incarceration* (Washington, DC: Brookings Institution, 2018), [perma.cc/69XP-VHZL](https://www.brookings.edu/research/work-and-opportunity-before-and-after-incarceration/); and, National Longitudinal Survey Program, “National Longitudinal Survey of Youth 1997,” Bureau of Labor Statistics, [perma.cc/GJN6-KD9G](https://www.bls.gov/nls/youth/).
- <sup>5</sup> Vera Institute of Justice, “Incarceration Trends,” 2022, [perma.cc/GLM3-TAGY](https://www.verainstituteofjustice.org/incarceration-trends/).
- <sup>6</sup> Craigie et al., *Conviction, Imprisonment, and Lost Earnings*, 2020.
- <sup>7</sup> *Ibid.*
- <sup>8</sup> Bureau of Justice Statistics, “Federal Criminal Case Processing Statistics,” 2020, [bjs.gov/fjsrc](https://www.bjs.gov/fjsrc/); and Federal Bureau of Prisons, “Inmate Statistics: Release Numbers,” 2022, [bop.gov/about/statistics/statistics\\_inmate\\_releases.jsp](https://www.bop.gov/about/statistics/statistics_inmate_releases.jsp).
- <sup>9</sup> Rebecca Vallas, Melissa Boteach, Rachel West, and Jackie Odum, *Removing Barriers to Opportunity for Parents with Criminal Records and Their Children* (Washington, D.C.: Center for American Progress, 2015), 24–27, [perma.cc/HL7A-587B](https://www.americanprogressaction.org/research-and-policy/removing-barriers-to-opportunity-for-parents-with-criminal-records-and-their-children/).

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