



Office of the City Manager

INFORMATION CALENDAR
May 9, 2023

To: Honorable Mayor and Members of the City Council
From: Dee Williams-Ridley, City Manager
Submitted by: Lisa Warhuus, Director, Health, Housing, and Community Services
Subject: Annual Report on the Ronald V. Dellums Fair Chance Access to Housing Ordinance

INTRODUCTION

This report is to provide the required annual report on the City of Berkeley's Ronald V. Dellums Fair Chance Access to Housing Ordinance activities between April 14, 2020 and December 31, 2022.

CURRENT SITUATION AND ITS EFFECTS

The Ronald V. Dellums Fair Chance Access to Housing ordinance was adopted on April 14, 2020. The ordinance prohibits rental housing providers from considering criminal history in making rental housing decisions or selecting tenants (BMC 13.106). The City of Berkeley contracted with the community-based organization Just Cities and the Berkeley Rent Stabilization Board to assist with ordinance implementation, outreach, and audits.

Implementation

Department of Health, Housing, and Community Services' Housing and Community Services Division (HHCS/HCS) staff worked with Just Cities to produce educational and reporting materials as required by Berkeley Municipal Code (BMC) Chapter 13.106.050, including:

- Notice to rental property owners
- Notice to applicants and tenants
- Frequently Asked Questions (FAQ) for formerly incarcerated people and their family members
- FAQ for housing providers
- Annual reporting form for affordable housing providers

Rent Stabilization Board counselors were trained to educate property owners and tenants and to respond to complaints. HHCS/HCS and Rent Board established a dedicated Fair Chance webpage with educational materials and resources:

https://rentboard.berkeleyca.gov/Fair_Chance#:~:text=The%20Fair%20Chance%20Access%20to,process%2C%20or%20decision%2Dmaking.

Outreach

Just Cities conducted six outreach efforts to provide community education about the Fair Chance Housing ordinance. The target audiences were formerly incarcerated people and their family members, re-entry service partners, and rental housing providers. Key outreach and education milestones are highlighted in the Table 1.

Table 1. Fair Chance Housing Outreach Campaign-Detailed Reporting Information		
Outreach Type	Details	Total Views/ Impressions
Street Outreach	- Flyer/brochure distribution through 1-1 community education, community gatherings, events, and drop offs at the following organizations: The Berkeley Food Pantry, Berkeley Food Network, Dorothy Day House: Berkeley Community Resource Center, BFHP Community Meal, Berkeley Adult School - Distributed postcards at 15 community gatherings, events, and resource distribution centers	531
Social Media Outreach	- Social media campaign featured the "Where Do I Go?" music video by Hip Hop for Change on Facebook, Twitter, Instagram	746
Group/ Events Outreach	- Multiracial re-entry network groups - Berkeley street outreach was conducted including at Ashby Flea Market	5,565
Print Media Outreach	- Printed PSA ads were published in the Oakland Post, East Bay Times: Berkeley Voice, and East Bay Express	33,244
Trainings/ Webinars	- Three trainings were held for landlords in partnership with Rent Board, City of Berkeley, and Berkeley Property Owners Association - Two trainings were held for formerly incarcerated individuals and their families in partnership with Berkeley Tenants Union, Underground Scholars, and All of Us or None.	74
Public Advertising	- Five bus shelter ads were displayed during 5/9-6/19/22 at: University Ave & San Pablo Ave, Sacramento St & Ashby Ave, Ashby Ave & Adeline St, Shattuck Ave & Parker St, San Pablo Ave & University Ave	2,245,200 estimated
TOTAL		2,285,360*

*40,160 excluding bus shelter ad viewership.

Audits

Just Cities conducted two email audits, during the summers of 2020 and 2021, to examine the impact of the ordinance on rental housing providers in Berkeley and Oakland. The audits identified that housing providers responded differently to testers with a criminal history and to testers who had a perceived Black name.

In 2020, 71% of respondents operated in compliance with the of the Fair Chance Housing ordinance. In 2021, the sample demonstrated 66% of respondents operated in compliance. This demonstrates the majority of housing providers in Berkeley are not considering criminal history in making rental housing decisions or selecting tenants. However, additional outreach may be effective to close the gap of reported violations. The response rate for housing providers from the City of Berkeley was 67% across both years.

Reported Violations

The City contracted with the Rent Board for ordinance administration and enforcement. The Rent Stabilization Board reported no filed complaints during the contract period.

Implementation and outreach activities for the Ronald V. Dellums Fair Chance Housing ordinance is a Strategic Plan Priority Project; advancing our goal to create affordable housing and housing support services for our most vulnerable community members.

BACKGROUND

Formerly incarcerated people face many structural barriers, including access to housing. This increases the risk of recidivism, furthering the cycle caused by an inequitable criminal justice system. The Ronald V. Dellums Fair Chance Access to Housing ordinance was adopted on April 14, 2020. The ordinance prohibits rental housing providers from considering criminal history in making rental housing decisions or selecting tenants (BMC 13.106).

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no environmental impacts associated with the outcomes of this report.

POSSIBLE FUTURE ACTION

Council may consider funding the Rent Stabilization Board and/or a community-based organization to continue implementation, education, outreach, and monitoring efforts. The City contracted with the Rent Stabilization Board to support policy implementation, counseling, and administrative determinations/hearings. The City previously contracted with Just Cities to provide education and outreach.

HHCS/HCS does not have staff capacity for the outreach, counseling, and administrative support required to implement the ordinance. Staff recommend a continuation of the contract with the Rent Stabilization Board to ensure proper service to the community.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

The City contracted with the Rent Stabilization Board for staff time dedicated to outreach and administration at a cost of \$115,850 for one year. The City contracted with Just Cities for education and outreach at a cost of \$35,000 over two years. Council may consider funding for staff time or a community-based organization to continue education, outreach, and monitoring.

CONTACT PERSON

Mariela Herrick, Community Development Project Coordinator, HHCS, 510-981-5424

Attachments:

1: Just Cities Year 1 & 2 Audit Report

DATE: January 13, 2023

TO: City of Berkeley Officials

FROM: Margaretta Lin, JD, MA, Executive Director & Report Co-Author; Mariel Mendoza, MPH, MPP, Dellums Policy Justice Fellow & Report Co-Author; Dan Lindheim, PhD, JD, MCP, MPH, Report Advisor

SUBJECT: Reporting results from email correspondence audit study assessing racial profiling and discrimination against applicants with criminal records

SUMMARY

Funded by the City of Berkeley, Alameda County, and private foundations, Just Cities conducted two email audits in the Summers of 2020 and 2021 examining the impact of new Fair Chance Housing Ordinances on rental housing providers in Berkeley and Oakland. This audit revealed that a considerable number of housing providers across both cities responded differently to testers with a criminal history, or with a perceived Black name. These audits found that 71% of Berkeley and Oakland housing providers audited in 2020 and 66% in 2021 were in compliance with Fair Chance Housing ordinances. An analysis found that this difference in ordinance compliance rates from 2020 and 2021 were not statistically significant. Community outreach, education and housing provider education, including notices sent by the Cities of Berkeley and Oakland to housing providers, may be instrumental in these findings. .

However, the audits also suggest the need to continue and expand both outreach and education, as well as strategic enforcement and regulation to both sustain and improve the policy implementation outcomes.

The Year 1 audit conducted in the Summer of 2020 sent rental inquiry emails to housing providers from 3 profiles to assess for potential discrimination on the basis of race and criminal history in the rental market. The results of these emails, or tests, were organized into 4 categories that highlight the extent (if any) of discriminatory behavior by the housing provider. The Year 2 audit used the same method to assess for discrimination in 2021, plus included an additional email test between two Black profiles to provide more insight into potential differential treatment on the basis of criminal history for Black inquirers.

The results of the **2020 audit** suggest that housing providers showed potentially discriminatory behavior on the basis of criminal history in **23%** of tests across both cities, which may have violated Fair Chance Housing ordinances. Potential discrimination on the **basis of race**, where housing providers showed preferential treatment of White inquiries over Black inquiries, was found in **3% of tests** conducted across both cities. Differential treatment on the basis of both **race and criminal history** was found in **6% of tests** across both cities.

The results of the **2021 audit** suggest that housing providers potentially showed discriminatory behavior on the **basis of criminal history** in **22% of tests** across both cities, potentially violating Fair Chance Housing Ordinances. In 2021, discriminatory behavior on the **basis of race** was found in **6%** of tests conducted across both cities. Differential treatment on the basis of both **race and criminal history** was found in **12% of tests** across both cities. However, when **testing only between Black testers** (one with a criminal history and one without) in Test II, the 2021 audit found that housing providers showed differential treatment on the **basis of criminal history in 28% of tests** across both cities. Interestingly, responses were higher for the inquiries sent from a Black tester with a criminal record (35%). While this may be partially attributed to the order in which inquiries were sent, future audits will be able to shed more light on this finding. There was no statistically significant difference between 2020 and 2021 results, with the exception of housing providers potentially engaging in differential treatment on the basis of both criminal history and race, which increased from 6% to 12% across both cities in 2021.

2020 LANDLORD AUDIT STUDY (YEAR 1)

INTRODUCTION

Many formerly incarcerated people encounter discrimination in finding housing upon release. Research and lived experiences evidence that this discrimination is worse for racial minorities. This may lead to severely limited economic opportunity, thereby increasing the chances of recidivism.¹ In early 2020, Just Cities and the Alameda County Fair Chance Housing Coalition successfully led the passage of Fair Chance Access to Housing Ordinances in Oakland and Berkeley. The effective dates were February 2020 and April 2020, respectively. However, a grace period of 6 months was originally provided in Berkeley and Oakland, which means that while housing providers were required to follow the ordinances, any housing providers that violated the ordinance during the grace period would not be legally liable unless the City had first issued a prior warning. In the city of Berkeley, because of COVID-19, the grace period was extended from September 2020 to January 2021. These grace periods gave housing providers time to learn about the new laws and provided time for the cities to create implementation systems, including FAQs and complaint forms.

The purpose of this audit study was to create a baseline for current levels of discrimination on the basis of criminal history and race in the rental housing market. A separate participatory impact evaluation study of the Fair Chance Housing laws in Oakland and Berkeley involving qualitative and quantitative research is also being conducted.

Given COVID-19 and shelter-in-place requirements, this audit study was conducted by email. Differences in response and type of response to written inquiries of online rental listings were used to assess discriminatory behavior on the basis of criminal history and race. While these profiles were created with the idea of being prospective rental applicants, they are referred to as “inquirers” or “testers” throughout this report. The audit employed a test that included a White male inquirer with a criminal history, a Black male inquirer without a criminal history, and a White male inquirer without a criminal history. This is the first in a series of audit studies seeking to track changes in housing provider responses over time.

¹ Clark, V.A. (2015). The Effect of Community Context and Post-Release Housing Placements on Recidivism: Evidence from Minnesota. Minnesota Department of Corrections.

METHODOLOGY

Listings and Scope

The audit included Craigslist posts for rental properties in Berkeley and Oakland, as well as listings posted directly on property managers' websites. All available Craigslist listings were pulled using an online web-scraper over the course of two one-week periods, and inquiries were sent within four days of their posting. Duplicate listings were removed, and only one listing per housing provider was inquired about to avoid sending multiple inquiries to single property managers or landlords. The testing team then sent inquiries to the 306 eligible listings (183 listings in Oakland, and 123 listings in Berkeley). The team received a total of 212 responses; with a 71% response rate from Oakland housing providers, and a 67% response rate from Berkeley housing providers.

Test Design and Applicant/Tester Profiles

Three profiles were created for this email audit:

- 1) a White male inquirer with a self-disclosed criminal history,
- 2) a Black male inquirer without a criminal history, and
- 3) a White male inquirer without a criminal history.

The email inquiries sent by the first inquirer (White male with a criminal history) included direct language acknowledging that they are formerly incarcerated: “I have a criminal record, but have been at my job for over 5 years, have stable income, great credit, roommate and landlord references, and have rented in the Bay Area for many years.”

Name Generation Methodology

Names were selected using census and birth record data to signal race by selecting first and last names with high frequency of use for White and Black racial categories. “Black” and “White” appearing last names were randomly generated using 2000 Census data on last names with the greatest likelihood by race. Considering the findings of Gaddis (2017), the first names with highest perception rates of race were pulled and matched with last names in corresponding racial categories.² 10 names were generated from each racial category and then each name was matched with the same template response message to lessen

² Gaddis, S. Michael. 2017. “How Black Are Lakisha and Jamal? Racial Perceptions from Names Used in Correspondence Audit Studies.” *Sociological Science* 4: 469-489.

chances of detection. An email address was generated for each inquirer. Profiles were created for each inquirer that described their occupation and incomes, which were at least 3 times the asking rent.

Conducting Tests

The testers inquired about listings (Craigslist, Zillow, Apartments.com, and individual property manager's websites/portals) posted between August 24-31 within a specific price range.

- The price threshold was \$1,500 for 1 bedrooms/studios, \$2,500 for 2 bedrooms, and \$3,500 for 3+ bedrooms.³

An email inquiry was sent from the first profile (White male with a criminal history) email account, within 24 hours email inquiries were sent from the second and third inquirers (Black male without a criminal history and White male without a criminal history, respectively). Responses were tracked and organized on a centralized spreadsheet. The categorization of responses are described in detail below.

Categorization of Results

Due to the nature of this study using email inquiries rather than actual rental application submissions, we cannot definitively say that housing providers acted discriminatory against any inquirers. Therefore, outside of the "No Differential Treatment" category, these results demonstrate the potential to show discriminatory behavior in the following categories:

- **No Differential Treatment:** All testers received the same response.
- **Differential Treatment on the basis of Criminal History and/or Potential Violation of Fair Chance Housing Ordinance:**
 - Only inquirers without criminal histories received responses.
 - Housing providers inquired about the nature of the criminal history
 - and/or housing providers stated that the criminal history would impact their application
 - and/or application materials state no criminal history accepted
 - and/or advertised listing states no criminal history accepted.
- **Differential Treatment on the basis of Race:**
 - Only White inquirers, with or without a criminal history, received a response.

³ These rent levels were decided on through focus group sessions with impacted residents and policy and outreach leaders and using local median rent prices.

- **Differential Treatment on the basis of Criminal History AND Race:**
 - Only the White inquirer without a criminal history received a response
 - OR the White inquirer without a criminal history received a response, but the White inquirer with a criminal history received a conditional response. For example, the white inquirer with a criminal history would be asked more about their criminal history and/or told it would affect their application.

YEAR 1 (2020) RESULTS

Review of Rental Housing Advertisements

Six Berkeley listings out of the 123 reviewed listings (4%) had clear violations of the Fair Chance Housing Ordinances on advertisements or applications. Three applications had questions related to providing background checks on the application, while 3 advertisements had questions about consenting to a background check on the website platform.

Six Oakland listings out of the 183 reviewed listings (3%) had advertisement or application violations. These applications all included a question about consenting to a background check.

Email Testing

Inquiries were sent to a total of 306 rental listings. Inquiries in Berkeley received 82 responses, and inquiries in Oakland received 130 responses (total of 212), for a total response rate of 69%. The following results are based upon an assessment of the 212 responsive tests across Berkeley and Oakland.

- 147 tests out of 212 tests (69%) are categorized as “No differential treatment,” where inquiries received the same response across all 3 profiles.
- In 66 tests (31%) there was some form of differential treatment: 1) 23% of tests were categorized as “differential treatment on the basis of criminal history”, 2) 3% of tests were coded as “differential treatment on the basis of race,” 3) and 6% of tests were categorized as “differential treatment on the basis of both race and criminal history.”

The full details of the test results are provided below.

Differential Treatment on the Basis of Criminal History and/or Potential Violations of the Fair Chance Housing Ordinance

Potential violations of Fair Chance Housing law found during the audit study include: housing providers asking inquirers to disclose their specific criminal history; not responding to inquiries sent from profiles with criminal histories while responding to inquiries from profiles that do not disclose a criminal history; asking inquirers if they have a criminal history on their application forms, asking for consent to run a background check; or advertising that people with a criminal record cannot apply. An average of 23% of tests across both cities met at least one of these criteria; 20% of tests in Berkeley and 24% of tests in Oakland.

Specifically, 8 housing providers in Berkeley and 4 in Oakland asked inquirers to provide more information or elaborate on their criminal history. These 12 housing providers still offered virtual/in-person tour options. However, these providers made it clear that criminal history was a decision factor for them. Additionally, 6 housing providers in Berkeley and 17 in Oakland did not respond to inquirers that disclosed having criminal histories, but did reply to both Black and White testers without criminal histories. It is unclear if housing providers knew that the Fair Chance Housing ordinance had passed.

Differential Treatment on the Basis of Race

Out of the 212 responses received across both Oakland and Berkeley, 6 (3%) suggest housing providers showed differential treatment on the basis of race. In both Berkeley and Oakland, 3 housing providers responded only to the White inquirers with and without a criminal history, while not responding to the Black inquirer that did not disclose having a criminal history.

Differential Treatment on the Basis of Both Criminal History and Race

Across both cities, 12 (6%) tests suggest housing providers showed differential treatment on the basis of both criminal history and race. In 4 Berkeley tests and 8 Oakland tests, housing providers gave preference to the White inquirer with no criminal history over the other inquirers. This mainly showed up as housing providers only responding to the White tester without a criminal history, and ignoring other inquiries. This also included cases in which providers followed up more persistently with the White inquirer without a record compared to the other testers.

Table 1: 2020 Rental inquiry responses in Berkeley and Oakland by type of response

	Berkeley		Oakland		TOTAL	
	Number of Tests	Percent	Number of Tests	Percent	Number of Tests	Percent
No differential treatment	58	72%	88	68%	146	69%
Differential treatment (criminal history alone)/ Potential Violation of FCH Ordinance	17	20%	31	24%	48	23%
Differential treatment (race)	3	4%	3	2%	6	3%
Differential treatment (criminal history and race)	4	5%	8	6%	12	6%
TOTAL TESTS	82		130		212	

**Percent values rounded to nearest whole percent*

Berkeley Response Rate: $82/123= 67\%$

Oakland Response Rate: $130/183= 71\%$

LIMITATIONS

For various reasons, there are limitations in the design and outcome of this study. First, the team was limited to conducting an email correspondence audit under the circumstances caused by the COVID-19 global pandemic. This type of (pre-application) rental inquiry may underestimate the true degree of discrimination. Since this audit did not test the same housing provider more than once, there may be a sampling bias over-weighting smaller housing providers versus larger landlords, which may have dozens of properties for lease at once. In our testing for differential treatment on the basis of race, we relied heavily on providers to associate names with Blackness or Whiteness. Although names were chosen that statistically signal race strongly based on census and birth record data (a common racial audit feature), individual landlords or property managers may not have made associations between names and race for

any number of reasons. Similarly, while comparable income and education levels were implied across all profiles through email inquiries, housing providers' may make different individual associations when considering the profiles of these inquirers.

Additionally, the COVID-19 crisis has affected the entire rental housing market, which has continued to change as the pandemic progresses. COVID-19 caused financial strain on many tenants and housing providers. As a result, providers may have expedited their rental application process, loosened their typical restrictions to quickly find tenants, or reacted in other ways to assure their income. Further, racial justice movements sweeping across the country beginning in June 2020 may have shifted providers' consciousness or decision making processes. However, it should also be noted that responses to inquiry emails asking for tours or more information do not equate to rental housing offers nor do they offer insight into which inquirers receive priority. This pre-application testing does not indicate whether a housing provider would actually rent a property to applicants with a criminal record when given the option of renting to a similarly qualified applicant without a criminal record.

CONCLUSIONS AND NEXT STEPS

The results of the Year 1 audit indicate that in roughly 71% of cases, housing providers in Berkeley and Oakland did not demonstrate potential discriminatory behavior on the basis of criminal history. This suggests that many housing providers in Berkeley and Oakland may not consider criminal history as an important factor in making rental housing decisions or selecting tenants who will pay rent in a timely manner and upkeep their rental unit. However, there remained a considerable level of potentially discriminatory behavior on the basis of criminal history and race across the two cities (29% of tests). Particularly noticeable were potential violations of the Fair Chance Housing Ordinances in 20% of tests in Berkeley and 24% of tests in Oakland.

As an organization rooted in principles of transformative justice, Just Cities will continue to work closely with housing providers in Berkeley and Oakland to engage in landlord education and strategies to address discriminatory perceptions of people who have criminal histories. Just Cities has been and will continue to conduct informative webinars with housing providers, inclusive of private landlords and property managers, affordable housing providers, Section 8 landlords, and housing authorities in Berkeley and Oakland. Just Cities seeks to engage housing providers in amicable dialogue and education to meet the ultimate goal of providing people with criminal histories fair access to housing.

2021 LANDLORD AUDIT STUDY (YEAR 2)

INTRODUCTION

Similarly to 2020, the audit conducted in 2021 was designed as an email correspondence audit due to COVID-19 and social-distancing recommendations. Differences in response and type of response to written inquiries to online rental listings were used to assess discriminatory behavior on the basis of criminal history and race. In both years, the audit employed a test that included a White male inquirer with a criminal history, a Black male inquirer without a criminal history, and a White male inquirer without a criminal history. While this was the sole test conducted in 2020, it is referred to as “Test I” in the 2021 study. The 2021 audit includes an additional test, referred to as Test II. Test II tested between two Black male inquirers, one with and one without a criminal history. This allows researchers to parse out when discriminatory behavior was primarily on the basis of race or criminal history. While these profiles were created with the idea of being prospective rental applicants, they are referred to as “inquirers” or “testers” throughout this report.

METHODOLOGY

Listings and Scope

The audit covered Craigslist posts for properties in Berkeley and Oakland. All available Craigslist listings were pulled using an “scraping” tool over the course of four one-week periods, and inquiries were sent to housing providers within 3 days of their posting. Duplicate listings were removed, and only one listing per housing provider was inquired about to avoid sending multiple inquiries to single property managers or landlords. The testing team then sent inquiries to the 348 eligible listings (199 listings in Oakland, and 149 listings in Berkeley). The team received a total of 199 responses for a response rate of 57%; 126 (63%) from Oakland housing providers, and 73 (49%) from Berkeley housing providers.

Test Design & Applicant/Tester Profiles

Test I: Three profiles were created for this email audit: 1) a White male inquirer with a self-disclosed criminal history, 2) a Black male inquirer without a criminal history, and 3) a White male inquirer without a criminal history. The email inquiries sent by the first inquirer (White male with a criminal history)

included direct language acknowledging that they are formerly incarcerated: “I want to be upfront- I have a criminal record, but I have been at my job for over 5 years, have good credit, and can provide references.”

Matching 3 profiles allowed for insight into whether race and/or criminal history affect a housing provider’s decisions to respond to a rental inquiry. Specifically, it allowed for the team to determine if there was a difference in response on the basis of race by examining the responses to White vs. Black inquirer without criminal histories, as well as if there is a difference in response on the basis of criminal history by examining the response to the White inquirer with a criminal history, and the one without.

Test II: Two profiles were created for this email audit: 1) a Black male inquirer with a self-disclosed criminal history and 2) a Black male inquirer without a criminal history. The email inquiries sent by the first inquirer (Black male with a criminal history) included direct language acknowledging that they are formerly incarcerated: “To be transparent, I am formerly incarcerated- I am happy to provide any professional or personal references.” Testing directly between a Black inquirer with a record and a Black inquirer without a record provides insight into differential treatment on the basis of criminal history for Black applicants.

Name Generation Methodology

Names were selected using census and birth record data to signal race by selecting first and last names with high frequency of use for White and Black racial categories. “Black” and “White” appearing last names were randomly generated using 2000 Census data on last names with the greatest likelihood by race. Considering the findings of Gaddis (2017), the first names with highest perception rates of race were pulled and matched with last names in corresponding racial categories.⁴ Ten names were generated from each racial category and were assigned with the same template response message to lessen chances of detection. A unique email address was generated for each inquirer. Profiles were created for each inquirer that described their occupation and incomes, which were at least 3 times the asking rent.

Conducting Tests

- Eligible listings were randomly divided into 2 equal sized groups for Test I and Test II.

⁴ Gaddis, S. Michael. 2017. “How Black Are Lakisha and Jamal? Racial Perceptions from Names Used in Correspondence Audit Studies.” *Sociological Science* 4: 469-489.

- Email inquiries were sent to listings within the specified price range for studios, 1 BR, 2BR, and 3+ BR apartments.
- The price threshold was \$2,000 for 1 bedrooms/studios, \$3,000 for 2 bedrooms, and \$4,000 for 3+ bedrooms.⁵

Test I: An email was sent from the first inquirer (White male with a criminal history) email account, followed by an email inquiry from the second and third inquirers (Black male without a criminal history and White male without a criminal history, respectively) within 24 hours.

Test II: An email from the Black inquirer with a criminal history was sent, followed by an email inquiry (within 24 hours) from the account of the Black inquirer without a criminal history.

Responses were collected on a centralized spreadsheet where team members could track when someone was actively working on a rental inquiry for a listing (to avoid duplicates). The categorization of responses are described in detail below.

Categorization of Results

The outcomes of the email inquiries were organized into the categories listed below. Due to the nature of this study using email inquiries rather than actual housing applications, we cannot definitively say that housing providers acted discriminatory against any inquirers. Therefore, outside of the “No Differential Treatment” category, these results demonstrate the potential to show discriminatory behavior in the categories described below.

Test I: The responses to inquiry emails were categorized into the following:

- **No Differential Treatment:** All inquiries received the same response.
- **Differential Treatment on the Basis of Criminal History and/or Potential Violation of Fair Chance Housing Ordinance:**
 - Only inquirers without criminal histories received responses
 - Housing providers inquired about the nature of the criminal history;
 - And/or housing providers stated that the criminal history would impact their application;
 - And/or application materials state no criminal history accepted;
 - And/or advertised listing states no criminal history accepted.

⁵ These rent levels were decided on through focus group sessions with impacted residents and policy and outreach leaders and using local median rent prices.

- **Differential Treatment on the Basis of Race:**
 - Only White inquirers, regardless of criminal history, received a response.
- **Differential Treatment on the Basis of Criminal History AND Race:**
 - Only the White inquirer without a criminal history received a response
 - OR the white inquirer without a criminal history received a response, but the White inquirer with a criminal history received a conditional response.
 - For example, the White inquirer with a criminal history would be asked more about their criminal history and/or told it would affect their application.

Test II: The responses to inquiry emails were categorized into the following:

- **No differential treatment:**
 - All inquirers received the same response.
- **Differential Treatment on the Basis of Criminal History and/or Potential Violations of the Fair Chance Housing Ordinance:**
 - Only inquirer without a criminal history received a response;
 - And/or housing providers inquired about the nature of the criminal history;
 - And/or stated that the criminal history would impact their application;
 - And/or application materials state no criminal history accepted;
 - And/or advertised listing states no criminal history accepted.
- **Housing Provider Only Replied to Inquirers Who Disclosed Having a Criminal Record:**
 - Only the first inquirer, the Black male who disclosed having a criminal history received a response, while the inquirer without a criminal history did not receive a response.

RESULTS

Review of Rental Housing Advertisements

Three Berkeley listings out of the 149 reviewed listings (2%) had advertisement or application violations; one advertisement stated a “Clean criminal record” was required. Two applications included a question on criminal history.

Four Oakland listings out of the 199 reviewed listings (2%) had advertisement or application violations. One advertisement stated "Credit/background check + references required." One advertisement stated: "Application fee details: \$35 - Background check/etc." Two reviewed applications included a question

asking potential applicants about drug related convictions. These findings were not found to be significantly different from year 1 results.

Email Testing

Inquiries were sent to a total of 348 eligible listings. Inquiries in Berkeley received 73 responses, and inquiries in Oakland received 126 (total of 199), for a total response rate of 57%. The following results are based upon an assessment of the 199 responsive tests across Berkeley and Oakland.

For Test I across Berkeley and Oakland:

- In 72 tests (60%), there was no suggestion of differential treatment between the inquiries sent for all 3 profiles.
- In 49 tests (40%) there was some suggestion of differential treatment: 22% of tests suggest differential treatment on the basis of criminal history, 6% suggest differential treatment on the basis of race only, and 12% of tests suggest differential treatment on the basis of both criminal history and race.

For Test II, across Berkeley and Oakland:

- In 29 tests (37%) there was no suggestion of differential treatment between the two inquiries.
- In 22 tests (28%) there was indication of differential treatment on the basis of criminal history, possibly in violation of the Fair Chance Housing Ordinance. In 27 tests (35%), housing providers responded only to the inquirer who sent an inquiry first, disclosing their criminal history.

Test I Results

Differential Treatment on the Basis of Criminal History and/or Potential Violations of the Fair Chance Housing Ordinance

Violations of Fair Chance Housing law found during the audit study included housing providers asking inquirers to disclose their specific criminal history, not responding to inquiries sent from profiles disclosing criminal histories while responding to inquiries from profiles that did not have a criminal history, asking inquirers if they have a criminal history on application forms, asking for consent to run a background check, or advertising that people with a criminal record cannot apply. 23% of total tests in Berkeley and 22% of tests in Oakland resulted in a response meeting these criteria, for an average of 22% across both cities.

Differential Treatment on the Basis of Race

Across Berkeley and Oakland, 7 out of 121 tests (6%) suggested differential treatment on the basis of race; with 6 of these being in Oakland. In these tests, the housing provider responded to the inquirers with White-perceived names, but not to the testers with Black-perceived names. This raises concerns about civil rights violations across a small, but considerable portion of renters.

Differential Treatment on the Basis of Both Criminal History and Race

In 10 Berkeley tests (23%) and 5 Oakland tests (6%), housing providers gave preference to the White inquirer without criminal history over the Black inquirers without a criminal history and the White inquirers with a criminal history. This was demonstrated by housing providers only responding to the White inquirer without a criminal history, and ignoring the other inquiries. Cases where housing providers responded most preferentially to the White inquirer without a record were also included in this category. For example, in one test a housing provider only responded to the White inquirer, but still requested additional information for the White inquirer with the criminal history. In another test, a housing provider did not respond to the White tester disclosing a criminal history, but responded to the White inquirer without a criminal record stating that they would be “a perfect fit for our community.” Yet their response to the Black inquirer did not include any comments on “fit” or desirability of the inquirer.

Meaningful Differences Between Year 1 and Year 2

When comparing the rates of housing providers that responded to all 3 profiles the same (“No differential treatment”), the research team found no significant difference in the proportion of housing providers in this category across both years of the audit. In year 1 approximately 69% of housing providers showed no differential treatment across profiles, while this proportion fell to 60% in year 2 (test 1). The statistical analysis between the year 2 and year 1 results show that the difference was not statistically significant.⁶ However, the same analysis did conclude that there was a statistically significant increase in the proportion of providers that showed potentially discriminatory behavior in the “Differential Treatment on the Basis of Criminal History and Race” category from year 1 to year 2.⁷ However, since so few tests fell into this category, this may be a reflection of working with a limited sample size. Comparisons from the year 1 and year 2 audit must be made with caution, given the changing circumstances of the COVID-19 pandemic. Other constraints are described in the Limitations section.

⁶ For statistical analysis details, see Appendix

⁷ *ibid.*

Test II Results

These results are based on inquiries utilizing two “Black” profiles, one with a criminal record and one without a criminal record. There were a total of 78 housing provider responses assessed.

Differential Treatment on the Basis of Criminal History and/or Violations of Fair Chance Housing Ordinance

In 28% of total tests in Berkeley and 29% of tests in Oakland, responses to inquiries met the criteria for differential treatment on the basis of criminal history, for an average of 28% across both cities. This mainly included instances where housing providers only responded to the Black inquirer without a criminal history, and did not respond to the Black inquirer with a criminal history.

Housing Provider Only Replied to Applicants Who Disclosed Having a Criminal Record

In 35% of tests across Berkeley and Oakland, the Black male inquirer who disclosed a criminal history received a response but not the Black inquirer without a criminal record. This was more often the case in Berkeley, with 45% of total tests reflecting this situation, while Oakland had 29% of tests with this situation. A portion of these responses may be explained by the order in which these inquiries were sent. Inquiries were sent from the profile with a criminal record before inquirers without a criminal record. Since both inquirers in this test were Black, housing providers may have relied more on timing when responding to email inquiries than in other tests. This preference due to timing is limited in the design of Test I, where the white inquirer without a criminal history is the last to inquire about the rental listing (sent after white inquirer with a criminal history and the Black inquirer without a criminal history). Additionally, the response rate in this test (40% in Berkeley and 52% in Oakland) was substantially lower than the response rate for test 1 (57% in Berkeley and 74% in Oakland). This lower response rate alone may signal something about housing providers preferences in responding to rental inquiries.

Table 2: 2021 Test I Results (3 Stage Sandwich Test)

	Berkeley		Oakland		TOTAL	
	Number of Tests	Percent	Number of Tests	Percent	Number of Tests	Percent
No differential treatment	23	52%	49	64%	72	60%
Differential treatment (criminal history)/ Violation of FCH Ordinance	10	23%	17	22%	27	22%
Differential treatment (race)	1	2%	6	8%	7	6%
Differential treatment (criminal history and race)	10	23%	5	6%	15	12%
TOTAL TESTS	44		77		121	

**Percents values rounded to nearest whole percent*

Berkeley Response Rate: $44/77 = 57\%$

Oakland Response Rate: $77/104 = 74\%$

Table 3: 2021 Test II Results (2 Stage Test) (Only 2 Testers: Both “Black”, 1 with a criminal record and 1 without)

	Berkeley		Oakland		TOTAL	
	Number of Tests	Percent	Number of Tests	Percent	Number of Tests	Percent
No differential treatment	8	28%	21	43%	29	37%
Differential treatment(criminal history)/ Violation of FCH Ordinance	8	28%	14	29%	22	28%
Housing Provider only replied to applicant who disclosed having a criminal record	13	45%	14	29%	27	35%
TOTAL TESTS	29		49		78	

**Percent values rounded to nearest whole percent*

Berkeley Response Rate: $29/72= 40\%$

Oakland Response Rate: $49/95= 52\%$

LIMITATIONS

First, the team was limited to conducting an email correspondence audit under the circumstances caused by the COVID-19 global pandemic, and pre-application testing underestimates the degree of discrimination. Since this audit did not test the same housing provider, there may be a sampling bias over-weighting smaller housing providers versus larger landlords, which may have dozens of properties for lease at once. Responses to inquiry emails asking for tours or more information do not equate to rental housing offers nor do they offer insight into which applicants receive priority. In our testing for differential treatment on the basis of race, we relied heavily on renters to associate names with Blackness or Whiteness. Although names were chosen that statistically signal race strongly based on census and birth record data (a common racial audit feature), individual landlords or property managers may not have made associations between names and race for any number of reasons. Similarly, while comparable income and education levels were implied across all profiles through email inquiries, housing providers' may make different individual associations when considering these applicants.

Results from Audit Year 2 cannot be fully and directly compared to the results of Audit Year 1, largely given the fast changing circumstances of the COVID-19 pandemic. The testing team was still limited to conducting email correspondence testing; however, vaccinations and eased COVID-19 restrictions may have made it easier and more common for real-world applicants to attend open houses.

COVID-19 caused an immense amount of financial strain on tenants and housing providers. By 2021, housing providers may have expedited their rental application process, loosened their typical restrictions to quickly find tenants, or reacted in other ways to assure their income during uncertain times. Additionally, tenants who moved out of the Bay Area in 2020 due to the pandemic may have started moving back in 2021. Also, the lifting of COVID-19 restrictions may have resulted in additional people moving to Oakland or Berkeley (for example, college students who left/delayed a move due to the pandemic may have returned for in-person school). Further, racial justice movements have persisted across the country since June 2020. It remains possible that housing providers may be making conscious decisions on the basis of racial justice issues and discrimination as a reaction to these events. However, this type of pre-application interaction with housing providers is very limited, and does not indicate whether or not a housing provider would actually rent the property to applicants with a criminal record when given the option of renting to a similarly qualified applicant without a criminal record.

CONCLUSIONS AND NEXT STEPS

The results of both tests in this audit indicate that some housing providers continue to potentially discriminate against Black rental inquiries and inquiries from people with criminal histories to varying degrees.

Test I suggests that some Berkeley and Oakland housing providers practice differential treatment in inquiries from people with a criminal history in 22% of cases. This audit also suggests a smaller, yet considerable number of housing providers treated inquirers differently on the basis of race in 6% of rental inquiries across these cities. Furthermore, 23% of tests in Berkeley and 6% of tests in Oakland suggest housing providers practiced differential treatment on the basis of criminal history and race during this initial stage of rental inquiry. This is a troubling finding concerning the welfare of prospective renters of color or those with criminal histories in an already heavily competitive housing market. While 60% of tests suggest there were no instances of differential treatment, including race alone, 40% of any sort of differential treatment, including based upon race alone, is far too high.

Test II results matching Black profiles with and without criminal backgrounds provided further revealing results. Just 37% of tests across both cities indicated no instances of differential treatment. Together, 28% of tests in Berkeley and Oakland resulted in potential differential treatment against the inquirer with a criminal history. Housing providers were more likely to respond to “Black” inquirers when they disclosed having a criminal history (35%). One way of interpreting this finding is that housing providers may feel that prospective applicants choosing to disclose their histories may come across as more “trustworthy,” but it is possible that there are other factors that may better explain this finding.

While this study may highlight instances of discrimination that may be considered less “overtly discriminatory,” it is important to note that a considerable number of housing providers continue to make discriminatory decisions despite the passage of civil rights legislation and Fair Chance ordinances. Applicants of color, and especially those with a criminal history, will continue to face an uphill battle when searching for housing, despite having a deck already stacked against them.

As an organization rooted in principles of transformative justice, Just Cities will continue working closely with housing providers in Berkeley and Oakland to engage in landlord education strategies to address discriminatory perceptions of people who have criminal histories. Just Cities has been and will continue to conduct informative webinars with housing providers, inclusive of private landlords and property managers, affordable housing providers, Section 8 landlords, and housing authorities in Berkeley and Oakland. Just Cities seeks to engage housing providers in amicable dialogue and education to meet the ultimate goal of providing people with criminal histories fair access to housing.

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APPENDIX

* Statistical Analysis

Two-proportion Z-tests were used to assess for meaningful variations in Year 1 and Test I of Year 2. An alpha (α) of .05 is used to determine significance. The results of this analysis are summarized in Table A below. The only statistically significant variation in results between year 1 and year 2 (Test I) is in the proportion of housing providers that fell into the category “Differential Treatment on the basis of Criminal History and Race.” Two separate statistical analyses were conducted in order to strengthen the analysis: 1) a two-proportion z-test on all responses from year 1 and year 2 (Table A); and 2) a two-proportion z-test on a randomly selected sub-sample of responses (Table B). For the analysis in Table B a random sample of all provider responses (which were assigned unique numbers) was taken using a random number generator. A 2 proportion Z-test was then conducted using the responses corresponding to the randomly generated numbers and are summarized in Table B below.

Table A: Two-Proportion Z-Tests on Year 1 and Year 2 (Test I) results				
	Year 1	Year 2	Z-Score	P-Score
No Differential Treatment	69%	60%	1.72	.084
Differential Treatment on the Basis of Criminal History	23%	22%	.061	.951
Differential Treatment on the Basis of Race	3%	6%	-1.34	.185
Differential Treatment on the Basis of Criminal History and Race**	6%	12%	-2.17**	.030
** Indicates statistically significant variation between year 1 and year 2 results				

Table B: Sub-Sample Two-Proportion Z-Tests on Year 1 and Year 2 (Test I) results				
	Year 1	Year 2	Z-Score	P-Score
No Differential Treatment	69%	60%	1.7791	.084
Differential Treatment on the Basis of Criminal History	23%	22%	-0.7207	.951
Differential Treatment on the Basis of Race	3%	6%	0.5847	.185

Differential Treatment on the Basis of Criminal History and Race**	6%	12%	-2.056**	.030
** Indicates statistically significant variation between year 1 and year 2 results				

Year 1 Summary of Audit Test Responses

B- Test conducted for a Berkeley rental property. 82 responses were received

O- Test conducted for an Oakland rental property. 131 responses were received

Code	Findings
B1	No differential treatment
B2	No differential treatment
B3	No differential treatment
B4	No differential treatment
B5	No differential treatment
B6	No differential treatment
B7	No differential treatment
B8	Differential treatment (criminal record)- Asked inquirer to provide more information on their criminal history
B9	Differential treatment (criminal record and race)- Responded only to white inquirer with no record offering a showing; then apartment was rented and replied to all 3 inquirers telling them so and linking website, but only offered vacant apartment tours or video tours to the white inquirer with no record
B10	Differential treatment (criminal record)- Only replied to Black and white inquirers without record
B11	No differential treatment
B12	No differential treatment

B13	No differential treatment
B14	No differential treatment
B15	Differential treatment (criminal record)- Only replied to Black and white inquirer without criminal record; sent a follow up email with attached application to Black inquirer (but not to white inquirer); application contained the Box
B16	No differential treatment
B17	No differential treatment
B18	Differential treatment (race)- Only replied to white inquirers
B19	No differential treatment
B20	No differential treatment- “Thank you for being up front” included in message to inquirer with criminal record
B21	Differential treatment (criminal record) - Asks inquirer with criminal record for more information (offense type, how long ago), and mentions wanting to verify work record.
B22	No differential treatment
B23	No differential treatment: “I appreciate you being candid about your history!” included in message to inquirer with criminal record
B24	Differential treatment (criminal record) - Only replied to Black and white inquirers without criminal records
B25	No differential treatment
B26	No differential treatment
B27	Differential treatment(criminal record)- Asked inquirer to provide more information on their criminal history
B28	No differential treatment
B29	No differential treatment

B30	No differential treatment
B31	No differential treatment
B32	No differential treatment
B33	No differential treatment
B34	No differential treatment
B35	Differential treatment (race and criminal record)- Only replied to white inquirer without a criminal record
B36	No differential treatment
B37	No differential treatment
B38	No differential treatment
B39	Differential treatment (criminal record)- Asked inquirer to provide more information on their criminal history
B40	No differential treatment
B41	No differential treatment
B42	No differential treatment
B43	No differential treatment
B44	No differential treatment BUT states no criminal record online
B45	Differential treatment(race and criminal record)- Only replied to White inquirer without criminal history
B46	No differential treatment
B47	No differential treatment

B48	No differential treatment
B49	No differential treatment
B50	No differential treatment
B51	No differential treatment
B52	No differential treatment
B53	Differential treatment (race)- Did not reply to Black inquirer
B54	No differential treatment
B55	Differential treatment (Criminal record)- Sent resident qualification policy to formerly incarcerated inquirer stating no criminal records, did not send to other inquirers
B56	No differential treatment
B57	No differential treatment
B58	No differential treatment
B59	No differential treatment
B60	Differential treatment (Criminal record)- Asked inquirer to provide more information on their criminal history
B61	No differential treatment
B62	No differential treatment
B63	Differential treatment (Criminal record)- Told inquirer with criminal record they have the wrong address, responded to other inquirers with offer to tour
B64	No differential treatment
B65	Differential treatment (race)- Did not respond to Black inquirer

B66	No differential treatment (inform inquirer that City of Berkeley doesn't allow landlords to ask about criminal records; landlord has rented to people with criminal records in the past before)
B67	No differential treatment (state in email that underwriting process doesn't take criminal history into consideration)
B68	No differential treatment
B69	No differential treatment
B70	No differential treatment
B71	No differential treatment
B72	Differential treatment (criminal history)- Asked inquirer to provide more information on their criminal history
B73	No differential treatment
B74	No differential treatment
B75	Differential treatment (Criminal history)- Did not respond to inquirer with criminal history
B76	Differential treatment(race and criminal record)- Only replied to White inquirer without criminal history
B77	Differential treatment (Criminal history)- Did not respond to inquirer with criminal history
B78	No differential treatment
B79	Differential treatment (Criminal history)- Asked inquirer to provide more information on their criminal history; Did not provide tour information like they did for other inquirers
B80	No differential treatment BUT states no criminal record on application attached
B81	No differential treatment
B82	Differential treatment (Criminal history)- Asked inquirer to provide more information on their criminal history; Craigslist post explicitly states "no felonies"

Code	Findings
O1	Differential treatment(race and criminal record)- Only replied to White inquirer without criminal history
O2	Differential treatment(criminal record)- Only replied to Black and white inquirers without criminal records
O3	No differential treatment
O4	Differential treatment (criminal record)- Only replied to Black and white inquirers without criminal records
O5	No differential treatment
O6	No differential treatment
O7	Differential treatment(criminal record)- Property manager states they do a background check, but to save inquirer \$40 can disclose criminal history. Decisions would be made based on criminal record.
O8	No differential treatment
O9	No differential treatment
O10	No differential treatment
O11	No differential treatment
O12	No differential treatment
O13	Differential treatment (criminal history and race)- Only responded to Black inquirer and white inquirer without criminal record; Told Black inquirer credit and income requirements asking if they were in these ranges, did not ask white inquirer for income/credit score ranges
O14	No differential treatment- Told inquirer with criminal history “No worries about the criminal past. We only check credit scores, past rental references and income requirements and stability of income.”
O15	No differential treatment
O16	Differential treatment (criminal history)- Only responded to Black and white inquirers without criminal record

O17	Differential treatment(criminal history)- Asked inquirer to provide more information on their criminal history
O18	No differential treatment
O19	No differential treatment
O20	No differential treatment
O21	No differential treatment
O22	Differential treatment (criminal history) - Only responded to Black and white inquirers without criminal record
O23	No differential treatment
O24	No differential treatment
O25	Differential treatment (criminal history) - Only responded to Black and white inquirers without criminal record
O26	No differential treatment
O27	No differential treatment
O28	Differential treatment (criminal history) - Only responded to Black inquirer
O29	No differential treatment
O30	No differential treatment
O31	No differential treatment
O32	Differential treatment (criminal history)- Only followed up with Black inquirer with application, next steps, phone number
O33	No differential treatment- “Your disclosure regarding your background is also appreciated.”
O34	Differential treatment (criminal history) - Only responded to Black and white inquirers without criminal record

O35	No differential treatment
O36	No differential treatment
O37	No differential treatment
O38	No differential treatment
O39	No differential treatment
O40	Differential treatment (criminal history and race)- Only responded to White inquirer without criminal record
O41	No differential treatment
O42	Differential treatment (criminal history) - Only responded to Black and White inquirers without criminal record
O43	Differential treatment (criminal history and race)- Only responded to White inquirer without criminal record
O44	No differential treatment
O45	Differential treatment(criminal history) - Only responded to Black and White inquirers without criminal record
O46	No differential treatment
O47	No differential treatment
O48	No differential treatment
O49	No differential treatment
O50	No differential treatment
O51	No differential treatment
O52	No differential treatment

O53	No differential treatment
O54	No differential treatment
O55	No differential treatment
O56	No differential treatment
O57	No differential treatment
O58	Differential treatment (criminal history) - Only responded to Black and White inquirers without criminal record
O59	No differential treatment
O60	No differential treatment
O61	No differential treatment
O62	No differential treatment
O63	No differential treatment
O64	No differential treatment
O65	No differential treatment
O66	Differential treatment (criminal history and race)- Only responded to White inquirer without criminal record
O67	No differential treatment
O68	No differential treatment
O69	No differential treatment
O70	No differential treatment

O71	No differential treatment
O72	Differential treatment (race)- Did not respond to Black inquirer
O73	No differential treatment
O74	Differential treatment (Criminal history)- Asked inquirer to provide more information on their criminal history
O75	No differential treatment
O76	Differential treatment (criminal history and race)- Only responded to White inquirer without criminal record
O77	No differential treatment
O78	No differential treatment - "We take anyone who qualifies all you need to do is make 2.5 times the rent and pass our credit check
O79	No differential treatment
O80	No differential treatment
O81	No differential treatment
O82	Differential treatment (criminal history)- Only responded to inquirers without criminal history
O83	No differential treatment
O84	No differential treatment
O85	No differential treatment
O86	No differential treatment
O87	No differential treatment
O88	No differential treatment

*O89	Differential treatment (criminal history)- Followed up only with inquirers with inquirers without criminal histories
O90	No differential treatment
O91	No differential treatment BUT application asks for criminal history
O92	No differential treatment
O93	Differential treatment (criminal history and race)- Provided more information and follow up to Black inquirer, and even more to white inquirer without a criminal history
O94	No differential treatment
O95	Differential treatment (Criminal history)- Asked inquirer to provide more information on their criminal history
O96	No differential treatment
O97	No differential treatment BUT application asks if ever convicted of felony
O98	No differential treatment
O99	Differential treatment (Criminal history)- Followed up twice with Black and White inquirers without criminal records, responded only once to White inquirer with a criminal record
O100	No differential treatment
O101	No differential treatment
O102	No differential treatment “We believe in second chances. No need to note it on your application”
O103	No differential treatment “I don't do a criminal background check and I understand we all have history. “
O104	No differential treatment
O105	No differential treatment BUT application asks if ever convicted of felony
O106	Differential treatment (Criminal history)- more follow up with Tyrone and Jake

O107	Differential treatment (Criminal history)- App asks for criminal history, responded to all but followed up with White inquirer without a record
O108	No differential treatment BUT application asks for consent to run a background check through a screening company, which includes criminal history
O109	No differential treatment
O110	No differential treatment
O111	Differential treatment (race)- Did not reply to Black inquirer
O112	Differential treatment (race)- Did not reply to Black inquirer
O113	No differential treatment
O114	No differential treatment
O115	Differential treatment (Criminal history)- Asked inquirer to provide more information on their criminal history
O116	Differential treatment (Criminal history)- Did not reply to inquirer with criminal history
O117	Differential treatment (race and criminal history)- Did not reply to Black inquirer; replied to both White inquirers but states they will use a Cozy background check, which includes a criminal background check in the platform
O118	No differential treatment
O119	No differential treatment
O120	No differential treatment BUT says they'll run a standard background check
O121	Differential treatment (Criminal history)- Did not reply to inquirer with criminal history
O122	Differential treatment (Criminal history)- Asked inquirer to provide more information on their criminal history; doesn't offer tour slots to inquirer with criminal history, but does for other inquirers
O123	No differential treatment

O124	No differential treatment
O125	No differential treatment
O126	Differential treatment (Criminal history)- Did not reply to inquirer with criminal history
O127	Differential treatment (Criminal history)- Did not reply to inquirer with criminal history
O128	No differential treatment
O129	No differential treatment
O130	No differential treatment

Year 2 Summary of Audit Test Responses

B- Test conducted for a Berkeley rental property.

O- Test conducted for an Oakland rental property.

Berkeley - Test I (Sandwich Test)	
Code	Findings
B1	No differential treatment
B2	No differential treatment
B3	No differential treatment
B4	Differential treatment (criminal record and race)- only responded to White inquirer without criminal record
B5	Differential treatment (criminal record)- only responded to inquirer without criminal record
B6	Differential treatment (criminal record and race)- only responded to White inquirer without criminal record
B7	Differential treatment (criminal record)- only responded to inquirer without criminal record

B8	No differential treatment
B9	No differential treatment
B10	Differential treatment (criminal record)- Asked for the "nature of the criminal history"
B11	No differential treatment
B12	No differential treatment
B13	Differential treatment (criminal history)- Did not respond to inquirer with a criminal history
B14	Differential treatment (race)- Black inquirer was not offered specific time slots, while White inquirers were invited to a specific showing
B15	Differential treatment (criminal record and race)- only responded to white inquirer without a criminal record
B16	Differential treatment (criminal record and race)- only responded to white inquirers, asked formerly incarcerated inquirer to verify income while providing a phone number to call to the non-formerly incarcerated white inquirer
B17	No differential treatment
B18	Differential treatment (criminal record)- inquirer with criminal record was asked "Can you give a bit more information about that?" without information about viewings
B19	No differential treatment
B20	Differential treatment (criminal record)- only responded to inquirers without criminal record
B21	Differential treatment (criminal record and race)- only responded to White inquirer without criminal record
B22	Differential treatment (criminal record)- only responded to inquirers without criminal record
B23	No differential treatment
B24	Differential treatment (criminal record and race)- only responded to white inquirer without a criminal record
B25	Differential treatment (criminal record and race)- only responded to white inquirer without a criminal record
B26	No differential treatment



B27	Differential treatment (criminal record and race)- only responded to white inquirer without a criminal record
B28	No differential treatment
B29	No differential treatment
B30	No differential treatment
B31	No differential treatment
B32	No differential treatment
B33	No differential treatment
B34	No differential treatment
B35	Differential treatment (criminal record and race)- only responded to white inquirer without a criminal record
B36	No differential treatment
B37	Differential treatment (criminal record)- only responded to inquirers without criminal record
B38	No differential treatment
B39	No differential treatment
B40	No differential treatment
B41	Differential treatment (criminal record and race)- only responded to white inquirer without a criminal record
B42	No differential treatment
B43	Differential treatment (criminal record)- only responded to inquirers without criminal record
B44	Differential treatment (criminal record)- only responded to inquirers without criminal record

Oakland - Test I (Sandwich Test)	
Code	Findings

O1	No differential treatment
O2	No differential treatment
O3	Differential treatment (criminal history)- Did not respond to inquirer who disclosed a criminal history
O4	No differential treatment ("Also, as required by the City of Oakland, I have attached a copy of the Fair Chance Access to Housing Ordinance for your review. There is no need to sign this document, just read it, save it, be aware. The (Property Management Company Name) prides itself on being respectful of the privacy of all its tenants and prospective tenants.
O5	Differential treatment (race)- Responded to White inquirers, but not the Black inquirer
O6	No differential treatment
O7	Differential treatment (criminal history)- inquirer with a criminal history was asked about their income; while inquirers without a criminal history were offered a tour slot
O8	No differential treatment
O9	Differential treatment (criminal history and race)- Only responded to White inquirer without a criminal history
O10	No differential treatment
O11	No differential treatment
O12	Differential treatment (criminal history)- Did not respond to inquirer who disclosed a criminal history
O13	Differential treatment (criminal history)- Did not respond to inquirer who disclosed a criminal history
O14	No differential treatment
O15	No differential treatment
O16	No differential treatment
O17	No differential treatment
O18	No differential treatment
O19	No differential treatment

O20	Differential treatment (criminal history and race)- Only responded to White inquirer without a criminal history
O21	Differential treatment (criminal history)- inquirers without a criminal history were given a phone number to schedule a time while inquirer with a criminal history was not provided a phone number and asked about their credit score and if they had pets
O22	Differential treatment (criminal history)- Did not respond to inquirer who disclosed a criminal history
O23	No differential treatment
O24	No differential treatment- "Thank you for the upfront information" included in email to inquirer with criminal record
O25	No differential treatment
O26	No differential treatment
O27	No differential treatment
O28	Differential treatment (criminal history)- Did not respond to inquirer who disclosed a criminal history
O29	Differential treatment (criminal history)- Did not respond to inquirer who disclosed a criminal history
O30	No differential treatment
O31	No differential treatment
O32	No differential treatment- "No worries about the past criminal record" included in email to inquirer with criminal record
O33	No differential treatment
O34	No differential treatment
O35	No differential treatment
O36	Differential treatment (race)- responded preferentially to both white inquirers
O37	No differential treatment
O38	Differential treatment (race)- responded preferentially to both white inquirers
O39	No differential treatment

O40	No differential treatment- "Thank you for being upfront and honest" included in email to inquirer with criminal history
O41	Differential treatment (race)- only responded to white inquirers
O42	No differential treatment ("Yes it is still available. Thank you for your honesty, however good credit and the ability to pay is what I care about, not your record :)")
O43	Differential treatment (race)- only respond to white inquirers
O44	No differential treatment- "Thank you for being so honest" included in email to inquirer with criminal record
O45	No differential treatment- "We appreciate the openness, and that is not a problem" included in email to inquirer with criminal record
O46	Differential treatment (criminal record)- only respond to inquirers without a criminal record
O47	No differential treatment- "We appreciate your disclosing the information about criminal record and will consider you fairly" included in email to inquirer with criminal record
O48	Differential treatment (criminal record) - responded to inquirers without criminal record [*Note: Same property management company responded with no differential treatment in text O47]
O49	No differential treatment
O50	No differential treatment
O51	No differential treatment
O52	No differential treatment
O53	No differential treatment
O54	No differential treatment ("Per California law, we cannot blanket reject anyone with a criminal record, and we would welcome you to apply if this unit is appealing to you.")
O55	Differential treatment (criminal history and race)- Did not respond to inquirer who disclosed a criminal history; responded preferentially for White inquirer ("you will be [a] perfect fit for our community") over Black inquirer (no comment on "fit")
O56	No differential treatment
O57	Differential treatment (criminal record)- did not respond to inquirer with a criminal history
O58	Differential treatment (criminal record and race)- only responded to white inquirer with no criminal record

O59	No differential treatment- inquirer with criminal record was thanked "for being so honest"
O60	Differential treatment (criminal record)- did not respond to inquirer with a criminal history
O61	Differential treatment (criminal record)- only inquirers without a criminal record received responses
O62	No differential treatment
O63	No differential treatment
O64	No differential treatment
O65	No differential treatment
O66	No differential treatment
O67	No differential treatment
O68	Differential treatment (criminal record and race)- responded only to white inquirer with no criminal record
O69	Differential treatment (criminal record and race)- Did not respond to inquirer with criminal record; followed up multiple times with White inquirer without a criminal record, including to offer a rent reduction while only responding once to the initial inquiry from the Black inquirer without a criminal record
O70	Differential treatment (criminal history)- Did not respond to inquirer who disclosed a criminal history
O71	Differential treatment (criminal record)- only responded to inquirers without criminal record
O72	Responded only to inquirer that disclosed criminal record--no diff
O73	No differential treatment
O74	Differential treatment (criminal history)- Did not respond to inquirer who disclosed a criminal history
O75	No differential treatment
O76	Differential treatment (Criminal history)- Did not respond to inquirer who disclosed a criminal history
O77	No differential treatment

Berkeley - Test II	
Code	Findings
B1	Differential treatment (criminal record) - responded only to inquirer without criminal history
B2	Responded only to inquirer who disclosed a criminal record
B3	Responded only to inquirer who disclosed a criminal record
B4	Responded only to inquirer who disclosed a criminal record
B5	Responded only to inquirer who disclosed a criminal record
B6	Responded only to inquirer who disclosed a criminal record
B7	Responded only to inquirer who disclosed a criminal record
B8	Responded only to inquirer who disclosed a criminal record
B9	Differential treatment (criminal record) - responded only to inquirer without criminal history
B10	Differential treatment (criminal record) - responded only to inquirer without criminal history
B11	Responded only to inquirer who disclosed a criminal record
B12	Responded only to inquirer who disclosed a criminal record
B13	Differential treatment (criminal record)-inquirer without criminal record was given day and time to visit, inquirer with criminal record wasn't given date and was told to fill out application
B14	No differential treatment
B15	Differential treatment (criminal record)- inquirer with a criminal record was told that "there are several people interested in the apartment," while the other inquirer was only offered a time and day for a showing
B16	Differential treatment (criminal record)- inquirer with a criminal record was told " I am not sure to what extent the aforementioned process will impact delivery of the apartment" while the other inquirer was told "I can probably get you in next week to see the place"
B17	No differential treatment

B18	No differential treatment
B19	Responded only to inquirer who disclosed a criminal record
B20	Responded only to inquirer who disclosed a criminal record
B21	Responded only to inquirer who disclosed a criminal record
B22	Differential treatment (criminal record) - inquirer without criminal record was asked for tour availability, inquirer with criminal record was asked to provide more information on their criminal history
B23	Responded only to inquirer who disclosed a criminal record
B24	No differential treatment - "We have no problem with a tenant who was formerly incarcerated" included in email to inquirer with criminal record
B25	Differential treatment (criminal record) - responded only to inquirer without criminal history
B26	No differential treatment
B27	No differential treatment
B28	No differential treatment
B29	No differential treatment

Oakland - Test II	
Code	Findings
O1	No differential treatment
O2	Responded only to applicant who disclosed a criminal record
O3	Responded only to applicant who disclosed a criminal record
O4	Differential treatment (criminal record)- only responded to applicant without a criminal record
O5	No differential treatment- "Thank you for your transparency" included in email to applicant with criminal record

O6	Responded only to applicant who disclosed a criminal record
O7	No differential treatment
O8	Responded only to applicant who disclosed a criminal record
O9	Responded only to applicant who disclosed a criminal record
O10	Responded only to applicant who disclosed a criminal record
O11	Responded only to applicant who disclosed a criminal record
O12	Differential treatment (criminal record)- only responded to applicant without a criminal record
O13	No differential treatment
O14	Responded only to applicant who disclosed a criminal record
O15	Differential treatment (criminal record)- only responded to applicant without a criminal record
O16	Differential treatment (criminal record)- only responded to applicant without a criminal record
O17	No differential treatment
O18	No differential treatment
O19	No differential treatment- "I believe in second chances" included in email to applicant with criminal record
O20	Responded only to applicant who disclosed a criminal record
O21	No differential treatment
O22	Differential treatment (criminal record)- responded preferentially to applicant without a criminal record
O23	No differential treatment
O24	No differential treatment
O25	No differential treatment
O26	No differential treatment

O27	No differential treatment
O28	No differential treatment- "Also just an FYI, you are not required to disclose that you are formerly incarcerated, and property owner's are not permitted to ask you this or require this for renting an apartment. " included in email to applicant with criminal record
O29	Differential treatment (criminal record)- only responded to applicant without a criminal record
O30	Differential treatment (criminal record)- only responded to applicant without a criminal record
O31	Responded only to applicant who disclosed a criminal record
O32	Responded only to applicant who disclosed a criminal record
O33	Responded only to applicant who disclosed a criminal record
O34	Responded only to applicant who disclosed a criminal record
O35	Responded only to applicant who disclosed a criminal record
O36	Differential treatment (criminal record)- only responded to applicant without a criminal record
O37	No differential treatment
O38	Responded only to applicant who disclosed a criminal record
O39	No differential treatment
O40	No differential treatment- "I do appreciate your upfront disclosure" included in email to applicant with criminal record
O41	Differential treatment (criminal record)- only responded to applicant without a criminal record
O42	No differential treatment
O43	No differential treatment
O44	Differential treatment (criminal record)- applicant with a criminal record was offered a showing, but told that "an application has been submitted for the space but it is currently still pending," while the other applicant was offered a tour without this information
O45	Differential treatment (criminal record)- only responded to applicant without a criminal record
O46	Differential treatment (criminal record)- only responded to applicant without a criminal record



O47	No differential treatment- "Thank you for sharing a bit about yourself" included in email to applicant with criminal record
O48	Differential treatment (criminal record)- only responded to applicant without a criminal record
O49	No differential treatment

