

VIA EMAIL

March 25, 2021

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Dear Ms. McFarland,

This letter constitutes a request under the D.C. Freedom of Information Act (“FOIA”), DC Code §§ 2-531-539, and is submitted on behalf of the Electronic Privacy Information Center (“EPIC”) to the District of Columbia Housing Authority (“DCHA”).

EPIC seeks documents related to DCHA’s use of tenant screening services or other automated decision-making systems from third party contractors including but not limited to RentGrow.<sup>1</sup>

### Documents Requested

1. Contracts, request for proposals, and bids between RentGrow, as well as any other third-party contractors providing tenant screening or risk assessments, and DCHA.<sup>2</sup>
2. All correspondences, memoranda, policies and other records relating to the use of tenant screening tools or automated decision-making systems by DCHA. This includes but is not limited to use policies, interview guides, training documents, and risk-based recommendation or decision matrixes to screen tenants at DCHA.
3. Any validation studies or records analyzing or assessing the quality and accuracy of screening assessments, lists of data sources used in tenant screening, and reports of inaccuracies.

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<sup>1</sup> RentGrow, [rentgrow.com](http://rentgrow.com)

<sup>2</sup> District of Columbia Housing Authority, Committee on Housing and Neighborhood Revitalization, 2019 Oversight and Performance Hearing, *Responses to Pre-Hearing Questions* 38, <https://dccouncil.us/wp-content/uploads/2020/03/dcha.pdf>

4. Any records that include the race and age of tenants who are denied housing based on the RentGrow screening assessment or similar system. EPIC is requesting aggregate data rather than individual files of applicants.
5. Any records relating to the administrative process in which “applicants deemed ‘ineligible’ for admission to any housing assistance program are afforded the opportunity to mitigate any and all criminal history of record with DCHA and Rent Grow.”<sup>3</sup> This includes but is not limited to policy guidance, memoranda, and training material.

## Background

Tenant screening tools are used by landlords and housing authorities to help make decisions about whether to accept a tenant’s rent application. Companies who offer tenant screening tools collect, store, and select records for housing providers to use in evaluating tenants.<sup>4</sup> Nearly all landlords use a tenant screening tool to find tenants.<sup>5</sup> These tenant screening reports often contain errors and misleading information because there is little oversight of the companies’ record collection or matching practices.<sup>6</sup> There are three major sources of error for tenant screening reports: lack of information in the records, record matching errors, and failure to update records databases.<sup>7</sup> First, court records often lack enough information to accurately be matched to individuals.<sup>8</sup> Second, screening reports continually match records to the wrong applicants.<sup>9</sup> Companies may use overbroad search and matching practices, which lead to reports that contain records belonging to the wrong person.<sup>10</sup> Frequently, these companies match records only based on first and last name, which can

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<sup>3</sup> *Id.* at 39.

<sup>4</sup> Natasha Duarte and Tinuola Dada, *Written Testimony of Natasha Duarte, Senior Policy Analyst, and Tinuola Dada, Research Assistant, Upturn*, Council of the District of Columbia Committee on Government Operations Public Hearing on B23-338 at 2 (Oct. 30, 2020); *See, e.g.*, Lauren Kirchner & Matthew Goldstein, *Access Denied: Faulty Automated Background Checks Freeze Out Renters*, *The Markup & N.Y. Times* (May 28, 2020), <https://themarkup.org/locked-out/2020/05/28/access-denied-faulty-automated-background-checks-freeze-out-renters>.

<sup>5</sup> Cyrus Farivar, *Tenant screening software faces national reckoning*, *NBC* (Mar. 14, 2001), <https://www.nbcnews.com/tech/tech-news/tenant-screening-software-faces-national-reckoning-n1260975>

<sup>6</sup> Duarte and Dada, *supra* note 3 at 4; 7 Ariel Nelson, National Consumer Law Center, *Broken Records Redux: How Errors in Criminal Background Check Companies Continue to Harm Consumers Seeking Jobs and Housing* 10 (Dec. 2019), <https://www.nclc.org/images/pdf/criminal-justice/report-broken-records-redux.pdf>;

<sup>7</sup> Duarte and Dada, *supra* note 4 at 4.

<sup>8</sup> Duarte and Dada, *supra* note 4 at 4 (“TransUnion, Equifax, and Experian agreed to stop reporting civil court records, including evictions, in consumer credit reports because they don’t contain enough personal information to be reliably linked to individuals.”); *See* Jasper Clarkberg & Michelle Kambara, *Consumer Financial Protection Bureau, Removal of Public Records has Little Effect on Consumers’ Credit Scores* (Feb. 22, 2018), <https://www.consumerfinance.gov/about-us/blog/removal-public-records-has-little-effect-consumers-credit-score-s/> (explaining the reporting change).

<sup>9</sup> Duarte and Dada, *supra* note 4 at 4; *See* Kirchner & Goldstein, *supra* note 3. *See* Nelson, *supra* note 5, at 17–19.

<sup>10</sup> Duarte and Dada, *supra* note 4 at 4–5; Kirchner & Goldstein, *supra* note 3.

match a record to a different person.<sup>11</sup> Third, these companies can collect or use outdated records, which do not accurately reflect updates to cases such as dismissals or sealing.<sup>12</sup>

Specific information collected for tenant screening by the D.C. Housing Authority is not publicly available. Privacy advocates have called for more transparency about what data is being collected and used in these algorithms.<sup>13</sup> In D.C., public and private housing providers have broad discretion to determine their own tenant screening criteria.<sup>14</sup> The DCHA contracts with RentGrow to conduct tenant screenings for applicants for all 33,000 of its Housing Choice Voucher units.<sup>15</sup> Alarming, tenants cannot access what is in their own screening reports when applying for a unit.<sup>16</sup> Applicants must dispute any inaccuracies after being screened and may not be able to provide evidence of an error before the unit is rented to someone else.<sup>17</sup> RentGrow is charged with the responsibility of ensuring qualified D.C. renters are able to receive a Housing Choice Voucher unit. Information about the efficacy of its accuracy have not been made public. This lack of public information prevents qualified renters from receiving housing when their records are incomplete, inaccurate, or belong to someone else without the applicants' knowledge until it is too late.

Outside researchers cannot conduct valuable testing of these screening tools because of the lack of transparency regarding the use of algorithms. As the government continues to use of these types of screening tools, public disclosure and transparency are crucial to increasing public understanding .

#### Request for Waiver of Fees

EPIC requests a waiver of fees, pursuant to D.C. Code § 2-532(b), as the records benefit the public interest. The operations of these programs are largely hidden from the public. The information contained in the requested records is necessary for housing applicants to understand before filling out applications. But this information remains hidden from prospective tenants until after being rejected from a housing unit. Individuals facing determinations by these systems and their communities remain unaware of what factors contribute to their determination of whether they will have housing. The publication of these documents will also enable the public to study the issues around the use of these tools and conduct the necessary oversight to keep the government accountable.

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<sup>11</sup> Duarte and Dada, *supra* note 4 at 5 (“Tenant screening companies also frequently match records only based on first and last name even when other relevant information, such as date of birth, address, or middle names do not match.”); See Nelson, *supra* note 5, at 11, 18.

<sup>12</sup> Duarte and Dada, *supra* note 4 at 5.

<sup>13</sup> Farivar, *supra* note 3 (“I think first and foremost we need to solidify privacy law: We have a better grasp on what is being collected, how long and being transparent about that data. That’s fundamental.”)

<sup>14</sup> Duarte and Dada, *supra* note 4 at 2.

<sup>15</sup> Duarte and Dada, *supra* note 4 at 3; RentGrow, Inc., and D.C. Housing Auth., Screening Services Activation Agreement (Aug. 2018), <https://www.documentcloud.org/documents/6819690-Washington-DC-RentGrow-Contract-ECOD.html>.

<sup>16</sup> Duarte and Dada, *supra* note 4 at 5.

<sup>17</sup> Duarte and Dada, *supra* note 4 at 5.

EPIC is a non-profit organization committed to privacy, open government, and civil liberties that consistently discloses documents obtained through public records requests on its website, EPIC.org, and its online newsletter, the *EPIC Alert*. EPIC has no commercial interest in the records.

For these reasons, a fee waiver should be granted.

### Conclusion

Thank you for your consideration of this request. EPIC anticipates your determination on its request within fifteen business days. D.C. Code § 2-532 (c)(1) . For questions regarding this request contact Ben Winters at 202-483-1140 x126 or [winters@epic.org](mailto:winters@epic.org), cc: [FOIA@epic.org](mailto:FOIA@epic.org).

Respectfully submitted,

/s/ Ben Winters

Ben Winters

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/s/ Sara Geoghegan

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