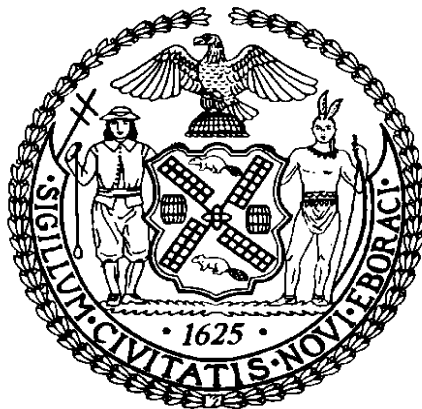


**CITY OF NEW YORK
OFFICE OF THE COMPTROLLER**

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COMPTROLLER**

BUREAU OF MANAGEMENT AUDIT

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Deputy Comptroller for Audit**



**Audit Report on the Monitoring by the
Housing Authority of Criminal Background
And Sex Offense Checks of
Its Housing Residents**

MH10-095A

September 10, 2010



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
1 CENTRE STREET
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John C. Liu
COMPTROLLER

September 10, 2010

To the Residents of the City of New York

My office has audited the monitoring by the New York City Housing Authority's (NYCHA) of criminal background and sex offense checks of its housing residents. We conduct these audits of City programs to ensure that the City agencies that oversee them properly follow regulations that govern their operations.

NYCHA is responsible for providing safe and affordable housing to low-and moderate-income residents throughout the City and is responsible for ensuring that criminal history background and sex offense checks are completed for tenants who reside at these projects. The audit found that NYCHA is in partial compliance with federal regulations and its own procedures regarding criminal background and sex offense checks. Criminal history background and sex offense checks were performed for 90 percent of those individuals requiring them at the borough level; however, at the project level where a secondary sex offense check is required, sex offense checks were performed for only 60 percent of the tenants. However, no criminal background checks were conducted for tenants who relocated to other NYCHA projects.

The audit made six recommendations including that NYCHA should ensure that inquiries are immediately submitted for those tenants whose files lack criminal background check documentation; develop a tracking system at each housing project to monitor personnel files for such documentation; and look into obtaining access to other states' criminal history databases so as to conduct additional inquiries for tenants who have previously resided in other states.

The results of our audit have been discussed with NYCHA officials, and their comments have been considered in preparing this report. Their complete written response is attached to this report.

If you have any questions concerning this report, please e-mail my audit bureau at audit@Comptroller.nyc.gov.

Sincerely,



John C. Liu

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*The City of New York
Office of the Comptroller
Bureau of Management Audit*

**Audit Report on the
Monitoring by the Housing Authority of
Criminal History Background and Sex Offense
Checks of Its Housing Residents**

MH10-095A

AUDIT REPORT IN BRIEF

The New York City Housing Authority (NYCHA) provides affordable housing to low- and moderate-income residents throughout the City. Funding is provided by federal grants from the U.S Department of Housing and Urban Development (HUD). To obtain public housing, potential tenants must go through a screening process that includes completing a NYCHA Application for Project Apartment, either mailing it in or submitting it to one of the borough offices. The applicant's information is then verified to ascertain whether they are eligible for public housing. Verification involves a criminal history background and a sex offense check for each potential tenant and for each household member 16 and older.

If the criminal history background check results indicate that the applicant has a criminal history, NYCHA assesses the offense(s) to determine whether the applicant is eligible to receive public housing. If the applicant does not have a criminal history, a notation to that effect is made in the applicant's file. All determinations regarding criminal background check for the eligible applicant is kept in the NYCHA tenant file as a permanent record. For the sex offense checks, NYCHA uses the Dru Sjodin National Sex Offender Public Web site (NSOPW) to determine whether any household member is found to be lifetime sex offender. Individuals found to be lifetime sex offenders are immediately denied admission to a subsidized apartment. For applicants who are cleared, a notation is made in the applicant's file as evidence that the check was performed and cleared.

This audit determined whether NYCHA complied with federal law and its own policies and procedures in conducting criminal history and sex offense background checks of residents in public housing.

Audit Findings and Conclusions

NYCHA is in partial compliance with HUD regulations and its own procedures regarding criminal background and sex offense checks of tenants residing in public housing. At the

borough level, we found evidence that both criminal history background and sex offense checks were performed for 90 percent of those individuals requiring them. However, at the project level where a secondary sex offense check is required, we found evidence in the files that sex offense checks were performed for only 60 percent of the tenants. We also found no evidence that criminal background checks were conducted for tenants who relocated to other NYCHA projects.

We believe that the weaknesses we found were caused in large part by the lack of procedures regarding the maintenance of documents in the tenant files. Some of the files had no evidence of background checks or inquiries whatsoever; as a result, there is no assurance that the checks or inquiries at the project level were actually performed. Failure to perform the required checks increases the risk that persons who would be deemed ineligible due to their criminal background or status as a sex offender are nevertheless allowed to reside in subsidized housing.

Audit Recommendations

We make six recommendations, including that NYCHA:

- Ensure that inquiries are immediately submitted for tenants whose files lack criminal background check documentation.
- Develop and require the implementation of a tracking system at each housing project to monitor the personnel files to ensure that they contain documentation of the required clearances.
- Look into the feasibility of obtaining access to other states' criminal history databases so as to conduct additional inquiries for tenants who have indicated that they previously resided in other states.

INTRODUCTION

Background

The New York City Housing Authority (NYCHA) provides affordable housing in its 336 housing projects to approximately 403,000 low- and moderate-income residents. Funding is provided by federal grants from the U.S Department of Housing and Urban Development (HUD). NYCHA also provides social services for its residents through 67 community centers and 40 senior centers, and works with the New York City Police Department (NYPD) to reduce crimes rates in public housing through various security initiatives and collaboration.

To obtain public housing, potential tenants must go through a screening process that includes completing a NYCHA Application for Project Apartment, either mailing it in or submitting it to one of the borough offices. Once the borough office receives the application, the Eligibility Division schedules a face-to-face interview with the applicant to obtain and verify additional information pertinent to eligibility for public housing. According to 24 C.F.R (Code of Federal Regulations) §§5.903 and 5.905, part of the screening process authorizes NYCHA to conduct a criminal history background and a sex offense check for each potential tenant and for each household member who is 16 and older.

Sex offense checks must be carried out in the state of the applicants' current residence (in this case, New York) and also in states where they have previously resided. Under NYCHA's procedures, the borough office conducts an initial criminal history background check and a sex offense check and the project office conducts a secondary sex offense check of tenants prior to moving into the project. In addition, although not a federal requirement, NYCHA requires that a criminal history background check be conducted for tenants who are transferring to another NYCHA development.

At the borough office, a face-to-face meeting is conducted with a NYCHA interviewer who uses the Criminal Background Check (CBC) form to note the names and dates of birth of all household members 16 years and older who will be living with the applicant. All names and date of births are then forwarded to the New York State Office of Court Administration (OCA) to perform a match with the state's criminal records.

If OCA finds that there is a criminal record, NYCHA makes a printout of the record and attaches the information to the applicant's CBC form. NYCHA then assesses the offense(s) to determine whether the applicant represents a threat to other residents; if not, the applicant is determined to be eligible to receive public housing. If the applicant is found ineligible, he/she has 30 days to challenge NYCHA's determination of ineligibility. If no criminal record is found, a notation is made on the CBC form to indicate that the individual is cleared and eligible. The CBC for the eligible applicant is kept in the NYCHA tenant file as a permanent record.

To perform the sex offense background check, NYCHA uses the Dru Sjodin National Sex Offender Public Web site (NSOPW) to determine whether any household member listed on the CBC form is found to be lifetime sex offender. If NSOPW indicates that an individual is a lifetime sex offender, NYCHA immediately denies the household admission to a subsidized

apartment. If the household members are cleared, a notation is made on the CBC form as evidence that the check was performed and cleared. HUD requires that NYCHA prevent any new applicants from receiving federal housing assistance if they are lifetime sex offenders.

Once the screening process is completed and the applicants are cleared through both checks, they are certified to receive an apartment. The complete applicant file is forwarded to the selected housing project, where it remains on file. In addition, the applicant information is entered in NYCHA's Tenant Selection Assignment Plan (TSAP), which is an automated system that has the capability to select the next certified applicant for a vacant apartment. The management staff at the project must access TSAP to determine which applicant should be assigned the apartment and then conduct a secondary sex offense check using the NSOPW to ensure that certified applicants have not been placed on the registry since completion of the first check.

As of August 2009, 118,541 individuals were on TSAP's waiting list to be placed in subsidized housing.

Objective

The objective of this audit was to determine whether NYCHA complies with federal law and its own policies and procedures in conducting criminal history and sex offense background checks of residents in public housing.

Scope and Methodology

We conducted this performance audit 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. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

The audit covered tenants who moved into NYCHA subsidized housing during Fiscal Year 2009.

To obtain an understanding of HUD's and NYCHA's responsibilities and regulations governing criminal history background checks and sex offense checks of tenants residing in NYC subsidized housing, we reviewed and used as criteria:

- NYCHA *Applications and Tenancy Administration Department Manual*,
- NYCHA *Guide to Applying for Public Housing*,
- 24 CFR (Code of Federal Regulations) §§5.903 and 5.905,
- Criminal Background Check Form in Tenant File, and
- NSOPW.

We interviewed NYCHA officials responsible for overseeing the housing projects, including the Director of Applications and Tenancy Administration Department (ATAD), the Assistant Director of the NYCHA Bronx borough office, who oversees the day-to-day operations in the Bronx, and the housing project managers at the 15 housing sites in our random sample.

NYCHA provided us a list of 319 housing projects as of December 2009. To determine whether we obtained a complete listing of all projects, we compared this list to a listing of NYCHA projects on the NYCHA Web site. If there were discrepancies we brought the matter to the attention of NYCHA officials.

We also obtained a TSAP listing of 118,541 individuals who were on TSAP's waiting list to be placed in subsidized housing as of August 2009. This list was obtained from NYCHA in connection with another audit (*Audit Report on the User Access Controls of the NYCHA Tenant Selection System and Tenant Selection and Assignment Plan System*, Audit #FS10-056F, issued in May 2010).

Using the list of 118,541, we sorted the TSAP file, according to housing project, and compared the number of projects listed in the TSAP file to the NYCHA list of 319 projects. We randomly selected 15 projects and obtained a listing of 542 tenants residing in NYCHA apartments who had been on NYCHA's waiting list as of October 2009. From the list of 542 tenants, we randomly selected a total of 213 heads of household for audit testing purposes.

We conducted site visits at least once to each of the 15 sampled projects from January 26, 2010, through March 31, 2010. We met with the housing managers or superintendants and obtained the 213 tenant folders. These folders represented 213 apartments with one or more residents. We performed the following tests at each project:

- We compared the names of the tenants on the TSAP list with the names of the individuals listed on the signed lease in each folder.
- We reviewed the 213 files to determine the number of household members and other household occupants over the age of 16, all of whom are required to be pre-screened by the borough offices for criminal history and sex offense checks.
- We reviewed the 213 files to determine whether criminal background checks were performed at the borough level for the 303 individuals residing in these 213 apartments.
- We reviewed the files to determine whether the sex offense checks were performed at the project level for the 319 individuals requiring them. (The 319 individuals include an additional 16 individuals who reached the age of 16 by the time they moved into an apartment, thus requiring a sex offense check.)

If the files lacked the required documents, we immediately brought the matter to the attention of the manager of the project to see if the documents could be found or to explain their absence. For those individuals whose files lacked evidence that sex offense checks were

performed, we independently checked NSOPW to determine whether their names appeared on the registry.

The results of the tests, while not projectable to the entire population of NYCHA tenants, provided a reasonable basis for us to determine whether NYCHA is complying with federal law and its own policies and procedures in conducting criminal history and sex offense background checks of residents in public housing.

Discussion of Audit Results

The matters covered in this report were discussed with NYCHA officials during and at the end of this audit. A preliminary draft report was sent to NYCHA officials on May 11, 2010, with a request for an exit conference to be held on a mutually acceptable date. NYCHA officials declined to provide a reasonable meeting date. Therefore, we informed NYCHA that we would forgo an exit conference and submit a draft report. On June 7, 2010, we sent a draft report to NYCHA officials with a request for comments. We received a written response from NYCHA officials on June 21, 2010.

The audit makes six recommendations to NYCHA. Regarding our first recommendation, NYCHA officials stated that, they did not receive the details regarding our specific finding on tenants whose files lacked criminal background documentation. This information was provided to NYCHA officials during the course of the audit and specifically on April 22, 2010. Regarding the remaining recommendations, NYCHA agrees with one recommendation, partially addressed two, does not address one, and states that it already complies with one. In addition, in a number of instances, the response clarified certain information, and our report was modified accordingly.

The full text of the NYCHA response is included as an addendum to this report.

FINDINGS AND RECOMMENDATIONS

Based on our review of NYCHA policies and procedures and a review of the tenant files at 15 projects, we found that NYCHA is in partial compliance with HUD regulations and its own procedures regarding criminal background and sex offense checks of tenants residing in public housing. At the borough level, we found evidence that both criminal history background and sex offense checks were performed for 90 percent of those individuals requiring them. However, at the project level where a secondary sex offense check is required, we found evidence in the files that sex offense checks were performed for only 60 percent of the tenants. We also found no evidence that criminal background checks were conducted for tenants who relocated to other NYCHA projects.

We believe that the weaknesses we found were caused in large part by the lack of procedures regarding the maintenance of documents in the tenant files. As a result, there are inconsistencies—some files had hard copies of the inquiries, some had a notation that the inquiry was performed, and some had no evidence of background checks or inquiries whatsoever. If NYCHA has no evidence of these checks, it has no assurance that they were actually performed. Failure to perform the required checks increases the risk that persons who would be deemed ineligible due to their criminal background or status as a sex offender are nevertheless allowed to reside in subsidized housing, creating a potentially unsafe living environment for tenants who live in and near the NYCHA housing projects.

In addition, while NYCHA policies require criminal history and sex offense inquiries of tenants residing in subsidized housing, we found that there is a gap in their policies which may prevent some tenants who currently reside in subsidized housing from ever being checked. As a result, NYCHA may be failing to detect a population of tenants who may have criminal history backgrounds or may be registered as a lifetime sex offender.

Inadequate Controls Over the Monitoring of CBC Inquiries

Our review of NYCHA tenant files at the housing projects found no evidence that a CBC was completed for 29 (10 percent) tenants residing in 22 apartments.

Upon further review, we found that 28 of the 29 tenants had by and large been living in other subsidized apartments and were either moving from one project to one of the sites that we visited, or were moving into a new apartment at the same site. The housing managers at the projects stated that they believed that a CBC of each tenant had been performed when they moved into their first subsidized apartment. While that may be the case, there was no proof in the files to indicate that a CBC was ever performed or that the housing managers made an attempt to determine the whereabouts of the lacking CBC records. In fact, it is not clear that they were even aware that there was no record of a CBC. We found that these tenants had been living at the projects for a period of five months to over a year without a CBC on file. Table I, following, shows a breakdown of the 10 projects housing the 29 tenants whose files lacked evidence of a CBC and the number of months that elapsed since their moving into the apartments during Fiscal Year 2009.

Table I
Periods Tenants Lived at Projects
Without Evidence of CBC Inquiries as of Site Visits *

Name of Project	Number of Tenants Lacking CBCs	Periods Tenants Lived at the Project without CBC			
		1-6 months	7 - 12 months	13 – 18 months	19 – 24 months
Richmond	2	0	2	0	0
Wald	3	0	3	0	0
LaGuardia	9	1	7	1	0
Edenwald	1	0	0	1	0
Murphy	9	1	5	3	0
Wagner	1	0	0	0	1
Penn Wortman	1	0	0	1	0
Breukelen	1	0	0	1	0
Marcus Garvey	1	0	0	0	1
Tompkins	1	0	1	0	0
Totals	29	2	18	7	2

*Sites visits were conducted from January 26, 2010, to March 31, 2010.

For the remaining one tenant whose file lacked evidence of a CBC, the individual resided in Tompkins and had moved to the project in April 2009. While there was a CBC document in the files indicating that her husband had been cleared, her name was not on the CBC document, and there was no indication that she had ever been included in the check. The only way we became aware that she resided in the apartment was by reviewing the household composition record in the tenant file. Once again, we found no indication that the project managers were aware of the lack of a CBC record.

Recommendation

1. NYCHA should ensure that inquiries are immediately submitted for tenants identified in this report whose files lack criminal background check documentation.

NYCHA Response: “Upon receipt of supporting documents from the City Comptroller’s Office, NYCHA would be happy to respond to whether the proper search was performed.”

Auditor Comment: We are puzzled by NYCHA’s assertion that we did not provide supporting documents for this finding. On April 22, 2010, we provided NYCHA’s audit coordinator and ATAD Director with a complete listing of tenants whose files lacked evidence of criminal background checks. We provided the listing electronically and received an e-mail the same day from the agency’s audit coordinator stating that she would forward the information to the appropriate NYCHA staff.

Lack of Evidence of Sex Offense Checks

According to federal regulations, local state housing authorities subsidized by HUD are required to make certain that each member of an applicant's household is not the "subject to a lifetime sex offender registration requirement under a State sex offender registration program." In addition, the sex offense check "must be carried out with respect to the State in which the housing is located and with respect to States where members of the applicant household are known to have resided."

NYCHA's procedures require that sex offense inquiries be performed twice on each household member 16 and older, once at the borough office when an individual first applies for housing, and a second time at the project level when the applicant has been approved and placed in a NYCHA apartment. The second inquiry is conducted because more than a year may pass before the tenant is selected for housing, and during this time it is possible that the tenant's sex offense status may have changed.

We found documentation in the tenant files indicating that sex offense inquiries were performed for 274 (90 percent) of the sampled tenants at the borough level. However, at the project level, there were inconsistencies in maintaining evidence of sex offense inquiries—some projects had a printout of the NSOPW inquiry, and some had notations in the housing assistant's interview records that sex offense checks were performed. Only one housing project (Ocean Bay Apartments) had evidence in its files that sex offense inquiries were performed for all the sampled tenants.

At the project level, we found that there were 319 tenants who had reached the age of 16 and required a sex offense inquiry. Of the files for the 319 individuals, 190 (60 percent) had evidence that a sex offense check was performed. For the remaining 129 (40 percent) tenants, there was no evidence in their tenant files of any sex offense check. Accordingly, NYCHA cannot demonstrate, nor do we have assurance, that checks were performed for all of these tenants before they were allowed to move into a NYCHA development. This situation is of concern because if checks are not performed, the risk that individuals who are lifetime registered sex offenders would be allowed to live in subsidized housing and pose a threat to the safety of other residents is increased.

Table II, following, shows a breakdown of the 15 sampled projects visited from January 26, 2010, through March 31, 2010, and the number of tenant files at each site that lacked evidence of sex offense checks.

Table II

**Tenant Files Lacking Evidence of Sex Offense Checks
At the 15 Sampled Project**

Name of Project	Number of Tenant Requiring Sex Offense Checks	Number of Tenants Lacking Evidence of Sex Offense Checks
Ocean Bay	26	0
Richmond	21	2 (0.6%)
Wald	17	1 (0.3%)
LaGuardia	23	6 (1.9%)
Edenwald	28	7 (2.2%)
Murphy	23	8 (2.5%)
Wagner	28	5 (1.6%)
Mariner's Harbor	22	18 (5.6%)
Penn Wortman	14	2 (0.6%)
Breukelen	19	16 (5%)
Marcus Garvey	20	12 (3.8%)
Reid	19	11(3.4%)
Tompkins	22	14 (4.4%)
Lehman	20	12 (3.8%)
MetroNorth	17	15 (4.7%)
Total	319	129 (40%)

We brought this matter to the attention of the managers at each project, and some stated that they were unclear about what should be done with the information once sex offense inquiries are completed. However, they all maintained that the required checks were completed for all persons requiring one. Lacking evidence, however, we have no assurance that the checks were performed. When we asked NYCHA officials about this matter on April 19, 2010, they stated that HUD and NYCHA regulations do not require that documentation of the sex offense inquiries be maintained in the files. Nevertheless, NYCHA officials acknowledged that maintaining evidence of sex offense inquiries in the files (either as a notation or a printout of the NSOPW inquiry) would be a good internal control.

It should be noted that when we independently checked NSOPW for the 129 tenants whose files lacked evidence of a sex offense check, we found no indication that these tenants were on the sex offender registry.

Recommendation

2. NYCHA should develop and require the implementation of a tracking system at each housing project to monitor the personnel files to ensure that they contain documentation of the required clearances.

NYCHA Response: “Pursuant to HUD/NYCHA regulations, NYCHA tracks applicants through performance of the criminal background and sex offender registry checks and tracks tenants through information provided by the NYC Police Department. To ensure that criminal background checks are performed when required by policy, NYCHA maintains several quality control measures including two reviews of the application after the initial criminal background check was performed. The first review is conducted by a supervisor of the Eligibility Division and the second review is conducted by Central Office staff prior to the placement of the application to the certified TSAP waiting list. The results of the search are recorded on the Criminal Background form and on the back of each application.

“To ensure that the secondary sex offender search is conducted, the TSAP system responds with a reminder to project staff to conduct the sex offender search for every applicant and tenant selected for an apartment.”

Auditor Comment: We note that the NYCHA response does not address our recommendation to establish a tracking system at each housing project but instead reviews procedures performed by various NYCHA units. Based on our observations that housing projects were unable to demonstrate that they obtained the required clearances for tenants, we reiterate our recommendation.

Other Matters

Current HUD Procedures May Not Authorize NYCHA To Perform Checks on a Population of Tenants

HUD regulations require housing authorities to adopt and incorporate in their screening and admission policies provisions to deny admission to applicants and any member of their household who is currently registered as a lifetime sex offender. HUD’s regulation gives the housing authorities wide latitude to implement their own policies and procedures to identify the inadmissible tenants. While NYCHA has policies to perform criminal history background checks and sex offense of certain tenants residing in the projects, we found a number of gaps in the procedures that may prevent NYCHA from identifying all current residents of NYCHA housing who may have engaged in criminal activities or who are currently on a register as a lifetime sex offender. The following are not covered under NYCHA’s current policies regarding criminal history and sex offense checks.

- Tenants residing in NYCHA housing prior to 1994 (when criminal history background checks were adopted by NYCHA) are not required to have criminal background checks performed. Based on NYCHA’s current policies, unless they move to another project, these tenants would not be screened for criminal background checks.
- Tenants residing in NYCHA housing prior to 2007 (when sex offense checks were adopted by NYCHA) are not required to have sex offense checks performed unless they are moving to another project or within the same project.

- NYCHA does not require periodic reviews of tenant files once the tenants have already moved in to NYCHA housing projects. Thus, tenants who may have engaged in criminal activities or who have since been placed on the sex offenders' registry after moving in are allowed to continue residence. In addition, household occupants who have reached the age of 16 (when criminal background and sex offense checks become required) after they move into the housing will not undergo these clearances.
- Applicants are required to state on the NYCHA application where they previously resided in the past three years. However, NYCHA does not make criminal background checks of tenants who may have indicated that they resided in other states. Checking for criminal history backgrounds only in the State of New York for these applicants will not result in a comprehensive criminal background check or reveal a criminal history elsewhere in the country.

NYCHA should address these weaknesses and put additional procedures in place to detect tenants who may have criminal history backgrounds or who may be on the lifetime sex offenders registry. Stronger policies and procedures regarding these background checks would help assure a safer living environment for public housing tenants and those who live in the community. It should be noted that an audit issued on August 14, 2009, by HUD's Office of Inspector General found weaknesses in HUD's requirements for detecting sex offenders who currently reside in subsidized housing and recommended that stronger measures are needed to prevent continued residency of tenants who have since been placed on the sex offenders' registry after moving in.

Recommendations

NYCHA should:

3. Look into the feasibility of incorporating into NYCHA procedures the performance of CBC inquiries of tenants living in the projects prior to 1994.

NYCHA Response: "NYCHA does not have jurisdiction to address pre-1994 offenses. Any offenses occurring on development grounds since 1994 would have been identified through our police department data sharing and appropriate action taken."

Auditor Comment: The response only partially addresses the recommendation as it is silent on offenses committed by NYCHA residents that occur off development (i.e., NYCHA) grounds.

4. Look into the feasibility of incorporating into NYCHA procedures the performance of sex offense inquiries of tenants living in the projects prior to 2007.

NYCHA Response: "NYCHA has in fact been conducting sex offense inquiries since 2002. HUD does not require housing authorities to reject applicants or terminate tenancies of individuals who committed a sex offense before the law was enacted."

5. Look in to the feasibility of incorporating into NYCHA procedures requiring the NYCHA borough offices and the projects to perform periodic CBC and sex offense inquiries for tenants who have been residing at the projects for a period of time and have reached the age of 16, as well as for those tenants who have been residing there for a length of time.

NYCHA Response: “Offenses committed on NYCHA development grounds are adequately identified from police department data and are fully addressed by NYCHA staff on an on-going basis.”

Auditor Comment: The response only partially addresses the recommendation as it is silent on offenses committed by NYCHA residents that occur off development (i.e., NYCHA) grounds.

6. Look into the feasibility of obtaining access to other states’ criminal history databases so as to conduct additional inquiries for tenants who have indicated that they previously resided in other states.

NYCHA Response: “NYCHA has previously explored the feasibility of access to the National Crime Information Center (NCIC) data base for the screening of applicants, and found that use of this data base would be extremely costly and administratively burdensome. In order to utilize the NCIC data base, finger-printing is required for the individual. The finger prints are then sent to a third party vendor who will match the finger prints against the information on the NCIC data base for a processing fee of \$25 per individual.”

Auditor Comment: We are pleased to learn that NYCHA has looked into this matter and encourage them to continue to explore options that will enable them to determine whether applicants who previously resided in other states have criminal histories.



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June 21, 2010

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Re: New York City Housing Authority ("NYCHA") response to the New York City Comptroller's Draft Audit Report -- The Monitoring by the Housing Authority of the Criminal Background and Sex Offense Checks of its Housing Residents

Thank you for the opportunity to comment on your audit report regarding our criminal background and sex offense checks of the residents.

NYCHA has a long history of improving the lives of its public housing residents by working to eliminate criminals and crimes from its developments. In 1994, NYCHA launched a voluntary effort to perform criminal background checks ("CBC") even though HUD's regulations do not require Public Housing Authorities to perform criminal background checks. These background checks are performed by a search of the New York State Office of Court Administration database, which yields information about criminal convictions for persons aged 16 years or older.

NYCHA requires these criminal background checks for individuals at four different stages in the applications and/or tenancy process:

- (1) for applicants prior to admission to a NYCHA apartment;
- (2) for tenants transferring from one NYCHA development to another, before commencement of a new tenancy in a development (note that CBC searches are not conducted for families who require an accessible apartment and for families required to move due to major modernization)
- (3) for non-tenant individuals seeking permission to be permanently added to an existing NYCHA household; and
- (4) before granting new tenancy to a remaining family member (someone who succeeds to a former tenant's lease).

In addition to these criminal background checks, NYCHA performs a sex offender registry check by searching the Dru Sjodin National Sex Offender Public Website ("NSOPW"). Sex offender registry checks are performed at the same four process stages listed above as well as transfers within the same development.

Moreover, NYCHA receives continuous and consistent information from the NYC Police Department on crimes committed by individuals within its public housing developments. Specifically, NYCHA obtains copies of police reports whenever there is an incident or arrest involving a NYCHA building address. For these individuals, NYCHA exercises its civil jurisdiction as landlord and commences proceedings which seek termination of tenancy and eviction for the criminal conduct, in appropriate instances.

NYCHA seeks clarification of the scope and methodology used in conducting this audit. It is not clear to NYCHA whether the errors cited in the report are related to the stages where a criminal background check and/or sex offender searches are required by HUD or are voluntarily performed by NYCHA. Additional clarification is also requested regarding the TSAP waiting list of 118,541 individuals used by the Comptroller's Office to randomly select records for review.

NYCHA is unable to respond to the individual findings by the Comptroller's Office citing instances where the Criminal Background and/or Sex Offender Check were not conducted. However, upon receipt of the supporting documents from the City Comptroller's Office, NYCHA would be happy to respond to whether a proper search was performed.

NYCHA is however pleased to note that page ten of the Draft Audit Report reflects that an independent check of tenant files lacking the sex offense check, found no indication of tenants who were in fact on the sex offender registry.

Recommendations:

The NYCHA response to the six specific recommendations found on page 12 of the Draft Report are as follows.

1. **Audit Recommendation:** Ensure that inquiries are immediately submitted for tenants identified in this report whose files lack criminal background documentation.

NYCHA Response: Upon receipt of supporting documents from the City Comptroller's Office, NYCHA would be happy to respond to whether the proper search was performed.

2. **Audit Recommendation:** Develop and require the implementation of a tracking system at each housing project to monitor the personnel files to ensure that they contain documentation of the required clearances.

NYCHA Response: Pursuant to HUD/NYCHA regulations, NYCHA tracks applicants through performance of the criminal background and sex offender registry checks and tracks tenants through information provided by the NYC Police Department.

To ensure that criminal background checks and sex offender checks are performed when required by policy, NYCHA maintains several quality control measures including two reviews of the application after the initial criminal background check was performed. The first review is conducted by a

supervisor of the Eligibility Division and the second review is conducted by Central Office staff prior to the placement of the application to the certified TSAP waiting list. The results of the search are recorded on the Criminal Background form and on the back of each application.

To ensure that the secondary sex offender search is conducted, the TSAP system responds with a reminder to project staff to conduct the sex offender search for every applicant and tenant selected for an apartment.

- 3. Audit Recommendation:** Look into feasibility of incorporating into NYCHA procedures the performance of CBC inquiries of tenants living in the projects prior to 1994.

NYCHA Response: NYCHA does not have jurisdiction to address pre-1994 offenses. Any offenses occurring on development grounds since 1994 would have been identified through our police department data sharing and appropriate action taken.

- 4. Audit Recommendation:** Look into the feasibility of incorporating into NYCHA procedures the performance of sex offense inquiries of tenants living in the projects prior to 2007.

NYCHA Response: NYCHA has in fact been conducting sex offense inquiries since 2002. HUD does not require housing authorities to reject applicants or terminate tenancies of individuals who committed a sex offense before the law was enacted.

- 5. Audit Recommendation:** Look into feasibility of incorporating into NYCHA procedures the performance of requiring borough offices and projects to perform periodic CBC and sex offense inquiries for tenants who have been residing at the projects for a period of time and have reached the age of 16, as well as for those tenants who have been residing there for a length of time.

NYCHA Response: Offenses committed on NYCHA development grounds are adequately identified from police department data and are fully addressed by NYCHA staff on an on-going basis.

- 6. Audit Recommendation:** Look into feasibility of obtaining access to other state's criminal history databases so as to conduct additional inquiries for tenants who have indicated that they resided in other states.

NYCHA Response: NYCHA has previously explored the feasibility of access to the National Crime Information Center ("NCIC") data base for the screening of applicants, and found that use of this data base would be extremely costly and administratively burdensome. In order to utilize the NCIC data base, finger-printing is required for the individual. The finger prints are then sent to a third party vendor who will match the finger prints against the information on the NCIC data base for a processing fee of \$25 per individual.

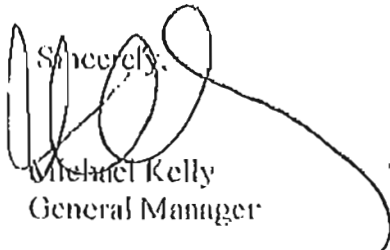
In addition to the response to the specific audit recommendations, NYCHA would like to clarify the following:

NYCHA Would Like to Clarify the Following Items				
Page	Para-graph	Sentence	Audit Report	NYCHA Comment
1	1st	3 rd	submitting it to the NYCHA applications office in their borough of residence	The Application for Project Apartments may be submitted by mail to the specially designated Post Office Box listed on the application or to any borough applications office.
1	1 st	5 th	Over the age of 16	16 or older
1	2nd	4 th	(National Sex Offender Registry, NSOR)	(National Sex Offender Public Website, NSOPW)
2	1 st	4 th	We found no evidence that the borough offices conducted criminal background checks for tenants who relocated to other NYCHA projects	Criminal background checks for tenants (inter-project transfers) are conducted by Central Division located at 90 Church Street and not by borough offices. The Criminal Background Check -- Transfers form is used to record the findings.
2	3 rd	3 rd Bullet	Develop a procedure requiring the NSOR print-out or make notations in the client file that an inquiry was performed and cleared	This recommendation was not include in the list of the six audit recommendations listed on page 12. However, NYCHA intends to implement this recommendation.
3	2 nd	1 st	submitting it to the NYCHA applications office in their borough of residence	The Application for Project Apartments may be submitted by mail to the specially designated Post Office Box listed on the application or to any borough applications office.
3	2 nd	2 nd	Once the borough office receives the application, the Eligibility Division schedules a face to face interview	While the Eligibility Division conducts the Eligibility interview, the scheduling of an interview is arranged by the Index Division and applicants are scheduled for interviews based on criteria set forth in NYCHA's Tenant Selection and Assignment Plan approved by HUD annually.
3	2 nd	4 th	Part of the screening process involves the HUD requirement to conduct a criminal history background and a sex offense check for each potential tenant for each household member over the age of 16	HUD does not require criminal background checks for potential tenants. HUD requires only the sex offender check. NYCHA conducts the sex offense check for household members 16 years or older.
3	3 rd	3 rd	NYCHA requires that a criminal history background check be conducted by the borough office for tenants who are transferring to another NYCHA development	Criminal background checks for tenants (inter-project transfers) are conducted by Central Division located at 90 Church Street and not by borough offices. The Criminal Background Check -- Transfers form is used to record the findings.
3	6 th	1 st & 2 nd	(National Sex Offender Registry, NSOR)	(National Sex Offender Public Website, NSOPW)
4	1 st	2 nd	The completed application is forwarded to the selected housing project, where it remains on file.	Some applicants are not permitted to select a project but may select only a borough choice. After the applicant information is entered into TSAP, the application is maintained by ATAD's Field Liaison Division until the application is selected for an

NYCHA Would Like to Clarify the Following Items				
Page	Para- graph	Sentence	Audit Report	NYCHA Comment
				apartment. At the time of selection, the application is forwarded to the project by the Field Liaison Division.
4	1 st	3 rd	(National Sex Offender Registry, NSOR)	(National Sex Offender Public Website, NSOPW)
4	2 nd	2 nd	As of August 2009, 118,541 individuals were on TSAP's waiting list to be placed in subsidized housing.	NYCHA requires clarification as to where the auditor arrived at 118,541 individuals on the TSAP waiting list. This figure is impossibly high for the TSAP waiting list. NYCHA provided auditor with TSAP file containing 46,606 records in October 2009.
4	6	2 nd Bullet	NYCHA Department of Housing Applications Manual	The Manual was revised and renamed Applications and Tenancy Administration Department Manual as of December 17, 2009.
4	6 th	4 th Bullet	(National Sex Offender Registry, NSOR)	(National Sex Offender Public Website, NSOPW)
5	3 rd	1 st	TSAP listing of 118,541 individuals who were on TSAP's waiting list to be placed in subsidized housing as of August 2009	NYCHA requires clarification as to where the auditor arrived at 118,541 individuals on the TSAP waiting list. This figure is impossibly high for the TSAP waiting list.
5	5 th	2 nd	(National Sex Offender Registry, NSOR)	(National Sex Offender Public Website, NSOPW)
6	2 nd	4 th	On June 4, 2010, we sent a draft report to NYCHA	The draft report is dated June 7, 2010 and was sent to NYCHA on June 7, 2010.
7	1 st	4 th	We found no evidence that the borough offices conducted criminal background checks for tenants who relocated to other NYCHA projects	Criminal background checks for tenants (inter-project transfers) are conducted by Central Division located at 90 Church Street and not by borough offices. The Criminal Background Check – Transfers form is used to record the findings.
8	3 rd	1 st	Over the age 16	16 or older.
8	3 rd	1 st	When an individual first applies for housing	The sex offender check is not performed when the family first applies for housing. It is conducted during the interview/eligibility process.
9	1 st	1 st	(National Sex Offender Registry, NSOR)	(National Sex Offender Public Website, NSOPW).
10	1 st	3 rd	When we asked NYCHA officials about this matter on April 19, 2009	The discussion occurred on April 19, 2010.
10		Table	Pen Wortman	Penn Wortman
10	2 nd	1 st	(National Sex Offender Registry, NSOR)	(National Sex Offender Public Website, NSOPW).
11	1 st	1 st	HUD regulations require housing authorities to adopt and incorporate in their screening and admission policies to deny admission to applicants and any	HUD does not require PIAs to deny admission to applicants/household members who engaged in criminal activities.

NYCHA Would Like to Clarify the Following Items				
Page	Para-graph	Sentence	Audit Report	NYCHA Comment
			member of the household who have engaged in criminal activities or are currently on a register as a lifetime sex offender	
11	1 st	2 nd Bullet	Tenants residing in NYCHA housing prior to 2007 (when sex offense checks were adopted by NYCHA) are not required to be have sex offense checks performed unless they are moving to another project or within the same project.	NYCHA began sex offense checks in 2002 and not in 2007 "when sex offense checks were adopted by NYCHA" as stated by the New York City's Comptroller's Office. NYCHA began conducting secondary sex offender check in 2007.
11	1 st	4 th Bullet	Applicants are required to state on the NYCHA application whether they resided in other states, but NYCHA does not make criminal background checks of residence in those state.	The Application for Project Apartment does not ask whether applicants resided in other states. The Application for Project Apartment specifically asks for where the family resided in the past three years. However, as part of the Face to Face interview, NYCHA always takes a proactive position and asks the applicant whether he or she or any of the applicant's household members have ever been arrested or convicted of a crime. During this Face to Face interview, NYCHA requires that the applicant provide any evidence deemed criminal in nature, including the State where the offense occurred if appropriate or applicable to the respective applicant. This issue is also addressed in NYCHA's response to the Audit Recommendations.

Again, thank you for the opportunity to comment on this draft report. Be assured, that NYCHA will continue to take the necessary steps to ensure complete integrity in all facets of its operations including, criminal background and sex offense checks of its residents. If you have any questions, please contact me at 212-306-3416.

Sincerely,

 Michael Kelly
 General Manager

cc: Jeffrey Kay, Director, Mayor's Office of Operations
George Davis III, Deputy Director, Mayor's Office of Operations
John B. Rhea
Earl Andrews, Jr.
Natalie Rivers
Gloria Finkelman
Brian Clarke
Helen Morillo
Tina Lam
Savitri Gosine
Sheetal Sood
file