



**Testimony for the Record by  
Members of the National VAWA Housing Working Group**

**Subcommittee on Crime, Terrorism, and Homeland Security  
Regarding the Hearing on the Reauthorization of the Violence  
Against Women Act  
on March 7, 2019**

To Chairwoman Bass and Ranking Member Ratcliffe, and distinguished Members of the Subcommittee:

Thank you for this opportunity to provide testimony on behalf of the American Civil Liberties Union, Mid-Minnesota Legal Aid, National Alliance for Safe Housing, National Housing Law Project, National Law Center on Homelessness & Poverty, National Low Income Housing Coalition, National Network to End Domestic Violence, Sargent Shriver National Center on Poverty Law, and Vermont Legal Aid. The Violence Against Women Reauthorization Act of 2019, H.R. 1585 (VAWA 2019) includes vital housing protections for survivors of domestic violence, sexual assault, dating violence, and stalking that increase safe housing options for survivors escaping the violence committed against them. The ability for survivors to utilize these housing rights and remedies often means the difference between life and death. In this testimony, we explain the history of the inclusion of VAWA’s housing protections and illustrate the need for specific housing priorities in VAWA 2019 through the stories of survivors.

**About the Undersigned Organizations**

For nearly 100 years, the American Civil Liberties Union (ACLU) has worked nationwide in courts, legislatures, and communities to fight for and defend the fundamental rights and liberties that the Constitution and the laws of the United States guarantee to all people in this country. With more than three million members, activists, and supporters, the ACLU advances the housing rights of survivors of gender-based violence by litigating cases on behalf of survivors and advocating for federal, state, and local policies that ensure their security.

Mid-Minnesota Legal Aid (MMLA) is a nonprofit organization providing legal representation and advice to people with low incomes in 20 central Minnesota counties, including the City of Minneapolis. MMLA's mission is to advocate for the legal rights of disadvantaged people to have safe, healthy, and independent lives in their communities. In 2017, MMLA provided representation and advice to more than 10,000 low-income households, 34% of those housing cases, and reached tens of thousands more through its online legal information services. Many of the households served in all legal issues involved clients seeking safety from domestic abuse, sexual assault, and stalking.

National Alliance for Safe Housing (NASH), a subsidiary of the District Alliance for Safe Housing, is a national Technical Assistance and Training provider. NASH's mission is to create a culture where safe housing is a right shared by everyone, through improved access, increased resources, and innovative solutions for survivors of violence. In alliance with advocates, survivors and leaders on the local, state and national level, NASH provides programs and communities with the tools, strategies, and support necessary to improve coordination between domestic and sexual violence services, and homeless and housing providers, so that survivors and their children can ultimately avoid homelessness as the only means of living free from abuse.

The National Housing Law Project (NHLP) is a private, non-profit, national housing and legal advocacy center established in 1968. NHLP's mission is to advance housing justice for poor people. NHLP has worked with thousands of advocates, attorneys, and housing providers throughout the country on ensuring that domestic and sexual violence survivors are able to access and maintain safe, decent, and affordable housing.

The National Law Center on Homelessness & Poverty is a 501(c)3 nonprofit organization based in Washington, D.C., and is the only national legal group dedicated to ending and preventing homelessness. The Law Center is the only national legal group dedicated to ending and preventing 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.

The National Low Income Housing Coalition was established by Cushing B. Dolbeare in 1974 and is dedicated solely to achieving socially just public policy that assures people with the lowest incomes in the United States have affordable and decent homes.

The National Network to End Domestic Violence (NNEDV) is a leading national voice for domestic violence survivors and their advocates representing the 56 state and territorial domestic violence coalitions, their nearly 2,000 member domestic violence programs, and the millions of survivors they serve. This direct connection with survivors and survivor service providers gives NNEDV a unique understanding of survivors needs and the vital importance of housing protections. Across intersecting teams and via a multi-pronged approach, NNEDV works to eliminate barriers to housing for survivors through targeted federal policy advocacy and systems advocacy. Through national, local and state partnerships, NNEDV works to improve

policies to address the needs of survivors and trains local communities and nonprofit housing providers on best practices to connect survivors to safe, confidential, and affordable housing.

The Sargent Shriver National Center on Poverty Law (Shriver Center) provides national leadership in advancing laws and policies that secure justice to improve the lives and opportunities of people living in poverty. The Safe Homes Initiative of the Shriver Center is dedicated to ensuring that survivors of domestic and sexual violence can secure access to safe housing and have their legal rights protected.

Vermont Legal Aid (VLA) is a non-profit law firm established in 1968. VLA strives to advance fairness and justice in the civil legal system, address the social and economic interests of our clients, and confront the underlying causes of poverty, discrimination, and inequality. VLA engages in direct representation of survivors of domestic violence and sexual assault and engages in systems and legislative advocacy to advance their rights to safe and affordable housing.

## Background

The housing protections in VAWA came in direct response to policies adopted by federal housing providers that held everyone in a household liable for a single instance of criminal activity that occurred at the property. These policies, commonly referred to as “one strike,” led to disastrous results for survivors of domestic violence in federally subsidized housing programs.<sup>1</sup> In 1999, as part of a program titled the “National Discussion on Housing and Domestic Violence,” advocates, federal policy makers, and HUD officials addressed the question: how could crime reduction efforts be supported without jeopardizing the housing of domestic violence survivors?<sup>2</sup> They were particularly concerned with crime reduction policies that exposed a survivor to the risk of eviction because of their partner’s or ex-partner’s violence, their property damage, their threat to other tenants, or their violation of family one-strike policies.<sup>3</sup>

In response to this growing national problem, Congress created provisions in the Violence Against Women Act Reauthorization of 2005 (VAWA 2005) to protect survivors of domestic violence, dating violence, and stalking from eviction, subsidy terminations, and admission denials due to their abusers’ acts.<sup>4</sup> VAWA 2005 covered public housing, project-based Section 8 housing, and the Section 8 Housing Choice Voucher Program.<sup>5</sup> In her congressional testimony

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<sup>1</sup> See *Lost Housing, Lost Safety: Survivors of Domestic Violence Experience Housing Denials and Evictions Across the Country*, Nat’l Law Ctr. on Homelessness & Poverty 3 (Feb. 2007), <https://www.nlchp.org/documents/Lost-Housing-Lost-Safety> (providing statistics and stories about victims of domestic violence being evicted because of their abusive partner’s actions); see also *HUD v. Rucker*, 535 U.S. 125 (2002) (upholding the “one strike” policy even when the public housing tenants were not aware of the other tenants’ criminal activity).

<sup>2</sup> Anne Menard, *Domestic Violence and Housing: Key Policy and Program Challenges*, 7 *VIOLENCE AGAINST WOMEN* 707, 714 (2001).

<sup>3</sup> *Id.*

<sup>4</sup> *Violence Against Women and Department of Justice Reauthorization Act of 2005*, Pub. L. No. 109-162, § 41402, 119 Stat. 2960, 3041-49 (2006).

<sup>5</sup> *Id.*

regarding VAWA 2005 and the need for housing protections for survivors, Lynn Rosenthal, the then-executive director of the National Network to End Domestic Violence, explained that “[m]any victims of domestic violence have been evicted or denied housing due to the crimes committed against them or because of their abuser’s actions.”<sup>6</sup> Additionally, Auburn L. Watersong, the Economic Justice Specialist at the Vermont Network Against Domestic and Sexual Violence, explained that “[a]busers intentionally use tactics to limit and control victims’ access to finances, transportation, housing, and banking,” and “[l]andlords often threaten victims with penalties or evictions, or unfairly hold victims accountable for the behavior of their abusers.”<sup>7</sup>

In 2013, Congress expanded the scope of the housing protections in VAWA by passing the Violence Against Women Reauthorization Act of 2013 (VAWA 2013).<sup>8</sup> VAWA 2013 built upon VAWA 2005’s recognition that survivors could not be denied or evicted from housing due to the acts of their abusers. It also provided additional housing protections for survivors of violence by, for example, covering more federal housing programs, providing an opportunity to transfer to safe housing, and, for the first time, expressly protecting survivors of sexual assault.

Based on emerging housing needs of survivors and their families and experience with previous implementations of VAWA, the housing provisions in VAWA 2019 are critical to (1) strengthen protections for survivors of domestic violence from eviction due to any criminal actions of perpetrators; (2) allow survivors to independently establish eligibility for housing assistance when leaving the household of an eligible perpetrator; (3) enhance the emergency transfer process; (4) strengthen compliance and implementation across agencies and providers; and (5) protect the right to report crime and support effective law enforcement.

## **Key Priorities**

Existing statutory protections as well as implementing regulations and guidance by federal agencies are essential to providing basic protections for survivors of VAWA-covered crimes. However, more must be done to ensure compliance with these requirements and close gaps that leave many survivors without a safe place to live. VAWA 2019 includes the following key priorities:

### ***Protect survivors from eviction based on criminal actions of perpetrators***

Currently, VAWA’s housing protections provide that a tenant in a covered housing program may not be terminated from participation in, or evicted from housing, on the basis of criminal activity directly related to domestic violence, dating violence, sexual assault, or stalking that is engaged in by another member of the household where the tenant is the victim or threatened

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<sup>6</sup> Testimony before the S. Committee on the Judiciary on the Violence Against Women Act of 2005, 109th Cong. 14 (2005) (statement of Lynn Rosenthal, Executive Director, National Network to End Domestic Violence).

<sup>7</sup> The Increased Importance of the Violence Against Women Act in a Time of Economic Crisis: Hearing Before the S. Committee on the Judiciary, 111th Cong. 16 (2010) (statement of Auburn L. Watersong, Economic Justice Specialist, Vermont Network Against Domestic and Sexual Violence, Montpelier, Vermont).

<sup>8</sup> Violence Against Women Reauthorization Act of 2013, Pub. L. 113-4, § 601, 127 Stat. 54 (2013).

victim.<sup>9</sup> Unfortunately, survivors still face denial and eviction based on other criminal activity of the perpetrator, including drug-related criminal activity, even if they are not involved in, or are coerced into criminal activity. VAWA 2019 would expand the scope of protection for survivors by protecting them from termination for any criminal activity of the perpetrator, including drug-related criminal activity, if the survivor seeks an emergency transfer, bifurcation of the lease, or takes other protective measures to exclude the perpetrator from the rental unit.

These stories from the field demonstrate the need for stronger protections so that survivors are not evicted or terminated from their housing assistance because of the criminal activity of their perpetrators.

- A survivor of domestic violence applied for subsidized housing eight years after she had lost a Section 8 voucher due to the criminal activity of her abuser, then incarcerated. The application was denied due to the history of voucher termination, and although she appealed the denial, with the abuser on the verge of being released from jail, the client had no time to litigate the matter and had to flee to another state to keep herself and her children safe.
- A Section 8 Housing Choice Voucher holder was threatened with the termination of her voucher after her ex-boyfriend and perpetrator claimed to live in her unit after he was caught in possession of weapons. She denied this fact and, in representing herself at the administrative hearing, repeatedly stated that she was a survivor of domestic violence by him and that in order to avoid the abuse, she would permit him entry into her home when he asked. The hearing officer approved the termination, noting that “one-strike was the law of the land” where “everyone is held responsible for their guests.” The hearing officer made no mention of VAWA or the protections available to the voucher holder. Her attorneys appealed the decision and, after an amicus brief was filed on behalf of multiple housing and domestic violence organizations (noting that both the housing authority and the hearing officer appeared not to know about VAWA), the housing authority settled the case and restored her voucher.
- A Section 8 Housing Choice Voucher program participant was forced to act as a drug mule by her husband. When he later pled guilty to federal trafficking charges, he testified that he had beaten his wife to coerce her into cooperating, and telephone calls he made to her from prison provided additional evidence of admissions of abuse. Charged as a co-conspirator, the survivor pled guilty and was sentenced to probation given the exceptional mitigating circumstances. The federal court judge made a special note at sentencing that he hoped the conviction would not bar her ability to receive public benefits or subsidized housing. With the help of her attorney, she was able to retain her Section 8 voucher, but many survivors will not be so fortunate as to have representation and a particularly sympathetic judge.

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<sup>9</sup> See 34 U.S.C. § 12491(b)(3)(A).

### ***Establish reliable “family break-up” procedures***

Although VAWA currently allows federal housing providers to bifurcate leases in order to evict individuals who engage in domestic violence, dating violence, sexual assault, or stalking, the current statute does not require that survivors retain possession of the unit or the subsidy in the event of a family break-up. Without the ability to retain their housing and rental assistance, survivors often face homelessness when the perpetrator is removed from the household. VAWA 2019 would provide a critical safeguard for survivors to maintain their housing when “family break-ups” occur. The following case illustrates the crucial need for this protection:

A survivor of domestic violence was married to her abuser who was the head of household of a unit subsidized by a project-based Section 8 program. For years, the abuser promised to add the survivor to the lease, but never did so. The violent and abusive husband would use the housing against the survivor by saying that she wouldn’t have anywhere to live but for him, he could report her to the landlord since she wasn’t supposed to be living in the unit, and he would never add her to the lease. After years of abuse, the survivor found the support she needed to file a restraining order, and the abuser left the unit. The survivor, who had no alternative housing, explained the domestic violence situation to the landlord and then asked that she be added to the lease (and, therefore, the subsidy) or that a new lease be executed in her name only. The landlord stated that the survivor was an unauthorized occupant and should not have been living in the unit. Further, according to the landlord, she would need the husband’s written consent to change or end the existing lease; otherwise, she would have to leave the unit.

### ***Enhance the emergency transfer process***

The landmark emergency transfer process in VAWA 2013 is a critical component in increasing survivors’ options for safety and housing. Key improvements in the VAWA 2019 bill will strengthen and clarify this vital process.

Currently, VAWA provides a statutory right to request an emergency transfer.<sup>10</sup> The language of the statute does not indicate that a finding of “good standing” for a tenant is required to effectuate a transfer. In fact, HUD’s Model Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking provides as follows: “Tenants who are not in good standing may still request an emergency transfer if they meet the eligibility requirements in this section.” Despite this, survivors have been unable to obtain transfers due to allegations such as unpaid rent or damage to the unit. For instance, a survivor requested an emergency transfer to escape from her abuser after he refused to leave her apartment. The Housing Authority declined to let her move, indicating that she was not in “good standing” because she owed rent, allegedly had an unauthorized occupant in her unit (her abuser), and had created excessive noise (while she was being assaulted). Only after an incident resulting in felony charges against her abuser was the survivor finally able to obtain an emergency transfer with the help of an attorney.

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<sup>10</sup> 34 U.S.C. § 12491(e).

Covered housing providers are required to allow survivors of domestic violence, dating violence, stalking, and sexual assault to transfer to alternative housing units of the covered housing provider upon satisfying the guidelines set forth in 34 U.S.C. § 12491. Housing providers are encouraged, but not required, to set up emergency transfer memoranda of understanding with other covered housing providers, as the housing provider may not have any readily available alternative units.

Despite the requirement that public housing agencies and other housing providers establish emergency transfer procedures, survivors often struggle to obtain safe, alternative housing even after requesting an emergency transfer. This occurs because providers are only considering units in their own portfolio, where there may not be available, safe units. In rural communities in particular, a provider may have very few properties and rarely have any vacancies available, even in cases of emergency. Furthermore, according to a national survey and follow-up interviews conducted in 2017 by the National Alliance for Safe Housing, the vast majority of Continuums of Care (CoCs) do not have emergency transfer policies in place, nor do the housing providers within the CoCs.<sup>11</sup> The few that do have a policy in place utilize the HUD Model Emergency Transfer policy, which only gives a basic foundation, not a comprehensive range of options that would make a policy operable on the ground.

To ensure that the emergency transfer process serves its intended purpose and that survivors need not risk homelessness to ensure their safety, VAWA 2019 would require that survivors be able to transfer without penalties, and for housing providers to provide alternative transfer options for survivors of VAWA crimes. Further, VAWA 2019 would create dedicated tenant protection vouchers for this purpose.

The following stories further illustrate the dire need to strengthen VAWA's emergency transfer requirements.

- A survivor in a HUD Rental Assistance Demonstration (RAD) conversion unit needed an emergency transfer. The local public housing agency had only one other RAD conversion property in its portfolio and there were no units available in it. The survivor had to stay in an unsafe situation, regularly seeing her abuser and being exposed to further violence, because there simply was no other available unit from the same covered housing provider. However, there could have been available and safe units through other housing providers, but those options were not explored.
- A survivor in a HUD project-based Section 8 development needed an emergency transfer due to an ongoing threat of domestic violence against her on the premises. She repeatedly sought the help of her property manager, who told her that they could only transfer her within the building (the mandated internal transfer process). She agreed to that internal transfer because the housing provider had not set up any external transfer

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<sup>11</sup> Larisa Kofman & Suzanne Marcus, 2017 Safe Housing Needs Assessment: Results Overview (Oct. 10, 2018), <https://www.nationalallianceforsafehousing.org/wp-content/uploads/2018/10/Safe-Housing-Needs-Assessment-published-10-2018.pdf>

options. A few weeks later, the perpetrator broke into her new unit and held her hostage for more than two days.

- A property manager of a large HUD Section 8 development reached out to local legal aid office in frustration after internally transferring, pursuant to VAWA, several survivors of domestic violence to other units within the same complex. The property manager noted that the internal transfers did absolutely nothing to make victims safer and, if anything, escalated the domestic violence once the perpetrator was able to show the survivor that they could easily find them again. This same property manager noted that some survivors simply give up and flee to shelters.
- A tenant in a HUD Section 8 Substantial Rehabilitation property needed an emergency transfer due to ongoing domestic violence perpetrated against her adult daughter. The perpetrator lived only a few blocks away from the property. In this rural state, like many other subsidized properties, this management company only owned the development where the client resided. The family was unable to transfer. The tenant's daughter, the survivor of the domestic violence, moved out, and ended up living in her vehicle.
- A survivor in a Continuum of Care-funded housing program was in need of an emergency transfer. He asked his housing provider for a transfer and explained why he was fearful for his safety if he stayed. His housing provider was aware of VAWA, but had no viable internal placement option for the survivor. The provider reached out to another program that had availability, but that program stated that the survivor needed to re-enter the Coordinated Entry process for placement because they were not required to help with the emergency transfer and the survivor might not qualify for their program otherwise. They stated that the survivor needed to be assessed again before they could take any action.

### ***Address the need for consistent implementation, compliance, and accountability regarding VAWA's housing protections***

Despite Congress' inclusion of housing protections for survivors of domestic violence, dating violence, sexual assault, and stalking, implementation of these crucial protections has presented a number of challenges. Many of the protections enshrined in VAWA are inconsistently implemented at best, and at worst, ignored.

First, the three agencies charged with administering VAWA's covered housing programs are at different stages of implementing the protections included in the 2013 reauthorization, leading to confusion and inconsistency across covered housing programs. Of the three agencies—HUD, USDA, and the Department of the Treasury—HUD has taken the most steps to implement VAWA 2013, including issuing regulations in 2016, as well as guidance documents. By contrast, the Treasury Department has taken no meaningful steps to implement VAWA 2013 housing protections, in spite of the inclusion of the Low Income Housing Tax Credit (LIHTC) program in the 2013 VAWA reauthorization.<sup>12</sup> The lack of meaningful progress toward VAWA implementation by the Treasury Department is particularly problematic since the LIHTC

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<sup>12</sup>34 U.S.C. § 12491(a)(3)(J) (listing the LIHTC program as a "covered housing program").

program is the single largest source of new affordable housing in the United States.<sup>13</sup> In the absence of guidance by the Treasury Department, state housing finance agencies are left to fill in the gaps, or worse still, take no action – leading to an inconsistent application of VAWA protections in the LIHTC program across the country.<sup>14</sup>

Additionally, survivors of domestic violence, dating violence, sexual assault, and stalking have no centralized, structured process by which to report a covered housing provider’s failure to comply with VAWA’s housing protections. The lack of a formalized complaint process by which survivors and their advocates can report failures to implement VAWA allows systemic noncompliance to remain unaddressed, and leaves survivors to face uncertain outcomes. Furthermore, the lack of a formal complaint process leaves federal agencies unaware of systemic issues with VAWA implementation, and such issues remain unaddressed six years after the passage of VAWA 2013.

Similarly, housing providers who are not well-versed in their rights and obligations under VAWA may not know where to go to obtain technical assistance and training. The need for easily accessible technical assistance for housing providers in the field cannot be overstated. Housing issues involving survivors require a nuanced understanding of a number of intersecting factors, including: the dynamics of domestic and sexual violence, safety considerations for survivors and their families, the rules governing federal housing subsidies, the availability of safe affordable housing units, and relevant state law requirements. Technical assistance and training are thus vital components of successful implementation of VAWA’s housing protections. In addition to creating additional barriers to survivors seeking safe housing, inconsistent implementation of VAWA’s housing protections causes uncertainty and confusion for covered housing providers. Many such providers are simply unaware of their rights and obligations under the statute.

Recognizing the gaps in implementation, VAWA 2019 includes provisions that will improve consistency of implementation across federal agencies, promote compliance, and increase accountability regarding VAWA housing protections.

VAWA Director. To coordinate compliance with VAWA’s housing protections across federal agencies, VAWA 2019 establishes the position of VAWA Director. This position will exist within the Office of the HUD Secretary. The VAWA Director will be responsible for coordinating implementation of VAWA housing protections across federal agencies administering covered housing programs, and will also advise and coordinate with other entities such as the U.S. Interagency Council on Homelessness. Furthermore, the VAWA Director will ensure that

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<sup>13</sup> *Compare* Low-Income Housing Tax Credits, HUD OFFICE OF POLICY DEVELOPMENT & RESEARCH, <https://www.huduser.gov/portal/datasets/lihtc.html> (last revised July 10, 2017) *with* United States Fact Sheet: Federal Rental Assistance (2017), CTR. ON BUDGET & POLICY PRIORITIES, [www.cbpp.org/sites/default/files/atoms/files/4-13-11hous-US.pdf](http://www.cbpp.org/sites/default/files/atoms/files/4-13-11hous-US.pdf).

<sup>14</sup> *See generally* ACLU et al., *Protections Delayed: State Housing Finance Agency Compliance with the Violence Against Women Act* (2017), <http://nhlp.org/files/Protections%20Delayed%20-%20HFA%20Compliance%20with%20VAWA.pdf>; *see also* National Council of State Housing Agencies, *Recommended Practices in Housing Credit Administration*, 42 (2017) (noting that, “[t]o date, the IRS has not issued VAWA guidance that applies to the Housing Credit program”).

adequate technical assistance is made available to owners, managers, and public housing agencies that participate in covered housing programs, and will provide technical assistance to agencies administering covered housing programs. The VAWA Director will also establish a formal complaint process where individuals can report VAWA noncompliance, as well as implement a quality control and corrective action plan systems to improve ongoing compliance.

Annual Compliance Reviews. The VAWA 2019 housing provisions require that each federal agency administering covered housing programs establish an annual review process to assess compliance with the provisions of this Act by covered housing providers within covered housing programs. Each agency will be required to issue regulations outlining standards for VAWA compliance and corrective action plans.

Retaliation. To ensure that individuals who assert their rights under VAWA can do so without fear of retaliation, the VAWA 2019 housing provisions prohibit covered housing providers from threatening, intimidating, or coercing someone because that person exercised VAWA housing rights, or from interfering with someone's ability to exercise rights under VAWA's housing protections.

Training. VAWA 2019 housing provisions require that HUD develop (in consultation with domestic violence experts) mandatory annual training for covered housing providers that includes information regarding the basics of domestic violence, dating violence, sexual assault, and stalking. Furthermore, PHAs will be required to describe in their PHA annual plans any training and support made available to staff that offers a basic understanding of domestic violence, dating violence, sexual assault, and stalking, and that facilitates implementation of VAWA's housing protections.

Public Housing Agency Certification. VAWA 2019 requires that PHAs certify annually that they will carry out their PHA plans in accordance with VAWA.

The following examples from the field illustrate the need for increased compliance provisions:

- The National Housing Law Project works with thousands of advocates throughout the country to review plans and policies used by public housing authorities (PHAs) and other housing providers in administering federal housing programs. In our experience, we continue to see many policies developed by covered housing providers that do not include the VAWA protections. For example, many PHA plans that govern the public housing and Housing Choice Voucher programs still have not been updated to reflect the expanded protections under VAWA 2013 or do not mention VAWA at all. Further, we continue to hear accounts of landlords denying housing to survivors and evicting them for VAWA reasons. Many landlords have readily admitted to never having heard of "VAWA."
- At a local Continuum of Care (CoC) meeting in 2018, member agencies were scheduled to vote on the CoC's VAWA compliance policy, procedures, and forms. Several members of the CoC admitted that they didn't know anything about VAWA and would need significant training, acknowledging that they had probably violated victim confidentiality

within the last year and were not in compliance with VAWA's emergency transfer protections for survivors with Rapid Rehousing Rental Assistance.

### ***Protect the right to report crime and support effective law enforcement***

One stated purpose of adding housing protections to VAWA in 2005 was to ensure that survivors could access the criminal justice system without losing their housing.<sup>15</sup> However, many jurisdictions across the United States have adopted ordinances—often called “nuisance” or “crime-free” ordinances—that punish survivors because of the abuse committed against them.<sup>16</sup> Nuisance laws often require the eviction of households for crimes occurring at the property, often without distinguishing between perpetrators and victims of crimes.<sup>17</sup> Such laws have also designated properties as creating a “nuisance” due to the number of calls for police or emergency assistance summoned to the property within a certain period of time, even when residents needed emergency aid or police protection.<sup>18</sup> These laws impose penalties on landlords who fail to address the “nuisance” conduct or “criminal activity” at their properties.<sup>19</sup>

Nuisance and crime-free housing laws can have disastrous impacts for survivors of domestic violence and other victims of crime who often need to call the police for help. Once people learn that reporting crime will lead to loss of their property and homes, they stop calling 911—leaving the actions of perpetrators unreported and jeopardizing survivors' safety. HUD has noted that nuisance and crime-free ordinances “are becoming an additional factor that operates to discourage victims from reporting domestic violence and obtaining the emergency police and medical assistance they need.”<sup>20</sup>

Furthermore, nuisance ordinances force landlords to choose between being subjected to penalties ranging from fines to criminal liability, and addressing the “nuisance” conduct by

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<sup>15</sup> Violence Against Women and Department of Justice Reauthorization Act of 2005, Pub. L. 109-162, tit. VI, § 41402, 119 Stat. 2960, 3031 (2006) (codified at 34 U.S.C. § 12472 (formerly 42 U.S.C. § 14043e-1)) (noting law's purpose in preventing homelessness for survivors by, among other objectives, ensuring survivors “have meaningful access to the criminal justice system without jeopardizing [] housing”).

<sup>16</sup> See generally American Civil Liberties Union, “I Am Not a Nuisance: Local Ordinances Punish Victims of Crime,” <https://www.aclu.org/notanuisance> (last accessed Mar. 2019) [hereinafter “ACLU, I Am Not a Nuisance”];

<sup>17</sup> *Id.*; see also 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* 2-4 (Sept. 13, 2016) [hereinafter “HUD Guidance”], <https://www.aclu.org/other/i-am-not-nuisance-local-ordinances-punish-victims-crime>.

<sup>18</sup> See ACLU, I Am Not a Nuisance; HUD Guidance at 2-4; Emily Werth, Sargent Shriver National Center on Poverty Law, “The Cost of Being Crime-Free: Legal and Practical Consequences of Crime Free Rental Housing and Nuisance Property Ordinances,” at 2 (2013), <https://www.povertylaw.org/files/docs/cost-of-being-crime-free.pdf> (noting that crime-free and nuisance ordinances “seek to penalize landlords and tenants for suspected criminal activity and/or calls for police service associated with rental properties”).

<sup>19</sup> See ACLU, I Am Not a Nuisance.

<sup>20</sup> HUD Guidance at 5.

evicting a household—including survivors of domestic violence. Landlords often choose eviction.<sup>21</sup>

In one study, sociologists examining nuisance citations in Milwaukee, Wisconsin, showed that domestic violence was the third most common ground for a nuisance citation in that city, far ahead of drug offenses, and that the ordinance was used to evict victims.<sup>22</sup> Milwaukee approved a plan from a landlord who wrote the following to city officials: “First, we are evicting Sheila M, the caller for numerous help from police. She has been beaten by her ‘man’ who kicks in doors and goes to jail for 1 or 2 days. ... We suggested she obtain a gun and kill him in self-defense, but evidently she hasn’t. Therefore, we are evicting her.”<sup>23</sup>

The VAWA 2019 housing provisions make clear that crime victims have the right to seek law enforcement or emergency assistance on behalf of themselves or others, and must not be penalized for doing so. Instead of punishing survivors and their landlords, states and localities are permitted to utilize existing federal grant programs to identify more effective means of combating crime.

The following examples from the field illustrate the need for protections for individuals seeking police or emergency assistance:<sup>24</sup>

- A nuisance ordinance in Norristown, PA authorized the revocation or suspension of a landlord’s rental license if police responded to three “disorderly behavior” calls in four months. The law defined “disorderly behavior” broadly, including domestic disturbances in its definition. In 2012, Lakisha Briggs’ boyfriend physically assaulted her and her daughter called 911. When police responded, they arrested her boyfriend but also threatened Ms. Briggs with eviction under the local ordinance, telling her this was her first “strike” under the local law. After this, Ms. Briggs was terrified to call 911 despite escalating violence, including an incident when her ex-boyfriend attacked her with a brick and another when he stabbed her in the neck. While Ms. Briggs asked others not to call the police during this third incident because she did not want to lose her home, her neighbor did call 911 and she was airlifted to the hospital. However, three days after the incident, Ms. Briggs received an eviction notice. Her landlord had received a threat from Norristown that his license would be revoked unless he removed her. After Norristown, PA repealed its nuisance ordinance, its Police Chief determined that the ordinance had undermined law enforcement efforts, and greater trust was built between the police department and community members. The Chief has since spoken to law enforcement groups about the harms of these ordinances, including at a convening sponsored by the U.S. Department of Justice.

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<sup>21</sup> Matthew Desmond and Nicol Valdez, *Unpolicing the Urban Poor: Consequences of Third-Party Policing for Inner-City Women*, *American Sociological Review* Vol. 78, at 131 (2013),

[https://scholar.harvard.edu/files/mdesmond/files/desmond.valdez.unpolicing.asr\\_0.pdf](https://scholar.harvard.edu/files/mdesmond/files/desmond.valdez.unpolicing.asr_0.pdf).

<sup>22</sup> *Id.*

<sup>23</sup> *Id.* at 135.

<sup>24</sup> See ACLU, *I Am Not a Nuisance*.

- Under Maplewood, Missouri’s nuisance ordinance, more than two incidents of domestic violence resulting in calls to the police within a 180-day period qualified as a nuisance. In May 2012, Maplewood revoked Rosetta Watson’s occupancy permit for calls she made to the police to report abuse she had suffered at the hands of her ex-boyfriend. Even though city officials were aware of the repeated domestic violence, Ms. Watson was still considered a nuisance and denied an occupancy permit for 180 days, forcing her to leave her home and the city altogether.
- The city of Surprise, Arizona’s nuisance ordinance declared a property a nuisance if the property owner became aware that either (1) four or more calls for police services were made regarding the property within a thirty-day period, or (2) the tenant, a member of the tenant’s household, or a guest of the tenant committed two crimes under Arizona or Federal law or a single instance of a list of specified crimes. The ordinance also required all landlords to adopt lease provisions permitting them to evict based on a single criminal activity, regardless of whether the tenant was the victim of the crime. The ordinance was enforced against Nancy Markham, a resident of Surprise, AZ in 2014. R.V., the father of Ms. Markham’s child, repeatedly came to her home and refused to leave, threatening to kill her, brandishing weapons, and attacking her. In early August 2014, a city official notified Ms. Markham’s landlord that the city could deem her property a nuisance unless the landlord “corrected” the criminal problems there. Despite the fact that Ms. Markham got a restraining order against R.V. and he was incarcerated, the city repeatedly pressured the landlord and property manager to “abate” the alleged nuisance at the property by evicting her.

In closing, we reiterate our thanks to the Subcommittee for the opportunity to submit this testimony about the critical housing protections for survivors of domestic violence, dating violence, sexual assault, and stalking.

We urge Congress to reauthorize VAWA expeditiously so that these important protections can help survivors access and maintain safe and affordable housing.