

VIA EMAIL

July 24, 2024

Kimberly August
Managing Senior Associate General Counsel & FOIA Officer
District of Columbia Housing Authority
300 7th Street, SW, 11th Floor
Washington, D.C. 20024
foia@dchousing.org

Dear Ms. August,

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

In 2021, EPIC filed an initial FOIA request with DCHA¹ and received an initial production of documents detailing DCHA’s contract with the algorithmic tenant screening company, RentGrow, and related tenant screening procedures.² EPIC seeks updated documents that provide further insight into RentGrow’s processes for ensuring accuracy within its reports and tracking other impacts on D.C. housing applicants.

Documents Requested

1. Any contracts, requests for proposals, contracts, or updates to contracts, including contract amendments or riders, between DCHA and RentGrow since the 2018 contracts EPIC received in response to our initial request.³
2. Any audits, validation studies, risk assessments, system testing, evaluation policies, or other such records describing the accuracy, validity, reliability, or bias of RentGrow’s tenant screening reports provided to DCHA.
3. Any policy guidance, memoranda, training materials, or other such records describing RentGrow’s procedures for testing its automated tenant screening service for accuracy or bias.

¹ EPIC, DC FOIA Request Concerning DCHA’s Contract with RentGrow (Mar. 25, 2021), <https://epic.org/wp-content/uploads/2024/07/EPIC-21-03-25-DC-DCHA-FOIA-20210325-Request.pdf>.

² See Contract 26A between D.C. Housing Authority and RentGrow, Inc. (2018), <https://epic.org/wp-content/uploads/2022/09/EPIC-21-03-25-DC-DCHA-FOIA-20210821-Production-RentGrow-Agreement26A.pdf>; Contract 26B between D.C. Housing Authority and RentGrow, Inc. (2018), <https://epic.org/wp-content/uploads/2022/09/EPIC-21-03-25-DC-DCHA-FOIA-20210821-Production-RentGrow-Agreement26B.pdf>.

³ *Id.*

4. Any policy guidance, memoranda, training materials, or other such records describing RentGrow's procedure for handling requests from applicants to correct information on their report.
5. Any validation studies, statistical studies, audits, or other related records with statistics describing how often applicants are deemed ineligible for D.C. public housing based on a RentGrow report.

Background

Third-party tenant screening services are now a billion-dollar industry, with nearly all landlords using a tenant screening tool to find tenants.⁴ These tools are used by landlords and housing authorities to help make decisions about whether to accept a tenant's rental application. Companies that offer tenant screening tools collect, store, and select records for housing providers to use in evaluating tenants.⁵

These tenant screening reports often contain errors and misleading information because there is little oversight of the companies' record collection or matching practices.⁶ 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.⁷ First, court records often lack enough information to accurately be matched to individuals.⁸ Second, screening reports continually match records to the wrong applicants.⁹ Companies may use overbroad search and matching practices, which lead to reports that contain records belonging to the wrong person.¹⁰ Frequently, these companies match records only

⁴ Abby Boshart, *How Tenant Screening Services Disproportionately Exclude Renters of Color from Housing*, Housing Matters (Dec. 21, 2022), <https://housingmatters.urban.org/articles/how-tenant-screening-services-disproportionately-exclude-renters-color-housing>.

⁵ Natasha Duarte & Tinuola Dada, Upturn, *Written Testimony of Natasha Duarte, Senior Policy Analyst, and Tinuola Dada, Research Assistant*, 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>.

⁶ Duarte & Dada, *supra* note 5, at 4; Ariel Nelson, Nat'l Consumer L. Ctr., *Broken Records Redux: How Errors in Criminal Background Check Companies Continue to Harm Consumers Seeking Jobs and Housing* 10 (2019), <https://www.nclc.org/images/pdf/criminal-justice/report-broken-records-redux.pdf>;

⁷ Duarte & Dada, *supra* note 5, at 4.

⁸ *Id.* ("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 also* Jasper Clarkberg & Michelle Kambara, CFPB, *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-scores/> (explaining the reporting change).

⁹ Duarte & Dada, *supra* note 5, at 4; *see also* Kirchner & Goldstein, *supra* note 5; Nelson, *supra* note 6, at 17–19.

¹⁰ *See* Duarte & Dada, *supra* note 5, at 4–5; Kirchner & Goldstein, *supra* note 5.

based on first and last name, which can match a record to a different person.¹¹ Third, these companies can collect or use outdated records, which do not accurately reflect updates to cases such as dismissals or sealing.¹²

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.¹³ This is important for two reasons. First, DCHA contracts with RentGrow to conduct tenant screening for all 33,000 of its Housing Choice Voucher units.¹⁴ Alarming, tenants cannot easily access what is in their own screening reports when applying for a unit.¹⁵ 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.¹⁶ Second, landlords regularly make leasing decisions solely or primarily based on the final score or recommendation provided by screening tools instead of directly reviewing the underlying information about an applicant.¹⁷ DCHA has contracted with RentGrow to provide an automated screening service that can ensure qualified D.C. renters are able to receive affordable housing, but information about the efficacy, accuracy, and bias of its screening services 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.

Researchers, auditors, and government agencies cannot conduct meaningful testing or oversight of screening tools like RentGrow's without greater transparency regarding how RentGrow's system uses data, how it's tested, and what limitations it has. With government agencies continuing to use automated tenant 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

¹¹ See Duarte & Dada, *supra* note 5, 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.”); Nelson, *supra* note 6, at 11, 18.

¹² Duarte & Dada, *supra* note 5, at 5.

¹³ 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> (“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.”).

¹⁴ Duarte & Dada, *supra* note 5, at 3; Contract 26A between D.C. Housing Authority and RentGrow, Inc. (2018), <https://epic.org/wp-content/uploads/2022/09/EPIC-21-03-25-DC-DCHA-FOIA-20210821-Production-RentGrow-Agreement26A.pdf>; Contract 26B between D.C. Housing Authority and RentGrow, Inc. (2018), <https://epic.org/wp-content/uploads/2022/09/EPIC-21-03-25-DC-DCHA-FOIA-20210821-Production-RentGrow-Agreement26B.pdf>.

¹⁵ Duarte & Dada, *supra* note 5, at 5.

¹⁶ *Id.*

¹⁷ Nat’l Consumer L. Ctr., Comments on Tenant Screening Request for Information by FTC and CFPB (May 30, 2023), <https://www.nclc.org/resources/comments-on-tenant-screening-request-for-information-by-ftc-and-cfpb/>.

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—and whether those factors are accurate and reliable. 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.

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 is recognized as a “representative of the news media”¹⁸ and has no commercial interest in the records.

For these reasons, a fee waiver should be granted. If the fee waiver is denied, please provide an estimate of any fees associated with this request before you process the request. To the extent possible, EPIC also requests that any copies be provided in digital format to further reduce costs.

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, please contact Grant Fergusson at fergusson@epic.org, cc: FOIA@epic.org.

Respectfully submitted,

/s/ Grant Fergusson

Grant Fergusson

EPIC Equal Justice Works Fellow

/s/ Vaishali Nambiar

Vaishali Nambiar

EPIC IPIOP Clerk

¹⁸ *EPIC v. Dep’t of Defense*, 241 F. Supp. 2d 5, 15 (D.D.C. 2003).