



# Tenant Screening Algorithms: Policy Intervention

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## EXECUTIVE SUMMARY

Tenant screening algorithms are a form of technology intended to provide quick and reliable background checks of potential tenants for landlords and management companies. In most landlord guides, the use of the tenant screening algorithms is deemed an essential part of the approval process and has become widespread in the rental industry.<sup>1</sup> However, because of a high stakes rental market, the use of these tools may further restrict access for populations who already face housing challenges related to affordability and limited supply.<sup>2</sup> In order to provide a more equitable housing application process, this memo finds that the unreliability of tenant screening algorithms warrants a change in policy toward restricting information included in screening reports.

## BACKGROUND

### The Technology

Pulling from various databases, tenant screening companies offer their consumers detailed background reports on potential renters seeking housing. Advertised as legitimate and concise, these reports feature a compilation of:

- an applicant’s credit history
- possible criminal records
- prior “landlord-tenant conflicts”
- past eviction notices.<sup>3</sup>

More detailed background checks can also determine if an applicant is on a sex offender or terrorist watch list.

Landlords and management companies use tenant screening software to determine the supposed reliability of an applicant. Yet despite their alleged accuracy, many tenant screening reports contain false or irrelevant information, including incorrect eviction records or

## Key Findings

**Tenant screening services are not reliable.** The mostly automated reports are often incorrect, falsely associating records of disqualifying events, such as prior evictions or arrests, to the wrong applicant.

**Tenant screening services enable housing discrimination.** Even if they are accurate, by revealing criminal or more distant eviction histories, these companies disproportionately prevent individuals from vulnerable communities from receiving fair access to housing.

personal landlord-tenant disputes.<sup>4</sup> With approximately 2,000 companies offering this service, the lack of quality control has the potential to cause harm.<sup>5</sup> Applicants often find themselves unfairly associated with others’ wrongdoing or still subject to consequences for long-past misunderstandings with a landlord that did not result in serious legal action.<sup>6</sup> Screening services prevent applicants from receiving a fair evaluation and perpetuate a cycle of houselessness.<sup>7</sup>

### The Companies

Landlords’ increasing reliance on tenant screening to confirm their decisions has created a growing market for such services. Some of the most well known screening companies include: American Apartment Owners Association (AAOA), Avail, Cozy, E-Renter, First Advantage, LeaseRunner, MyRental, MySmartMove, National Tenant Network (NTN), RentPrep, RentSpree, and TurboTenant.<sup>8</sup> Screening packages vary among companies, but estimated costs range between twenty and fifty dollars per report. For instance, AAOA offers baseline services at \$19.95, which includes eviction, criminal, and credit history reports, while the top package costs \$49.95 and includes features such as “LeaseGuarantee Analyzer.”<sup>9</sup> This option uses credit history to determine whether an applicant is eligible for “Lease Guarantee,” a form of

insurance that covers all rental damages ranging from \$1,000 to \$10,000.<sup>10</sup>

Depending on the package, companies offer landlords the option to pay for the background check themselves or charge potential tenants the cost. Unfortunately, tenants are more likely to be burdened by the cost of the more comprehensive packages, creating a potentially insurmountable economic barrier to securing a lease.

### **National and Statewide Housing Laws**

Title VIII of the U.S. Civil Rights Act, also referred to as the Fair Housing Act, protects the right to equal housing without discrimination based on race, color, religion, national origin, disability, sex, and/or familial status.<sup>11</sup> Requirements for accessible and equitable standards of living are also included in this federal law. The Fair Credit Reporting Act (FCRA) of 1970 requires any tenant screening platform to offer accurate reports to their consumers; however, the level of accuracy is not defined. Although the FCRA obligates screening companies to investigate claims of inaccurate information, applicants are unlikely to dispute such inaccuracies if they are unaware of their legal rights.<sup>12</sup>

Within Michigan, the Persons with Disabilities Civil Rights Act and the Elliott-Larsen Civil Rights Act prohibit housing discrimination. The latter serves to protect not only the identities addressed in Title VIII, but also the confidentiality of arrest records if a conviction did not occur.<sup>13</sup> While tenant screening services do not break any of these guidelines, they undermine the Acts' intentions to provide a discrimination-free selection process.

### **City of Detroit's Housing Laws**

As of 2019, Detroit has implemented a ban-the-box (BTB) housing policy. The "Fair Chance Access to Rental Housing" law requires landlords to remove questions from their rental applications regarding criminal history and prohibits inquiring about criminal history in interviews.<sup>14</sup> A landlord may pursue a background check only after completing all other application steps, such as income and employment verification.<sup>15</sup> These restrictions are intended to encourage landlords to view their applicants holistically in order to decrease discrimination. However, this law applies only to landlords who manage five or more rental units, so its reach is limited.

## **ASSESSMENT OF TENANT SCREENING**

### **Cycle of Housing Instability**

The housing market in the United States is worsening as the country continues to face a housing shortage. Home costs are rapidly increasing, making it almost impossible

for working class families to purchase homes. As a result, the demand for rental units exceeds available supply. Those able to acquire housing are subject to prices outside of their income bracket. In December 2022, the United States Census Bureau found that 40% of households experience a rent burden.<sup>16</sup>

The difficulty in acquiring housing is further compounded by an application process that is extremely selective and riddled with background checks. Applicants may be denied for a variety of reasons, but the presence of a criminal record on a screening report often yields a stamp of disapproval.<sup>17</sup> The inclusion of criminal histories in screening reports violates protections guaranteed by ban-the-box regulations. Rebecca Oyama, writing for the Michigan Journal of Race & Law, found that approximately 94% of automated systems include criminal history reviews.<sup>18</sup> This technology, which significantly contributes to homelessness, prevents the reentry of incarcerated housing applicants from carceral settings and disproportionately impacts racial minorities. While the exact percentages of Black and Brown applicants affected is unknown, Oyama connects high incarceration rates in these communities to lower rates of application acceptances.



Photo credit: Ken Shelton from Pixabay

### **Unreliability of Tenant Screening**

Given the disproportionate renter population to units available, tenant screening services capitalize on landlords' desire for an easy filtering tool. In 2021, the market for property management services rested at approximately \$16.5 billion. Meanwhile, a market research company has projected that by 2030, this statistic will climb to \$39.5 billion.<sup>19</sup> To maintain their high level of production, a majority of screening companies rely solely on automated background checks to fulfill orders, often resulting in dangerously inaccurate reports. While manual data quality checks are available, this service can cost up to seven times the baseline price, providing a clear disincentive for

landlords to confirm a report's validity.<sup>20</sup>

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In 2021, the Family Housing Fund and Housing Justice Center found that 40% of screening companies' clientele relied heavily on their reports to make decisions and even sought the companies' advice on what criteria to consider.<sup>21</sup> Landlords are more likely to deny a prospective tenant based on the contents of a report than on a holistic consideration of the applicant. In these ways, screening services help enforce housing discrimination, increasing the likelihood that landlords will deny those in vulnerable communities.

Eviction records are a factor that screening companies often classify as a red flag. A report published by the Consumer Financial Protection Bureau explains how the complexities of eviction proceedings increase inaccuracies in tenant screening reports. For example, when an eviction case is transferred to another courthouse, tenant screening algorithms will report this instance as two notices of eviction instead of one.<sup>22</sup> In some instances, reports also include eviction notices that were not fully executed.<sup>23</sup> It is estimated that up to 22% of eviction cases reported by tenant screening companies are false records.<sup>24</sup>

In addition, eviction notices most often appear on individual reports as a result of wildcard searches, which do not include the full, correct spelling of an applicant's name, yielding results that are completely unaffiliated with the tenant.<sup>25</sup> A wildcard search is a form of gathering a wide range of data that is similar, but not exact, by using special characters that may stand in for unknown characters in a text value.<sup>26</sup> These searches can result in false accusations regarding eviction history, property damage, inability to pay rent, or fraud.<sup>27</sup> A lawsuit against the National Tenant Network revealed that applicant Terrence Enright was falsely associated with three previous evictions, all of which belonged to Teri Enwright from California. The network's search showed results for "Enright, Ter\*", "Terrence, Enr\*", and "Enwright, Ter\*".<sup>28</sup> Enright's application was denied.

## **Discriminatory Practices**

Approximately 68% of prospective renters pay application fees that cover the costs of running a background check with a screening service. In a study surveying 17 companies, only one company required that the landlord purchase the service.<sup>29</sup> On average, the cost of each screening report ranges from \$20 to \$50. While this may appear to be a reasonable one-time fee, applicants must pay this fee for almost every application they submit. Applicants who are denied after their report has been generated are forced to apply elsewhere. The cumulative impact acts as a form of economic discrimination, disproportionately disadvantaging lower income applicants. If an applicant is unable to pay the fee, they may be removed from the pool and lose their opportunity to secure housing.

While economic discrimination can be a recurring obstacle in a renter's housing journey, an applicant's name can also be a source of discrimination in the screening process. Per the New York Times, common last names in the Latine community, such as Fernandez, Garcia, or Hernandez, grouped together in a wildcard search resulted in a family of three experiencing temporary homelessness. Such practices put already vulnerable communities at further risk.<sup>30</sup>

## **POLICY RECOMMENDATIONS**

The tenant screening industry is vast, and while it may not be plausible to eradicate such services, it is possible to restrict their use. Academic and advocacy organizations propose regulations preventing access to criminal histories or eviction records when generating a report. By removing the most discriminatory factors, advocates hope to minimize harm to applicants.



## Remove criminal history from screening reports

While the City of Detroit has already implemented a BTB policy, its reach is limited.<sup>31</sup> By limiting this policy to landlords with five or more units, landlords with fewer units can legally discriminate based on conviction status. Prohibiting the inclusion of criminal history in all screening reports will significantly reduce the potential for housing discrimination in all spheres. Recognizing this, Ann Arbor's city council recently voted to ban criminal background checks of potential renters through their Fair Chance Access to Housing ordinance.<sup>32</sup> Expanding the protections allotted in the BTB policy to all Detroit renters will encourage a fair housing process.

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## Restrict inclusion of landlord-tenant disputes to recent history

It is arguably appropriate for new landlords to know—and factor into their decisions—the information that a prospective tenant was evicted from a previous residence for legitimate reasons or that the tenant has a history of late payments, disruptiveness, or other problematic behavior. However, in fairness, tenants should not be punished indefinitely for their behavior in the distant past. This latter principle guides St. Paul, Minnesota's 2021 Stable, Accessible, Fair, & Equitable Housing Ordinance, which prohibits screening companies from reporting evictions that occurred prior to the last three years.<sup>33</sup> Such a policy could be instituted in Detroit and expanded beyond evictions to include all landlord-tenant disputes.

## Require transparency to empower tenants to dispute inaccuracies

Given the prevalence of screening report inaccuracies, it is critical that tenants be aware of false information that may jeopardize their housing access and have recourse to dispute it. Municipalities must require landlords using tenant screening services to inform prospective tenants of their use of screening reports and provide them with a copy of their report. The applicant's copy must be accompanied

by an acknowledgement that the report may contain inaccuracies, inform the applicant of their right to dispute any false claims, and offer instructions on the process to pursue rectification of the score. Matthew Leiwant, writing for the Georgetown Law Technology Review, suggests that while a BTB approach to eviction records is beneficial, it may encourage landlords to find other ways to discriminate against minority applicants.<sup>34</sup> Therefore, it is necessary to solve the issue at the root by giving more power to applicants. If applicants are provided with information to



understand their scores, they will have more power to address accusations and submit applications that reflect their true character.

## Increase research on discriminatory effects of screening tools

Companies and applicants should not be responsible on their own for ensuring correct and non-discriminatory scores. The community and local policy makers must also acknowledge the harmful effects of tenant screening tools and reconsider whether their use should be permitted. However, the dearth of comprehensive statistics on the negative effects of tenant screening for specific populations makes it more difficult for advocacy organizations to push for a more equitable application process. Decision makers must work with research institutions to prioritize the gathering of data that can undergird more equitable policy.

## ENDNOTES

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