



Testimony of  
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Before the  
Committees on General Welfare and Civil & Human Rights  
Oversight Hearing on Rental Assistance and Source of Income Discrimination  
Intros. 2020-146, 2020-1020, 2020-2018, 2020-133 & 2020-2047;  
T2020-6576 and T2019-4051

September 15, 2020

My name is Yamina Sara Chekroun and I am an attorney in the Civil Defense Unit at New York County Defender Services (NYCDS). We are a public defense office that represents New Yorkers in thousands of cases in Manhattan's Criminal Court and Supreme Court every year. Thank you to Chairs Levin and Eugene for holding today's hearing to discuss the urgent need for rental assistance and other forms of financial and legal support for low-income New Yorkers. We strongly support the bills on today's agenda and offer some amendments to make them even more effective.

NYCDS's Civil Defense Unit assists our criminal defense clients with housing, asset forfeiture, and other civil issues. If a client is facing eviction because of an arrest or conviction, or if a client's car, cash, or other property is seized by the NYPD, our civil defense attorneys join the criminal defense team and fight to protect their rights. The people we represent are frequently targeted by multiple systems of oppression. NYCDS civil defense attorneys ensure that our clients' rights are protected by representing them in a wide range of civil legal issues.

As an NYCDS Civil Defense Attorney, I have represented New Yorkers in the housing courts of every borough in both nonpayment and holdover proceedings. I have also represented clients in NYCHA Section 8 and HUD Section 8 administrative hearings. I have direct experience

advocating for clients with the goal of ensuring that they successfully obtain approval to HRA benefits relating to housing assistance. As a result, I am deeply familiar with the current benefits process and the obstacles faced by both clients and their advocates when it comes to enrollment and or accessing vital information needed to secure more time. My testimony is informed by my specific experience in advising clients who have had contact with the criminal legal system and who, as a result, face unique obstacles when it comes to both accessing housing or preserving the housing they currently occupy.

Housing security is one of the greatest obstacles facing the low-income New Yorkers represented by our office. The New York City housing courts have an overrepresentation of people of color and other minorities who are disproportionately affected by lack of housing stability. This puts our clients at a higher risk of eviction and homelessness which causes a threat to their health, safety, and economic security.

The proposed bills on today's agenda are of vital importance, now more than ever. Even before the COVID-19 crisis, the pre-existing housing needs in NYC were substantial. Many households in New York City were already at risk of housing instability.<sup>1</sup> Lower income renters, such as our clients, that pay most of their income toward rent are particularly vulnerable to housing instability. The combination of severe rent burden, lost wages, and little to no emergency savings is likely to result in large-scale housing instability.<sup>2</sup> These bills are a step in the right direction in mitigating the severe impact.

New York City has consistently failed to address the issue of lack of fair access to housing. During the past decade the number of people staying in shelter swelled: between 2009 and 2019, the number of people in families living in shelter increased by 47.2 percent, while the number of single adults living in shelters grew by 144.2 percent.<sup>3</sup> With the on-going pandemic, homelessness is now a greater threat than ever, as it increases our clients' risk of coming into contact with disease and decreases their ability to follow CDC guidelines to prevent the spread of disease. In fact, the CDC has found that those who are experiencing unsheltered homelessness face several risks to their health and safety.<sup>4</sup> It is imperative that urgent action be taken to keep New Yorkers in their homes.

Moreover, recent budget cuts which may potentially halt plans for the implementation of affordable housing means that it is of fundamental importance to ensure that New Yorker's have increased protection to accessing the currently available housing stock.<sup>5</sup>

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<sup>1</sup> NYU Furman Center, *New York's Housing Insecurity By The Numbers*, March 24, 2020, available at <https://furmancenter.org/thestoop/entry/nyc-housing-insecurity-by-the-numbers>.

<sup>2</sup> In New York State, nearly three quarters of renter households with annual incomes below \$15,000 paid more than 50 percent of their income toward rent (severe rent burden) in 2018. 53 percent of renter households that earned between \$15,000 and \$30,000 were severely rent burdened, as were 20 percent of those earning between \$30,000 and \$50,000. See *Id.*

<sup>3</sup> NYU Furman Center, *State of Renters and their Homes* (2019), available at <https://furmancenter.org/stateofthecity/view/state-of-renters-and-their-homes>.

<sup>4</sup> Centers for Disease Control and Prevention, *Interim Guidance on Unsheltered Homelessness and Coronavirus Disease 2019 (COVID-19) for Homeless Service Providers and Local Officials*, updated Aug. 6, 2020, available at <https://www.cdc.gov/coronavirus/2019-ncov/community/homeless-shelters/unsheltered-homelessness.html>.

<sup>5</sup> Caroline Spivak, "Budget Cuts Might Doom de Blasio's Affordable Housing Legacy," *Curbed*, Sept. 9, 2020, available at <https://ny.curbed.com/2020/9/9/21428795/new-york-city-affordable-housing-budget-cuts-rockaways> (indicating that there has been a 40% budget cut to HPD's affordable housing infrastructure budget).

Access to housing is crucial to ensure racial equality in New York City. The seven bills on today's agenda are a step in the right direction, but they do not go far enough. We recommend additional amendments to ensure that they effectively prevent discrimination against people who have come into contact with the criminal justice system.

### **I. The Collateral Consequences of Criminal Legal System Involvement**

Contact with the criminal legal system, regardless of whether or not there is ultimately a conviction, poses the threat of multiple collateral consequences that range from access to housing, finance, and employment. Collateral consequences exacerbate punishment beyond the criminal conviction and any court-imposed sentence. Many are unrelated to either the underlying crime or any public safety purpose.<sup>6</sup> Evidence shows harsh collateral consequences unrelated to public safety increase recidivism by limiting or by completely denying a person who has come into contact with the criminal justice system access to meaningful support.<sup>7</sup> In fact, the US Commission on Civil Rights has recommended that Congress limit the discretion of public housing providers to bar people with criminal convictions from access to public housing.<sup>8</sup>

### **II. The Disproportionate Impact of Criminal Justice Involvement on Communities of Color**

The bills on today's agenda would help alleviate some of the ways in which systematic racism inherent to the criminal legal system has trickled down to the right to housing. In New York State, people of color are overrepresented in arrests, prisons, and jails. In 2018, Black New Yorkers made up only 15 percent of the population but accounted for 40 percent of all arrests and 48 percent of prison sentences.<sup>9</sup> These statistics provide clear indicia of systematic racism which affects our clients beyond the criminal court proceedings and into their very basic right of access to housing. The Federal Fair Housing Act and the New York State Human Rights Law both fail to adequately protect those with criminal justice involvement from housing discrimination. The City must do more to ensure that racist policing and prosecution practices do not lead to homelessness and poverty for Black and brown New Yorkers.

### **III. Our Clients and Housing Discrimination**

#### **A. Income Sources**

Many NYCDS clients rely on subsidies to obtain or maintain housing. The City must prohibit discrimination against lawful sources of income to ensure that those who rely on subsidies are not

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<sup>6</sup> U.S. Commission on Civil Rights, *Collateral Consequences: The Crossroads of Punishment, Redemption, and the Effects on Communities* (June 2019), available at <https://niccc.csgjusticecenter.org/2019/06/13/u-s-commission-on-civil-rights-issues-report-recommendations-on-collateral-consequences/>.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> NYS Division of Criminal Justice Statistics, *NYS Arrests and Prison Sentences by Race/Ethnicity*, Aug. 27, 2019, available at <https://www.criminaljustice.ny.gov/crimnet/ojsa/comparison-population-arrests-prison-demographics/2018%20Population%20Arrests%20Prison%20by%20Race.pdf>.

prevented from accessing housing. Moreover, the DHS 2020 Fiscal Year Report found that Blacks represented 54.1 percent of those in DHS shelters and Hispanics represented 39.9 percent of those in shelters.<sup>10</sup> While the central purpose of DHS services for people living in shelters is the placement into permanent housing through access to DHS and HRA subsidies, without legislation that expressly prohibits lawful income discrimination, it is difficult for this mandate to be met. The result is policies that continue to disproportionately harm communities of color.

## **B. Criminal Legal System Involvement Discrimination**

Many of our clients face possible eviction due to their contact with the criminal legal system. A mere arrest can trigger eviction proceedings in NYCHA and HUD Section 8 housing, regardless of the ultimate outcome of the criminal adjudication. Our clients and their families are particularly vulnerable to these harsh penalties, and we are often faced with situations where our clients become permanently excluded from their family homes as a result of criminal legal system contact. This destabilizing factor puts them at risk for recidivism as it removes them from their support system including their family, neighborhood, and larger community. Many of our clients also face barriers to obtaining private housing due to discrimination in the application process that requires disclosure of arrest and conviction histories. While it is difficult to trace the exact scope of this specific discrimination as owners and landlords may provide alternative justifications for the denial of housing, it is obvious that this has a disproportionate impact on communities of color who are forced to answer “yes” to these questions thus barring them from the larger housing pool and unfairly limiting what types of housing they can access.

## **IV. The Proposed Legislation**

### ***A. T2019-4051 (Powers) - A Local Law to amend the administrative code of the city of New York, in relation to the prohibition against discrimination in housing accommodations based on lawful source of income.***

NYCDS supports passage of T2019-4051 with amendments. There is no legitimate basis for excluding buildings with three or fewer units, just as there is no legitimate basis for excluding buildings with three housing units where the owner or any member of the owner’s family resides in one such housing unit. We propose an amendment that would include a blanket ban on lawful sources of income discrimination regardless of the number of units contained in the building and regardless of occupancy by the owner or their family members. Failing to do so would mean that there will be continued discrimination in the availability of the already limited housing stock for people who have come into contact with the criminal legal system. In fact, carving out this exception implies that the legislature believes that discrimination in certain instances is permissible.

The impact of the loophole in the bill as drafted is enormous. Landlords who own three or fewer units own hundreds of thousands of rental units in New York City, according to data reported by

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<sup>10</sup> NYC Department of Homeless Services, *DHS DATA DASHBOARD - FISCAL YEAR 2020 - QTR 3*, available at <https://www1.nyc.gov/assets/dhs/downloads/pdf/dashboard/FYTD20-DHS-Data-Dashboard-Charts.pdf>.

JustFix.nyc earlier this year.<sup>11</sup> 298,468 units were owned in 2018 by landlords who owned only one property. Landlords who owned two to five buildings owned another 347,202 units. This is a significant minority of rental units in New York City. Excluding landlords who own fewer than three properties from this legislation will continue to disproportionately impact communities of colors who are most in contact with the criminal legal system. Moreover, residents of Brooklyn and Queens will be disproportionately affected by these exceptions because most of the affordable rentals are in two-family home type units.

***B. T2020-6576 (Levin) - A Local Law to amend the administrative code of the city of New York, in relation to online access to rental assistance program status.***

NYCDS supports passage of T2020-6576 (Levin). It is well beyond the time to digitize and modernize access to governmental assistance. By making the status of a rental assistance application or renewal request available online, there is no room for lost documents or data misinterpretation. Currently, clients and attorneys alike are forced to rely on the outdated mode of mailed copies of approvals, which can be lost and misplaced at the cost of a denied orders to show cause which can cause a person to be evicted even when there is an approval. While we have also relied on the communication of this information by email, this method still poses several problems that would be solved by having the information accessible online to all necessary parties. We urge the City Council to pass this bill and enact it immediately.

***C. Int. 146 (Levin) - A Local Law to amend the administrative code of the city of New York, in relation to rental assistance vouchers.***

NYCDS supports passage of Int. 2020-146. It is often very difficult for our clients to find apartments with a rental amount that matches the subsidy amount. As a result, this prolongs the time that is spent in a shelter at the cost of the client's health and safety and delays the reintegration into housing stability. Recognizing the reality of market rent increases and matching the subsidy amounts to reflect this will certainly reduce the shelter population and the administrative costs associated with having clients in a transient state. We urge the City Council to pass and implement this bill immediately to support families and individuals transition out of shelters and into permanent housing.

***D. Int. 1020 (Ampry-Samuel) - A Local Law to amend the administrative code of the city of New York, in relation to requiring the Department of Homeless Services and the Human Resources Administration to track and report certain data regarding rental assistance programs***

NYCDS supports passage of Int. 2020-1020. Making data available about the success of FHEPS will help advocates determine the best strategy for solving a family's housing crisis and can potentially assist in expanding or modifying the program to meet the needs of more New Yorkers. Our office believes that FHEPS is a crucial program for families facing imminent eviction and we support the maintenance of data to that end.

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<sup>11</sup> Sam Rabiya, "Examining the Myth of the "Mom-and-Pop" Landlord, An Analysis of NYC building ownership by JustFix.nyc," *Medium*, March 4, 2020, available at <https://medium.com/justfixnyc/examining-the-myth-of-the-mom-and-pop-landlord-6f9f252a09c>.

***E. [Int. 2018](#) (Rosenthal) - A Local Law to amend the administrative code of the city of New York, in relation to requiring the department of social services to provide domestic violence services at all shelters***

NYCDS supports passage of Int. 2020-2018 with no specific comments.

***F. [Int. 1339](#) (Ayala) - A Local Law to amend the administrative code of the city of New York, in relation to providing information about lawful source of income discrimination to city rental assistance applicants***

NYCDS supports passage of Int. 2020-1339. We believe that it is important for the recipient of housing subsidies to be aware of their rights under the NYC Human Rights Law so that they are aware when these rights are being violated due to discrimination on the basis of a person's lawful source of income. In our experience, our clients are often unaware of the protections contained within the Human Rights Law and voluntarily waive their rights as a result of being unaware. By providing a notice of the new increased protection proposed in T2019-4051, we can increase awareness and education, thus increasing the amount of individuals who are effectively protected. It is our belief that owners and landlords often get away with various forms of discrimination due to lack of accessible information which means that many tenants rights end up being violated.

***G. [Int. 2047](#) (Levin) - A Local Law to amend the administrative code of the city of New York, in relation to prohibiting housing discrimination on the basis of arrest or criminal record.***

NYCDS supports passage of Int. 2020-2047 with amendments. While landlords must be prohibited from discriminating, so too must be their agents, brokers, and all those seeking to rent out any form of housing. It is important that discrimination prohibitions apply to subleases and occupancy agreements, too, as low-income individuals are often found ineligible to enter into direct rental agreements due to their income, and as result frequently rely on subleases and occupancy agreements. The disproportionate rate of minority criminal legal system involvement means that they are the most impacted by housing discrimination on the basis of arrest or criminal record. However, we believe that the bill should be amended to remove the exceptions contained in (d)(1) and (d)(2). The exception contained in (d)(1) should be removed on the basis, as discussed above, that the US Commission on Human Rights has explicitly recommended that consideration of criminal history for housing purposes be removed from the provider's discretion. The exception contained in (d)(2) should be removed on the basis that there is no legitimate interest in having discrimination be permitted when the unit's owner or owners' family member resides in the housing accommodation. Low income renters often rely on room rental, and this continued permitted discrimination would continue to cause a lack of fair access to housing for those who have come into contact with the criminal justice system, particularly people of color.

## **VI. Conclusion**

NYCDS supports the bills on today's agenda. They are an important step in achieving racial equality and protecting the rights of the vulnerable New Yorkers, particularly during the housing crisis caused by Covid-19. If you have any questions about my testimony, please contact me at [yhekroun@nycds.org](mailto:yhekroun@nycds.org).