

History of the Austin/Travis County Reentry Roundtable

- Launched in 2004, modeled after the Urban Institute Reentry Roundtable Initiative.
- Coalition of public sector leaders, community members, individuals with criminal histories and people working to promote **safe and healthy communities through effective reentry and reintegration** of formerly incarcerated persons and/or individuals with criminal histories.
- 10 of 25 Planning Council slots are reserved for public sector entities
- Collaboration/Co-creation model



What do we mean by CLS-Involved or Reentry?

Who are we talking about?

Formerly Incarcerated
Community Supervision
Arrest Records

How big is this population?

2 M currently incarcerated
4.4 M community supervision

= 1 in 3 Adults in the U.S.

500% increase since 1980

Disproportionate impact across race & ethnicity

Black men are 6x more likely to be incarcerated

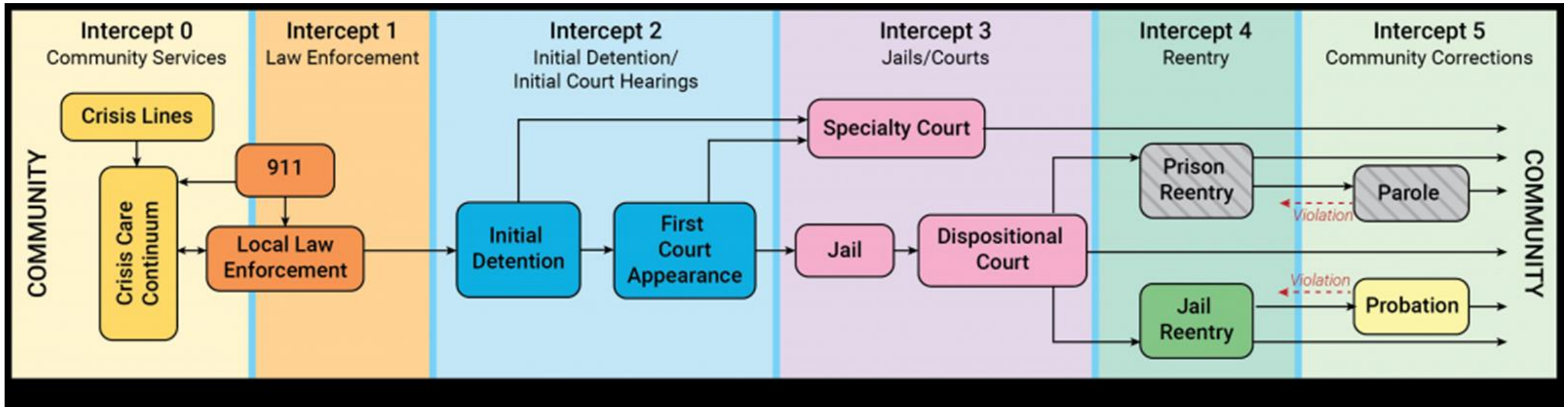
Latinos are 2.5x more likely to be incarcerated

BIPOC Youth = $\frac{2}{3}$ youth detention

Impacts everyone: families, children & communities.

Further reinforces systemic discriminatory policies.

Effective Reentry is Part of a Larger System



Sequential Intercept Model

Source: Policy Research Associates

Additional Factors to Consider

Over 90% of all felony convictions are the result of a plea bargain. (U.S. Bureau of Justice Statistics) People often plead guilty to crimes they did not commit, even serious ones.

Criminal Records are difficult to interpret

Criminal Background Check Databases Are Flawed and Inaccurate.

Texas law already limits any perceived risk of “foreseeable” negligence liability that might arise if leasing property to an individual with a criminal record who later commits a criminal act at the property.

HUD Fair Housing Guidance & Reentry

2010: President Obama establishes the Federal Interagency Reentry Council. HUD is a founding member of the Council.

2011: HUD Secretary Shaun Donovan issues letter reminding PHAs that the agency requires lifetime bans from its properties for only two categories of criminal conduct.

2012: HUD issues letter to all owners and agents of HUD-assisted properties emphasizing the importance of stable housing for formerly incarcerated individuals.

2015: In *Texas Department of Housing & Community Affairs v. The Inclusive Communities Project, Inc.*, the U.S. Supreme Court upholds the use of disparate impact claims in the Fair Housing Act.

2015/2016: HUD issues guidance on the treatment of renters and buyers with criminal arrest records, and landlords' and sellers' obligations under the Fair Housing Act.

2021: HUD Secretary Marcia Fudge issues letter reinstating 2016 guidance and extending ECVs to reentry population.

Locked Out Report (2016)

- Report: “Locked Out: Criminal History Barriers to Affordable Rental Housing in Austin & Travis County, Texas”
- This information had never been gathered at the local level before
- Intended audience: local government officials, policymakers, housing industry professionals, and other community leaders
- Report aimed to inform improved policies, strategies and resources to reduce criminal history barriers to housing

Key Findings

- **Lack of transparency & compliance with the Texas Property Code:** only 32 of 80 properties provided criminal background screening criteria
- **Unreasonable lookback periods for considering criminal backgrounds:** 49% of all properties surveyed banned all felonies, and 25% had lifetime felony bans
- **Failure to consider mitigating circumstances:** less than 20% of properties outlined an appeals process
- **Equating arrests with convictions:** one quarter of properties considered arrests as evidence of criminal activity
- **Overbroad categories of criminal activity:** 25% of properties included “unclassified offenses” as grounds for denial

Texas Criminal Background Screening Guide For Rental Housing Providers (2018)

- Designed to provide instruction to housing providers on how to best comply with fair housing law and guidelines when implementing criminal background screenings for housing applicants within Austin/Travis County.
- Applicable to housing authorities, federally assisted housing providers and private sector housing providers.
- Exceptions for PHAs and HUD-assisted housing: lifetime sex offender registration or convicted of producing methamphetamine in public housing.



Provides Guidance For Landlords:



- Complying with HUD guidance
- Legal terminology
- Deferred adjudication
- How to calculate a look back period
- Determining reasonable look back periods
- Individualized review process

Best Practices for Using Criminal Background Policies

- Housing providers should conduct a criminal background screen of an applicant **AFTER** the applicant has passed a reasonable rental history, income, and credit history check.
- Criminal background policies that ban applicants based on arrests or charges, as opposed to convictions, violate fair housing law and HUD guidance.
- Criminal background policies that have blanket, lifetime bans on certain convictions may also violate fair housing law and HUD guidance.
- Housing providers should make their criminal background policies available to applicants so that applicants who would fail do not spend money applying and to let all applicants and residents know their policies.

Best Practices for Individualized Review

The Individualized Review should always consider:

- applicant's age at time of offense,
- how long since the offense was committed,
- community ties and support,
- references and other supporting recommendations,
- rehabilitation efforts, and
- request for accommodation, where evidence of disability is provided.

(Simmons v. T.M. Associates Management, Inc.)

Guide Implementation

- **Advocated with local affordable housing funders to utilize the housing guide's recommended standards**
- **Trained private sector landlords and property managers**
- **Supported tenant education efforts related to criminal background**
- **Supported other jurisdictions**

TDHCA's QAP Rule §11.1

TDHCA's QAP rules now require criminal background screening for LIHTC-funded supportive housing developments. (Dec. 2020)

- Prohibit individuals subject to lifetime sex offender registration
- Temporary denial for at least 7 years from date of conviction for any felony conviction for a murder related offense, sexual assault, kidnapping, arson, or manufacture of a controlled substance
- Temporary denial for at least 3 years from date of conviction for any felony conviction for aggravated assault, robbery, drug possession, or drug distribution.
- Includes provision for individualized review

Looking Ahead

Expand access to housing based on emergency COVID-related policies and practices:

- **The Emergency Housing Voucher (“EHV”) program relaxed tenant screening policies.** (Ex. Prohibiting PHA from denying admission to applicants based on “drug-related criminal history.)
- **Landlords are being incentivized to participate in federal housing programs through expanded federal Emergency Solutions Grant program.** (Ex. Signing bonuses equal to up to 2 months of rent, paying the costs of extra cleaning or maintenance of a program’s participants' unit and paying the cost to repair damages incurred by the program that was not covered by the security deposit.)

Identify jurisdictions that have successfully reduced reentry barriers to housing.

- **Delaware:** Family Reentry Initiative Pilot (allow family members to live as “temporary guests” for 1-2 years before adding to PHA lease)
- **Burlington Housing Authority:** Housing specialists assist in identifying housing