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The National Law Center on Homelessness & Poverty is the only national organization dedicated to using the power of the law end and prevent homelessness. It works to expand access to affordable housing, meet the immediate and long-term needs of those who are homeless or at risk, and strengthen the social safety-net through policy advocacy, public education, impact litigation, and advocacy training and support.

Our vision is for an end to homelessness in America. A home for every family and individual will be the norm and not the exception; a right and not a privilege.

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Stopping Evictions Caused by Nuisance Ordinances

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Background

Across the country, thousands of municipalities have adopted local nuisance ordinances that severely undermine the rights of renters. These ordinances, also known as crime-free or disorderly house laws, impose penalties based on calls for police service or criminal activity occurring at a property without regard to whether the resident or caller needed emergency assistance or was the victim of the alleged crime. They typically require the landlord to abate the nuisance or face steep fines, loss of rental permits, property closure, or criminal consequences.¹⁶⁸ Eviction of the entire household is the most commonly deployed means of nuisance abatement.¹⁶⁹

Because calling 911 can trigger the ordinance, these laws threaten the housing of victims of crime and people who need emergency aid and chill them from accessing police services. They are especially likely to harm survivors of domestic violence who may seek protection from repeated acts of abuse.¹⁷⁰ Landlords end up removing victims of domestic violence and other crimes from their homes, even when the perpetrator did not live at the property.

Research conducted on Milwaukee, Wisconsin's ordinance concluded that calls about domestic violence were the third most common reason for a nuisance citation.¹⁷¹ In 83 percent of cases where landlords received a citation, they evicted or threatened to evict victims if they called police again.¹⁷² A study of two upstate New York ordinances similarly concluded that domestic violence made up the largest category of incidents resulting in nuisance enforcement, frequently leading to eviction.¹⁷³

In addition, nuisance ordinances jeopardize the housing of people of color and persons living with disabilities. The Milwaukee study showed that a tenant living in a majority-Black neighborhood was three times more likely to receive a nuisance citation compared to a tenant in a majority-White neighborhood who also had violated the ordinance.¹⁷⁴ Advocates and researchers likewise have documented the disparate impact of these ordinances on people of color and people with disabilities in Illinois, Missouri, and Ohio.¹⁷⁵

Story

Lakisha Briggs, a resident of Norristown, Pennsylvania, was assaulted by her boyfriend and told by a police officer that more 911 calls would lead to her eviction.¹⁷⁶ At that time, the local ordinance penalized landlords and tenants when the police responded to three instances of disorderly behavior, including domestic violence, within four months. Lakisha stopped reaching out for protection, and the violence escalated. She did not even call 911 when she was stabbed, but her neighbor did. The city pressured the landlord to evict Lakisha and her young daughter for violating the ordinance.

In 2013, represented by the ACLU, Lakisha filed a federal lawsuit against the city. Her case garnered significant media attention on the dire consequences of nuisance ordinances.¹⁷⁷ This led to an outpouring of public opposition to the ordinance from state and federal lawmakers.¹⁷⁸ In September 2014, the parties settled the suit, with full repeal of the law by Norristown and \$495,000 in damages and attorneys' fees to Lakisha.¹⁷⁹ A couple of months later, Pennsylvania enacted a state law following

168 ACLU Women's Rights Project & the Soc. Sci. Research Council, *Silenced: How Nuisance Ordinances Punish Crime Victims in New York* 3 (2015) [hereinafter *Silenced*], <https://www.aclu.org/report/silenced-how-nuisance-ordinances-punish-crime-victims-new-york>; Emily Werth, Sargent Shriver Nat. Ctr. On Poverty Law, *The Cost of Being "Crime Free": Legal and Practical Consequences of Crime Free Rental Housing and Nuisance Property Ordinances* 4 (2013), <http://povertylaw.org/files/docs/cost-of-being-crime-free.pdf>.

169 Werth, *supra* note 168, at 8, 19 n.72.

170 *Silenced*, *supra* note 168, at 4; Matthew Desmond & Nicol Valdez, *Unpolicing the Urban Poor: Consequences of Third-Party Policing for Inner-City Women*, 78 AM. SOCIOLOGICAL REV. 117, 121 (2013); Gretchen Arnold & Megan Slusser, *Silencing Women's Voices: Nuisance Property Laws and Battered Women*, 40(4) LAW AND SOC. INQUIRY 908 (2015); Gretchen Arnold, *From Victim to Offender: How Nuisance Property Laws Affect Battered Women*, J. INTERPERSONAL VIOLENCE 1 (2016).

171 Desmond & Valdez, *supra* note 170, at 130.

172 *Id.* at 133.

173 *Silenced*, *supra* note 168, at 2.

174 Desmond & Valdez, *supra* note 170, at 125.

175 Compl., *HOPE Fair Hous. Ctr. v. City of Peoria*, No. 1:17-cv-01360 (C.D. Ill. Aug. 10, 2017), ECF 1; Compl., *Metro. St. Louis Equal Hous. and Opportunity Council v. City of Maplewood*, No. 4:17-cv-00886 (E.D. Mo. Mar. 13, 2017), ECF 1; Joseph Mead et al., *Who Is A Nuisance? Criminal Activity Nuisance Ordinances in Ohio* (2017).

176 *Briggs v. Borough of Norristown*, 2:13-cv-02191-ED (E.D. Pa. 2014), available at <https://www.aclu.org/cases/briggs-v-borough-norristown-et-al>.

177 See, e.g., Erik Eckholm, *Victims' Dilemma: 911 Calls Can Bring Eviction*, N.Y. TIMES (Aug. 16, 2013), available at <http://www.nytimes.com/2013/08/17/us/victims-dilemma-911-calls-can-bring-eviction.html>.

178 See, e.g., Carl Rotenberg, ACLU sues Norristown over landlord ordinance, TIMES HERALD (Apr. 25, 2013), available at <http://www.timesherald.com/article/JR/20130425/NEWS01/13042976>; Letter from Sen. Robert P. Casey, Jr. to U.S. Dep't of Justice (July 19, 2013), available at <https://www.casey.senate.gov/newsroom/releases/casey-to-feds-victims-of-domestic-violence-should-not-be-targeted-for-eviction>.

179 See Release and Settlement Agreement, *Briggs v. Borough of Norristown*, *supra* note 176.

advocacy from the Pennsylvania Coalition Against Domestic Violence, ACLU, and others that preempts similar ordinances.¹⁸⁰ This work in Norristown also fueled advocacy the ACLU led at the federal level, resulting in guidance from the U.S. Department of Housing and Urban Development on the serious Fair Housing Act problems with local nuisance and crime-free laws.¹⁸¹

Policy Proposal: Get Rid of Nuisance Laws

The simplest policy solution is for municipalities to refrain from adopting local nuisance laws in the first place, or to repeal those on the books. Many municipalities have chosen to rescind these laws once they understood the impact on community trust, housing stability, and law enforcement effectiveness.

Some municipalities have taken a narrower approach by including an exception for domestic violence victims. In our experience, these exceptions are ineffective. Even in cities with a domestic violence exception, domestic violence victims still are punished. It may not be evident to officials assessing the situation that the calls or criminal activity involved domestic violence, as domestic violence often is characterized as other offenses, including noise, property damage, or disorderly conduct. In addition, in cases involving self-defense, victims of long-term abuse may be labeled as perpetrators. Moreover, it is vital for community safety that all people who need emergency assistance can access it.

For these reasons, advocates have supported state legislation that guarantees the right of all people to seek emergency aid without fear of penalty from nuisance ordinances. The ACLU and its partners successfully supported legislation in Iowa and Pennsylvania that preempt local laws that impose penalties on tenants and landlords because they sought emergency services.¹⁸² Similar protections exist in Minnesota and Indiana.¹⁸³

The United States has signed but not ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Article 14(2) of CEDAW states that “Parties shall ... ensure to such women the right: ... To enjoy adequate

living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.”

Local nuisance ordinances that lead to evictions disproportionately affect women of color who are victims of domestic violence and/or sexual assault. A 2015 report of the CEDAW working group noted concerns about how the United States addresses gender-based violence and women victims of multiple forms of discrimination.¹⁸⁴ In particular, the report “pointed out that victims of domestic violence were often among the homeless, either because they had been evicted as a result of the violence or because they had fled from their violent partner.”¹⁸⁵ The report urged the United States to ratify CEDAW to confirm the U.S. commitment to provide all women with rights and protections guaranteed under CEDAW.

Advocacy Tips & Resources

Effective advocacy to challenge local nuisance ordinances should combine coalition-building and public education, policy advocacy, and litigation.

Confronting local nuisance ordinances presents a unique opportunity to build coalitions. The issue often unites landlords and tenants, as both face unfair punishment under these laws. Law enforcement in many communities will support repeal of these laws, as they undermine the willingness of community members to report crime and divert police resources toward enforcing the nuisance law. Advocates for housing justice, domestic violence survivors, racial equity, disability rights, and civil liberties can build partnerships, given the myriad ways these ordinances damage communities.

A key first step that coalitions can take is educating stakeholders about these ordinances. In many communities, few people are aware that these ordinances exist until they are caught up in their enforcement. Identifying ordinances in a jurisdiction, learning about their implementation, and informing people of their effects are important measures that can fuel advocacy on the local and state levels to address nuisance laws.

Furthermore, litigation can be a strategic tool to fight these ordinances. The ACLU and others have brought lawsuits challenging these ordinances based on violations of the First Amendment right to petition the government, due process

¹⁸⁰ 53 Pa. Cons. Stat. Ann. § 304.

¹⁸¹ U.S. Dep’t of Hous. & Urban Dev., *Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Enforcement of Local Nuisance and Crime-Free Housing Ordinances Against Victims of Domestic Violence, Other Crime Victims, and Others Who Require Police or Emergency Services*, (Sept. 13, 2016), <https://portal.hud.gov/hudportal/documents/huddoc?id=FinalNuisanceOrdGdnce.pdf>.

¹⁸² Iowa Code §§ 562.27A & 562B.25A(3); 53 Pa. Cons. Stat. Ann. § 304 (provides protections for any resident, tenant, or landlord who faces penalty under a local ordinance because police or emergency services responded to abuse, crime, or an emergency at a property, as well as authorizing remedies in court against any municipality that violates these protections).

¹⁸³ Minn. Stat. § 504B.205; Ind. Code Ann. § 32-31-9-14.

¹⁸⁴ Report of the Working Group on the issue of discrimination against women in law and in practice on its mission to the United States of America (Aug. 4, 2016), *available at* <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/172/75/PDF/G1617275.pdf?OpenElement>.

¹⁸⁵ *Id.*

and equal protection guarantees, the Fair Housing Act, and the Violence Against Women Act. Cases in Arizona and Pennsylvania resulted in repeal of the challenged ordinances, along with significant compensation and attorneys' fees.¹⁸⁶ A New York appellate court struck down a local nuisance ordinance because it could punish people who reached out to the police, in violation of the First Amendment.¹⁸⁷

The ACLU has worked to challenge nuisance ordinances in over a dozen states. We are happy to provide support and collaborate with others engaging in this work in their communities.

¹⁸⁶ Release and Settlement Agreement, *Briggs v. Borough of Norristown*, *supra* note 176; Release and Settlement Agreement, *Markham v. City of Surprise*, 2:15-cv-01696-SRB (D. Ariz. Mar. 16, 2016), *available at* <https://www.aclu.org/cases/nancy-markham-v-city-surprise>.

¹⁸⁷ Op. and Order, Bd. of Trs. of the Vill. of Groton v. Pirro, 152 A.D.3d 149, 58 N.Y.S.3d 614 (3d Dep't June 15, 2017), *available at* <https://www.aclu.org/cases/board-trustees-village-groton-v-pirro?redirect=cases/groton-v-pirro>.



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