



Report to the Chairman,  
Committee on the Judiciary,  
U.S. Senate

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August 2018

# RENTAL HOUSING ASSISTANCE

## Actions Needed to Improve Oversight of Criminal History Policies and Implementation of the Fugitive Felon Initiative

Accessible Version

# GAO Highlights

Highlights of [GAO-18-429](#), a report to the Chairman, Committee on the Judiciary, U.S. Senate

## Why GAO Did This Study

HUD has encouraged PHAs to balance resident safety with the housing needs of persons with criminal records when administering its rental assistance programs. PHAs are responsible for screening program applicants. The HUD OIG and the FBI implement the Fugitive Felon Initiative to identify and apprehend wanted persons receiving rental assistance.

GAO was asked to review HUD's criminal history policies and the Fugitive Felon Initiative. This report examines (1) federal requirements for PHAs' criminal history policies, (2) HUD guidance and monitoring of these requirements, and (3) implementation of the Fugitive Felon Initiative. GAO reviewed federal statutes and regulations and interviewed officials from HUD, the HUD OIG, and the FBI; analyzed Fugitive Felon Initiative data from 2013 through 2017; and interviewed staff at a nongeneralizable sample of 10 PHAs (selected based on size and other factors).

## What GAO Recommends

GAO is making seven recommendations, including that HUD update PHA guidebooks and improve monitoring procedures; that the HUD OIG assess more comprehensive information on the implementation of the Fugitive Felon Initiative; and that the HUD OIG and the FBI consistently share information on the initiative's results and update their memorandum

View [GAO-18-429](#). For more information, contact Daniel Garcia-Diaz at (202) 512-8678 or [garciadiazd@gao.gov](mailto:garciadiazd@gao.gov) or Gretta L. Goodwin at (202) 512-8777 or [goodwin@gao.gov](mailto:goodwin@gao.gov).

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## What GAO Found

**Federal requirements for public housing agencies.** Federal statutes and Department of Housing and Urban Development (HUD) regulations require public housing agencies (PHA) to conduct criminal history checks on individuals applying for rental assistance under HUD's public housing and Housing Choice Voucher programs and deny assistance for six types of offenses. Mandatory denials include convictions for producing methamphetamine on the premises of federally-assisted housing and lifetime sex offender registrants. Otherwise, PHAs generally have discretion in establishing their criminal history policies and may deny assistance for other offenses or factor in mitigating circumstances.

**HUD monitoring of public housing agencies.** From 2011 through 2016, HUD issued new guidance to PHAs on criminal history policies, but these changes are not reflected in HUD's program guidebooks for PHAs. These guidebooks serve as key reference tools, but have not been updated in over 15 years. Updating them would help HUD more accurately communicate its criminal history policies. While HUD officials said their current efforts to update the guidebooks will reflect recent criminal history policy notices, documentation provided by the agency on these updates did not specifically address criminal history guidance. In addition, HUD's compliance reviews of high-risk PHAs do not address some criminal history policy requirements, such as the prohibition on using arrest records as the basis for determining eligibility. Further, these reviews are largely limited to examining PHAs' written policies and do not cover how PHAs implement those policies. More comprehensive compliance reviews would improve HUD's ability to identify areas of noncompliance with criminal history policy requirements.

**Fugitive Felon Initiative.** From fiscal years 2013 through 2017, the HUD Office of Inspector General (OIG) and the Federal Bureau of Investigation (FBI) shared data through the Fugitive Felon Initiative, which led to the apprehension of more than 1,200 wanted persons who may have lived in HUD-assisted housing. However, GAO found that the HUD OIG had not defined its regional office responsibilities under the initiative and that four of the seven HUD OIG regions did not participate from 2012 through 2016. The HUD OIG revised its procedures for the initiative in April 2018 to include regional office responsibilities, such as coordinating with law enforcement agencies. According to HUD OIG officials, regional offices are now required to coordinate with law enforcement agencies on a priority list of investigative leads, which include warrants for violent felonies, sexual assault, and narcotics distribution. However, the HUD OIG does not plan to assess regional office implementation of several requirements. Collecting and assessing more comprehensive information on regional office activities would help the HUD OIG determine the extent to which regions are undertaking required activities. In addition, the HUD OIG and the FBI have not consistently shared information on the initiative's results—such as apprehension statistics and program savings—which could help evaluate the effectiveness of the

initiative. Further, the HUD OIG's and the FBI's current activities to implement the initiative differ in some areas from the agreed-upon responsibilities listed in their 2012 memorandum of understanding. Updating the memorandum to reflect current responsibilities under the initiative could help improve collaboration between the agencies and improve implementation.

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**Abbreviations**

checklist	Compliance Monitoring Checklist
FBI	Federal Bureau of Investigation
HCV	Housing Choice Voucher
HUD	Department of Housing and Urban Development
MOU	memorandum of understanding
NCIC	National Crime Information Center
OIG	Office of Inspector General
PHA	public housing agency
PIC	Public and Indian Housing Information Center
PIH	Office of Public and Indian Housing
SOP	Standard Operating Procedure
TRACS	Tenant Rental Assistance Certification System
USMS	U.S. Marshals Service

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August 9, 2018

The Honorable Charles E. Grassley  
Chairman  
Committee on the Judiciary  
United States Senate

Dear Mr. Chairman:

Balancing the safety of residents receiving rental assistance with the housing needs of persons with a criminal history is a challenging undertaking that has received increased attention in recent years. Over 3 million households receive rental assistance through the Department of Housing and Urban Development's (HUD) public housing and Housing Choice Voucher (HCV) programs. In the 1990s, HUD encouraged public housing agencies (PHA)—local entities responsible for administering these programs on HUD's behalf—to develop and enforce strict screening and eviction policies as part of their antidrug and anticrime initiatives. However, within the last decade, HUD has encouraged PHAs to move away from strict policies that deny housing assistance to anyone who has engaged in criminal activity. For example, in 2011, the Secretary of HUD issued a letter encouraging PHAs to consider providing “second chances” for formerly incarcerated individuals and to implement policies that balance resident safety with the housing needs of persons with criminal history records.

In addition, HUD's Office of Inspector General (OIG) works with the Federal Bureau of Investigation (FBI) and other law enforcement agencies to implement the Fugitive Felon Initiative. Under this initiative, these agencies share information in an effort to locate and apprehend fugitive felons and investigate the fraudulent receipt of HUD benefits.<sup>1</sup> In recent years, some members of Congress have raised questions about the presence of fugitive felons in public housing and the effectiveness of the Fugitive Felon Initiative.

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<sup>1</sup>A “fugitive felon” is a person fleeing to avoid prosecution, custody, or confinement after conviction, for a crime or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees, or that in the case of the state of New Jersey, is a high misdemeanor or is violating a condition of probation or parole imposed under federal or state law.

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GAO was asked to review HUD's criminal history policies and the Fugitive Felon Initiative. This report examines (1) the statutory and regulatory requirements for PHAs' criminal history policies for public housing and HCV programs; (2) the extent to which HUD provides guidance and monitors PHA implementation of criminal history policy requirements for public housing and HCV programs; and (3) the HUD OIG's implementation of the Fugitive Felon Initiative, in coordination with the FBI.

To describe the federal statutory and regulatory requirements (federal requirements) for PHAs' criminal history policies, we reviewed federal statutes and HUD regulations for the public housing and HCV programs on providing housing assistance to persons with criminal history records and arrest warrants, including fugitive felons.<sup>2</sup> In addition, to obtain information about the implementation of federal requirements, we interviewed officials from HUD headquarters and five HUD field offices and 10 PHAs in four selected metropolitan areas: Chicago, Dallas/Ft. Worth, New York City, and Philadelphia. In selecting these areas, we considered, among other things, the sizes of the PHAs (measured by the number of units), geographic location, and the proximity of HUD field offices and HUD OIG regional offices to each other. We selected two or three PHAs to visit in each of the four areas, resulting in a nongeneralizable sample of 10 PHAs. We selected these PHAs based on factors that included their size, presence of both public housing and HCV programs, and geographic location (for example, urban or nonurban location). We selected HUD field offices by determining which field office oversees each of the selected PHAs.

To determine the extent to which HUD provides guidance and monitors PHA implementation of criminal history policy requirements, we reviewed HUD guidance (letters, notices, and program guidebooks) for the public housing and HCV programs. We interviewed officials from the 10 selected PHAs for their perspectives on HUD's guidance. We also reviewed HUD's procedures for monitoring PHAs, specifically those that review PHA compliance with federal requirements on providing housing assistance to

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<sup>2</sup>We focused on the public housing and HCV programs because PHAs screen applicants and determine eligibility for these programs, whereas for other HUD rental assistance programs, property owners are primarily responsible for these functions. In addition, the HCV program is the largest federal rental assistance program. In fiscal year 2017, funding for the HCV program was about \$20.3 billion and funding for the public housing program was about \$6.3 billion.

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persons with criminal history records. We interviewed officials from HUD headquarters and our sample of five HUD field offices about the agency's efforts to monitor and oversee PHAs' implementation of criminal history policy requirements. We assessed HUD's guidance and compliance procedures in relation to federal statutes, HUD regulations concerning criminal history policies, and internal control standards.<sup>3</sup>

To determine the extent to which the HUD OIG, in coordination with law enforcement agencies, implements and monitors the Fugitive Felon Initiative, we reviewed agreements between the HUD OIG and the FBI and between the HUD OIG and the U.S. Marshals Service (USMS). We reviewed HUD OIG's Standard Operating Procedure for the Fugitive Felon Initiative and interviewed officials from the FBI, HUD OIG, and USMS headquarters to obtain information on the processes these agencies follow as part of the initiative. We also interviewed officials from all seven HUD OIG Office of Investigation regional offices and relevant USMS Fugitive Task Forces in our four selected metro areas (see above). We assessed the HUD OIG's and the FBI's activities in relation to their interagency agreement, OIG's Standard Operating Procedure (SOP) for the Fugitive Felon Initiative, and federal internal control standards.<sup>4</sup> In addition, we collected and analyzed data on the results of HUD OIG's 2017 efforts to cross-reference HUD tenant data and the FBI's Wanted Persons File (sent to the HUD OIG in September 2016) to identify potential investigative leads into the possible location of fugitive felons.<sup>5</sup> Specifically, we summarized the types of offenses related to the potential investigative leads by grouping similar offenses together and identified the top 10 most frequently occurring offenses.

To assess the reliability of the HUD OIG data we interviewed knowledgeable agency officials, conducted electronic testing for missing data and obvious errors, observed HUD OIG's process for cross-referencing HUD tenant data and the FBI's Wanted Persons File, and reviewed system documentation for the relevant data systems. We determined these data to be reliable for our purposes of reporting on the

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<sup>3</sup>GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: September 2014).

<sup>4</sup>[GAO-14-704G](#).

<sup>5</sup>The HUD OIG cross-referenced the FBI's Wanted Persons File and HUD tenant data from May through June 2017. The resulting list of potential investigative leads was the most recent data available at the time of our review.

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number of potential investigative leads, including by type of offense and associated HUD rental assistance program. We also reviewed FBI data on the results of law enforcement agencies (as reported to the FBI from fiscal years 2013 through 2017) in apprehending fugitive felons based on potential investigative leads produced by the initiative. To assess the reliability of the FBI data we interviewed knowledgeable agency officials and reviewed documentation for the related FBI data system. We determined these data to be reliable for our purposes of describing the number of apprehensions resulting from the potential investigative leads identified as part of the Fugitive Felon Initiative. Further details on our scope and methodology appear in appendix I.

We conducted this performance audit from January 2017 to August 2018 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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## Background

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### Public Housing and Housing Choice Voucher Programs

HUD administers its public housing and HCV programs—which serve eligible low- and very-low income households, the elderly, and persons with disabilities—through local PHAs.<sup>6</sup> PHAs are typically municipal, county, or state agencies created under state law to develop and manage public housing units for low-income families. PHAs that participate in the programs contract with HUD to provide housing in exchange for federal

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<sup>6</sup>The United States Housing Act of 1937, as amended, defines low-income families as families whose incomes generally do not exceed 80 percent of the median income for the area and very-low income families as those whose incomes generally do not exceed 50 percent of the median family income for the area. See 42 U.S.C. §1437a(b)(2)(A-B). Under each program, HUD makes up the difference between a unit's monthly rental cost (or, for public housing, the operating cost) and the tenant's payment, which is generally equal to 30 percent of the tenant's adjusted monthly income. The modern public housing program was initially authorized by the United States Housing Act of 1937. See Pub. L. No. 75-412, 50 Stat. 888 (1937). The HCV Program was initially authorized by the Housing and Community Development Act of 1974. See Pub. L. No. 93-383, 88 Stat. 633, 662 (1974).

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grants and subsidies. In total, there were 3,825 PHAs as of December 2017, according to HUD data. PHAs may administer both public housing and HCV programs.

HUD's public housing program provides low-rent housing units to over 1 million eligible households. According to HUD, the majority of PHAs (approximately 3,300 of the 3,825 PHAs) across the country take part in its public housing program. These PHAs own and manage public housing properties, which can include high-rise and low-rise buildings, scattered single family properties, or be part of mixed-income housing developments. Some PHAs manage public housing programs with less than 100 units and others manage programs with more than 30,000 units. For the public housing program, PHAs handle admissions, calculate rents, and enforce leases, among other duties. Under the terms of their contracts with HUD, PHAs agree to administer their properties according to federal statute and HUD regulations, and in exchange they receive funding from HUD. These statutes and regulations provide PHAs with more discretion in developing certain policies, such as parts of the admissions process, and less discretion in developing other policies, such as the income determination process. PHAs are required to develop plans that describe their policies through a process that allows for—and responds to—community feedback.

Approximately 2,200 PHAs across the country are responsible for managing the day-to-day operations of the HCV program, including determining the eligibility of households, approving applications, and distributing vouchers. The HCV program subsidizes housing costs for approximately 2.2 million households in the private rental market as of March 2018, according to HUD officials. In the HCV program, participants are able to find their own housing within the PHA's jurisdiction, including most single-family homes, townhouses, and apartments. If the household moves out of the unit, it can move with continued assistance to another private rental unit.<sup>7</sup> PHAs are required to state their admissions policies within their administrative plans and make these plans publically available.

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<sup>7</sup>Voucher holders may not be able to move out of the area immediately; they may have to live in the jurisdiction of the initial PHA for a year before they can move.

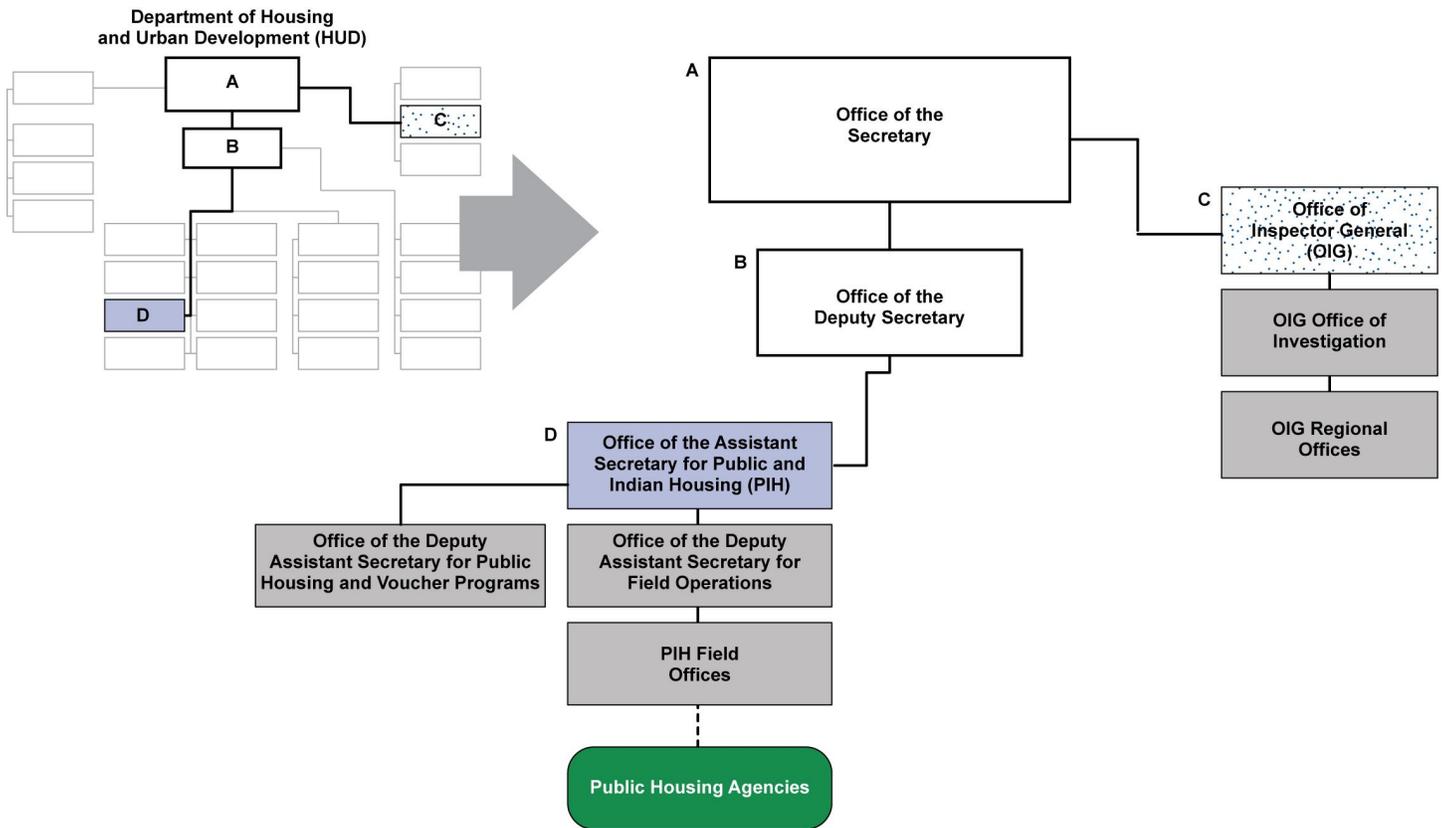
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HUD's Office of Public and Indian Housing (PIH) is responsible for implementing HUD's public housing and HCV programs, among others.<sup>8</sup> Forty-five PIH field offices across the country are charged with overseeing PHAs' compliance with HUD rules. Within PIH, the Office of the Deputy Assistant Secretary for Public Housing and Voucher Programs develops national policy, allocates funding, and provides program direction for public housing and HCV programs. The Office of the Deputy Assistant Secretary for Field Operations oversees the field offices. Figure 1 shows the organizational chart for selected HUD divisions with responsibilities related to public housing and HCV programs.

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<sup>8</sup>In addition to the public housing and HCV programs, PIH implements HUD's Native American housing programs. PIH also oversees the financial operations of housing choice and special-purpose voucher programs and grants as well as the moderate rehabilitation program.

**Figure 1: Organizational Chart of Selected HUD Divisions**



Source: HUD. | GAO-18-429

## Fugitive Felon Initiative

HUD OIG operates independently within HUD and reports to the Office of the Secretary. The OIG conducts audits, evaluations, and investigations to detect and prevent fraud, waste, and abuse; and promotes effective and efficient government operations. The HUD OIG Office of Investigations conducts work through a headquarters office and seven regional offices. The Office of Investigations initiates investigations about possible violations of laws or regulations in the administration of HUD programs and activities, or misconduct on the part of HUD employees or recipients of HUD funds.

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The HUD OIG Office of Investigations began the Fugitive Felon Initiative in fiscal year 2003, in response to a request from USMS and one of our prior recommendations.<sup>9</sup> The Initiative began as a data-sharing effort between HUD OIG and USMS to identify fugitives that may be living in HUD-assisted housing. According to HUD OIG officials, the data-sharing responsibilities were transferred from USMS to the FBI in 2004. This initiative has been governed by three memoranda of understanding (MOU). Specifically,

- a 2002 MOU between HUD OIG and USMS facilitated sharing USMS federal warrant data;
- a 2004 MOU between HUD OIG and the FBI established a process to share a larger set of warrant data from federal, state, and local law enforcement agencies; and
- a 2012 MOU between HUD OIG and the FBI clarified the purposes of the Fugitive Felon Initiative and the roles of HUD OIG and the FBI.

For the purposes of this report, we refer to the Fugitive Felon Initiative as the data-sharing effort between HUD OIG and the FBI to locate and apprehend fugitives. The term “Fugitive Felon Initiative,” however, is HUD OIG’s name for the program. The FBI participates in the data-sharing efforts with HUD OIG through the FBI’s Fugitive Identification Notice Delivery project. This project leverages FBI data-sharing with a small number of federal agencies, including HUD, to identify the possible location of fugitives.

The Fugitive Felon Initiative is a law enforcement initiative, and it operates separately from PHA processes for conducting criminal history screenings to determine eligibility for housing assistance. Consistent with the 2002 and 2004 MOUs, the 2012 MOU states that the primary purpose of the Fugitive Felon Initiative is to apprehend fugitives and the secondary purpose is for HUD OIG to investigate, identify, and refer for prosecution the fraudulent receipt of HUD benefits. The Fugitive Felon Initiative includes HUD programs administered by PHAs—including public housing

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<sup>9</sup>In our 2002 report on welfare reform and fugitive felon provisions, we concluded that data-matching between HUD tenant data and law enforcement data would be an effective way to identify potentially large numbers of fugitive felons in federal housing assistance programs that landlords have the authority to evict. We recommended that HUD test the feasibility and effectiveness of nationwide routine data matching. GAO, *Welfare Reform: Implementation of Fugitive Felon Provisions Should Be Strengthened*, [GAO-02-716](#) (Washington, D.C.: Sept. 25, 2002).

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and HCV—as well as additional HUD programs not administered by PHAs.<sup>10</sup>

Through the Fugitive Felon Initiative, the HUD OIG leverages FBI and HUD data to identify potential investigative leads into the possible location of fugitives. The FBI shares with the HUD OIG nationwide data on felony and misdemeanor warrants from the FBI's Wanted Persons File.<sup>11</sup> The Wanted Persons File is included in the FBI's National Crime Information Center (NCIC) database.<sup>12</sup> The HUD OIG also accesses data from HUD's Public and Indian Housing Information Center (PIC) system and Tenant Rental Assistance Certification System (TRACS).<sup>13</sup> These systems maintain data on tenants who receive housing assistance. The HUD OIG then cross-references the FBI and HUD data to identify potential investigative leads based on possible matches between these data sources.

As shown in figure 2, after the FBI receives a list of potential investigative leads from the HUD OIG, the FBI is to verify that warrants associated with the leads remain active because some warrants may have been resolved during the period of time the HUD OIG cross-referenced the FBI and HUD data. For example, a warrant may no longer be active if the individual associated with the warrant was already arrested or if the case involving the warrant was dismissed. For warrants that remain active, the FBI disseminates these investigative leads by sending “lead letters” to the federal, state, or local law enforcement agencies that entered the warrant into NCIC. These lead letters provide information, such as a possible

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<sup>10</sup>Other HUD programs included in the Fugitive Felon Initiative include HUD multifamily programs, such as Supportive Housing for the Elderly (Section 202) and Supportive Housing for Persons with Disabilities (Section 811), which provide rental assistance for units in privately-owned housing.

<sup>11</sup>At the federal level, felonies are typically offenses that may result in prison sentences of more than 1 year, while misdemeanors generally carry sentences of 1 year or less; however, individual states may use other classification systems.

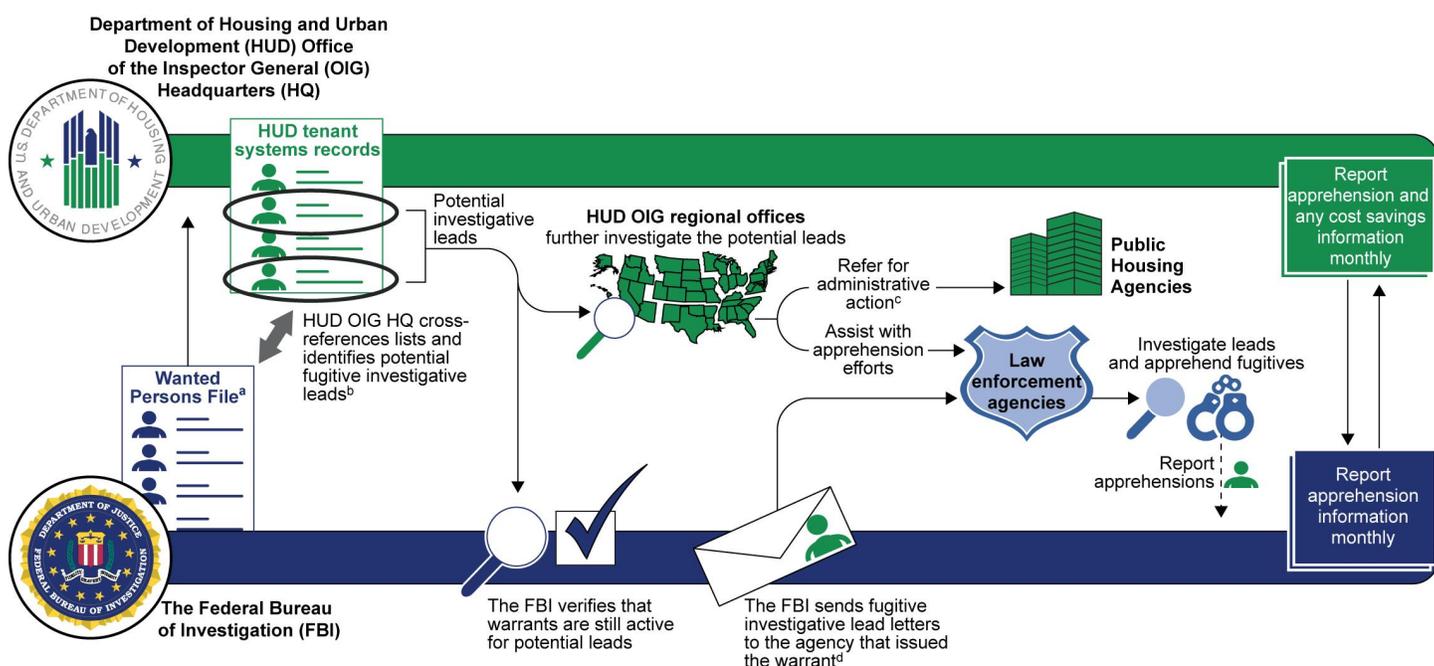
<sup>12</sup>NCIC is an automated database of criminal justice-related records consisting of 21 files that are accessible to law enforcement and criminal justice agencies. The files pertain to, among other things, information on wanted persons (fugitives), persons subject to protection orders, and stolen property.

<sup>13</sup>PIC is the automated HUD system that public housing agencies use to submit information to HUD on households receiving voucher and public housing rental assistance. TRACS is HUD's automated system for collecting and maintaining rental assistance data from property owners and contract administrators on individuals residing in multifamily housing projects.

address for an individual with the outstanding warrant. HUD OIG also disseminates potential investigative leads to its regional offices.

HUD OIG regions may assist law enforcement in apprehending a fugitive or make referrals to PHAs to take administrative action against a tenant. This referral informs the PHA that one of its tenants may be a fugitive or has been apprehended. To ensure law enforcement agencies have sufficient time to apprehend wanted persons, the 2012 MOU states that HUD OIG regions must wait 60 days after law enforcement agencies have received the investigative leads before making referrals to PHAs. PHAs then have discretion about whether to take administrative action against the tenant to terminate assistance.

**Figure 2: Design of the Fugitive Felon Initiative Process**



Source: GAO analysis of information from the Federal Bureau of Investigation and the Department of Housing and Urban Development's Office of the Inspector General. | GAO-18-429

<sup>a</sup>The FBI's Wanted Persons File includes records on individuals who have outstanding felony or misdemeanor warrants. The file contained approximately 2.4 million warrants as of November 2017, according to FBI officials.

<sup>b</sup>The Fugitive Felon Initiative uses HUD tenant data from HUD's Public and Indian Housing Information Center (PIC) and the Tenant Rental Assistance Certification System (TRACS) data systems. These systems contain information on the over 4.3 million households receiving housing assistance, according to HUD data. PIC is the automated HUD system that public housing agencies use to submit information to HUD on households receiving voucher and public housing rental assistance. TRACS is HUD's automated system for collecting and maintaining rental assistance data.

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from property owners and contract administrators on individuals residing in multifamily housing projects.

<sup>c</sup>Public housing agencies may take administrative action against a tenant to terminate rental assistance and have discretion regarding when and how to take administrative action against a tenant.

<sup>d</sup>Lead letters contain information on the possible location of a fugitive, such as an address.

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## Federal Statutes and HUD Regulations Include Requirements for PHAs' Criminal History Policies but Some Also Provide Discretion

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### Federal Statutes and HUD Regulations Require PHAs to Conduct Criminal Background Checks and Mandate Denial of Housing Assistance for Certain Offenses

PHAs must follow federal statutes and HUD regulations (federal requirements) in determining eligibility for public housing and HCV assistance for persons with criminal history records. These requirements include the following:

*Conducting criminal background checks for program applicants.* PHAs are required to conduct criminal background checks on all applicants to the public housing and HCV programs. PHAs must conduct these checks in the state where the housing is located and also check for criminal history records in other states where the applicant and members of the applicant's household are known to have resided.<sup>14</sup> When recertifying tenants, PHAs are not required to conduct criminal background checks.<sup>15</sup> According to HUD officials, there are barriers to conducting background checks when recertifying tenants such as limited staff resources and cost constraints.

*Obtaining sufficient evidence of criminal activity.* In November 2015, HUD's Office of Public and Indian Housing issued a notice on the use of arrest records and other issues related to denying and terminating

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<sup>14</sup>See 24 C.F.R. §5.905.

<sup>15</sup>In housing assistance programs, the process of reexamining a family's income and composition is known as recertification, according to HUD.

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housing assistance for individuals who have engaged in criminal activity.<sup>16</sup> The notice stated that the fact that an individual was arrested is not sufficient evidence that the individual engaged in criminal activity and informed PHAs that arrest records could not be used as the basis for denying admissions, terminating assistance, or evicting tenants. In a Frequently Asked Questions document pertaining to the notice, HUD advised PHAs to review their plans and revise their policies, as needed, to comply with the Notice. PHAs may use other forms of evidence such as conviction records, police records, or witness statements to determine whether the individual engaged in disqualifying criminal activity. The notice also reminded PHAs that their policies and procedures for screening applicants and eviction or termination of assistance must comply with the Fair Housing Act and the Civil Rights Act, and that inconsistent application of standards or decisions based on partial or inaccurate information (such as arrest record information) may result in liability under these laws.<sup>17</sup>

*Establishing a process that allows applicants and tenants to dispute adverse information.* PHAs must provide applicants and tenants with notification and the opportunity to dispute the accuracy and relevance of a criminal record before denying admission or terminating assistance on the basis of such a record.<sup>18</sup>

*Denying or terminating assistance for certain types of criminal-related offenses.* HUD regulations mandate that PHAs deny admission to the public housing and HCV programs for six types of offenses, two of which require lifetime bans on admissions. Specifically, PHAs must permanently ban admissions for individuals convicted of producing methamphetamine on the premises of federally assisted housing and individuals subject to a lifetime registration requirement under a state sex offender program. For the other four mandatory denials—which are related to illegal drug use, drug-related crime, and alcohol abuse—PHAs have some discretion to

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<sup>16</sup>HUD, Notice PIH 2015-19, Guidance for Public Housing Agencies (PHAs) and Owners of Federally-Assisted Housing on Excluding the Use of Arrest Records in Housing Decisions (Nov. 2, 2015).

<sup>17</sup>The Fair Housing Act prohibits discrimination based upon race, color, religion, sex, national origin, disability, or familial status (families with children under the age of 18) in most housing and housing-related transactions. See 42 U.S.C. §§ 3601-19. Title VI of the Civil Rights Act of 1964 prohibits all recipients of federal financial assistance from discriminating based on race, color, or national origin. See 42 U.S.C. §§ 2000d-2000d-4.

<sup>18</sup>See 42 U.S.C. § 1437d(q)(2); 24 C.F.R. § 5.903(f).

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determine whether the offense applies to an applicant or household member or to consider mitigating circumstances.<sup>19</sup> While six offenses require denial of admissions, only one of these offenses—the offense related to methamphetamine production—also mandates termination of assistance, as shown in table 1.<sup>20</sup>

In addition, federal statute and HUD regulations require that PHAs include certain offenses that are grounds for denial or termination in their policies, but give PHAs discretion on when and how to act on them. For example, PHAs can, but are not required to, terminate assistance for “fugitive felons.”<sup>21</sup> Table 1 provides a summary of criminal history-related restrictions for the public housing and HCV programs.

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<sup>19</sup>According to HUD’s Public Housing Handbook, mitigating circumstances are verifiable facts that would overcome or outweigh information gathered in the screening process. In this report we also use the term “mitigating circumstances” to refer to instances where federal requirements stipulate that PHAs deny admissions but allow them to consider applicants who have participated in a rehabilitation program or other social service program, and broader instances where applicants can present information to mitigate an adverse housing decision.

<sup>20</sup>While HUD regulations do not address the termination of assistance of sex offenders subject to a lifetime registration requirement, HUD’s Office of Public and Indian Housing issued a notice in 2012 recommending that PHAs terminate the assistance to or tenancy of persons who commit sex offenses while living in HUD-assisted housing. U.S. Department Of Housing And Urban Development, Notice PIH 2012-28, State Registered Lifetime Sex Offenders In Federally Assisted Housing (June 11, 2012).

<sup>21</sup>[GAO-02-716](#) recommended that Congress consider amending the Housing Act of 1937 to make fugitive felons ineligible for housing assistance.

**Table 1: Summary of Criminal History-Related Requirements for the Public Housing and Housing Choice Voucher (HCV) Programs**

Type of offense	Denial of admissions	Termination of assistance
Convicted of producing methamphetamine on the premises of federally assisted housing	denial of admissions	denial of admissions
Subject to a lifetime registration requirement under a state sex offender program <sup>a</sup>	denial of admissions	action(s) not addressed by statutes or regulations
Determined to be illegally using a controlled substance <sup>b</sup>	denial of admissions	grounds for denial of admissions
Evicted from federally assisted housing for drug-related criminal activity within the last 3 years <sup>c</sup>	denial of admissions	action(s) not addressed by statutes or regulations
Reasonable cause to believe that illegal use or pattern of illegal use of a controlled substance may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents <sup>b</sup>	denial of admissions	grounds for denial of admissions
Abuse or pattern of abuse of alcohol that may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents <sup>b</sup>	denial of admissions	grounds for denial of admissions
Drug-related criminal activity <sup>d</sup>	grounds for denial of admissions	grounds for denial of admissions
Violent criminal activity <sup>e</sup>	grounds for denial of admissions	grounds for denial of admissions (applies to HCV only)
Any criminal activity that adversely affects the health, safety, or right to peaceful enjoyment of the premises by other residents, the owner, persons residing in the immediate vicinity of the premises, or public housing agency employees	grounds for denial of admissions	grounds for denial of admissions
Fleeing to avoid prosecution or violating a condition of probation or parole	action(s) not addressed by statutes or regulations	grounds for denial of admissions

**Legend**

- Federal statute or Department of Housing and Urban Development (HUD) regulations mandate denial of admissions, or termination of tenancy or assistance, with no exceptions.
- Federal statute or HUD regulations state that these offenses are grounds for denial of admissions, or termination of tenancy or assistance. Public housing agencies (PHA) have discretion on when and how to act on them.
- Federal statute and HUD regulations do not address either the denial of admissions, or termination of tenancy or assistance, for these offenses.

Source: GAO analysis of federal statutes and HUD regulations. | GAO-18-429

<sup>a</sup>While federal requirements do not address the termination of the assistance of sex offenders subject to a lifetime registration requirement, HUD issued a notice in 2012 recommending that PHAs terminate the assistance of persons who commit sex offenses while living in federally-assisted housing. U.S. Department of Housing and Urban Development, Notice PIH 2012-28, State Registered Lifetime Sex Offenders in Federally Assisted Housing (June 11, 2012).

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<sup>b</sup>PHAs set their own policies for the process to determine whether an applicant or household member is currently engaging in illegal drug use, has exhibited a pattern of illegal drug use, or has exhibited a pattern of abuse of alcohol.

<sup>c</sup>PHAs may consider applicants who can show that (1) they successfully completed drug rehabilitation or (2) the circumstances that led to the prior eviction no longer exist.

<sup>d</sup>Drug-related criminal activity is defined as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute, or use the drug. 24 C.F.R. § 5.100.

<sup>e</sup>Violent criminal activity refers to any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage. 24 C.F.R. § 5.100.

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## PHAs Generally Have Discretion in Establishing Their Criminal History Policies

PHAs generally have discretion in establishing their specific criminal history policies, apart from the specific federal requirements discussed above. Below are examples of how policies vary among the 10 PHAs we reviewed.

### PHAs Have Discretion by Design

In the 1990s, Congress enacted legislation to deregulate federal housing assistance programs, which gave public housing agencies broader discretion in establishing their own policies for tenant selection, income and rent, and administrative operations for the public housing and Housing Choice Voucher programs. This included discretion on policies for screening applicants, denying admissions, and terminating assistance.

Source: GAO analysis of laws. | GAO-18-429

*Denials and terminations.* PHAs may choose to deny or terminate assistance for additional offenses that are not specifically listed in federal requirements. All of the PHAs we reviewed had established policies to deny admissions or terminate tenancy for additional offenses. For example, in addition to the mandatory denials, one PHA had a written policy to deny admission to public housing to applicants or household members convicted of arson or child molestation and persons who committed homicide, armed robbery, trafficking, or domestic violence in the past 3 years. Another PHA would deny housing assistance if an applicant, tenant, household member, or guest had ever committed homicide, kidnapping, rape or sexual assault, indecency with a child, or arson. According to selected PHA's written policies, other offenses for which PHAs may deny admission or terminate tenancy include selling, producing, or manufacturing illegal substances; violent behavior; property destruction; and fraud, bribery, or other crimes in connection with a federally-assisted housing program.

*Lookback periods.* PHAs can establish periods of time before the admission decision during which an applicant must not have engaged in certain types of criminal activity, such as drug-related or violent crimes, known as lookback periods. Based on our interviews with selected PHAs, lookback periods generally ranged from 2 years to 7 years but were sometimes longer for offenses such as homicide or assault. For example, one PHA had a policy to deny housing assistance to individuals who have committed manslaughter, robbery, illegal possession of a firearm or

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deadly weapon, assault, or physical violence to persons or property within a 5-year period. Another PHA had a 5-year lookback period for felony convictions for burglary; a 10-year lookback period for felony convictions for assault, kidnapping, abduction, forcible sex, or arson; and a 20-year lookback period for convictions for first degree murder, according to its screening criteria for the public housing and HCV programs. Some PHAs began the lookback period on the date of the conviction, and others on the date the offense occurred.

Representatives of three PHAs we interviewed said that they had revised their policies in the past 5 years to reduce their lookback periods. For example, from 2013 through 2016, one PHA reduced its lookback period for all offenses first from 10 years to 7 years, and then finally to 3 years. The officials said their neighborhood had a high incarceration rate and they wanted to give second chances to ex-offenders. Officials from another PHA said that in 2016, they changed their lookback period from 10 years to 5 years at the suggestion of their new deputy director.

*Use of arrest records.* According to HUD's 2015 guidance, PHAs cannot rely on arrest records to determine eligibility for housing assistance. However, they may still review arrest records and may make an adverse housing decision based on the conduct underlying an arrest if the conduct indicates that the individual is not suitable for tenancy and the PHA has sufficient evidence (in addition to the arrest record) that the individual engaged in the conduct.<sup>22</sup> Officials from 9 of the 10 PHAs said that they did not rely on arrest records to determine eligibility for assistance. Officials from the remaining PHA told us they have used arrest records as the basis for denying assistance for certain offenses and believed they complied with HUD's notice on the use of arrest records by providing the applicant or tenant the right to appeal the denial or termination.

Of the 9 PHAs that did not rely on arrest records for determining eligibility for assistance, officials at 5 PHAs indicated that they obtained and reviewed information on arrest records, but that they did not take action to deny assistance or terminate tenancy based on an arrest record. Officials at 1 PHA stated that they only took action based on conviction records and officials at another PHA stated they do not use arrest records at all in making eligibility determinations. For cases where an applicant has

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<sup>22</sup>Department of Housing and Urban Development, Notice PIH 2015-19, Guidance for Public Housing Agencies (PHA) and Owners of Federally-Assisted Housing on Excluding the Use of Arrest Records in Housing Decisions (Nov. 2, 2015).

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charges pending, officials at 2 PHAs said that they may wait for the case to be closed prior to making an eligibility determination.

*Consideration of mitigating circumstances and other factors.* PHAs sometimes consider mitigating circumstances for applicants or tenants who may otherwise be denied housing assistance. Officials from PHAs we interviewed took different approaches to allowing mitigating circumstances and other factors. For example, officials from one PHA said that it always considered mitigating circumstances and requested such information as part of the application process. Officials at another PHA said that after a denial letter is sent, applicants can provide evidence of mitigating circumstances during the appeals process. Another PHA's officials said that in making eligibility decisions, they considered the severity of the crime and whether the individual completed rehabilitation. As allowed by federal requirements, some PHAs included in their policies factors to consider when determining whether or not to deny or terminate housing assistance.<sup>23</sup> For example, one PHA's policy stated that in making such determinations it considers several factors such as the seriousness of the case and the effects that denying assistance may have on other household members or the community. Officials from another PHA said that they allowed public housing residents to preserve their tenancy on the condition that the offending household member is permanently excluded from the public housing unit.

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<sup>23</sup>For example, regulations for the HCV program state that in determining whether to deny or terminate assistance, the PHA may consider all relevant circumstances, such as the seriousness of the case, the extent of participation or culpability of individual family members, or the effects of denial or termination of assistance on other family members who were not involved in the action or failure to act. In addition, the PHA may permit the other members of a participant family to continue receiving housing assistance if the family members who participated in or were culpable for the action or failure will not reside in the unit. See 24 C.F.R. § 982.552(c)(2).

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### Selected PHAs' Coordination with Local Law Enforcement

Officials we interviewed at 10 public housing agencies (PHA) said they coordinated with local law enforcement as part of their efforts to address criminal activity in public housing. Two PHAs have their own police departments. Three PHAs said that local police officers patrol their public housing properties and inform the PHA if there are any issues related to criminal activity. Officials at one of the larger PHAs we interviewed said that staff check arrest reports every night to see if any crimes were committed by their tenants. Officials at another PHA said that they had off-duty police officers regularly patrol their public housing properties and had security cameras on their properties that are monitored by local police.

Source: GAO analysis of interviews with 10 selected PHAs. | GAO-18-429

**Timing and Frequency of Background Checks.** In addition to federal requirements to conduct criminal background checks at time of application, PHAs may also choose to conduct such checks as part of an annual recertification process for persons already receiving rental assistance. Officials from 3 of the 10 PHAs we interviewed said that they conducted background checks on tenants during the recertification process. In addition, officials from 3 other PHAs said that they may conduct background checks if issues arise during a person's tenancy or at any time. Officials from the other 4 PHAs we interviewed did not provide additional details on conducting tenant background checks.

**Methods Used to Obtain Criminal History Information.** Federal statute and HUD regulations authorize PHAs to obtain criminal history information from law enforcement agencies. HUD has also recognized that PHAs may obtain this information through other means.<sup>24</sup> HUD officials at one regional office estimated that most of the PHAs under their purview use private companies to obtain criminal history information.<sup>25</sup> Of the 10 PHAs we interviewed, 6 said that they hired private screening companies to provide the PHA with a criminal history report for an applicant or tenant.<sup>26</sup>

### Criminal History Records and Data Quality Challenges

The completeness and accuracy of criminal history information is a known and persistent challenge for state and federal agencies and

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<sup>24</sup>See Screening and Eviction for Drug Abuse and Other Criminal Activity, 66 Fed. Reg. 28776 (May 24, 2001).

<sup>25</sup>In 2017, the National Low Income Housing Coalition reported that housing providers are increasingly turning to private companies to screen applicants' criminal records. See National Low Income Housing Coalition, "Housing Access for People with Criminal Records," *Advocates' Guide 2017: A Primer on Federal Affordable Housing and Community Development Programs* (Washington, D.C.: 2017).

<sup>26</sup>According to a 2005 SEARCH report on criminal background checks (the most recent report the Department of Justice has funded on this issue), private companies offer benefits that government agencies may not be able to provide, such as collecting and consolidating criminal justice information from multiple sources and achieving faster response times. In our prior work, we reported that private companies can face challenges in obtaining complete and accurate records, in part because private companies do not always have access to complete commercial databases and not all states make their criminal record information accessible for private companies to search. SEARCH, *Report of the National Task Force on the Commercial Sale of Criminal Justice Information* (Sacramento, Calif.: 2005); and GAO, *Criminal History Records: Additional Actions Could Enhance the Completeness of Records Used for Employment-Related Background Checks*, GAO-15-162 (Washington, D.C.: Feb. 12, 2015).

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private companies that compile and sell this information to entities such as employers and public housing agencies.

In its 2015 notice on the use of arrest records, the Department of Housing and Urban Development (HUD) affirmed its commitment to the goal of ensuring that individuals are not denied access to HUD-subsidized housing on the basis of inaccurate, incomplete, or otherwise unreliable evidence of criminal conduct. In addition, the Federal Interagency Reentry Council, of which HUD is a participating agency, reported that it plans to take steps to address widespread inaccuracies in criminal records, and that it would work with consumer reporting agencies to develop best practices for improving the accuracy of criminal records.

Source: GAO, *Criminal History Records: Additional Actions Could Enhance the Completeness of Records Used for Employment-Related Background Checks*, [GAO-15-162](#) (Washington, D.C.: Feb. 12, 2015); and GAO analysis of HUD, U.S. Equal Employment Opportunity Commission, and Department of Justice documents. | GAO-18-429

Officials from one of the selected PHAs we interviewed said that the housing authority's police department conducted the criminal background check and determined whether to approve or deny the applicant based on the results, consulting with the PHA if needed. Officials at two PHAs said a local law enforcement agency or state agency did the initial criminal background check to determine if the applicant has a criminal record, and if so, a private screening company may obtain the individual's detailed criminal record. Another PHA said that their staff used state databases to conduct criminal background checks.

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## HUD Has Not Yet Updated Its Guidebooks for PHAs with Newer Criminal History Policy Guidance, and Its Compliance Reviews Do Not Address Some Requirements

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### HUD Has Not Yet Updated Its Guidebooks to Reflect New Criminal History Policy Guidance

As of mid-May 2018, HUD officials stated that they were in the process of updating HUD's *HCV Program Guidebook* and *Public Housing Occupancy Guidebook* (guidebooks), including updating sections of these guidebooks with new criminal history policies. However, the documentation HUD provided on these updates did not specifically address criminal history policies. The guidebooks serve as key reference documents and are designed to advise PHAs on the administration of the HCV and public housing programs, but have not been revised since 2001 and 2003, respectively.<sup>27</sup> From 2011 through 2016, HUD issued notices and other documents that urged PHAs to move away from policies that deny admissions or tenancy to anyone who has engaged in criminal activity, and instead to seek policies that strike a balance between resident safety and the reentry needs of formerly incarcerated individuals and others with criminal history records.<sup>28</sup>

- In 2011, the Secretary of HUD issued a letter to PHAs encouraging them to allow ex-offenders to rejoin their families in the public housing or HCV programs when appropriate.<sup>29</sup> The letter reminded PHAs that they have broad discretion to set admission and termination policies for the public housing and HCV programs, aside from the federal requirements. The letter also reminded PHAs that they have

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<sup>27</sup>The HCV guidebook was developed by a contractor and includes a disclaimer that the views in the document do not necessarily reflect those of HUD. HUD officials said that this disclaimer would not be included in the updated HCV guidebook.

<sup>28</sup>We have conducted work on related issues. See GAO, *Nonviolent Drug Convictions: Stakeholders' Views on Potential Actions to Address Collateral Consequences*, [GAO-17-691](#) (Washington, D.C.: Sept. 7, 2017).

<sup>29</sup>Letter from Shaun Donovan, Secretary, United States Department of Housing and Urban Development, to Public Housing Agency Executive Directors (June 17, 2011). HUD issued a similar letter to owners and agents of HUD-assisted properties.

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discretion to consider other factors such as evidence of rehabilitation or participation in social service programs when screening applicants for suitability.

- HUD issued a notice in 2012 recommending that PHAs terminate the tenancy of persons living in federally assisted housing who were erroneously admitted while subject to a state lifetime sex offender registration requirement or who commit sex offenses while living in federally assisted housing.<sup>30</sup> HUD recommended that PHAs ask at the time of annual recertification whether any member of the household is subject to a state lifetime sex offender registration program in any state. If the PHA finds that a member of the household engages in criminal activity, including sex offenses, while living in HUD-assisted housing, the PHA should pursue termination of tenancy, according to the notice.<sup>31</sup>
- As previously discussed, HUD issued a notice on criminal history policies and the use of arrest records in 2015, stating that the fact that an individual was arrested is not sufficient evidence that the individual engaged in criminal activity.<sup>32</sup> In addition, the notice stated that HUD does not require the adoption of “one strike” policies (for example, policies that deny admissions or tenancy to anyone who has engaged in criminal activity), and that in most cases PHAs have discretion to determine whether to deny admission or terminate assistance to applicants or households with criminal history records.

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<sup>30</sup>See Department of Housing and Urban Development, *State Registered Lifetime Sex Offenders in Federally Assisted Housing*, Notice PIH 2012-28 (Washington, D.C.: June 11, 2012). Prior to this notice, the HUD OIG conducted an audit between December 2008 and March 2009 of HUD’s requirement prohibiting lifetime registered sex offenders from admission to HUD-subsidized housing. The result of this audit estimated that 2,094 to 3,046 assisted households included a lifetime registered sex offender as a household member. See Department of Housing and Urban Development, Office of Inspector General, *Audit Report 2009-KC-0001* (Washington, D.C.: Aug. 14, 2009).

<sup>31</sup>Federal statute requires PHAs to prohibit the admission of any member of a household subject to a state lifetime sex offender registration requirement, but does not require PHAs to evict or terminate assistance for these persons. See 42 U.S.C. § 13663. Additionally, HUD regulations at 24 CFR § 960.204(a)(4), and § 982.553(a)(2)(i) prohibit admission if any member of a household is subject to a state lifetime sex offender registration requirement. However, according to the 2012 notice, for admissions before the HUD regulations were effective on June 25, 2001, there is currently no HUD statutory or regulatory basis to evict or terminate the assistance of the household solely on the basis of a household member’s sex offender registration status.

<sup>32</sup>Department of Housing and Urban Development, Notice PIH 2015-19, *Guidance for Public Housing Agencies (PHAs) and Owners of Federally-Assisted Housing on Excluding the Use of Arrest Records in Housing Decisions* (Washington, D.C.: Nov. 2, 2015).

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- In 2016, the HUD Office of General Counsel issued a document indicating that policies that exclude individuals based on arrests do not satisfy the Fair Housing Act's burden of proof.<sup>33</sup> The document further stated that housing providers should consider factors such as the type of crime and the length of time since conviction when making housing decisions based on criminal history records.

As of mid-May 2018, HCV and public housing guidebooks were outdated because they did not reflect the letters and notices cited above. HUD has not updated the guidebooks in more than 15 years because they do not frequently update these documents. For example, according to HUD's website, the 2003 Public Housing Occupancy Guidebook is the first update in over 20 years. We reported previously that HUD had struggled to maintain up-to-date and complete policies and procedures across its management functions.<sup>34</sup> In March 2018, HUD officials told us they had begun the process of updating their HCV and public housing guidebooks, noting that PHAs have requested such an update. HUD officials said the eligibility chapters of the updated guidebooks will reflect the notices that HUD has provided to PHAs in recent years on criminal history policies. However, we requested documentation on HUD's planned updates and the information we received did not clearly indicate that the new criminal history guidance would be incorporated into the guidebooks.

Federal internal control standards state that management should communicate the necessary quality information to achieve the entity's objectives.<sup>35</sup> This can include ensuring appropriate means of communicating with external parties. Effective communications can take many forms, including guidance. By updating its HCV and public housing guidebooks to reflect newer criminal history guidance, HUD can ensure that these guidebooks serve as consolidated and up-to-date references for PHAs that accurately communicate HUD's current guidance on criminal history policies.

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<sup>33</sup>Department of Housing and Urban Development, *Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions* (Washington, D.C.: Apr. 4, 2016).

<sup>34</sup>See GAO, *Department Of Housing And Urban Development: Actions Needed to Incorporate Key Practices into Management Functions and Program Oversight*, [GAO-16-497](#) (Washington, D.C.: July 20, 2016). We recommended that HUD establish a process and schedule for reviewing and updating policies and procedures to help ensure that they remain current and complete for key management functions. HUD agreed with this recommendation, which remained open as of March 2018.

<sup>35</sup>See [GAO-14-704G](#).

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## HUD's Reviews for Some High-Risk PHAs Do Not Comprehensively Address Criminal History Policies

HUD reviews the criminal history policies for the small number of PHAs it designates as high risk or very-high risk, but these reviews do not address all related federal requirements or their implementation. Using its National Risk Assessment, HUD designates each PHA on a quarterly basis as low, moderate, high, or very-high risk.<sup>36</sup> The assessment uses quantitative and qualitative data sources to identify, mitigate, prevent, and anticipate potential risk in five categories: financial, physical, governance, management risks, and risks to the HCV program. This assessment does not include specific metrics related to PHAs' criminal history policies, according to HUD officials. HUD uses the results to direct field staff resources towards higher-risk PHAs, such as providing these PHAs with technical assistance or conducting compliance reviews.

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<sup>36</sup>HUD scores and assigns each PHA a risk designation for each risk category, additional areas of risk identified by HUD, and overall risk. Higher scores represent greater risk. Scores that are more than 3 standard deviations from the mean are considered very-high risk in that category. Scores that are more than 2 standard deviations from the mean are considered high risk in that category. Those that are 1–2 standard deviations from the mean are considered moderate risk in that category. All other PHAs are designated as low risk for that category. PHAs are considered "high risk" if they meet any of the following criteria: (1) the overall score is more than 2 standard deviations above the mean, (2) any one of the 5 risk categories (e.g., financial, management) is designated high risk, (3) the PHA is on HUD's Office of Field Operations Operational Troubled list (a list of PHAs that received low performance scores), and (4) the PHA is in receivership. Receivership is a process by which HUD takes control of a PHA or a district court appoints a receiver to conduct the affairs of the PHA.

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**HUD Field Staff May Have Cause to Review PHAs' Criminal History Policies for Various Reasons**

Outside of the Department of Housing and Urban Development's (HUD) Compliance Monitoring Checklist, HUD field staff may have cause to review a PHA's criminal history policies for other reasons. Those reasons include complaints from applicants who were denied assistance for criminal history reasons or low occupancy rates, which could indicate that people do not want to live in particular public housing complexes for safety reasons, or that a PHA's screening policies may be too stringent. HUD may also review a PHA's criminal history policies through the annual plan submission process. According to HUD officials, about one-third of PHAs are required to submit annual plans, which describe PHAs' policies governing resident or tenant eligibility, and selection and admission, among other policies.

Source: GAO analysis of interviews with officials in selected HUD field offices. | GAO-18-429

Although HUD does not routinely monitor PHAs' compliance with federal requirements on criminal history policies, it does evaluate some aspects of compliance for those high-risk and very-high-risk PHAs that receive a compliance review. To conduct these compliance reviews, field staff use HUD's Compliance Monitoring Checklist (checklist). The checklist, which was first piloted in 2016 among six PHAs, contains six questions field staff must cover that directly relate to PHAs' criminal history policies.<sup>37</sup> These include questions on the PHA's policies for denying applicants for drug-related criminal activity and checking states' sex offender registry lists. In 2017, HUD expanded the use of the checklist to 74 high-risk and very-high-risk PHAs. For 2018 reviews, HUD officials stated that each of HUD's 45 field offices will be required to use the checklist for at least one high-risk PHA in their portfolio, meaning the checklist will be applied to at least 45 PHAs out of 626 PHAs designated as high risk and very-high risk (out of a total of 3,825 PHAs as of December 2017), according to HUD officials. HUD field offices can choose to use the checklist at more than one PHA, according to HUD officials. Prior to this checklist, HUD officials said HUD field staff collected information on PHAs' criminal history policies through HUD's Rental Integrity Monitoring reviews by which HUD field office staff collect and analyze PHA income and rent information, identify income and rent errors, and assess PHA policies and procedures in both the public housing and HCV programs. However, HUD no longer required these reviews after 2006, though field staff may still conduct them, according to HUD officials.

As shown in table 2, the checklist generally directs field staff to obtain a copy of a PHA's written policies related to criminal history. For two of the six questions, field staff are also directed to review supporting materials

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<sup>37</sup>According to HUD documentation, senior leadership allocated priority levels to every question in its compliance monitoring checklist. According to the document, mandatory and higher priority questions should always be answered; lower-priority questions should also be answered, to the best of the team's ability and as time permits. In addition to the six mandatory questions directly related to criminal history policies in the checklist's governance and management section, the checklist's HCV and public housing sections each include a question regarding whether PHAs follow their policies for evictions and terminations. Evictions and terminations can occur for various reasons, including criminal activity. These questions are not designated as high priority. The checklist's HCV program section also includes a question related to PHAs' policies to deny applicants for drug-related criminal activity. This question is not designated high priority in the checklist, and this policy is also covered in the governance and management section where it has a high-priority designation. The public housing section includes a question regarding whether a field office has received a significant number of Fair Housing complaints from the PHA's residents. Fair Housing complaints may be related to PHAs' criminal history policies. This question in the checklist is not designated as a priority question.

and interview PHA staff, but for the other four questions, no additional information must be obtained. According to HUD officials, field staff who conduct the reviews are experienced and know to obtain additional information even if it is not listed in the checklist guidance. Officials stated that the checklist was not intended to be a step-by-step guide.

**Table 2: Criminal History Policy Requirements for Public Housing Agencies and HUD’s Compliance Monitoring Checklist**

Criminal history policy requirements		Related HUD monitoring checklist question	Checklist guidance
Conducting Criminal Background Checks	Conduct criminal background checks for all program applicants	None	Not applicable
	Ensure that criminal records are maintained confidentially, not misused or improperly disseminated, and destroyed once the purpose(s) for which the record was requested has been accomplished	Does the PHA retain documentation of background checks?	Review the PHA’s supporting materials
	Allow applicants and tenants to dispute the accuracy of a criminal history record for certain offenses for which they would otherwise be determined ineligible for assistance	None	Not applicable
	Not rely on the fact of an arrest (or arrests) to prove disqualifying criminal activity	None	Not applicable
Determining Program Eligibility	Deny assistance to applicants or terminate tenancy of persons convicted of producing methamphetamine in federally assisted housing	Is there a formal policy for checking if applicants have a prior conviction for methamphetamine manufacturing?	Obtain a copy of the policy
	Deny assistance to applicants who are subject to a lifetime registration requirement under a state sex offender program	Does the PHA require applicants to disclose the presence of any sex offenders in the household?	Obtain a copy of the policy
		Does the PHA ask applicants to provide every state in which they have previously resided for background and sex offender registry check purposes?	Obtain a copy of the policy and review related regulations
		Is there a formal policy for checking the registered sex offender list?	Obtain a copy of the policy

Criminal history policy requirements	Related HUD monitoring checklist question	Checklist guidance
Deny assistance to applicants evicted from federally assisted housing for drug-related criminal activity within the last 3 years	Has the public housing authority (PHA) established and implemented a policy to deny applicants for drug-related criminal activity?	Obtain a copy of the policy. Interview PHA's management/staff, comparing descriptions of implementation to formal policies
Deny assistance to applicants who are determined to be illegally using a controlled substance		
Deny assistance to applicants for whom there is reasonable cause to believe that illegal use or a pattern of illegal use of a controlled substance may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents		
Deny assistance to applicants who abuse or show a pattern of abuse of alcohol that may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents	None	Not applicable

Source: GAO analysis of laws, regulations, and Department of Housing and Urban Development (HUD) documentation. | GAO-18-429

Note: The requirements listed in this table are specific to criminal history policy requirements. Other statutes and regulations may have implications for PHAs' criminal history policies. For example, PHAs' admission and eviction decisions are subject to Fair Housing and civil rights laws. The Fair Housing Act prohibits discrimination based upon race, color, religion, sex, national origin, disability, or familial status (families with children under the age of 18) in most housing and housing-related transactions. See 42 U.S.C. §§ 3601-19. Title VI of the Civil Rights Act of 1964 prohibits entities that receive federal financial assistance from discriminating based on race, color, or national origin. See 42 U.S.C. §§ 2000d-2000d-4.

HUD's checklist does not include items to assess PHAs' compliance with additional aspects of PHAs' criminal history policies. As shown in table 2, the checklist includes specific items related to federal requirements on drug-related criminal activity, sex offenders, and convictions for methamphetamine production for which PHAs are required to deny admissions for public housing and HCV programs.<sup>38</sup> The checklist, however, does not cover the requirement related to the abuse of alcohol. In addition, HUD's checklist also does not address the requirement that PHAs may not use arrest records as the basis for denying or terminating

<sup>38</sup>As previously discussed, for some of the mandatory denials related to illegal drug use and alcohol abuse, PHAs may have some discretion to consider mitigating circumstances (verifiable facts that would overcome or outweigh information gathered during the screening process such as documentation that an applicant or tenant has completed a rehabilitation program) or to determine whether the offense applies to an applicant or household member.

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assistance. Officials from 8 of the 10 PHAs we interviewed stated that they were already implementing policies or changed their policies to follow HUD's notice on arrest records. However, we found that 1 of the 2 remaining PHAs we interviewed had not yet updated its written policies, though officials at this PHA said they did not base any decisions on arrest records in practice. The other PHA's policies state that a record of arrest(s) will not be used as the basis for the denial or proof that the applicant engaged in disqualifying criminal activity, but officials from this PHA said that they did use arrest records as the basis for denying assistance to persons. Specifically, PHA officials stated that they based assistance decisions on records of arrest for drug-related or violent activity if the arrest had not been dismissed, had not reached disposition, and occurred within the last 5 years. Officials from this PHA said that they comply with HUD's 2015 notice by providing the applicant the right to appeal a denial or termination (officials said that appeals by applicants are rare).

HUD's checklist instructions direct Office of Public and Indian Housing (PIH) field staff to note regulatory violations that they observe when conducting compliance reviews using the checklist. However, officials in HUD headquarters stated that they could not provide information on any regulatory violations related to PHAs' criminal history policies specifically because they have aggregate results from the 2017 checklist reviews, which do not specify the type of compliance issues identified by field staff. As a result, violations related to criminal history policies would be included under the general categories of PHA's Admissions and Continued Occupancy Policies (for public housing) or Administrative Plans (for HCV). In addition, none of the HUD staff we interviewed from July through December 2017 from five of HUD's field offices discussed any instances of noncompliance specifically related to PHAs' criminal history policies. Field staff we interviewed identified a range of potential actions they might take if they found that a PHA's criminal history policies did not meet HUD's requirements. These actions could include providing technical assistance to the PHA, requiring the PHA to make corrective actions within a specified time frame, or requiring the PHA to rescreen applicants.

HUD is required by law to assess the performance of PHAs in all major areas of management operations, including implementing effective screening and eviction policies and other anticrime strategies.<sup>39</sup> In

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<sup>39</sup>42 U.S.C. §1437d(j).

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addition, federal internal control standards indicate that management should design control activities to achieve objectives and respond to risks.<sup>40</sup> However, HUD's checklist does not address PHAs' criminal history policies in a comprehensive manner. For example, it generally does not require field staff to go beyond reviewing written policies and obtaining additional information on how the policies are being implemented. In addition, field staff are not required to address some federal requirements, such as PHAs' use of arrest records. According to agency officials, HUD issued the arrest record notice in response to information indicating that PHAs were basing denial decisions on whether an individual had been arrested, which is not sufficient evidence of criminal activity. In our interviews of 10 selected PHAs, as discussed above, officials from one PHA described practices that were not in line with its written policy on the use of arrest records. Specifically, the officials stated that they make housing assistance decisions based on arrest records though their policies state they will not. Another PHA had not updated its written policy to reflect its practice of not basing decisions on arrest records. HUD officials stated that, due to resource issues, they developed the checklist to address high-risk areas, but that they planned to review the checklist again after the guidebooks are updated. By reviewing the checklist to determine what additional criminal history policy requirements should be included and revising the checklist instructions to direct staff to obtain information on PHAs' implementation of criminal history policy requirements, HUD could improve its ability to identify areas of noncompliance. Noncompliance, according to HUD's public housing guidebook, could lead to admission of ineligible families or unlawful discrimination.

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<sup>40</sup>[GAO-14-704G](#).

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## The Fugitive Felon Initiative Has Led to Apprehensions, but Its Implementation and Program Oversight Have Been Inconsistent

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### The HUD OIG Identified and Shared Potential Leads on Locations of Fugitives with the FBI

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Through the Fugitive Felon Initiative, the HUD OIG and the FBI have shared information that has produced thousands of potential investigative leads on the location of fugitives who may live in HUD-assisted housing. From May through June 2017, the HUD OIG identified approximately 18,000 potential investigative leads using FBI warrant data from September 2016, according to HUD OIG officials and FBI data.<sup>41</sup> The HUD OIG identified these leads by cross-referencing the approximately 2.4 million felony and misdemeanor warrants in the FBI's Wanted Persons File with the approximately 10.6 million records in HUD's PIC and TRACS data systems.<sup>42</sup> Cross-referencing involves identifying corresponding records within the FBI and HUD data that show the same or similar names, the same date of birth, and the same sex. A HUD OIG official stated that this process is designed to be overly inclusive to minimize the risk of missing a potential investigative lead.<sup>43</sup> In addition, because the Fugitive Felon Initiative uses data from HUD tenant files, fugitives who live in HUD-assisted housing but are not listed on the rental agreement would not be identified through this process, according to HUD OIG officials.

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<sup>41</sup>According to a HUD OIG official, this list of leads includes an unknown number of mismatched records. For example, a mismatched potential investigative lead might pair information on a warrant with information from HUD's database for an individual with a similar name, the same date of birth, and the same sex, but who is a different person.

<sup>42</sup>HUD's PIC and TRACS data systems contain information on the over 4.3 million households receiving housing assistance.

<sup>43</sup>The potential investigative leads do not represent the number of fugitives living in HUD-assisted housing. Rather, they represent a list of instances where personally identifiable information within an outstanding warrant is the same or similar to personally identifiable information contained within HUD tenant data. In addition, because the HUD OIG identifies potential investigative leads based on a list of warrants, it may identify multiple leads for one individual if that individual has multiple warrants.

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As part of its activities under the Fugitive Felon Initiative, after cross-referencing the FBI and HUD data, the HUD OIG distributed potential investigative leads to HUD OIG regional offices and the FBI.<sup>44</sup> According to HUD OIG officials, the list of potential investigative leads they sent to HUD OIG regional offices only included extraditable warrants for felony offenses.<sup>45</sup> The FBI did not verify these potential investigative leads to determine if the warrants remained active.<sup>46</sup> The list of potential investigative leads the HUD OIG sent to its regional offices differed from the list of leads the FBI distributed to law enforcement agencies. Specifically, the investigative leads the FBI distributed to law enforcement agencies contained only extraditable warrants for both felony and misdemeanor offenses that the FBI verified remained active, according to FBI officials.

According to our analysis of HUD OIG data, many of the potential investigative leads the HUD OIG sent to its regional offices involved nonviolent offenses, though a small percentage included crimes such as assault or homicide.<sup>47</sup> Specifically, from May through June 2017, the HUD OIG sent 4,814 potential investigative leads (about 27 percent of the approximately 18,000 potential investigative leads) to its regional offices. As shown in table 3, about one-third of these leads were for failure to

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<sup>44</sup>HUD OIG officials stated that they cross-referenced the FBI and HUD data from May through June 2017 and sent the results to HUD OIG regional offices. FBI data show that the bureau received these data from the HUD OIG in July 2017. FBI data show that the bureau shared the Wanted Persons File with the HUD OIG 12 times from September 2012 through September 2017, and that the HUD OIG returned a list of potential investigative leads to the FBI at least once in each of those years for a total of 9 times. The HUD OIG did not have readily accessible records of when it distributed leads to its regional offices, according to HUD OIG officials. As discussed later in this report, although the HUD OIG shared the potential investigative leads with its regional offices in 2017, it did not consistently share these leads with the regions in previous years.

<sup>45</sup>According to the FBI's NCIC Operating Manual for the Wanted Persons File, extradition is the surrender by one state to another of an individual charged with or convicted of an offense outside its own territory and within the territorial jurisdiction of the other. FBI officials stated that the geographic extradition area is set by the district or state attorney who prosecuted the case. Law enforcement enters the extradition information set by the district or state attorney into NCIC.

<sup>46</sup>Later in this report, we discuss HUD OIG's regional office efforts to verify the status of the warrants they received and the HUD OIG's planned efforts to coordinate this step with the FBI.

<sup>47</sup>We used the FBI's Unified Crime Reporting definition of violent offenses, which includes murder and non-negligent manslaughter, rape, robbery, and aggravated assault.

appear in court or probation violations—the two most frequently occurring offenses.

**Table 3: Number of Potential Fugitive Felon Investigative Leads the Department of Housing and Urban Development (HUD) Office of the Inspector General (OIG) Sent to Its Regional Offices by Offense Type and Program, May through June 2017**

Top 10 most frequently occurring offenses <sup>a</sup>	Public Housing Program	Housing Choice Voucher Program <sup>b</sup>	Other HUD rental assistance programs <sup>c</sup>	Total
Failure to Appear	189	547	204	940
Probation Violation	149	535	201	885
Larceny	63	204	79	346
Dangerous Drugs	60	152	84	296
Fraud	46	155	71	272
Assault	54	161	54	269
Parole Violation	36	103	30	169
Burglary	24	111	30	165
Robbery	23	81	9	113
Forgery	14	49	30	93
Other	217	758	291	1266
<b>Total</b>	<b>875</b>	<b>2,856</b>	<b>1,083</b>	<b>4,814</b>

Source: GAO analysis of HUD OIG data. | GAO-18-429

<sup>a</sup>Some offenses include subcategories. For example, the data for fraud include fraud by the illegal use of credit cards, fraud by the use of insufficient funds checks, and fraud by false statements.

<sup>b</sup>Includes data on Section 8 Vouchers, Section 8 Certificates, Moving to Work Tenant Based Voucher, and Moving to Work Project Based Voucher.

<sup>c</sup>Includes data on Multifamily Housing and Moderate Rehabilitation.

According to FBI officials, once they electronically receive the list of potential investigative leads from the HUD OIG, their system automatically removes potential leads when either (1) the warrant associated with the lead is no longer active or (2) the warrant associated with the lead is not extraditable. A warrant would no longer be active if an arrest or other warrant resolution occurred between the time the FBI sent the Wanted Persons File to the HUD OIG and the time the HUD OIG returned the list of potential investigative leads to the FBI. An investigative lead would not be extraditable if the fugitive’s address fell outside of the geographic extradition area. According to HUD OIG officials, the HUD OIG sent the FBI approximately 18,000 potential investigative leads in 2017. FBI data show that the warrants associated with 9,415 of these leads remained active once the FBI received the leads. Of the potential leads with active warrants, FBI data show that 4,957 of the warrants were extraditable and active. According to FBI officials, they sent lead letters—which notify law enforcement agencies of the possible location of a

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fugitive who may be receiving HUD assistance—for the leads associated with the extraditable warrants that remained active to the relevant law enforcement agency. Lead letters include information from HUD tenant data and the associated warrant, such as name, date of birth, Social Security number, warrant number, date of the lead, and a possible address for the individual.

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## The FBI's Investigative Lead Letters Facilitated Apprehensions

The FBI's investigative lead letters have led to over 1,200 fugitive apprehensions from fiscal years 2013 through 2017 as a result of the Fugitive Felon Initiative. FBI data show that the FBI sent lead letters to law enforcement agencies for active, extraditable warrants each time the FBI received a list of potential investigative leads from the HUD OIG from fiscal years 2013 through 2017. From fiscal years 2013 through 2017, the FBI sent approximately 45,100 lead letters to law enforcement agencies for extraditable warrants that remained active (out of approximately 66,000 total potential investigative leads FBI data show it received from the HUD OIG during this time period, which included extraditable and nonextraditable active warrants).

Law enforcement agencies provide information to the FBI on the disposition of most warrants associated with lead letters. According to FBI officials, when the FBI provides a lead letter to law enforcement agencies, it includes an optional questionnaire on the disposition of the warrant. Law enforcement agencies return the questionnaire about 75 percent of the time, according to FBI data. Data from these questionnaires show that law enforcement agencies reported 1,260 fugitive apprehensions that were facilitated by information from the Fugitive Felon Initiative from fiscal years 2013 through 2017.<sup>48</sup> Lead letters do not always result in apprehensions. For example, law enforcement agencies may have resolved the outstanding warrant through a separate investigation, been unable to locate the subject of the warrant, or decided to not extradite a subject located in another state, according to FBI data. There may also be additional apprehensions that occurred without the FBI's knowledge if the law enforcement agency apprehended an individual but did not return the disposition questionnaire to the FBI.

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<sup>48</sup>The FBI does not receive information on the type of HUD program in which the individual participated.

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From fiscal years 2013 through 2016, law enforcement agencies reported numbers of apprehensions resulting from the Fugitive Felon Initiative ranging from 254 to 339 each year (see table 4).<sup>49</sup> However, in fiscal year 2017, law enforcement agencies reported a substantial decrease in apprehensions to 77. FBI officials stated that this decrease was a direct result of the decrease in the frequency and speed with which the HUD OIG cross-referenced HUD and FBI data and provided potential leads to the FBI. Specifically, the HUD OIG did not cross-reference data for over a year during fiscal years 2016 and 2017, and the HUD OIG did not return the results to the FBI for 10 months after receiving warrant data from the FBI in September 2016, which resulted in many warrants no longer being active, according to FBI officials.<sup>50</sup> HUD OIG officials stated that the lag in returning potential investigative leads to the FBI in July 2017 was due to staff turnover. HUD OIG officials stated they are developing a process so that staff turnover will not prevent the HUD OIG from cross-referencing the data in the future.

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<sup>49</sup>The FBI tracks the number of apprehensions that occur by fiscal year, but the apprehensions in a particular year do not necessarily correspond to the number of lead letters sent in that year and may result from a previous year's lead letter.

<sup>50</sup>FBI officials stated that prior to fiscal year 2017, the HUD OIG cross-referenced the data more frequently than they did in fiscal year 2017. As a result, the FBI sent more lead letters to law enforcement agencies and received more reports of apprehensions than they received in fiscal year 2017. In addition, FBI officials said that in prior years, the HUD OIG provided potential leads to the FBI within 1 to 2 weeks after the HUD OIG received the warrant data.

**Table 4: Number of Fugitive Apprehensions Reported by Law Enforcement Resulting from the Fugitive Felon Initiative, Fiscal Years 2013 through 2017**

Fiscal year	Number of apprehensions <sup>a</sup>
2013	298
2014	292
2015	339
2016	254
2017	77 <sup>b</sup>
<b>Total</b>	<b>1,260</b>

Source: Federal Bureau of Investigation (FBI) data. | GAO-18-429

<sup>a</sup>Law enforcement agencies that apprehend fugitives as a result of the Fugitive Felon Initiative investigative leads may, but are not required to, report the apprehension to the FBI. As a result, these data may not include all apprehensions that occurred as a result of the investigative leads identified through the initiative.

<sup>b</sup>According to FBI officials, the decrease in the number of apprehensions reported in fiscal year 2017 was a direct result of the decrease in the frequency and speed with which the Department of Housing and Urban Development (HUD) Office of the Inspector General (OIG) cross-referenced HUD and FBI data and provided potential investigative leads to the FBI. HUD OIG officials stated that the delay in providing potential investigative leads to the FBI was due to staff turnover.

Of the 77 apprehensions in fiscal year 2017 based on the HUD OIG's potential investigative leads, our analyses showed that many were for nonviolent offenses. Specifically, about 57 percent were for failure to appear in court or probation violations.<sup>51</sup> The next most frequent offenses included larceny, fraud, dangerous drugs, harassing communication, parole violation, and contempt of court. These offenses made up approximately 25 percent of all apprehensions.

## The HUD OIG Has Revised Its SOP to Address Inconsistent Regional Office Participation in the Fugitive Felon Initiative

Participation in the Fugitive Felon Initiative among the HUD OIG's regional offices was inconsistent and declined from fiscal years 2012 through 2016. In April 2018, the HUD OIG revised its Standard Operating Procedure (SOP) for the Fugitive Felon Initiative to define regional office responsibilities, improve consistency among regional offices' participation, and leverage the FBI's efforts.

<sup>51</sup>According to FBI officials, the nature of the underlying offenses for warrants, including failure to appear in court or probation violations, is not available in the data the FBI maintains on apprehensions.

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## Inconsistent Participation

The inconsistent participation of HUD OIG regional offices in the Fugitive Felon Initiative resulted from changes in HUD OIG investigative priorities, inconsistent data-sharing from HUD OIG headquarters, and resource constraints:

***Change in agency priorities.*** According to HUD OIG officials, beginning in 2012, the HUD Inspector General prioritized investigations that would have significant financial effects, such as fraud committed by PHA employees. Subsequently, four of the seven HUD OIG regional offices did not participate in the Fugitive Felon Initiative from 2012 through 2016, according to regional officials, while the other three regional offices participated by following-up on at least some of the potential investigative leads.

In addition, most HUD OIG regional offices stopped participating in USMS fugitive task forces after 2012.<sup>52</sup> Specifically, officials in six of the seven regional offices said that before 2012, they coordinated with or participated in USMS task forces to investigate potential leads they received from HUD OIG headquarters. An agent in one regional office who participated as a member on the USMS Regional Fugitive Task Force said that he gathered additional information on fugitives from law enforcement and assisted in the apprehension of fugitives. According to officials in that region, they stopped participating in the task force in 2012. Similarly, officials in four other regional offices that coordinated with or participated in USMS fugitive task forces either did not receive the data from HUD OIG headquarters after 2012 or stated that they discontinued their formal involvement in the USMS task forces around 2012. Officials in the sixth regional office stated that they continue to interact with the USMS fugitive task force. Officials in the seventh regional office reported not working with USMS on fugitive apprehensions. Officials we interviewed from three USMS fugitive task forces confirmed their prior interaction with three HUD OIG regions. According to HUD OIG and USMS officials, the three HUD OIG regional offices stopped working with the USMS fugitive task forces in 2005, 2012, and 2015, respectively. For example, officials from one task force stated that a HUD OIG agent was detailed to the task force until 2015 and provided them with related HUD information to locate potential fugitives.

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<sup>52</sup>USMS's fugitive task forces consist of federal, state, and local law enforcement agencies that work to locate and apprehend the most dangerous fugitives.

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***Inconsistent data-sharing.*** HUD OIG headquarters did not consistently share potential investigative leads with all regional offices after 2012, which affected their participation in the Fugitive Felon Initiative. HUD OIG headquarters did not track when it shared potential investigative leads with its regional offices, but our interviews indicate that regional offices did not consistently receive leads from HUD OIG headquarters. Officials from three regional offices stated that they continued to receive data on the potential leads from headquarters from 2012 through 2016, one received data on the potential leads from 2012 through 2014, one received the data upon request from 2012 through 2015, and two did not receive the data after 2012. Of the three regional offices that received the potential leads from 2012 through 2016, officials from two offices stated that they conducted further investigations or coordinated with law enforcement to pursue apprehensions of fugitives on at least some of the potential leads.

***Resource constraints.*** Resource constraints limited HUD OIG regional office participation in the Fugitive Felon Initiative, according to officials from six of the seven regional offices.<sup>53</sup> Officials from two of these regions stated that their staff levels have been reduced in recent years, limiting the resources available to address the hundreds of potential investigative leads from HUD OIG headquarters.<sup>54</sup> They noted that following up on each lead was time-consuming, requiring agents to reenter warrant information into NCIC, identify the law enforcement agency point of contact, and call the agency to provide the potential location of the wanted person. Officials from four regions that continued to receive the potential investigative leads after 2012 stated that they investigated a subset of leads, such as leads for violent offenses. Officials from another region that continued to receive the leads after 2012 stated they did not follow up on any of the leads they received due to work constraints.

### Revised Standard Operating Procedure

In April 2018, the HUD OIG revised its SOP and added guidance for regional office participation in the Fugitive Felon Initiative. The prior version of the SOP (issued in 2016) did not specifically define regional

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<sup>53</sup>Officials from the remaining regional office did not discuss resource constraints.

<sup>54</sup>For example, in 2017, the seven HUD OIG regional offices collectively received 4,814 potential investigative leads from HUD OIG headquarters, ranging from 361 potential leads to 1,016 across regional offices.

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activities.<sup>55</sup> The 2018 SOP states that regional offices will be responsible for verifying that the warrant associated with the potential investigative lead is still active and coordinating with the law enforcement agency that originally entered the warrant into NCIC. In addition, regional offices will generally be required to conduct additional research by querying criminal databases, referring leads to PHAs for administrative action, and recording their efforts in the HUD OIG case management system.

The 2018 SOP states that based on resource and staffing levels, HUD OIG regions may limit their participation in the Fugitive Felon Initiative to only “priority” leads. According to HUD OIG headquarters officials, regional offices are to follow up on priority leads by undertaking activities listed in the 2018 SOP such as coordinating with law enforcement agencies and referring leads to PHAs for administrative action. The Prioritized Fugitive Felon List is defined as leads associated with warrants for violent felonies, sexual assault, and narcotics distribution, as well as other offenses that may affect the health and safety of housing residents, children, national security, or law enforcement. The 2018 SOP also details a new process in which HUD OIG headquarters will provide regional offices with (1) the priority list of leads and (2) the nonpriority list of leads, which includes all leads associated with extraditable felony warrants not included in the priority list.

The 2018 SOP also states that the HUD OIG will cross-reference FBI and HUD data twice each year and return the list of potential investigative leads to the FBI before sending it to HUD OIG regional offices. As a new step under the 2018 SOP, the FBI will verify whether each warrant on the list is active before sending the list back to the HUD OIG, which according to HUD OIG officials, is intended to reduce the number of leads with inactive warrants provided to regional offices.

Because the HUD OIG only recently issued the new SOP, it is too early to assess its effectiveness in enhancing regional office participation in the Fugitive Felon Initiative.

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<sup>55</sup>The 2016 SOP detailed how HUD OIG headquarters identified potential investigative leads, serving as a technical guide for cross-referencing the FBI’s Wanted Persons File with HUD tenant data. The 2016 SOP was not intended to direct regional office involvement in the Fugitive Felon Initiative, according to HUD OIG headquarters officials.

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## The HUD OIG Has Reporting Requirements for the Fugitive Felon Initiative, but Does Not Plan to Collect or Assess Data on Some Key Aspects of Regional Implementation

The 2018 SOP includes some added requirements for HUD OIG headquarters to track and report some statistics related to its regional offices' activities, but the HUD OIG does not plan to collect or assess data on some activities listed in the 2018 SOP that HUD OIG officials stated regional offices are required to undertake for the Prioritized Fugitive Felon List.<sup>56</sup> Under the 2018 SOP, HUD OIG headquarters will be responsible for tracking and reporting statistics on the number of referrals, evictions, PHA actions, and positive matches.<sup>57</sup> However, the 2018 SOP does not require the HUD OIG to track the extent to which its regional offices undertake all the activities that HUD OIG officials stated regions are required to undertake, such as contacting and coordinating with relevant law enforcement agencies for the leads on the Prioritized Fugitive Felon List.

The HUD OIG's 2018 SOP states that the development and use of the SOP is integral to a successful quality control system and that it provides pertinent information needed to perform a required task properly by facilitating consistency. Federal internal control standards state that management should establish activities to monitor the internal control system and evaluate results.<sup>58</sup> HUD OIG headquarters officials stated that they do not plan to collect or assess information on the extent to which regional offices are implementing the new SOP because collecting such information would be resource intensive. However, we believe the HUD

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<sup>56</sup>HUD OIG officials stated that prior to issuing the 2018 SOP, they did not have a written policy to collect or assess information on regional office implementation of the Fugitive Felon Initiative. The officials, however, stated that they have continuously monitored the initiative informally through periodic emails to regional office Special Agents in Charge. However, they did not have documentation of past monitoring efforts. Also, prior to 2017, HUD OIG headquarters officials did not have any records of when HUD OIG sent potential investigative leads to regional offices or to which regions. Based on our interviews with HUD OIG regional office officials, HUD OIG headquarters officials became aware that one region had not received potential investigative leads for several years.

<sup>57</sup>The 2018 SOP does not state to whom and for what purposes HUD OIG headquarters will report this information, but agency officials stated that it will be reported to the FBI.

<sup>58</sup>See [GAO-14-704G](#).

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OIG could obtain more comprehensive information on its regional offices' activities using current resources. For example, the 2018 SOP states that HUD OIG regions are to create a subject profile in the case management system on all confirmed hits. This indicates that the regions will track their efforts to implement the new SOP. As a result, HUD OIG headquarters could collect and assess this information on the extent to which regions are implementing the new SOP through periodic data calls to its regional offices. Collecting and assessing more comprehensive information would better enable the HUD OIG to (1) determine the extent to which HUD OIG regions are undertaking activities listed in the 2018 SOP, including activities agency officials stated regions are required to undertake for the leads on the "Prioritized Fugitive Felon List" and (2) identify any areas for improvement. Such assessments of regional office efforts would also inform HUD OIG headquarters of whether the new SOP is being implemented as intended and consistently, which is particularly important given the regions' inconsistent participation in the initiative in the past.

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### The HUD OIG and the FBI Have Not Consistently Shared Results of the Initiative

The HUD OIG and the FBI have not consistently shared information on the results of the Fugitive Felon Initiative or agreed on the type of information that would be the most useful to share. The 2012 MOU for the initiative states that (1) the FBI is to provide apprehension and other fugitive felon statistics to the HUD OIG monthly and (2) the HUD OIG is to provide apprehension information and estimated program savings to the FBI every 30 days.

**FBI Apprehension Data.** Prior to 2012, the FBI shared aggregate data on apprehensions that resulted from its lead letter process with the HUD OIG, but stopped doing this at the request of the HUD OIG, according to FBI officials. During our review and at the request of the HUD OIG, the FBI resumed sharing information on apprehensions with the HUD OIG in November 2017. However, rather than providing aggregate apprehension statistics, the FBI provided individual disposition letters to the HUD OIG on a weekly basis. While the disposition letters contain information on apprehensions, HUD OIG officials stated that aggregate statistics would better assist them in judging the effectiveness of the initiative.

**HUD OIG Apprehension Data.** HUD OIG headquarters has not tracked the numbers of apprehensions of wanted persons under the initiative and therefore has not shared this information with the FBI. HUD OIG officials

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stated that it is not feasible for them to collect and share this information with the FBI every month. The HUD OIG's April 2018 SOP also states that the HUD OIG will no longer share information on apprehensions with the FBI.<sup>59</sup> As of April 2018, FBI officials said that they were not aware of any changes to the HUD OIG's responsibilities for sharing apprehension information under the 2012 MOU.

**HUD OIG Program Savings Data.** FBI data show that HUD OIG headquarters has not shared program savings data with the FBI since 2012. HUD OIG headquarters officials stated that they do not currently have a method for estimating program savings under the Fugitive Felon Initiative although they have calculated program savings in the past. FBI data show that the HUD OIG provided an estimate of program savings in 2012. The HUD OIG and the FBI have not agreed on whether sharing information on program savings would be useful in implementing the initiative. The 2012 MOU also does not specify for what purpose the HUD OIG should share information on program savings with the FBI. FBI officials stated, however, that if they received data on apprehensions and program savings in the future, they would use this information to report to FBI management to show the ongoing results from the initiative as well as benefits for law enforcement.

In our prior work, we found that collaborating agencies should develop mechanisms to monitor, evaluate, and report results. Reporting on these activities can help the agencies identify areas for improvement such as policy and operational effectiveness.<sup>60</sup> In the 2012 MOU, the HUD OIG and the FBI documented the information they would share on results; however, they have not consistently shared this information, according to HUD OIG and FBI officials. In addition, in its 2018 SOP, the HUD OIG stated that it would no longer collect or share data on apprehensions or program savings with the FBI, but this change is not reflected in the current MOU. By agreeing on what information on results would be useful to share, and consistently sharing this information, the HUD OIG and the FBI could enhance their ability to identify areas for improvement and evaluate the effectiveness of the initiative.

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<sup>59</sup>In May 2018, HUD OIG headquarters officials stated that they plan to track statistics on the number of apprehensions that occur with HUD OIG involvement and eventually share these statistics with the FBI, but this is not reflected in the April 2018 SOP.

<sup>60</sup>See GAO, *Results-Oriented Government: Practices That Can Help Enhance and Sustain Collaboration among Federal Agencies*, [GAO-06-15](#) (Washington, D.C.: Oct. 21, 2005).

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## The HUD OIG and the FBI Have Not Updated Their 2012 MOU to Reflect Program Changes

In addition to not consistently sharing information on results, we found several other areas where the 2012 MOU between the HUD OIG and the FBI does not align with current processes for implementing the Fugitive Felon Initiative. The MOU also does not reflect changes made by HUD OIG's April 2018 SOP, and the HUD OIG generally had not discussed these changes with the FBI.

**Prosecution for Fraud.** According to HUD OIG officials, the HUD OIG generally does not pursue tenant fraud cases as part of the Fugitive Felon Initiative, although the MOU lists this as one of the purposes of the initiative. Specifically, the MOU states that in addition to apprehending fugitive felons, the secondary purpose of the initiative is to investigate, identify, and refer for prosecution individuals who fraudulently receive HUD benefits. However, according to HUD OIG headquarters and officials from one regional office, the HUD OIG generally does not pursue federal tenant fraud cases because these cases typically do not meet the dollar threshold for federal prosecution.<sup>61</sup>

**New Data-Sharing Process.** The HUD OIG's 2018 SOP includes a new procedure in which the FBI will return verified investigative leads to the HUD OIG, but the MOU does not include this new responsibility for the FBI. As discussed earlier, the FBI will now be responsible for verifying whether each warrant on the list of potential investigative leads is active and then sending a list of investigative leads with active warrants to the HUD OIG for distribution to its regional offices. According to FBI officials, they have discussed this added step with the HUD OIG and are currently developing the capability to implement it.

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<sup>61</sup>While HUD OIG regional office officials stated that they generally do not pursue tenant fraud cases for federal prosecution as part of the Fugitive Felon Initiative, some regional office officials stated that they may pursue state benefit fraud cases. For example, officials from one regional office stated that they may present a case to a state prosecutor when they identify an unauthorized individual living in assisted housing or if a resident does not accurately disclose their income on their application for rental assistance. Officials from another regional office stated that they may consider whether a tenant falsified their application for housing benefits, but generally instead focus their efforts on providing assistance for the prosecution of the charges associated with the crime for which the individual was wanted.

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**HUD OIG Referrals to PHAs.** The MOU states that HUD OIG regional offices should not refer cases to PHAs for administrative action for 60 days after the FBI sends the lead letter to law enforcement. However, the MOU does not specify how HUD OIG regional offices will be notified about when the 60-day period begins. In addition, officials from HUD OIG regional offices had differing understandings of when this 60-day period begins, and officials from one region stated that they had only recently become aware that there was a 60-day waiting period. Further, the current MOU does not reflect new language in the HUD OIG's 2018 SOP that allows HUD OIG regional offices to make referrals to PHAs if the subject of the warrant is on the Prioritized Fugitive Felon List and is apprehended before the 60-day period expires.

**HUD OIG Interaction with Law Enforcement.** The HUD OIG and the FBI have not updated the 2012 MOU to reflect that, under the 2018 SOP, HUD OIG regional offices are now generally tasked with proactively contacting and coordinating with law enforcement. Further, according to HUD OIG officials, regional offices are required to proactively contact and coordinate with law enforcement for persons on the Prioritized Fugitive Felon list. However, the MOU only states that the HUD OIG will encourage law enforcement agencies to contact the HUD OIG's regional Special Agents in Charge for assistance with fugitive apprehension activities.

Our prior work has found that agencies that articulate their agreements in formal documents can strengthen their commitment to working collaboratively, and written agreements are most effective when they are regularly updated.<sup>62</sup> The HUD OIG and the FBI articulated their agreement for the Fugitive Felon Initiative in the 2012 MOU, but the MOU has not been updated to reflect either of the agencies' current implementation of the initiative or the HUD OIG's updated April 2018 SOP, according to HUD OIG and FBI officials. As discussed previously, the HUD OIG's April 2018 SOP includes program changes that affect the activities listed in the 2012 MOU, but according to HUD OIG officials, they have only raised some tentative changes with the FBI. According to FBI officials, as of April 2018 HUD OIG officials mentioned that they are interested in updating the MOU, but the HUD OIG has not discussed any specific changes with the FBI and has not made a formal request to

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<sup>62</sup>See GAO, *Managing For Results: Key Considerations for Implementing Interagency Collaborative Mechanisms*, [GAO-12-1022](#) (Washington, D.C.: Sept. 27, 2012).

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update the MOU. HUD OIG officials stated that they are waiting to process the findings of this GAO report before finalizing program changes with the FBI. Jointly agreeing to any changes in HUD OIG and FBI responsibilities under the Fugitive Felon Initiative and updating the MOU to reflect these changes could improve collaboration between the HUD OIG and the FBI and improve implementation of the initiative.

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## Conclusions

Criminal history policies for federally assisted housing and the Fugitive Felon Initiative help ensure the safety of residents receiving rental assistance. In the past decade, HUD issued notices and other documents urging PHAs to strike a balance between resident safety and the reentry needs of individuals with criminal history records. By completing its planned updates of program guidebooks to reflect this guidance, HUD could help ensure that PHA staff know and follow HUD's current guidance on criminal history policies. In addition, HUD could improve its ability to identify and address potential noncompliance by determining what additional criminal history requirements to include in its compliance reviews and obtaining additional information on how PHAs are implementing their policies as part of these reviews.

Through the Fugitive Felon Initiative, the HUD OIG and the FBI undertook efforts that led to over 1,200 apprehensions of wanted persons in the past 5 years. During the course of our review, the HUD OIG updated its procedures for the initiative in an effort to better define regional office responsibilities and improve the consistency of their participation, as well as to leverage the FBI's efforts. However, collecting and assessing more comprehensive information on the extent to which regional offices are implementing these new procedures would better enable the HUD OIG to determine the extent to which its regional offices are fulfilling their responsibilities and identify areas for improvement. In addition, by consistently sharing useful information on the results of the initiative, the HUD OIG and the FBI would have better information with which to evaluate the overall effectiveness of the initiative. Finally, the HUD OIG and the FBI could improve their collaboration by agreeing to changes in HUD OIG and FBI responsibilities under the initiative and updating the MOU to reflect these changes.

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## Recommendations for Executive Action

We are making a total of seven recommendations: two to HUD's Office of Public and Indian Housing, three to HUD's Office of the Inspector General Office of Investigation, and two to the FBI. Specifically:

- The HUD Assistant Secretary for the Office of Public and Indian Housing should complete its updates of the HCV Program Guidebook and Public Housing Occupancy Guidebook to reflect current guidance on criminal history policies for its public housing and HCV programs. (Recommendation 1)
- The HUD Assistant Secretary for the Office of Public and Indian Housing should review HUD's Compliance Monitoring Checklist to determine if questions should be added to address additional federal criminal history requirements and revise checklist instructions to direct HUD staff to obtain information on PHAs' implementation of these requirements during compliance reviews. (Recommendation 2)
- The HUD Assistant Inspector General for the Office of Investigation should collect and assess more comprehensive information on regional efforts to implement the activities listed in the 2018 SOP. (Recommendation 3)
- The HUD Assistant Inspector General for the Office of Investigation should, in collaboration with the FBI, determine what information on fugitive apprehensions and any estimated program savings that occur as the result of the Fugitive Felon Initiative would be most useful and consistently share such information with the FBI. (Recommendation 4)
- The HUD Assistant Inspector General for the Office of Investigation should, in collaboration with the FBI, update the Fugitive Felon Initiative MOU to reflect the agencies' current activities and responsibilities. (Recommendation 5)
- The Director of the FBI should, in collaboration with the HUD OIG, determine what information on fugitive apprehensions that occur as the result of the Fugitive Felon Initiative would be most useful and consistently share such information with the HUD OIG. (Recommendation 6)
- The Director of the FBI should, in collaboration with the HUD OIG, update the Fugitive Felon Initiative MOU to reflect the agencies' current activities and responsibilities. (Recommendation 7)

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## Agency Comments and Our Evaluation

We provided a draft of this report to HUD, the HUD OIG, and DOJ (including the FBI and USMS) for review and comment. HUD provided comments in an email and the HUD OIG provided comments, the latter of which are reproduced in appendix II. The FBI provided technical comments, which we incorporated as appropriate. USMS informed us that they did not have any comments.

In an email received from a HUD PIH audit liaison on July 16, 2018, HUD stated that they agreed with our recommendation to reflect current guidance on criminal history policies in HUD's updated public housing and HCV program guidebooks (Recommendation 1) and expect to publish the relevant updated chapters in December 2018. In response to our recommendation to review questions in HUD's Compliance Monitoring Checklist and include instructions for obtaining information on the implementation of the requirements (Recommendation 2), agency officials stated that they reviewed the current checklist questions and determined that no additional questions or revisions are needed at this time. However, the officials did not provide supporting documentation on how they determined that the existing questions were sufficient. They also did not address the part of our recommendation related to HUD revising its checklist instructions to direct staff to obtain information on PHAs' implementation of criminal history policy requirements. We believe these actions are needed to fully address our recommendation.

In its written comments, the HUD OIG disagreed with our recommendation that it collect and assess more comprehensive information on regional office efforts to implement activities listed in the 2018 SOP (Recommendation 3). The HUD OIG stated that it is not feasible to capture information on regional offices' activities without diverting resources from its primary mission, and that it would be burdensome to create additional mechanisms to monitor participation. We disagree. According to the 2018 SOP, the HUD OIG will be responsible for collecting and reporting statistics for some regional office activities, such as the number of referrals. As discussed in this report, we believe the HUD OIG could obtain more comprehensive information on additional required regional activities using existing resources, such as through periodic data calls to regions. Such assessments of regional office activities are particularly important given that regional offices had not consistently participated in the Fugitive Felon Initiative in the past. Accordingly, we believe our recommendation is still warranted.

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The HUD OIG also disagreed with our recommendation to determine what information on results of the Fugitive Felon Initiative would be the most useful to share in collaboration with the FBI (Recommendation 4). The HUD OIG stated that its ability to determine apprehensions and program savings is limited. However, the current MOU between the HUD OIG and the FBI states that the HUD OIG is to share this information with the FBI. In addition, in May 2018, HUD OIG officials stated that HUD OIG plans to track statistics on apprehensions that occur with HUD OIG involvement and eventually share these statistics with the FBI. The intent of our recommendation is for the HUD OIG and the FBI to collaborate to determine what information on results should be shared and then share such information consistently. We believe our recommendation provides sufficient flexibility for the HUD OIG and the FBI to determine what information on results would be feasible to collect, and maintain that such collaboration could better position the HUD OIG and the FBI to enhance their ability to identify any areas for improvement and evaluate the effectiveness of the initiative. The HUD OIG agreed with our recommendation to update the Fugitive Felon Initiative MOU to reflect the agencies' current activities and responsibilities (Recommendation 5).

In an email received on July 9, 2018, an FBI management and program analyst stated that the FBI agreed with our recommendation to determine what information on apprehensions resulting from the Fugitive Felon Initiative would be most useful to share and consistently share this information with the HUD OIG (Recommendation 6). The FBI also agreed with our recommendation to update the Fugitive Felon Initiative MOU to reflect the agencies' current activities and responsibilities (Recommendation 7).

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As agreed with your office, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies to the Secretary of the Department of Housing and Urban Development, the Inspector General of the Department of Housing and Urban Development, the Attorney General of the United States, and other interested parties. In addition, the report will be available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions concerning this report, please contact Daniel Garcia-Diaz at (202) 512-8678 or [garcia Diaz@gao.gov](mailto:garcia Diaz@gao.gov), or Gretta Goodwin at (202) 512-8777 or [goodwin@gao.gov](mailto:goodwin@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Key contributors to this report are listed in appendix III.

Sincerely yours,



Daniel Garcia-Diaz  
Director, Financial Markets and Community Investment



Gretta L. Goodwin  
Director, Homeland Security and Justice

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# Appendix I: Objectives, Scope, and Methodology

This report examines (1) the statutory and regulatory requirements for public housing agencies' (PHA) criminal history policies for public housing and Housing Choice Voucher (HCV) programs; (2) the extent to which the Department of Housing and Urban Development (HUD) provides guidance and monitors PHA implementation of criminal history policy requirements for public housing and HCV programs; and (3) the implementation of the Fugitive Felon Initiative by the HUD Office of Inspector General (OIG), in coordination with the Federal Bureau of Investigation (FBI).

To describe the statutory and regulatory requirements (federal requirements) for PHAs' criminal history policies, we reviewed federal statutes and HUD regulations for the public housing and HCV programs on providing housing assistance to persons with criminal history records and arrest warrants, including fugitive felons. We focused on the public housing and HCV programs because PHAs screen applicants and determine eligibility for these programs, whereas property owners are primarily responsible for these functions for other HUD rental assistance programs. In addition, the HCV program is the U.S. government's largest rental assistance program. In addition, we interviewed officials from HUD headquarters as well as officials in five HUD field offices and 10 PHAs in four selected metropolitan areas: Chicago, Dallas/Ft. Worth, New York City, and Philadelphia. We used a cluster sampling technique to select the four metropolitan areas. In selecting these areas, we considered geographic location and proximity of HUD field offices and HUD OIG regional offices to each other, whether there were options to visit a variety of differently sized PHAs that had different characteristics (such as ones that managed both the public housing and HCV programs or had a law enforcement department), and participation of HUD OIG regional offices in the Fugitive Felon Initiative. In each of the four selected metropolitan areas, we selected two to three PHAs to visit, for a total nongeneralizable sample of 10 PHAs (see table 5). In selecting PHAs, we considered PHA size (as measured by the number of public housing and HCV units), whether the PHA implemented both public housing and HCV programs, distance in miles between a PHA and the HUD and HUD OIG metro area

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offices, and whether a PHA was in an urban or nonurban location and had a law enforcement department.

**Table 5: Public Housing Agencies (PHA) in our Sample, by Metropolitan Area**

<b>Metropolitan area</b>	<b>PHA</b>
Chicago	Chicago Housing Authority (Chicago, Illinois) Housing Authority Cook County (Chicago, Illinois) Housing Authority of the County of Lake (Grayslake, Illinois)
Dallas/Ft. Worth	Housing Authority of the City of Dallas (Dallas, Texas) Housing Authority of Fort Worth (Fort Worth, Texas)
New York City	New York City Housing Authority (New York, New York) Housing Authority of the Borough of Lodi (Lodi, New Jersey)
Philadelphia	Chester Housing Authority (Chester, Pennsylvania) Philadelphia Housing Authority (Philadelphia, Pennsylvania) Schuylkill County Housing Authority (Schuylkill Haven, Pennsylvania)

Source: GAO. | GAO-18-429

We selected five HUD field offices by determining which field office oversees each of the selected PHAs. We interviewed officials from the 10 selected PHAs and reviewed their criminal history policies to better understand the federal requirements and how PHAs implemented them for the public housing and HCV programs. We did not conduct a compliance audit of the selected PHAs. We also interviewed officials from three housing associations (selected based on their expertise with the public housing and HCV programs) about federal requirements and PHAs' implementation of the requirements. In addition, we interviewed a nonprofit organization that wrote a report on HUD's criminal records policies and two private companies that conducted criminal background screening for PHAs to better understand criminal screening processes.

To determine the extent to which HUD provides guidance and monitors PHA implementation of criminal history policy requirements, we reviewed HUD letters and notices for the public housing and HCV programs. We also reviewed HUD's 2001 HCV Program Guidebook and 2003 Public Housing Occupancy Guidebook. We interviewed officials from the 10 selected PHAs for their perspectives on HUD's guidance. We also reviewed HUD's monitoring procedures for PHAs. Specifically, we reviewed documentation related to HUD's National Risk Assessment as well as HUD's Compliance Monitoring Checklist for reviewing PHA compliance with federal requirements, including requirements on

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providing housing assistance to persons with criminal history records.<sup>1</sup> We interviewed officials from HUD headquarters and our sample of five HUD field offices about the agency's efforts to monitor and oversee PHAs' implementation of criminal history policy requirements (same selected regional offices discussed above). We assessed HUD's guidance and compliance procedures in relation to federal requirements for criminal history policies in relation to federal statutes, HUD regulations concerning criminal history policies, and internal control standards.<sup>2</sup>

To determine the extent to which the HUD OIG, in coordination with law enforcement agencies, implements and monitors the Fugitive Felon Initiative, we reviewed memorandum of understanding (MOU) agreements between the HUD OIG and the FBI and between the HUD OIG and the U.S. Marshals Service (USMS) on their efforts to share and analyze data on HUD tenants and wanted persons and coordinate any apprehension efforts. We reviewed HUD OIG's Standard Operating Procedure for the Fugitive Felon Initiative and interviewed officials from the FBI, HUD OIG, and USMS headquarters to obtain information on the processes these agencies follow as part of the initiative. We also interviewed officials from all seven HUD OIG Office of Investigation regional offices and relevant USMS Fugitive Task Forces in our four selected metropolitan areas to obtain information on their involvement with and perspectives on the Fugitive Felon Initiative.<sup>3</sup> We worked with USMS Headquarters to identify the relevant fugitive task force that would have jurisdiction over the geographic area covered by a HUD OIG regional office. We assessed the HUD OIG's and the FBI's activities in relation to their current MOU, OIG's Standard Operating Procedure for

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<sup>1</sup>The National Risk Assessment uses quantitative and qualitative data sources to identify, mitigate, prevent, and anticipate potential financial, physical, governance, and management risks. Using its National Risk Assessment, HUD designates all PHAs as low, moderate, high, or very-high risk. HUD uses the results of the National Risk Assessment to determine how HUD's Office of Public and Indian Housing field staff will direct their resources towards higher-risk PHAs. For some high-risk and very-high-risk PHAs, HUD field office field staff use HUD's Compliance Monitoring Checklist to assess compliance on a range of policies in three areas: PHA governance and management, the public housing program, and the HCV program.

<sup>2</sup>GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: September 2014).

<sup>3</sup>Department of Housing and Urban Development, Office of Inspector General, Office of Investigations' regional offices are located in Los Angeles, California; Denver, Colorado; Fort Worth, Texas; Chicago, Illinois; Atlanta, Georgia; Philadelphia, Pennsylvania; and New York, New York.

the Fugitive Felon Initiative, and federal internal control standards. We collected and analyzed data on the HUD OIG's Fugitive Felon Initiative. Specifically, we analyzed the results of the HUD OIG's 2017 efforts to cross-reference HUD tenant data and the FBI's Wanted Persons File (from September 2016) to identify potential investigative leads into the possible location of fugitive felons.<sup>4</sup> We summarized the types of offenses related to these potential investigative leads by grouping similar offenses together and identified the top 10 most frequently occurring offenses. Table 6 lists the subcategories of assault, burglary, fraud, forgery, larceny, and robbery. There were no subcategories associated with the other 4 offenses in the top 10 most frequently occurring (failure to appear, probation violation, parole violation, and dangerous drugs).

**Table 6: Subcategories Related to Frequently Occurring Offenses Associated with Potential Fugitive Felon Investigative Leads, May/June 2017**

Categories of offense	Subcategories of offenses
Assault	Assault-Remarks
	Aggravated Assault-Gun
	Aggravated Assault-Family-Strongarm
	Aggravated Assault-Family-Weapon
	Aggravated Assault-Non-Family-Strongarm
	Aggravated Assault-Non-Family-Weapon
	Aggravated Assault-Non-Family-Gun
	Aggravated Assault-Police Off-Strongarm
	Aggravated Assault-Weapon
Simple Assault	
Burglary	Burglary-Remarks
	Burglary Tools-Possession
	Burglary-Forced Entry-Nonresidence
	Burglary-No Forced Entry-Nonresidence
	Burglary-Forced Entry-Residence
	Burglary-No Forced Entry-Residence
Fraud	Fraud-Remarks
	Fraud-By Wire

<sup>4</sup>The HUD OIG cross-referenced the FBI's Wanted Persons File and HUD tenant data from May through June 2017, according to HUD OIG officials. The resulting list of potential investigative leads was the most recent data available during the evidence collection phase of our review.

Categories of offense	Subcategories of offenses
	Fraud-Confidence Game
	Fraud-False Statement
	Fraud-Illegal Use Credit Cards
	Fraud-Imperson
	Fraud-Insufficient Funds Checks
	Fraud-Swindle
	Fraud and Abuse – Computer
Forgery	Forgery-Remarks
	Forgery of Checks
Larceny	Larceny Remarks
	Larceny from Auto
	Larceny from Building
	Larceny Parts from Vehicle
	Larceny from Yards
Robbery	Robbery-Remarks
	Robbery-Business-Gun
	Robbery-Business-Strongarm
	Robbery-Business-Weapon
	Robbery-Residence-Gun
	Robbery-Residence-Strongarm
	Robbery-Residence-Weapon
	Robbery-Street-Gun
	Robbery-Street-Strongarm
Robbery-Street-Weapon	

Source: GAO analysis of Department of Housing and Urban Development (HUD) Office of Inspector General (OIG) data. | GAO-18-429

Note: We analyzed the results of the HUD OIG's 2017 efforts to cross-reference HUD tenant data and the Federal Bureau of Investigation's (FBI) Wanted Persons File (from September 2016) to identify potential investigative leads into the possible location of fugitive felons. We summarized the types of offenses related to the potential investigative leads by grouping similar offenses together and identified the top 10 most frequently occurring offenses related to the potential investigative leads. Of the top 10 most frequently occurring, this table lists the subcategories for assault, burglary, fraud, forgery, larceny, and robbery. There were no subcategories associated with the other 4 offenses in the top 10 most frequently occurring (failure to appear, probation violation, parole violation, and dangerous drugs).

To assess the reliability of the HUD OIG data, we interviewed knowledgeable agency officials, conducted electronic testing for missing data and obvious errors, observed the HUD OIG's process for cross-referencing HUD tenant data and the FBI's Wanted Persons File, and reviewed system documentation for the data systems the HUD OIG uses to cross-reference the data. We determined these data to be reliable for our purposes of describing the number of potential investigative leads

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produced by the initiative, the types of offenses associated with the potential investigative leads, and the HUD rental assistance programs in which identified fugitive felons participated. We also reviewed FBI data on the results of law enforcement agencies (as reported to the FBI from fiscal years 2013 through 2017) in apprehending fugitive felons based on potential investigative leads produced by the initiative. To assess the reliability of the FBI data, we interviewed knowledgeable agency officials and reviewed documentation for the data system the FBI uses to store and retrieve these data. We determined these data to be reliable for our purposes of describing the number of apprehensions that result from the potential investigative leads identified as part of the Fugitive Felon Initiative.

We conducted this performance audit from January 2017 to August 2018 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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## Appendix II: Comments from the Office of Inspector General, Department of Housing and Urban Development



U.S. DEPARTMENT OF  
HOUSING AND URBAN DEVELOPMENT  
OFFICE OF INSPECTOR GENERAL  
WASHINGTON, DC 20410-4500

July 19, 2018

Directors Daniel Garcia-Diaz and Gretta Goodwin  
Financial Markets and Community Investments and Homeland Security and Justice  
U.S. Government Accountability Office  
441 G St. NW  
Washington, DC 20548

Re: General Comments from the Housing and Urban Development Office of  
Inspector General (HUD OIG) on the Government Accountability  
Office's (GAO) Draft Report entitled "Actions Needed to Improve  
Oversight of Criminal History Policies and Implementation of the  
Fugitive Felon Initiative (GAO-18-429)"

Dear Mr. Garcia-Diaz and Mrs. Goodwin:

This letter provides HUD OIG's response to the Draft Report entitled, "Actions Needed to Improve Oversight of Criminal History Policies and Implementation of the Fugitive Felon Initiative (GAO-18-429)." The Office of Investigations within HUD OIG appreciates the opportunity provided by GAO to review and comment on this draft report.

The Office of Investigations conducts investigations into possible violations of laws or regulations in the administration of HUD programs and activities, and may, as resources and staff permit, participate in initiatives that assist our fellow law enforcement partners by sharing relevant data. The Fugitive Felon Initiative (FFI) is one of these initiatives. Our efforts are often limited to assisting local and federal law enforcement agencies in locating and apprehending fugitive felons that may live in HUD subsidized housing. HUD OIG began its FFI in fiscal year 2003 at the request of the U.S. Marshals Service. The FFI was designed to identify persons with outstanding warrants, from other law enforcement agencies, who were residing in federally assisted housing. Neither HUD nor the OIG has the authority to terminate the tenancy of a violator of *The Personal Responsibility and Work Opportunity Reconciliation Act of 1996* (PRWORA). Rather, a third party, generally a local housing authority, is the entity that manages tenant eligibility in HUD assisted housing and also terminates tenant eligibility.

Directors Daniel Garcia-Diaz and Gretta Goodwin  
Financial Markets and Community Investments and Homeland Security and Justice  
Page 2

With limited resources and staff, HUD OIG developed a mechanism to facilitate the FFI by providing the Federal Bureau of Investigation (FBI) with information generated from cross-referencing National Crime Information Center (NCIC) data with HUD data. In addition, HUD OIG took the additional step of providing that same information to our regional offices. Thereby allowing them to support local law enforcement in locating the most violent offenders. The process allows the Office of Investigations to meet its primary mission assignments under the *Inspector General Act of 1978*, which focuses on waste, fraud and abuse, while facilitating the FFI in a way that supports our law enforcement partners. It is within this context that we concur with the recommendations provided by GAO except for the following two recommendations:

**Recommendation 3:** “The HUD Assistant Inspector General for the Office of Investigations should collect and assess more comprehensive information on regional efforts to implement the activities listed in the 2018 SOP.”

HUD-OIG: Non-concur

GAO has recommended that the HUD, Office of Investigations, create a process to monitor and track the regional offices’ activities.

This recommendation is a management function that does not appear to be in regulation or statute. The *Inspector General Act of 1978*, empowers the HUD Inspector General with the discretion on how the Office of Investigations utilizes its resources. With continually shrinking appropriations, it is not feasible for the HUD OIG to capture this information without diverting resources from its primary mission assignments relating to waste, fraud and abuse. The Office of Investigations delegated resource allocation decisions for this initiative to the Regional Special Agent in Charge (SAC). In our most recent Standard Operating Procedure (SOP), the SAC has discretion to determine where resources are allocated. Given that resource levels vary within the Regions, creating an additional reporting and tracking mechanism to monitor participation would be unduly burdensome on HUD OIG.

**Recommendation 4:** “The HUD Assistant Inspector General for the Office of Investigation should, in collaboration with the FBI, determine what information on fugitive apprehensions and any estimated program savings that occur as the result of the Fugitive Felon Initiative would be most useful and consistently share such information with the FBI.”

Directors Daniel Garcia-Diaz and Gretta Goodwin  
Financial Markets and Community Investments and Homeland Security and Justice  
Page 3

HUD-OIG: Non-concur

GAO has recommended that the Office of Investigations create a process to capture information on fugitive felon apprehensions, calculate the resulting program savings and then share the information with the FBI.

HUD OIG's ability to calculate program savings and/or apprehensions under the FFI is very limited. As stated in the opening paragraph, HUD OIG facilitates the apprehension of fugitive felons that may live in HUD subsidized housing by sharing data. Since HUD OIG is not the warrant originating agency, the FBI serves as an intermediary and notifies local law enforcement of wanted individuals living in HUD subsidized housing. Any statistics on the apprehension of fugitive felons would come from the local law enforcement agency that originated the warrant. In addition, HUD OIG does not remove individuals from public housing. This authority and responsibility rests with the affected Housing Authority. In addition, the authorities' are under no statutory obligation to remove the tenants who had a fugitive felon residing in their housing unit; however, the authority "may terminate the tenancy" in such situations. (See 24 CFR 982.310(2)(ii).)

We appreciate GAO's efforts in evaluating the FFI and offering concrete steps to improve collaboration with our law enforcement partners. Again, thank you for the opportunity to comment on this report.

Sincerely,



Helen M. Albert  
Acting Inspector General

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# Appendix III: GAO Contact and Staff Acknowledgments

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## GAO Contacts

Daniel Garcia-Diaz, (202) 512-8678 or [garciadiazd@gao.gov](mailto:garciadiazd@gao.gov)  
Gretta L. Goodwin, (202) 512-8777 or [goodwing@gao.gov](mailto:goodwing@gao.gov)

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## Staff Acknowledgments

In addition to the contacts named above, Allison Abrams (Assistant Director), Eric Erdman (Assistant Director), Charlene J. Lindsay (Analyst in Charge), Charlene Calhoun, Mara McMillen, David Ballard, Rudy Chatlos, Willie (Billy) Commons III, Marc Molino, Tovah Rom, and Tyler Spunaugle made key contributions to this report.

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# Appendix I: Accessible Data

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## Agency Comment Letter

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Accessible Text for Appendix II Comments from the Office of Inspector General, Department of Housing and Urban Development

Page 1

July 19, 2018

Directors Daniel Garcia-Diaz and Gretta Goodwin

Financial Markets and Community Investments and Homeland Security and Justice

U.S. Government Accountability Office

441 G St. NW

Washington, DC 20548

Re: General Comments from the Housing and Urban Development Office of Inspector General (HUD OIG) on the Government Accountability Office's (GAO) Report entitled "Actions Needed to Improve Oversight of Criminal History Policies and Implementation of the Fugitive Felon Initiative (GAO-18-429)"

Dear Mr. Garcia-Diaz and Mrs. Goodwin:

This letter provides HUD OIG's response to the Draft Report entitled, "Actions Needed to Improve Oversight of Criminal History Policies and Implementation of the Fugitive Felon Initiative (GAO-18-429)." The Office of Investigations within HUD OIG appreciates the opportunity provided by GAO to review and comment on this draft report.

The Office of Investigations conducts investigations into possible violations of laws or regulations in the administration of HUD programs

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and activities, and may, as resources and staff permit, participate in initiatives that assist our fellow law enforcement partners by sharing relevant data. The Fugitive Felon Initiative (FFI) is one of these initiatives. Our efforts are often limited to assisting local and federal law enforcement agencies in locating and apprehending fugitive felons that may live in HUD subsidized housing. HUD OIG began its FFI in fiscal year 2003 at the request of the U.S. Marshals Service. The FFI was designed to identify persons with outstanding warrants, from other law enforcement agencies, who were residing in federally assisted housing. Neither HUD nor the OIG has the authority to terminate the tenancy of a violator of The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA). Rather a third party, generally a local housing authority, is the entity that manages tenant eligibility in HUD assisted housing and also terminates tenant eligibility.

## Page 2

With limited resources and staff, HUD OIG developed a mechanism to facilitate the FFI by providing the Federal Bureau of Investigation (FBI) with information generated from cross-referencing National Crime Information Center (NCIC) data with HUD data. In addition, HUD OIG took the additional step of providing that same information to our regional offices. Thereby allowing them to support local law enforcement in locating the most violent offenders. The process allows the Office of Investigations to meet its primary mission assignments under the Inspector General Act of 1978, which focuses on waste, fraud and abuse, while facilitating the FFI in a way that supports our law enforcement partners. It is within this context that we concur with the recommendations provided by GAO except for the following two recommendations:

Recommendation 3: "The HUD Assistant Inspector General for the Office of Investigations should collect and assess more comprehensive information on regional efforts to implement the activities listed in the 2018 SOP."

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GAO has recommended that the HUD, Office of Investigations, create a process to monitor and track the regional offices' activities.

This recommendation is a management function that does not appear to be in regulation or statute. The Inspector General Act of 1978, empowers the HUD Inspector General with the discretion on how the Office of

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Investigations utilizes its resources. With continually shrinking appropriations, it is not feasible for the HUD OIG to capture this information without diverting resources from its primary mission assignments relating to waste, fraud and abuse. The Office of Investigations delegated resource allocation decisions for this initiative to the Regional Special Agent in Charge (SAC). In our most recent Standard Operating Procedure (SOP), the SAC has discretion to determine where resources are allocated. Given that resource levels vary within the Regions, creating an additional reporting and tracking mechanism to monitor participation would be unduly burdensome on HUD OIG.

Recommendation 4: "The HUD Assistant Inspector General for the Office of Investigation should, in collaboration with the FBI, determine what information on fugitive apprehensions and any estimated program savings that occur as the result of the Fugitive Felon Initiative would be most useful and consistently share such information with the FBI."

### Page 3

HUD-OIG: Non-concur

GAO has recommended that the Office of Investigations create a process to capture information on fugitive felon apprehensions, calculate the resulting program savings and then share the information with the FBI.

HUD OIG's ability to calculate program savings and/or apprehensions under the FFI is very limited. As stated in the opening paragraph, HUD OIG facilitates the apprehension of fugitive felons that may live in HUD subsidized housing by sharing data. Since HUD OIG is not the warrant originating agency, the FBI serves as an intermediary and notifies local law enforcement of wanted individuals living in HUD subsidized housing. Any statistics on the apprehension of fugitive felons would come from the local law enforcement agency that originated the warrant. In addition, HUD OIG does not remove individuals from public housing. This authority and responsibility rests with the affected Housing Authority. In addition, the authorities' are under no statutory obligation to remove the tenants who had a fugitive felon residing in their housing unit; however, the authority "may terminate the tenancy" in such situations. (See 24 CFR 982.3 10(2)(ii).)

We appreciate GAO's efforts in evaluating the FFI and offering concrete steps to improve collaboration with our law enforcement partners. Again, thank you for the opportunity to comment on this report.

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Sincerely,

Helen M. Albert

Acting Inspector General

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## Public Affairs

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