Criminal Background Screening Procedures

Overview of Screening Process

The following procedures outline the review process used to determine whether an applicant or potential additional household member should be granted or denied housing assistance due to a past criminal conviction. There is absolutely no presumption that an applicant with a criminal conviction should be denied housing assistance. Before making a decision to admit or deny applicants with criminal convictions, they shall be given an individualized review based on accurate information, including notice and opportunity to be heard. Individual circumstances and the potential impact on safety of other residents should be taken into account in the decision as outlined below. The process outlined below is subject to a reasonable accommodations process.

These procedures apply to all applicants for the following housing types: HANO-managed public housing sites, third-party managed public housing sites, and admission to the Housing Choice Voucher Program (HCVP) – both project-based and tenant-based assistance. These procedures are subject to HUD regulations, existing contracts, and agreements with third-party public housing managers (Managers) that may preclude their application. Within 10 business days after all applicable approvals of this policy are received, all housing providers managing HANO-owned public housing properties will be formally notified of these procedures. Unless otherwise notified by the housing provider within 30 days of receipt of the HANO notification, each housing provider is expected to comply with these procedures. Any notice to deviate from these procedures must include the legal/contractual justification that supports such action. Landlords on the Housing Choice Voucher Program are still able to conduct their own review process prior to renting a unit to a particular voucher holder.

These procedures apply to persons seeking admission to housing and to persons joining a family member who is currently living in HANO-subsidized housing. It applies to all individuals with criminal convictions whether or not recently released from jail or prison. For purposes of these procedures, the term "applicant" includes heads of household as well as any other person who is seeking initial admission or to join an existing lease. For applicants joining existing subsidized households, HANO has discretion whether or not to add adult household members if it will increase the required bedroom size for the household.

These procedures are in addition to mandatory exclusions (housing authorities are barred from assisting individuals who are listed on a lifetime sexual offender registry or who have been convicted of producing methamphetamine on public housing property) and supplement, to the extent permissible, any other eligibility screening that HANO, HCVP landlords, and third-party property managers (Managers) conduct. ***There are two steps in the screening process***. The first identifies applicants with one or more criminal convictions that require Further Review. The second sets out the methods and criteria to be used in that individualized Further Review.

For the full policy, see the ACOP, Chapter 2, "Screening for Criminal Record" and "Other Criminal Record" sections, and the Administrative Plan, Chapter 4, 4.22.3 "Screening for Criminal Record" and 4.22.5 "Other Criminal Records" sections.

A. Initial Screening

1. Screening Criteria Grid: Categories of Crimes and Look-back Periods for which Further Review is Required

The following Screening Criteria Grid shall be used to analyze whether a housing applicant should be admitted or subject to Further Review. Applicants with convictions not listed in the Screening Criteria Grid are admissible for purposes of criminal background screening. Applicants with one or more convictions that fall in any of the categories described in the Grid will be sent for Further Review following the procedures outlined below.

The Screening Criteria Grid should be used by all staff performing criminal background screening, whether HANO staff or Managers' staff. Screeners can request permission to depart from the Grid under the following circumstances. If an applicant has one or more convictions (for felonies or misdemeanors) that do not fall within the Screening Criteria Grid, but the screener has grounds to believe that the applicant presents a significant level of risk to the housing community, the screener may, after stating case-specific reasons, request written permission from HANO's Executive Director or his designee to depart from the Grid and send the individual for Further Review. If HANO's Executive Director or his designee grants the departure from the grid, the screener sends the application for Further Review as if the conviction(s) were within the Screening Criteria Grid. Such decision to send for Further Review, and the reasoning behind the decision, will be documented in writing.

Notwithstanding anything to the contrary herein, HANO and owners shall comply with all Federal laws and regulations, and state law. The Grid outlines "look-back periods." These are the time periods for which HANO and Managers may consider past criminal convictions.

Screening Criteria Grid

Type	#	Crime Category	Subcategory	Further Review
Crimes Against Persons	**1**	Assault and Battery	Felony only	Further Review if within 3 years of conviction or 1 year of release from date of screening
	2	Misdemeanor Domestic Violence	All	Further Review 3 years of conviction or 1 year of release from date of screening
	3	Use of firearm against a person	All	Further Review
	4	Armed Robbery offenses	All	Further Review
	5	Robbery offenses, no weapon involved	All	Further Review if within 3 years of conviction or 1 year of release from date of screening
	6	Intentional Homicides	All	Further Review
	7	Manslaughter	All	Further Review
	8	Kidnapping and	All	Further Review

		Abduction		
	9	Sex offenses - forcible	All	Further Review
	10	Sex offenses – non-forcible	Felony only and peeping tom misdemeanor	Further Review if within 3 years of conviction or 1 year of release from date of screening
	11	Stalking	All	Further Review if within 3 years of conviction or 1 year of release from date of screening
Crimes Against Property	**12**	Arson-related offenses	All	Further Review
	13	Burglary/Breaking and Entering-related offenses	Felony only	Further Review if within 3 years of conviction or 1 year of release from date of screening
	14	Theft, Stolen Property, Fraud-related offenses	If two or more felony convictions	Further Review if within 3 years of latest conviction or 1 year of release from date of screening
	15	Destruction/Damage/ Vandalism of Property offenses	Felony only	Further Review if within 3 years of conviction or 1 year of release from date of screening
Crimes Against Society	**16**	Drug offenses – Possession	If two or more felony convictions	Further Review if within 1 year of latest conviction or release from date of screening
	17	Drug offenses - Manufacture, Distribution, or Possession with Intent to Distribute	All	Further Review if within 3 years of conviction or 1 year of release from date of screening
	18	Driving under the influence-related offenses	If two or more convictions	Further Review if within 1 year of latest conviction or release from date of screening
	19	Weapons offenses (other than use of a firearm against a person)	All	Further Review if within 3 years of conviction or 1 year of release from date of screening

In addition:

Type	#	Crime Category	Subcategory	Further Review
Multiple offenses	**20**	# 1, 2, 4, 5, 7, 10, 11, or 17.	If two or more convictions	Further Review if two convictions are within previous 10 years from date of screening

2. Rules to Apply the Screening Criteria Grid

The look-back periods in the Screening Criteria Grid apply from the date of conviction or date of release from detention or incarceration—whichever is more recent—to the date of the screening. The post-release look-back periods only apply to release from serving a sentence for the crime identified in the Grid. Incarceration for any other reason is not relevant to the post-release look-back periods in the Grid.

The Screening Criteria Grid generally applies to convictions. Arrests alone shall not be considered, unless charges are pending. In the case of pending charges listed on the Grid, a decision on admission is deferred until adjudication of the case. If an expunged conviction appears on a criminal background report, it will not be considered in the screening process.

The misdemeanors specified in the Grid are those that may reasonably impact community safety, such as a domestic violence or concealed weapon offense.

Attempts and conspiracies to commit a crime will be treated the same way as the primary crime. For example, an applicant with a conviction for attempted murder will be screened the same way as a person with a conviction for murder; the application will be sent for Further Review. Convictions for accessory after the fact crimes are not of concern.

If an applicant has more than one conviction, the screener will apply the grid to each conviction. If any conviction is a crime of concern, the application will be sent for Further Review. If none of the convictions are for crimes of concern, the applicant may be admitted, if otherwise eligible.

The screener will refer to the list of Louisiana statutes, provided by HANO, under each category of crime to make the determination of admission or referral for Further Review. In case of doubt, the screener will send the application to the Panel for Further Review.

B. Further Review

HANO and each Manager will establish a committee to conduct the Further Review (referred to as "the Panel" for convenience here). The Panel will review applicants who have one or more criminal convictions that suggest a significant level of risk to the community

The Panel will then conduct an individualized assessment based on the totality of the circumstances to determine whether the applicant should be admitted or denied admission. The Panel will follow the procedures in this document.

1. Panel Composition

1.1 Panel Members

<u>HANO-managed public housing sites and HCVP</u>: The HANO Panel is made up of three members: two senior HANO officials and one resident representative (reflecting the residents assisted by HANO, including but not limited to the Resident Advisory Board). The Panel may

seek the input of one or more experts to help inform the Panel about a particular field. Experts are not considered Panel members and may not participate in the final decision.

Training will be made available to panel members and will include information about Fair Housing, housing regulations, and confidentiality. HANO will coordinate with community partners to develop and deliver the training.

Third-party managed sites: At each site, the Manager will designate three members to sit on the Panel. Managers are encouraged to include resident representatives on their Panels and to seek the input of one or more experts to help inform the Panel about a particular field.

1.2 Panel Member Appointment and Roles

HANO-managed sites and HCVP: All HANO Panel members will be appointed, and subject to removal, by HANO's Executive Director.

The Executive Director will select a Chair from among the members of the Panel. The Chair will lead Further Review meetings and record the Panel's decisions in writing. All Panel members will be trained and provided with appropriate materials.

Third-party managed sites: Each Manager will submit to HANO its procedures for Panel appointment and the name(s) and roles of each member.

2. Further Review Process

2.1 Meetings. Each Panel will be scheduled to meet monthly or more often, as needed. The Panel's meetings are not open to the public. Applicants requiring Further Review will be notified and scheduled for the next Panel meeting, and will be given at least 30 days between notification and the review date.

2.2 Conviction Information. HANO and Managers will produce a detailed criminal conviction report to be used by the appropriate Panel in the review process.

2.3 Notification and Coordination

HANO and Managers are encouraged to designate one or more staff members as program coordinators to guide applicants throughout the process. Regardless of which staff are designated, the items outlined below should be included in the process. Such program coordinators can assist applicants in explaining the process, presenting options to the applicant, gathering documents for the Further Review, and documenting the outcome of the Further Review.

As soon as HANO or Managers determine that Further Review is required, the applicant will be notified in writing that he or she will be subject to the Further Review and will be sent a copy of the conviction information and a written notice explaining in plain language the procedures of the Further Review, the timeframe to submit information, the right to bring information or people who may speak on the applicant's behalf, to be represented by counsel, and to ask questions, and the phone number and address for Southeast Louisiana Legal Services as a potential resource for

assistance. The Panel will consider any requests for reasonable accommodations and additional time.

The applicant will have the opportunity to dispute the accuracy of the conviction information, in accordance with the federal Fair Credit Reporting Act (FCRA).

The applicant will be notified of the Panel's decision. In case of a decision to admit the applicant, the Panel will refer the case to the appropriate entity. If the Panel denies admission, the Panel will notify the applicant in writing of his/her right to appeal the Panel's decision. The Panel may refer the applicant to voluntary supportive services organizations that may help the applicant address his/her needs.

2.4 Confidentiality, Anonymity, and Applicant Presence. All information gathered in the process of screening for criminal convictions will be kept confidential. All staff and Panel members, whether HANO's or Managers', will be properly trained and enter into a confidentiality agreement prior to reviewing cases.

The applicant has the option to appear in person for the Further Review or submit a written and signed statement and other documents for consideration. No inference will be drawn from the applicant's presence or absence.

2.5 Equal Treatment. The Panel will consider all applicants equally and render decisions in a fair and consistent manner. The development or site to which an applicant is applying shall be irrelevant to the Panel.

2.6 Applicant Documents for Panel Consideration. The applicant bears no burden of proof. However, the applicant is invited to submit the following, if relevant:

- Letter or comments from a probation/parole officer;
- Letter or comments from a case worker, counselor, or therapist;
- Certificates of treatment completion as relevant to the conduct underlying the conviction(s) (e.g., batterers' intervention, sex offender treatment, drug or alcohol treatment, cognitive behavioral therapy);
- Letter or comments from family members or others who know the applicant well;
- Document from a community organization with which the applicant has been engaged;
- Letter or comments from employers or teachers;
- Certificate of completion of a training program;
- Proof of employment;
- Other relevant documents;
- Statement from the applicant (see 2.3).

2.7 Decision-Making Process and Available Decisions. The Panel will review the applicant's circumstances and other available information, including any information the applicant chooses to bring to the Panel's attention. After the Panel reviews all relevant information, members will vote to grant or deny admission.

The Panel will, at a minimum, take into account the following factors in its decision-making:

a. Criminal History

- Time since most recent conviction;
- Time since release from prison/jail, if applicable;
- Number of convictions;
- Nature of the conviction;
- Risk and/or needs scores, if applicable, such as Louisiana Risk Needs Assessment (LARNA) used by Probation and Parole.

b. Rehabilitation

- History of drug/alcohol abuse;
- Treatment participation (while incarcerated or not);
- Treatment completion;
- Success or failure during community supervision, if any.

c. Community Ties/Support

- Household composition;
- Support networks (both who supports the applicant and who the applicant supports);
- Involvement in community groups (e.g., volunteer work, AA/NA).

d. Employment History

- Current employment;
- Employment stability;
- Current educational or training program.

The Panel may consider any factors other than the above, that they consider relevant. If the Panel considers any factors other than the above, they will specify those factors and explain why they were relevant. For any denial based on a household member's criminal record, the Panel may permit the remaining household members to be admitted, after excluding the denied family member.

The Panel will follow a majority rule to make a decision. The Panel will reach its decision on the day of the Further Review, except when it lacks a critical piece of information. If more information is needed, the Panel shall reach its decision as soon as possible. The applicant will be notified in writing within five business days of the Panel's decision. The notice shall include a plain language statement of the reason for any adverse decision, and the phone number and address for Southeast Louisiana Legal Services as a potential resource for assistance. The Panel member(s) will use the form appended here to document their decisions.

2.8 Right to Appeal. All applicants have a right to appeal the Panel's decision to deny admission. The process or procedures of the Panel are not appealable.

<u>HANO-managed and third-party managed public housing sites</u>: Applicants will have seven business days to seek an appeal from the day they receive notification of an adverse Panel decision. All appeals shall follow the procedures in Chapter 14 of HANO's Admissions and Continued Occupancy Policy (ACOP) – Complaints, Grievances, and Appeals.

Housing Choice Voucher Program: Applicants will have seven business days to seek an appeal from the day they receive notification of an adverse Panel decision. All HCVP appeals shall follow the procedures in Chapter 18 of HANO's Administrative Plan – Informal Reviews and Hearings.

2.9 Denials of Additions to a Lease. If a person receiving HANO-subsidized housing is denied his/her request to add a household member to an existing lease due to the household member's criminal conviction(s), either by the Panel or on appeal, the tenant may request a new review of the household member's circumstances six months after denial. The Panel may recommend particular services or activities that would help improve the household member's likelihood of success in a future review. The household member is encouraged to follow such recommendations if she or he chooses to re-apply.

3. The Use of Information

3.1 Data Gathering and Security. HANO and Managers will keep a record of every decision that is made by the Panel for the purpose of tracking the Further Review process and appeal outcomes. HANO and Managers will limit the collection of personal information to the minimum necessary and will guarantee the confidentiality of such data. HANO and Managers will use any such personal information for the sole purpose of analysis and reporting on Further Review outcomes, as described in 3.3, below. No individually-identifiable data will be publicly disclosed.

3.2 Reporting

HANO-managed properties and HCVP: HANO will publish reports every six months that present data about Further Review processes and outcomes. No individual or identifiable data will be revealed. At a minimum, these reports will include the following information for the reported period:

- The number of applications reviewed by the Panel;
- The conviction types of applicants reviewed by the Panel;
- The decisions rendered by the Panel including the type of reason for denial if denial is recommended; and
- The site/program the applicant was applying to and the type of housing.

Third-party managed sites: Managers will make both their screening criteria and review process publicly available on their website. Managers will share information on any denials due to criminal convictions with HANO as soon as a decision to deny has been reached. On a monthly basis, HANO will audit Managers to ensure compliance with HANO's policies. Managers will share all necessary information with HANO to complete this process. In particular, Managers will: (1) populate all fields related to criminal background checks in the Elite system for each applicant, (2) send to HANO a monthly list of applicants with any type of criminal convictions, the description of each conviction, and the admission/denial decision, and (3) send to HANO a completed Further Review form for each applicant subject to Further Review. If HANO

determines that a denial is not appropriate given the policy, the application will be sent back to the Manager for Further Review.

4. Special Procedures - Re-admission after eviction

Prior eviction based on a tenant's criminal record will not be a bar to admission, except if the tenant has been evicted from federally-subsidized housing in the previous three years for drug-related criminal activity per federal law. This exception can be waived and the applicant considered for federally-subsidized housing if one of the following applies:

- The circumstances leading to the eviction no longer exist; or
- The evicted household member who has engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program.