

Tenant Screening and Fair Housing in the Information Age

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Abstract

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The information age has brought about an unprecedented level of scrutiny with which applicants for rental housing are evaluated. Contemporary landlords are increasingly likely to use commercial background check tools to investigate applicants' criminal, credit and eviction histories. In addition to impeding housing access for renters with imperfect tenancy, credit or criminal records, these technologies may enhance opportunities for subtle forms of discrimination involving the inconsistent application of background check criteria.

This dissertation uses a mixed-methods approach to investigate how rental housing providers screen and select applicants on the basis of discrediting information revealed by background checks. It also assesses the capacity of existing and proposed fair housing regulations to combat discriminatory tenant screening practices and broaden housing access for renters with negative background credentials. The project's online field experiment measures how landlords respond to emails from fictitious prospective applicants disclosing two types of

negative rental credentials (criminal history and prior eviction), and whether those response patterns are related to the race of applicants. The project's qualitative component entails forty-six in-depth interviews with representatives of Seattle's rental housing industry as well as renters with criminal conviction records, past evictions and/or damaged credit histories who had recently searched for housing. The interviews construct a rich descriptive picture of the tenant-screening process from divergent vantage points, explore the impact of fair housing law on how landlords approach background screening, and document the far-reaching consequences of modern tenant screening and selection practices for negatively-credentialed renters.

This study advances our understanding of how ostensibly race-neutral background screening criteria and technologies can reshape, amplify or conceal existing patterns of discrimination in the private rental market, an increasingly important site of social stratification. My research also provides timely, policy-relevant insights into the distinct challenges involved in using new fair housing regulations to combat discriminatory tenant screening practices and meaningfully broaden housing access for renters with discrediting background credentials.

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Chapter 1: Introduction

“It’s a racket. It’s unregulated – there’s no government overseeing it, or there’s no state overseeing it...Racism and discrimination is so complex today. It’s not as obvious as it was in the sixties. Today we hide behind things like criterias.”

- David

In 2012, a campaign led by a coalition of civil rights and housing advocates in Seattle to dismantle barriers to employment and housing for people with criminal records had finally harnessed the attention of local policymakers. Out of those organizing efforts came Seattle’s 2013 “Jobs Assistance Legislation” ordinance, which created new rules for how private employers in the city screen applicants for criminal histories. That coalition continued to push for legislation regulating criminal background screening in housing, and four years later the Seattle City Council passed the “Fair Chance Housing Ordinance,” which prohibits private landlords from inquiring about rental applicants’ criminal histories or performing criminal background checks in most circumstances. The initial motivation for this study can be traced to the lessons and questions that emerged from Clean Slate, a 2012 research project designed to inform local policy discussions around regulating criminal background screening practices among private employers and landlords.

As a research assistant for Clean Slate, I helped conduct in-depth interviews with fifty individuals with criminal records about their struggles to obtain employment and housing, including David, the respondent quoted above. The experiences of those respondents revealed that the challenges modern background screening posed for the social and economic integration of people with criminal records were more complex and multidimensional than standard policy narratives regarding barriers to prisoner reentry implied. While the employment opportunities and outcomes of the formerly incarcerated have attracted considerable attention from scholars and policymakers concerned about the prisoner reentry crisis (Holzer et al. 2003; NELP 2017;

Pager 2007; Western 2008), securing housing was a much more insurmountable task for Clean Slate respondents than finding work, as nearly every respondent had encountered formidable barriers to securing stable housing regardless of their income or employment status. Another important lesson to emerge from Clean Slate was that a variety of factors seemed to frustrate respondents' ability to access housing, including, but not limited to the ubiquity of criminal background check practices in the rental housing industry. Though respondents frequently attributed their housing barriers to background checks and the stigmas associated with criminal records, most struggled to disentangle the discrediting impact of their criminal histories from the effects of other stigmatizing records revealed by modern, information-intense screening methods, such as past evictions and credit problems. Some respondents also expressed suspicion that racial discrimination compounded the screening-related barriers to housing they encountered, though such suspicions were difficult to confirm given the lack of transparency that respondents said often characterized the tenant screening procedures in the private rental market.

Those lessons were the starting point for this study, which examines the consequences of contemporary tenant screening practices for housing access and discrimination. The study uses a mixed-methods approach to investigate how rental housing providers screen and select applicants on the basis of discrediting information revealed by background checks, including, but not limited to criminal records. It also evaluates the capacity of new fair housing laws to combat discriminatory tenant screening practices and meaningfully broaden housing access for renters with discrediting background credentials. To construct a descriptive picture of the tenant screening process from divergent vantage points, the project draws on forty-six in-depth interviews with Seattle area landlords, property managers, and rental industry lobbyists as well as renters with criminal conviction records, past evictions and/or damaged credit histories who

had recently searched for housing. To investigate whether and how race impacts the evaluation of potentially disqualifying background information, the study uses an online field experiment to measure how over 1,800 landlords advertising in five metropolitan areas (Seattle, Portland, Philadelphia, Detroit and Atlanta) respond to emails from fictitious prospective applicants disclosing two types of negative rental credentials (criminal history and prior eviction), and whether those response patterns are related to the race of applicants.

David's account of his efforts to secure housing offers instructive insights into the complex and multidimensional barriers to housing that renters encounter in the "information age," and raises important questions motivating this study. After experiencing years of housing instability, David was extremely grateful to have qualified for a housing voucher that would subsidize three quarters of his rent: "I felt larger than life. I thought like, 'This is – this is a pivotal moment for me. From transitional living into permanent housing.'" David's hopes were dashed however, when he was unable to find a private landlord willing to rent to him. Though he limited his applications to landlords referred by his case manager for their familiarity with the voucher program and willingness to rent to tenants with less-than-spotless backgrounds, David's voucher expired after months of rejected applications and hundreds of dollars spent out of pocket on screening fees. Although some landlords failed to provide a specific reason for rejecting his application, others cited his seven-year old drug conviction, and one landlord took issue with his poor credit history. David also suspected that his racial identity played a role in his inability to secure housing, as he recounted multiple instances wherein rental agents that had seemed warm and receptive to his application by phone but cooled upon meeting him in person.

The story of David's housing search experience highlights three central themes that are explored in the chapters to follow: the challenges associated with regulating tenant screening and

selection practices in the private rental market, the considerable costs negatively credentialed renters incur while attempting to secure housing, and the extent to which background screening criteria are implicated in housing discrimination. One implication of David's story is that the organizational contours and economic conditions of the private rental market can frustrate the efficacy of policy interventions designed to aid "hard-to-house" populations, including the formerly homeless and renters with stigmatizing background credentials like criminal records. In David's case the intervention in question was a specialized federal voucher program, which like most forms of modern housing assistance, makes its beneficiaries responsible for finding a private landlord to rent to them. For David that task ultimately proved impossible, potentially owing in part to Seattle's competitive, low-vacancy rental market and the considerable discretion that private landlords enjoy to turn away tenants they deem undesirable. Though Seattle law prohibits landlords from discriminating against housing voucher recipients, it does not create a positive obligation for landlords to house voucher-holders nor prevent them from turning away an applicant like David on the basis of his weak credit score or spotty rental history.

In Chapter 2, I investigate what some of those same features of the private rental market mean for the capacity of recently enacted tenant background screening regulations law to advance racial equity and broaden housing access. Specifically, I turn my attention to recent innovations in antidiscrimination law, including Seattle's "Fair Chance Housing Ordinance" and a 2016 Housing and Urban Development (HUD) Guidance, that are designed to regulate how landlords use criminal background records to screen prospective tenants. Like legal protections for voucher recipients, those policies aim to combat housing insecurity by improving disadvantaged renters' access to the private market. Drawing on in-depth interviews with twenty-one representatives of Seattle's rental housing industry, this chapter investigates landlords'

current tenant screening and selection practices, conceptions of legal rights and obligations, and plans for adapting to two recently enacted laws regulating tenant background screening. Its findings identify multiple challenges that the ground-level organizational practices of independent landlords pose for policies designed to fight discrimination and socioeconomic exclusion by regulating landlords' use of discretion. The chapter also describes how the unprecedented competition for, and unaffordability of, rental housing creates conditions that make discriminatory tenant screening and selection processes very difficult to detect in practice.

Chapter 3 explores contemporary tenant screening from the perspectives of those whose housing access is uniquely jeopardized by the rise of more information-intense background screening practices: renters with past evictions, damaged credit and/or criminal conviction histories. This chapter illuminates another dimension of David's story, namely the considerable costs that renters with discrediting background credentials encounter merely as a result of attempting to secure housing in the private rental market. I draw on in-depth interviews with twenty-five negatively credentialed renters who had searched for housing in the last year. The findings document some of the far-reaching economic and health costs associated with both the substandard housing options to which renters with negative credentials are relegated and the housing search process itself – which is often a prolonged and arduous one for this population. Enduring a fiscally and emotionally taxing search also had the effect of chilling some respondents' willingness to mobilize the law in response to suspected discrimination or other rights violations.

Finally, one of the central motivations for this study stemmed from the accounts of David and other Clean Slate respondents who struggled to determine whether racial discrimination had impacted the manner in which landlords evaluated their criminal history information. Their

experiences raise important questions regarding whether and how ostensibly race-neutral background screening criteria and technologies are implicated in subtle forms of discrimination in the private rental market, an increasingly important site of social stratification. Chapter 4 presents findings from an online field experiment that replicates the housing search strategies described by the study's negatively credentialed renter respondents in Chapter 3. The experiment measures how landlords respond to emails from fictitious prospective applicants who disclose either an eviction history, a criminal conviction record, or no discrediting characteristic in the control scenario. Distinctively Black and White female names are used to investigate whether a prospective rental applicant's race shapes how landlords respond to email messages disclosing an eviction history, while Black and White sounding male names are used for the criminal conviction disclosure scenario. The experimental findings demonstrate that the landlords contacted during the course of the experiment were significantly more responsive to inquiries from testers who inquire about available units without disclosing an eviction or criminal conviction record. Furthermore, those landlords were significantly more likely to respond to inquiries from female testers with past evictions when those messages were sent from women with White-sounding names. The findings offer insights into how background screening information is implicated in subtle forms of housing discrimination, as well as how racial discrimination can compound the significant costs negatively credentialed renters endure during the housing search process.

Chapter 2: “We Totally go Subjective”: Discretion, Bias and Benevolence in Tenant Screening

In an effort to confront the various forms of social dislocation generated by rising income inequality, some American cities have become laboratories of progressive policymaking (Berube 2013; Lowrey 2014; Miller 2016). Specifically, in the context of dwindling federal support for social services, and without the benefit of major redistributive policy levers, local leaders have sought to combat inequality by regulating private markets. One variety of recent regulatory innovation has involved repurposing antidiscrimination laws to combat socioeconomic exclusion in employment and housing markets on the bases of status characteristics including source-of-income, credit history and criminal records (Johnson 2016). Though such policies have enjoyed considerable diffusion across cities in recent years, few studies have systematically investigated their impacts. However, a large body of socio-legal scholarship on civil rights law-in-action has raised serious questions about the capacity of antidiscrimination laws to meaningfully transform stratification regimes.

This case study assesses the capacity of recently enacted policies regulating tenant screening and selection practices in the private rental market to advance racial equity and broaden housing access in Seattle, Washington. Seattle is emblematic of both policy innovation at the city level and the social conditions that motivate such innovation. In recent years, the Emerald City has distinguished itself as a leader on policy issues such as the minimum wage, paid sick leave and legal protections for tenants. During the same period, the city has also led the nation in rising income inequality, rental unaffordability and homelessness (Balk 2014, 2017; Greenstone 2018, Rosenberg 2016). As part of a larger policy effort to tackle the local housing crisis, the city government enacted two tenant screening regulations in 2016 and 2017 to fight discrimination on the basis of income-source and criminal history. The “First-in-Time”

amendment to the city's 1968 Open Housing Ordinance requires landlords to rent to the first person to apply who meets their eligibility criteria, while the "Fair Chance Housing Ordinance" prohibits landlords from evaluating rental applicants on the basis of criminal history information in most circumstances.

Drawing on in-depth interviews with representatives of Seattle's rental housing industry conducted during the lead-up to those laws' passage, this study considers the implications of landlords' current tenant screening and selection practices, conceptions of legal rights and obligations, and plans for adapting to an evolving policy environment for the capacity of new antidiscrimination laws to meaningfully improve housing equity and access. Like socio-legal studies of the implementation and impacts of antidiscrimination law in the workplace, the findings illustrate the challenges inherent in efforts to combat discrimination by regulating the discretion of ground-level actors. These challenges are particularly acute in an industry in which antidiscrimination laws have historically had very little success in regulating the idiosyncratic and largely unseen decision making processes of millions of independent landlords who continue to control access to the bulk of the nation's rental housing stock (Schwemm 2006; U.S. Census Bureau 2015b). The study's findings also reveal how broader economic and policy dynamics, especially the acute housing affordability crisis and the overwhelmingly private character of rental housing in the United States, undercut new legal efforts to dismantle screening-related barriers to rental housing.

Before turning to the current study, I review socio-legal scholarship on antidiscrimination law-in-action, which has largely focused on employment. I highlight lessons from that literature regarding the indeterminate and/or counterintuitive effects of legal efforts to advance equity by limiting the discretionary powers of institutional actors with the capacity to discriminate.

Turning to the housing context, I describe the emergence of information-intensive screening procedures in the private rental housing industry, the implications of those procedures for housing access and discrimination, and the recent proliferation of regulatory policies designed to curb background screening practices with discriminatory impacts. To motivate the current study, I pose multiple questions regarding how new tenant screening regulations will impact landlord practices and housing opportunities for renters with tarnished background credentials like criminal records. I then describe my data, methods and findings.

Antidiscrimination Law in Practice: The Challenges of Regulating Discretion

Socio-legal scholars have devoted considerable energy to interrogating the gap between the aspirations and accomplishments of civil rights legislation. Critical legal and race scholars have long questioned the capacity of American antidiscrimination law to effectively sanction discrimination and meaningfully improve racial and/or gender equity in outcomes or opportunities (Bell 1973; Crenshaw 1989; Freeman 1978). Early critiques focused largely on the law per se – particularly the narrow, individualistic conception of discrimination embedded in many civil rights statutes– as well as the meager enforcement regimes associated with antidiscrimination laws.

Empirical research on antidiscrimination law-in-practice in the workplace has deepened those critiques by studying how employers understand, respond to, and in turn, give meaning to the law’s often ambiguous mandates. Discretion figures prominently in socio-legal work on anti-discrimination law in action, which often illuminates the counterintuitive consequences of policies designed to impose constraints on the decision-making powers of those in a position to discriminate. Following the 1964 Civil Rights Act, employers experimented with a variety of strategies to comply with the ambiguous mandates of Title VII (Edelman 1992). Nonetheless,

limiting the discretion of managers (or at least its appearance) has long been a central organizational strategy to signal Title VII compliance given widespread, taken-for-granted assumptions that discretion increases opportunities for the expression of bias or cronyism, and that bureaucratic restraints on managerial decision-making power enhance fairness and meritocracy (Dobbin et al. 2015). Edelman (1992) and Kalev and Dobbin (2006) show that employers took steps to minimize the appearance of excessive discretion in the decades following the Civil Rights Act by creating human resources departments and formalizing hiring and promotion practices, reforms that at times meaningfully improved racial equity in hiring outcomes, but in other contexts amounted to little more than what Edelman refers to as equal opportunity “window dressing” (1992:1568).

More recent studies find that policies restricting managerial discretion had either no effect on (Ferguson 2015) or negatively impacted hiring and promotion outcomes for underrepresented workers (Dobbin et al. 2015). Drawing on social-psychological research on reactions to external constraints on autonomy, Dobbin and colleagues attribute the latter finding to backlash on the part of managers. Research on the effects of workplace antidiscrimination policies also demonstrates that negative proscriptions on informal or subjective forms of managerial decision-making were far less effective than “effects-based” policies like affirmative action that imposed clear, unambiguous positive obligations on employers (see Pedriana and Stryker 2017: 114-115).

This body of literature suggests that discretion has a complicated relationship to discrimination. While unbridled discretion to distribute social opportunities and sanctions understandably generates concerns about discrimination, legal efforts to stamp out discretion can unintentionally harm the intended beneficiaries of antidiscrimination policies by provoking

rebellion on the part of authorities determined to retain their decision-making powers. In the next section I describe civil rights concerns regarding the emergence of more exhaustive forms of background screening in rental housing, and recent legal reforms designed to combat discriminatory tenant screening practices by regulating landlords' use of discretion to screen and select rental applicants.

Contemporary Tenant Screening Practices, Discriminatory Impacts, and Policy Responses

Socio-legal scholars have not devoted comparable attention to antidiscrimination law-in-action in the housing context despite the marked disparity between the goals and outcomes of fair housing legislation. In an analysis of the achievements of three landmark pieces of Civil Rights legislation, Pedriana and Stryker (2017) describe the scholarly consensus that the 1968 Fair Housing Act has done far less to reduce discrimination or residential segregation than Title VII of the 1964 Civil Rights Act or the 1965 Voting Rights Act did to advance racial parity in the workplace and voting booth. Results from federal and local fair housing tests since the early 1970s indicate that housing discrimination on the basis of race and ethnicity is particularly intractable in the rental market (National Fair Housing Alliance 2017; Schwemm 2006), and racial/ethnic residential segregation remains quite pronounced in much of the country (Logan and Stults 2011; Rugh and Massey 2014). Social scientists and legal scholars largely attribute the FHA's failures to features of the law itself, particularly its narrow, individualistic conception of discrimination, and its anemic and fragmented enforcement regime (Bonastia 2000; Gotham 2000; Johnson 2010; Massey and Denton 1993; Oliver and Shapiro 1995; Pedriana and Stryker 2017; Silverman and Patterson 2011).

Few studies go beyond these critiques to investigate how fair housing law has been implemented at the ground level. The absence of such investigations may reflect scholars'

disengagement with the housing sphere since the heyday of scholarship on landlord-tenant law and the tenants' rights movement in the 1970s (Desmond and Bell 2015). Research on antidiscrimination law-in-action in the housing sphere has also been stymied by the fact that the Fair Housing Act, unlike Title VII, never mandated systematic data collection on tenant selection practices or outcomes in the private rental market (Pedriana and Stryker 2017). The dearth of research on the 'supply-side' (Schwemm 1988) of housing discrimination leaves us ill-equipped to draw conclusions about how fair housing laws have impacted the practices of housing providers to date, or understand the circumstances under which new antidiscrimination policies are likely to succeed or fail.

Recent changes in the rental housing landscape underscore the importance of these issues. First, the introduction of new policies regulating tenant screening coincides with an acute affordability crisis that has severely compromised the accessibility of private rental housing, as well as a policy context that leaves the majority of low-income households reliant on the unsubsidized private rental market for housing. Heightened demand for rental housing in the sustained aftermath of the 2008 foreclosure crisis has contributed to precipitous increases in rental costs across the U.S., especially in coastal urban areas. Due to the acute inadequacy of public rental assistance programs, most poor and working renters are not shielded from runaway rents in the private sector. Due to the 20th century restructuring of public housing policy, existing housing subsidies largely operate through the private market in the form of vouchers, and just two percent of rental units in the U.S. are publicly owned (U.S. Census Bureau 2015a).

Extreme economic conditions in the rental market can intensify screening-related barriers to housing and pose challenges for legal efforts to root out discriminatory screening procedures. Unsurprisingly, landlords tend to adopt more rigorous screening criteria in tight markets and

relax those criteria in slack markets where vacancy rates are higher (Clark 2007; Dickson-Gomez et al. 2009; Rosen 2014). Consequently a “landlords’ market” in which large pools of potentially qualified applicants compete for available rental units may increase the penalty associated with possessing a stigmatizing mark like a criminal record or a past eviction. These market conditions also may make discrimination harder to detect by creating plausible deniability for landlords inclined to exclude “undesirable” applicants on the basis of prohibited categories like race or family status. In these circumstances discriminatory tenant selection decisions can be credibly explained away in reference to the existence of other applicants who are better qualified on non-discriminatory dimensions like income or credit score. Consequently policymakers may face unique challenges in compelling landlords to relax their screening criteria when they have economic imperatives to adopt exclusionary entry qualifications as a means to thin out large applicant pools.

The organizational features of the private rental industry also potentially compound the challenges associated with policing landlord decision-making in a tight market. The decentralized character of the rental market, and especially its independent sector, has traditionally posed important impediments to fair housing law enforcement given the challenges of regulating an industry of disconnected, small-scale landlords who often evaluate applicants on a case-by-case basis, in-person, without formalized eligibility criteria (Pedriana and Stryker 2017; Schwemm 2006). Despite the growing share of rental units owned by Real Estate Investment Trusts (REIT) and the rapid turnover of older, independently managed rental properties (Bhatt 2015), national data suggest that small-scale landlords still constitute the largest proportion of housing providers in what remains a fragmented and decentralized American private rental market (U.S. Census Bureau 2015b).

In addition to an affordability crisis, changes in the tenant-screening process erect further barriers to housing. This process has been revolutionized thanks to the professionalization of the landlord industry, the massive expansion of accessible personal background information, and the growth of a booming commercial background check industry (Dunn and Grabchuk 2010; Kashcheyeva 2007; Oyama 2009; Thatcher 2008). Today, rental agreements are rarely forged with handshakes or a few phone calls to verify tenants' rental history and employment status (Thatcher 2008). Rather, the majority of private housing providers purchase commercial tenant screening products that return a variety of forms of tenant background information, including criminal conviction histories, credit reports, and civil court records that reveal evictions, landlord-tenant disputes, and various forms of outstanding debt (Dunn and Grabchuk 2010). Landlords and commercial background check providers maintain that these more exhaustive tenant screening procedures effectively minimize risks to persons and property, in addition to insuring against various forms of legal liability (Helfgott 1997; Clark 2007).

Scholars and tenant advocates have challenged the lack of regulation around tenant screening practices, arguing that they erect new and unnecessary barriers to housing by expanding the types of potentially disqualifying background information perceptible to housing providers (Kleysteuber 2007; Oyama 2009). Policy analysts at Harvard's Joint Center for Housing Studies contend that the traditional status of the rental market as relatively accessible compared to the homeowner market is "being jeopardized by the expanded use of credit scores, criminal background checks, and other electronic information to screen tenants in a way that mortgage lenders long have, but landlords have not" (Belsky and Drew 2007: 9).

Although landlords' adoption of more thorough and formal vetting procedures raises the bar to entry for all renters, the exclusionary impacts of this trend are disproportionately felt by

racial minorities. To the extent that the population at risk of disqualification due to their past evictions, damaged credit or criminal records closely corresponds to the groups protected by antidiscrimination statutes,¹ the use of those credentials in screening applicants for housing may constitute illegal discrimination under the disparate impact standard of the Fair Housing Act (Flagg 2011; Lapidus 2003; Lipsitz 2012; Ocen 2012). In addition to disproportionately excluding members of protected classes from housing, stringent background screening standards may be implicated in subtle forms of discriminatory treatment at the individual level. Ostensibly non-discriminatory rental criteria can provide cover for landlords inclined to reject applicants on the basis of a protected status, or encourage discriminatory behavior by activating stigmatizing implicit associations between an ostensibly neutral status marker and an ascribed trait, such as criminal record and race (Flagg 2011; Harwin 2012; Paul-Emile 2014).

Findings from two recent fair housing tests conducted in Seattle offer support for that suspicion. A common form of differential treatment involved landlords selectively mentioning credit history and criminal background check requirements to Black testers (Seattle Office of Civil Rights 2012, 2015). Another fair housing test in Washington, D.C. found that White women who posed as rental applicants with criminal records were shown preferential treatment over their Black counterparts in nearly half of all tests (Cohen 2016). Massey and Lundy's (2001) telephone audit study similarly found that landlords were sixteen times more likely to inform Black female testers about credit requirements than White men. These studies suggest that housing providers may make anticipatory judgments about an applicant's creditworthiness or criminality on the basis of their race and/or gender.

¹ The Fair Housing Act (Title VIII of the 1968 Civil Rights Act) prohibits discrimination concerning the sale, rental, and financing of housing based on race, color, religion, sex or national origin. In 1974 the act was amended to include sex, and again in 1988 to include disability and family status.

Lawmakers have started to recognize that background screening may be implicated in discrimination, and that pervasive criminal background checks jeopardize successful prisoner reentry. As of 2017, “Ban-the-Box” policies had been implemented in thirty states, the District of Columbia and over 150 cities and counties (NELP 2017), though only four jurisdictions have enacted ‘Ban-the-Box’ laws that regulate rental housing providers.² While these laws vary, they typically require that employers or landlords remove questions about criminal records from application forms, postpone background checks to a later stage in the vetting process and forgo inflexible criminal history criteria in favor of a more tailored, nuanced and individualized approach. In 2016, HUD issued legal guidance for private rental housing providers regarding criminal history screening that echoed some of the prescriptive language from both Ban-the-Box measures as well as a 2012 Equal Employment Opportunity Commission (EEOC) guidance for employers.³ The guidance warns housing providers that overly-broad, restrictive criminal history criteria (e.g., exclusion of all felons) could run afoul of the Fair Housing Act even if applied consistently due to their disproportionate and adverse impact on protected classes. The HUD guidance and most Ban-the-Box laws do not prescribe explicit rules for using criminal records, but suggest that many types of criminal history information are irrelevant to an applicant’s

² Those jurisdictions are Washington D.C. (Fair Criminal Record Screening for Housing Act of 2016, bill text available at: <http://lims.dccouncil.us/Download/35646/B21-0706-SignedAct.pdf>), Newark, NJ (Ban the Box Ordinance of 2012, bill text available at:

<https://newark.legistar.com/LegislationDetail.aspx?ID=1159554&GUID=6E9D1D83-C8D7-4671-931F-EE7C8B2F33FD&FullText=1>), San Francisco, CA (Fair Chance Ordinance of 2014, bill text available at: http://sf-hrc.org/sites/default/files/ARTICLE%2049_%20Final.pdf), Seattle, WA (Fair Chance Housing Ordinance of 2017, bill text available at:

<http://seattle.legistar.com/LegislationDetail.aspx?ID=3089232&GUID=49272C76-0464-4C6E-A1FF-140591D00410>). Seattle’s policy is the only one to prohibit criminal background screening in rental housing, while the other jurisdictions’ laws instruct housing providers to postpone criminal background checks until a conditional lease offer. While the other ordinances apply to all private landlords, San Francisco’s law only regulates private housing providers that receive city affordable housing funds.

³ 2016 HUD Guidance available at:

https://portal.hud.gov/hudportal/documents/huddoc?id=HUD_OGCGuidAppFHASandCR.pdf. 2012 EEOC Guidance available at: https://www.eeoc.gov/laws/guidance/arrest_conviction.cfm.

capacity to fulfill the terms of a rental lease due to the age, lack of severity or legally inconclusive nature of criminal records (e.g., arrests that did not result in conviction).

In instructing landlords to conduct individualized assessments of applicants' criminal histories, the HUD Guidance and "Ban-the-Box" ordinances may complicate traditional civil rights prescriptions for evaluating applicants that emphasize uniform application of clearly-defined criteria (Lageson et al. 2015). Until recently, rental industry organizations and commercial tenant screening companies had encouraged landlords to adopt exclusionary, inflexible criminal background criteria in order to avoid fair housing law liability. Since such standards ostensibly constrain landlords' discretion in evaluating an applicant's background, they were assumed to also limit landlords' culpability for any discriminatory effects of their screening or leasing decisions (Dunn and Grabchuk 2010).

This evolving legal landscape raises questions about how these reforms will transform the way landlords evaluate rental applicants. To the extent that the individualized approach to tenant background screening called for by the HUD Guidance and 'Ban-the-Box' laws comes into conflict with the Fair Housing Act's mandate for consistent treatment of prospective renters, how will landlords signal their compliance with divergent fair housing standards? Research on antidiscrimination law-in-practice from outside the housing sphere suggests that legal limits on institutional discretion have the potential to trigger organizational responses at the ground-level that undermine the equity goals of those policies. Thus, new tenant screening regulations also raise questions regarding whether and how landlords will attempt to retain the discretion they currently enjoy in the face of new legal parameters on how they evaluate rental applicants.

Study Site: Seattle's Private Rental Housing Industry

This case study leverages the evolving local policy environment governing tenant screening in Seattle to assess the capacity of newer innovations in fair housing law to meaningfully combat discriminatory tenant screening practices and broaden housing access for negatively credentialed renters. Given the lessons from socio-legal scholarship regarding the complex connection between discretion and discrimination and the indeterminate effects of policy efforts to regulate legal discretion, this study pays special attention to how and when landlords exercise discretion when evaluating and choosing tenants, and how they foresee responding to regulations that will impose new controls on their screening and selection procedures. In doing so, this study is designed to advance socio-legal theory regarding the impact of antidiscrimination law on its intended targets and beneficiaries while also focusing on an important site of both contemporary social stratification and antidiscrimination policy innovation: the private rental housing market.

Seattle has been characterized as being on the leading-edge of progressive policy innovations that have subsequently proliferated across other cities (Lowrey 2014; Miller 2016). Much of the city's recent policy activity concerns rental housing as part of broader political efforts to respond to acute unaffordability, homelessness, and racialized residential displacement crises. In the face of greatly diminished state and federal social safety nets and thwarted efforts to impose new city income and business taxes, local policymakers have coupled modest expansions of affordable housing and anti-homelessness programming with a regulatory approach to the housing crisis that does not demand large outlays of taxpayer resources. The latter strategy embodies the trend toward repurposing antidiscrimination laws to combat non-traditional forms of socioeconomic exclusion (Johnson 2016), and has resulted in new laws

restricting the use of criminal history information in hiring and prohibiting discrimination on the basis of income-source in the rental housing market.⁴

That approach has been deployed more recently in Seattle to regulate tenant screening and selection practices among private landlords. In 2016 the city passed a “First-in-Time” amendment to the city’s 1968 Open Housing Ordinance requiring landlords to screen applicants in the order that they apply and rent to the first qualified applicant. The measure is designed to strengthen an existing law prohibiting source-of-income (SOI) discrimination after fair housing tests revealed that landlords continued to routinely refuse to rent to housing voucher recipients.⁵ In order to comply with “First-in-Time”, landlords must explicitly define their eligibility criteria and make those standards available to prospective applicants. On the heels of “First-in-Time,” the City Council approved the nation’s most far-reaching “Ban-the-Box” law for housing in 2017, the “Fair Chance Housing Ordinance” which prohibits private rental housing providers from using criminal background information to screen and select prospective tenants.⁶ The passage of the “Fair Chance Housing Act” represents the culmination of advocacy efforts dating back to at least 2011 when a “Ban-the-Box” proposal applying to housing was first introduced (Westneat 2011).

⁴ Seattle’s “Ban-the-Box” policy for private employers, “Jobs Assistance Legislation” (SMC 14.17) was enacted in 2013. Ordinance text available at: http://clerk.seattle.gov/~archives/Ordinances/Ord_124201.pdf. While Seattle’s Open Housing Ordinance (SMC 14.08) has prohibited landlords from discriminating against recipients of federal Section 8 voucher recipients since 1991, in 2016 the ordinance was amended to expand its source-of-income protections to cover other non-wage sources of income, including subsidies associated with homelessness and eviction prevention programs. Amendment text available at: <http://seattle.legistar.com/LegislationDetail.aspx?ID=2802901&GUID=1B597DBF-2FC5-4766-BAC5-F5E8F511F3D6&FullText=1>.

⁵ Press release detailing findings from a fair housing test of differential treatment of Section 8 voucher recipients available at: <https://www.seattle.gov/civilrights/civil-rights/fair-housing/testing>.

⁶ SMC 14.07, ordinance text available here: <http://seattle.legistar.com/LegislationDetail.aspx?ID=3089232&GUID=49272C76-0464-4C6E-A1FF-140591D00410&FullText=1>

This political context offers a valuable opportunity to assess what current screening practices in the private rental industry mean for the capacity of new civil rights policies regulating tenant screening to improve housing access and equity. Given Seattle’s status as a bellwether of local policy innovation and the ubiquity of the social problems new tenant screening regulations are designed to combat, this study’s findings are relevant for urban governance beyond Seattle. Like in many U.S. metropolitan areas, Seattle’s rental housing market is increasingly competitive and unaffordable but still largely controlled by independent or “mom and pop” landlords. This case study thus offers relevant insights into how the economic and organizational contours of private housing markets may impact the implementation of new antidiscrimination laws.

In 2013 and again in 2015, Seattle experienced the nation’s steepest rise in rents among large cities (Balk 2014; Rosenberg 2016). The share of Seattle’s rental units owned and operated by small-scale, independent landlords and property managers likely mirrors, if not exceeds, proportions at the national level. Though reliable data on the composition of Seattle’s rental housing stock is lacking, the city’s history of exclusionary zoning policies have sharply delimited the development of high-rise, multifamily rental properties; a contributing factor to the city’s current affordable housing shortage (Conklin 2015). Better understanding the screening practices of independent landlords is important not only because they continue to control access to a substantial segment of the private rental housing stock in the United States, but also because the relative affordability of this segment of the market and the flexible, informal screening procedures employed by smaller landlords open doors to renters who encounter significant barriers to housing elsewhere.

Data and Methods

This study's data are drawn from in-depth interviews with twenty-one informants who work in Seattle's rental housing industry. These respondents occupy varied positions within the rental industry and thus offer distinct perspectives on current tenant screening practices and whether new policies will challenge and/or transform such practices. Eleven of the respondents are independent landlords or property managers who directly oversee tenant screening and selection as part of their day-to-day work. The remaining respondents are industry experts or spokespersons who offer political, legal or professional support to large numbers of private landlords and property managers, and therefore have a "bird's eye view" of industry practices and the local policy environment. This group includes three rental housing lobbyists, three real estate attorneys, and representatives from a corporate property management firm, a commercial tenant screening company, a web platform for rental advertisements, and a non-profit bridging organization that connects marginalized renters with private landlords.

I used multiple recruitment methods to contact potential respondents who could offer distinct perspectives on the legal, technological and economic dynamics that affect the screening and selection of tenants, starting with referrals from rental industry contacts I developed for an earlier study of barriers to housing and employment for people with criminal records. The remaining respondents were recruited using either snowball sampling or an online advertisement inviting local landlords and property managers to participate, posted on a networking platform for Seattle neighborhoods, Nextdoor.com. The interviews lasted between one and two hours, took place at a location of the respondent's choosing and were guided by a protocol designed to elicit descriptions of tenant screening and selection policies, practices and priorities, and the considerations that motivated different approaches to screening.

Transcripts of the audio recordings of interviews were coded using NVivo content analysis software. In order to systematically identify patterns of variation within the interview data, an index of coding themes was developed prior to initiating data analysis and refined iteratively throughout the coding and analysis. These themes corresponded to both descriptive topic areas and my theoretical interests stemming from socio-legal literature on antidiscrimination law-in-action. The theoretical coding categories were largely used to unpack respondents' understandings of what existing and proposed fair housing laws required of them and how they elected to comply with those mandates or planned to do so in the future – themes that were sometimes broached explicitly but otherwise largely woven within respondents' descriptive accounts of screening practices and reactions to local policies.

In what follows, I present interview excerpts that illustrate variation in the respondents' understandings of fair housing law requirements and how those obligations impacted their approaches to screening tenants. I begin by highlighting divergence in the perspectives of independent landlords and rental industry experts regarding how discretion should figure into lawful tenant screening practices. While experts contend that ideal fair housing compliance involves minimizing the discretion of screening agents, independent landlords and property managers acknowledge that they exercise considerable discretion when evaluating applicants and maintain that they have the legal right and business imperatives to do so. I then illustrate how independent rental housing providers plan to resist, adapt to, or circumvent, new tenant screening policies they contend would encroach on their ability to screen and select tenants in the manner they see fit. I conclude by highlighting the challenges associated with using new innovations in fair housing policy to transform landlord practices in ways that advance the goals of those policies.

FINDINGS

Rental Industry Experts on Ideal Screening Practices for Fair Housing Compliance

The looming possibility that Seattle would enact a “Ban-the-Box” policy regulating private landlords was referred to by each of the industry experts interviewed for this study. It was largely through discussion of that prospect that respondents’ understandings of what fair housing law requires of landlords emerged, since many experts contended that new regulations on criminal background screening would upend best-practices for fair housing law compliance that have been widely accepted and institutionalized in the private rental industry. In this section I illustrate what these respondents, who often act as spokespersons or the public face of a heterogeneous and decentralized industry, argue is central to fair and lawful tenant screening: the consistent application of clearly defined eligibility criteria and screening procedures. These respondents further contend that such an approach, which minimizes landlords’ discretion and opportunities for the expression of illegal bias, would be undermined by “Ban-the-Box” laws and the 2016 HUD Guidance, which encourage landlords to evaluate applicants on a case-by-case basis.⁷ The industry experts’ ideal standard for lawful tenant screening, however, does not appear to have been universally adopted or endorsed by independent landlords. As the second section details, while many independent landlords and property managers also oppose tenant screening regulations like “Ban-the-Box”, they do *not* share the experts’ characterization of discretion as

⁷ The 2016 HUD Guidance offers the following prescription for evaluating prospective tenants: “...individualized assessment of relevant mitigating information beyond that contained in an individual’s criminal record is likely to have a less discriminatory effect than categorical exclusions that do not take such additional information into account. Relevant individualized evidence might include: the facts or circumstances surrounding the criminal conduct; the age of the individual at the time of the conduct; evidence that the individual has maintained a good tenant history before and/or after the conviction or conduct; and evidence of rehabilitation efforts.” At page 7, “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,” April 4th, 2016. Available at: https://portal.hud.gov/hudportal/documents/huddoc?id=HUD_OGCGuidAppFHASandCR.pdf

antithetical to nondiscrimination, and instead maintain that more subjective approaches to evaluating rental applicants constitute legitimate and lawful business practices.

Most rental industry experts acknowledged that blocked housing access for a growing population of people branded with a criminal record was an important social problem. Nonetheless, each of them oppose the “Ban-the-Box” law that had been proposed in Seattle in 2012 and again in 2016. Although the law was framed by its advocates as a racial equity policy, these respondents argued that the policy would enhance opportunities for discrimination and expose landlords to greater fair housing liability. As one rental housing lobbyist explained, professional organizations have long educated landlords on best practices for fair tenant screening, which come into conflict with the approaches to screening proposed by “Ban-the-Box” advocates:

Well, since the Fair Housing Act we've been hammering into our members heads: there is no gut-judgment call, there are ascertainable standards, right? So, when I sit across from [name of tenants' rights advocate], and she says you know, "you can look at it, but we also want you to, you know if there's a letter from a social worker, and yadda yadda yadda, well then I want you to take a risk." And I'm like, great, but . . . what's to say that my landlord is making a judgment call from the gut – how do we know that isn't a prejudicial judgment call? The judgment call they're asking you to make puts me into a fair housing paradox.

Many respondents similarly complained that legal efforts to stem the disparate impact of restrictive criminal background screening policies would enhance opportunities for more subtle forms of discriminatory treatment of rental applicants (e.g. accepting the mitigating circumstances of only White applicants with criminal records). Because most of the respondents in this group considered themselves experts in fair housing and landlord-tenant law, they were particularly concerned with leaving individualized assessment responsibilities up to legally unsophisticated landlords and property managers. Multiple respondents explained that the lack of legal training and fear of fair housing liability among such on-site screening agents leads them to

rely on either broad, exclusionary screening criteria or commercial background check services that provide formal recommendations on applicants' eligibility. One real estate attorney contrasted landlords with employers to account for how landlords typically approach compliance with antidiscrimination law:

I think it's an easy decision for a housing provider to say, "I am not going to take anyone who has a felony conviction, period" or, "I'm not going to take anyone who has a felony conviction in the last five years or ten years" or whatever. That's far easier than saying, "I'm going to look at this person's criminal background and see what kind of an offense it was and how long has it been and how rehabilitated they are." On-site staff doesn't have the capacity to do that. Typically landlords don't have an HR department that runs the screening side. You've got officials in the HR world in employment who are, I think, very capable of making those informed decisions. Not so in the housing side. I think that's the challenge.

The notion that most independent landlords lack the expertise necessary to assess an applicant's criminal history in a nuanced manner was also expressed by the executive of a commercial screening company. For him, the legal naiveté of independent and small-scale landlords helped account for the popularity of background screening services that make explicit recommendations, as landlords believed that deferring to such recommendations insulated them from fair housing liability:

They're [amateur landlords] saying, "We like using SafeRent because it tells us red, yellow, green lights and our people don't have to think. We don't want them to think. We think it's safer, legally, from a fair housing standpoint if they don't think." There's just less risk to the organization. This notion of having some site person that doesn't have a clue how to read a record individually assess the merits of the case scares the crap out of landlords. I think it would end up in discrimination claims.

A lobbyist representing a professional association largely comprised of mom-and-pop landlords echoed this sentiment in very straight-forward terms – namely, that consistent application of screening criteria is a fundamental principle guiding landlords' efforts to comply with fair housing law: "I don't know if your rental is in a flop house next to a boiler factory and

you'll take anybody off the street or it's a deluxe penthouse...You have to set your own standards. But you have to apply it consistently.”

According to these experts, then, the uniform application of clearly explicated screening standards is a fundamental basis of fair housing compliance in rental housing. Minimizing the appearance of discretion by deferring to the screening standards of commercial background check companies or their own inflexible policies is a central means by which private landlords (should) signal that they are screening rental applicants consistently, and thus lawfully. Implicit in these arguments is the assertion that these best practices have been widely adopted since the Fair Housing Act's passage and successfully prevent unlawful discrimination.

Only one respondent in this group offered a different perspective by acknowledging that informal, subjective and potentially discriminatory approaches to screening applicants persist in the rental industry's mom and pop sector. This rental housing lobbyist and retired attorney represented an array of large and small private rental housing providers, and asserted that corporate landlords often use formal, decentralized systems for screening so that tenant evaluation and selection is not carried out by on-site staff who have had in-person contact with applicants. By contrast, he contended, most “mom & pop” landlords still meet applicants in-person, which inevitably creates opportunities to assess potential tenants in subjective, potentially illegal ways. Here he describes the kind of informal, pre-application screening that often occurs at open-house showings of vacant rental units:

I won't approve it, but I can certainly understand small landlords making unfounded judgment calls based on someone's appearance, the car they drive, etc. The behavior of their children, if they bring their children to the screening and other things that they probably shouldn't consider, but people are people and they do that. I don't think you can stop it, necessarily. You would hope they wouldn't do that, but I don't know how you stop it.

As the next section details, many independent landlords and property managers take a relatively informal approach to evaluating potential tenants that more closely resembles the scenario above than the best-practices described by the other respondents in the industry expert-group. Most landlords still relied upon open houses as an efficient means to show vacant units to applicants. Unlike corporate landlords, the independent landlords and property managers meeting with prospective applicants were also directly responsible for carrying out screening and ultimately selecting renters. Although no respondent described prescreening applicants in a demonstrably discriminatory manner (e.g. using open houses to determine the race or family status of applicants), many acknowledged using in-person meetings as a chance to get “a feel” for dimensions of an applicant’s character that couldn’t be discerned from a paper application or standard background check. As one small landlord remarked, she aims to conduct a holistic assessment of applicants in the hopes of finding not merely tenants who can pay the rent, but “good people.”

Below, I present first-hand illustrations of this approach to screening and highlight how more discretionary screening methods can work to both the benefit and detriment of renters with negative background credentials. I also present narratives of independent landlords who staunchly defend their perceived legal right to use more subjective metrics to evaluate applicants and select tenants in the manner they see fit. The third and final section of the findings details the organizational strategies independent rental providers plan to adopt in order to retain those rights in the face of new tenant screening regulations.

Independent Landlords on the Necessity of Discretion in Tenant Screening

Landlords’ and property managers’ self-reported practices depart significantly from the best practice recommendations of industry experts. The majority of the former feel comfortable

exercising considerable discretion when making choices about how to screen applicants, who to rent to, and what information to disclose to rejected applicants. This section illustrates how such subjectivity can open doors for renters who encounter significant barriers to housing elsewhere, while also enhancing opportunities for discrimination.

Landlords and property managers tended to describe tenant screening as more of an art than a science, and only one respondent expressed any concern that the use of subjective criteria would put them at risk of violating Fair Housing laws. One landlord described how his background screening practices depart from the procedures stated in his rental advertisements as he decides on a case-by-case basis when to undertake any sort of formal background check:

Just to be transparent here, I'm pretty aggressive on the listing in terms of what I'm going to require in the way of an application and everything else. And because I figure if it's in the listing, I have the right to do it. I exercise a lot of discretion about how much of that I actually follow-up on... It's [approach to screening] systematic from the start, but I count on my personal judgments to decide how much of the protocol to actually execute. So I would never post a unit without saying there will be a background check. But I may not run a background check. I have the rights to.

The majority of landlords and property managers acknowledged that they did not have a formal, written set of procedures for screening and selecting applicants. Particularly when reflecting on the “First-in-Time” policy mandating that landlords formalize their rental eligibility criteria and make those standards available to applicants, many respondents contended that what constituted qualified applicant could not be translated into an unambiguous policy. Although most respondents reported that their evaluations largely revolved around conventional criteria related to income, credit and rental history, they eschewed hard and fast standards in favor of a more holistic assessment style.

Such an approach allowed respondents to approve applicants who might be rejected by a more formal vetting system as long as the applicant could provide compensatory evidence of

their fitness as a tenant. For example, respondents often mentioned credit history as one criteria that they approached in a very flexible manner, often overriding the initial recommendations of tenant screening services to reject applicants with poor credit scores if the applicant had a stable income, a strong rental history, or if the source of their credit trouble wasn't indicative of fiscal irresponsibility, such as student loan debt. One property manager described how he approaches damaged credit histories:

The most common one is credit problems. We'll ask them to explain them to us. And then, that is again, we totally go subjective. We have the right to plain decline them now. So instead we're going to give them one more chance and we do that very subjectively.

Another property manager described how elements of applicants' background information are evaluated using flexible, holistic standards that allow for consideration of mitigating circumstances. In confirming that her property management company evaluated applicants on a case-by-case basis, she offered the following account of how her firm's vetting procedures go beyond what an applicant looks like 'on paper':

Property Manager: *Right. Because I told you what the three big [sources of credit problems] were: the medical, the IRS, and the student loans. A lot of couples get divorced and the credit is awful. And it's always, "Well, it was my spouse's fault." And even then how do you know? You start to look at stuff. It's very, very rare - if you ruin the credit - you're the female spouse but everything looks like it's hunting equipment and that. Sometimes there are bigger clues. It's hard to say.*

Author: *Are there any clear standards with other things like criminal records?*

Property Manager: *With the criminal records - ironically this person worked at a law firm. They were a paralegal. So they applied and she tells me from the beginning you're going to see I have a criminal record because in Minnesota if the cops come out - it wasn't a felony but it wasn't a misdemeanor either. It was somewhere in between. So I said, "What happened?" This was her story. She was at a family funeral and a fight broke out. A big fight and the cops came. She got arrested along with some other relatives... We looked at the rest of her criteria. She works at a law firm. Her current landlord gave her great references. So we rented to her. The sex offenders I cannot help. The violent criminals I cannot help. The marijuana use it depends how long ago it was. There's a difference between you were arrested because the cops stopped you and you had marijuana and you*

were in jail for five years because you were dealing. So we ask people for the story.

Beyond the desire to balance various elements of an applicant's background information and consider mitigating information, respondents in this group also admitted that they lacked formal, inflexible screening policies because they sometimes used more "gut-based" judgments based on more intangible features of applicants' personalities or demeanors. As one property manager explains, after vetting applicants more formally on the basis of their application materials, he and his colleague use their years of experience to try to deduce aspects of an applicants' character that cannot be determined by their application and background check materials alone:

Author: *Do you have written policies about screening that are available?*

Property Manager: *Not really, because it would seem like it would be a thirty page document. [Name of colleague] has been in this since 1989. The two of us just know what we're looking at when we screen people. She's the one dealing with them if she rents to someone who is really a jerk. So she's motivated to screen for what works for her. Yeah, it's pretty subjective once we get through the basic criteria. But, you know, we're giving everyone a chance. If you are basically normal and you pass our screening, you get to rent from us.*

This respondent expanded on this point in discussing the "First-Come, First-Served" legislation, defending his right to use a more "gut-based" judgment in an effort to screen out "jerks":

Property Manager: *What does it mean to be a qualified applicant? Not just someone passes the criteria...you don't have to rent to someone who meets all of your criteria. There's no law against not renting to a jerk. If people are just abrasive, and we have multiple applicants, we're going to take the least abrasive - that is not a protected category and that's not what she's addressing in the laws and so we're going to continue to do that I would assume.*

Author: *Once you get a chance to meet people in person, you get a sense?*

Property Manager: *You can get people's vibe pretty damn quick.*

Other respondents similarly described the importance of their perceived right to reject applicants about whom they have misgiving even if they meet predetermined eligibility criteria.

Multiple respondents reported that they tried to approach tenant selection in the manner that the “First-in-Time” legislation prescribes: namely, conduct formal background checks for only one applicant at a time in the order that they apply, and rent to the first qualified applicant.

Nonetheless, even landlords who took this approach expressed their fear that the new law would take away their “veto power” to reject applicants from whom they got a “bad feeling.” One landlord recalls how she departed from her typical practice of renting to the first qualified applicant because of the negative impression she got when meeting the applicants:

I had this window of time that I was going to show it, and there were two young women who wanted to look, and I said OK to them coming earlier. And I really regretted it because they were extremely pushy and I didn't like them. One of them was unemployed, and she said she had a trust fund, and I said - you know, I just said, “No, I can't do it. Sorry.” But I may have been - I don't know if that was really fair or not. But I knew I didn't want to deal with them in the long run.

This respondent also explains how her fear of abrogating control over tenant selection is informed by an incident in which she rented to a group of tenants who did costly damage to the unit. In that case, she suppressed her initial concerns about the applicants because she felt they were based on prejudicial stereotypes, but in retrospect wished she had “trusted her gut”:

Landlord: *I had three guys who my husband [had misgivings about], and I said, “Well, let's give them a chance.” And they just trashed the place. They were really hard on it. And it's just one of those things where I tried to play fair and they were the first to apply and maybe I'm really naïve. But I don't know how to avoid that, if we're going to be forced to take the first applicant who's qualified.*

Author: *And there wasn't anything, beyond maybe the bad feeling, that was troubling about their applications?*

Landlord: *Well, I felt like I was stereotyping them. But there's a reason for those stereotypes.*

Author: *And do you want to elaborate on what your impression was?*

Landlord: *Yeah, OK, they were some privileged young men, kind of expected to do whatever they wanted. I was never really hard on them, but they were just basically inconsiderate....And, shame on me, you know?*

While the level of discretion exercised by these independent landlords and property managers might unnerve officials at the Seattle Office of Civil Rights and contradict the

purported principles of industry spokespersons, it is clear that such discretion is sometimes exercised to the benefit of renters who face screening-related barriers to housing. One respondent who works for a non-profit bridging organization captures the double-edged nature of informal screening practices, namely, that they can be a source of both mercy and bias. Reflecting on his efforts to help his clients identify landlords who have more fungible rental standards, he conveyed his simultaneous appreciation for, and misgivings about, landlords who lack any clear rental criteria:

Well, of course, there's grounds for a lot of discriminatory issues there, positive and negative, but there's also a lot of opportunities. I mean, I want everything fair, and so, when a landlord says, "Oh, I don't screen," it's like, well, part of me, it says, "Great!" But on the other hand, it's a challenge, because it could work the other way, too.

This respondent recounts one example of what the “other way” looks like, a scenario in which landlords take advantage of large applicant pools to pick and choose tenants in capricious and potentially discriminatory ways. According to the law’s advocates, this is precisely the scenario the “First-in-Time” measure is designed to prevent.

One of my most embarrassing moments in this work, was going to a Section 8 open house and watching the environment of how many people, voucher holders, are searching for units, what they're saying and doing to try to get this landlord to go their way, and how the landlord selects clients. "Oh, I ran out of applications. Call me. I'll send you one." All kinds of things that are... pretty demoralizing.

Unsurprisingly, none of the landlords or property managers interviewed for this study indicated that race or other protected class statuses impact how they exercised discretion or made judgment calls when screening and selecting tenants. What fair housing law required of landlords was not described in specific terms by most of the respondents in the group. Instead, most respondents mentioned that they knew not to discriminate against protected class members, an obligation that one property manager asserted was easy to meet for non-discriminatory people:

Author: *What legal concerns shape the way you approach screening?*

Property Manager: *We've [referring to himself and his business partner] known each other forever and we already know that we as people don't violate in life any of the basic discrimination provisions, whether handicapped, ethnic, religious - these things. So I don't really have any. I think I want to dot my I's and cross my T's because somebody can just be sour grapes.*

Nonetheless, a few respondents reveal how preemptive assumptions about the social status of their typical applicants shape their more informal approach to tenant screening. Here the landlord who rents homes to college students describes why she feels it unnecessary to conduct criminal background checks:

Author: *So on that front [criminal history] and on the credit front you don't do a formal background check?*

Landlord: *I have not to date. It's been obvious enough to me that these people are on the up and up.*

Author: *Have you ever even had anyone disclose a felony?*

Landlord: *No. The price point that we are offering our homes at because they are really nice homes and the kind of people who are tending to group together are generally not the type of people who would have been convicted of a felony.*

Another landlord used similar logic to explain why she has never encountered an applicant with a criminal history: "You know, most of my tenants are people like you, educated and working and young, but I would say this place kind of attracts a certain type of person." Statements like these suggest that landlords may exercise discretion in a more benevolent way for applicants who they subjectively assess to be educated, stable, professional or even simply "normal." Short of systematic audit testing however, there is no way to determine whether or how often race, gender, parenthood or other legally protected statuses influence landlords' subjective assessments of rental applicants. The lack of transparency that characterizes more informal approaches to tenant screening makes discriminatory application of flexible rental standards particularly difficult to observe.

Fair housing laws have not prohibited landlords from selecting the applicant they deem most qualified as long as those qualifications are not explicitly discriminatory. Consequently, landlords are not obligated to disclose the basis on which they reject applicants. Many of the landlords in this study reported relying on the phrase “we selected the most qualified applicant” so as not to communicate their real motivations for not selecting applicants. This comports with legal scholarship on property rights, which shows that vague criteria allow property owners to exercise their right to exclude entrants without exposing their exclusionary practices to scrutiny or running afoul of antidiscrimination law (Strahilevitz 2005). In explaining rental decisions by emphasizing the selection of the applicant who was most qualified or submitted their application first, housing providers are able to avoid revealing the sometimes-subjective bases on which they reject undesirable applicants. One landlord described how he rejected a prospective applicant without disclosing his misgivings about her character:

There was one case of somebody who I thought actually who was probably dishonest and was bullshitting me. I promised to send her an application form the next day, basically buying time with it, and I never sent it. Instead of sending it, I sent an email saying that someone I had been talking to resurfaced. I didn't say, "I got a bad feeling about you. I think the stories don't add up and you might be a shyster." I didn't say that. I just told her I had rented it to somebody else who I had been talking to before I met her.

Another landlord admitted that she used similar evasive language because she wanted to avoid opening up her decision-making to scrutiny or inviting allegations of discrimination: “Potentially I might be saying something that could be discriminatory, or could be construed in the wrong way and I'd much rather just say, ‘We decided to offer it to somebody else.’”

Another landlord's rationale for communicating with rejected applicants in this manner underscores a longstanding critique of antidiscrimination laws from socio-legal and critical race scholars: that the burden of enforcement of such laws largely rests upon the victims of

discrimination. In the context of housing, rental applicants typically do not have the time to interrogate landlords since the imperative to find housing is much more pressing than whatever interest they may have in mobilizing antidiscrimination law to contest their rejection:

When someone says, “Why didn’t you rent to me?” We simply say there are stronger applicants and they don’t drill down on it.... In the application process, people do just move on. People don’t cling very hard to not getting a place.

Despite the industry spokespersons’ assertions that minimizing the discretion of screening agents is a central component of best-practices for lawful tenant screening, a tight rental market inevitably affords landlords the opportunity to exercise tremendous discretion in choosing from large pools of eligible applicants. A competitive rental market may also increase the penalty associated with possessing a stigmatizing trait like a criminal record, and make landlords especially resistant to reforms designed to lowering screening-related barriers to rental housing. The following comments from a real-estate attorney illustrate how market dynamics amplify screening related barriers to housing:

I think if you have a tight rental market and you had the choice between somebody with a criminal record and somebody with a clean record - why would you relax your policy for an unknown when you have ten other people that don’t have this criminal record?

These accounts of how landlords and property managers exercise discretion during various phases of the tenant screening process underscore discretion’s complex relationship with discrimination. While broad decision-making powers enhance opportunities for discrimination, they also afford landlords the flexibility to rent to negatively credentialed renters. However, a very competitive rental market likely reduces the probability that landlords will exercise their discretion to open their doors to “imperfect” rental applicants given ample opportunities to select tenants with untarnished background records and/or higher incomes.

Regardless of the contradictory implications of independent landlords' informal approach to screening for housing access and discrimination, this sector of the rental market represents the most accessible housing option for negatively credentialed renters given the severe shortage of public housing and the higher costs and barriers to entry associated with corporate rental housing providers. As such, it is especially important to investigate how independent landlords will respond to policies intended to broaden access for negatively credentialed renters and combat discriminatory screening practices. Below, I describe how respondents plan to circumvent or adapt to two tenant screening regulations that call for either restricting landlords' discretion to select the applicants they prefer ("First-in-Time") or their use of criminal background information ("Ban-the-Box").

Retaining the Discretion to Exclude

As illustrated in the preceding section, independent landlords defend their perceived rights to use a fairly subjective approach to vetting and selecting rental applicants. Some of these respondents contend that those rights are under assault by local policies, particularly Seattle's "First-in-Time" law, and describe their plans to circumvent that policy in ways they acknowledge will undermine the spirit of that policy. These respondents justify those plans by arguing that new tenant screening regulations undermine their ability to find compliant and amiable tenants, reduce turnover, and minimize risks to their property, imperatives that are likely of greater concern for small-scale than corporate rental housing providers. Policies that challenge landlords' freedom to access criminal background information or turn away applicants on the basis of subjective criteria are said to jeopardize those business imperatives.

One respondent described how she intends to take a number of steps to mitigate the perceived negative impacts of the new "First-in-Time" law: "I feel more exposed and more

vulnerable if I have to take the first person who's qualified." For her, those steps included raising deposit fees and advertising available units by word of mouth instead of on internet platforms like Craigslist and Zillow. Other respondents suggested that they anticipated finding ways to adapt to the new law without sacrificing the discretion they currently enjoy – a sentiment echoed in the local press by landlords who assert they will simply work around the new measure by tightening rental criteria in order to maintain the quality of their applicant pool.⁸ One landlord asserted that he is considering raising his minimum credit score and income standards to the most extreme level permissible under the law in order to circumvent the new law. He maintains that these steps are necessary because the significant financial risks associated with renting to a "bad" tenant who damages the unit, is evicted or breaks their lease early for small-scale landlords like himself:

Landlord: *I know one thing - we're going to do the more expensive background checks because we're going to make them verify employment and income... I expect we're probably going to come up with very explicit qualifications and maybe make them pretty extreme so that we can then say, "Oh, look, nobody met our qualifications," and then we're going to subjectively choose from the people that we seem to like.*

Author: *So if you had to do that, what would you have in mind?*

Landlord: *A really high credit score and income requirement that was absurd. I mean, frankly, they have to make six times - their monthly income needs to be six times the rent or something. I'm guessing there will be some guidelines about what we can and can't do and we'll probably push those as much as we can because we run a huge risk. A small-time landlord, if somebody fucks up one of our units in the duplex, I mean, for us - we have regular insurance on all that but if our unit goes out of service for a couple of months because we have to put in repairs, it's a big loss.*

Another respondent understood the motivation for the "First-in-Time" policy, but maintained that subjectivity was essential to the business models of small landlords:

⁸ <http://www.seattletimes.com/seattle-news/politics/a-primer-on-seattles-new-first-come-first-served-renters-law/>

Author: So you would be left with just creating more stringent requirements and hope that that is going to give you some security?

Landlord: That's what we're thinking, we're going to do because the previous method that we would use, which I think is fairly common for small-time landlords, this is the advice you get as a small-time landlord is you set your rent low, get a huge pool of applicants, and choose the people that seem like they're going to be the lowest risk, the best tenants. Now I get that that opens up tremendous room for discrimination. I think systematically maybe that's not the best thing. But...it's the thing that protects me from risk the most. And because I don't do policy, I guess I should say maybe it's not my job to try to reconcile those. I don't know how to do it...There just hasn't been a ton of variation in people that [apply] - I mean, there's some income variation...but honestly, when we've made decisions, it's come down to - do they seem more easygoing? Are they going to complain a lot? Do they seem stable? ... But recognizing it as subjective characteristics, I realize that's hard to make decisions based on that.

A landlord who rents large homes to groups of college students similarly contends that

the city's regulatory efforts undermine her current approach to vetting rental applicants which is tailored to her specific customer base. Like other respondents, she suggested that "First-in-Time" and the proposed local policies regulating criminal background screening were designed to ultimately restrict rental eligibility criteria to one's ability to pay the rent. That standard alone, she argues, is inappropriate for independent landlords who have more extensive contact with their tenants and bear greater fiscal risks when they enter a lease with a new tenant. For her, an applicant's income is relatively unimportant since most of her student tenants will have co-signers. Instead she relies on a very in-depth, personalized and labor-intensive vetting process designed to assess the moral character of applicants:

The city in terms of its movement towards the Fair Housing and accepting anybody who shows up with an open checkbook...for us it really isn't so much about the financial wherewithal because often times we're working with students the parents are involved. So there is a completely different type of financial backing. It's not so much about the money as it is about people being good people. I go a lot deeper than I think most property managers would go in a character sense. Obviously there's a boat load of facts that you can put on paper but it doesn't really give you a sense of who the person is. I get all the back story about the awards they had in high school and how hard they worked to get into the Informatics school.

The same respondent suggested that she will find a way to signal visible compliance with the new “First-in-Time” law without it impacting her capacity to choose the applicants she prefers:

***Author:** So are you thinking about the new law that you have to rent to the first person who...?*

***Landlord:** Is qualified. But qualified is a broad term that one can then define as appropriate for one’s property. I will be in conversation with our rental housing association counsel around how to be as completely appropriate as we can be while still being able to rent to the people that we really want to.*

In short, this group of respondents staunchly defended their perceived right to exercise discretion in choosing tenants so long as those choices are not explicitly discriminatory. Many respondents also maintained that small-scale players in the rental industry need to use more subjective methods of assessment to minimize risk by selecting tenants they judge to be the most reliable, even though some respondents acknowledged this approach also enhances opportunities for discrimination. These independent property managers and landlords also expressed confidence in their ability to retain their discretionary powers in the face of new policies designed to exert control over tenant screening and selection practices. As one property manager remarked regarding how laws intended to regulate screening can be circumvented: “There is always very easy ways to not rent to somebody.”

Discussion and Conclusions

This study analyzes the implications of rental housing providers’ tenant screening and selection practices, conceptions of legal rights and obligations, and plans for adapting to an evolving policy environment for the capacity of new antidiscrimination laws to meaningfully improve housing equity and access. Consistent with socio-legal research on the implementation and impacts of antidiscrimination law in the workplace, the findings suggest that ground-level organizational practices found in the independent sector of the rental housing market pose

multiple challenges for policies that aim to fight discrimination and socioeconomic exclusion by regulating landlords' use of discretion.

First, independent landlords and property managers continue to enjoy relatively unfettered discretion in tenant screening and selection. Though industry spokespersons suggest that landlords have adopted practices since the Fair Housing Act that ensure rental applicants are evaluated uniformly and in accordance with clearly defined eligibility criteria, landlords and property managers described using fairly subjective and informal approaches to screening rental applicants. Respondents also defended their perceived rights to assess and choose tenants in the manner they see fit so long as it is not demonstrably discriminatory, and maintained that subjectivity is an unavoidable and necessary dimension of the tenant screening process for small scale rental housing providers. The persistence of relatively informal and ad-hoc legal compliance strategies in this sector of the rental industry is one indication that fair housing law has not spurred the same degree of organizational change as antidiscrimination laws have in the workplace. The prohibitive enforcement costs of regulating the idiosyncratic and largely unseen decision-making processes of independent actors in a very decentralized industry has historically stymied the efficacy of fair housing laws in practice (Johnson 2010; Schwemm 1988, 2006) and poses contemporary challenges for policymakers who aim to lower barriers to rental housing by regulating landlord behavior.

Second, the commitment to retaining broad discretionary powers among housing providers in the independent sector of the rental industry may also frustrate renewed legal efforts to regulate tenant screening by motivating modes of legal adaptation that would clearly undercut the objectives of those policies. For example, some respondents described their plans to raise their credit and income related rental criteria or stop publicly advertising vacancies in order to

circumvent Seattle’s “First-in-Time” and “Ban-the-Box” laws and maintain the “quality” of their applicant pools. The backlash among landlords to such policies may be particularly pronounced given that they have long enjoyed unregulated discretion to screen and select tenants as they see fit, and staunchly defend their perceived legal right to exclude unwanted applicants.⁹ These findings comport with organizational and social-psychological research in the employment setting demonstrating that policies that either restrict managerial discretion or their access to candidate information can provoke behavior that undermines the equity goals of those policies (Agan and Starr 2016; Dobbin et al. 2015; Doleac and Hansen 2016; Ferguson 2015). “Ban-the-Box” policies may narrow the grounds on which landlords may lawfully reject an applicant, but do not create a positive obligation for landlords to rent to those with stigmatizing traits like criminal histories. As such, even landlords who are subject to far-reaching versions of “Ban-the-Box” law like Seattle’s 2017 ‘Fair Chance Housing Ordinance’ retain many ostensibly race and gender-neutral bases on which to exclude undesirable applicants. Although stringent income and credit criteria may have discriminatory impacts on par with exclusionary criminal history standards, they are much harder for critics to assail from a civil rights perspective since they are seen as closely linked to a tenant’s ability to fulfill their most important lease obligation: pay rent.

Third, these findings underscore lessons from socio-legal scholarship regarding discretion’s complex relation to discrimination, and relatedly, the indeterminate and sometimes counterproductive effects of legal efforts to advance equity by regulating the decision-making powers of individual agents. While discretionary powers create opportunities for arbitrary and/or discriminatory application of legal standards, the capacity to depart from law is also a necessary

⁹ Such beliefs may reflect the centrality of the ‘right to exclude’ in the American understanding of property rights, though Fair Housing laws put important restrictions on that right (Strahilevitz 2005).

precondition for leniency (Goldstein 1963). In the housing context, experimental research makes clear that discretion in tenant screening allows landlords to apply rental standards in a discriminatory fashion (Cohen 2016; Massey and Lundy 2001; SOCR 2012, 2015). At the same time, discretion also affords independent landlords the latitude to rent to applicants with imperfect criminal, credit or rental histories. My findings regarding the housing search experiences of negatively credentialed renters, described in the next chapter, confirm that these groups target “mom & pop” landlords whose flexibility makes them vestiges of accessibility in an otherwise unforgiving rental market. Consequently, policies designed to target inconsistent screening practices may jeopardize housing access for negatively credentialed renters who rely on sectors of the private market where screening practices are more informal and possibly merciful.

This case study helps remedy the dearth of socio-legal research on ground-level practices among landlords and identifies what those practices mean for the prospects of using new forms of antidiscrimination regulation to address the social problems linked to modern tenant screening practices. Because data collection for this study took place after the proposal but before the implementation of new tenant screening regulations in Seattle, this study is not a formal evaluation of the outcomes of those policies. However, these findings underscore the need for future study of the effects of new tenant screening policies. Future research could be geared toward determining whether and how landlords’ screening criteria and procedures are reshaped following the implementation of new tenant screening regulations in Seattle or elsewhere, and in particular whether landlords adopt the legal adaptation strategies described by this study’s respondents in an effort to retain control over tenant selection. Future studies may also investigate how often landlords use flexible or informal screening standards to offer second

chances to renters with tarnished backgrounds and the types of rental applicants that are most likely to benefit from landlords' leniency. Research in the employment context also raises important questions regarding the consequences of "Ban-the-Box" policies for racial equity, as two recent studies found that the enactment of policies restricting employers' access to criminal history was associated with an increased statistical discrimination against Black job-seekers (Agan and Starr 2016; Doleac and Hansen 2016).

Finally, in addition to raising specific questions regarding how landlords might respond to new tenant screening regulations, this study illuminates how broader economic and policy dynamics - especially the acute housing affordability crisis and the overwhelmingly private character of rental housing in the U.S. - impact the capacity of antidiscrimination policies to meaningfully reshape stratification in the housing context. Negatively credentialed renters tasked with securing housing in Seattle encounter an extremely competitive rental market and little prospect of obtaining public housing (Ammann 2000; Goetz 2003). My findings suggest that the affordable housing scarcity in Seattle and elsewhere creates conditions that make discriminatory tenant screening and selection processes very difficult to detect, as the large demand for housing allows landlords to explain their rejection of marginalized renters in reference to other, better-qualified applicants. A tight market also enables landlords to circumvent new tenant screening regulations by raising eligibility criteria related to income and creditworthiness. In line with socio-legal arguments regarding the limitations of compliance standards for antidiscrimination law that focus on institutional decision-making processes rather than measurable effects or outcomes (Pedriana and Stryker 2017), recent tenant screening regulations create new rules for landlords' screening and selection procedures, but ultimately do not mandate who landlords select as renters. As such, private rental housing providers enjoy a host of options for modifying,

or at least appearing to modify, their decision-making procedures without fundamentally changing the outcomes of those decisions.

This study also offers a new perspective on the costs of a national housing policy regime that leaves most renters, including voucher recipients and those with tarnished backgrounds, at the mercy of private landlords who have little incentive in a tight housing market to open their doors to prospective tenants they deem risky or undesirable. Many of this study's respondents contended that landlords have the legal rights and economic imperatives to protect their investments by selecting the "best" possible tenant by any means they see fit, so long as their screening and selection procedures are not patently discriminatory. As such these findings underline earlier critiques of a housing system in which the state takes a backseat to the provision of housing for populations who are not well-served by the private market,¹⁰ a sentiment that was echoed by some representatives of the private rental industry. Though sympathetic to the broader goals of policies like "Ban-the-Box", some respondents expressed frustration at what they saw as the state's attempt to shift responsibility for social problems rooted in dysfunctional public policies onto landlords. As one rental industry lobbyist remarked, the state should take on a more direct role in assuring that renters with criminal records are housed given its responsibility for a criminal justice system that incarcerates so many and disproportionately disenfranchises people of color:

The state wants to put on the landlord the remedy of fixing this problem that they caused... it's frustrating... because we want the government to do its job and the government doesn't seem to want to do its job. It wants to force me to do its job.

¹⁰ Reflecting on what the shift to a largely voucher-based system of federal housing assistance meant for the state's capacity to promote racial residential integration, Logan and Molotch contended that "use value goals like...integration...cannot be shaped by a national housing policy in which government passively writes checks to be spent in the marketplace" (1987:170, quoted in Owens 2015).

The sustained disinvestment in public housing means that the private rental market is an increasingly consequential force in the lives of the nation's poor and working renters (Desmond 2016). For those concerned about the extent to which modern background screening jeopardizes housing access and equity, those conditions necessitate a renewed policy focus on the private rental industry. However, this study suggests that by increasing competition for scarce affordable rental housing in the private market, those same conditions may frustrate new legal efforts to combat discrimination and reduce screening-related barriers to housing. In illuminating the contemporary challenges associated with using antidiscrimination law to transform landlord behavior, this study underscores the policy imperative to increase the supply of permanent, affordable rental housing and reduce the degree to which marginalized renters' housing fates are tied to the difficult to surveil and regulate practices of for-profit landlords.

Chapter 3: Housing Search Experiences of Negatively Credentialed Renters

The ‘information age’ has brought about an unprecedented level of scrutiny with which applicants for rental housing are evaluated. Landlords are increasingly likely to use commercial background check tools to investigate applicants’ criminal, credit and eviction histories, and to structure rental criteria around such information. Housing advocates have expressed concerns that such practices further jeopardize the accessibility of rental housing in the context of an acute affordability crisis, and disproportionately impact groups protected by fair housing laws. While many public housing authorities have reversed drug war era admissions standards in a deliberate effort to reduce screening-related barriers to public housing, these reforms are of little help to the vast majority of poor Americans, including housing voucher recipients, who are left with the private rental market as their only recourse for securing housing (Desmond 2018).

The emergence of more exhaustive and information-intense background screening practices in the private rental industry coincides with broader housing policy and market dynamics that have already severely undermined rental housing access in the U.S., and a growing recognition among scholars that the private rental market is a central site of stratification and the reproduction of poverty. Rising awareness of screening related-barriers to housing has also spurred recent policy efforts to regulate tenant background screening, particularly as it relates to criminal records. In diagnosing the social problems associated with modern tenant screening practices (namely blocked housing access and discrimination), policymakers typically point to the dramatic growth in the population of renters branded with discrediting background credentials like criminal records, and technological advancements in record-keeping enabling landlords to exclude applicants on the basis of such information. Thus political discussions of the barriers erected by modern tenant screening are often divorced from

the more systematic housing crises against which changes to background screening practices play out, namely unprecedented rental unaffordability, scarce subsidized housing and the persistence of discrimination. By contrast, recent scholarship has paid closer attention to how the economic and policy contours of the private rental housing market shape the consequences that potentially discrediting credentials like an eviction record or voucher receipt have for the housing outcomes of low-income renters (Desmond 2016; Rosen 2014).

This case study analyzes the housing search experiences of renters with criminal conviction records, past evictions and/or damaged credit histories in Seattle, WA; a setting that is emblematic of the housing and inequality crises plaguing many of the nation's cities. The analysis draws on data from twenty-five in-depth interviews that were undertaken as part of a larger mixed-methods study of tenant screening practices. A grounded approach guided the interviews, which were designed to construct a descriptive picture of how respondents with discrediting rental credentials navigate a competitive private market for housing, largely without state assistance. This study contributes to the nascent literature on how poverty and inequality are reproduced in the private rental market in three respects. First, its findings illuminate how the context of unprecedented unaffordability of and competition for housing, in tandem with the retrenchment of the public sphere in providing housing for the poor amplifies the barriers to housing stemming from an applicant's negative credentials and frustrates regulatory efforts to 'lower barriers' to housing. Second, the study highlights the economic, social and health-related costs associated not only with the substandard housing options that renters with negative credentials are relegated to, but with the housing search process itself – which is often a prolonged and arduous one for this population. The study's findings also suggest that the costly and dispiriting experience of searching for housing from a position of extreme competitive

disadvantage leaves negatively credentialed renters reluctant to mobilize the law in response to suspected rights violations. Third, in demonstrating how contact with a variety of systems (i.e. criminal justice, housing, education, credit, healthcare) can mark low-income individuals with stigmatizing records that degrade their housing prospects, the housing search experiences of negatively credentialed renters offer important insights into how the cumulative effects of recent historical shifts across a variety of institutional spheres reproduce poverty and housing insecurity.

Before turning to the current study, I will review the emerging empirical literature investigating mechanisms of stratification in the private rental market. I will also provide background on the shifts in screening practices among private rental housing providers which, alongside broader transformations to the nation's rental housing system, undermine housing access for negatively credentialed renters. I connect those trends to theoretical work on the rise of the "risk" and "scoring" societies, two phenomena that my findings are well-positioned to illustrate in the housing context.

Emerging Research on Housing, Precarity, and the Rise of the "Risk Society"

While housing has never been far from sociological work on poverty and inequality, the experience of renters in the private market occupies a somewhat peripheral place within that scholarship. The rich literatures on place-based stratification – including neighborhood effects and residential mobility studies – are largely concerned with rental markets insofar as they trap disadvantaged residents in neighborhoods associated with a host of adverse social, economic and health outcomes (Warner 2016). Mary Patillo contends that until very recently, "the study of housing has been somewhat hidden in a wide range of sociological subfields" (Patillo 2013:523). However, the 2008 mortgage and foreclosure crisis and the rental unaffordability

crisis that has proceeded it has elevated the position of housing in stratification research, and spurred a growing recognition among sociologists of the significant role the housing market plays in the lives of low and moderate-income Americans (Desmond and Bell 2015).

Recent qualitative work on the housing trajectories of low-income renters has helped shift sociologists' conceptualization of housing as merely an outcome of social disadvantage to understanding housing and in particular, the private rental market, as an institution that reproduces poverty and inequality. Rosen (2014) and Desmond (2013) draw on ethnographic research to investigate the consequences of poor renters' efforts to secure and maintain housing in the private rental markets of low-income, racially segregated neighborhoods in Baltimore and Milwaukee. Their findings shed much-needed light on the market dynamics that sharply delimit housing choices for poor renters and housing voucher clients, and the exploitative, profitable practices of the landlords that rent to those populations. Both studies also underscore the costs of a housing policy system that leaves three out of four low-income households who are eligible for federal rental subsidies unassisted (Joint Center for Housing Studies 2017), and tasks the majority of those who do receive rental assistance with securing their own housing in the private market thanks to the 20th century shift from project to voucher-based low-income housing programs (Goetz 2003; 2013). By demonstrating that the profit interests of private rental housing providers largely run counter to renters' interests in securing safe, habitable, and affordable housing, both scholars offer political-economic explanations for the adverse outcomes the renters in their studies endure as a result of their disfavored positions as consumers of private rental housing.

Sullivan's (2017) ethnographic work brings much-needed attention to the economically and legally precarious position of "halfway-homeowners" in what now constitutes the largest

source of affordable housing in America: mobile home parks. Her study of mass evictions of mobile home parks residents in Florida and Texas illustrates both the destabilizing economic consequences of eviction for residents, and the disempowering political effects of residents' attempts to mobilize the quasi-privatized state systems for dispersing relocation assistance. In the context of a national housing policy regime that delegates provision of affordable housing almost entirely to the private market, Sullivan argues that evicted mobile home residents were "dispossessed not only of their homes and communities, and demoted not only to consumers of state services: they are dispossessed even of their role as citizens." (2017:264).

Finally, work on the mortgage foreclosure crisis has advanced the sociology of housing by illustrating the individual and social costs of the neoliberalization of housing policy in recent decades that has forced individual homeowners and renters to assume a growing share of the risk involved in participating in the housing market. Despite the 'Lockean tradition' of American housing policy which has always valorized individual homeownership and denigrated public housing or other forms of government interference in the housing market (Bauman et al. 2000), housing market risks which were at least partially socialized by federal housing policies for much of the twentieth century (Rolnik 2013), particularly in the cases of postwar subsidized home loans and suburban infrastructure development, and to a lesser extent, New Deal and War on Poverty-era construction of public housing.

Sargent et al. (2009) draw on focus groups with underwater homeowners in order to explore the consequences of a shift in housing policy that replaced any semblance of entitlements to public housing with a set of policies ostensibly designed to encourage low-income homeownership and improve residential mobility and consumer choice for poor renters. Unlike the generous postwar federal mortgage programs that subsidized the largest expansion of

homeownership in American history, pro-homeownership policies of the 1990s entailed a mix of shallow subsidies and deregulation of the housing and credit markets. These changes exposed low-income homeowners to what Sargent et al. call “radical risk,” or the compounding effects of neoliberalization across multiple institutional spheres that has shifted risk from the collective onto the individual. The experiences of their focus group respondents highlighted how the effects of “privatization of risk” (Hacker 2004) or the “rise of the risk society” (Beck 1992) on institutions like healthcare or pensions exacerbate risk in the housing setting by increasing the likelihood that low or moderate-income homeowners will default on their mortgages. Comporting with a growing body of literature on the impact of housing insecurity and the psychic strains of housing unaffordability on mental and physical health (Bentley et al. 2016; Desmond and Kimbro 2015; Downing 2016; Libman et al. 2012; Mason et al. 2013; Pollack et al. 2010), Sargent et al.’s findings also illustrate how mortgage strain or foreclosure can contribute to health problems with catastrophic financial consequences thanks to a healthcare system that fails to socialize the risks of illness.

This emerging literature raises questions about how the broader features of our housing and social welfare policy regimes condition the types of risks and adverse outcomes that renters encounter as a result of their discrediting background credentials – markers that are made more visible and consequential thanks to the social changes described in the proceeding section.

Tenant Screening and the Rise of the Scoring Society

As described in the previous chapter, private rental housing providers have adopted more formal, exhaustive and information-intensive methods for evaluating rental applicants in recent decades. These shifting practices, particularly when accompanied by a tight rental market, have enabled landlords to adopt more exclusionary rental criteria relating to applicants’ criminal,

eviction and credit histories. Fair and affordable housing advocates, in turn, have argued that these practices undermine access and fairness in rental housing. In recent years lawmakers have responded to some of those complaints - particularly where they pertain to the discriminatory impacts of criminal background screening – by regulating how landlords screen and select tenants on the basis of background records.

Thus, the policy response to these issues have focused largely on landlords’ use of background information. Nonetheless, the social problems linked to modern tenant screening (i.e. blocked housing access and discrimination) can also be traced to a variety of legal, social and political dynamics that coincide with the “information age.” The ubiquity of background screening is not only made possible by technological advancements in record-keeping, but also the under-regulated, for-profit industry that widely disseminates such information (Dunn and Grabchuk 2010; Lageson 2017) and the legal environment in the U.S. that prioritizes unfettered access to information over privacy (or put differently the “right to know” over the “right to be forgotten” which is protected in much of Europe, see Jacobs and Larrauri 2012; Jacobs 2015). Meanwhile the discriminatory impacts of ostensibly race and gender neutral background screening practices are rooted in endemic forms of structural discrimination within criminal justice, housing and banking systems that have disproportionately marked racial/ethnic minorities with discrediting credentials like criminal records, low credit scores and evictions.¹¹

Finally, changes to tenant screening practices also reflect broader societal shifts that have been characterized by sociologists as the rise of the “credential society” (Collins 1979), or more

¹¹ Substantial research has documented the manner in which the uneven distribution of blemished credit, criminal and eviction records has been shaped by dynamics like mortgage discrimination (Gotham 2000; Massey and Denton 1993; Williams et al. 2005) predatory lending (Graves 2003; Gallmeyer and Roberts 2009), racial profiling and over-policing of minority neighborhoods (Beckett et al. 2005; Weitzer 2000) and discrimination and harassment in the housing context (Ocen 2012; Tester 2008).

recently, the “scoring society” (Fourcade and Healy 2013; Krippner 2017), wherein official background records have become increasingly accessible, immutable, and consequential for one’s life chances. Scholars in this area have illuminated the stratification consequences of credentialism and the extent to which access to essential resources like income and housing is increasingly determined by actuarial evaluation methods and logics. Both phenomena are said to reproduce and render invisible the structural inequality that systematically patterns who is designated ineligible for certain resources on the basis of information like criminal and credit records. Fourcade and Healy (2013) also describe how the diffusion of market-oriented scoring technologies (i.e. credit scoring) across different spheres of resource distribution has cumulative consequences for inequality. For example, a low-credit score increases the likelihood that an individual will purchase risky mortgage products (e.g. subprime loans), which in turn increases the risk of having their creditworthiness further degraded by defaulting on their mortgage payments. Though the authors focus on the social impacts of increasing sophistication in credit scoring technologies, they note that “what is true of credit scores is true of other types of behavioral records, like criminal records or eviction records, which also have a deep effect in structuring life trajectories,” (2013: 569).

When considered together, these literatures suggest that housing is a salient realm for understanding how phenomena like the privatization of risk and the rise of scoring-based stratification intersect. Reckoning with how those shifts have transformed housing access helps broaden sociological diagnoses of screening-related barriers to rental housing beyond the more proximate factors, such as changes in record-keeping technologies and/or landlord practices.

Data and Methods

I construct a descriptive picture of the housing search experiences of negatively credentialed renters using in-depth interviews with twenty-five individuals with criminal conviction records, prior evictions and/or damaged credit histories who had searched and applied for private rental housing in the last year. Respondents were recruited using flyers distributed through several local organizations that provide relevant resources and legal services for the population under study, such as credit counseling, legal aid for tenants and criminal conviction expungement services. The interviews lasted between one and two hours, took place at a location of the respondent's choosing and were guided by a protocol designed to elicit detailed descriptions of each step in respondents' most recent search for rental housing. Demographic and rental history characteristics of respondents are detailed in Table 3.1.

Table 3.1: Renter Respondent Characteristics

Age	18-35	9
	35-50	10
	50 +	6
Gender	Female	11
	Male	13
	Agender	1
Education	Less than HS	3
	HS/GED	5
	Some College	13
	Bachelor's	2
	Post Bachelor's	2
Negative Rental Credential	Criminal Record	11
	Prior Eviction	7
	Damaged Credit	7
	Other Rental History Issue	4

Note: Three respondents had both an eviction and criminal record, while one had both a criminal record and damaged credit.

Transcripts of the audio recordings of interviews were coded using NVivo content analysis software. In order to systematically identify patterns of variation within the interview

data, an index of coding themes was developed prior to initiating data analysis and refined iteratively throughout the coding and analysis. These themes corresponded to both descriptive topic areas (e.g. interactions with landlords, strategies for disclosing credentials, duration of search) and my theoretical interests stemming from literature on the reproduction of poverty, economic insecurity and inequality in the housing context (e.g. high costs of poverty, compounding effects of risk across different institutional settings, mobilization of rights and resources). In what follows I present interview excerpts that illustrate how respondents' negative rental credentials impacted the strategies they undertook to find housing, the outcomes of their searches, and economic, psychological and political costs respondents experienced as a result of the housing search itself.

HOUSING SEARCH STRATEGIES AND OUTCOMES

These respondents contended that their discrediting background credentials severely restricted their options for housing in what is already an unforgiving local market for low and middle-income renters. Above and beyond the challenges associated with competing for an insufficient supply of affordable rental units, negatively credentialed renters must also confront the formidable task of finding landlords who exercise more flexible screening standards or forgo formal background screening altogether. Though both the Seattle and King County Housing Authorities have moved in recent years to lower screening related eligibility barriers for their housing programs, those reforms are of limited help to most renters given the scarcity of low-income housing subsidies. The restructuring of public housing policy in the U.S. since the 1970s has meant that housing subsidies largely operate through the private rental market in the form of vouchers. Consequently, regardless of the evolving positions of public housing authorities (PHAs) on issues like criminal history and eviction related eligibility standards, most recipients

of housing assistance are subject to the screening procedures and requirements of private landlords who are legally permitted to turn away applicants on the basis of eviction, credit, and under most circumstances, criminal, records.

With traditional, on-site public housing resources few and far between, respondents left with the private rental market as their only option for securing housing recounted quickly learning that large swaths of that market – namely the newer corporate apartment complexes that are rapidly transforming the composition of Seattle’ rental housing stock – are also out of reach on account of their insurmountable and inflexible eligibility criteria. This group of respondents unanimously reported strategically seeking out smaller, independent private housing providers who they hoped would be able to exercise greater discretion and use more subjective approaches to screening, rather than automatically rejecting them on basis of clearly defined rental policies. In this section I will provide illustrations of the learning process by which respondents came to adopt this strategy and the extent to which “mom and pop” landlords represent vestiges of accessibility in an otherwise unforgiving private rental market. I will also highlight some of the costs associated with these respondents’ reliance on the this particular segment of the housing market, before turning to a broader discussion of the considerable economic, psychological and political costs these respondents incur as a result of their limited housing options.

Many respondents described a similar process by which they learned through trial-and-error or were coached by friends and social workers to target smaller, “mom and pop” rental housing providers in their housing searches. Annie, who had been previously evicted and had multiple older criminal convictions described the process by which she learned to tailor her search methods:

I learned really early on that if you targeted like a small private landlord - just like a guy that answered the phone not like “Hello, thank you for calling Capital

management” or something - I knew that they would have more discretion to let you in. And I knew that a lot of those places were just mostly interested in could you pay rent. I just learned early on that management companies have rules and... no matter how nice I was and personable and I cover up my tattoos and spoke really properly - I just knew that wasn’t going to work for me.

In describing a similar learning process, another respondent with a criminal conviction record, Viola, emphasized the greater opportunities for a one-on-one, personal interaction that comes with smaller, independent rental providers: “I kind of lost hope for anything corporate really quickly. I was giving it chances for maybe a month, while I was looking elsewhere also. Then I felt like that avenue was hopeless so I started looking for private owned places...so I could get a personal connection and agreement so I can get a fighting chance.”

A number of respondents expressed gratitude for the existence of independent landlords who approached tenant screening in a more grey than black-and-white manner, particularly after encountering repeated rejections from other types of rental housing providers. Beyond the perception that these landlords were more willing to open their doors to renters with damaged credit, prior evictions or a criminal record, respondents also appreciated the greater opportunities to communicate with an independent landlord face-to-face and tell their side of the story that could potentially mitigate their negative credentials. Deborah recalled an instance in which an independent landlord offered her a lease after she contextualized her criminal conviction record with details regarding her status as a recovering alcoholic who has maintained sobriety for a number of years:

I met somebody in Bothell who really appreciated me being up front from the beginning saying I’m a recovering alcoholic and I’d been sober for X amount of years and I have a history. I showed it [criminal record] to him actually because I had it printed out from one of my applications. He really appreciated my honesty and I could’ve moved into an apartment there. Very nice man.

Despite the consensus that independent landlords were more willing to house renters with tarnished backgrounds, many respondents bemoaned the lack of transparency in tenant screening on the part of both corporate and independent rental housing providers. These respondents reported rarely encountering explicit qualification criteria, or receiving substantive explanations for why their rental applications were rejected (if they received any response at all to their applications). Such circumstances pose obvious challenges for renters with barriers to entry who would like to optimize their search strategies and minimizing spending on application and screening fees. Phil recounted how he and his wife were often at a loss to determine why they were repeatedly rejected as both had older criminal convictions and were working on cleaning up their credit:

Author: *Have any of them ever been explicit about what the [criminal history] policy was?*

Respondent: *No, absolutely not. They've never said this specifically raises a red flag, no...for sure they never said that. Because we were always just kind of thinking, "Was it our credit? Was it you? Was it me?" And that's how I can remember that no one ever addressed a specific problem.*

Denise, whose credit record had been damaged after an experimental cancer treatment left her with significant medical debt asserted that private landlords were less likely than corporate housing providers to offer a specific reason for denying her application. Though sometimes she would be sent a copy of her credit report, she gave voice to the futility that many respondents expressed regarding the prospect of challenging the grounds on which they were rejected given the discrediting markers in their rental backgrounds:

Author: *Would most of them on the corporate side be explicit about saying 'this is what the issue is'?*

Respondent: *Yeah, they'd say this is the issue but when you go to private owners they say, "I'm sorry we can't accept you as a tenant" but they don't tell you why. They say they can't tell you that but the credit people will send you a letter. They don't ever tell you to your face to give you an opportunity to make it more positive.*

Author: *Did you ever get those letters?*

Respondent: *Yeah, I'll get them. Sometimes I would open them and sometimes I wouldn't. What's the point? I got rejected.*

Other respondents recalled being more aggressive in following up on applications they submitted, seeking an explanation for why they were rejected or, at minimum, confirmation on the outcome of their application. Annie speculated that housing providers were evasive about the status of her application on account of the social awkwardness involved in discussing criminal history:

So I filled out the application fee and sometimes they would call me back or they would just avoid my call. And then I would finally have to go up there again and be like, "Hey, could you just tell me what's going on with my application?" And they'd be like, "You were denied." And sometimes you would get like a cool person that would be like "Well, you've got a lot of stuff in your record." And sometimes they'd be like "We don't know why. It goes through the company". I think they felt uncomfortable talking to me about it.

This lack of transparency puts renters with negative credentials at a distinct disadvantage – they would like to minimize the costs of their housing search but are often unable to determine their eligibility before submitting an application, encounter repeated rejections and are provided few insights into what was ‘wrong’ with their applications. Beyond such frustrations with the lack of transparency that these respondents agreed characterized the tenant screening practices of smaller-scale landlords (as well as some corporate or larger scale rental housing companies), these respondents’ reliance on ‘mom and pop’ landlords and informal housing search channels came with significant sacrifices in terms of the stability and quality of the rental housing they were able to secure. In tandem with the Seattle metropolitan area’s acute shortage of affordable rental housing, restricting their searches to smaller scale landlords they hoped would exercise more flexible screening standards greatly diminished respondents’ potential avenues for securing housing. One respondent with a prior eviction speculated that many other housing seekers with

dings on their rental or credit histories employed the same search strategies, particularly since social service providers serving renters with barriers to housing often coach their clients to seek out smaller-scale private housing providers. Those circumstances may increase the demand for a type of rental housing that has already been depleted by record levels of redevelopment and turnover of older, more affordable housing stock (Bhatt 2015). Denise described those dynamics as well as the lower quality of housing that is available to renters with limited means and negative credentials:

Author: *Did you find the experience any different when you applied with non-corporate landlords?*

Respondent: *Sometimes I would. But they're really hard to find. Then the ones that I would find would be substandard. You see the apartment building and the picture is not what it looks like. The problem with private owners is there's so many people that are looking at the same apartment. If you would not be 100% what they're looking for you don't have a chance.*

Author: *You feel there's more people that have that same idea?*

Respondent: *Yeah, they want to get out of the corporate thing and see if they can get a private owner because they want to be able to get into something that they're not so restricted. There's a lot of competition. If you don't have everything in a really positive way it's really hard to get your foot in... If you're low income or middle income and if you have any blemishes on your credit report it's almost impossible.*

Other respondents who were able to eventually find housing by focusing their search efforts on small-scale, independent landlords contended that their negative rental credentials relegated them to undesirable and/or unsafe housing within that sector of the market. Annie described how her prior evictions and criminal convictions meant that she was only able to secure housing by finding landlords who would forgo any formal screening or overlook applicants' tarnished backgrounds so long as they could pay rent. She argued that those restrictions on her housing option consigned her to live in high-crime neighborhoods that jeopardized her successful reentry process and increased her likelihood of coming into contact again with the criminal justice system:

My evictions were a problem. My convictions were a problem. I just didn't bother going to places that I thought would give me an issue but the result of that - yeah, I've managed to stay housed. I don't think my kids have ever slept in the car or anything but the bigger issue was that we were in subpar housing in marginalized communities. So it was not like I was ever going to get a nice rental on Capital Hill, probably not. You know what I mean. I was stuck out here where I grew up - the same place that sent me to prison, raising my kids in the same community that I didn't even want to even be in myself.

Settling for substandard housing in the face of severely constrained options had particularly dire consequences for three respondents whose housing jeopardized their health. One respondent with a damaged credit history, Jonathan, reported that he largely circumvented screening barriers by moving into low-cost, privately-owned shared housing, where he often informally sublet a room without signing a lease or undergoing formal screening. In addition to undermining his housing stability as these arrangements were often short-term, it also exposed him to hazardous conditions – namely a black mold infestation – that he had no recourse to challenge since he lacked a lease. Darryl, who had been evicted from Seattle Housing Authority (SHA), described how the private apartment he found through a member of his church posed dangers to his daughter's health:

Geography-wise, it is OK, but, still, it was really bad for my daughter's health. I know, since we've been out of there, she'd normally get coughing, but since we've been out of there, no; no more coughing and all that. And so with the water leaking, you know the carpet is waterlogged, and they never did fix the leak.

The health consequences of limited housing options were most acute for Denise, whose credit and finances were ravaged after she underwent experimental treatment for respiratory cancer without insurance. In addition to medical debt, her credit report also revealed debts related to unpaid utilities to a previous landlord (which she incurred during a period of her recovery in which she was unable to work). She also suspected that she had experienced discrimination on the basis of her disability status, as housing providers would be quick to

mention that they didn't have any ground-floor units or elevators upon meeting her and noting she walked with a visible limp. In short, these various issues significantly undermined Denise's ability to access housing, so when a friend's referral finally got her in the door at small apartment complex, she was eager to sign a lease even though it was evident that the apartment didn't meet her standards. She didn't learn until after moving in that the apartment was not just substandard but posed grave threats to her health. Here she recounts the situation and explains why she feels she is trapped in this dangerous housing situation:

Then after I got in there, the unit they showed me...I really didn't like it. But that was all they had and I didn't have a choice. So I took the unit and then after I got in there it was OK. Then I started having issues. My friend was in my closet and he said I think you need to see this. There's mold all over in the closet. He said, "You of all people need to not have this. You're compromised as it is. This is not healthy." I said, "What am I going to do? I have a lease. I can't break it." I was like nobody should have to go through this.

Another respondent with a criminal conviction record, Chelsea, recounted how her reliance on finding housing through informal channels has undermined the quality and stability of housing she has access to. After various unsuccessful attempts to secure rental housing, she concluded that she cannot rely on conventional search methods given how serious her criminal conviction history looks "on paper". Instead, as she puts it, "I always have to find the right circumstance." Here she reflects on what that has meant for her past and current housing conditions:

This place is kind of a dump, and would I choose to live there if I had a choice? But that's where I'm relegated to. So I always end up in these situations where it's like - for instance, the house that I live in now - friends own it. And the houses that I lived in before were foreclosures, and people needed someone to live there while their house was in foreclosure, and I would pay rent, and then the house would be foreclosed on, and I would move. I mean, I've moved six times since 2011, and this will be my sixth move. It's just always some kind of trashy place.

Respondents who were able to secure conventional rental housing often suggested that they benefitted from a personal referral or other social connection to a private landlord. Viola recounted how it was only after a chance encounter with an old classmate that she was able to sign a lease and end her housing search, during which she and her children had been homeless for over three months:

Actually, the only reason I found this place, is because I emailed the landlord and didn't hear back, emailed again and didn't hear back. I finally drove to the property and was looking around to find a phone number on the window. The girl who lives next door was like, "[Viola]!" She was like, "Are you looking for someone?" I was looking for a phone number for this rental. She said, "He is my landlord too. Let me call him right now." Yeah, I got a phone number! I was so excited. So because we had a little of a rapport, that helped me to get where I am. Without that I probably still would be scraping by in the van or in hotels.

Phil similarly recounted how after he and his wife were rejected by multiple private landlords, they received referrals from members of their recovery groups for apartment complexes that were known to house tenants with criminal histories. The second recommendation put them in contact with an independent owner of a number of duplexes who agreed to rent to them after giving them an opportunity to explain their criminal convictions and attest to the progress both of them had made since their "colorful past."

He [owner] said, "I just kind of sit people down and get a read on them. I feel good about you guys." And [my wife] told him everything that was on there, and it was as easy as that. He said, "As long as that's it and you're telling the truth." She divulged everything. Just said, "Just let me know. We've changed our lives. Just give me a straight answer." And he still ended up doing the check, just to make sure we're telling the truth about everything. And he did that and we moved in. One thing is, he said that we did have to pay first and the last months, and that way in case we skip out, they got an extra month.

For another subset of respondents, the housing search persisted at the time of the interview. After having joined the waitlists for subsidized housing with multiple local housing authorities and encountering repeated rejections in the private rental market, some respondents in

this group expressed doubts that they would ever secure housing. One such respondent with a criminal conviction record, Dennis, was living in a homeless shelter at the time of our interview. He had lost his housing eight months prior when the ownership of his Section 8 apartment building changed hands and the new owner instituted a \$450 rent-hike.¹² He described his frustration at making no headway in his efforts to access housing through either the private market or multiple subsidized housing agencies:

I'm doing all this trying to find housing...I haven't been getting no help. I've been to HUD Housing. I've been to all these places, and then they're telling me - just getting me to run around. I've been trying to get me a VASH [Veterans Affairs Supportive Housing] voucher, and they had a lot of them, but now they all of a sudden don't have any more.

Another respondent with an eviction record, Sandra, faced a similar set of circumstances, having exhausted all avenues for securing subsidized housing and making no progress in her search for housing in the private market. Sandra relayed how the case-worker tasked with helping her find permanent housing in the private market acknowledged the likely possibility that she may not be able to secure housing before her eligibility for transitional housing expired. “And she’s now saying—it’s no help from her. It’s kind of like, ‘Well, it looks like you’re going to have to go back to hotel living.’”

Respondents’ negative credentials impacted more than just the quality of the housing they were able (or unable) to secure. Even for respondents who successfully secured conventional rental housing that met their needs, their discrediting background information raised the costs associated with what was an arduous housing search process for most respondents. In the

¹² The project-based Section 8 program is the federal government’s largest program providing financial incentives for private sector development and maintenance of affordable housing, but project-based Section 8 properties are at risk of conversion to market-rate housing when their restricted-use contract periods expire. Between 2005 and 2014, 45,763 units of project-based Section 8 housing were lost to market conversion (<http://nlihc.org/article/nearly-46000-units-project-based-section-8-housing-lost-2005>).

proceeding sections I draw on illustrative testimony to highlight the three types of costs that respondents incurred as they confronted the uphill battle of finding private market housing with one or more discrediting background credentials: economic, psychological, and political.

COSTS OF THE HOUSING SEARCH PROCESS

Economic Costs: Increasing Financial Insecurity

Nearly every respondent lamented the funds, time and energy they were forced to devote to the formidable enterprise of securing housing with discrediting credentials that put them at a stark competitive disadvantage in a very tight rental market. Without an effective means to determine which landlords exercised more or less forgiving eligibility criteria before applying, negatively credentialed renters often reported searching for months and submitting dozens of unsuccessful applications. Those under pressure to secure housing within a short time frame, including respondents at immediate risk of homelessness or those who had received housing vouchers, were forced to cast a particularly wide net in their search for a landlord willing to open their doors to them. The most commonly identified costs associated with such long and arduous housing searches were economic. Many respondents recounted their frustration at paying hundreds or even thousands of dollars in background check and/or application fees in the course of their housing search. As Sandra explained, housing providers were typically unwilling to offer her a definitive answer regarding whether her eviction record would disqualify her before she submitted an application and paid the associated fees. Such circumstances made it nearly impossible for her to efficiently or judiciously allocate her limited financial resources during search for housing:

And you're like, 'I'm almost there. OK, they may work with me,' and they know everything [about her background], and they'll take all your information, all your application fees, and then it's like, 'I'm sorry. I can't approve you.' ...One week, I spent \$480 in application fees... I work home health and hospice, but sometimes I

work labor ready or different jobs like that, and it's all to go towards application fees.

The same respondent illustrated how a costly rental search process can exacerbate financial precarity. At the time of our interview, her ability to cover her regular expenses was tied to the speed with which a landlord who had rejected her refunded her rental deposit:

I just wrote a check, and if I don't get this money in there, it's probably going to bounce...I'm waiting on the guy [landlord who rejected her application] to actually send part of my deposit back. I had to put up like seven or eight hundred dollars down. And the last time I did that, it took three weeks, so it leaves you financially in a bind.

A similar dilemma was described by Denise, whose credit was severely damaged by the medical debt she incurred undergoing experimental cancer treatment without insurance. Though she would try to explain the circumstances surrounding her debt to potential landlords in order to obtain information regarding her eligibility before submitting an application, few housing providers were willing to give her definitive answers regarding whether her credit issues would disqualify her prior to undergoing a formal screening. Desperate to secure housing but without an effective means to shrewdly allocate her resources, she ended up spending over four thousand dollars over the course of her five month search for housing:

Respondent: *Every time that you try to go to look at a place, they want you to fill out an application and it costs money. So when you're thinking about \$50 per application, any money that you have saved up, it depletes really fast. I was like this is crazy. Every time you go to apply for some place they're like you have to go through this whole thing then they'll come back and said, "Well, you have issues." I told them I had issues. I would tell them I'm a cancer survivor and that I was in treatment for a year and a half. I only have so much money because of not being able to work because I was so sick. I had good rental history. I've never been late.*

Author: *How long were you looking before you found the place that you found?*

Respondent: *About five months.*

Author: *Do you have a ballpark estimate of how many places you applied to?*

Respondent: *I would say I must've applied to 20, 25 because when I add it up I've spent over \$4500."*

Many respondents expressed frustration at what they felt were unfair and extractive practices around charging screening and/or background check fees, particularly those that suspected landlords profited from tenant screening process by overcharging applicants for commercial background reports or collecting fees from large pools of prospective tenants whose applications are never processed, in contradiction of Washington state law.¹³ One respondent with a criminal record, Chelsea, voiced her frustration at rental companies that would collect application fees without ever informing her as to the status of her application:

I don't bother with an apartment complex. I don't bother with them, because it's a scam. I know it. You're just never going to hear back. You can pay hundreds and hundreds [in fees], and you're still going to end up somewhere way down in Des Moines in some shitty apartment complex that takes felons.

In discussing background check and application fees, most respondents expressed a sense of futility in characterizing such fees as a burdensome but ultimately unescapable feature of the search for housing. Sandra conveyed her resignation about wasting application fees in circumstances in which her application may not have been seriously considered since she received the common vague response from a landlord – ‘we went with someone qualified’, “‘Well, it was someone else that applied at the same time you did, and I decided to go with them instead of you,’ and so, that’s my \$45 just out the window.” Given their status as imperfect rental candidates in a landlord’s market, few respondents felt they were in a position to negotiate such costs. A respondent with a criminal record, Dennis, characterized the inevitability of the situation in the following manner: “[Landlords are] telling people this and that and [you’re paying] money for a background check and you don’t get the honest answer from it, it frustrates me, yes. There’s nothing I can do about it, you know?”

¹³ Washington’s 2012 Fair Tenant Screening Act (RCW 59.18.257) prohibits landlords from collecting screening fees that exceed the actual cost of background screening. See text of law: <http://apps.leg.wa.gov/RCW/default.aspx?cite=59.18.257>

The search for rental housing also came with other financial costs that were less directly linked to their interactions with potential landlords, but particularly burdensome for those who endured protracted searches. Chief among such costs were those associated with expensive, temporary living arrangements that respondents were forced to endure if they were unstably housed at the time they searched for housing. Sandra recounted the steep costs she incurred while staying in hotels while she searched for rental housing after being evicted and before getting into the transitional housing she was living in at the time of our interview, “And I spent like \$3000, \$4000, in my IRA savings, so I’ve pretty much—I’ve just depleted my funds, just staying in hotels... And it goes really fast.”

Viola similarly described the economic costs and related stresses associated with living in hotels during her housing search, particularly since she couldn’t predict how long the search would last thus feared she wouldn’t be able to cover the move-in costs if and when she eventually found a landlord willing to rent to her: “Like we tried everything - apartments, low income, community housing programs and I just couldn’t get it anywhere. So we almost got stuck in the hotel trap you know? Being in that every day and not having money to even save up for a deposit or moving costs or anything.”

Finally, Dennis, described the costs of keeping his family’s belongings in a storage facility after losing his housing, and how those costs compounded the anxieties associated with prolonged housing insecurity for his family:

It happened all of a sudden. So I’ve got to scrounge around looking for storage. Right now my stuff’s in storage. My stuff’s been in there almost eight months now. So it’s \$200 a month. I’m paying it, but I still, I mean, you know, I’m still in limbo with my family. And now [mother of his children] just got out of the hospital, so this thing’s just not a pretty picture for me right now.

A competitive, unaffordable housing market likely raises search costs for all types of renters. Nonetheless, these respondents' experiences suggest that those costs may be magnified for respondents whose stigmatizing background records put them at an extreme competitive disadvantage in what is already an unforgiving housing market for low and moderate-income renters. Their degraded status in the marketplace, in tandem with the opaque quality of many landlords' screening criteria and tenant selection procedures, means that negatively credentialed renters may need to cast a particularly wide net during what were often prolonged searches for housing. Those features of their search experiences came with considerable direct economic costs (i.e. repeated assessment of application fees), and the indirect costs associated with extended periods of housing insecurity (i.e. hotels, storage units). As the next section details, protracted and frequently unsuccessful searches for rental housing took a considerable toll on the psychic or emotional well-being of some respondents.

Psychological Costs: Undermining Emotional Well-Being

Consistent with an emerging body of literature on the mental health consequences of housing insecurity and unaffordability, respondents frequently highlighted the negative psychic or emotional consequences of their often fraught efforts to secure rental housing. Respondents identified at least three ways in which their challenging housing searches adversely impacted their emotional well-being: the anxiety triggered by uncertainty about their prospects for ever securing housing, the degradation of being routinely assessed on the basis of stigmatizing personal background information, and feelings of disempowerment or futility that arose from being denied housing on the basis of factors outside their control; namely, immutable background records.

Multiple respondents described the psychological consequences of what they described as time-intensive and/or all-consuming searches for housing. As Deborah reflected, “I was a pretty nervous wreck through the whole thing. You get exhausted running around and thinking, ‘What if I don’t find a place?’” Another respondent, Max, explained why they had decided to scale back their housing search despite being homeless at the time of the interview: “I’m kind of putting my search on hold, because just the search itself is so stressful, because of the scarcity of housing right now. And I just wanted a few months to not have crippling anxiety when I wake up every morning around housing.” Finally, Chelsea described the recurring anxieties she confronts each time she is tasked with finding housing, despite fifteen years having elapsed since her most recent conviction: “And it’s so stressful...it’s the same gut-wrenching thing of, ‘Am I going to be able to pull this off one more time? Am I going to be homeless? Am I going to have to put everything in storage and figure it out?’ I don’t know, and it super freaks me out.”

In addition to being an acute source of stress, for some respondents the housing search process was also detrimental to their self-worth. Sandra recounted her experience working with a case-worker at a transitional housing program who was tasked with helping her find housing in the private market. Here she describes her shame around not being able to secure housing without the intervention of a social worker: “The lady that’s working with me, ‘Let me know who has disapproved you, so I can do a follow-up call and see if we can turn things around.’ And it’s so embarrassing, you know? It’s just like...it’s so degrading to have to try to beg somebody for housing.” Another respondent, Annie, expressed her frustration at being forced to repeatedly open up her past – particularly her criminal conviction history - to scrutiny in order to be considered for rental housing, “There was nothing to belittle you more than asking you about

what was your state of mind when you did something when you were 17 and now you are in your 30s.”

Being repeatedly deemed ineligible or undesirable by housing providers rendered some respondents pessimistic about their prospects for ever securing rental housing. As Sandra remarked upon realizing that a rental unit she had applied for was still vacant months after her application was rejected while she remained unhoused, “You feel hopeless...and optimism kind of goes out the window.” The capacity for tenant screening to reduce applicants to unflattering artifacts of their personal histories they had little control over made the housing search a particularly disempowering experience for some respondents. Expressions of futility and helplessness were particularly common among respondents with criminal conviction records, as they felt powerless to mitigate the stigma associated with their records given the difficulty of legally expunging them. In contrast to credit scores which should ideally improve as one rebuilds their credit (something multiple respondents reported doing with the help of non-profit credit counseling services) and eviction records which would ideally be inaccessible to housing providers after seven years, respondents with evictions and criminal histories felt frustrated that they had no recourse for modifying records that they felt constituted an out-of-date and inaccurate depiction of themselves. Annie spoke to what she maintained was a criminal record’s unique capacity to foreclose opportunities in virtual perpetuity:

The thing about criminal conviction that is different even than eviction is that there’s no timeline in which it’s going to become irrelevant. So you know if you get the eviction - you know if you jack up all your credit - you file bankruptcy or you can sit on it for seven years. Eventually it’s going to pepper your outcomes but it’s not going to be a total factor. A criminal conviction is one of the only things that you can do, no matter how young you were when you did it, if you don’t seal your record, that is going to literally follow you until you are 100 years old if you live that long.

This situation was discouraging for respondents who felt that their damning and immutable background records would always overshadow whatever mitigating evidence of their rental qualifications they could muster. Phil, who had made considerable career strides after spending much of his twenties in and out of jail reflected on the relative ease of using positive credentials to compensate for a criminal record in the employment setting versus housing: “For getting employment, you can say, ‘I know I screwed up when I was young, but I have college education.’ And they, generally, of course, are like, ‘Oh, OK! Sure!’ But you know, housing, you really have nothing to back it up with. I mean, except, ‘I have a job.’ But everyone else does too.” Another respondent, Eric, with a history of incarceration similarly felt frustrated that the progress he had made in stabilizing other aspects of his life seemed to matter little when his fitness as a potential tenant was evaluated:

What I’m looking for is someone to say, “Hey, today there is a man that is trying to raise his kids, hold his job down, house his family,” the backgrounds are - they’re yours, so you’ve got to own it. But I’m looking for someone to look at me today and give me a chance today. I’m not asking for a chance from yesterday. Today is what I’m asking for. I’m just asking for a chance today. These things, they’re years ago... and especially - it’s something that I can’t change, saying the reason why you’re saying no is based on something that I can’t change. I mean, I just want them to think of that.

At the time of our interview, Chelsea was tasked with finding housing after her friend decided to sell the house she had been renting. Despite the considerable time that had elapsed since her most recent criminal conviction, her professional employment status and her strong rental history, she contended that finding housing in the private rental market had become more, not less, difficult in the last decade due to changing practices in the rental industry and stiff competition in the Seattle area rental market.

I always pay my rent on time. I am a good tenant. I don’t trash property. None of that seems to matter...I’m too old for this, and I’ve done a lot of work, and I feel like it’s - I’m not OK with me anymore...how big is my pound of flesh?

For some respondents, the stress, damage to self-worth and powerlessness associated with a difficult housing search or the housing insecurity that accompanied it had the potential to derail their ability to successfully manage addiction or mental health issues. One formerly-incarcerated respondent, Nancy, was employed at a reentry housing agency for formerly-incarcerated women. She reported that despite the fact that one of the program's central goals is to help clients achieve financial stability in order to live independently, not a single client had been able to secure their own housing in the private rental market. She described the costs of having to rely on family and significant others for housing, speaking for her clients and from her own experience:

It's very stressful for me and probably them [clients], too. It's concerning because the idea is to come out and then build an individual foundation for each woman, and be successful in that. And when housing is such a major - they found jobs. You can get anything else but housing, and that is a major stressor in their lives, especially knowing that you're staying in a temporary living situation, and you don't know if your next place is going to be temporary, or your next place. And it's concerning when it comes to sobriety. Sometimes people relapse because they're not - you know Maslow's hierarchy of needs. You don't have a safe, stable living environment...And staying with my family right now is not necessarily the best mental health option for me.

A very similar sentiment was voiced by Denise, who also works in human services, in her case a homeless services agency. Like the respondent above she describes how her clients' experiences searching for housing with a negative rental credential parallel her own and the consequences for her clients' sobriety:

They don't meet all the criteria and they're being rejected and spending all this money. Some of them end up being homeless. They're like, "You don't have any idea. I've been addicted and all this other stuff and I've tried to get a place." It's very defeating.

Dennis highlighted how the experience of facing repeated non-response or rejection from landlords and the unstable housing circumstance he endured while he struggled to find housing (the crowded city shelter system) jeopardized his ability to manage his mental health:

I'm one of those people out of a million who's trying to turn their life around and, like I say, I paid off all my little fines and all that stuff, and I'm trying to stay on the right side of the fence and deal with my mental illness also, so it's very hard to apply for apartment and you never hear back from these landlords...

So I'm out downtown [at the shelter] where it's not a good environment. So I'm really struggling down there. So I'm trying to get from down there but it's the only source of a roof over my head, and I don't want to be out in the street like the rest of these people, and especially with my mental illness also.

For respondents who were under special pressures to find housing within a discrete time frame, some felt forced to deal with less reputable or “shady” landlords who they hoped would take a more informal approach toward tenant screening. Those circumstances may expose negatively credentialed renters to exploitation of their desperate position on the part of unscrupulous housing providers. Deborah recounted how, under pressure to find a landlord willing to accept her housing voucher before it expired (and look past her criminal conviction history), she agreed to clean and make necessary repairs to a rental unit so that it would pass the housing authority’s inspection. After she completed the unpaid upkeep on the rental unit and paid a security deposit, the landlord complained that the housing authority’s inspection process was taking too long and reneged on their informal arrangement. She recounted how the experience impacted her mental health, “It was a slum lord kind of thing. He just got angry with me and he left. So I had given him \$400 or something. I was really upset. It really triggered my PTSD because I was like he walked away from me.”

Particularly in a competitive rental market, the housing search process is a stressful life event for all types of renters (Kershaw 2010). However, these respondents’ testimonies suggest

that navigating the private rental market comes with unique psychological or emotional costs for renters whose stigmatizing background credentials put them at a steep competitive disadvantage in that marketplace. Those costs may be particularly acute for respondents who already struggle to maintain their sobriety and/or mental health. As the next section details, the disempowering effects of the search process also have the potential to undermine negatively credentialed renters' capacity or willingness to advocate for themselves or avail themselves of existing legal protections.

Political Costs: Chilling Effects on Personal Agency and Legal Mobilization

The disempowering effects of the housing search for many respondents may also have broader political or social ramifications for the efficacy of tenants' rights or antidiscrimination laws since enforcement of those protections largely falls on the shoulders of those whose rights have been violated. A grueling and costly housing search experience may undermine the willingness of negatively credentialed renters' to avail themselves of legal protections, even though their disfavored position in the marketplace may make them uniquely vulnerable to illegal discrimination or exploitation. Thus a final cost associated with the housing search process highlighted by these findings is the chilling effect that being saddled with a negative credential on renters' willingness to advocate for themselves or assert their legal rights as tenants, a phenomenon that housing scholars have asserted makes the threat of an eviction such a powerful tool for coercing tenants (Desmond 2016; Hartman and Robinson 2003).

Deborah remarked that while she would otherwise be inclined to challenge landlords who reject voucher recipients tenants in violation of Seattle law, the difficulty of finding housing with both a housing voucher and a criminal record discouraged her from doing so:

They're supposed to I think but I've seen it on Craigslist, "We don't accept Section 8". I almost feel like writing them and saying, "You should keep that to

yourself.” I would just call them and ask them and it was just no. I had enough going against me that I wasn’t going to say “Equal housing!”

Enduring an arduous and expensive housing search may also undermine renters’ ability or willingness to extricate themselves from dangerous or unhealthy housing situations. After finally ending a five month search for housing that she estimated cost her \$4500, Denise realized that her new apartment was infested with mold and that the building’s absentee owners were unwilling to offer anything more than the most superficial and ineffective solutions to that problem (i.e. spraying down the infested walls with bleach). Though the problem posed a serious threat to her health given her recent treatment for respiratory cancer, she explained that her recent housing search left her without the means to break her lease or the confidence that she would be able to find another landlord to open their doors to her, “At this point I don’t have a choice. I feel like I’m a victim in the situation because if I want to move I have to pay \$1200 [to break the lease]... The other thing is how hard it is going to find another place. After what I’ve been through it’s not like I want to go through that again.”

Another respondent, Kelly, similarly described how the difficulty of finding rental housing with damaged credit in Seattle left her resigned to staying put in an undesirable neighborhood: “I feel like my decision has already been made for me. I feel like I have to stay there for at least another year while I continue with this program and rebuilding my credit. So I feel like I don’t really have a choice... I’m so psyched out by what I know housing searches are already like.”

Though most respondents voiced considerable frustration at various practices on the part of private rental housing providers, the search experience seemed to reinforce the perception that they were powerless to challenge those practices. Expressions of futility in this regard were often accompanied by begrudging assertions that rental property owners have unassailable rights to

screen and select tenants however they like. A respondent with damaged credit, Brad, affirmed the primacy of landlords' property rights in passing when he remarked, "But, you know, you own a building you can do whatever you want I guess." Dennis also illustrates that prerogative as he bemoans the unfairness of excluding people with criminal records from housing while affirming landlords' rights to do so:

But a lot of these [private rental housing providers], they're denying people for some particular reason. I don't know what it is. So that's what they're doing, and I think that ain't right. It's not right. It's their property. They can do what the hell what they want to do, but it's still discriminating against people - it's not good for business and other people. We've got to live somewhere, you know?... So I can't do nothing - accept the answers and go on and go on to the next one. I mean, I can get upset. I can't change them by being mad.

Leslie, a respondent with damaged credit reflected on her surprise at realizing the landlords and property managers had such unrestricted capacity to access applicants' personal background records and use that information in whatever way they see fit. Like other respondents, she also expressed a mix of frustration and resignation to the idea that she was largely powerless to change the way she was evaluated on the basis of background records:

See I've learned that managers have this gateway to your business with your social security number and they can look up stuff that I didn't even imagine that they would even have access to. So that's why I boiled it down to my credit score... It's up to the landlord to use the discretion or whether they want to accept that or not [an applicant's damaged credit] ...So you work hard, then life knocks you down and then you get back up and life keeps knocking you down.

Finally, the lack of transparency characteristic of independent landlords' screening practices may compound the existing challenges associated with detecting housing discrimination. Some respondents strongly suspected that racial discrimination was contributing to the high rates of rejection they encountered in the rental market, but given the vague response they received from the landlords who rejected them in favor of other applicants, they couldn't

pinpoint any concrete evidence of illegal discrimination nor seek relief from antidiscrimination law. Sandra described her long and unsuccessful search for rental housing with an old eviction on her record, and her difficulty in distinguishing illegal discrimination on the basis of race from lawful discrimination on the basis of ostensibly race-neutral rental criteria:

There's got to be one person out there that would bend or break, but there's really not. I feel like a lot of it is discrimination. I asked the guy, 'What disqualified me?' And he said, 'Oh, everything looked good. Your salary looked good...I can't remember if they applied along with you.' And so, I just asked him, 'Is it the color of my skin?'" And he got quiet, and, 'Well, I'll tell you what. I'll have another unit available in June.' And I'm like, 'June? Are you serious?' C'mon don't pull my leg, I'm homeless, you know?

As I argue in the previous chapter, the affordable housing scarcity creates conditions that make discriminatory tenant screening and selection processes very difficult to detect, as the large demand for housing allows landlords to explain their rejection of marginalized renters in reference to other, better-qualified applicants. Such explanations are particularly plausible and difficult to protest from the perspective of negatively-credentialed renters, posing serious challenges for such renters to mobilize fair housing laws in response to suspected discrimination. The potential chilling effects resulting from negatively credentialed renters' disfavored status in the rental market has particularly important implications for new and traditional antidiscrimination regulations governing rental housing, since enforcement of those laws is largely reliant on the victims of discriminatory or otherwise unlawful landlord practices.

Discussion and Conclusions:

The findings suggest that multiple factors work to sharply delimit negatively credentialed renters' housing choices and exacerbate the costs this population experiences as a result of merely *attempting* to secure housing in the private rental market. Those factors include, but are not limited to, the emergence of tougher tenant screening practices. Thus this study illuminates

how the consequences of exclusionary tenant screening procedures for renters are also shaped by more fundamental features of the nation's housing market and housing policy regime; namely extreme competition for and unaffordability of, private rental housing and the inaccessibility of public housing.

Though many public housing authorities have made concerted efforts to dismantle screening related barriers to eligibility for their housing assistance programs (Walter et al. 2017), these reforms are of limited help for negatively credentialed renters given the scarcity of project-based public housing units and the requirement that voucher recipients meet the eligibility standards of private landlords. The highly formalized and inflexible screening procedures of corporate rental housing providers compel negatively credentialed renters to restrict their housing searches to a shrinking subsection of the private rental market: independent or “mom & pop” landlords. In theory these types of landlords are more likely than their corporate counterparts to open their doors to renters with tarnished backgrounds on account of multiple differences in their organizational approach to screening; their eligibility criteria are more informal and flexible, they often meet applicants in person and evaluate applications on a case-by-case basis. In practice however, negatively credentialed renters are at an extreme competitive disadvantage in a tight urban housing markets like Seattle's, and thus small landlords have very little incentive to rent to imperfect applicants when their vacancies often attract large pools of more qualified prospective tenants. My findings suggest that those who are able to successfully navigate this gauntlet and secure their own rental housing often benefit from a mix of luck, circumstance and/or social capital resulting in a personal connection with a private housing provider that puts them apart from other applicants. Other respondents were either still mired in difficult housing

searches at the time of their interviews, or described the substandard and sometimes dangerous housing circumstances their unsuccessful searches had relegated them to.

Regardless of the eventual outcomes of their searches, the enterprise of securing housing is rife with risk for negatively credentialed renters who are forced to navigate the private rental housing market unassisted. Consistent with the sociological research on the high costs of poverty (Caplovitz 1968; Squires 2004) these findings suggest that renters with tarnished backgrounds are financially penalized by their disadvantaged market position throughout their search. The study's findings regarding the psychic or emotional costs associated a grueling effort to search for housing offer a new perspective on connection between housing and mental health, which to date has largely focused on substandard physical conditions of housing or financial strain associated with housing costs incurred *after* the housing search (e.g. rent and mortgage burden). Finally, the findings regarding the political chilling effects of negatively credentialed renters' housing search experiences raise additional questions about the capacity for the types of antidiscrimination regulations described in the second chapter to broaden housing access for this population, given that those laws largely rely on victims for their enforcement.

The search experiences of negatively-credentialed renters are well-positioned to illustrate the broader social costs of a housing policy regime in which the state has largely handed over the provision of low-income housing to the private market; shifts that were officially intended to deconcentrate poverty and racial segregation associated with public housing by expanding the consumer choices of poor renters (Short 2003). Improving our understanding of how these renters fare as consumers in the private housing market offers new insights into the costs of public housing disinvestment for renters whose housing access is jeopardized by their stigmatizing background credentials. Their housing search experiences also shed light on how

privatization of risk in other policy domains can amplify the consequences of unaffordability and the adoption of more stringent screening standards in private rental housing. By highlighting how increasingly common experiences among poor and working Americans such as contact with the criminal justice system or having one's credit ravaged by medical debt can relegate renters to dangerous and unhealthy housing circumstances, this research responds to the recent call by Scott Allard and Mario Small (2013) for scholars of urban disadvantage to look beyond income poverty in tracing how recent historical shifts across a variety of institutional spheres such as criminal justice, housing, healthcare and welfare compound the precarious position of the urban poor and frustrate policy interventions designed to improve social and economic mobility.

Chapter 4: Race and Negative Credentialism in the Private Rental Market:

An Experimental Investigation

Recent legal reforms regulating how landlords use criminal background information to screen rental applicants have been largely framed as civil rights initiatives designed to combat tenant screening practices with discriminatory impacts on groups protected by fair housing laws. Policymakers' recognition that ostensibly race-neutral tenant screening criteria may disproportionately impact minority renters has coincided with growing awareness of both the collateral consequences associated with possessing a criminal record and the racially uneven impacts of those consequences. The disparate impact theory of discrimination, on which policy interventions like the 2016 HUD Guidance and 'Ban-the-Box' policies are premised, holds that, even when implemented consistently, exclusionary rental criteria related to criminal history will have a predictably outsized effect on Black and Hispanic renters.¹⁴ However, recent experimental research suggests that ostensibly race-neutral rental standards like 'clean criminal history' are sometimes applied in ways that are decidedly not neutral with respect to the race and/or gender of prospective rental applicants (Cohen 2016; Massey and Lundy 2001; SOCR 2012, 2015). Furthermore, rental standards structured around other types of background information, such as eviction and credit records, may have discriminatory impacts on par with criminal background screening. Consequently, policymakers' focus on the disparate impacts of exclusionary criminal

¹⁴ "Across the United States, African Americans and Hispanics are arrested, convicted and incarcerated at rates disproportionate to their share of the general population. Consequently, criminal records-based barriers to housing are likely to have a disproportionate impact on minority home seekers." (at p. 2 of "HUD Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions", April 4th 2016. Available at: https://www.hud.gov/sites/documents/HUD_OGCGUIDAPPFHASTANDCR.PDF)

background criteria may understate the complex mechanisms by which modern tenant screening procedures are implicated in housing discrimination.

This study uses an email-based correspondence experiment to investigate whether and how race impacts landlords' evaluation of ostensibly race-neutral discrediting characteristics revealed in the course of tenant screening.¹⁵ In light of the existing literature describing the uneven social impacts of background screening in and outside of the housing sphere, this study focuses on how eviction and criminal records impact housing access for female and male renters, respectively. Specifically, the experiment measures how landlords respond to information about applicants' eviction and criminal conviction records revealed in emails inquiring about rental units advertised online, and whether response patterns are related to the race of fictional applicants. The study targets over 1,800 rental housing providers advertising in five American metropolitan areas that are diverse with respect to their rental market conditions and regulatory environments governing tenant screening. Finally, the experiment is also designed to collect descriptive information regarding how landlords respond to applicants with negative credentials. That information is of practical relevance for renters who strategically disclose their potentially disqualifying background issues in initial communications with landlords in an attempt to minimize the considerable costs associated with the housing search process for this population (as described in Chapter 3).

Before turning to the study's methods and findings, I review what existing scholarship reveals regarding how landlords use eviction and criminal records to screen rental applicants and the foreseeable disparate impacts of exclusionary eviction and criminal history standards. I then

¹⁵ "Landlord" is used throughout this paper as a shorthand descriptor of a variety of agents that control access to private rental housing. The experiment involves sending email messages in response to online rental advertisements, which were answered by individuals with a variety of professional titles (i.e. owner, property manager, leasing specialist).

describe the socio-legal theory and a small body of experimental research illuminating the multiple, complex and subtle mechanisms by which ostensibly race-neutral status characteristics (including, but not limited to, eviction and criminal records) can be implicated in contemporary forms of discrimination. Following the review of the relevant literature, I outline the study's research questions, hypotheses, data collection and analysis methods, present the study's findings and discuss their implications for both housing discrimination scholarship and policy.

The Discriminatory Impacts of Tenant Screening Practices

Contemporary landlords and property managers increasingly rely on formalized screening tools and procedures. Survey data suggest that the majority of private housing providers utilize commercial tenant screening services that provide various forms of background information including criminal conviction histories, credit reports, and civil court records that reveal evictions, landlord-tenant disputes and various forms of outstanding debt (Dunn and Grabchuk 2010). While the shift toward more information-intensive tenant screening procedures has been enabled by technological advances in the automation of online records depositories and a booming commercial background check industry, the formalization of tenant screening standards can also be attributed to the broader phenomenon of *credentialism*. Drawing from Collins (1979), Pager asserts that, "As a society, we are moving toward a stratification regime wherein key opportunities and resources are increasingly allocated on the basis of formally designated status positions" (2007:35). Although the move toward the use of formal credentials (e.g. college degrees, occupational licenses) instead of ascribed markers (e.g. race, gender) in allocating economic opportunities is often understood as a sign of a less discriminatory and more enlightened society, both Pager and Collins note that credentialism tends to reproduce existing patterns of stratification because "despite the distinctiveness of these sources of differentiation,

the content of ascriptive traits and achieved credentials often reveals substantial overlap” (Pager 2007:37).

Whereas earlier critics of credentialism were concerned that screening on the basis of highly valued credentials like college degrees replicated existing patterns of inequality, contemporary scholars like Pager warn of a somewhat distinct, but related phenomenon involving the evaluation of candidates for employment and housing on the basis of *negative credentials*, “...those official markers that restrict access and opportunity rather than enabling them.” (Pager 2007:32-33). In the context of rental housing, negative credentials might include a criminal conviction record, a troubled credit history or a past eviction. The prospect that *negative credentialism* shapes inequality and access in the rental housing market looms large as information about such disqualifying credentials is more accessible than ever.

Indeed, legal scholars and tenant advocates have expressed concern that modern tenant screening practices may give rise to, or provide cover for, illegal housing discrimination in multiple ways. To the extent that the population branded with discrediting credentials overlaps with groups protected by antidiscrimination statutes, the use of those facially neutral credentials in screening applicants for housing may constitute illegal discrimination under the disparate impact theory.¹⁶ The discriminatory impact of such screening tools may be exacerbated further by the tendency for “public assumptions about who is and who is not a credential holder [to become] generalized or exaggerated” (Pager 2007:37). Those “public assumptions” around facially neutral screening criteria may also trigger another form of legally prohibited

¹⁶ Under antidiscrimination statutes like the Civil Rights Act, disparate impact refers to practices that are facially neutral in their treatment of different groups and individuals, but in practice have a disproportionately adverse effect on particular groups protected under antidiscrimination law. The other form of discrimination recognized by civil rights law is differential treatment, which refers to discrimination wherein an individual victim is treated less favorably because of a statutorily protected characteristic such as gender, age or race.

discrimination: differential treatment. Beyond the statistically foreseeable disparate impact that certain exclusionary screening policies will have on minority renters when applied consistently, scholars have suggested that more information-intensive screening practices also provide new opportunities for discriminatory treatment involving inconsistent requests for or evaluation of background check information (Flagg 2011; Harwin 2012; Paul-Emile 2014). In the proceeding sections I review existing scholarship related to how both criminal and eviction records are implicated in the two forms of discrimination prohibited by fair housing laws: disparate impact and differential treatment.

Criminal Records

Although criminal history screening is a relatively new feature of the tenant-screening process, it has rapidly become standard practice in the rental housing industry. Surveys suggest that at least 80% of private landlords and property managers routinely screen prospective tenants for criminal histories (Thatcher 2008). Critics have argued that this common feature of modern tenant screening has the potential to block housing access for an unprecedented number of individuals who have criminal conviction records. Although estimates of the number of people who have been convicted of a crime vary, some have suggested that the proportion of American adults with criminal records is as high as 25 to 29 percent (Oyama 2009; Paul-Emile 2014). The exclusionary impact of criminal records screening in housing is thus potentially very widely felt; particularly as survey and experimental research has documented the strong resistance to renting to people with criminal histories on the part of private housing providers (Clark 2007; Dickson-Gomez et al. 2009; Evans and Porter 2015; Helfgott 1997).

This broad exclusionary impact is disproportionately borne by the ethnic and racial groups overrepresented among those with criminal conviction records. The large body of

academic literature documenting racial/ethnic disparities in the criminal justice system (see Mauer 2011 for an overview) has helped advocates to make the case that criminal background screening has a disparate, adverse impact on Black and Hispanic populations. As described in Chapter 2, local policymakers have been particularly responsive to such concerns.

Little empirical research to date has investigated how the *combination* of a criminal history and one's membership in a protected class might trigger differential, discriminatory treatment on the part of landlords. However, findings from recent fair housing tests in Seattle intended only to detect differential treatment on the basis of race and disability shed some light on that dynamic. A common form of differential treatment involved landlords selectively mentioning credit history and criminal background check requirements to Black testers (Seattle Office of Civil Rights 2012, 2015). Massey and Lundy's (2001) telephone audit study similarly found that landlords were sixteen times more likely to inform Black female testers about credit requirements than White men. Although these studies did not systematically investigate how the adverse impact of a negative, housing-related credential varies across race, ethnicity or gender, their findings nonetheless suggest that housing providers make preemptive assumptions about an applicant's negative credentials on the basis of their race and/or gender.¹⁷

To date only one study has been undertaken with the explicit aim of investigating racial differences in the treatment of applicants with criminal records. In 2016 a fair housing non-profit organization conducted an audit test in Washington D.C. that deployed pairs of Black and White female testers to apply in person for sixty rental units (Cohen 2016). The pairs were assigned

¹⁷ Similarly, Holzer, Raphael and Stoll (2006) find that employers who check criminal records are more likely to hire African Americans than those who do not. The authors theorize that in the absence of criminal background checks, employers are more likely to statistically discriminate by making assumptions about the criminal backgrounds of African American applicants.

substantively similar scripts disclosing fictitious criminal conviction histories. In 47 percent of tests, landlords gave preferential treatment to White testers, which was often expressed in the form of explicit offers to ‘make an exception’ to a policy against renting to people with criminal histories or a reaction that downplayed the seriousness of the conviction history the tester disclosed. By contrast, the landlords who engaged in discriminatory treatment told Black testers in unambiguous terms that they would be disqualified by the landlord or firm’s screening policy regarding criminal history. Though small in scale, this study offers new and important insights into the discriminatory use of discretion in evaluating rental applicants’ criminal history information.

Eviction History

Tenant screening regarding past evictions has triggered vocal opposition on the part of tenant’s rights advocates since the 1970s, when landlords shared first-hand, unsubstantiated information about evictions and tenants’ personal lives on so-called ‘blacklists’ (Kleysteuber 2007).¹⁸ Today, providers of commercial tenant screening reports sift through civil court records and archive the names of those subject to eviction filings or otherwise involved in formal landlord-tenant disputes (Dunn and Grabchuk 2010).¹⁹ The shift from anecdotal to official records pertaining to eviction history has not quelled criticism of how eviction histories are collected and reported, however. Simple errors such as name misidentification are said to be common in reports of evictions or landlord-tenant disputes (Kleysteuber 2007). The routine

¹⁸ Unofficial venues for landlords to volunteer information about ex-tenants still exist today (Motoko 2004).

¹⁹ Eviction cases resulting in money judgments are also listed in standard credit reports.

practice of reporting involvement in eviction cases or other disputes without reporting the circumstances or outcome of those cases is of even greater concern.²⁰

Irrespective of whether such reports are inaccurate or misleading, industry experts suggest that eviction databases still effectively function like blacklists, banning discredited tenants from future rentals. One purveyor of tenant screening reports told *The New York Times* that nearly all of their customers have a policy of flat-out rejecting anyone with a landlord-tenant record, no matter the reason or the outcome (Rogers 2006), while a brokerage firm representative remarked that a landlord-tenant record was “the single worst blemish you can have on your credit” (Mokoto 2004). The consequential nature of an eviction record in the digital age is also said to make the threat of an eviction a more effective tool with which landlords can coerce, discipline or harass tenants (Desmond and Valdez 2013; Kleysteuber 2007), particularly voucher recipients (Maxwell 2006; Rosen 2014; Tester 2008).

Although a number of legal scholars and tenant advocates have argued that the use of eviction records in tenant screening has a disparate and adverse impact on multiple protected classes, insufficient data on the demographic profile of evictees has undercut attempts to substantiate those arguments. However, in 2012, the Census Bureau added a foreclosure/eviction response category to the Current Population Survey’s “reason for move” question. Prior to 2012, no systematic national data on evictions had been collected, in contrast to other types of forced

²⁰ Class action suits have been filed against screening companies in New York and California for incomplete reporting on the outcomes of landlord-tenant cases. In response, a recent California law seals records of eviction cases where the tenant prevailed, while a Minnesota law allows tenants to ask courts to expunge eviction records (Kleysteuber 2007).

moves like mortgage foreclosure (Hartman and Robinson 2003).²¹ Scholars seeking to better understand the population of evictees have drawn on administrative records of eviction filings from local civil courts (referred to as “unlawful detainer” filings), although such records typically lack demographic information about individual tenants. In the absence of this information, researchers have employed a variety of tactics to estimate the demographic characteristics of people with eviction histories. For instance, researchers analyzing 3,000 unlawful detainer (UD) cases filed in King County, Washington during 2008 drew on 2000 Census demographic data at the zip code level and found a moderate, positive association between a zip code’s percentage of Black residents and its UD filing rates (Gehri 2010).

Matt Desmond’s (2013) study is arguably the most exhaustive local study of eviction to date. Desmond drew on administrative court data, an original survey of tenants in eviction court, and fieldwork in two impoverished neighborhoods in Milwaukee. His analysis of eviction court data paired with demographic data at the block level revealed that the eviction rate in hyper-segregated Black neighborhoods was over six times the rate in hyper-segregated White neighborhoods.²² Findings from his original survey of 251 tenants appearing in eviction court over six weeks also revealed stark disparities by race and gender; 60% of those facing eviction and 72% who were eventually evicted were Black women, leading Desmond to suggest that “In poor black neighborhoods, what incarceration is to men, eviction is to women; a typical but

²¹ Mortgage foreclosures have long been systematically catalogued and published by the Mortgage Bankers Association of America (Hartman and Robinson 2003).

²² Desmond also argues that these estimates significantly underestimate the frequency of evictions since, in the course of his fieldwork, multiple landlords reported that they were more likely to perform evictions informally than go through the courts. Informal evictions involve coercing or financially incentivizing tenants to move out without taking formal legal action. Though that finding has important implications for our (limited) understanding of forced displacement in rental housing, it is less consequential for our understanding of how the record of a past eviction revealed during the tenant screening process impacts housing access.

severely consequential occurrence contributing to the reproduction of urban poverty” (2013: 120).

Although limited, existing research on the demographic profile of tenants subject to eviction actions supports the notion that screening with respect to eviction records will have a disparate, adverse impact on Black and female rental housing applicants. However, no study to date has explored whether an eviction record triggers differential treatment by race or gender on the part of landlord, or, put differently, whether the discrediting effect of an eviction record interacts with ascribed characteristics.

In sum, scholars and activists have argued that modern tenant screening practices have made rental housing more difficult to access, particularly for certain groups protected under antidiscrimination law. Although legal claims that screening along those dimensions constitutes housing discrimination have not been consistently affirmed by courts, considerable social scientific evidence exists to support the notion that such screening will have a disparate impact on protected classes. Very little discrimination research, experimental or otherwise, has examined the extent to which these negative credentials impact housing access or how that impact varies across social groups. In the following section I review some of the legal and social scientific scholarship motivating the hypothesis that disqualifying markers exposed by tenant screening may interact with race, ethnicity and/or gender to produce new forms of differential treatment in the rental housing market.

Race, Background Credentials and Differential Treatment

While few studies have systematically investigated how the combination of race and a discrediting status credential impact discrimination in housing, a larger body of research outside of the housing sphere has addressed those questions. That research has complicated

unidimensional understandings of discrimination by revealing how exposure to ostensibly race and gender-neutral information related to criminal record, parenthood or welfare receipt, can give rise to heightened, more complex forms of discriminatory treatment on the basis of race and/or gender. The results of Pager's (2003) landmark field audit study provided evidence of stark disparities in the rate at which matched pairs of Black and White job applicants with criminal records received callbacks from employers. A lab experiment conducted by Correl et al. (2007) revealed that the job applications of women with children were ranked consistently lower than otherwise identical applications of childless women and men, and that male applicants with children were assessed the most favorably. Similarly, a factorial survey conducted by Schramm et al. (2009) revealed that women of color with large families were more likely to be sanctioned by welfare case workers than similarly situated White women. These scholars have introduced theoretical constructs (i.e. stereotype activation, status characteristics theory, the racial classification model, respectively) to explain the process whereby particular characteristics that are ostensibly race and gender-neutral activate culturally salient racialized and/or gendered stereotypes that in turn provoke discriminatory treatment. Findings from this body of research comport with the expectations of social psychologists who assert that preferential attitudes and discriminatory behavior do not only reflect simplistic negative responses to ascribed identities (i.e. explicit and implicit biases), but are often contingent upon activation of a specific discrediting stereotype (Cuddy et al. 2004; Krieger and Fiske 2006), such as racialized and/or gendered notions of criminality or welfare dependence.

That body of experimental research, particularly Devah Pager's work, has helped inspire new critiques of our legal definitions of discrimination and conventional methodological approaches to detecting it. Contemporary theorists of "second generation discrimination" (Sturm

2001) argue that the facially neutral credentials used to screen candidates for employment, housing, loans etc. often function as proxies for ascribed characteristics and mask multifaceted, intersectional forms of discrimination. Legal arguments in this vein are premised on the understanding that contemporary forms of discrimination are more subtle, complex and consequently more difficult to detect than their historical predecessors. With respect to criminal background screening in employment, for example, Paul-Emile (2014) argues that the disparate impact framework under Title VII does not adequately confront more complex, multidimensional forms of discrimination that arise from the “ways in which the combination of a criminal record and minority status creates a distinctive and powerful social stigma that studies show is significantly more detrimental than minority status or criminal record status alone” (2014:898).

The disparate impact framework may therefore understate the discriminatory effects of certain facially neutral screening criteria by implying that the adverse consequences of a negative credential like a criminal record on employment or housing prospects are invariant across individuals. However, the work of Pager, Correll et al. and Schramm et al. seriously undermine that assumption by revealing that under certain circumstances, an identical, ostensibly race and gender neutral marker (i.e. criminal conviction, parenthood, number of children) can trigger very different outcomes for individuals who are distinguished only by their race or gender. These bodies of empirical research and legal criticism offer an important lesson for those seeking to better understand patterns and mechanisms of contemporary discrimination: ignoring lawful forms of differential treatment (e.g. on the basis of criminal history or credit score) may preclude scholars from detecting differential treatment that meets the legal definition of discrimination.

Unfortunately this more nuanced understanding of discrimination has had little impact on the empirical study of real-world housing discrimination by sociologists, who typically utilize a

conceptual definition of discrimination that is indistinguishable from the official legal one (Yinger 1998). This is particularly the case with in-person audit or field experiments, as the largest source of relevant audit data come from the federally sponsored Housing Discrimination Study (HDS) which only measures forms of discrimination that are explicitly prohibited by the Fair Housing Act.

Sociologists working in this area have argued that the reliance on in-person audit experiments ignores the fact that initial interactions between housing providers and prospective tenants are increasingly likely to take place over phone or email (Hanson and Hawley 2011; Massey and Lundy 2001). The emergence of the online marketplace for rental housing has afforded a new generation of scholars opportunities to conduct experiments via email that can simultaneously explore multiple forms of housing discrimination at a much lower cost than in-person studies. These online field experiments draw on a technique used in correspondence audit experiments of employers wherein the ascribed identity of the tester is conveyed by the content of, or name attached to, written application materials. In this way, the content of email messages has been manipulated to convey the race, ethnicity, gender, sexuality, family status, income and class of the fictitious applicant.²³ Researchers argue that such studies not only enhance our knowledge of how differential treatment occurs outside of face-to-face interactions, but also have the potential to uncover qualitatively distinct mechanisms of discrimination enabled by “asynchronous” forms of communication, such as selectively ignoring email inquiries from minority applicants (Hogan and Berry 2011).

²³Ahmed and Hammarstedt 2008; Ahmed et al. 2010; Baldini and Federici 2011; Bosch et al. 2010; Carpusor and Loges 2006; Ewens, Tomlin and Wang 2014; Hanson and Hawley 2011; Hogan and Berry 2011; Lauster and Easterbook 2011.

In sum, though experimental studies of discrimination outside of the housing sphere have begun to pay attention to differential treatment on the basis of facially neutral screening categories (Pager 2007), scholars have yet to replicate Pager's study in the housing sphere or otherwise investigate how certain types of discrediting information revealed during screening may interact with race, ethnicity, gender or other protected class statuses to reshape, amplify or conceal existing patterns of housing discrimination.

Research Agenda and Questions

This study takes advantage of the customizability of the email-based field experiment to investigate the complex interplay between illegal race discrimination and lawful discrimination on the basis of two types of rental credentials and prohibited discrimination on the basis of race. In an effort to enhance the parsimony of the experimental design, male testers will be used to measure whether race shapes how landlords react to the disclosure of conviction status, while female testers are used to evaluate racial differences in landlords' responses to the disclosure of an eviction record. This design also reflects gender differences in the salience of the two discrediting marks under study: men vastly outnumber women with respect to criminal justice system involvement, whereas the limited body of existing research on eviction demonstrates that women are overrepresented among evicted individuals and household heads (Desmond 2012). In addition to studying how the evaluation of eviction and criminal conviction records is implicated in racial housing discrimination, the experiment is also designed to collect much-needed descriptive data regarding how landlords respond to rental applicants with negative credentials. As illustrated in Chapter 3, the housing search process is often a prolonged and costly one for renters with negative credentials, who often try to minimize those costs (particularly application and screening fees) by communicating with housing providers to determine their rental eligibility

or realistic likelihood of rejection prior to submitting an application. Particularly at a time when background screening in rental housing has come under increased legal scrutiny, illuminating the “black box” of landlords’ screening procedures and interactions with negatively credentialed applicants should produce relevant insights for policymakers interested in improving housing access for renters who encounter screening-related barriers to housing. Finally, by targeting landlords in five metropolitan jurisdictions, the experiment offers an opportunity to explore whether and how response patterns vary across urban areas with different rental market conditions and regulatory environments.

Reflecting these various objectives, the research questions structuring the experiment’s data collection and analysis are as follows. Each question is analyzed separately for male and female testers (or put differently, for the eviction versus conviction experimental treatment scenarios). As described in greater depth in the methods section to follow, in addition to the absence or presence of the disclosure of a negative rental credential, each email includes a request to view the advertised rental unit. As such, the findings used to operationalize landlord responsiveness are two dichotomous outcomes capturing the presence or absence of a reply message, and whether replies include an invitation to view the unit. Whereas the first four questions are answered using formal hypothesis testing, the last two questions are addressed descriptively.

1. For Black and White testers, does the disclosure of a negative credential impact the rate at which testers receive an email reply from landlords?
 - H₀₁: Email response rates do not vary between testers on the basis of negative credential status
 - H₁: Testers disclosing a negative credential receive significantly fewer email responses than similar testers who do not disclose a negative credential

2. Does tester race impact the rate at which testers who disclose a negative credential receive an email reply from landlords?
 - H₀₂: Email response rates do not vary between testers who disclose a negative credential on the basis of race
 - H₂: Black testers who disclose a negative credential receive significantly fewer email responses than their White counterparts
3. Does tester race impact the rate at which testers who *do not* disclose a negative credential receive an email reply from landlords?
 - H₀₃: Email response rates do not vary between testers who do not disclose a negative credential on the basis of race
 - H₃: Black testers who do not disclose a negative credential receive significantly fewer email responses than their White counterparts
4. For Black and White testers, does the disclosure of a negative credential impact the rate at which testers are invited to view the advertised unit?
 - H₀₄: Viewing invitation rates do not vary between testers on the basis of negative credential status
 - H₄: Testers disclosing a negative credential receive significantly fewer viewing invitations than similar testers who do not disclose a negative credential
5. Does tester race impact the rate at which testers who disclose a negative credential are invited to view the advertised unit?
 - H₀₅: Viewing invitation rates do not vary between testers who disclose a negative credential on the basis of race
 - H₅: Black testers who disclose a negative credential receive significantly fewer viewing invitations than their White counterparts
6. Does tester race impact the rate at which testers who *do not* disclose a negative credential are invited to view the advertised unit?
 - H₀₆: Viewing invitation rates do not vary between testers who do not disclose a negative credential on the basis of race
 - H₆: Black testers who do not disclose a negative credential receive significantly fewer viewing invitations than their White counterparts
7. Are the observed differences in rates of response and invitation across race and credential status consistent across jurisdictions?
8. How do landlords respond to questions regarding how a prospective applicant's eviction or conviction record would impact their rental eligibility?

Data Collection

This experiment measures how landlords respond to the disclosure of two types of potentially disqualifying personal background information by prospective applicants via email, eviction for female applicants and criminal conviction for male applicants, and whether response patterns are related to the race of applicants. Information regarding the race and gender of fictitious applicants is signaled using racially and gender-distinctive names, while the disclosure of eviction/conviction status is conveyed in the content of the email messages. Unlike traditional matched-pair audit designs used to study discrimination, this study uses a randomized field design in which each landlord only receives one email message. This minimizes inconvenience experienced by landlords and the risk of provoking suspicion that the email messages are not genuine given the specificity of the messages needed to convey a fictional applicant's negative credentials. A randomized online field experiment is well suited to investigate discrimination along many dimensions, as the low cost and speed associated with email communication allows the researcher to draw on samples that are large enough to effectively analyze aggregate response patterns without re-contacting targets (Carpusor and Loges 2006). Therefore, unlike the audit or matched-pair approach, this study will not provide evidence of preferential or discriminatory behavior on the part of any single landlord, but rather of systematic differences in the aggregate rates of treatment of various types of rental applicants.

Content of Email Messages: A computer programming script was utilized to generate an email message in response to each sampled rental listing. After the script randomly chose between the experimental condition (treatment/control) and the type of negative credential to be disclosed (eviction/conviction), the content of each email message was randomly selected from a pool of scripts associated with those conditions. All messages included a substantively identical

greeting, expression of interest in the advertised unit, a request to view the unit and a closing salutation, followed by the sender's first and last name. In the two experimental treatment conditions, the messages also contained disclosure of two types of discrediting statuses, along with a question about whether those statuses would disqualify them or whether it was "worthwhile to apply." See Appendix B for an index of all of the script components that were randomly sampled to compose the email message, along with example emails and description of how the messages were formatted to mimic Gmail messages sent by clicking on the "reply" link of Craigslist advertisements.

The language used to disclose either an eviction or criminal conviction record was informed by my findings from in-depth interviews with negatively credentialed renters. A number of those respondents reported that they would often disclose their criminal convictions, past evictions or damaged credit early in communications with prospective landlords in an effort to determine whether those issues would disqualify them from rental unit in question (a strategy that some were also coached to adopt by caseworkers). Reflecting my respondents' accounts, the disclosure statements come coupled with language attempting to mitigate or soften the negative impression made by revealing stigmatizing credentials. In both experimental treatment scenarios, the disclosure phrasing implied that some time had elapsed since they acquired the eviction/conviction record (e.g. "a conviction from a few years back"), and in the eviction disclosure scenario the applicant adds that the eviction case had been settled or any debts to previous landlords had been paid off.

The disclosure language also reflects other experimental design concerns. Descriptions of both negative credentials were relatively generic in an effort to avoid generating suspicion on the part of landlords in response to overly-specific or atypical inquiries (e.g. "Do you rent to people

with felony meth production convictions?”). Another consideration motivating the generic character of, and mitigating caveats attached to, the disclosure language I chose was to avoid signaling a negative rental credential that was too strongly discrediting. Many published correspondence experiments studying the job prospects of ex-offenders, including Pager (2007), use a drug-related offense to signal criminal history given the ubiquity of such types of convictions and the notion that they may not be as universally disqualifying as more serious and/or violent criminal convictions. However, drug convictions carry a more troubling association among landlords than employers due to fear of drug-activity on rental premises. If the negative credential disclosed by fictitious rental applicants was too strongly discrediting, there may not be an opportunity to observe any variation in landlord responses. The disclosure language is thus designed to measure how landlords react to *potentially* discrediting statuses that many landlords would have discretion to evaluate (see Chapter 2).

Race and Gender Distinctive Name Selection: In order to signal the race and gender of fictitious applicants, each email message was signed with the first and last name of one of twenty-four testers. Six first/last name combinations were selected for each race and gender identity category (i.e. Black/White/Male/Female). Those names were also signaled to the experiment’s targets by the email addresses of twenty-four Gmail accounts created for the experiment, linked to each name, from which the experiment’s messages were sent (e.g. Terrell Booker at terrellbooker47@gmail.com).

My approach to name selection benefitted considerably from the findings of a recent study by Michael Gaddis (2016), which calls into question the conventional approach to choosing racially distinctive names in correspondence experiments of racial discrimination. In short, many such published experiments select names that are most common and/or unique to the

racial/ethnic groups under study, without interrogating whether those names are actually consistently interpreted as racially distinctive in the real world. Another challenge for correspondence experiments testing racial discrimination is that the most distinctively “Black” first names in the U.S., that is the first names associated overwhelmingly with the U.S. population identifying as Black or African-American, also tend to be associated with lower levels of education (as typically measured in reference to the mothers of children with those first names). As such, experiments using names that are distinctively “Black” or “White” per census data, may signal different socioeconomic statuses for Black and White testers intended to be matched on every dimension but race. Gaddis conducted a large-scale web survey to test how well 200 first names used in various studies to signal White, Black or Hispanic actually conveyed membership in those racial/ethnic groups.²⁴ The study also presented demographic information for populations linked to those names, along with surnames commonly used in correspondence studies. With the author’s permission, I selected twenty-four first names from Gaddis’ paper that were correctly identified as “White” or “Black” names by at least 85% of the study’s survey respondents. I also made efforts to select first names associated with mothers who have similar levels of education, though this was somewhat of a challenge since mother’s education level is positively associated with the racial-signaling strength of White names but negatively for Black names. There are a limited number of surnames that are common among Black Americans but not White Americans, so I chose from a small pool of “Black” surnames that are often used in other studies. A full index of the selected names and the demographic features of their associated populations can be found in Appendix C.

²⁴ Gaddis’ research suggests that the first names do most of the work in signaling race or ethnicity, and the surnames merely enhance the strength of the signal, with the exception of Hispanic names wherein the signal comes largely from the surname.

Site Selection: The experiment targets landlords advertising on Craigslist²⁵ in five metropolitan areas: Seattle, Portland, Philadelphia, Detroit and Atlanta. The selection of additional sites beyond Seattle, where I conducted in-depth interviews with landlords and negatively credentialed renters, was motivated by multiple design considerations. Among the most practical concerns were that confining the experiment to one location would threaten the study's validity if the experimental messages flooded or saturated the local housing market, increasing the challenges associated with avoiding re-contacting housing providers and the risk of provoking suspicion on the part of targets. Given the distinctive features of Seattle's rental housing market, particularly its low vacancy rate, high rents and regulatory environment, I also sought to expand the scope of the experiment to other metropolitan areas that varied in terms of their rental markets, local tenant-screening regulations and their population demographics. Most importantly in this regard, Seattle passed the "Fair Chance Housing Ordinance" in the summer of 2017 which prohibits landlords from using criminal history information to screen rental applications. Though the law did not go into effect until winter 2018, after the experiment had concluded, its passage was well-publicized. Consequently the law had likely started to impact Seattle landlords' screening practices at the time the experiment was conducted, offering a valuable opportunity to study whether and how that legal context would impact the way Seattle landlords interacted with negatively credentialed rental applicants. Seattle's evolving regulatory context (described in greater detail in Chapter 2) also presents a unique opportunity for a natural-experiment wherein the experiment is replicated after the new law has gone into enforcement to observe changes in landlord behavior. With that consideration in mind, I selected Portland as

²⁵ Craigslist.org is by far the most used online platform for classified advertising in the U.S. (Jones 2009), and to date, all published studies of rental discrimination in the U.S. using online field experiments have drawn on advertisements posted to craigslist.org.

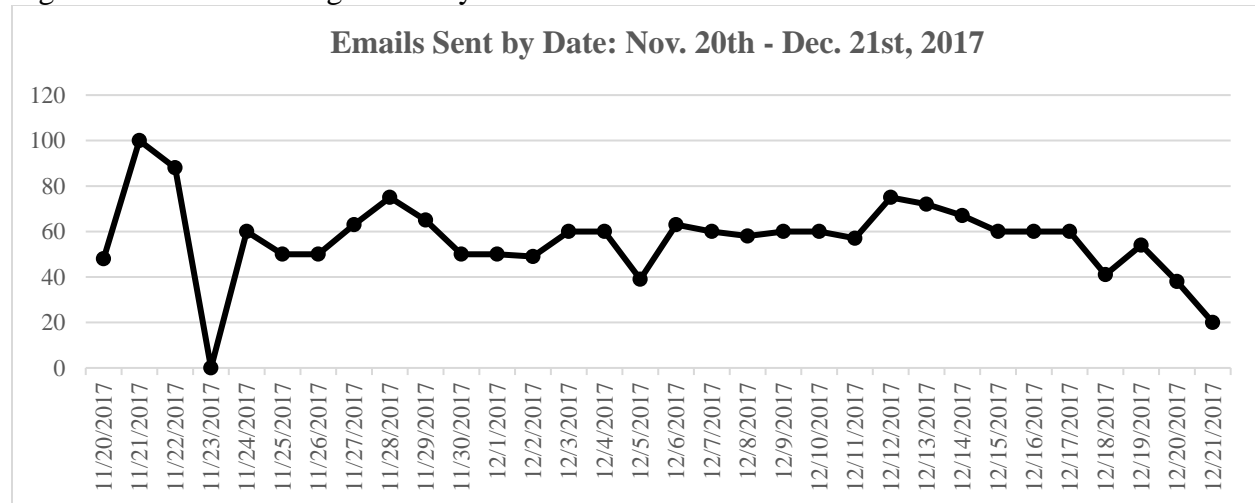
another site to serve as a synthetic control case that resembled Seattle's rental environment on other characteristics but had not implemented similar regulations around criminal background screening. The other sites were selected to capture variation in market tightness, rental costs, racial demographics and region. See Appendix D, Table 2 for additional details regarding each study site.

Sampling and Experiment Mechanics: After completing a pilot study using listings from Las Vegas in July 2017,²⁶ I initiated the field experiment on November 20th, 2017 and ran it every day until December 21st, 2018 with the exception of Thanksgiving (see Figure 4.1 for more detail regarding the volume of emails sent each day). I constructed a computer programming script using Python to automate much of the work associated with filtering through thousands of Craigslist rental advertisements posted daily in five jurisdictions, excluding advertisements associated with housing providers who had already been contacted or which fell outside of the study's sampling parameters, and randomly sampling and web-scraping data from eligible advertisements. See Appendix D for a more detailed description of these procedures. The main parameters on which advertisements were sampled for possible inclusion in the study were: jurisdiction (Seattle, Portland, Philadelphia, Detroit, Atlanta), number of bedrooms (one, two or three) and rental price (within 15% and 185% of each metropolitan area's estimated median rent). The experiment targeted 1812 housing providers, which were roughly evenly distributed amongst the study's five research sites (see Appendix A, Table 1 for frequencies of message types sent in each jurisdiction). The random sampling modules in Python generated roughly

²⁶ In July 2017 I conducted a small pilot experiment targeting 50 rental housing providers advertising on the Las Vegas Craigslist.org site. The primary goals of the pilot experiment were to ensure that the Python email automation system worked as expected, to see if the negative credential disclosure messages were perceived as natural by landlords, and to test out an early version of the email coding protocol with my research assistants. The pilot experiment had an overall email response rate of 42% and I received no email messages expressing suspicion that the fictitious inquiries were not genuine.

similar, but not exactly identical, proportions of messages sent from each experimental condition across the five jurisdictions.

Figure 4.1: Email Messages Sent by Date



Data Analysis:

Coding Reply Message Content: A coding protocol was developed prior to the Las Vegas pilot experiment to analyze the content of the email reply messages. That protocol asks coders to parse basic information from the incoming emails (i.e. time received, address of sender, subject line, message body text) and answer a variety of questions regarding the content of the reply. Those questions are designed to capture any indicators of the landlord's professional background (i.e. professional identification, corporate logo), whether the landlord offers the tester an opportunity to view the unit, whether and/or how the landlord describes unit availability, rental criteria and application procedures. Finally, the coding protocol includes a number of questions designed to capture an in-depth accounting of how landlords respond to testers who disclose and eviction or conviction record. See Appendix E for the full coding protocol.

The initial draft of the protocol was refined in consultation with my two undergraduate research assistants who undertook the bulk of the coding work. I solicited feedback from my

assistants after they used the protocol to code the incoming messages from the Las Vegas pilot experiment, and at various stages throughout the coding of the full experiment's results. For the pilot experiment, and for the first forty email messages associated with the full experiment, my assistants and I coded the same messages in order to resolve issues with the protocol and enhance inter-coder reliability. I used a Qualtrics survey to administer the coding protocol. After coding the first forty email messages, each assistant was assigned ten email accounts to code, while I took responsibility for coding the remaining four accounts.

Analysis of Coded Emails: Descriptive statistics, namely frequency tables and chi-square tests of independence will be used to address research questions 1 through 6 by comparing differences in either email reply or viewing invitation rates across various pairs of tester scenarios that are identical save for either race or credential status. I also descriptively map landlords' reactions to the disclosure of either a criminal or eviction history and provide example language from email response messages that exemplifies common modes of response to questions about how an eviction or criminal conviction would impact the tester's rental eligibility.

Findings:

Across the study's five jurisdictions, roughly half (49.4%) of all emails received a genuine response, with higher rates of response in Seattle and Portland and fewer replies in Detroit and Atlanta. Over 1,000 messages in total were received by the study's twenty-four testers, but after excluding spam (largely automated email advertisements from corporate rental providers) and follow-up messages from housing providers who had already replied, the number of genuine messages replying for the first time to the testers' inquiries was 895. Frequencies of messages sent, messages received, and invitations to view the advertised unit received for each

jurisdiction, by each experimental variety of fictitious rental applicant, are reported in Table 1 in Appendix A.

Race, Negative Credential Status and Response Rates: Discrimination scholars characterize racially selective non-response to inquiries regarding job or housing listings as a form of ‘opportunity-denying discrimination’ (Turner et al. 1991) since it forecloses any avenue for the prospective employee, tenant or homebuyer to pursue the work or housing opportunity in question. Hogan and Berry (2011) contend that email communication lowers the costs associated with this form of discrimination, which is also more subtle and difficult to detect than “door-slaming” or the explicit refusal to hire or house on the basis of a protected class status. Comparing response rates for different types of experimental conditions across all five jurisdictions lends strong support for hypothesis 1, partial support for the second hypothesis and no support for the third hypothesis.

Figure 4.2: Rate of Email Response by Tester

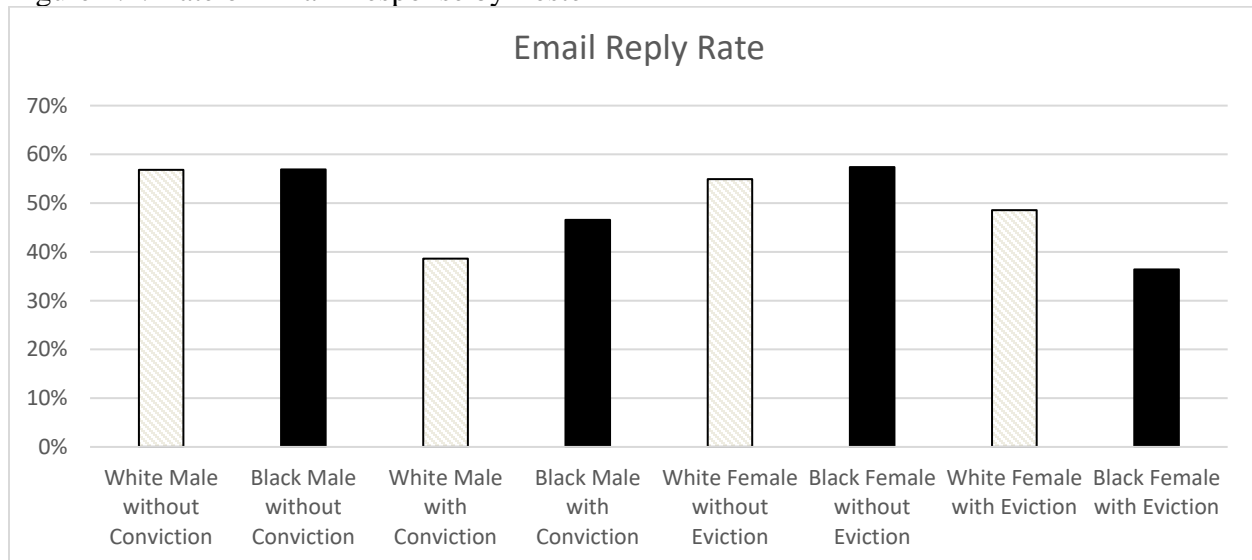


Table 4.1: Treatment/Control Ratio in Email Response Rates, by Tester Type and Jurisdiction

Treatment to Control Ratio	All Cities	Seattle	Portland	Phil.	Detroit	Atlanta
Black Women	0.63**	0.76	0.76	0.65	0.46*	0.66
White Women	0.88	1.1	1.02	0.72	0.89	0.48*
Black Men	0.82*	0.59**	0.95	0.83	0.77	1.27
White Men	0.68**	0.83	0.89	0.5**	0.97	0.5*

** Difference between groups is statistically significant at $p < .01$

* Difference between groups is statistically significant at $p < .05$

Starting with the impact of disclosing either a criminal conviction or eviction history on response rates (Hypothesis #1), each type of tester that disclosed a negative credential in their email inquiries received fewer responses than their matched-race counterparts who did not disclose any discrediting information (see Figure 4.2). Table 4.1 presents ratios of the rate of email response for testers disclosing a negative credential relative to the email response rate for testers in the control scenario, for each gender and race combination. The ratios compare response rates instead of frequencies because the number of messages sent by each tester type are not identical (see Appendix A, Table 1 for frequencies of messages sent and received by tester type). Table 4.1 also summarizes results from Chi-square tests of independence performed for each tester type distinguished on race and gender. The findings suggest that for Black men, White men and Black women, the difference in the rate of response between messages disclosing a negative credential and the control messages are statistically significant at the $p < .01$ level. The magnitude of that difference was largest for Black women; Black female testers disclosing an eviction record heard back from landlords at 63% the rate of Black female testers in the control scenario. By contrast, White women who disclosed an eviction in their messages received responses at 88% of the rate recorded for White women in the control condition. Comporting with the findings related to racial differences in response rates described in the next section, this meant that Black women experienced the largest penalty for disclosing a negative credential (eviction), while White women encountered the least severe penalty. For men that

pattern was reversed; White male testers saw a greater reduction in response rates when disclosing a criminal conviction than Black male testers. With the exception of White women, the findings offer strong support for Hypothesis #1, which predicts that testers who disclose a negative credential will receive significantly fewer email responses than counterparts in the control scenario.

Table 4.2: Black/White Ratio in Email Response Rates, by Tester Type and Jurisdiction

Black to White Ratio	All Cities	Seattle	Portland	Phil.	Detroit	Atlanta
Women with Eviction	0.75**	0.87	0.82	0.74	0.54	1.21
Women without Eviction	1.04	1.26	1.1	0.81	1.06	0.88
Men with Conviction	1.21	1.02	1.24	1.32	0.92	1.41
Men without Conviction	1	1.43**	1.15	0.8	1.17	0.55

** Difference between groups is statistically significant at $p < .01$

* Difference between groups is statistically significant at $p < .05$

Considering the impact of race on response rates among testers who disclose a negative credential, the results for women offer support for the Hypothesis #2 while the findings with respect to men fail to disconfirm the null hypothesis. Black women who disclosed an eviction record in their email messages received responses from landlords at 75% the rate of their White counterparts, a statistically significant difference ($p = 0.009$). By contrast, Black men in the criminal record disclosure scenario actually received *more* responses from landlords than their White counterparts, though that difference did not reach statistical significance. The findings also fail to confirm Hypothesis 3, in that Black testers who did not disclose a negative credential (in the control scenario) did not receive significantly fewer responses to their inquiries than their White counterparts, for either men or women.

Race, Negative Credential Status and Invitation Rates: In addition to “opportunity-denying discrimination,” discrimination scholars and fair housing testing agencies have studied “opportunity-diminishing” forms of discrimination (Turner et al. 1991). The latter category refers to more subtle forms of differential treatment of housing-seekers, such as differences in

information provided to housing-seekers or selectively encouraging White prospective tenants to apply. In this study, each message included a request to view the unit in person (see Appendix B for descriptions of email scripts). Systematic differences in the rate at which landlords invite the applicant to view the rental unit can be characterized as a form of opportunity-diminishing discrimination, since such invitations facilitate applicants' searches and can be read as forms of encouragement, but a lack of invitation does not necessarily preclude a housing-seeker from submitting an application. Among the 895 emails that were met with a reply from the landlord, landlords invited the tester to view the unit in person in 568 reply messages. Those invitations included offers to schedule an individual viewing or attend a previously scheduled tour or open-house.²⁷ Of the 327 reply messages wherein the landlord did not invite the applicant to see the unit in response to their request to do so, the majority (61.7%) were messages in which the tester had disclosed either an eviction or criminal conviction history. In only seventeen cases wherein the tester received a reply, but no viewing invitation, did the landlord indicate the unit was no longer available (eleven times in response to negatively credentialed testers, six times for testers in the control scenario).

In order to answer hypotheses #4-6 regarding differences in invitation rates by race and credential status, invitation rates refer to the proportion of all emails sent that received an invitation to view. I also conducted analyses of rates of invitation conditional on reply, or put differently, among messages receiving a reply, the proportion of reply messages that included an

²⁷ I also measure invitation rates using a more expansive operationalization of invitation that included messages where landlords either asked testers to contact them by phone or provided them with a means to submit an application (typically online). Results of analyses of the rates of invitation to view, call or apply are presented in Appendix A, Tables 2-3 and the results across all cities do not offer different conclusions for Hypothesis #4-6 than the analyses conducted using the more narrow invitation outcome variable.

invitation to view the unit. The results of those analyses are summarized in Appendix A, Tables 3-4, and have the same implications for hypotheses #4-6 as the results described in this section.

Figure 4.3: Rate of Invitation to View Unit by Tester

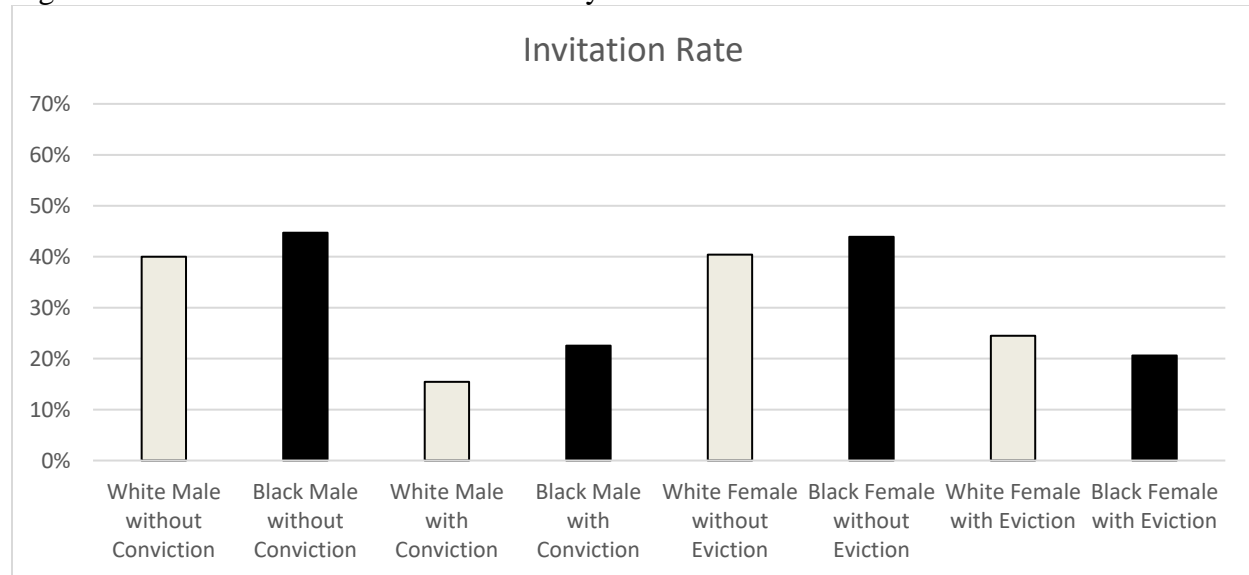


Table 4.3: Treatment/Control Ratio in Email Invitation Rates, by Tester Type and Jurisdiction

Treatment to Control Ratio	All Cities	Seattle	Portland	Phil.	Detroit	Atlanta
Black Women	0.47**	0.45**	0.58	0.55	0.45	0.44
White Women	0.61**	0.69	0.74*	0.61	0.45	0.15*
Black Men	0.50**	0.51	0.31**	0.65	0.32	0.86
White Men	0.39**	0.4**	0.38**	0.42	0.59	0.32

** Difference between groups is statistically significant at $p < .01$

* Difference between groups is statistically significant at $p < .05$

The findings with respect to invitation rates offer strong support for Hypothesis 4, as every tester type received significantly fewer invitations to view the advertised rental unit under the negative credential disclosure scenario (see Figure 4.3 and Table 4.3). As with response rates, the magnitude of the penalty on invitation rates for disclosing a discrediting status was smallest for White women. In contrast to the findings for response rates however, White men experienced the largest penalty for disclosing a negative credential: White men who revealed a criminal

conviction received invitation to view the advertised unit at 39% the rate of White testers in the control scenario.

Table 4.4: Black/White Ratio in Email Invitation Rates, by Tester Type and Jurisdiction

Black to White Ratio	All Cities	Seattle	Portland	Phil.	Detroit	Atlanta
Women with Eviction	0.84	1.02	0.67	0.99	0.79	2.94
Women without Eviction	1.09	1.56	0.85	1.11	0.79	0.97
Men with Conviction	1.46	1.74	0.92	1.88	0.61	1.81
Men without Conviction	1.12	1.36	1.14	1.23	1.14	0.67

** Difference between groups is statistically significant at $p < .01$

* Difference between groups is statistically significant at $p < .05$

Turning to whether tester race impacts patterns of invitation rates, no statistically significant racial differences in invitation rates were observed for testers in the disclosure or control scenarios (see Table 4.4), offering no support for Hypotheses 5 or 6. As with overall reply rates, Black women who disclosed an eviction were less likely to be invited to view the advertised unit than their White counterparts, whereas Black men who disclosed a criminal conviction in their messages were *more* likely to receive an invitation than their White counterparts. However, those differences were not statistically significant ones.

Cross-Site Comparisons: Assessing patterns of email response and invitation rates across jurisdictions poses challenges given the relatively small number of observations for each tester type in each study site. Potentially reflecting those sampling issues, few within-city analyses produced evidence of statistically significant differences in rates of email response or invitation on the basis of negative credential status or race. Those challenges are magnified for the Detroit and Atlanta subsamples given their small sizes, so I exercise greater caution in interpreting findings from those jurisdictions.²⁸

²⁸ See Appendix A, Table 1 for frequencies of emails sent and received by jurisdiction. While the experiment targeted between 372 and 384 landlords in Seattle, Portland and Philadelphia, only 353 messages were sent to Atlanta landlords and 320 to Detroit landlords. As explained in Appendix D, on multiple occasions during the experiment I ran out of new advertisements to sample in those jurisdictions.

Nonetheless, the within-city response patterns generally resemble those observed across cities. For most tester types, applicants who disclosed a negative rental credential receive replies (Table 4.1) and invitations to view the unit (Table 4.3) at lower rates than their matched race and gender counterparts who did not disclose any discrediting background information. The difference in response rates between the disclosure and control scenario testers reached statistical significance for Black women in Detroit, White women in Atlanta, White men in both Philadelphia and Atlanta, and Black men in Seattle (see Table 4.1).²⁹ The exception here is Portland, in which landlords were not significantly less likely to respond to emails from any type of tester disclosing a negative credential. It is worth noting that Portland had the highest overall rate of email responsiveness (62.4%), so the non-significant findings from the site are unlikely to reflect a methodological issue with small cell sizes.

The following tester types who disclosed a negative rental credential were significantly less likely to receive invitations to view advertised units than their counterparts in the control scenario: Black women in Seattle, White women in Portland and Atlanta, Black men in Portland, and White men in Seattle and Portland (see Table 4.3). Thus, the within-city findings regarding the impact of negative credential status on response and invitation rates generally comport with findings from across-city analyses and offer additional partial support for Hypotheses #1 and #4.

With respect to racial differences in response rates, the discrepancy between email response rates for Black and White testers was only statistically significant for one sub-category

Not only were fewer messages sent in those jurisdictions, but landlords in Detroit and Atlanta responded to such messages less frequently than landlords in other cities. The overall email reply rate was 34% in Atlanta and 40% in Detroit. By contrast, the response rates from landlords in Philadelphia, Portland and Seattle ranged from 48% to 62%.

²⁹ Note that the latter finding seems to be driven by the distinctly high rate of response received by Black men in the control scenario in Seattle, rather than a particularly low rate of response received by Black men who disclosed a criminal conviction records to landlords in that city.

of tester in one jurisdiction: Seattle (see Table 4.2). In that city, Black male testers who did *not* disclose a criminal conviction received responses at 143% the rate of White male testers in the control scenario. This finding runs counter to the expectation in Hypothesis #3, that Black testers in the control scenario would receive fewer responses from landlords than their White counterparts. Indeed, Black male testers without criminal convictions received responses from landlords at a much higher rate in Seattle (86%) than the average response rate for Black male testers in the control scenario across the other four jurisdictions (49%). Furthermore, the response rates for Black male testers without a criminal conviction in Seattle are higher than those observed for any other tester type in any city (see Appendix A, Table 1). As with the across-city analysis, no statistically significant racial differences in rates of invitation within cities were found (see Table 4.4).

Content of Responses to Negatively Credentialed Testers: The last research question I use these data to address asks how landlords respond to the disclosure of either an eviction or criminal conviction history in email inquiries from testers in the experimental treatment scenario. For the email messages in the treatment condition, the disclosure of a negative rental credential was coupled with a question regarding how their eviction or conviction would impact their eligibility (see Appendix B for email script variations). As in the control scenario, messages in the disclosure scenario also included an expression of interest in the advertised unit and a request to see the unit in-person. In addition to enhancing the interpretation of the quantitative patterns in email response and invitation rates described above, learning more about how landlords interact with negatively credentialed rental applicants should help remedy the dearth of research on private landlords' tenant screening and selection practices and offer timely insights for

contemporary policy debates around whether and how to regulate tenant screening practices in order to lower screening-related barriers to rental housing.

Table 4.5: Responses to Negatively Credentialed Renters, by Tester Type

Tester	Doesn't address issue	No, they will not accept	Potentially accept	Yes, they will accept
Black Female	24	10	45	4
	29%	12%	54%	5%
White Female	32	11	67	9
	27%	9%	56%	8%
Black Male	22	7	59	7
	23%	7%	62%	7%
White Male	21	6	66	2
	22%	6%	69%	2%

Table 4.5 presents frequencies of landlord reply messages across a collapsed typology of potential reactions to the disclosure of either an eviction or criminal conviction record. The most common manner in which landlords responded to such inquiries was an ambivalent one. That category (“Potentially accept”) includes responses in which landlords ask the applicant for more information about their conviction or eviction history, indicate specific circumstances under which applicants with an eviction or conviction record *might* qualify, or indicate that they cannot say unequivocally whether the tester would meet their eligibility criteria before an application is submitted and/or a formal background screening is conducted. Such responses do not shut out negatively credentialed testers from applying, but do not necessarily provide them with the kind of clear-cut information about their potential rental eligibility that is valuable for rental housing seekers looking to minimize the costs of their housing search. The second most common type of response was one in which the landlord did not acknowledge the testers’ disclosure of an eviction or conviction history (“Doesn’t address the issue”). It is impossible to determine whether landlords in these cases took note of the testers’ disclosures and opted not to discuss

background screening issues in their replies, or if landlords were unaware of those disclosures, potentially reflecting a practice of replying to all prospective applicants uniformly without reading their messages.³⁰ Unambiguous answers indicating that the tester's negative credential would or would not disqualify them were comparatively rare. When landlords did respond with clear-cut answers about their eviction or criminal background related rental criteria, they were more likely to indicate that they would not rent to an applicant with an eviction or criminal conviction record ("No, they will not accept").

These response patterns did not vary meaningfully on the basis of race, but the male testers who disclosed a criminal conviction record were notably more likely to receive an ambiguous response than female testers in the eviction-disclosure scenario. As I discuss in the conclusion, that difference may reflect landlords' compliance with, or at least awareness of, new legal standards such as the 2016 HUD Guidance that instruct landlords to evaluate applicants' criminal histories on an individualized basis. Compliance with that standard would preclude landlords from stating unequivocally whether they rented to people with criminal convictions as a blanket policy.

³⁰ The coding protocol included a variety of items designed to capture how personalized the messages were (e.g. "Did the sender address the applicant by name?"), and the extent to which the messages looked like form or automated responses. Those items make possible future analyses designed to better understand the significance of the reply messages that do not mention the testers' disclosure of an eviction or conviction history.

Table 4.6: Examples Responses to Inquiries from Negatively Credentialed Testers

	Eviction	Conviction
No	Unfortunately having an eviction would be an automatic denial based on our screening criteria	Unfortunately we do not accept tenants with criminal background and/or evictions.
	Sorry Tyra, I do not work with those that were previously evicted	Im sorry but criminal background is an automatic denial, thank you.
	Any negative rental history from prior landlords is grounds for denial of application. You are welcome to apply and see what comes back on your rental history, but it is \$50 application	Our application process goes back indefinitely for criminal backgrounds. As long as it still shows on record, it would be flagged through the process and more than likely could not be approved.
	Unfortunately, evictions are something we take very seriously.	No felons and no evictions.
	Unfortunately we do a credit, criminal and eviction history check as our screening process. If one of those pop up on the results it will automatically decline your application.	I am sorry Seth but the criminal conviction will preclude you from applying.
Potentially	What was the reason for eviction if I may ask?	Depends on what the conviction is for as we have children that live next door. More important is proof of income and credit check
	If you have made payment in full to the community where you were evicted and you have the proof, you may be approved at the higher security deposit. You may want to apply online to find out if you credit would be approved.	How old the criminal record , what was your age then and now? What is your job and how much do you make?
	We use a screening program and it would be difficult to know without screening you. It all depends on how recent, etc.	As far as the criminal Background goes, We go through a 3rd party screening service so it's hard to pin point weather or not the criminal background will come back.
	I evaluate potential tenants on a case-by-case basis.	You should apply first.
	Great question: something we wud have to talk about. Come see the apartment and see if we have good chemistry. Would need to know more about you	Regarding our policy on criminal backgrounds yes we look at that, but also look at all of the other things that make up a persons background.
Yes	I don't believe the eviction is going to hinder you.	Yes I do
	Yes, I am willing to work with persons with an eviction.	That definitely does not disqualify you
	I have worked with people in the past that have been evicted previously.	Yeah we don't discriminate
	That is not a deal breaker.	Yes we accept everyone as long as they pass the credit check too.
	Not to worry. We can work through it.	That would not be a deal breaker.

Finally, Table 4.6 presents representative examples of ambiguous responses to testers' questions about whether an eviction or conviction record would impact their rental eligibility, along with examples of cases wherein landlords replied that they would ("Yes") or would not ("No") rent to applicants with the negative credential disclosed by the tester. These examples demonstrate that the "Potentially" category includes both informative responses that would help a negatively credentialed renter decide whether to submit an application, such as specific circumstances under which an applicant with an eviction or conviction would be approved, and responses that offer applicants no information about eligibility standards (i.e. "You should apply first").

Discussion and Conclusions

At a time when tenant screening practices have come under increased legal scrutiny, this study offers new insights into how landlords interact with the types of renters whose housing access is uniquely jeopardized by more information-intensive forms of background screening. Its findings contribute to both the scholarly understanding of how racially neutral status characteristics are implicated in discrimination and ongoing debates around how to regulate tenant screening in at least three respects.

First, perhaps unsurprisingly, this research confirms and triangulates findings from surveys of landlords (Clark 2007; Helfgott 1997) documenting landlords' aversion to renting to applicants with criminal records. On the whole, landlords contacted as a part of this experiment were significantly less likely to respond to the email inquiries of men, whether Black or White, who disclosed in their emails that they had a criminal conviction. Nonetheless, the penalty associated with disclosing a criminal conviction for male testers (male testers with criminal convictions received replies at 74% of the rate of male testers in the control scenario), was

smaller than that experienced by female testers who revealed having been previously evicted in their email messages, whose emails were answered at 57% of the rate for women in the control scenario. The latter finding lends support to the smaller body of work on how landlords screen applicants for past evictions (Desmond 2012; Kleysteuber 2007) which suggests that most landlords are extremely averse, if not completely unwilling, to rent to tenants who had ever been evicted.

The qualitative description of *how* landlords contacted responded to the inquiries of testers either inquiring about whether a criminal conviction or eviction record would disqualify them, also suggests that landlords exercise less flexibility around eligibility criteria pertaining to evictions than their standards with respect to criminal records. In cases where landlords addressed testers' questions about background screening in their replies, landlords' most frequent response regarding how having a criminal or eviction record would impact one's eligibility was an equivocal one. That was particularly true for male testers in the criminal conviction disclosure scenario. For instance, many landlords replied that they could not say with certainty whether an applicant would be denied before they submitted an application, or suggested that their eligibility would depend on what their criminal conviction history looked like.

In contrast, landlords were more likely to answer testers' questions about eviction-related eligibility standards in a straight-forward manner, and flatly respond that they do not rent to tenants with evictions. Such differences, albeit subtle, in landlords' language regarding criminal and eviction related criteria may reflect the new and evolving legal standards regulating criminal background screening. Landlords' awareness of new policies regulating criminal background screening in rental housing, such as the 2016 HUD Guidance or local "Ban-the-Box" measures, may be impacting the way they approach criminal background screening. By contrast,

policymakers at the national and local levels have not taken any comparable steps to limit landlords' use of eviction records in tenant screening. While tenants' rights advocates have won some legal victories related to eviction, such policies typically pertain to the due process rights tenants are afforded when they are evicted and/or are taken to court, not how landlords evaluate applicants on the basis of their eviction records. Laws sealing unlawful detainer cases in which the tenant won are exceptions to that legal landscape (Caramello and Mahlberg 2017), but on the whole eviction-related screening practices have not been a target of regulation to the degree that criminal background checks have. Despite emerging evidence that Black women are evicted at disproportionate rates (even when controlling for tenant behavior such as rent non-payment, see Desmond 2012), the longstanding practice of excluding rental applicants on the basis of their past evictions has not been identified by policymakers as a civil rights or fair housing law violation in the way that excluding those with criminal records has in recent years.

The experiment's second central finding is that Black women are disproportionately penalized relative to their White counterparts for disclosing an eviction history, but no such disparity was found in the case of Black and White men who revealed having a criminal record. In fact, Black men who told landlords they had a criminal conviction in their email messages received responses to their inquiries at a greater rate than White testers under the same conditions, though that difference did not reach statistical significance. The findings regarding the racial gap in responses to female applicants with evictions offers partial support for the modern theories of discrimination, including Stereotype Activation (Pager 2003), Status Characteristics Theory (Correll et al. 2007), the Racial Classification Model (Schramm et al. 2009), which posit that in an era of formal legal equality and strong norms against discrimination, inequitable treatment is more likely to emerge when women or racial minorities

possess a status characteristic that is ostensibly gender and/or race neutral (such as a criminal record or welfare receipt), but in practice is laden with stigmatizing connotations that are decidedly gendered and/or racialized. Though such effects have been detected for the criminal record status in studies in the employment context (Pager 2003), it is possible that the landlords' awareness of the HUD Guidance and other jurisdictions' 'Ban-the-Box' laws may check or dampen the implicit racialized associations with criminal history status that would otherwise be expected to generate a harsher assessment of Black applicants with criminal records.

The third notable set of findings pertain to the variation in patterns of landlord response across jurisdiction, and offer salient insights into the potential effects of regulating the use of criminal history information in housing. Recent experimental studies of hiring discrimination conducted before and after the implantation of 'Ban-the-Box' policies in employment suggest that such policies were associated with an uptick in racial discrimination attributed to 'statistical discrimination' (Agan and Starr 2016; Doleac and Hansen 2016). Specifically, the authors of hypothesize that when barred from obtaining information about job applicants' criminal histories, employers will use a mental heuristic that assumes Black job applicants are more likely to have criminal records in an effort to avoid interviewing and/or hiring applicants that have been convicted of crimes. However, this study's findings from Seattle –where the nation's most far reaching 'Ban-the-Box' or 'Fair Chance' policy had been passed months prior to the initiation of the experiment – offer no evidence of a similar paradoxical effect of criminal background screening reforms. By contrast, Seattle was distinguished as the only jurisdiction in which a statistically significant difference was detected in email response rates on the basis of race – and that difference *favored* Black men without criminal records over their White counterparts in the control scenario. In Seattle, passage of the 2017 "Fair Chance Housing Ordinance" represented

the culmination of a multiyear effort on the part of a coalition of local racial justice advocates, and during the law’s rollout the policy was explicitly touted by the Seattle Office of Civil Rights as a tool to reduce race discrimination in the housing market.³¹ In addition to that local political context, the Seattle Office of Civil Rights had stepped up its fair housing enforcement efforts in recent years, and evidence of race discrimination from those tests was widely publicized *and* cited as a motivation for the “Fair Chance Housing Ordinance”.³²

As such, it is possible that the public education and media coverage surrounding these recent legal reforms in Seattle effectively reminded local landlords that in the city’s eyes, rejecting applicants with criminal records was a form of legally prohibited discrimination against Black renters. That awareness, coupled with possible anxiety about the prospect of fair housing law enforcement, may be compelling Seattle landlords to be particularly responsive to rental inquiries from Black applicants. Indeed, findings from the experiment in Seattle, in contrast to other cities, suggest that landlords responded to both female and male applicants in the control scenario at a notably higher rate when those messages were associated with Black-sounding names (see Table 4.2). The preference exhibited for Black female testers did not extend to Black women who disclosed an eviction, who in Seattle received responses from landlords at 87% of the rate of their White counterparts (a finding paralleled in all other jurisdictions save for Atlanta, see Table 4.2).

³¹ See the Seattle Office of Civil Rights’ statements related to the racial equity goals of the law here: https://www.seattle.gov/Documents/Departments/CivilRights/Fair%20Housing/Fair%20Chance%20Housing%20FAQ_FINAL.pdf, and here: <https://www.racialequityalliance.org/2018/04/17/6894/>.

³² One Seattle landlord targeted in this study even referred explicitly to the new Seattle law in responding to a tester that had disclosed a criminal conviction record, “To answer your question on our screening process, an ordinance in Seattle does not allow us to perform criminal background screening on our applicants. Our screening process would be looking for approval based on criteria such as credit history, rental history & income.”

Thus, these findings could be interpreted as offering an early indication of the efficacy of the “Ban-the-Box” or “Fair Chance” laws in the housing context, or at least evidence that they might not trigger the kinds of unintended consequences that studies in the employment setting have revealed. However, this experiment shares an important limitation of traditional housing discrimination studies and other correspondence experiments in that it only measures differential treatment occurring within the early stages of interactions between landlords and rental applicants. That constraint precludes this study from capturing discrimination at the points of the tenant screening process in which negative credentials like criminal history are often made known to landlords (i.e. on a rental application or from a formal background check). Significantly in the rental housing context, it also fails to capture differential treatment during the most consequential, but particularly opaque, stage of the tenant-screening process: tenant selection. My findings from interviews with Seattle area rental housing providers suggest that even landlords who follow relatively formal means of vetting applicants (including screening them in the order they apply), are intent on retaining their ability to exercise considerable discretion in tenant-selection, particularly to ‘veto’ applicants who may meet their stated criteria but about whom they have subjective misgivings.³³ This experiment suggests that the manner in which Seattle landlords communicate with prospective rental applicants about their criminal background policies may reflect new efforts to comply with the city’s Fair Chance Housing Ordinance. However, such changes do not offer any insight into whether the ordinance will meaningfully transform to *whom* Seattle landlords choose to open their doors.

³³ A right that was recently affirmed by a King County Superior court which held that the city’s “First in Time” policy (described in Chapter 2) violated landlords’ property rights: <https://www.seattletimes.com/seattle-news/politics/judge-rejects-seattles-first-come-first-served-rental-law/>

Chapter 5: Conclusion

The emergence of more exhaustive and information-intensive means of screening applicants in rental housing is a relatively recent phenomenon (Dunn and Grabchuk 2010; Thatcher 2008). As such, it can be tempting to understand the social problems generated by this shift as unforeseen consequences of technological advancements that have dramatically increased the accessibility and permanence of discrediting personal background records. Indeed, if our society could put the genie back in the bottle, so to speak, by sharply restricting public access to such records (as privacy laws in much of Europe do, Jacobs and Larrauri 2012; Jacobs 2015), securing housing would undoubtedly be an easier task for people with damaged credit, criminal conviction records or past evictions.

However, my findings suggest that the barriers negatively credentialed renters encounter to securing decent, affordable and stable housing are not limited to those erected by landlords' adoption of more invasive screening practices or the technological advancements that make those practices possible. Rather, the extent to which background screening practices jeopardize housing access for this population is conditioned in important ways by multiple societal undercurrents that predate the information age. These dynamics have converged to make housing a central site in which inequality and poverty are reproduced in 21st century America. In what follows I summarize this study's key findings to illustrate how two broader structural forces, the rental affordability crisis and the weaknesses of antidiscrimination laws, exacerbate modern screening-related barriers to housing for negatively credentialed renters and frustrate contemporary policy interventions designed to broaden housing access for that population. In doing so I highlight the implications of this study for related academic literatures and policy

discussions, and identify avenues for future research that build on the questions raised by this study's findings.

The Unaffordable and Private Character of American Rental Housing

The rise of formal background screening in the private rental industry has coincided with a widespread and unprecedented rental affordability crisis in the United States (Desmond 2018). In Seattle, advocates of tenant screening reforms have linked those two dynamics by emphasizing the imperative to reduce screening-related barriers to housing at a time when the acute affordability crisis has already seriously undermined rental housing access (Beekman 2018). The current rental affordability crisis is frequently attributed to a few proximate economic triggers. In the wake of the 2008 foreclosure crisis, homeownership rates have fallen to their lowest levels since 1994, driving up demand for rental housing that far outpaces the supply – especially of the affordable variety (Joint Center for Housing Studies 2017b). In tech-boomtowns like Seattle, rapid population growth has put enormous pressures on the city's rental housing stock, which urban density advocates contend is underdeveloped on account of onerous and outdated land-use regulations that have stymied developers from meeting the demand for new housing.

Nonetheless, tech-booms, the “back-to-the-city movement” or other well-publicized demand-side pressures on urban rental markets cannot fully account for the rental affordability and housing insecurity crises. Those problems are truly nationwide in scope, besetting not only residents of high-cost coastal metropolises, but rural mobile home parks (Sullivan 2017) and depopulated rust-belt cities with slack rental markets (Desmond 2016). As of 2015 an unprecedented 48.3% of renters devoted over a third of their incomes to housing costs (Joint Center for Housing Studies 2017), and two out of the five large U.S. cities with the highest

proportion of rent-burdened residents were Detroit and Flint, Michigan, cities made famous in recent years for their cut-rate homes.³⁴ Rental unaffordability in relatively low-cost urban areas can also be attributed to economic factors, such as wage stagnation that has left low-income renters unable to keep pace with rising rents. But a central driver of unaffordability for low-income renters is the gross inadequacy of public rental assistance programs that assist only one out of every four eligible households, a situation rooted in deliberate policy choices rather than housing market fluctuations.³⁵ Finally, thanks to restructuring of public housing policy in the 20th century most of the housing subsidies that exist operate through the private market in the form of vouchers.³⁶ These dynamics have left American renters, including those with very low-incomes and stigmatizing background records, with scarce options outside of the increasingly competitive and unaffordable private rental market for securing housing.

My findings contribute to an emerging body of sociological research that illuminates how broader economic and policy contours of the housing market impact consequential ground-level interactions between housing suppliers and consumers (Desmond 2016; Rosen 2014; Sullivan 2017). Beyond merely *compounding* screening-related barriers to housing access, rental unaffordability and the privatization of low-income housing exacerbate the power imbalance already inherent in landlord-tenant relations, or in the case of this study, the power of landlords in relation to prospective tenants. In a low-vacancy ‘landlord’s’ market, large pools of applicants

³⁴ <http://www.governing.com/gov-data/economy-finance/housing-affordability-by-city-income-rental-costs.html>

³⁵ This is not to suggest that ‘housing market fluctuations’ operate independent of public policy. Many of the most consequential transformations of rental and homeowner markets in U.S. history were driven by federal policies, such as urban renewal, expansions of federally-backed mortgage subsidies, funding for suburban infrastructure, and more recently, deregulation of credit and mortgage industries.

³⁶ Data from the 2015 Census Bureau’s American Housing Survey indicate that just 2% of rental units in the U.S. are publicly owned, with another 8% of units representing privately owned subsidized rental housing or units in which a voucher is used, and the remaining 90% representing privately owned, unsubsidized units.

afford landlords the luxury to screen out less than perfect rental candidates and increase the penalty associated with possessing a stigmatizing mark like a criminal record. Tight rental markets also may create conditions that make discriminatory tenant screening and selection processes very difficult to detect, as the large demand for housing allows landlords to explain their rejection of marginalized renters in reference to large pools of other, more qualified applicants.

As chapter 2 suggests, those conditions make private landlords more selective, and thus exacerbate the uphill battle associated with using regulatory policies to compel them to open their doors to disfavored renter populations, such as those with criminal records. As one respondent in that chapter remarked, “If you have a tight rental market and you had the choice between somebody with a criminal record and somebody with a clean record - why would you relax your policy for an unknown when you have ten other people that don’t have this criminal record?” Outsized demand for rental housing also affords landlords the opportunity to adopt legal adaptation strategies that would undercut the objectives of new tenant screening regulations designed to improve access and equity in the rental market. For example, some landlords and property managers I interviewed described their plans to ratchet up their credit and income related rental criteria in order to indirectly filter out the types of “undesirable” applicants they contend Seattle policymakers are attempting to force them to accept with new tenant screening regulations.

Chapters 2 and 3 describe tenant screening practices from the dual perspectives of the rental industry agents who design and implement them, and the renters who are subject to those practices. Both perspectives reveal that landlords enjoy considerable discretion to screen and select applicants in the manner they see fit, and some independent or “mom & pop” landlords

take a relatively informal approach to tenant screening. Though more informal or flexible rental standards and screening methods enhance opportunities for discrimination, such practices also have the potential to work to the benefit of negatively credentialed renters since they allow landlords the latitude to look past applicants' stigmatizing background credentials or forgo background screening altogether. However, a tight market likely reduces the likelihood that private landlords will open their doors to renters with tarnished backgrounds, even if they have the discretion to do so. In the midst of an acute affordable housing shortage, the broad discretion enjoyed by landlords may simply reinforce their power to choose the tenants they prefer, rather than meaningfully improve the housing prospects of negatively credentialed renters.

More informal approaches to tenant screening are also often characterized by the use of vague or ambiguous rental standards. As my findings from Chapter 2 suggest, describing rental criteria in non-specific terms while advertising units, communicating with prospective applicants, or following up with rejected applicants allows rental agents to retain the ability to make tenant screening and selection decisions on more subjective bases without exposing themselves to discrimination claims. While that approach allows landlords, if they are so inclined, to exercise mercy and rent to applicants who would be deemed ineligible under more stringent standards, Chapter 3 suggests that it also raises the cost of searching for housing for negatively credentialed renters. The respondents whose experiences are detailed in that chapter unanimously described focusing their search efforts within the independent or "mom & pop" sector of the rental industry where screening standards are presumed to be more forgiving than those employed by larger rental companies. To the frustration of negatively credentialed renters, the standards of most landlords were characterized by a marked lack of transparency, which precluded renters from selectively investing the time and fees associated with submitting a rental

application where they have a reasonable chance of being approved. The findings from this study's online field experiment, detailed in Chapter 4, lend credence to those renters' accounts. When contacted by fictitious rental applicants inquiring about criminal and eviction related rental standards, landlords most frequently responded with an ambiguous answer that, in the real world, would offer a negatively credentialed renter little in the way of concrete information that would help them decide whether to apply.

Fair Housing Law's Unrealized Promises and the Persistence of Discrimination

Upon the 50th anniversary of the 1968 Fair Housing Act's passage, commentators have increasingly reckoned with what the failure to realize the law's aspirations has meant for the spatial forms of inequality that social scientists assert undergird destructive and persistent forms of racial inequality across social indicators such as wealth, education, criminal justice contact and health (Sharkey 2013). The persistence of discrimination in the rental housing market (Ross and Turner 2005; Turner et al. 2013) is one indication of the Act's shortcomings that is bound up with and compounded by other significant contemporary barriers to housing for Black and Hispanic renters.

Tenant screening practices in the information age also have distinct consequences for minority renters' housing access, since they enable landlords to exclude applicants on the basis of discrediting background credentials that are disproportionately borne by Black and Hispanic renters. In this sense, the rental housing market is another setting in which racial and economic inequalities are reproduced through ostensibly non-discriminatory market oriented scoring technologies, such as credit scores or commercial background-screening products that offer landlords a recommendation to accept or reject rental applicants on the basis of risk-assessment algorithms (Dunn and Grabchuk 2010). Such practices, which sociologists have characterized as

emblematic of the “scoring” (Fourcade and Healy 2013; Krippner 2017) or “credential” society (Collins 1979; Pager 2007), insidiously legitimate stratification regimes by concealing the ways in which entrenched structural inequality and persistent discrimination pattern the social distribution of discrediting background credentials, such as criminal records and low credit scores.³⁷ Chapter 3 offers ground-level accounts of that reproduction process, wherein renters’ negative credentials forced them to undertake costly housing searches and accept degraded housing outcomes that increased their social and economic marginality. The personal histories of some of those respondents also illuminate how, in an era of welfare state retrenchment and risk privatization (Hacker 2004), common forms of contact with mainstream institutions from a position of economic marginality, such as obtaining necessary medical care while underinsured or attempting to stay housed while rent-burdened, can leave renters scarred with indelible digital records that undermine their ability to obtain essential resources like housing.

Beyond disproportionately blocking housing opportunities for minority renters and compounding their economic marginality in the manner described above, contemporary tenant screening practices also create opportunities for subtle forms of discriminatory treatment involving the inconsistent application of ostensibly race-neutral rental criteria. The findings from this study’s online field experiment lend credence to the suspicions that some Black respondents with negative credentials, like Sandra, voiced in their interviews, but had no means of confirming. When I met Sandra she had one month left before her lease at a transitional housing complex expired. She had been searching for housing in the private market for eleven months after being evicted for non-payment,³⁸ and was perplexed and demoralized that she had been

³⁷ See note 11, p. 52.

³⁸ The circumstances surrounding Sandra’s eviction offer another illustration of how economic precarity is reproduced through various institutions. In her case, the lack of any safety net to help her deal with her son’s medical emergency, and the instability of her employment contract contributed to her inability to

unable to secure housing after searching for so long, despite her steady employment record and the assistance she received in her search from a social worker. Like many other respondents, she reported expending considerable resources on her search; she estimated having spent \$1030 on fees associated with submitting rental applications according to the receipts she retained. Her repeated failures to find a landlord willing to rent to her, coupled with the nondescript explanations she received regarding why she was rejected, led Sandra to strongly suspect that racial discrimination at least partially accounted for her repeated rejections.³⁹

In the field experiment, landlords were statistically less likely to respond to email messages from female prospective applicants disclosing an eviction history if those messages were sent by testers with distinctively Black names. Those results comport with the expectations of modern sociological theories of discrimination, such as stereotype activation (Pager 2003) and the racial classification model (Schramm et al. 2009). Those perspectives predict that in an era of formal legal equality characterized by strong norms against blatant racial discrimination, discriminatory treatment is more likely to emerge in the presence of a discrediting status characteristic that is ostensibly race-neutral but in reality deeply racialized, such as a criminal record or welfare-receipt. As discussed in Chapter 4, no such racial disparities were detected in the rates of landlord email responses to male testers disclosing a criminal conviction record, potentially

pay rent, eviction and the ensuing consequences of an eviction record for her future housing access. Here she recounts the lead-up to her eviction: “I suffered kind of like a financial loss, because my son was in a car accident, and he was on life support for a year. And I’m trying to think—oh, I come back, and I get an apartment there, and I was fine. My hours got cut from my work, and I didn’t have, I guess, a savings nest. And so, I owed [her landlord], I think, like \$1200, and I had 7 of it, and he would not accept any of it until I paid the full amount, which I just didn’t have the full amount. I was like 2 weeks away from getting the full amount.”

³⁹ As Sandra speculated, “Right, just to say there’s got to be one person out there that would bend or break, but there’s really not. I feel like a lot of it is discrimination, and I feel like at least 50% of it is discrimination.”

reflecting increased societal awareness of the discriminatory impacts of criminal background screening and new laws designed to minimize those impacts.

The online field experiment's findings suggest that for Black women, racial discrimination compounds what are already steep costs associated with navigating the rental housing market with a discrediting credential like an eviction record. These findings offer new insights into how race and negative credential status exacerbate economic discrimination in consumer markets. Particularly with respect to the economic costs associated with securing rental housing from a position of extreme competitive disadvantage, this study extends sociological work revealing circumstances in which the "poor pay more" for basic goods and services (Caplovitz 1968; Squires 2004). Though recent studies have demonstrated how profits are extracted from marginalized tenants in the private rental market (Desmond 2016; Rosen 2014), this study suggests that future research should also pay attention to economic exploitation of prospective tenants that occurs even before a lease is signed.

This study also identifies important challenges associated with legal strategies that aim to combat modern forms of discrimination (such as the patterns of differential treatment of renters with eviction records described in Chapter 4) and broaden housing access by regulating the decision-making of private landlords. Using antidiscrimination laws to meaningfully transform the behavior of for-profit landlords has always been a fraught project, not only due to the Fair Housing Act's limited scope and weak enforcement mechanisms, but also on account of the organizational features of the private rental market. Despite landlords' adoption of more sophisticated means of screening applicants, many of the organizational features of the rental industry that were said to frustrate fair housing law enforcement in the wake of the civil rights era persist today: the majority of the nation's private rental housing stock is operated by

decentralized, small-scale landlords who often screen applicants in-person on a case-by-case basis, without formalized eligibility criteria (Schwemm 2006; U.S. Census Bureau 2015b). As chapters 2 and 3 suggest, the opaque and idiosyncratic quality of independent landlords' tenant screening and selection procedures makes discrimination very difficult to detect, particularly for the potential victims who are largely responsible for enforcing antidiscrimination laws.

Furthermore, in a tight rental market like Seattle's, landlords can plausibly explain their decisions to reject unwanted applicants in reference to the presence of other, more qualified applicants.

Fair housing agencies can bolster antidiscrimination policies by using audit testing to proactively enforce those laws without relying on victims to report discrimination. While such tests measure differential treatment occurring during initial communications between landlords and prospective tenants, an important limitation of audit testing is that it typically leaves landlords' final tenant selection decisions unobserved. My findings suggest that, in the face of local regulation creating new mandates for how landlords evaluate tenants, Seattle landlords are particularly concerned with retaining unfettered discretion to make tenant selection decisions and sometimes use subjective or 'gut-based' judgements to guide such choices. My respondents also expressed confidence in their ability to retain control over tenant selection even if they are forced to transform their tenant screening procedures to comply with new laws.⁴⁰ Thus existing strategies for enforcing fair housing laws, either of the complaint-driven or proactive variety, are

⁴⁰ One such respondent illustrated that sentiment in describing her plans for complying with Seattle's new tenant screening regulations: "I will be in conversation with our rental housing association counsel around how to be as completely appropriate as we can be while still being able to rent to the people that we really want to."

unlikely to uncover discrimination occurring during tenant selection, when landlords exercise their broad discretionary powers to choose the tenant they prefer.⁴¹

Policy Implications and Agendas for Future Research

This study identifies multiple important challenges for using new forms of antidiscrimination regulation to combat discriminatory tenant screening practices and meaningfully improve housing outcomes for negatively credentialed renters. However, as noted in Chapter 2, this study is not a formal policy evaluation of new tenant screening regulations. The study's in-depth interviews were conducted prior to the passage of two such laws in Seattle ("Fair Chance Housing Ordinance" and "First in Time"), and the online field experiment was conducted in the months following those laws' passage, but before their implementation (i.e. prior to when enforcement went into effect). As such, this study does not measure the efficacy of either Seattle policy, nor the 2016 HUD Guidance, though the findings from the online field experiment offer preliminary indication that the city's "Fair Chance Housing Ordinance" has not triggered the sort of paradoxical statistical discrimination against Black prospective rental applicants that researchers have observed with respect to "Ban-the-Box" laws in the workplace (Agan and Starr 2016; Doleac and Hansen 2016).

Future experimental research, whether using an email correspondence or traditional in-person audit approach, conducted following the implementation of Seattle's "Fair Chance Housing Ordinance" could produce valuable information for policymakers regarding whether

⁴¹ Seattle's 2017 "First in Time" policy, described in Chapter 2, was designed with exactly this shortcoming of traditional antidiscrimination laws in mind. The law aimed to limit landlords' discretion to select a favored tenant among a pool of qualified applicants, decisions that the law's advocates contended were often shaped by intentional discrimination or implicit bias. However, the fate of that law is in jeopardy since a King County Superior court sided with a landlord group who argued that the law infringed on their constitutional property rights (<https://www.seattletimes.com/seattle-news/politics/judge-rejects-seattles-first-come-first-served-rental-law/>).

and how landlords are complying with the new law. However, such evaluative methods tell us little about whether the composition of renters landlords open their doors to will change as a result of new policies regulating criminal background screening, or whether such laws improve housing outcomes for groups disadvantaged by exclusionary background screening practices. This problem reflects a fundamental weakness of fair housing laws. Unlike Title VII of the Civil Rights Act or the Home Mortgage Disclosure Act which mandate data collection on hiring and lending outcomes, the 1968 Fair Housing Act did not include any similar provisions for systematically tracking rental outcomes. In addition to frustrating fair housing law enforcement (Pedriana and Stryker 2017), that oversight has also precluded housing researchers from learning about the circumstances under which antidiscrimination laws succeed or fail. By contrast, EEOC data on hiring outcomes has facilitated a large body of socio-legal research on workplace antidiscrimination law-in-action that has significantly advanced our understanding of the capacity of civil rights policy to meaningfully transform stratification regimes.

Beyond improving the surveillance and enforcement mechanisms of new and existing fair housing laws, this study also underlines the policy imperative to expand the supply of non-market, permanently affordable rental housing as a means to improve housing access and security for people with discrediting background credentials. In addition to addressing the acute affordable housing shortage, expanding the nation's public housing programs would help reduce competition for what remains of the private affordable housing stock, and lessen disadvantaged renters' reliance on private landlords. Those outcomes would, in turn, help right the extreme power imbalance that currently characterizes relations between landlords and negatively credentialed renters. The nation's earliest public housing programs were designed not only as an immediate response to the acute urban housing shortage in the wake of the first World War, but

were also predicated on the understanding that the private market would never adequately meet the housing needs of the poorest Americans (Bauman et al. 2000). In an ostensible effort to deconcentrate poverty and racial isolation and improve residential choices for low-income Americans, federal housing policies in the late 20th century shifted responsibility for housing poor renters almost entirely onto private landlords (Ammann 2000; Short 2003). This study suggests that today's private rental market is not meeting the needs of those who struggle to find housing because they possess discrediting markers made more visible and consequential in an era of ubiquitous background checks. Merely attempting to find housing in the private market poses serious risks to negatively credentialed renters' economic, emotional and physical well-being. This population enters the private marketplace for housing at a steep competitive disadvantage, and consequently they enjoy little in the way of meaningful residential choice that policymakers maintain is crucial for upward mobility. By reducing the extent to which the housing security of renters is tied to the difficult-to-surveil and regulate practices of for-profit landlords, reinvesting in public housing may be a much more effective means of ensuring housing access for negatively credentialed renters than repurposing regulatory strategies that have historically failed to significantly improve access or equity in the rental housing market.

Appendix A: Supplemental Findings from Online Field Experiment

Table 1: Frequencies and Rates of Messages Sent, Replies and Invitations

Tester Type		Atlanta	Detroit	Phil.	Portland	Seattle	All Cities
Black Female with Eviction	Sent	50	47	49	39	43	228
	Received	13	11	17	20	22	83
	Invited	7	6	11	11	12	47
	Reply Rate	26.0%	23.4%	34.7%	51.3%	51.2%	36.4%
	Invite Rate	14.0%	12.8%	22.4%	28.2%	27.9%	20.6%
White Female with Eviction	Sent	42	37	53	62	51	245
	Received	9	16	25	39	30	119
	Invited	2	6	12	26	14	60
	Reply Rate	21.4%	43.2%	47.2%	62.9%	58.8%	48.6%
	Invite Rate	4.8%	16.2%	22.6%	41.9%	27.5%	24.5%
Black Female without Eviction	Sent	38	35	49	56	52	230
	Received	15	18	26	38	35	132
	Invited	12	10	20	27	32	101
	Reply Rate	39.5%	51.4%	53.1%	67.9%	67.3%	57.4%
	Invite Rate	31.6%	28.6%	40.8%	48.2%	61.5%	43.9%
White Female without Eviction	Sent	40	33	38	39	43	193
	Received	18	16	25	24	23	106
	Invited	13	12	14	22	17	78
	Reply Rate	45.0%	48.5%	65.8%	61.5%	53.5%	54.9%
	Invite Rate	32.5%	36.4%	36.8%	56.4%	39.5%	40.4%
Black Male with Conviction	Sent	44	35	41	39	45	204
	Received	17	12	17	26	23	95
	Invited	9	3	10	7	17	46
	Reply Rate	38.6%	34.3%	41.5%	66.7%	51.1%	46.6%
	Invite Rate	20.5%	8.6%	24.4%	17.9%	37.8%	22.5%
White Male with Conviction	Sent	62	43	54	41	46	246
	Received	17	16	17	22	23	95
	Invited	7	6	7	8	10	38
	Reply Rate	27.4%	37.2%	31.5%	53.7%	50.0%	38.6%
	Invite Rate	11.3%	14.0%	13.0%	19.5%	21.7%	15.4%
Black Male without Conviction	Sent	46	56	40	53	51	246
	Received	14	25	20	37	44	140
	Invited	11	15	15	31	38	110
	Reply Rate	30.4%	44.6%	50.0%	69.8%	86.3%	56.9%
	Invite Rate	23.9%	26.8%	37.5%	58.5%	74.5%	44.7%
White Male without Conviction	Sent	31	34	59	43	53	220
	Received	17	13	37	26	32	125
	Invited	11	8	18	22	29	88
	Reply Rate	54.8%	38.2%	62.7%	60.5%	60.4%	56.8%
	Invite Rate	35.5%	23.5%	30.5%	51.2%	54.7%	40.0%
All	Sent	353	320	383	372	384	1812
	Received	120	127	184	232	232	895
	Invited	72	66	107	154	169	568
	Reply Rate	34.0%	39.7%	48.0%	62.4%	60.4%	49.4%
	Invite Rate	20.4%	20.6%	27.9%	41.4%	44.0%	31.3%

Figure 1: Rates of Invitation to View, Call or Apply by Tester

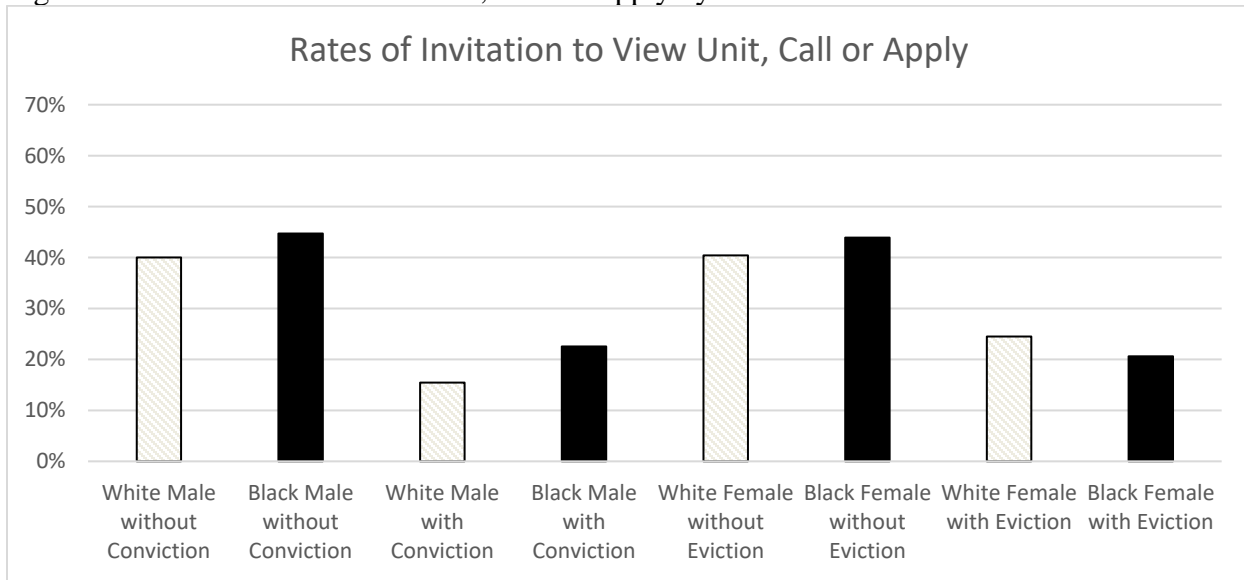


Table 2: Treatment/Control Ratio in Invitation to View/Call/Apply Rates, by Tester and Jurisdiction

Treatment to Control Ratio	All Cities	Seattle	Portland	Phil.	Detroit	Atlanta
Black Women	0.49**	0.57**	0.49**	0.58	0.37*	0.53
White Women	0.65**	0.67	0.74	0.53*	0.89	0.27**
Black Men	0.56**	0.52**	0.38**	0.63	0.48	1.05
White Men	0.44**	0.5**	0.46**	0.39**	0.7	0.35**

** Difference between groups is statistically significant at $p < .01$

* Difference between groups is statistically significant at $p < .05$

Table 3: Black/White Ratio in Invitation to View/Call/Apply Rates, by Tester and Jurisdiction

Black to White Ratio	All Cities	Seattle	Portland	Phil.	Detroit	Atlanta
Women with Eviction	0.83	1.19	0.65	1.08	0.42	1.89
Women without Eviction	1.1	1.41	0.97	0.98	1.02	0.98
Men with Conviction	1.23	1.42	0.95	1.32	0.92	1.29
Men without Conviction	0.97	1.35	1.13	0.81	1.35	0.44**

** Difference between groups is statistically significant at $p < .01$

* Difference between groups is statistically significant at $p < .05$

Figure 2: Rates of Invitation Contingent on Reply, by Tester

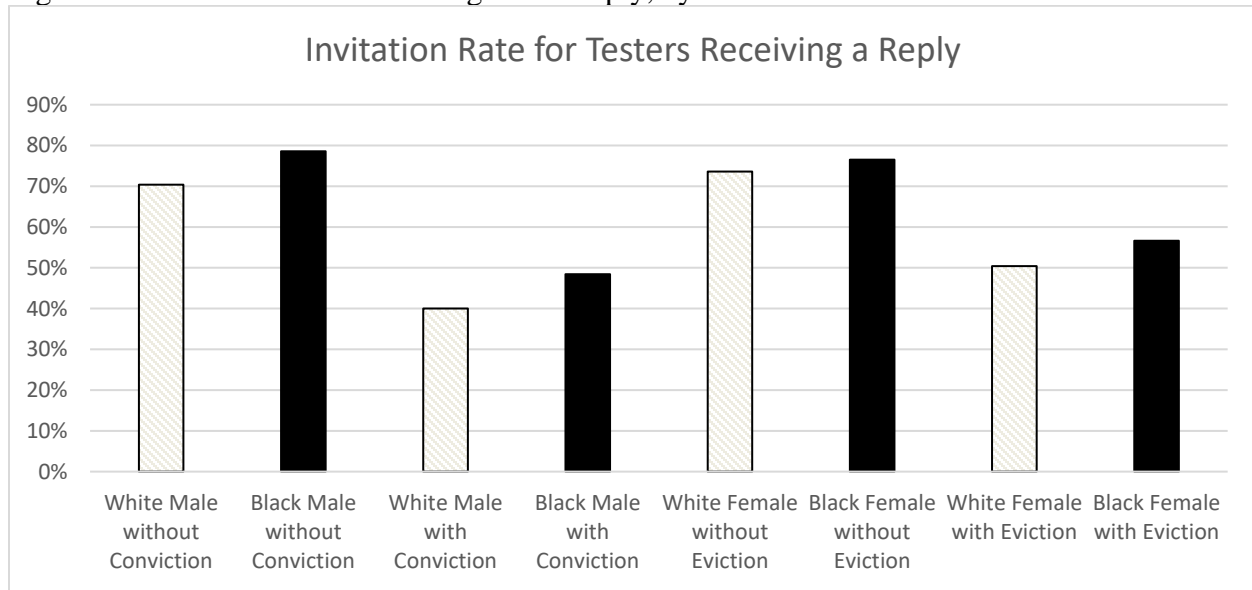


Table 3: Treatment/Control Ratio in Invitation Rates (Among Replies), by Tester and Jurisdiction

Treatment to Control Ratio	All Cities	Seattle	Portland	Phil.	Detroit	Atlanta
Black Women	0.74**	0.6**	0.77	0.84	0.98	0.67
White Women	0.69**	0.63	0.73*	0.86	0.5	0.31*
Black Men	0.62**	0.86	0.32**	0.78	0.42	0.67
White Men	0.57**	0.48**	0.43**	0.85	0.61	0.64

Invitation rates calculated only among emails receiving a response

** Difference between groups is statistically significant at $p < .01$

* Difference between groups is statistically significant at $p < .05$

Table 4: Black/White Ratio in Invitation Rates (Among Replies), by Tester and Jurisdiction

Black to White Ratio	All Cities	Seattle	Portland	Phil.	Detroit	Atlanta
Women with Eviction	1.12	1.17	0.82	1.35	1.45	2.42
Women without Eviction	1.04	1.24	0.78	1.37	0.74	1.11
Men with Conviction	1.21	1.7	0.74	1.43	0.67	1.29
Men without Conviction	1.12	0.95	0.99	1.54	0.97	1.21

Invitation rates calculated only among emails receiving a response

** Difference between groups is statistically significant at $p < .01$

* Difference between groups is statistically significant at $p < .05$

Figure 3: Rate of Email Response by Tester, Seattle

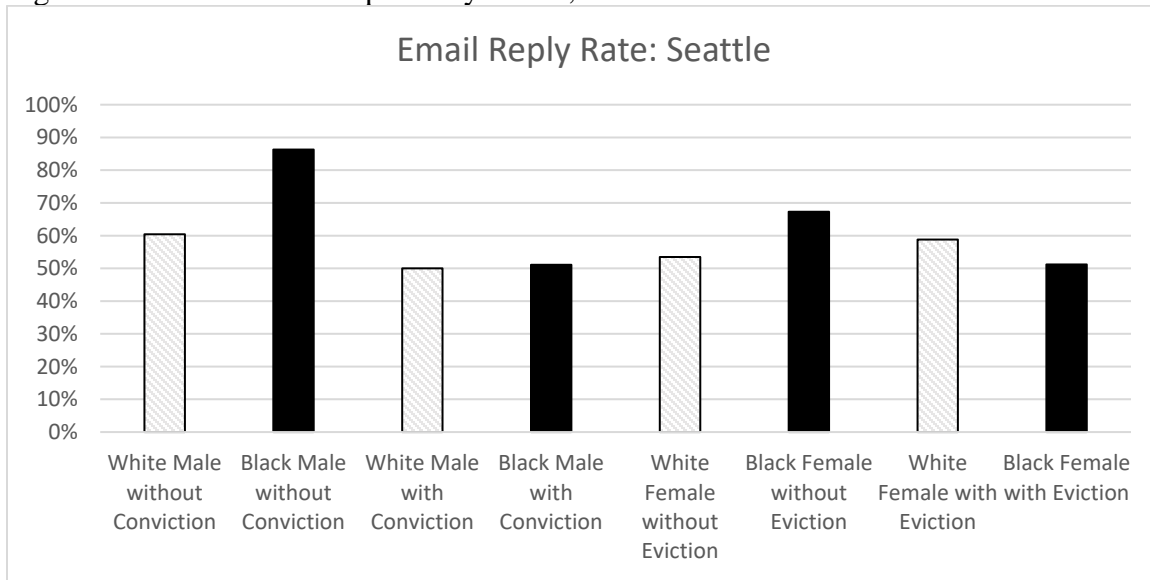


Figure 4: Rate of Email Response by Tester, Portland

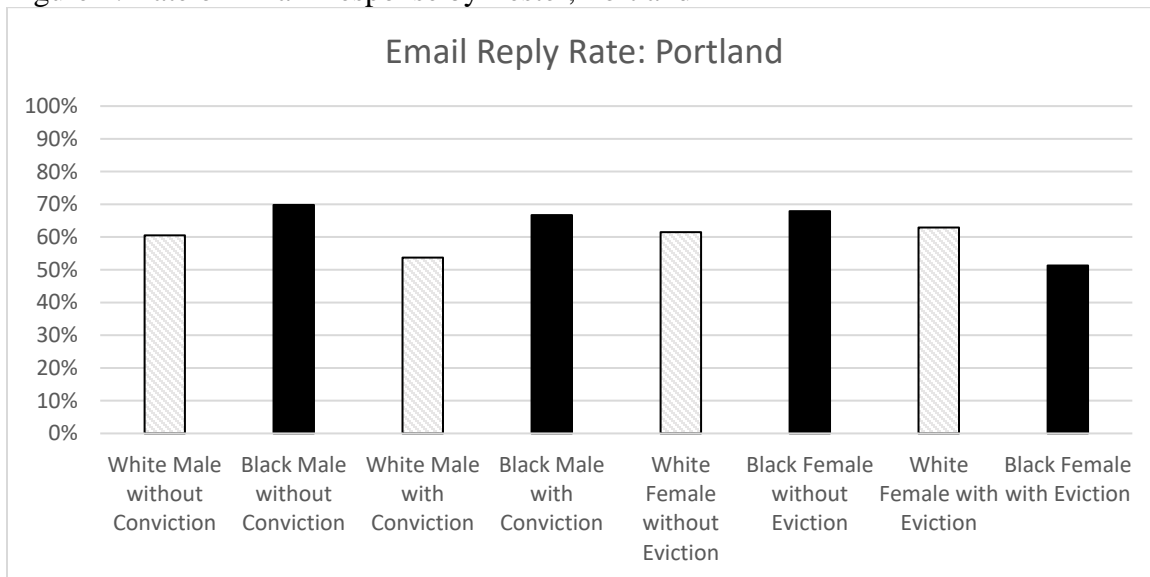


Figure 5: Rate of Email Response by Tester, Philadelphia

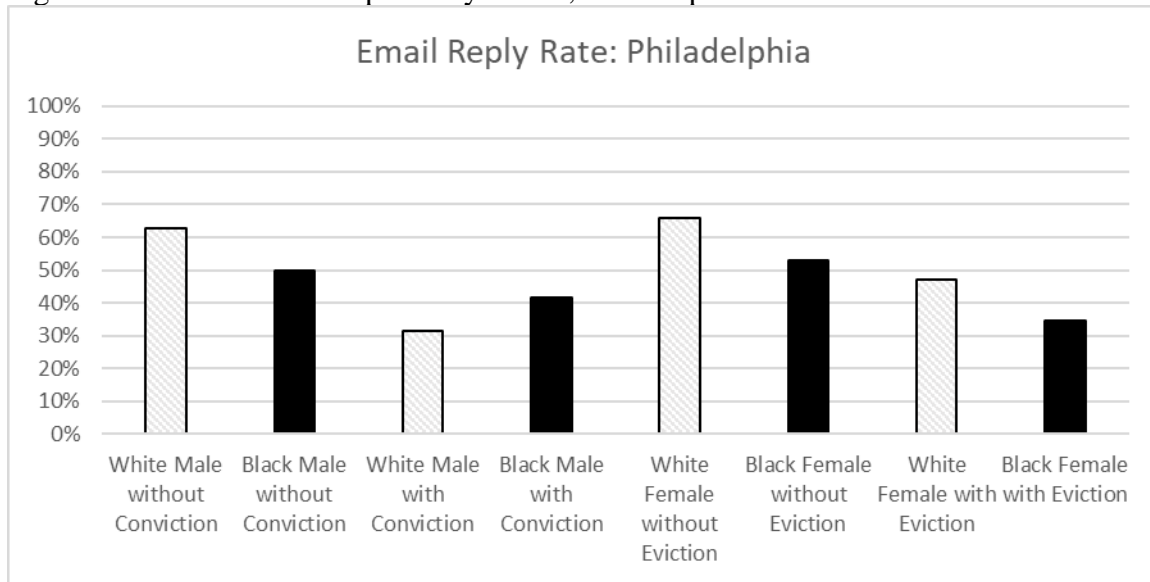


Figure 6: Rate of Email Response by Tester, Detroit

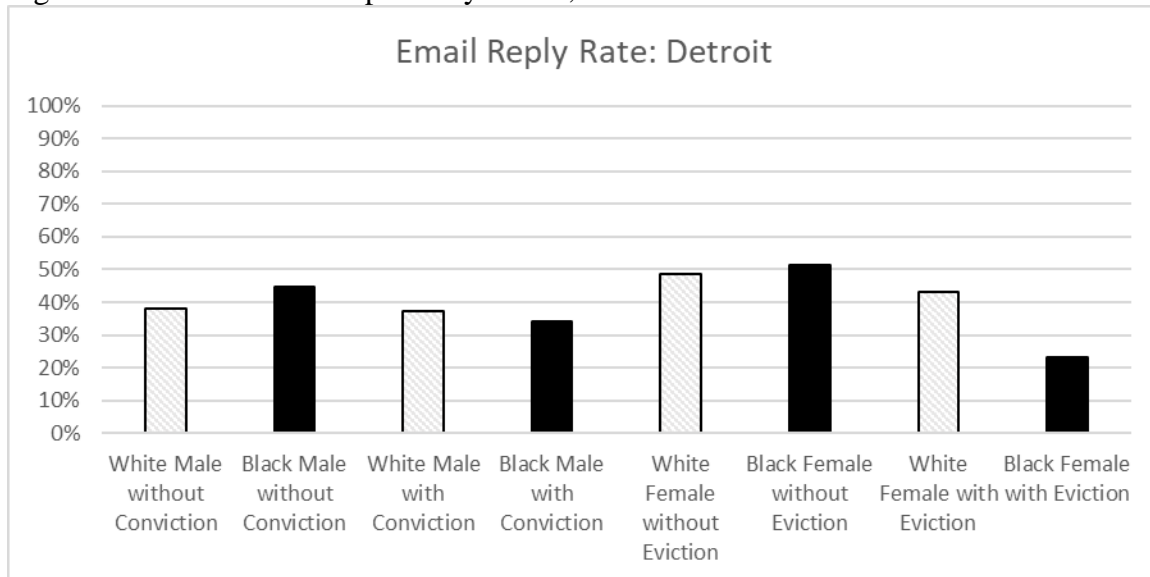
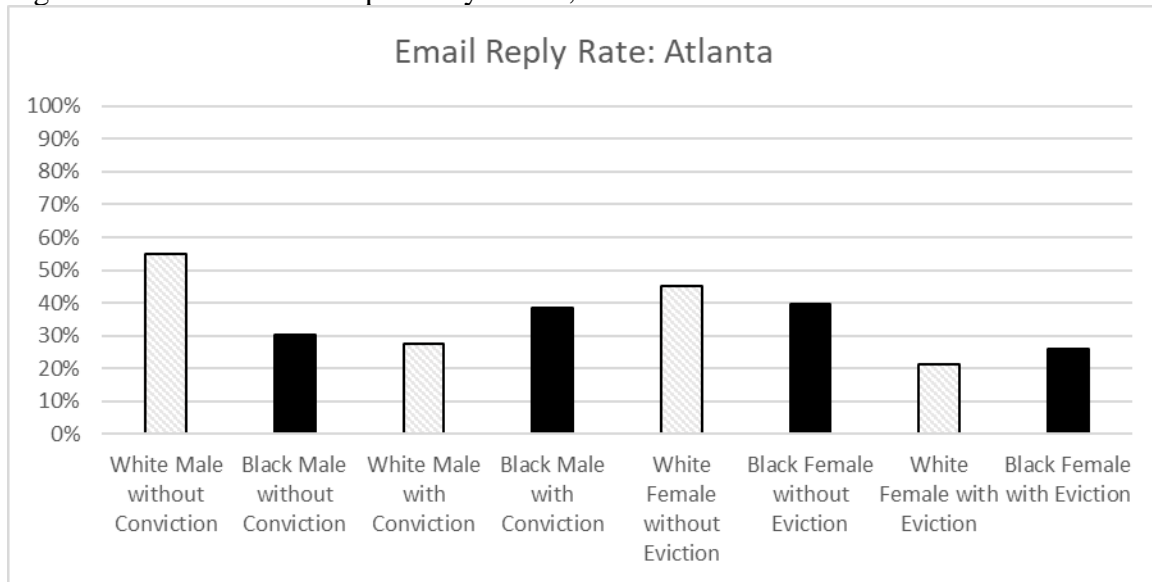


Figure 7: Rate of Email Response by Tester, Atlanta

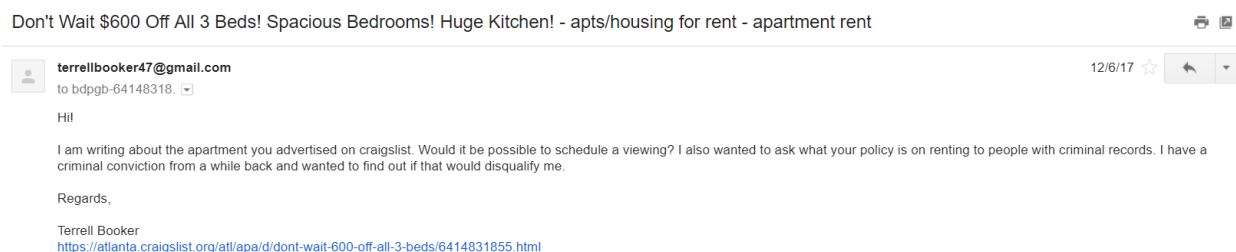


Appendix B: Email Script Components for Online Field Experiment

Each study email contained these parts:

1. Subject line
2. Landlord's listing email address
3. Email address of prospective tenant
4. Greeting
5. Interest
6. Query
7. Eviction/Conviction Disclosure
8. Closing
9. Name of the prospective tenant
10. Listing URL

The subject line, listing address and listing url (**parts 1, 2, 10**) were all constructed using information from the craigslist advertisement. The subject line (composed of the ad title) and listing url were formatted to replicate the email structure generated when a craigslist user selects the reply via Gmail button on a craigslist advertisement. See screenshot below of one of the experiment's outgoing messages:



All of the other email components were determined via random assignment using the random.choice () Python module. For each email drafted, the first two randomization queries in my programming script determined the gender of the applicant (and subsequently, whether the experimental condition would entail disclosing eviction or conviction) and the experimental condition (disclosure v. control). Parts 3, 9 and 7 would be randomly drawn from separate pools coinciding with the experimental condition selected. The possible values for each component were as follows:

Parts 3 & 9: The name and email addresses were selected to convey the prospective applicant's race and gender (see Appendix C for details regarding name selection). For each email, the programming script randomly assigned a name and email pairing. For example, Ebony Jackson at jackson.ebony338@gmail.com.

Part 4: If the advertisement included a contact name for the housing provider (e.g. Steve), I manually recorded that name and it would be formatted according to a random choice between three possible greetings (Steve, Hi Steve, Hello Steve,). Otherwise the greeting was selected from the following list:

1. Hi:
2. Hi,
3. Hi!
4. Hello:
5. Hello,
6. Hello!

Part 5: The interest text was selected from the following list:

1. I am inquiring about the unit advertised on craigslist
2. I am inquiring about the advertised unit
3. I am inquiring about the unit you advertised on craigslist
4. I am inquiring about the unit you advertised
5. I am interested in the unit advertised on craigslist
6. I am interested in the advertised unit
7. I am interested in the unit you advertised on craigslist
8. I am interested in the unit you advertised
9. I am writing about the unit advertised on craigslist
10. I am writing about the advertised unit
11. I am writing about the unit you advertised on craigslist
12. I am writing about the unit you advertised
13. I am inquiring about the apartment advertised on craigslist
14. I am inquiring about the advertised apartment
15. I am inquiring about the apartment you advertised on craigslist
16. I am inquiring about the apartment you advertised
17. I am interested in the apartment advertised on craigslist
18. I am interested in the advertised apartment
19. I am interested in the apartment you advertised on craigslist
20. I am interested in the apartment you advertised
21. I am writing about the apartment advertised on craigslist
22. I am writing about the advertised apartment
23. I am writing about the apartment you advertised on craigslist
24. I am writing about the apartment you advertised
25. I'm inquiring about the unit advertised on craigslist
26. I'm inquiring about the advertised unit
27. I'm inquiring about the unit you advertised on craigslist
28. I'm inquiring about the unit you advertised
29. I'm interested in the unit advertised on craigslist
30. I'm interested in the advertised unit
31. I'm interested in the unit you advertised on craigslist
32. I'm interested in the unit you advertised
33. I'm writing about the unit advertised on craigslist
34. I'm writing about the advertised unit
35. I'm writing about the unit you advertised on craigslist
36. I'm writing about the unit you advertised

37. I'm inquiring about the apartment advertised on craigslist
38. I'm inquiring about the advertised apartment
39. I'm inquiring about the apartment you advertised on craigslist
40. I'm inquiring about the apartment you advertised
41. I'm interested in the apartment advertised on craigslist
42. I'm interested in the advertised apartment
43. I'm interested in the apartment you advertised on craigslist
44. I'm interested in the apartment you advertised
45. I'm writing about the apartment advertised on craigslist
46. I'm writing about the advertised apartment
47. I'm writing about the apartment you advertised on craigslist
48. I'm writing about the apartment you advertised

Part 6: The query text was selected from the following list:

1. Could I see this unit?
2. Could I see this apartment?
3. Could I see this apartment sometime this week?
4. Can I see this unit sometime this week?
5. Can I see it sometime this week?
6. Can I see this apartment this week?
7. Can I see this unit this week?
8. Can I see it this week?
9. Can I schedule a viewing?
10. Is there a good time to come and see the unit?
11. When could I see this unit?
12. When could I view this unit?
13. When could I see it?
14. Would it be possible to see this unit sometime this week?
15. Would it be possible to see it sometime this week?
16. Would it be possible to see this apartment this week?
17. Would it be possible to see this unit this week?
18. Would it be possible to see it this week?
19. Would it be possible to schedule a viewing?

Part 7: After assigning the gender/negative credential type, the programming script randomly assigned whether the email would disclose a negative credential or not. If not, this part was excluded. If the email was sent by a female applicant and assigned to disclose an **eviction**, the statement was selected from the following list:

1. I also wanted to ask what your requirements were about rental history, I had an eviction a few years ago but have had good rental history since then.
2. Do you work with people with evictions on their record? I had one a few years back but settled it and have good rental references otherwise.
3. I also wanted to ask what your requirements were about rental history, I was evicted once but settled that case and have good rental references otherwise.

4. Do you work with people with evictions on their record? I had an eviction a few years ago but have had good rental history since then.
5. I also wanted to note up front that I was once evicted, but the case settled and I've had good rental references since. Would it be worth it to apply or would that result in a denial?
6. I also wanted to say up front that I was once evicted, but the case settled and I've had good rental references since. Is that something you can work with or is that a denial?

If the email was sent by a male applicant and assigned to disclose a **conviction**, the statement was selected from the following list:

1. Do you accept people with criminal convictions? I ask because I have one older conviction so I'm trying to see if I would be eligible before applying.
2. What is your policy on criminal background? I have one older conviction and I'm trying to figure out whether it would be worthwhile to apply.
3. I just want to note up front that I have a criminal conviction from a while back, would it be worth it to apply?
4. I have a criminal conviction from a few years ago, would that disqualify me?
5. I also wanted to ask what your policy is on renting to people with criminal records. I have a criminal conviction from a while back and wanted to find out if that would disqualify me.

Part 8: The closing of the email will be selected from the following list:

1. Best regards,
2. Best,
3. Look forward to hearing from you,
4. Many thanks,
5. Regards,
6. Thank you for your time,
7. Thanks,
8. Thanks!
9. Thank you,
10. Thank you!
11. All the best,
12. Thanks so much,
13. Thanks so much!
14. Thanks for your consideration,

Appendix C: Racially Distinctive Names for Online Field Experiment

				Demographic characteristics associated with first names						Demographic characteristics associated with last names		
Gender, Race Signal	First Name	Last Name	Email Address (@gmail.com)	% white	% Black	% Asian	% ≤ HS Degree	% ≥ Some College	Total Frequency	% white	% Black	Frequency Rank
Female, Black	Denisha	Mosley	denishamosley34	26.1	70.4	0	73.7	26.3	115	95.60%	0.40%	572
	Ebony	Jackson	jackson.ebony338	22.2	76.4	0	71.3	28.7	500	95.90%	0.60%	943
	Shanice	Banks	shaniceb591	12	85.9	0.7	75.1	24.9	569	95.90%	0.60%	943
	Taniya	Jefferson	taniyaj908	7.2	86.2	6.2	72.3	27.7	195	18.70%	75.20%	594
	Tionna	Washington	tionnawashington77	20	79	0	71.8	28.2	105	41.30%	54.20%	278
	Tyra	Booker	tyrabooker567	21.4	76.3	0.8	62	38	393	42.70%	52.80%	699
Female, White	Amy	Larsen	larsenamy397	61.5	7.4	23.9	61.8	38.2	4030	95.60%	0.40%	572
	Barbara	McGrath	mcgrathbarbara157	79.1	12	1.6	57.7	42.3	750	41.90%	53.00%	18
	Heidi	Andersen	aheidi272	85.2	2.9	5.2	54.5	45.5	731	95.50%	0.60%	954
	Laurie	Decker	deckerlaurie272	59.8	27.4	7.8	45.3	54.7	179	95.60%	0.30%	765
	Stephanie	Nielsen	stephanienielsen358	79.1	9.3	6.3	60.2	39.8	9870	42.70%	52.80%	699
	Susan	Becker	susanbecker03	67.2	4.7	23.9	62.9	37.1	979	5.20%	89.90%	138
Male, Black	Darnell	Jefferson	djefferson851	16.8	80.1	1	71.7	28.3	513	41.90%	53.00%	18
	DeAndre	Banks	banksdeandre58	15.9	78.9	1.7	68.5	31.5	421	30.00%	65.60%	902
	Jamal	Mosley	jamalmosley724	13.8	80.2	2.9	69	31	958	95.40%	0.80%	555
	Lamar	Washington	lamarwashington436	13.2	83.2	0.7	72	28	447	95.40%	0.80%	555
	Latrell	Jackson	jlatrell49	8.6	88.5	0.3	74.5	25.5	304	41.30%	54.20%	278
	Terrell	Booker	terrellbooker47	12.5	85.2	0.3	66.8	33.2	698	95.60%	0.30%	765
Male, White	Brendan	McGrath	brendanmcgrath93	80.1	8.9	4.4	85.8	14.2	1476	95.50%	0.60%	954
	Dustin	Larsen	larsendustin52	91.4	2.9	3.3	66.9	33.1	1244	96.40%	0.50%	315
	Hunter	Nielsen	hunter.nielsen67	92.8	3.6	1.7	41.4	58.6	5688	18.70%	75.20%	594
	Seth	Decker	deckerseth68	83.7	12.1	1.6	40.7	59.3	2361	30.00%	65.60%	902
	Steven	Andersen	andersensteven817	77.5	10	7.9	59.9	40.1	11375	5.20%	89.90%	138
	Todd	Becker	toddbecker034	80.2	16.2	1.6	53.3	46.7	551	96.40%	0.50%	315

Data from: Gaddis, Michael (2016) “How Black are Lakisha and Jamal? The Effects of Name Perception and Selection on Social Science

Measurement of Racial Discrimination.” Available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2807176

First name population characteristics refer to race and education of mothers, drawn from New York State Birth Records (1994-2012), characteristics of surnames drawn from U.S. Census, 2008.

APPENDIX D: SAMPLING PROCEDURES AND RESEARCH SITE CHARACTERISTICS

Daily Filtering and Sampling Procedures

After using Python to pull down the previous days rental advertisements for each jurisdiction (automatically uploaded to my Google Drive account using an IFTTT applet), my programming script would start its filtering process by removing duplicate listings within those daily batches.⁴² The script would then check the new IFTTT listing data, which includes limited information regarding each advertisements, against database of advertisements I have already sampled, excluding new listings that match the subject titles, craigslist web addresses and listing id numbers of listings I have already used. Because the IFTTT data includes the number of bedrooms and the rental price, at this stage I also exclude listings that are not for either 1, 2 or 3 bedroom units, and those in which the rental price falls outside of the 15% - 185% margins around the HUD Median rent estimate for the unit size and jurisdiction in question.

The listings in that batch of filtered IFTTT data are then randomized, and my computer programming script iterates through each listing, scraping all web data from each page and parsing it into relevant categories (i.e. body and subject text, number of bedrooms, price, address text, weblinks, google map geodata, along with a standard determination of the accuracy of that geodata). The script then excludes listings if they match against my databases of information culled from advertisements I have already sampled or excluded. The script also references jurisdiction-specific lists of “watch-words” that I amended throughout the course of the experiment to weed out non-conventional rental advertisements, such as advertisements for sublets/lease take-overs or rent-to-own, brokerage or credit repair services. I also used those watch words to exclude housing complexes for senior citizens, to avoid re-contacting housing providers associated with the same large-scale development company (e.g. GreyStar, Pinnacle Realty) or contacting housing providers who explicitly instruct applicants *not* to communicate via email (e.g. “PHONE ONLY”, “Emails will not be answered”).

Any listings not excluded on those bases would be iteratively presented to me for visual inspection. My script would prompt me to answer a variety of questions and manually input information that could not be reliably collected via scraping – namely any first or last name provided by the housing provider, written address information, and the contact information that could only be accessed by clicking on the ‘reply’ button. If the residential address, email address or phone number that I manually entered matched one in my database of prior contacts, the listing would be excluded. Advertisements that provided only a phone number were also excluded. Otherwise the email address and if present, name of the housing provider, would be recorded and incorporated into the randomly generated email message (see Appendix B for more

⁴² IFTTT is a free service that hosts user-generated web apps, largely designed for scraping ‘big data’ from platforms such as Twitter, Google, Facebook. Link to the IFTTT applet I used: <https://ifttt.com/applets/103783p-log-craigslist-results-to-spreadsheet-for-review-later>.

detail on email construction). Before sending the email, the script would prompt me with one last opportunity to exclude the listing from the study, and if I decided to do so, the script would require that I enter a rationale for exclusion (e.g. “this is a rent-to-own unit”). For each listing that was either sampled or excluded, separate SQL databases were populated: one database containing all scraped and manually recorded information for excluded listings, a second containing all scraped and manually recorded information for sampled listings, and another recording the various components of the email that was sent to each sampled listing. The latter two databases were later merged during data analysis on the basis of the web-address of the advertisement, which was also used as a basis for merging the data resulting from the Qualtrics survey used to code the incoming email messages (see Appendix e for more detail regarding coding of email replies from landlords).

This process would end either when the targets I set for each jurisdiction that day were met, or if I ran out of new listings to sample. For most days I would set my sampling targets between 50 and 75 total advertisements, equally distributed amongst the five jurisdictions. For the duration of the experiment I would typically spread out the sampling and sending tasks to two or three hour-long blocks in the morning, afternoon and/or evening. As the experiment neared the end of its month-long run, these tasks became more time consuming since a larger number of listings would be de-duplicated after manually entering phone, email, or address information and fewer new listings were uploaded. During this time there were a handful of days in which I did not meet my sampling targets for certain jurisdictions on account of an insufficient supply of new listings that met the study’s parameters, particularly in the Detroit and Atlanta jurisdictions where fewer advertisements were posted (see Table 1 for counts of emails sent in each jurisdiction).

Study Sites and Sampling Parameters

In an attempt to minimize the chance of sampling fraudulent advertisements, units were excluded from analysis if their rents surpassed 185% or fell below 15% of the metropolitan statistical area’s median rent, as estimated by HUD for 2017.⁴³ See Appendix D, Table 2 on the following page for additional characteristics of each jurisdiction sampled.

Appendix D, Table 1: HUD 50th Percentile Rent Estimates, 2017

Metropolitan Area	One Bedroom	Two Bedroom	Three Bedroom
Seattle	1353	1673	2427
Portland	1146	1352	1968
Philadelphia	1003	1211	1515
Atlanta	914	1054	1383
Detroit	752	978	1296

⁴³ Data available here: <https://www.huduser.gov/portal/datasets/50per.html#2017>

Appendix D: Online Field Experiment Research Sites

Selected Characteristics of Sampled Metropolitan Areas

Metropolitan Statistical Area	Vacancy Rate 2017	Classification of Vacancy Rate ¹	Region	% Change in Vacancy, 2010-2017	Home-ownership Rate 2017	Population 2015	% Black or African American	% White alone, not Hispanic or Latino	% Hispanic or Latino origin	Median age (years)	Median income (dollars)	% Below poverty level
Seattle-Tacoma-Bellevue	1.9	Extremely Tight	West	-76%	58.2	1978816	5.60%	66.20%	9.50%	37	35,167	11.30%
Portland-Vancouver-Hillsboro	3.9	Tight	West	3%	58.5	2424955	2.80%	75.10%	11.30%	37.5	29,663	13.60%
Atlanta-Sandy Springs-Roswell	4.6	Moderate	South	-69%	64.4	5789700	33.10%	49.40%	10.50%	35.7	29,020	15.60%
Philadelphia-Camden-Wilmington	7.9	Loose	Northeast	-45%	67.5	6070500	20.80%	63.50%	8.60%	38.3	30,998	13.20%
Detroit-Warren-Dearborn	8.0	Loose	Midwest	-55%	67.4	4297617	22.50%	67.30%	4.10%	39.8	27,097	16.80%

Vacancy and homeownership rates obtained from the Housing Vacancies and Homeownership (CPS/HVS) Survey, U.S. Census Bureau (First Quarter 2017). Data available at: <https://www.census.gov/housing/hvs/data/ann17ind.html>

Population characteristics of metropolitan areas obtained from the American Community Survey, U.S. Census Bureau (2015 5-Year Estimates).

Data available at: https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_16_5YR_S0501&prodType=table

Market tightness classification schema derived from Finkel, M. and Buron, L. F. (2001). Study on Section 8 Voucher Success Rates. U.S.

Department of Housing & Urban Development

Appendix E: Qualtrics Email Coding Protocol

INTRO

Coder

☐ Ari

☐ Natalie

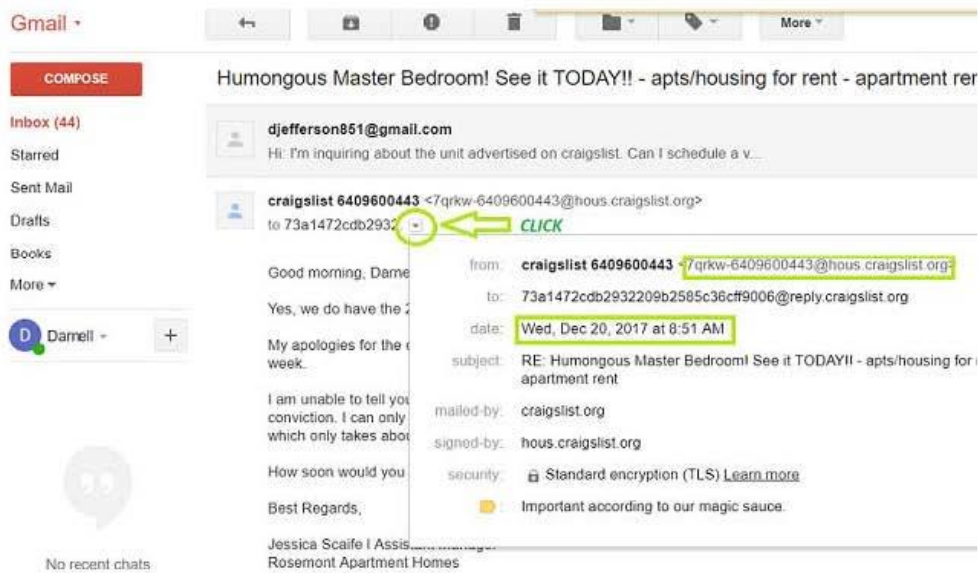
☐ Other (enter name)

Which gmail account are you checking? (e.g. lamarwashington436@gmail.com)

Copy and paste entire **body of email message** (the *first incoming message only*, not the original outgoing message and not subsequent follow-up emails)

Copy and paste the **SUBJECT LINE** of the incoming email

SEE PICTURE FOR NEXT TWO QUESTIONS



Copy and paste email address of sender (e.g. 7qrkw-6409600443@hous.craigslist.org)

Copy and paste Date and Time (e.g. Wed, Dec 20, 2017 at 8:51 AM)

Does the message appear to be a response to a prospective applicant's inquiry about an advertised rental unit?

- ☐ Yes, looks like a response to the original inquiry
- ☐ Yes, It looks like an autoreply but the information is related to the rental unit
- ☐ No

EXIT SURVEY FOR NON-GENUINE RESPONSES

Why doesn't the message look like a genuine reply?

- ☐ Looks like junk mail/spam unrelated to the study project
- ☐ Looks like junk mail/spam related to housing, but not in direct response to an inquiry
- ☐ Looks like an autoreply unrelated to the rental listing (e.g. 'Julie is out of the office...')
- ☐ Other (please specify)

If this email is a direct reply to an outgoing message sent as part of the experiment (i.e. you can see the original, outgoing message), please copy and paste the craigslist URL (found at the bottom of either the outgoing or incoming message)

- ☐ No, I cannot view the original outgoing message
- ☐ Copy & Paste URL here

Basic Components of Incoming Message

Does the email address the fictitious rental applicant by name? ('Hi Tyra')

- ☐ Yes
- ☐ No

If so, how does the sender address the applicant?

- ☐ First Name Only (i.e. 'Hello Dustin')
- ☐ First and Last Name (i.e. 'Dustin Larsen')
- ☐ Last Name Only (i.e. 'Dear Mr. Larsen')
- ☐ Other (please specify)

Does the sender sign off or introduce themselves using their name?

- ☐ Yes
- ☐ No

If so, what is their name?

First Name

Last Name

Does the sender sign off or introduce themselves using the name of their company?

☐ Yes

☐ No

If so, what is the name of the company?

Does the email have an embedded company logo?

☐ Yes

☐ No

Does the sender identify themselves professionally? (Check all that apply)

☐ No

☐ Landlord or Owner

☐ Property Manager

☐ Leasing Agent/Consultant/Specialist

☐ Other (please specify)

Does the sender include any contact information in the body of the email? (Check all that apply)

☐ No

- ☐ Personal Email (i.e. hotmail, gmail account)
- ☐ Company/Corporate Email (i.e. domain is rental company - jake@riversidetowers.com)
- ☐ Personal Cell Phone
- ☐ Company/Corporate Phone
- ☐ Phone Number, Unclear if work or personal
- ☐ Other (please specify)

Does the email include an attachment? (check all that apply if there are multiple attachments)

- ☐ No
- ☐ No, but the sender mentions one in the body of the email
- ☐ Yes - a rental application
- ☐ Yes - an advertisement/brochure for the property
- ☐ Other (please specify)

Does the sender ask if the applicant is still looking/interested in the unit?

- ☐ Yes
- ☐ No
- ☐ Other (please specify)
- ☐ Click to write Choice 4

Does the sender indicate the unit in question is still available? (Check all that apply)

- ☐ No mention of availability
- ☐ Yes, unit is still available
- ☐ Mentions or describes available units, but it isn't clear whether they are the same units described in the advertisement
- ☐ No, unit is no longer available
- ☐ No, but mentions other available units in the same building
- ☐ No, but mentions other available units in another building

- ☐ No, but mentions other available units owned by a different company
- ☐ Other (please specify)

Does the sender invite the applicant to view the unit? (Check all that apply)

- ☐ No
- ☐ Yes, invitation to set up an appointment
- ☐ Yes, invitation to an open house
- ☐ No, but recommends driving by and checking out the unit
- ☐ No, but invites them to fill out an application
- ☐ No, but asks them to get in contact by phone

Does the sender instruct the applicant to visit a website? (Check all that apply)

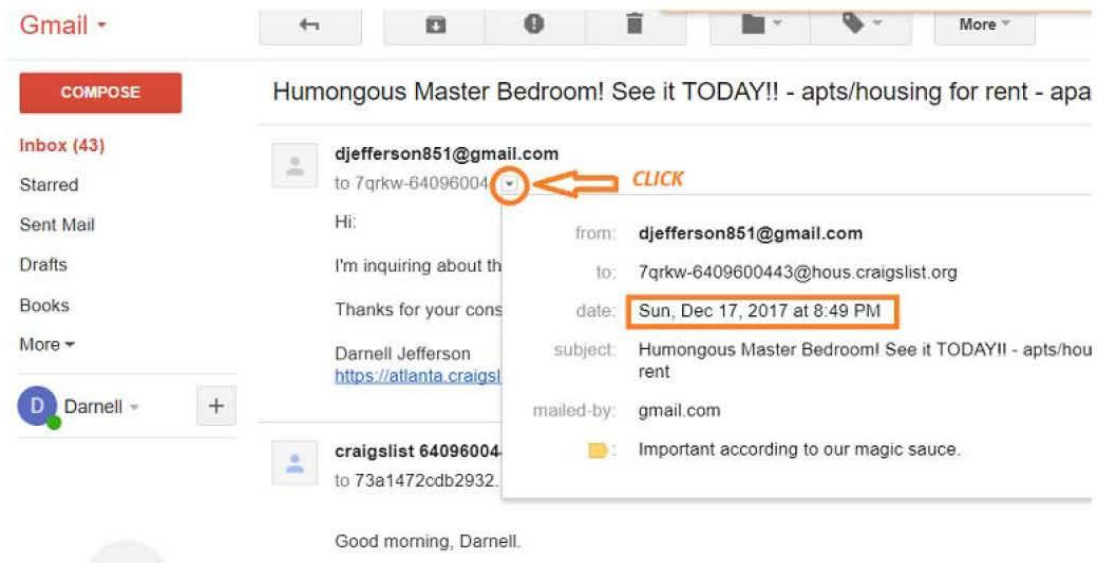
- ☐ No
- ☐ The email includes a website, but the sender doesn't instruct or invite the applicant to visit it
- ☐ Yes - for more information about unit(s)
- ☐ Yes - to fill out an application
- ☐ Yes - to schedule a viewing
- ☐ Copy and paste website url here

Is the email a direct reply to the original inquiry (i.e. can you see the original outgoing message)?

- ☐ Yes
- ☐ No

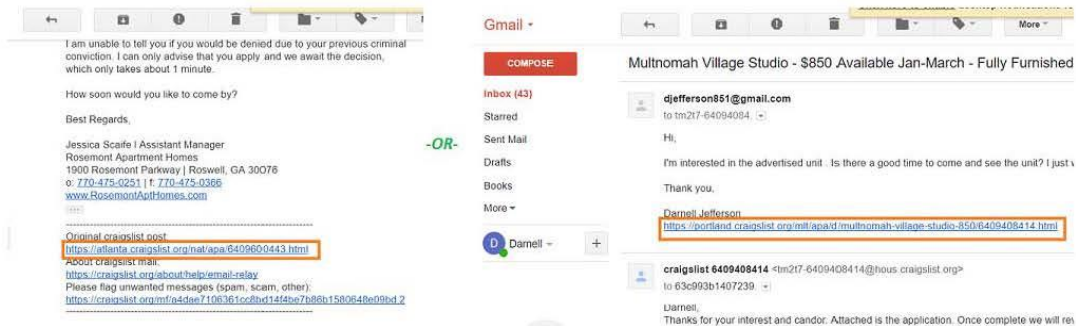
ORIGINAL MESSAGE VISIBLE

SEE PICTURE FOR NEXT QUESTION



Copy and Paste Date and Time of **original, outgoing message** (e.g. Wed, Dec 20, 2017 at 8:51 AM)

SEE PICTURE FOR NEXT QUESTION



Copy and past the craigslist URL (found at the bottom of either the outgoing or incoming message)

What experimental condition did the outgoing message use?

- ☐ Eviction
- ☐ Conviction
- ☐ Control

EVICTION

How does the sender respond to the disclosure of a past eviction? (Check all that apply)

- ☐ Doesn't mention the issue
- ☐ No, they do not rent to people with evictions
- ☐ Yes, they rent to people with evictions (e.g. 'That is not a problem')
- ☐ Under certain circumstances - asks for more info about applicant's eviction
- ☐ Under certain circumstances - specifies when they will rent to someone with a past eviction
- ☐ They need to talk to their supervisor/ the owner about whether they'd accept someone with an eviction
- ☐ They are unable to say whether the applicant would be qualified before they submit an application/go through the screening process
- ☐ Expresses thanks or appreciation for the disclosure (e.g. 'Thanks for the information about your eviction', 'I appreciate you being upfront about this', etc.)
- ☐ Other (please specify)

What questions are asked about the eviction? (Check all that apply)

- ☐ How long ago was it?
- ☐ Why were they evicted?
- ☐ How much did they owe?
- ☐ Have they resolved their case/ paid off their debt to a past landlord?
- ☐ General request for more info (e.g. 'Could you tell me a little more about the eviction?')
- ☐ Other (please specify)

Under what conditions do they say they'll rent to or consider an applicant with an eviction? (Check all that apply)

- ☐ It happened longer than X number of years ago
- ☐ It was only one eviction
- ☐ The debt has been paid off/case has been settled
- ☐ The applicant otherwise has a strong rental history
- ☐ The applicant can otherwise demonstrate their fitness (i.e. through income, credit score etc.)
- ☐ Other (please specify)

How many years do they say must have passed since the most recent eviction for the applicant to be considered?

- ☐ 6 months
- ☐ 1 year
- ☐ 2 years
- ☐ 3 years
- ☐ 4 years
- ☐ 5 years
- ☐ 6 years
- ☐ 7 years
- ☐ 8 years
- ☐ 9 years
- ☐ 10 years
- ☐ Other (please specify)

CRITERIA

What kind, if any, rental policies or criteria does the sender mention? (Check all that apply)

- ☐ Pets
- ☐ Smoking
- ☐ Housing Vouchers (e.g. Section 8, Housing Choice Vouchers)
- ☐ Deposit
- ☐ Screening / Application/Other Move-in Fees (NOT INCLUDING DEPOSIT COSTS)
- ☐ Terms of lease (i.e. short term, 6-month, 1 year, month-to-month etc.)
- ☐ Number/type of occupants
- ☐ Credit score/credit history
- ☐ Employment/Income/Ability to Pay
- ☐ Rental references/ rental history/rental debt
- ☐ Other (please specify)

What kind of pet policy is mentioned?

- ☐ No pets allowed
- ☐ Pets allowed
- ☐ Pets allowed under certain circumstances
- ☐ A question about whether the applicant has a pet
- ☐ Other (please specify)

What kind of smoking policy is mentioned?

- ☐ No smoking
- ☐ Smoking allowed / allowed under some circumstances
- ☐ A question about whether the applicant smokes
- ☐ Other (please specify)

If a deposit is mentioned, do they specify a cost?

- ☐ No
- ☐ Yes (please specify)

What kind of housing voucher policy is mentioned?

- ☐ Does not accept vouchers/Section 8
- ☐ Does take vouchers/Section 8
- ☐ A question about whether the applicant will be using a voucher
- ☐ Other (please specify)

What type of fees are mentioned?

- ☐ Screening/Background Check Fees (if an amount is specified, please enter)
- ☐ Application/ Processing/Administrative Fees (if an amount is specified, please enter)
- ☐ Other move-in fees (please specify type and amount, if possible)

What types of leases does the sender mention are available? (check all that apply)

- ☐ Short-Term
- ☐ Long-Term
- ☐ Month-to-Month
- ☐ Six month
- ☐ Year long
- ☐ Other (specify)

How does the sender mention the number of occupants?

- ☐ Question about number of occupants that would be living with the applicant (i.e. 'How many people/occupants will be living with you?')
- ☐ Question about the applicant's family size (i.e. 'How big is your family?')
- ☐ Question about the applicant's children (i.e. 'How many children do you have?' or 'What ages are your children?')

- ☐ Specifies a policy capping the number of occupants (enter number)
- ☐ Specifies a policy about the type of occupants allowed (e.g. children, adults, couples -
 please specify)
- ☐ Describes a preference for a certain type of occupant (e.g. 'Ideal for graduate
 students/working professionals' - please specify)
- ☐ Other (please specify)

How are credit requirements described?

- ☐ Asks a question about the applicant's credit score or history
- ☐ Mentions that applicants must pass a credit check
- ☐ General statement of credit-related criteria ('Must have good credit/ high credit score')
- ☐ Restrictions on renting to people with bankruptcies
- ☐ Mentions willingness to rent to those with poor or damaged credit
- ☐ Specific minimum credit score mentioned (please specify)
- ☐ Other (please specify)

How are income and/or employment requirements described?

- ☐ Specific Income-to-Rent Ratio Mentioned (i.e. 'Monthly income must be three times the rent')
- ☐ Specific Income Mentioned (i.e. 'Over \$40,000 a year/ \$3,300 a month')
- ☐ General Employment Requirement Mentioned (i.e. 'Must have steady employment')
- ☐ Employment Verification Requirement Mentioned
- ☐ Other (please specify)

Income to Rent Ratio Requirement

- ☐ Income 2x the rent
- ☐ Income 2.5x the rent
- ☐ Income 3x the rent
- ☐ Income 3.5x the rent

- ☐ Income 4x the rent
- ☐ Other (please specify)

Specific Income Required (Enter in Dollars)

Annual

Monthly

How are rental history/references requirements described?

- ☐ Asks a question about the applicant's rental history
- ☐ General statement of rental history requirements (i.e. 'Must have good rental history/references')
- ☐ Will not rent to applicants with rental debts (i.e. who owe money to past landlords)
- ☐ Specific statement of rental history requirements - copy and paste relevant text
- ☐ Other (please specify)

Outside of their response to the applicant's disclosure of a past eviction or conviction, does the sender mention any criteria or policies related to eviction or criminal history? (check all that apply)

- ☐ No
- ☐ Yes - mentions evictions
- ☐ Yes - mentions criminal background/history

What eviction related policies or standards does the sender mention? (Check all that apply)

- ☐ They do not rent to people with evictions
- ☐ They will rent to people with evictions (e.g. 'evictions OK')
- ☐ They ask the applicant about their eviction history/whether they've ever been evicted
- ☐ They mention that applicants will be screened for past evictions

- ☐ They specify the circumstances under which they'll rent to someone with a past eviction
- ☐ Other (please specify)

Under what conditions do they say they'll rent to or consider an applicant with an eviction? (Check all that apply)

- ☐ It happened longer than X number of years ago
- ☐ It was only one eviction
- ☐ The debt has been paid off/case has been settled
- ☐ The applicant otherwise has a strong rental history
- ☐ The applicant can otherwise demonstrate their fitness (i.e. through income, credit score etc.)
- ☐ Other (please specify)

How many years do they say must have passed since the most recent eviction for the applicant to be considered?

- ☐ 6 months
- ☐ 1 year
- ☐ 2 years
- ☐ 3 years
- ☐ 4 years
- ☐ 5 years
- ☐ 6 years
- ☐ 7 years
- ☐ 8 years
- ☐ 9 years
- ☐ 10 years
- ☐ Other (please specify)

What criminal history related policies or standards does the sender mention? (Check all that apply)

- ☐ They do not rent to people with criminal convictions
- ☐ They will rent to people with criminal convictions (e.g. 'criminal record OK')
- ☐ They ask the applicant about their criminal history/whether they've ever been arrested or convicted of a crime
- ☐ They mention that applicants will undergo a criminal background check
- ☐ Under certain circumstances - specifies when they will rent to someone with a criminal conviction
- ☐ Other (please specify)

Under what conditions do they say they'll rent to or consider an applicant with a criminal conviction? (Check all that apply)

- ☐ Last conviction occurred longer than X number of years ago
- ☐ It was only one conviction
- ☐ The criminal conviction(s) was a misdemeanor / not a felony
- ☐ The criminal conviction(s) was not for a serious offense
- ☐ The criminal conviction(s) was not for a violent offense
- ☐ The criminal conviction(s) was not for a sex offense
- ☐ The criminal conviction(s) was not for a drug offense
- ☐ The applicant can demonstrate evidence of rehabilitation
- ☐ The applicant can otherwise demonstrate their fitness as a tenant (i.e. through rental history, income, credit score etc.)
- ☐ Other (please specify)

How many years do they say must have passed since the most recent criminal conviction for the applicant to be considered?

- ☐ 6 months
- ☐ 1 year
- ☐ 2 years
- ☐ 3 years
- ☐ 4 years
- ☐ 5 years
- ☐ 6 years

- ☐ 7 years
- ☐ 8 years
- ☐ 9 years
- ☐ 10 years
- ☐ Other (please specify)

Does the sender mention any rental/move-in incentives?

- ☐ No
- ☐ Yes (please specify what kind)

Does the sender mention any fair housing/equal housing/non-discrimination policies?

- ☐ No
- ☐ Yes - copy and paste relevant text

Does the sender ask any other questions about the applicant? If so, please describe

Overall, how encouraging or discouraging do you think the sender was for the applicant to apply?

- ☐ Very discouraging
- ☐ Somewhat discouraging
- ☐ Neutral - no encouragement or discouragement, just the facts about the unit, how to apply etc.
- ☐ Somewhat encouraging
- ☐ Very encouraging

Did the sender email the applicant multiple times (i.e. were there follow up messages?)

- ☐ Yes
☐ No

If so, how many times did the sender email the applicant **after** the initial response?
Please also briefly summarize content of follow-up messages (i.e. 'They emailed twice more to ask if the applicant was still interested in scheduling a viewing')

Number of Additional Follow-up Emails

Nature of Follow-Up Emails

Is there anything else about the email response you'd like to note? Was there anything weird or distinct about this email?

CONVICTION

How does the sender respond to the disclosure of a past criminal conviction? (check all that apply)

- ☐ Doesn't mention the issue
☐ No, they do not rent to people with criminal convictions
☐ Yes, they rent to people with criminal convictions (e.g. 'That is not a problem')
☐ Under certain circumstances - asks for more info about applicant's criminal conviction/record
☐ Under certain circumstances - specifies when they will rent to someone with a criminal conviction

- ☐ They need to talk to their supervisor/ the owner about whether they'd accept someone with an conviction
- ☐ They are unable to say whether the applicant would be qualified before they submit an application/go through the screening process
- ☐ Expresses thanks or appreciation for the disclosure (e.g. 'Thanks for the information about your conviction', 'I appreciate you being upfront about this', etc.)
- ☐ Other (please specify)

What questions are asked about the conviction? (Check all that apply)

- ☐ When was the last conviction?
- ☐ How many criminal convictions do they have?
- ☐ What was the nature of the criminal conviction? (i.e. offense type)
- ☐ Are they still under some form of supervision? (e.g. parole, probation)
- ☐ Is the conviction for a violent offense?
- ☐ Is the conviction for a sex offense?
- ☐ Is the conviction for a drug offense?
- ☐ Is the conviction for a felony offense?
- ☐ In what jurisdiction (state or city) did the conviction occur?
- ☐ General request for more info (e.g. 'Could you tell me a little more about the conviction?')
- ☐ Other (please specify)

Under what conditions do they say they'll rent to or consider an applicant with a criminal conviction? (Check all that apply)

- ☐ Last conviction occurred longer than X number of years ago
- ☐ It was only one conviction
- ☐ The criminal conviction(s) was a misdemeanor / not a felony
- ☐ The criminal conviction(s) was not for a serious offense
- ☐ The criminal conviction(s) was not for a violent offense
- ☐ The criminal conviction(s) was not for a sex offense
- ☐ The criminal conviction(s) was not for a drug offense
- ☐ The applicant can demonstrate evidence of rehabilitation

- ☐ The applicant can otherwise demonstrate their fitness as a tenant (i.e. through rental history, income, credit score etc.)
- ☐ Other (please specify)

How many years do they say must have passed since the most recent criminal conviction for the applicant to be considered?

- ☐ 6 months
- ☐ 1 year
- ☐ 2 years
- ☐ 3 years
- ☐ 4 years
- ☐ 5 years
- ☐ 6 years
- ☐ 7 years
- ☐ 8 years
- ☐ 9 years
- ☐ 10 years
- ☐ Other (please specify)

ORIGINAL REPLY NOT VISIBLE

SEE PICTURE FOR NEXT QUESTION

I am unable to tell you if you would be denied due to your previous criminal conviction. I can only advise that you apply and we await the decision, which only takes about 1 minute.

How soon would you like to come by?

Best Regards,

Jessica Scafe | Assistant Manager
Rosemont Apartment Homes
1900 Rosemont Parkway | Roswell, GA 30076
O: 770-475-9251 | F: 770-475-9366
www.RosemontAptHomes.com

Original Craigslist post:
<https://atlanta.craigslist.org/hou/apa-8409600443.html>

Also see Craigslist mail:
<https://craigslist.org/about/help/email-relay>
Please flag unwanted messages (spam, scam, other):
<https://craigslist.org/info/44dae7106361cc0bd144dae7b06b1500648e0bd2>

Gmail

COMPOSE

Inbox (43)

Starred

Sent Mail

Drafts

Books

More

Darnell

Multnomah Village Studio - \$850 Available Jan-March - Fully Furnished

djefferson851@gmail.com

to tm217-64094084

Hi,

I'm interested in the advertised unit. Is there a good time to come and see the unit? I just want to see it.

Thank you,

Darnell Jefferson

<https://portland.craigslist.org/mlt/apa/1multnomah-village-studio-850/6409408414.html>

craigslist 6409408414 <tm217-6409408414@hous.craigslist.org>

to 63c993b1407239

Darnell,

Thanks for your interest and candor. Attached is the application. Once complete we will review it.

Copy and paste the craigslist URL (found at the bottom of either the outgoing OR incoming message)

If you cannot see the original outgoing message, is there any wording in the incoming message that indicates what kind of experimental condition was used in the email that landlord received? (e.g. 'In regard to your question about criminal convictions...', or 'thanks for being upfront about your eviction')

- ☐ Yes- seems evident that they are responding to an email containing a question about whether they accept people with EVICTION histories
- ☐ Yes- seems evident that they are responding to an email containing a question about whether they accept people with CRIMINAL CONVICTION histories
- ☐ No

Powered by Qualtrics

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