

Crime Free Programs and Nuisance Property Ordinances: Their Impact on Survivors & Other Protected Groups

June 22, 2022

Today's Agenda

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- ▶ Introductory Remarks
- ▶ Today's Speakers
- ▶ Understanding Survivors and Their Barriers to Housing
- ▶ Crime-Free Programs and Nuisance Ordinances & Their Impact
- ▶ DOJ & HUD: Reducing the Impact of Crime-Free Programs and Nuisance Ordinances
- ▶ Working with Providers to Protect Survivors' Housing
- ▶ Common Scenarios
- ▶ Available Resources
- ▶ Questions & Answers

Introductory Remarks



Allison Randall,
Principal Deputy Director of the
Office on Violence Against
Women, DOJ



Karlo Ng,
Director on Gender-based Violence
and Equity, Office of the Secretary.
HUD

Today's Speakers

Kate Walz, Associate Dir. Of Litigation, National Housing Law Project

Peg HacsKaylo, CEO & Founder, Safe Housing Alliance

Josh Bancroft, Program Analyst, HUD Office of Fair Housing and Equal Opportunity

Imron Bhatti, Equal Opportunity Specialist, HUD Office of Fair Housing and Equal Opportunity

Tamica Daniel, Trial Attorney, U.S. Department of Justice, Civil Rights Division, Housing & Civil Enforcement Section

Jessie Handforth Kome, Dir., Block Grant Assistance, Community Planning and Development, HUD

Jill Roberston, Dir. TA & Capacity Building, Collaborative Solutions, Inc.,

Elena Hampton-Stover, Program Manager, Collaborative Solutions, Inc.,

DV & Housing TA Consortium (DVHTAC)

Federal Partners

- Family Violence Prevention & Services Program/HHS
- Office on Violence Against Women/DOJ
- Office for Victims of Crime/DOJ
- Office of Special Needs Assistance Programs/HUD
- US Interagency Council on Homelessness

Technical Assistance Providers

- Collaborative Solutions, Inc. (CSI)
- Corporation for Supportive Housing (CSH)
- National Network to End Domestic Violence (NNEDV)
- National Resource Center on Domestic Violence (NRCDV)
- National Sexual Violence Resource Center (NSVRC)
- Safe Housing Alliance (formerly NASH)
- STTARS--Indigenous Safe Housing Center



SAFE HOUSING
PARTNERSHIPS

Barriers to Housing

Universal Barriers to Accessing Affordable Housing



Scarce and
diminishing
affordable
housing



Discrimination based
on race,
ethnicity,
national
identity, or
religion



Limited
subsidy
amounts



Landlord
reluctance to
accept
subsidies



Damaged
credit



Survivor-Specific Barriers to Accessing Affordable Housing



Housing providers may discriminate based on first impressions:

- The impact of trauma may hurt how a survivor presents
- Children accompanying parent may display trauma-related behavior
- If the survivor discloses abusive background, landlord may fear harm to property and threat to neighbors



Lack of
safe
references



Economic
abuse



Survivor-Specific Barriers: Economic Abuse Can Impact Background Checks

- Lack of, or bad, credit history—including outstanding debt;
- Lack of or poor rental history—especially eviction or abandoned leases;
- Lack of or inconsistent employment history;
- Source of income (TANF, SSI, Housing Vouchers);
- Criminal history—often related to the abuse.



What Are Crime-Free Programs & Nuisance Property Ordinances?

Crime-Free Programs: typically require property owners to execute crime-free lease addendums w/ tenants; mandatory criminal background checks of tenants/applicants; mandatory landlord training; participation may be mandatory or voluntary.

What Are Crime-Free Programs & Nuisance Property Ordinances?

Nuisance Property Ordinances: broad definition of “nuisance” conduct; allegations of nuisance behavior, which may include calls to the police, obligates landlord to “abate the nuisance” or evict the entire household; potential fines, fees, condemnation, loss of rental property license.

Origin of Crime-Free Programs & Nuisance Property Ordinances

The **Crime Free Programs** are law enforcement based crime prevention solutions developed starting in 1992, by Timothy L. Zehring, while he was employed at the Mesa, Arizona Police Department. The International Crime Free Programs have since spread out to more than 3,000 cities internationally.

Crime-Free Programs & Nuisance Property Ordinances' Impact on Survivors

Survivors often must make a choice between seeking safety away from their abusers or remaining housed.

- Domestic violence, as well as other forms of gender-based violence, is often life-threatening – survivors shouldn't be dissuaded from contacting law enforcement and emergency services;
- Neighbors often call police in response to domestic violence;
- Despite breaking up and barring perpetrator from home, including protective orders, abusers stalk, harass, coerce, break-in, etc. – *traditional consent to entry not applicable*;
- *Survivors may be forced to remain in shelters longer.*

Crime-Free Programs & Nuisance Property Ordinances' Impact on Survivors Cont'd

- Reinforces messaging and isolation from abuser;
- Lack of community-wide support for a personal and public safety issue;
- Lack of faith in criminal justice response to hold abuser accountable;
- A threat of homelessness has significant impact on survivors, especially those who are parents (fear of losing children);
- Eviction records cause long-term rental eligibility impacts;
- Wrongful arrest for the survivors;
- Basic human right that persons seeking emergency assistance are not penalized by the law.

Crime-Free Programs & Nuisance Property Ordinances' Impact on Survivors Cont'd

- **The hyper stigmatization of being a survivor** can set survivors up for greater housing “behavior” critique and monitoring, from the initial point of even entering a lease relationship with a landlord;
- This monitoring also applies when survivors have reached out to law enforcement assistance and this is known to immediate neighbors or surrounding community members;
- The automatic perception of the survivors’ coming and going, maintenance of property, etc. gets associated with their experience of being a survivor and thus becomes an easier target to label as nuisance.

Crime-Free Programs & Nuisance Property Ordinances' Impact on Survivors Cont'd

- Enforcement of these programs and ordinances occur both in multi-family unit housing and private market single family housing that may be rental property;
- Homeowner's association may participate in the enforcement of these ordinances and programs by calling the police or may feel compelled to comply;
- What does collaboration or awareness raising for landlords or the property management partners look like to prevent increased “violation” framing from occurring to a survivor?

The Impact on Survivors of Color

▶ One study in Milwaukee, WI showed:

- Domestic violence was the third most common reason for a nuisance citation.
- Survivors were evicted or threatened with eviction in 83 percent of cases where landlords received a citation.
- **A tenant living in a majority Black neighborhood was 3x more likely to receive a nuisance citation than a tenant in a majority White neighborhood who also had violated the ordinance.**

Crime-Free Programs & Nuisance Property Ordinances – The Role of Race

- Give police unchecked discretion to reinforce racial boundaries and target Black & Brown communities for eviction and displacement;
- Permit white neighbors to control the behavior of their Black and Brown neighbors, by threatening their housing stability should they not behave in a way considered acceptable by white neighbors; White neighbors use their power to call police to target their Black and Brown neighbors;
- Discriminatory policing flourishes because the threshold for nuisance enforcement is so often low - a few calls to the police, even if they do not result in an arrest, charge, or conviction - can result in a person or household being labeled a “nuisance”;
- Resulting evictions destabilize Black and Brown families and make it increasingly more difficult for them to secure new housing;
- These ordinances serve as one of the most salient examples of the role law enforcement plays in further policing Black and Brown communities and in turn producing and sustaining racial segregation;
- Survivors of color not seen as “true victims.”

Crime-Free Programs & Nuisance Property Ordinances – The Impact on Persons with Disabilities

“Individuals with disabilities often require emergency services, such as suicide hotlines, to get assistance with medical issues that result from their disability. [Crime-free programs and Nuisance Property Ordinances] ... force people with physical or mental disabilities to make an impossible choice between calling 911 and risking eviction or foregoing medical assistance in a crisis.”

When Disability is a “Nuisance”: How Chronic Nuisance Ordinances Push Residents with Disabilities out of their Homes, A. Jarwala, S. Singh, Harvard Civil Rights-Civil Liberties Law Review, <https://harvardcrcl.org/wp-content/uploads/sites/10/2019/07/54.2-Jarwala-Singh.pdf>

Addressing Crime-Free Housing and Nuisance Property Programs through Civil Rights Enforcement



Joshua Bancroft & Imron Bhatti, HUD
Office of Fair Housing and Equal
Opportunity



Tamica Daniel, DOJ Civil Rights
Division, Housing & Civil Enforcement
Section

Federal Civil Rights Enforcement

HUD FHEO

- ❑ “First stop” for housing complaints
- ❑ Various types of investigations related to housing
- ❑ Less than a year since housing denial/loss, unless ongoing
- ❑ Administrative Process

DOJ Civil Rights Division

- ❑ Pattern & Practice, Land Use, and Zoning cases
- ❑ Investigations related to housing and non-housing issues
- ❑ More than a year since housing denial/loss
- ❑ Federal Court

HUD & DOJ

- ❑ Work closely together

Background

HUD's 2016 guidance on the **Fair Housing Act** and local **nuisance and crime-free housing ordinances**

<https://www.hud.gov/sites/documents/FINALNUISANCEORDGDNCE.PDF>

Proliferation of local programs that subject **renters and landlords** to **excessive penalties** based on criminal or nuisance activity.

Examples of problematic laws & actions

- Nuisance ordinances that use a **low, arbitrary bar for defining a nuisance**, combined with **significant penalties**.
- Laws that **require housing providers to evict** tenants even when the housing provider does not consider the tenant to be problematic.
- Laws that **lack exceptions** for disability-related calls for emergency services or calls to law enforcement from the victims of crimes, including survivors of domestic violence.
- Laws that **require or encourage denial of an applicant with any criminal record**, including arrests or misdemeanors.
- **Uneven enforcement** that disproportionately **targets buildings or neighborhoods** identified with a particular racial or ethnic group.

FHEO enforcement

- HUD's Office of Fair Housing and Equal Opportunity (FHEO) is **committed to tackling these ordinances** where they amount to a violation of the Fair Housing Act or other civil rights laws.
- Contact us if you've identified crime-free or nuisance ordinances with potentially discriminatory policies, **even if there's no individual complainant**.
- If housing providers, individuals, or families believe they have experienced housing discrimination, they can [file a complaint](#) at FHEO's website, online, by phone, email, or mail.

Evidence That May Support an Allegation

- Brief description of the **alleged acts of discrimination**;
- All documents related to **interaction with the entity that caused harm**;
- A **copy of the ordinance**;
- Background information on the **adoption, training, or implementation** of the law or program;
- Transcripts, recordings, minutes, or press coverage of **public meetings or statements** about the ordinance or program by decisionmakers or the public;
- Copies of reports, testimony, or presentations given at public meetings, if available;
- Any information or data about the effect of ordinance or program on **protected classes**

FHEO enforcement: Hemet, CA

- **FHEO-initiated action - compliance review of CDBG program;**
- **Crime-Free Rental Housing Program and Chronic Nuisance Abatement Program;**
 - Imposed penalties on property owners if five or more calls per year were made to law enforcement or to code enforcement for nuisance activity at a property
 - No exception for calls from victims of DV or other crimes
 - No safeguards for individuals with disabilities
 - Required landlords to enforce a crime-free lease addendum mandating immediate eviction for a single act of broadly defined criminal activity.
 - Landlords also were subject to annual inspections, fees, and a registration process that required the property to be kept “free from crime, nuisances and other unwanted behavior.”
- **Negotiated voluntary compliance agreement;**
 - repeal the ordinances that established the programs
 - create a remediation fund of \$200,000 to improve housing conditions for low- or moderate-income households, including by proactively addressing potential code violations.

FHEO enforcement: Hesperia, CA

- **Secretary-Initiated Complaint for race and national origin discrimination;**
- **FHEO found evidence that the ordinance had been enacted for discriminatory reasons;**
 - During city council hearings, city officials and others made statements that demonstrate the City enacted the ordinance to reverse “demographic” changes in Hesperia, including a desire for the ordinance to drive supposed newcomers “the hell out of our town.”
- **FHEO found evidence that the ordinance was used to target Black and Latino renters and tenants in majority-Black and Latino areas;**
 - Sheriff’s Department exercised its substantial discretion in enforcement to target African American and Latino renters and majority-minority areas of Hesperia.
 - African American renters were almost four times as likely as non-Hispanic white renters to be evicted because of the ordinance, and Latino renters were 29 percent more likely than non-Hispanic white renters to be evicted.
 - Sheriff’s Department data showed that 96 percent of the people the Sheriff’s Department targeted for eviction under the ordinance in 2016 had lived in majority-minority Census blocks.
- **Voluntary compliance negotiations unsuccessful – referred to DOJ.**²⁷

DOJ enforcement

- Housing and Civil Enforcement Section
- Special Litigation Section
- Disability Rights Section
- Federal Coordination and Compliance Section

DOJ Response to Complaint

- Potential Next Steps
 - May provide resources to send complaint to another agency such as HUD
 - Determine whether to move forward
 - May open an investigation
 - May talk with more individuals
 - May bring a lawsuit
 - Possibly seek relief on behalf of people harmed by Fair Housing Act violations
- Possible Challenges
 - Releases from other legal proceedings
 - Passage of time
 - Insufficient information about adoption or enforcement of program or ordinance

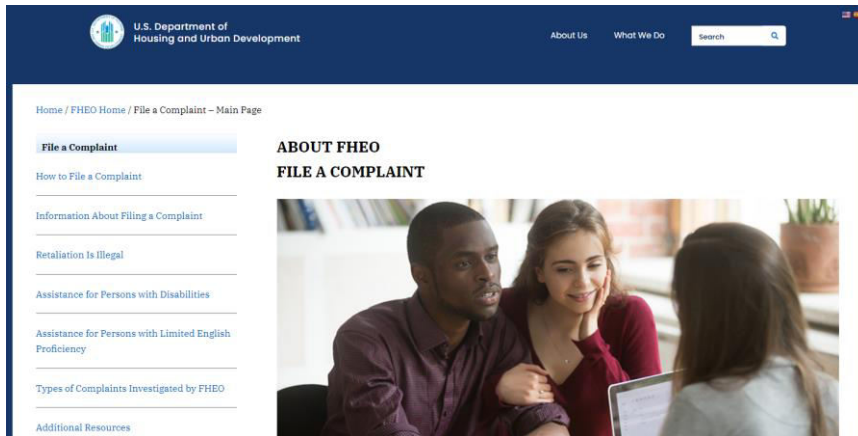
United States v. City of Hesperia (C.D. Cal.)

- FHEO's investigation found evidence that the ordinance had been enacted for discriminatory reasons.
- DOJ Lawsuit filed December 2019
- **Defendants**
 - City of Hesperia, CA
 - County of San Bernardino
 - San Bernardino County Sheriff's Department
- Amended in September 2020 & Supplemented in July 2021
- **Ordinances**
 - Rental Housing Ordinance with Required Criminal Background Checks and Crime-Free Lease Addenda
 - Rental Housing Business License Ordinance
- **Statutes**
 - FHA - HUD "Election" & Pattern or Practice
 - Title VI

Where to file a complaint

HUD:

<https://www.hud.gov/fairhousing/fileacomplaint>



DOJ:

<https://civilrights.justice.gov>



VAWA and CDBG Grantees

Jessie Handforth Kome, Director, Office of
Block Grant Assistance



2022 Reauthorization of Violence Against Women Act

VAWA 2022 requires **states and local governments with Community Development Block Grants (CDBG)** to support the right to report violence from one's home.



2022 Reauthorization of Violence Against Women Act

- ▶ What is CDBG?
- ▶ Under VAWA 2022, states and local governments with CDBG must
 - ▶ Identify local laws or policies that impose penalties on landlords, homeowners, tenants, residents, occupants, guests, or housing applicants based on **requests for law enforcement or emergency assistance or based on criminal activity that occurred at a property.**
 - ▶ **Certify** that the jurisdiction **will comply with** the protections under VAWA regarding right to report.

Using CDBG for Gender-based Violence Survivors

CDBG grantees can fund a wide range of activities for low- and moderate-income persons. Examples:

- ▶ Services for survivors of domestic violence, dating violence, sexual assault or stalking (almost \$12 million expended nationally in FY2021),
- ▶ Housing information and referral (almost \$4 million expended),
- ▶ Youth services (\$45 million),
- ▶ Childcare services, (more than \$11 million), and
- ▶ Mental health services (almost \$11 million).



Strategies for Partnering with Landlords and Survivors

Why Should Domestic Violence/Sexual Assault Advocates Partner with Landlords?

Support survivors' ability to access and maintain safe, permanent housing

Support survivor choice to safely remain in their communities, connected to social and familial networks

Successfully implement Domestic Violence Rapid Rehousing Housing programs and scattered site transitional housing models

Break down myths that landlords may hold that continue to create unnecessary and unlawful barriers to survivors

Strategies for Maintaining Productive Landlord Relationships

1

Assist survivors to navigate the housing landscape and exercise their housing rights.

2

Keep all lines of communications open while protecting the safety and confidentiality of survivors.

3

Advocate for survivors to be accountable and adhere to all of the terms and conditions of their lease.

Offer training and technical assistance to landlords and their staff on local and federal housing protections for survivors.

4

Support recognition of landlords who work to ensure housing access for survivors and others in the community.

Offer training and technical assistance to landlords and their staff on local and federal housing protections for victims.

5

Support recognition of efforts to ensure housing access for survivors and others in the community.

Strategies for Staff to work with Landlords

- Understand the local housing market - rents, unit availability, available subsidized options through Rapid Re-housing, Public Housing, nuisance ordinance, or crime-free program, etc.
- Vet landlords before referring survivors to determine their policies - if survivors come to the program with landlords in mind, offer to reach out to in advance to learn more about their policies;
- Be prepared to educate landlords about the laws, including problems with nuisance ordinances and crime-free programs
- Help prepare survivors to have difficult conversations with landlords as well, offer to help facilitate the conversation if desired

Strategies for Staff to work with Landlords (cont.)

- Are Nuisance Ordinances in place? If so, get more information from the landlord about:
 - How are tenants notified about violations and what is the timeframe for notification?
 - Are tenants notified with each incident or cumulatively?
 - Is there an appeal process?
 - At what point is the decision made to enforce
- Inform the landlord about housing protections in place for survivors
- Discourage use of crime free lease addendum
- Help survivors have these conversations with landlords so they are prepared for what to expect and how to advocate for their rights

How to Find out if there is a Crime-Free Program or Nuisance Ordinance:

- Review the website of your local government and local law enforcement. Many jurisdictions post information about the program and/or ordinance.
- File a public records act request, asking for a copy of the program, ordinance, or both. Make sure to also ask for training materials and a copy of the crime-free lease addendum.

Educate Landlords

▶ Housing protections for victims:

▶ Federal Laws

- VAWA;
- Fair Housing Act;
- Title VI of the Civil Rights Act;
- Americans with Disabilities Act;
- Sec. 504 of the Rehab Act.

Local and State Laws

- Some cities/states have protections that extend to private landlords;
- Some cities/states have eviction protections, early lease release, lock changes, reasonable accommodation to restore or improve security and safety measures; anti-discrimination.

Enhance Landlord Relationships

► Educate about Gender-Based Violence:

- Support landlords to incorporate tenant safety into their property management;
- Educate landlords on best practices for responding to GBV;
- Educate landlords on how these ordinances/programs can harm survivors;
- Offer your program as a referral to Landlords or property managers who have tenants experiencing DV;
- Assist Landlords to make the application process and other processes survivor-friendly;
- Act as an advocate for landlords to constructively work with survivors as tenants, offering support to mitigate conflicts or issues.

Nuisance Ordinances and Crime Free Programs

– common scenarios

SCENARIO ONE - A local domestic violence shelter provider receives information from its shelter residents that their landlords told them that they had to leave their apartments because of too many calls to the police to their homes. Landlords who work with the shelter to provide transitional housing also report that the pressure to evict due to police calls stem from a local nuisance ordinance.

Question: What should the domestic violence shelter provider do in response to this information?

Nuisance Ordinances and Crime Free Programs

– common scenarios

SCENARIO TWO - A project-based Section 8 multifamily housing owner who is covered by the Violence Against Women Act is asked by the local police department to execute a crime-free lease addendum with all of their tenants. The crime-free lease addendum has two key features: (1) it requires the property owner to evict everyone in an apartment, without exception, whenever there is an allegation of criminal activity on the premises by a tenant, household member, guest, or others; and (2) “Criminal activity” is considered to include calls to the police, and arrests that do not result in a conviction.

Questions: (1) Is the crime-free lease addendum in violation of VAWA? (2) What other laws is the crime-free lease addendum potentially in violation of? (3) Should the property owner use the crime-free lease addendum?

Nuisance Ordinances and Crime Free Programs

– common scenarios

SCENARIO THREE - A city, where the majority of its residents are white, is considering adopting a nuisance property ordinance because the community is seeing a marked increase in single family homes available for rent after a recent foreclosure crisis. The increase in rentals is changing the racial demographics of the community, with Latinx and Black families moving into the community for the first time in decades. The city's mayor, in promoting the nuisance ordinance, says the ordinance is needed because "we need to take back our community and ensure it does not change." The proposed ordinance also uses calls to the police as a basis for nuisance enforcement. If there are more than 3 calls to the police in a 6 month window, everyone in the home must be evicted as a "nuisance."

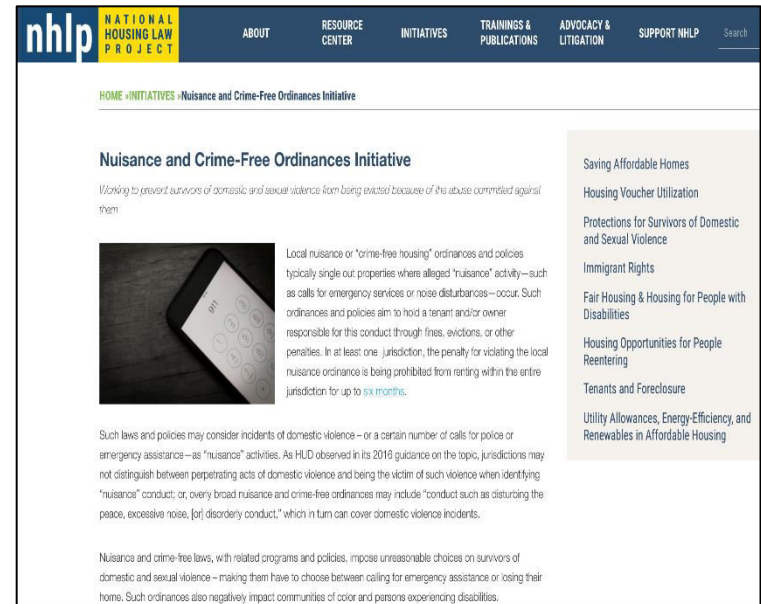
QUESTION - If the city passes the ordinance, what steps could be taken to address it?

Additional Resources

- *Crime-Free' Housing Ordinances, Explained*. (2021). The Appeal, <https://theappeal.org/the-lab/explainers/crime-free-housing-ordinances-explained/>
- *More Than A Nuisance: The Outsized Consequences of New York's Nuisance Ordinances*, https://www.nyclu.org/sites/default/files/field_documents/nyclu_nuisancereport_20180809.pdf;
- Joseph Mead, *Who is a Nuisance? Criminal Activity Nuisance Ordinances in Ohio*, https://engagedscholarship.csuohio.edu/cgi/viewcontent.cgi?article=2513&context=urban_facpub
- Gretchen W. Arnold, *From Victim to Offender: How Nuisance Property Laws Affect Battered Women*, <https://drive.google.com/file/d/0B4jt0vmC0QwES2NwN1ZFb3kxRVE/view?resourcekey=0-9DrJKiluBVxzc1Fqk07PBQ>
- *From the Ground Up: HOME Cohort's Survivor Housing Lease Addendum Webinar*, https://us06web.zoom.us/rec/share/vuRPIsUgCUOUhhKbVnpSTj_3DT-g_GWL1ZPXZC7689iWL2WiTdD-PENGQbOHXL.5IVITcL6HjGPYBNn, Access Passcode: v5%9hq26

NHLP's Nuisance Ordinance and Crime-Free Housing Initiative

- NHLP offers training and technical assistance on nuisance ordinances and crime-free housing policies
 - Kate Walz,
kwalz@nhlp.org
www.nhlp.org/initiatives/nuisance



Questions?

