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Federal Court Holds Tenant-Screening Services Must Comply with Fair Housing Act

In a [landmark civil rights decision](#), the [Connecticut federal District Court](#) established for the first time that consumer reporting agencies must comply with the Fair Housing Act when conducting tenant-screening services for landlords. The decision in [Connecticut Fair Housing Center et al. v. CoreLogic Rental Property Solutions, LLC](#), which the Center filed with the National Housing Law Project after CoreLogic's tenant screening product, CrimSAFE, disqualified a disabled Latino man with no criminal convictions from moving in with his mother. CrimSAFE provides landlords with an accept or decline decision based on CoreLogic's assessment of an applicant's criminal record. The lawsuit alleges CrimSAFE discriminates based on race, national origin, and disability in violation of the Fair Housing Act.

The Court rejected CoreLogic's claim that the case should be dismissed because fair housing laws did not reach its services, concluding that CoreLogic "held itself out as a company with the knowledge and ingenuity to screen housing applicants by interpreting criminal records and specifically advertised its ability to improve 'Fair Housing compliance.'" The Court held that because companies like CoreLogic functionally make rental admission decisions for landlords that use their services, they must make those decisions in accordance with fair housing requirements. As automated decisions by third-party screening companies are rapidly becoming the norm, this ruling has significant implications for landlords, renters and the entire screening industry.

In 2016, Carmen Arroyo submitted a rental application to move her son, Mikhail, into her apartment and out of the nursing home where he was recovering from an accident that left him unable to walk, talk, or care for himself. But Mr. Arroyo was rejected because CrimSAFE determined he had a "disqualifying criminal record." CoreLogic failed to provide the landlord with any documents or explanation of that determination and unlawfully refused to provide Ms. Arroyo with copies of that background report. As a result, Mr. Arroyo had to remain in the nursing home for more than a year longer than necessary. Ms. Arroyo subsequently learned that her son's only criminal record was a charge - from before his accident, and later dropped - for shoplifting, an infraction below the level of a misdemeanor.

As the U.S. Department of Housing & Urban Development [observed in 2016](#), excluding rental applicants because of their criminal records disproportionately harms Latinos and African Americans, who are significantly more likely than whites to have criminal records. To avoid discriminating, an "individualized review" should be conducted to avoid denying housing to an applicant who does not pose a genuine and ongoing threat to persons or property.

CoreLogic did not conduct an individualized review of Mr. Arroyo's suitability for tenancy before it disqualified him, and it prevented Ms. Arroyo's landlord from doing so by withholding information about the underlying criminal history. An individualized review would have shown that Mr. Arroyo posed no threat because he had not been convicted of a crime and was physically incapable of posing a danger to anyone. Because Ms. Arroyo needed her son's screening report to persuade her landlord to reconsider the denial of her son's application, the Court found CoreLogic's file disclosure policies had "a sufficiently close nexus to housing availability" for the Fair Housing Act to apply. The Court held that consumer reporting agencies owe a duty under the Fair Housing Act not to discriminate based on disability in carrying out tenant-screening activities, including a duty to make reasonable accommodations in their policies and practices that disadvantage people with disabilities.