

---

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

---

*Niloufer Taber, Jacqueline Altamirano Marin*

The Vera Institute of Justice (Vera) produced a factsheet in April 2022 that provided an estimate of the number of people impacted by exclusionary public housing policies in Michigan.<sup>1</sup> Vera researchers found that almost 300,000 Michiganders could access housing if public housing authorities' admission policies changed. This document offers an overview of the methodology for, and limitations to, the estimates of the impact of state legislation on public housing access for people with a conviction.

## Data sources

Vera researchers gathered 31 admission policies from 116 public housing authorities (PHA) to conduct an examination of admission policies for this factsheet. To estimate the number of people with an excludable conviction by county, Vera used data from the Michigan Department of Corrections (MDOC) Statistical Reports, reports from the Bureau of Justice Statistics (BJS) Federal Criminal Case Processing Statistics, and aggregate data on jail populations from Vera's Incarceration Trends.<sup>2</sup> Vera researchers also referred to county-level income eligibility thresholds for public housing from the Department of Housing and Urban Development (HUD) and research from the Brennen Center for Justice and the Brookings Institute that estimated average incomes over time of people with convictions.<sup>3</sup>

## Estimates and assumptions

To estimate the potential impact of expanding eligibility for public housing to people with a conviction history, Vera researchers considered the following:

1. the number of people in Michigan with a conviction by year of conviction, county of conviction, severity (misdemeanor or felony), and type of conviction (assaultive, drug-related, or neither);
2. the number of people released into the community from prison by year of release, county, offense severity, and type of conviction;
3. the time elapsed since conviction and/or release from incarceration;
4. the number of people excluded from public housing due to federal mandates;
5. the proportion of people with a conviction who meet income limits for public housing eligibility, disaggregated by year since conviction or release from incarceration; and
6. the lookback periods for different types of convictions for each public housing authority in the state.

Vera researchers used publicly available statistical reports to make projections of the number of people in Michigan who would regain eligibility to public housing if laws were changed: this required several simplifying assumptions. Each of these assumptions was intended to calculate a conservative, or minimum, estimate wherever possible. The assumptions were based on existing research about housing, poverty, and the criminal legal system and are described below.

### ***Public Housing Authority policies on lookback periods for different types of conviction, by county***

There are 116 public housing authorities serving over 90,000 people across Michigan’s 83 counties. To estimate the numbers of people with a conviction history who are currently excluded from federally subsidized housing, but who may become eligible for public housing should there be a change in law in Michigan, Vera first required information on the eligibility criteria established by different PHAs across the state. Vera researchers obtained the eligibility criteria from Admissions and Continued Occupancy Plans (ACOPs) and Administrative Plans to review the admissions criteria.

To estimate how many people are impacted by exclusionary public housing policies, Vera researchers analyzed publicly available PHA admission policies. While some PHAs describe their rules for excluding applicants based on criminal background checks in their ACOPS or Administrative Plans (including the types and timings of convictions which are excludable), other PHAs use language that is vague, describing permitted exclusions for “certain types of criminal activity” within a “reasonable time,” without further defining those types of activity or the reasonable time. Other PHAs either do not describe or have not shared their written policies. Vera researchers assumed that public housing authorities with vague or missing policies around exclusions based on criminal background checks are following established guidance from HUD, which has suggested a lookback period of five years from the date of application for serious crimes, including felony convictions, and prohibiting the use of arrest data alone from being used as a basis for a denial.<sup>4</sup>

This assumption likely underestimates the restrictiveness of PHAs towards people with conviction histories; many PHAs across the country consider significantly longer timeframes when considering conviction histories for housing admission decisions, up to and including lifetime bans for certain types of convictions. With some PHAs, minor convictions are also considered, or a history of arrest alone is sufficient to reject an application for tenancy.<sup>5</sup> Vera researchers assumed that when a PHA has a written policy it adheres to it—including if the explicit policy extends a background check beyond five years, as the five-year lookback period is a recommendation, rather than a policy or an interpretation of law.

### ***Numbers of people with a conviction by year, county, offense severity, and type of conviction***

Vera researchers needed the numbers of people with a new conviction by type of conviction, offense severity, county, and year to match against public housing authority eligibility criteria within each county. Vera obtained aggregated data on state felony convictions by county of disposition, type of conviction (classified as drug-related, assaultive, or neither drug nor assaultive), the number of convictions with a custodial sentence, and the numbers of prison intakes from the MDOC Statistical

Reports from 2011 to 2020.<sup>6</sup> Vera took information on federal convictions from the BJS Federal Criminal Case Processing Statistics.<sup>7</sup>

MDOC reports provided the annual aggregate number of felony convictions by type and county. These counts of felony convictions, however, represent court proceedings, rather than individual people, as an individual person may have more than court proceeding in a given year. To estimate the number of people with a conviction, Vera researchers had to account for the possibility of multiple felony convictions per person within a single year (*intra-year* recidivism) as well as multiple convictions per person in different years (*inter-year* recidivism).

#### *Accounting for intra-year felony recidivism*

With any *intra-year* recidivism, the number of convictions would exceed the number of people with a conviction. To estimate the ratio of convictions to people with a conviction, Vera researchers had to make several simplifying assumptions. First, Vera determined what aggregated data was available that represented individuals, rather than events, such as convictions. Prison intake counts were the only sources of information that reported on unique people rather than events. Also available were reports on the numbers of convictions with a custodial sentence—a subset of all convictions, as not all convictions carry a term of incarceration. The numbers of convictions that carried a custodial sentence represent a count of events, while the numbers of prison intakes represent a count of individuals. Vera researchers were therefore able to calculate the ratio of prison intakes (a count of people) to convictions that carried a custodial sentence (a count of events). Vera assumed that this ratio of people to events among those with a custodial sentence was the same as the ratio of people to events among those without a custodial sentence, as research indicates that custodial sentences are not more effective at reducing recidivism than non-custodial sentences.<sup>8</sup> Using this assumption, Vera was able to estimate the number of people convicted of a felony in a year from the total number of felony convictions in that year.

#### *Accounting for inter-year felony recidivism*

Vera assumed that an unknown number of people in the sample would have had more than one conviction within public housing authorities' lookback periods. These people should not be counted more than once. To account for this, Vera downweighted the number of people convicted each year by an *inter-year* reconviction rate, using return to incarceration as a proxy for a new conviction and drawing from estimates of the three-year return to incarceration rate from MDOC. Return to incarceration follows a non-linear pattern over time, with return to incarceration rates being the highest in the first year following release from prison.<sup>9</sup> Increasingly smaller proportions of people return to incarceration in each subsequent year, meaning that recidivism over time follows a curve rather than a line. Therefore, Vera researchers divided the MDOC recidivism rates unevenly across the three years from community reentry. Vera based this distribution on research from BJS that establishes the shape of the recidivism curve over time from the point of release from incarceration.<sup>10</sup>

### *Accounting for intra- and inter-year misdemeanor recidivism*

In order to estimate the number of individuals with a misdemeanor conviction per year, Vera counted jail admissions for a sentence as a proxy for a misdemeanor conviction. Vera researchers used Vera Incarceration Trends estimates of jail admissions for a sentence by county and year in Michigan.<sup>11</sup> Jail admissions for a sentence serve as a conservative, minimum estimate for misdemeanor convictions, given that misdemeanor convictions often result in a sentence of time served or no jail time. Vera researchers then faced the same issues of needing to account for intra-years and inter-years recidivism for misdemeanors. Vera scaled down yearly misdemeanor convictions to individual people with a misdemeanor conviction using the Brennan Center's estimate of the intra-year reconviction rate for misdemeanors, and to people with a misdemeanor conviction within public housing authorities' lookback periods using their estimated inter-years recidivism rate for misdemeanors.<sup>12</sup>

### ***The number of people reentering their community from incarceration***

People who are currently incarcerated are not considered among those who could regain eligibility for public housing as they are not currently living in the community. Vera assumed that people with a misdemeanor conviction lived in the community for at least part of the year of their conviction, as misdemeanor custodial sentences are typically less than a year. Vera assumed that people convicted of a felony and admitted to prison were ineligible for public housing in the year of their conviction, as felony sentences are typically a year or longer.

Vera researchers computed the number of people with a felony conviction living in the community and potentially able to apply for public housing by adding the estimated number of people with a felony conviction without a custodial sentence to the number of people with a felony conviction reentering their communities from a prison sentence. Vera took the number of people reentering their communities following imprisonment from MDOC Statistical Reports from 2011 to 2020. The researchers assumed that the total number of releases from incarceration per year followed the same distribution of convictions by county and by type of conviction for the same year. Vera did not have information on Michiganders with an out-of-state criminal conviction who may also become eligible for public housing through a change in law, and so did not add these individuals to the estimates.

### ***The time elapsed since conviction and/or release from incarceration***

As discussed above, Vera estimated inter-year and intra-year reconviction rates based on data from MDOC and existing estimates and methodology from Vera and the Brennan Center. Vera downweighted the number of people convicted in one year using reconviction rates from previous years. However, the researchers wished to calculate the number of people with at least one conviction within the lookback period of the public housing authority in the county, and not the number of people per county with a conviction during their lifetime. Therefore, Vera did not downweight the number of people with a conviction by inter-year reconviction rates in the first year of a lookback period. For example, if a county had a five-year lookback period, in calculating the number of people whose public housing eligibility was at risk in 2020 due their conviction history, Vera calculated the number of people with a conviction in 2016, whether or not that might be a first conviction or a reconviction.

### ***Numbers of people excluded from public housing due to federal mandates***

People who have a mandated lifetime sexual offender registry requirement and those convicted of manufacturing methamphetamine in public housing are rendered ineligible for federally subsidized housing for life. Vera took data on the numbers of people meeting these criteria from MDOC's statistical reports and data published by the Michigan State Police.<sup>13</sup>

Vera researchers made several simplifying assumptions of how many people are automatically excluded from public housing due to these federally-mandated exclusions. In Michigan, as of 2017, there were 43,818 people on Michigan's Sex Offender Registry (SOR).<sup>14</sup> Michigan has three "tiers," or levels of severity, of registrants, which determine the length of time people must remain on the registry, how often they must report in-person to law enforcement, and the restrictions with which they must comply. Only people who are tier III registrants must remain on the registry for their lifetime and are therefore excluded from public housing under federal law. As the number of people who were tier III registrants was not available, Vera researchers excluded all 43,818 people on the SOR from eligibility for public housing.

Similarly, while federal law prohibits people convicted for having manufactured methamphetamine in public housing from ever living in public housing again, data on the location of manufacture for people convicted for this offense was not available. Vera researchers therefore assumed that all convictions for methamphetamine manufacturing arose from incidents in public housing, and all such people are excluded from public housing eligibility. Further, since there is no available estimate on recidivism rates for people with convictions for manufacturing methamphetamine, Vera researchers assumed that each relevant disposition, within and across years, represents a new individual permanently excluded from public housing. These assumptions maximize the numbers of people with a conviction who are excluded from public housing and therefore helps to make Vera's estimates of the numbers of people whose eligibility may be restored a conservative estimate.

### ***Income eligibility and household size***

People and households are eligible for public housing if they do not exceed certain income limitations. People with a conviction whose incomes exceed those limits would not gain eligibility for public housing through a change in state law, and so were excluded from Vera's estimates. Vera researchers took data on Area Median Income and eligibility thresholds under the Low-Income (LI), Very Low Income (VLI), and Extremely Low Income (ELI) thresholds from HUD's Fair Market Rents and Income Limits data for 2021.<sup>15</sup> Vera produced income estimates for people leaving incarceration and for people with a conviction history in the years following a contact with the criminal legal system. Vera based these estimates on research from the Brookings Institute and the Brennan Center for Justice; these institutions based their research on data from the National Longitudinal Survey of Youth, 1997 (NLSY97).<sup>16</sup> As the NLSY97 survey captures income distributions for people with a conviction history as a categorical variable for each year following release from incarceration, Vera researchers assumed that income followed a stepwise function, with a uniform distribution within each income category.<sup>17</sup>

To estimate the number of people leaving incarceration that would be eligible for public housing, Vera researchers assumed that people leaving incarceration will live alone in public housing. This assumption

reduces the amount of income the person may earn before they lose income eligibility for public housing, as income thresholds for public housing increase with the size of the household in a non-linear fashion. While many people may live with a family member in the period following their release from incarceration, it was not possible to make reasonable assumptions about household size or the income of other potential household members.

This assumption also meant that researchers did not consider the number of people who might be affected by a change in policy due to their status as family and household members of people with conviction histories. If one member of a family is ineligible for public housing, the whole family will be denied, unless the person with a conviction history leaves the household. Not attempting to count family members likely minimizes Vera's estimates of the number of people currently excluded from public housing due to exclusionary rules.

### ***The impact of COVID-19***

Lastly, Vera researchers calculated the numbers of people who were at risk for exclusion from public housing at the end of 2020 and the numbers of people who would be at risk for exclusion from public housing under hypothetical changes in the law, had the law changed at that time. Due to the COVID-19 pandemic, the number of people who were given new convictions in 2020 decreased substantially from previous years, as arrest rates dropped and court operations were disrupted. As a result, far fewer people were newly excluded from public housing due to a criminal conviction than in a typical year. While Michigan has been making conscious policy efforts in the last few years to reduce the rate at which people are convicted and incarcerated, it is likely that there will be some rebound in the number of people who receive convictions and/or become incarcerated.

### **Credits**

© Vera Institute of Justice 2022. All rights reserved.

The Vera Institute of Justice is powered by hundreds of advocates, researchers, and activists working to transform the criminal legal and immigration systems until they are fair for all. Founded in 1961 to advocate for alternatives to money bail in New York City, Vera is now a national organization that partners with impacted communities and government leaders for change. We develop just, antiracist solutions so that money does not determine freedom; fewer people are in jails, prisons, and immigration detention; and everyone is treated with dignity. Vera's headquarters is in Brooklyn, New York, with offices in Washington, DC, New Orleans, and Los Angeles. For more information, visit [www.vera.org](http://www.vera.org).

For more information about this paper, contact Niloufer Taber, associate director of research, Unlocking Potential and Opening Doors initiatives, at [ntaber@vera.org](mailto:ntaber@vera.org).

## Endnotes

<sup>1</sup> Jacqueline Altamirano Marin, Shaina Calacat, and Niloufer Taber, *Expand Housing Access for People with Conviction Histories in Michigan* (New York: Vera Institute of Justice, 2022).

<https://perma.cc/VKX4-M4XU>

<sup>2</sup> Michigan Department of Corrections, *Statistical Reports* (Michigan: Michigan Department of Corrections, 2022). <https://perma.cc/T7AJ-TBUU>; Bureau of Justice Statistics, *Federal Criminal Case Processing Statistics*, (Washington, DC: U.S. Department of Justice, 2020). <https://perma.cc/ZU2E-C772>; Vera Institute of Justice, *Incarceration Trends* (New York: Vera Institute of Justice, 2022). <https://perma.cc/GLM3-TAGY>.

<sup>3</sup> Office of Policy Development and Research (PD&R), *Income Limits* (Washington, DC: U.S. Department of Housing and Urban Development, 2020). <https://perma.cc/X7FV-DJP4>; Terry-Ann Craigie, Ames Grawert, and Cameron Kimble, *Conviction, Imprisonment, and Lost Earnings: How Involvement with the Criminal Justice System Deepens Inequality* (New York: Brennan Center for Justice at NYU Law, 2020). <https://perma.cc/B3N6-9BB9>; Adam Looney and Nicholas Turner, *Work and Opportunity Before and After Incarceration* (Washington, DC: Brookings Institution, 2018). <https://perma.cc/69XP-VHZL>; Bureau of Labor Statistics, *National Longitudinal Survey of Youth 1997* (Washington, DC: U.S. Department of Labor). <https://perma.cc/GJN6-KD9G>.

<sup>4</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). <https://perma.cc/AV5K-9PXZ>.

<sup>5</sup> Marie Claire Tran-Leung, *When Discretion Means Denial: A National Perspective on Criminal Records Barriers to Federally Subsidized Housing* (Illinois: Sargent Shriver National Center on Poverty Law, 2015). <https://perma.cc/WFF7-SJ9U>.

<sup>6</sup> Michigan Department of Corrections, *Statistical Reports* (Michigan: Michigan Department of Corrections, 2022). <https://perma.cc/T7AJ-TBUU>.

<sup>7</sup> Bureau of Justice Statistics, *Federal Criminal Case Processing Statistics* (Washington, DC: U.S. Department of Justice, 2020). <https://perma.cc/3K4D-V7GL>.

<sup>8</sup> Patrice Villettaz, P., Gwladys Gillieron, and Martin Killias, “The Effects on Re-offending of Custodial vs. Non-custodial Sanctions: An Updated Systematic Review of the State of Knowledge,” *Campbell Systematic Reviews*, 11(1) (2015), 1–92. <https://doi.org/10.4073/CSR.2015.1>

<sup>9</sup> Michael R. Durose and Leonardo Antenangeli, *Special Report Recidivism of Prisoners Released in 34 States in 2012: A 5-year follow-up period, 2012-2017* (Washington, DC: U.S. Department of Justice, 2021). <https://perma.cc/M2S2-A6MT>.

<sup>10</sup> Ibid.

<sup>11</sup> Vera Institute of Justice, *Incarceration Trends* (New York: Vera Institute of Justice, 2022). <https://perma.cc/GLM3-TAGY>.

<sup>12</sup> Craigie, Grawert, and Kimble, *Conviction, Imprisonment, and Lost Earnings*, 2020. <https://perma.cc/2KSG-DYS4>.

<sup>13</sup> Michigan State Police, *Michigan Sex Offender Registry Backgrounder*, (Michigan: Michigan Department of State Police, 2017). <https://perma.cc/7SNE-JK9D>.

<sup>14</sup> Ibid.

<sup>15</sup> Office of Policy Development and Research (PD&R), *Income Limits* (Washington, DC: U.S. Department of Housing and Urban Development, 2020). <https://perma.cc/JVH2-Z2RU>.

<sup>16</sup> Craigie, Grawert, & Kimble, *Conviction, Imprisonment, and Lost Earnings*, 2020. <https://perma.cc/B3N6-9BB9>; Looney and Turner, *Work and Opportunity Before and After Incarceration*, 2018. <https://perma.cc/69XP-VHZL>; Bureau of Labor Statistics, *National Longitudinal Survey of Youth 1997* (Washington, DC: U.S. Department of Labor). <https://perma.cc/GJN6-KD9G>.

<sup>17</sup> For example, if the income threshold for public housing in a county were \$37,500, Vera researchers assumed that half of the people in the \$25,000 to \$50,000 income category were at or below \$37,500 and the other half were above it, as \$37,500 is the midpoint between the minimum and maximum value of the category.