



Oakland & Berkeley Fair Chance Housing Ordinances

Preliminary Findings from Impact Evaluation Study

Research Protocol ID: [2021-12-14912](#)

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Research Team



Funders: Alameda County Probation
Dept & the Charles & Lynn
Schusterman Foundation

Why Preliminary Findings Now?

Honoring Our Commitment Made to Oakland FCH Ordinance Sponsors:

Councilmembers Nikki Fortunato Bas, Larry Reid, Dan Kalb and City Attorney Barbara Parker



Hearing from the FCH Movement Leaders



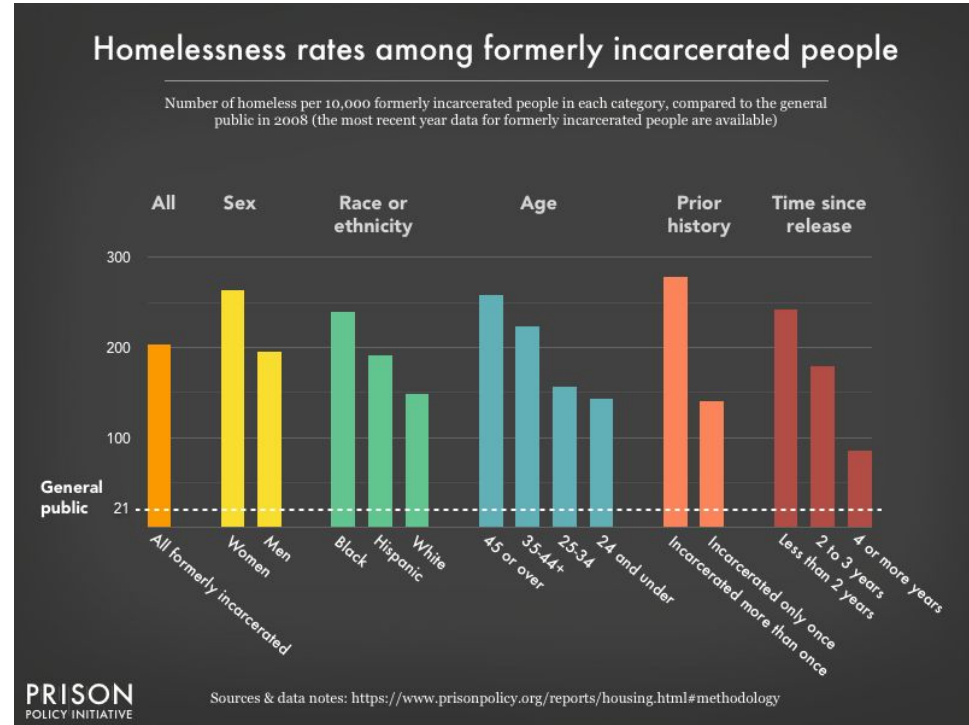
Oakland Fair Chance Housing Public Policy Purposes

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Main Purpose of FCH Impact Evaluation Study: Address Documented Pipeline from Re-entry to Homelessness

73%

Surveyed Oakland Homeless Encampment Residents Had a Criminal Record (Goldman School of Public Policy, Just Cities, The Village Study, 2018)



Another Purpose of FCH Ordinance: Reduce Recidivism

Documented evidence of correlation between housing stability & anti-recidivism

Securing stable housing is one of the first and most critical obstacles faced by returning prisoners (LaVigne et al., 2003; Nelson, Deess, & Allen, 1999; Roman & Travis, 2004). The Urban Institute's *Returning Home* series of pre- and postrelease interviews with prisoners from Maryland, Illinois, Ohio, and Texas (Baer et al., 2006) revealed that a majority of newly released prisoners relied on family and friends for housing immediately on release. Many of the prisoners in these studies believed that stable housing was the key to not returning to prison. Indeed, stable housing provides the foundation for successful reintegration by allowing offenders the ability to focus on employment and treatment, while maintaining compliance with the conditions of his or her supervision (Fontaine & Biess, 2012; Shaw, 2004). More recent research has demonstrated a link between homelessness and housing instability and increased rates of recidivism (Lutze et al., 2013; Metraux & Culhane, 2004; Steiner, Makarios, & Travis, 2011).

Oakland FCH Specific Policy Terms

- Housing providers prohibited from using criminal background checks in rental advertising, applications, decisions, or evictions
- Applies to **all forms of housing**, including private, Section 8, and affordable
- **Housing providers maintain discretion** (no first-in-time rule)
- **Exceptions to the Ordinance**
 - Owner occupied single-family homes, duplexes, triplexes, and ADUs
 - **Current tenants** who are adding a roommate
 - Under certain circumstances, housing providers may review the **State's lifetime sex offender registry**
 - If required by Federal law, housing providers of **HUD funded units** can conduct limited criminal background checks **ONLY** after a conditional offer has been made, the applicant has consented, and the applicant is allowed to provide mitigating information.
- **Close family members of formerly incarcerated people can take legal action** if they are subjected to adverse actions, including:
 - Being prevented from adding a close family member with a criminal history to their household
 - Being told that they can no longer rent their unit due to an occupant having a criminal history
 - Having a tenant subsidy reduced or shortened
 - Being treated differently from other tenants or applicants

- Documented evidence that criminal records databases are inaccurate and unreliable
 - ◆ A policy that allows for housing providers to conduct a criminal background check later on in the housing application process may not address the problem of housing barriers for formerly incarcerated residents
- Documented evidence that formerly incarcerated residents & their family members need access to all forms of housing (publicly subsidized and private rental housing)
- Extensive policy design process with leaders representing private Housing Providers

DOCUMENTED EVIDENCE OF FLAWS WITH CRIMINAL RECORDS DATABASES

Research shows that government repositories of criminal records are routinely incomplete, thus making commercial criminal background reports inaccurate and/or misleading. In 2006, the U.S. Department of Justice (DOJ) found that an estimated 50% of FBI arrest records, which are used by many background check companies, were missing information on the final disposition of the cases in question.^[1] In 2016, the DOJ found that an estimated 32% of records in state criminal history repositories were missing final disposition data.^[2] Incomplete data at the state and federal levels undermine the fairness and accuracy of commercial criminal background reports, which rely upon governmental data. In particular, out-of-date information about the final disposition of a case means that data about arrests are routinely listed in background reports even when the charges were eventually dropped, reduced, or disproven in court.

The consequences of these database gaps are significant. According to the National Employment Law Project (NELP), “one third of felony arrests do not result in conviction and many others are reduced to misdemeanors.”^[3] While industry-wide data on the inaccuracies of commercial criminal background reports are unavailable, the NELP estimates that 1.8 million workers are subject to FBI checks that include faulty or incomplete information each year. Further, many on-line databases accessible through search engines are also inaccurate, even representing persons without criminal records as having been arrested or convicted.

The lack of accurate disposition data is one of many issues that undermine the accuracy of private criminal background reports. According to a review by the National Consumer Law Center, such reports suffer from a range of problems, including: the publication of sealed or expunged records; the misclassification of crimes (e.g. reporting a misdemeanor as a felony); the assignment of crimes to an individual who did not commit them, otherwise known as a “false positive”; and the display of data in a misleading manner (e.g. reporting a single arrest multiple times because it appears in multiple databases).^[4] Unlike government screens, such commercial background checks are conducted using basic personal information, like names. In the late 1990s, a task force consisting of state and federal agencies found that, compared with fingerprint-based checks, name-based checks resulted in a false-positive rate of 5.5%.^[5] This means that around 1 in 20 apparent identifications of a crime was ascribed to a person who did not in fact commit that crime.


^[1] U.S. Department of Justice. (2006). *The Attorney General's Report on Criminal History Background Checks*, p. 3.

^[2] National Consortium of Justice Statistics. (2018). *Survey of State Criminal History Information Systems, 2016: A Criminal Justice Information Policy Report*, p. 2.

^[3] National Employment Law Project. (2013). *Wanted: Accurate FBI Background Checks for Employment*, pp. 1-2.

^[4] National Consumer Law Center. (2012). *Broken Records: How Errors by Criminal Background Checking Companies Harm Workers and Businesses*, p. 15.

^[5] National Association of Professional Background Screeners. (2005). *The National Crime Information Center: A Review and Evaluation*, pp. 11-2.

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Summary of FCH Impact Evaluation Study Methodology

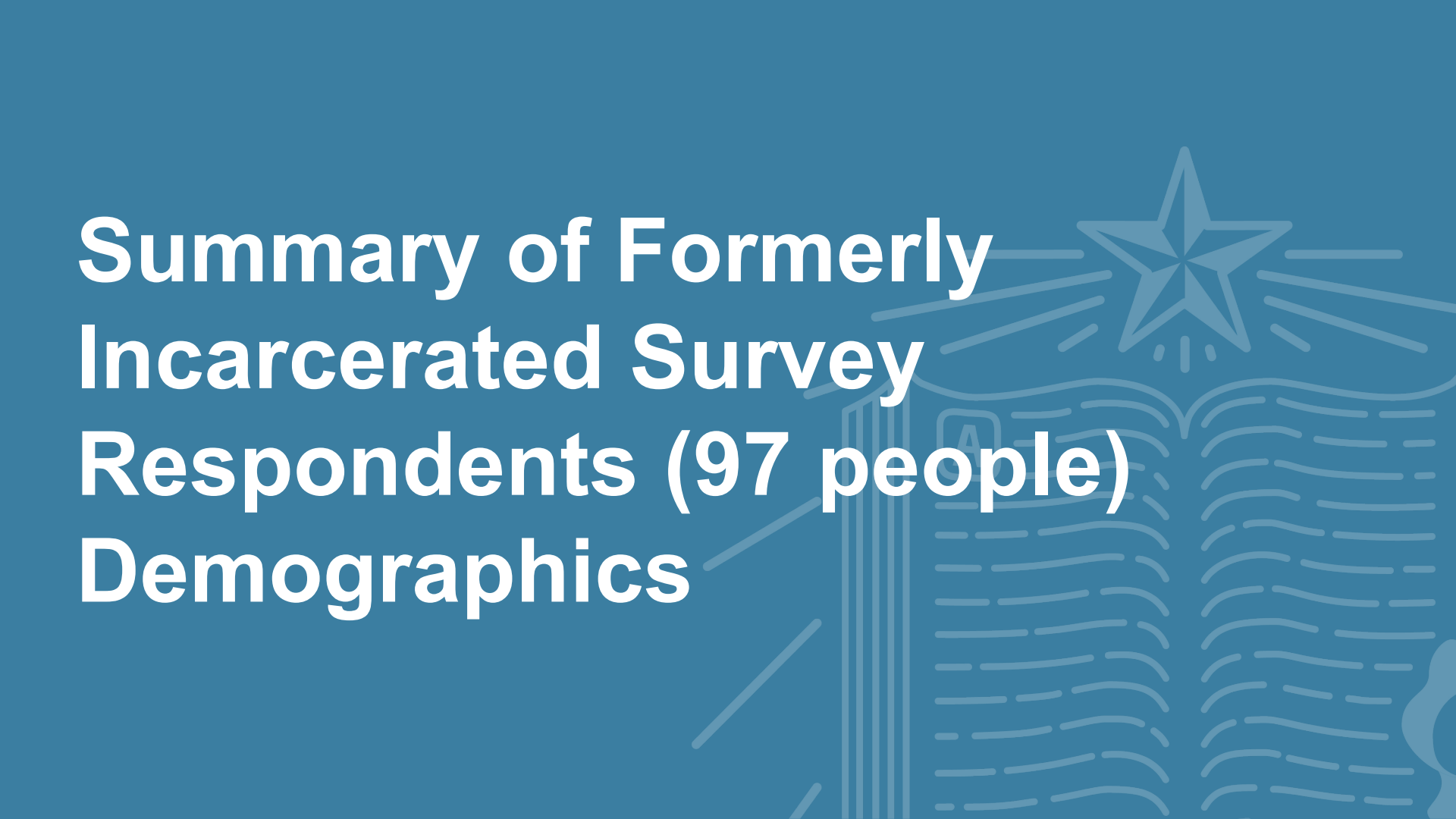
Primary Research Questions

1. How and to what extent do fair chance housing public policies reduce racial and ethnic disparities in post-release housing access for formerly incarcerated people?
2. Does eliminating the ability of housing providers to conduct criminal background checks result in increased racial discrimination or other unintended consequences by housing providers?
3. What is the role of race and/or ethnicity in post-release reentry outcomes in Alameda County in relationship to other mediating factors such as immigration status, family status, employment, income levels, and access to services in affecting reentry outcomes?
4. What is the role of hope in racial and ethnic differences in relationship to other mediating factors including housing and employment access and its effect on reentry outcomes?

Summary of Research Methods

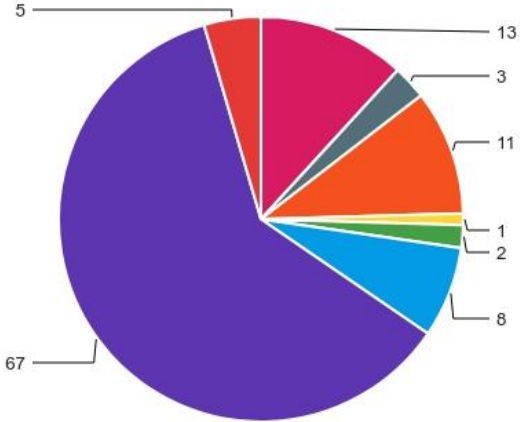
Mixed Methods Research:

- Literature review
- Multi-year surveys
- Interviews & focus groups
- Review of County probation data
- Community based participatory action research

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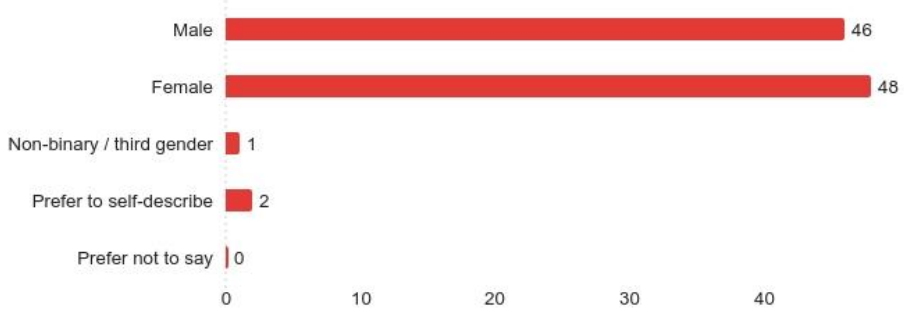
Summary of Formerly Incarcerated Survey Respondents (97 people) Demographics

Racial Identity

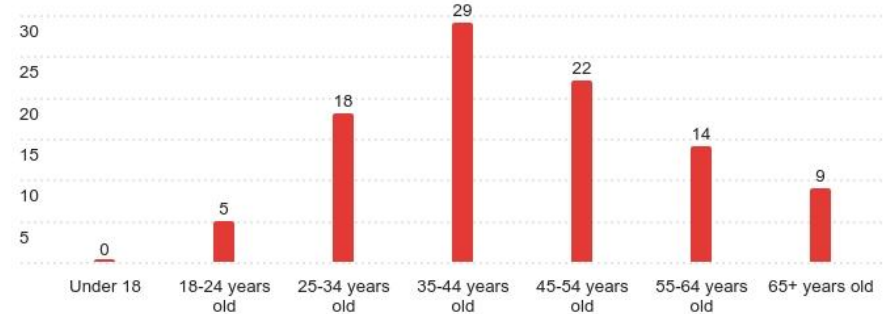


- Hispanic/Latinx
- Prefer not to say
- Other
- Native Hawaiian or Other Pacific Islander
- Asian or Asian American
- American Indian/Native American or Alaska Native
- Black or African American
- White or Caucasian

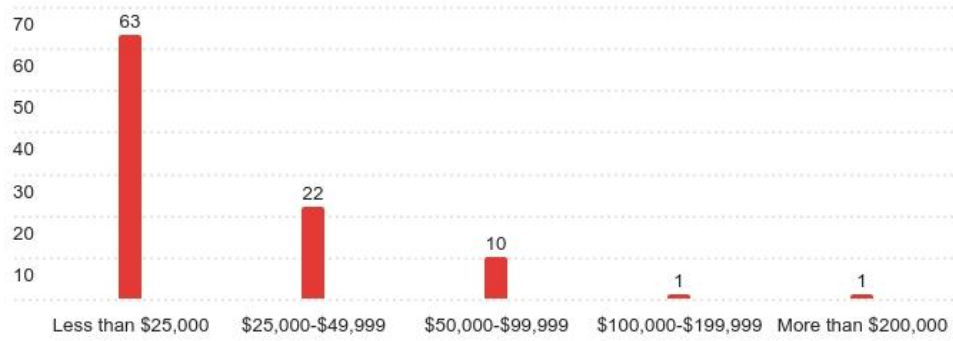
Gender Identity



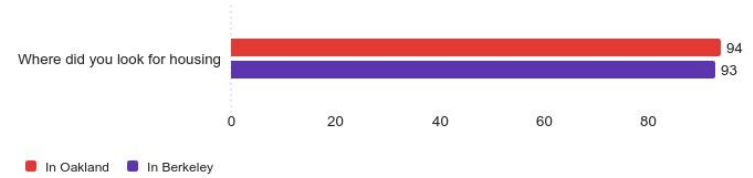
Age



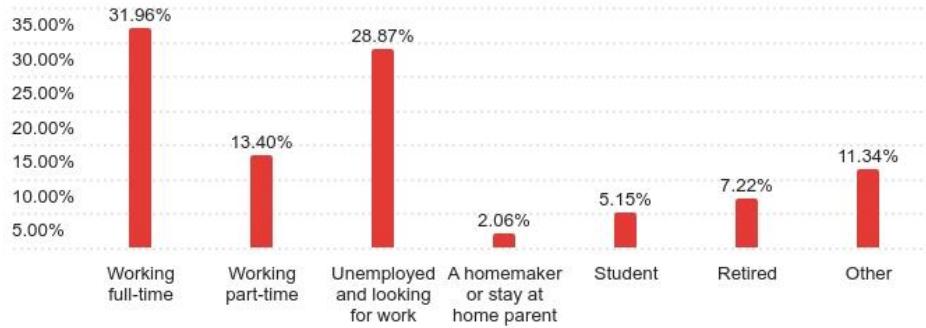
Income



Housing Search Location

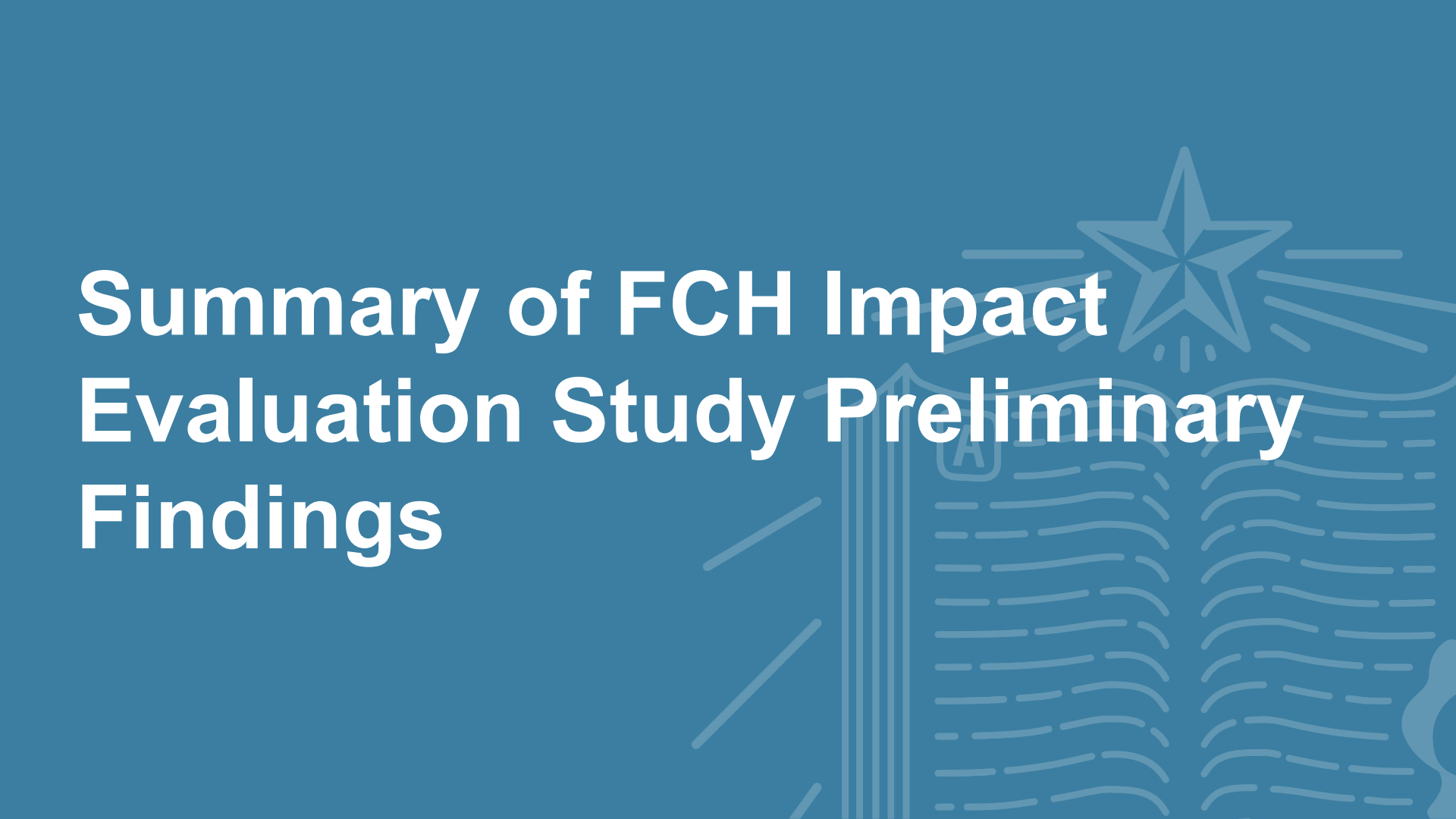


Employment Status



Summary of Housing Providers Survey Respondents (95) Demographics

<p><u>Geographic Location:</u></p> <ul style="list-style-type: none">● 41% Oakland (39)● 29.5% Berkeley (28)● 29.5% Both Berkeley & Oakland (28)	<p><u>Type of Provider:</u></p> <ul style="list-style-type: none">● 84% private, not publicly subsidized (79)● 23% Section 8 providers (22)● 17% for profit affordable housing (16)● 5% nonprofit affordable housing (5)● 4% Housing Authority operated units (4)	<p><u>Size of Provider:</u></p> <ul style="list-style-type: none">● 66% Triplex, Duplex, Single Family (62)● 35% 4-10 units (33)● 13% 11-20 units (12)● 14% 21 plus units (13)
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Summary of FCH Impact Evaluation Study Preliminary Findings

Research Study Question 1: Did the Berkeley and Oakland Fair Chance Housing Ordinances Result in Access to Housing for People with a Criminal Record?

- Preliminary research results show that significant numbers of formerly incarcerated people, 63% of survey respondents (61 out of 97), have experienced positive outcomes from the FCH ordinances.
 - 27 individuals stated that they had secured housing in Berkeley and Oakland after the FCHO had passed. 41% of the respondents who found housing after the FCHO passed were able to apply for and rent their own housing and 9% of these respondents were able to live with family members or other people without jeopardizing their lease agreements.
 - 30 individuals stated they had a positive outcome even though they did not secure housing in Berkeley or Oakland. Additional information will be examined in follow up interviews and focus groups.
- Prior to the passage of the FCH ordinances, only 9% of respondents (9 people) had found housing in Berkeley and Oakland, compared to 28% of respondents (27 people) after the passage of the FCH ordinances. The FCHO resulted in a tripling in the number of formerly incarcerated people who found housing in Berkeley and Oakland.
- 58% indicated that the passage of the FCH ordinances made them more hopeful about their future chances for securing housing.
- 80% of Berkeley and Oakland housing providers (95) reported that they did not conduct criminal background checks after the FCH ordinances passed.
 - Out of the housing providers who were exempt from the FCH ordinances because they live in owner occupied triplex or below properties (18 housing providers), there was a 100% reported compliance rate.
 - Out of the housing providers who were not exempt from the FCH ordinances (77 housing providers), there was a 75% reported compliance rate.
 - Regarding the geographic difference between non-exempt housing providers: Berkeley (19 housing providers) had a 95% compliance rate, Oakland (31 housing providers) had a 77% compliance rate, and housing providers with properties in both Berkeley and Oakland (31 housing providers) had a 59% reported compliance rate.

Research Study Question 2: Is it Significant that the Berkeley and Oakland Fair Chance Housing Ordinances Apply to All Types of Housing?

Preliminary Finding: Prior to the FCH ordinances, the respondents who had found housing in Berkeley or Oakland only found housing in publicly subsidized housing units (55%) and none found housing in private rental units. However, after the FCH ordinances, respondents found housing in private rental, non-subsidized units (26%) and also publicly subsidized housing (22%). This data indicates that a policy that applies to all forms of housing will likely result in increasing access to housing opportunities for people with a criminal record. Given the severe shortage of publicly subsidized housing in the Bay Area, the inclusion of private rental housing in the Berkeley and Oakland FCH ordinances appears to be an effective strategy to advancing the public policy goal of reducing homelessness for formerly incarcerated residents.

Research Study Question 3: Are there Racial and Other Social Equity Considerations in Fair Chance Housing Ordinance Outcomes?

Finding 3.1: Black/African American respondents had the highest level of positive results from the FCH ordinances. Out of the respondents who had secured housing in Berkeley or Oakland after the passage of the FCH ordinances (40 formerly incarcerated people): 65% were Black/African American, 10% were Latinx/Hispanic, 10% were multiple races, 3% were API, 3% were White, and 10% preferred not to state.

Finding 3.2: The preliminary survey results show a range of income and employment status of formerly incarcerated survey respondents who were able to secure housing. For example, 55% of people who secured housing in Oakland or Berkeley had income below \$25,000 and 33% were unemployed.



Housing Access Status	Current Income Level	Current Employment Status
Secured housing in Berkeley or Oakland (40 respondents)	<ul style="list-style-type: none"> ● 55% had income below \$25,000 ● 28% had income from \$25,000 to \$49,000 ● 15% had income from \$50,000 to \$99,000 ● 3% had income above \$100,000 	<ul style="list-style-type: none"> ● 38% worked full-time ● 33% were unemployed ● 18% worked part-time ● 8% other ● 5% were retired
Did not secure housing in Berkeley or Oakland (57 respondents)	<ul style="list-style-type: none"> ● 72% had income below \$25,000 ● 19% had income from \$25,000 to \$49,000 ● 7% had income from \$50,000 to \$99,000 ● 2% had income above \$100,000 	<ul style="list-style-type: none"> ● 28% worked full-time ● 26% were unemployed ● 11% worked part-time ● 26% other ● 9% were retired

Research Study Question 4: Did the Fair Chance Housing Ordinances Result in Unintended Consequences of Increased Racial Discrimination or Increased Other Barriers to Housing Access?

Issue 1: Will removing the ability of housing providers to conduct criminal background checks and deny people housing based upon that information result in increased racial discrimination, with housing providers using race as a proxy for criminal background?

Preliminary Finding 1: Only 4% of housing providers reported knowing about an increase in racial discrimination against rental housing applicants after the FCH ordinances passed.

Issue 2: Will removing the ability of housing providers to conduct criminal background checks and deny people housing based upon that information result in increased tenant selection requirements?

Preliminary Finding 2: It appears that some housing providers increased tenant screening requirements. However, it's unclear whether these increases were due more to the impacts of the COVID eviction moratorium. This question will be examined during upcoming interviews and focus groups.

Issue 3: Will allowing people with criminal records reside in housing complexes result in increased crime and violence in that complex or neighborhood?

Preliminary Finding 3: There is no available data or evidence supporting the fear that allowing people with a criminal record to reside in a housing complex or neighborhood directly results in increased crime or violence in that area. This question will be examined further in follow up interviews and focus groups. On the other hand, there is evidence that correlates housing stability with increased anti-recidivism.

Closing Remarks from the FCH Movement Leaders



