

# 11 MYTHS

## OF RENTING TO PEOPLE WITH A CRIMINAL RECORD

*What you should know as a small private landlord and housing provider*

### MYTH

I should deny all applicants with a criminal record. Once someone has committed an offense, they are more likely to commit another.

### FACT

**Policies that deny admission to everyone with a criminal record (known as blanket bans) are a violation of the Fair Housing Act (See [HUD 2016 Guidance](#)).** Instead, landlords should establish a more tailored screening policy (Click [here](#) for Sterling Glen's model policy). The policy should consider that the likelihood of committing another offense decreases quickly over time. A study of 15,000 individuals renting from four nonprofits in Minnesota from 2010 to 2017 found that a criminal record had no significant effect on a resident's ability to meet tenant obligations after two years for misdemeanors and after five years for felonies ([Warren 2019 "Success in Housing"](#)). At six to seven years, it is just as likely that a person with no conviction history will commit an offense ([Kurlychek et al. 2006 "Scarlet Letters and Recidivism"](#)).

### MYTH

People with criminal records make bad tenants.

### FACT

**There is no concrete empirical evidence to suggest that people without a criminal record make better tenants than those with a criminal record ([Ehman & Reosti 2015 "Tenant Screening in an Era of Mass Incarceration"](#)).** After two years from the time of a misdemeanor offense and after five years for a felony offense, criminal records have no significant effect on a resident's ability to meet tenant obligations (including following the lease guidelines and maintaining public safety). In fact, certain offenses have no statistical effect on a tenant's ability to meet tenant obligations at all and should therefore not be a consideration in a screening policy ([Warren 2019 "Success in Housing"](#)). Other offenses may require a more individualized review of circumstances and additional information (Click [here](#) for Sterling Glen's model policy). In line with current research, cities around the country, like Seattle and Chicago, have enacted ordinances to prohibit landlords from screening applicants for a criminal record.

### MYTH

I shouldn't rent to anyone with a criminal record unless they have been out of incarceration for more than two years.

### FACT

**The most critical time for someone with a criminal conviction to have access to housing is upon release from incarceration.** In fact, a lack of housing is a major cause of re-arrest or re-incarceration ([Shah et al. 2013 "Achieving Successful Community Reentry"; Prison Policy Initiative "Nowhere to Go"](#)). Stable housing is the platform through which individuals access comprehensive services, improve health outcomes, find employment, fulfill any system requirements, reunite with family, and build for the future (See [Vera Institute 2020 "No Access to Justice"; Pollak et al. 2010 "Housing Affordability and Health"](#)).

### MYTH

My insurance will go up for renting to someone with a criminal record.

### FACT

**Landlord liability insurance premiums do take into account the neighborhood and city environment, not the fact that a landlord may rent to a tenant with a criminal record.** Increases in gun violence lead to increases in insurance costs.

## MYTH

If I admit someone with a criminal record and it doesn't work out, I'll have a hard time getting them out of the unit.

## FACT

**If the tenant has broken the terms of the lease, then the eviction process is the same as for any other tenant.** If the tenant is supported by a community agency, case manager, or parole/probation officer, there may be opportunities to work through any issues so that the landlord does not have to lose rent or go through a lengthy eviction process.

## MYTH

Criminal record background checks are always right and trustworthy.

## FACT

**Screening companies often make mistakes on criminal background screenings.** This is despite requirements set forth by the [Fair Credit Reporting Act](#) for companies to verify the accuracy of their reports. Background checks often carry name misspellings or clerical errors, which connect people to the wrong identity and background. Online record databases are commonly out of date and inaccurate. As a result, many reports include sealed or expunged convictions, missing case disposition information (such as a misdemeanor written as a felony charge), juvenile records, and dropped cases. According to the Fair Housing Act's disparate impact rule, landlords are prohibited from using arrests that do not result in convictions to reject an applicant. Landlords should provide applicants the opportunity to correct any mistakes.

## MYTH

I'm going to be liable if I admit someone with a criminal record, and they harm another tenant.

## FACT

**In Pennsylvania, courts have generally not found landlords liable for criminal offenses by third parties, including those of tenants (Clark 2007 "Landlord Attitudes").** Landlords are more often held liable for a failure to address safety concerns of tenants. Landlords can be liable for failing to maintain a building and fix broken doors, locks, windows, and lighting as soon as possible, especially if noted by a tenant (see [Feld v. Merriam 1984](#)). A written admissions screening policy that takes into account the nature of the offense and time since the offense is also another way to protect from liability ([Click here for Sterling Glen's model policy](#)).

## MYTH

Renting to someone on parole or probation is a big risk and has no upsides.

## FACT

**People on parole or probation must frequently check in with their parole or probation officer, which may benefit both the tenant and landlord.** The officer can act as an intermediary between landlord and tenant, verify the condition of the unit, and handle any issues before the landlord. People on parole or probation must also meet certain conditions beneficial to a landlord, such as maintaining employment and being a positive presence in the community, and people on parole may be required to undergo regular urine testing for illegal drugs. To learn more about parole, see [Pennsylvania Department of Correction's "Understand the Process: Your Parole Handbook."](#)

## MYTH

It is never a good idea to rent to someone who has committed a sex offense.

## FACT

**Contrary to popular belief, research finds that people convicted of a sexual offense have low rates of recidivism and are less likely to commit another offense (PARSOL “Fact Sheet on Prevention”).** PA Megan’s Law also requires registration for a broad spectrum of offenses, which obscure the circumstances and nature of the offense. For example, people may be required to register for urinating in public or indecent exposure, even if committed as a teen. It is a best practice to conduct an individualized review to provide an opportunity for the applicant to respond and determine trustworthiness (Click [here](#) for Sterling Glen’s model policy).

## MYTH

I shouldn’t accept any referrals of people with a criminal record from community or government agencies.

## FACT

**Unlike other applicants, someone referred by a community or government agency is receiving “case management” and other supportive services intended to ensure they succeed as a tenant.** The community agency can act as an intermediary between landlord and tenant, mediating any conversations or issues that arise. Access to supportive services improves a tenant’s chances of meeting rental obligations, especially for those with serious mental illness or chronic substance use (Malone 2019 “Assessing criminal history”). Some agencies may provide other assistance and financial incentives to landlords.

## MYTH

I shouldn’t rent to anyone with an eviction record.

## FACT

**Eviction screenings, like credit and criminal background screenings, are not always accurate and do not tell the full story.** For example, one roommate failing to pay may lead to an eviction filing for everyone on the lease. Along with mistaken identities and information, court databases and screening companies do not always provide information on the outcome of the case, such as the winning party or if a settlement was reached (Porton et al. 2020 “Inaccuracies in Eviction Records”). Women and people of color are disproportionately affected by unlawful detainer and eviction actions. In order to not miss out on a reliable tenant, a best practice is to automatically perform an individualized review of any applicant with an eviction history. The review should take into account other characteristics and provide an opportunity for applicants to respond and share positive changes (Click [here](#) for Sterling Glen’s model policies).

## Examples of Discriminatory Policies:

- „Automatically rejecting any applications where an applicant has checked the box for a criminal record or eviction record or, with respect to applicants with a felony conviction, rejecting them without taking into account the nature of their offense and time passed since it was committed.
- Using a criminal record as a pretext to discriminate on another basis such as race, sexual orientation, national origin, or disability.
- Rejecting an applicant with a criminal record due to a past drug addiction if they have successfully completed a treatment program and can provide documentation. (Being in recovery from past substance use is considered a disability and protected under the Fair Housing Act.)
- Running criminal background checks on certain applicants but not others.
- Posting advertisements that say, "People with a criminal record should not apply."

For a model screening policy, [click here for Sterling Glen’s policy](#).

\*Disclaimer: The information provided is not intended to and does not constitute legal advice.