



Nuisance and Crime-Free Ordinances/Policies

Protections for Survivors of Domestic and Sexual Violence

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Today's Webinar

- Introduction to Nuisance Ordinances and Crime-Free Housing Policies
- Protections for Survivors and Others Impacted by Nuisance Ordinances
- NHLP's Nuisance Ordinance and Crime-Free Housing Initiative
- Q&A

Poll: Who is in the Audience?

- Domestic violence service provider
- Attorney
- Transitional housing provider
- Local government official
- Policy advocate
- Other

Introduction to Nuisance Ordinances and Crime-Free Housing Policies

What are Nuisance Ordinances?

- Local laws and policies that penalize landlords and tenants when **police are called too many times** to the premises within a certain time period, or **for certain activity** occurring at the property
 - Impose penalties on owners, which lead to evictions of tenants
 - Many do not make exceptions for calls made by people who need police or emergency assistance (e.g., survivors)
 - Nuisance activities are broadly defined, ranging from disorderly conduct to violent crime

What are Crime-Free Housing Policies?

- Local laws and policies that require landlords to screen potential tenants for past criminal activity, and penalize landlords for tenants that commit “criminal activity” at the property
 - Often involve the use of a crime-free lease addendum
 - In survey of advocates, conducted by NHLP, many respondents were unsure of whether their jurisdiction had a crime-free rental program

Issues with these Laws and Policies

- These laws and policies can:
 - Harm and punish domestic violence survivors and persons with disabilities who seek help from the police or emergency services (e.g., calling 911)
 - Negatively impact communities of color
- Discussions of problems with nuisance ordinances
 - ACLU's "I Am Not a Nuisance" website
 - Shriver Center's "Cost of Being 'Crime-Free'" report

Nuisance and Crime-Free Housing Ordinances

Common Features

- While nuisance and crime-free ordinances and policies vary by municipality, these laws can share a number of characteristics, such as:
 - Imposing fines and other penalties on non-compliant landlords and tenants
 - Requiring or pressuring landlords to evict non-compliant tenants
 - Requiring criminal background checks on potential tenants
 - Requiring that landlords use crime-free lease addenda
 - Rental licensing schemes – typically where a landlord or tenant’s license can be revoked for non-compliance

Case Study: *Briggs* Litigation

- Norristown, PA had such an ordinance (called a “three strikes rule”).
 - No exceptions for domestic violence survivors calling the police.
- Lakisha Briggs, a domestic violence survivor, faced eviction because she called the police too many times over a certain time period.
- Ms. Briggs sustained serious injuries from her abuser because she was afraid to call the police out of fear of losing her housing.

Case Study: *Briggs* Litigation (cont.)

- The ACLU brought a lawsuit against Norristown, alleging violations of the Fair Housing Act (FHA) and VAWA.
 - *Briggs v. Norristown*, 2:13-cv-02191-ER (E.D. Pa. 2013)
- HUD subsequently initiated its own administrative complaint on the grounds that the ordinance violated the FHA due to its impact on survivors.
- Norristown settled both actions, and repealed the ordinance.

Case Study: *Maplewood* Litigation

- In April 2017, the ACLU filed a lawsuit on behalf of Rosetta Watson, a domestic violence survivor, against the City of Maplewood, Missouri.
- Maplewood had a nuisance ordinance with a rental licensing scheme.
- Under Maplewood's nuisance ordinance, tenants could be penalized for making two or more calls for police assistance within 180 days.
- Penalties not only included eviction, but went as far as **barring tenants from living in Maplewood for six-months**, by revoking their rental license.
- Ms. Watson, who after having made calls for police assistance when a former boyfriend attacked her on four separate occasions, had her rental license revoked by Maplewood and initially lost her Section 8 Voucher.

Case Study: *Maplewood* Litigation (cont.)

- Although Maplewood was aware that Ms. Watson's calls for police assistance stemmed from domestic violence, they nevertheless revoked her rental license, forcing Ms. Watson to relocate to another jurisdiction.
- Ms. Watson's abuser tracked Ms. Watson to her new home, broke in, and stabbed her repeatedly in the legs.
- In September 2018, Maplewood settled the case.
 - Settlement includes amendment of city's nuisance ordinance such that survivors and persons seeking emergency assistance are not penalized by the law.

Examples of Nuisance Ordinance Cases

- *Briggs v. Norristown, Pennsylvania* (2013)
- Berlin, New Hampshire (2014)
- *Markham v. City of Surprise, Arizona* (2015)
- *Victor Valley Family Resource Ctr. v. City of Hesperia* (filed 2016, settled 2018)
- *Jones et al. v. City of Faribault* (filed 2018)

Protections for Survivors and Others Impacted by Nuisance Ordinances

Nuisance & Crime-Free Housing Ordinances May Violate...

- Fair Housing Act
 - 42 U.S.C. § 3601, *et seq.*
- Violence Against Women Act (VAWA)
 - 34 U.S.C. § 12491 (housing provisions)
 - VAWA protects survivors of domestic violence, dating violence, sexual assault, and stalking living in or applying for federally assisted housing
- U.S. Constitution
- State & local anti-discrimination laws, state constitutions

- Nuisance and crime-free ordinances can violate the Fair Housing Act by disproportionately impacting certain groups.
 - Each year, women comprise nearly **80 percent of persons** who are survivors of domestic violence.
 - Jurisdictions **cannot rely on stereotypes** about people engaging in nuisance or criminal activities to defend ordinances.
- Jurisdictions can also violate the Fair Housing Act by intentionally using the adoption or enforcement of a nuisance or crime-free housing ordinance to discriminate (e.g. selective enforcement).

HUD 2016 Nuisance Ordinance Fair Housing Guidance (cont.)

- Guidance suggests repealing ordinances that penalize survivors or other crime victims for calling 911 or other emergency services.

State-Level Protections

- Litigation and advocacy have increased awareness of the issues created by nuisance ordinances.
- A number of states have created laws to protect domestic violence survivors and other populations from these policies' harmful effects.
 - The level of protection afforded by these laws varies across states.
 - Many states still lack protections.
 - Analysis and resources forthcoming from NHLP.

Examples of Recent Legislation - California

- California – AB 2413 (Cal. Civ. Code § 1946.8; Cal. Gov. Code § 53165)
 - Effective January 2019
 - Provisions include –
 - Improving existing law by protecting a broader set of individuals who need to call for police or emergency assistance, including other crime victims and individuals in an emergency, from penalties such as eviction;
 - Providing an affirmative defense in eviction actions for tenants, residents, and occupants penalized for obtaining police or emergency assistance; and
 - Establishing that state law supersedes existing local ordinances that penalize tenants and landlords due to police calls or emergency assistance summoned to a property, regardless of when the law is/was adopted.

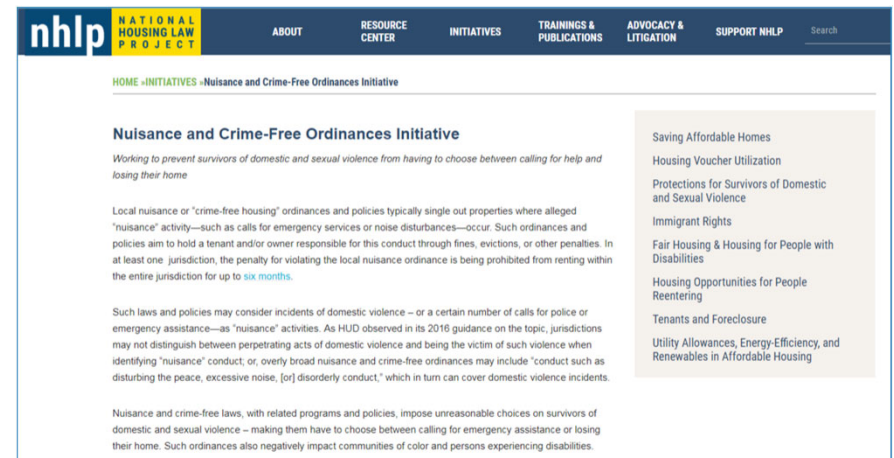
Examples of Recent Legislation – Indiana

- Indiana – Burns Ind. Code Ann. § 32-31-1-22
 - Provides protections against municipalities (e.g. protects calls made on behalf of victims of abuse, other crimes, and other emergencies)
 - No direct protections against landlord action.

NHLP's Nuisance Ordinance and Crime-Free Housing Initiative

Our Initiative



- NHLP offers training and technical assistance on nuisance ordinances and crime-free housing policies
 - nuisance@nhlp.org
- Nuisance initiative website
 - Resources, including case summaries, info sheets, and articles
- Forthcoming
 - Compilation and analysis of state protections
 - Survey results analysis



www.nhlp.org/initiatives/nuisance

Our Initiative Website

- We plan to update our website to include
 - Informational sheets for different audiences
 - Training materials
 - Additional case summaries
 - Additional links to studies and research reports
- If you feel like a specific resource would be helpful, please let us know.

Getting Evicted for Calling the Police: Nuisance Ordinances and Their Impacts on Domestic Violence Survivors
Information for Local Advocates

What are Nuisance Ordinances?

Nuisance ordinances are local laws that often impose penalties (e.g., fines) on property owners for activity on their property that is considered to be “nuisance” activity. For example, failure to maintain one’s lawn is an example of a “nuisance.”

Such ordinances may also define nuisance activity as calling law enforcement or emergency assistance to a property a certain number of times within a certain timeframe. For example, if someone calls the police to their apartment complex too many times within a month or year, making such calls may be considered “nuisance” activity under local law. In response, property owners cited under nuisance ordinances may evict renters to avoid penalties.

How can Nuisance Ordinances Negatively Affect Domestic Violence Survivors and Other Populations?

- Local nuisance ordinances may count incidents of domestic violence or calls to 911 for assistance as nuisance activity, subject to penalties.
- Nuisance ordinances discourage survivors from calling for police or emergency assistance out of fear of eviction or other penalties. This makes survivors choose between their homes and their safety.
- Nuisance ordinances have also been shown to negatively affect persons with disabilities and communities of color.

Are there Possible Protections Under the Law?

Enforcement of nuisance ordinances against domestic violence survivors and other populations may violate laws such as:

- The Fair Housing Act and similar state laws that prohibit sex, race, and disability discrimination;
- The Violence Against Women Act, which protects survivors of domestic violence, dating violence, sexual assault, and stalking in federal housing programs;
- The U.S. Constitution, including one’s First Amendment right to seek help from the government; and
- Any state laws prohibiting nuisance ordinances that adversely impact survivors or other populations.

Need More Information?

To request training or technical assistance, please contact Renee Williams, williams@nhlp.org.

Please note that this fact sheet is provided for informational purposes only, and should not be considered legal advice.

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Q & A

Thank You!

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