

**HOUSING AUTHORITY OF THE CITY OF MILWAUKEE**  
**COMMENTS TO THE SPECIAL COMMITTEE ON REVIEW OF RECORDS ACCESS**  
**OF CIRCUIT COURT DOCUMENTS**

**November 4, 2010**

My name is Ken Barbeau and I am the Director of Community Programs and Services for the Housing Authority of the City of Milwaukee, otherwise known by its acronym, HACM.

HACM provides housing for over 10,700 low-income households and is probably the largest landlord in the State of Wisconsin.

HACM operates and manages over 5,000 housing units in the City of Milwaukee, including about 4,000 public housing units and over 1,000 affordable housing units. These include family developments, highrise developments for seniors and persons with disabilities, and scattered site housing.

HACM is also heavily involved with many private-sector landlords in the City of Milwaukee through our Housing Choice Voucher program, also known as the Section 8 rent assistance voucher program.

Currently, about 5,700 low-income families receive vouchers that help to subsidize their rent. In both public housing and in the voucher program, a low-income tenant pays 30% of their adjusted income as rent. In the voucher program, HACM will pay the landlord a subsidy for the difference between this 30% of income and a fair market rent for the unit. More than 2,000 private market landlords are part of our program and receive a total of over \$32.5 million in rent subsidy per year from HACM.

The Housing Authority of the City of Milwaukee has been utilizing the CCAP court system since its inception in 1999. Access to this valuable, free, database is invaluable to our organization, as well as to private-sector landlords in the community. As a government-funded agency facing federal budget cuts, we cannot afford to lose this free resource.

Just like any other landlord, HACM has an obligation both to the community and especially to our existing tenants to perform a thorough screening process to help us select new residents for housing. No one wants to live next to a neighbor who is engaging in criminal behavior or in some other behavior that negatively impacts the rest of the community.

In addition to our general responsibility as a good landlord, HACM also is mandated by the federal government to perform good, thorough tenant eligibility screening. Public housing and Section 8 Housing Choice Voucher Programs are not entitlement programs; applicants for housing must pass eligibility screening to be admitted.

Under the federal housing regulations issued by the U.S. Department of Housing & Urban Development (HUD), public housing authorities are required to have policies and procedures that document that we screen all applicants for suitability, including, but not limited to:

1. *An applicant's past performance in meeting financial obligations, especially rent.*
2. *A record of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences which may adversely affect the health, safety, or welfare of other tenants.*
3. *A history of criminal activity involving crimes of physical violence to persons or property and other criminal acts including drug-related criminal activity which would adversely affect the health, safety, or welfare of other tenants.*

*Reference: 24 CFR 960.203*

HACM's Admissions and Continued Occupancy Policy spells out these criteria and lists several other grounds to deny applicants for housing, including:

1. Currently owe rent or other amounts to any housing authority in connection with their public housing or Section 8 program.
2. Have committed fraud, bribery, or other corruption in connection with any Federal housing assistance program.
3. Were evicted from assisted housing within the past three years for drug-related criminal activity, involving personal use or possession of drugs.
4. Were evicted from assisted housing within the past five years for drug-related criminal activity involving the illegal manufacture, sale, distribution, or possession with the intent to manufacture, sell or distribute.
5. Are illegally using a controlled substance or are abusing alcohol in a way that may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents. HACM will also look at mitigating factors that show, to HACM's satisfaction, that the tenant is no longer using drugs or abusing alcohol; has completed a supervised drug or alcohol rehabilitation program; or is currently participating in one.
6. Have an outstanding warrant from a court of criminal jurisdiction.

7. HUD also has lifetime bans for anyone ever convicted of manufacturing methamphetamine in a public housing or Section 8 assisted property, or for those who are subject to lifetime registration on a State sex offender registry.

HACM, like many other landlords, obtains consent from an applicant for housing or for a voucher to run a credit check, rental history check, and criminal background check for all adult household members. The CCAP system has been a key tool in our background checks, but as you will see, it is only a tool. We do not rely solely upon information in CCAP to deny any applicant.

So, how do we use CCAP and what do we look for?

**Aliases and addresses:** CCAP often includes information on possible other names that an applicant is known by, which leads us to check the applicant by another name that they may not have provided to us. CCAP records often verify or reveal a prior address the applicant lived at within the past three years, but perhaps did not disclose to HACM. We can then ask them during their interview whether or not they ever lived there, why they didn't disclose it, and obtain the landlord information to try to follow up for a reference.

In addition, HACM's Public Safety staff perform investigations whenever we get reports of unauthorized live-in's in our developments—persons who are not on the lease, but living there. The address given to a court in a court proceeding by the unauthorized person under investigation could substantiate the complaint that the person is an unauthorized live-in in one of our apartments.

**Warrants:** CCAP shows open warrants against an individual issued by a court. HACM does not house fugitives from justice. HACM will not proceed with any processing of an application unless the individual can show documentation that they have cleared any open warrants they have outstanding.

**Harassment/restraining orders:** CCAP also provides valuable information about harassment/restraining orders. If a restraining order has been dismissed by a court, we do not use it in making our determination on an application.

Under the federal government's Violence Against Women's Act (VAWA), HACM has a duty and obligation to assist legitimate victims of domestic violence in a variety of ways within our assisted housing programs. With easy access to CCAP records, HACM is able to quickly and confidentially verify and substantiate a victim's claim that he/she is or has been the victim of domestic violence if the court system has been utilized.

**Landlord/tenant civil judgments:** As stated earlier, information on evictions and on an applicant's past performance in meeting financial obligations, especially rent, is relevant in our review of an application. We look for judgments against a tenant by a previous landlord, especially focusing on recent judgments within the past 3 years. We can often link landlord/tenant civil judgment information to the applicant's credit report, thus verifying that it is for the correct person.

In most instances, the CCAP system contains enough information so that valuable staff time and resources do not have to be utilized accessing physical court records. Landlord/tenant judgments that arise outside Milwaukee County often cannot be obtained due to time, distance or other factors. It can be costly under the public records law to obtain these documents via a public records request. In addition, there is a time delay that lengthens the time HACM spends processing an application. When the application processing time slows down, vacancy rates can climb, which also results in a potential loss of revenue to our agency, despite long waiting lists of applicants.

If a judge finds in favor of a tenant in an eviction proceeding, HACM does not use the information as a factor in deciding whether or not to approve an applicant.

However, often landlords find it cheaper to settle with a tenant and just get them to move out on their own rather than go through months of legal process involved in an eviction, and cases are eventually dropped or dismissed without a finding by a judge. This information still provides relevant information to a potential landlord like HACM by providing a possible landlord reference within the past three years that an applicant may or may not have disclosed to us.

CCAP also helps us in assisting some tenants. Right now, the number of foreclosures is at an all-time high. We have found that if a Section 8 landlord goes into foreclosure, often the tenant receives a letter, but is confused about the foreclosure process or doesn't have much information. Often, the landlord that is being foreclosed on is not responsive to their phone calls or ours. Our Section 8 Rent Assistance section uses CCAP to verify information about the foreclosure, such as the attorney handling the case, the status of the foreclosure, the bank or mortgage holder and contact person, and we can use this information to assist the tenant in staying or moving.

**Criminal history:** CCAP provides comprehensive information about an individual's involvement with a county's court system statewide. The notes within the CCAP criminal case record entries let us know about details of the crime charged (both the original charge and any amended charge), sentencing requirements, if an individual has violated conditions of probation, had his/her probation revoked, or has been discharged from probation. Knowing both original and amended charges gives us some additional

possible information about the nature of the crime (e.g., if a drug-related charge is reduced to one that does not include drugs, or if a felony murder charge has been reduced to harboring/aiding a felon).

In addition, federal regulations permit housing benefit determinations, in both public housing and rent assistance programs, to be based on evidence of criminal activity by the program applicant or participant, irrespective of whether there was a criminal arrest, prosecution, or conviction. The regulations provide that:

*“You may terminate tenancy and evict the tenant through judicial action for criminal activity by a covered person in accordance with this subpart if you determine that the covered person has engaged in the criminal activity, regardless of whether the covered person has been arrested or convicted for such activity, and without satisfying a criminal conviction standard of proof of the activity.”*

*(References: 24 CFR 5.861; 24 CFR 966.4(L)(5)(iii)(A)(1); 24 CFR 982.553 (C) )*

**Not Guilty:** If an applicant has been found not guilty by a court or jury, we never use anything related to that charge as a factor in deciding whether or not to approve an applicant.

**Expunged:** If a case has been expunged, HACM never uses anything related to that charge as a factor in deciding whether or not to approve an applicant.

**Guilty:** If an applicant has been found guilty by verdict or plea and the charge appears relevant to our screening decision (based on factors described earlier), our staff would then request and review the actual criminal complaint against the individual.

**Dismissed:** If a case was dismissed and the charge appears relevant to our screening decision (based on the factors described earlier), our staff would request and review the actual criminal complaint against the individual. If the details in the criminal complaint would constitute hearsay, HACM does not use the case against an applicant. If the case was dismissed and the criminal complaint states that law enforcement officials actually witnessed the offense or actually found drugs during a search (i.e., not hearsay), HACM does question the applicant about the case and can use the behavior as a factor in deciding whether to approve an applicant.

Our Public Safety staff also often issues “No Trespass” notices to non-residents. CCAP provides a quick method to see if a person who has caused problems on our property has a history of drug trafficking, possession, loitering in areas known for drugs, etc.

Just as HACM uses CCAP, so do our partners. HACM has difficulties in finding enough landlords to participate in the Section 8 Housing Choice Voucher Program. When a landlord does agree to participate, the program notifies the landlord that they (the landlord) are responsible for screening their potential tenants. CCAP is a useful tool for these landlords in screening. If the CCAP system is taken away from private-sector landlords, they may be unwilling to consider Section 8 voucher holders. This would dramatically impact the availability of housing for low-income persons looking for a decent apartment in the private market.

Shelters also use CCAP as a quick screening tool. They have great concerns about housing, even temporarily, violent criminals, or those who have engaged in drug-related activities or who have had other significant, repeated law enforcement contacts.

I would like to reiterate a few points.

1. We do not rely solely on information in CCAP to form a yea/nay decision on an applicant for housing. CCAP is just a tool. When we search CCAP for information on an applicant, we look for other identifying information that will help us to link it to our applicant (addresses, birthdate, etc.). If it is a landlord/tenant civil judgment, we ask both the landlord about it (if we can locate the landlord) and the tenant. If it is a criminal case, we obtain and review the actual criminal complaint and we ask the applicant about it.
2. We never use a case where a court has adjudicated the case and found the defendant not guilty. If your Committee were to expunge "Not Guilty" verdicts and civil cases where the judge decided in favor of the defendant from the CCAP system, HACM would support such a change.
3. We would not be in favor of expunging records where the case was dismissed, whether without prejudice or for other reasons, since we believe that information can be useful (if not based solely on hearsay) on determining a history of criminal activity or behavioral issues that may adversely affect the health, safety, or welfare of our tenants, or their right to peaceful enjoyment of the premises.
4. Again, I'd like to restate that federal housing regulations permit housing benefit determinations to be based on evidence of criminal activity by the program applicant or participant, regardless of whether there was a criminal arrest, prosecution or conviction. By expunging records where the case was dismissed for any reason, HACM or any landlord's ability to review criminal activity or behavior would be significantly hindered.

HACM has a high volume of activity. Our public and affordable housing intake staff perform about 4,000 background searches in an average year. Another 2,500 to 4,000 households are processed per year in our Section 8 rent assistance program.

Prior to the implementation of CCAP in 1999, we used to send staff for several days per month to the Milwaukee County Courthouse to request and photocopy circuit court cases. CCAP has allowed us to quickly winnow cases down to those that are most relevant, not waste time on others (e.g., traffic violations), has allowed us to institute a policy that treats all applicants consistently with regards to our screening criteria (regardless of the county of the offense, rather than just focusing on Milwaukee County), and has sped up the applications process for our applicants who have waited long enough on our long waiting lists.

Across the country, public housing programs have a reputation for housing criminals. In Milwaukee, this is not the case. We take our screening responsibilities very seriously. Good tenants start with strong, effective screening. We believe firmly that we should never admit those individuals to our public or assisted housing communities who have a past record, whether eviction or criminal related, of damaging property, disturbing neighbors or engaging in violent or drug related activities, to name just a few.

If access to the CCAP system is limited, a landlord's ability to adequately screen applicants for housing will be severely compromised. One of HACM's goals is to continue to be a good neighbor and partner in Milwaukee neighborhoods. CCAP access has been essential to keeping our assisted housing communities safe, crime-free and disturbance-free.