



Tamarr Clark

grew up in Wilmington’s now-demolished Riverside projects. She dropped out of school in ninth grade. Despite these obstacles, through Job Corps, she got clerical training and eventually employment as a certified nursing assistant.

Tamarr now lives in publicly-subsidized housing. But she and her daughters—a seventeen-year-old and a four-year-old—may soon lose their home. Her landlord has initiated eviction proceedings against her because she was recently convicted of what her record calls “misdemeanor possession of a controlled substance.”

“I just feel like everything
is crashing down on me.”

~ *Tamarr Clark*

But her record doesn’t tell the whole story. She’s not a drug user. When an older relative asked her to pick up some medications, she did it in order to be helpful. She gave the pharmacist the prescriptions, showed her ID, signed for the pills, and delivered them to her family member. Four months later, Tamarr received a call from the State Police informing her that the prescriptions were fraudulent.

Tamarr turned herself in. Because of her tangential involvement in the crime, she was only sentenced to six months probation. But her real sentence is the collateral consequences she faces, like losing her home—the consequences that no one told her about.

HOUSING: TOO OFTEN DELAWARE MAKES IT HARDER FOR SOMEONE WITH A RECORD TO FIND HOUSING

Apart from the need for shelter, a physical address makes it easier to apply for a job, re-establish community ties, and perform the other basic tasks necessary to set one's life in a positive direction, such as opening a bank account. Housing restrictions may also prevent people with a criminal conviction from living with their family members. Often, instead of helping those returning to society find stable housing, Delaware law does the opposite by restricting subsidized and public housing opportunities and failing to protect private tenants from discrimination on the basis of arrest and conviction unrelated to their suitability as a tenant.

Recognizing that a lack of stable housing increases the risk of re-incarceration, the U.S. Department of Housing and Urban Development (HUD) has issued recommendations to strike a more sensible balance between allowing individuals with a criminal record to access housing and ensuring safety, including:

- Limited use of arrests. At most, an arrest should only spark investigation of verifiable evidence of misconduct and include an interview with the applicant.
- Focusing on relevant convictions. There should be reasonable time limits on what criminal conduct is considered, such as a one-year period for drug-related crimes. There also needs to be limits on the types of crimes considered, focusing solely on crimes that threaten the safety and peaceful enjoyment of other residents.

Delaware's four housing authorities are not entirely compliant with HUD's guidelines. For example, the Delaware State Housing Authority (DSHA), bars access to public housing for one year for people with multiple arrests, even if the applicant was never convicted of any crime. It also imposes long periods of mandatory ineligibility. A conviction involving multiple misdemeanors can lead to a five-year bar. For some convictions, re-admission to public housing depends on a discretionary review of the crime. DSHA regulations require that mere arrests without conviction be considered in that review.

Screening tenants based on arrests or convictions is also common in the private housing market. Federal law prohibits some uses of arrest records in refusing tenants. But individuals often lack the resources to investigate and bring such claims. Some states have used their own authority to enforce federal law on this subject or implemented laws to protect potential tenants from unfair screening practices. Delaware has not done so.

SOLUTIONS:

- **Require that all public housing policy conform to HUD recommendations.**
 - **Require developers and private management companies receiving tax credits for affordable housing to conform to HUD recommendations.**
 - **Forbid consideration of arrests without conviction in private housing.**
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PUBLIC ASSISTANCE: POOR FAMILIES CANNOT RECEIVE CRUCIAL STATE AND FEDERAL AID BECAUSE OF DRUG CONVICTIONS

Even though federal laws passed during the War on Drugs frequently prohibit access to public assistance, these laws also give states flexibility to determine eligibility for food aid and cash assistance for families with children when applicants have a criminal conviction. The majority of states have limited the federal bans in whole or in part, although some impose requirements such as participation in alcohol or drug treatment or having a “possession only” conviction. In 2011, Delaware opted out of restrictions on food aid, but it has not opted out of or limited federal restrictions on TANF—the assistance program that is the principal form of aid available to families in poverty to pay for things like electricity bills or school supplies.

Under existing law, individuals convicted of any state or federal drug felony, including possession of marijuana (which can be a felony under federal law), are ineligible for TANF for life. Although the children of a mother convicted of a drug crime can still receive assistance, the family’s overall award is significantly reduced. It is estimated that 2,000 Delaware families receive less or no assistance as the result of this ban.ⁱ And because drug laws are among the most disproportionately enforced against people of color (despite roughly equal rates of drug use across racial identities), the policy unfairly targets communities of color.ⁱⁱ

SOLUTIONS:

- **Opt-out of the drug conviction ban on eligibility for TANF.**

ⁱMarc Mauer, *A Lifetime of Punishment: The Impact of the Felony Drug Ban on Welfare Benefits* (2013).

ⁱⁱACLU, *The War on Marijuana in Black and White* (2013)

