



HOW LOCAL NUISANCE ORDINANCES UNDERMINE EFFECTIVE LAW ENFORCEMENT RESPONSES TO DOMESTIC VIOLENCE

Domestic violence is a serious offense that is committed at high rates. It accounts for about 20 percent of violent crime experienced by women and three percent of violent crime experienced by men.¹ Calls regarding domestic violence are the single largest category of calls received by police, accounting for 15-50% of all calls.² Based on years of research, criminal justice experts have developed and tested strategies for combating domestic violence in order to maximize the safety of domestic violence survivors and to reduce long-term costs for police forces and communities.³

Unfortunately, however, some communities have enacted laws that undermine proven police strategies for domestic violence response. Such laws, which are often called “nuisance” ordinances or “crime-free” ordinances, penalize tenants when they need to make repeated calls to the police or when criminal activity occurs at their home, forcing or pressuring landlords to evict these tenants.⁴ These laws are enacted with the intention of reducing crime, but often have no exceptions for incidents where police or emergency assistance is needed or where the tenant does not participate in committing the crime.

Local nuisance and crime-free ordinances hamper law enforcement response to domestic violence. Below are key ways that nuisance and crime-free ordinances interfere with law enforcement’s ability to employ best practices in policing domestic violence that have been endorsed by the U.S. Department of Justice and other experts.

- **Nuisance ordinances discourage domestic violence victims from calling the police.**

A study of more than 2,500 domestic violence victims concluded that when the police were called, the domestic violence offender was strongly deterred from committing future instances of domestic violence, even when the police did not make an arrest.⁶ Therefore, police and other professionals are trained to encourage people to call the police if they experience or witness domestic violence.⁷

Nuisance ordinances undermine this effort by discouraging victims and their loved ones from reporting domestic violence. If victims know that calling 911 may cause them to lose their homes, they will avoid calling the police for protection — even if they face risk of death or serious bodily harm. As a result, abusers are often able to commit acts of domestic violence with impunity, knowing that victims will be afraid to report the crime to the police.

Example:

In East Rochester, NY, Laurie Grape’s abusive ex-boyfriend knew that if she called the police one more time about him, she would get evicted under the local ordinance. He repeatedly stalked and threatened her, empowered by the law.⁵

- **Nuisance ordinances blame victims for the crimes occurring in their homes.** Historically, victims have often been blamed for acts of domestic violence committed against them. The last thirty years of reforming criminal laws relating to domestic violence have focused on treating domestic violence as a serious crime and recognizing that victim-blaming is counter-productive to the prevention of domestic violence.⁹ Consequently, police forces now are directed to investigate these cases fully, identify the primary aggressor, and avoid dual arrests.¹⁰ Police officers and prosecutors also are encouraged to support traumatized victims and not to respond negatively if they appear uncooperative due to the trauma that they have experienced.¹¹

Example:

Lakisha Briggs was physically assaulted by her boyfriend in Norristown, PA. The police arrived and arrested him. But one of the officers directly told Lakisha that their response counted as a strike under the local ordinance: “You are on three strikes. We’re gonna have your landlord evict you.”⁸

Nuisance ordinances interfere with the goal of ending victim-blaming because they do exactly that — they blame the victims for the abuse perpetrated against them and usually require their eviction.

- **Nuisance ordinances impede enforcement of restraining orders.** Restraining orders are a major tool used to protect domestic violence survivors and are intended to prevent offenders from further harassing, threatening, or contacting the victims.¹² It is a criminal offense to violate a restraining order in all 50 U.S. states.¹³

However, the effectiveness of restraining orders depends on the ability to enforce them. Restraining orders will not be enforced if victims are afraid to report violations to the police due to nuisance ordinances that place domestic violence survivors at risk of losing their homes.

- **Nuisance ordinances interfere with identifying and prosecuting repeat and serious offenders.** In order to maximize the efficient use of resources and to protect victims who face the gravest danger, law enforcement officers are trained to assess the threat of repeat victimization and to aggressively pursue criminal prosecution of the most severe domestic violence cases. This strategy ensures that offenders are appropriately punished and deterred.¹⁴

Unfortunately, nuisance ordinances make it difficult for law enforcement to identify and prosecute repeat offenders because they lead to under-reporting of domestic violence incidents and also cause domestic violence survivors to lose their homes and move, often into new jurisdictions that do not have records of the prior incidents of abuse.

- **Nuisance ordinances undermine opportunities for collaboration between police and domestic violence service providers.** Law enforcement officers are encouraged to collaborate with domestic violence service providers in order to help victims obtain the services and support they need.¹⁵ Yet, in towns with nuisance ordinances, service providers will be less likely or unable to cooperate with law enforcement agencies because law enforcement may be acting to jeopardize domestic violence survivors’ housing based on their requests for emergency assistance. This impedes the recovery process for domestic violence survivors and the ability of law enforcement officials to investigate and prosecute instances of abuse.

- **Nuisance ordinances impede the use of victim reports as the basis for prosecution.** Because of past trauma and current threats of retaliation, domestic violence survivors are often reluctant or unwilling to participate in the prosecution of their abuser.¹⁶ As a result, many jurisdictions have implemented evidence-based prosecution policies whereby prosecuting agencies may still pursue cases against abusers using evidence such as 911 tapes, photographs, medical records, and testimony from police and witnesses.¹⁷ Evidence of repeated reports of abuse by the same victim against the same abuser is one valuable type of evidence in building a case for domestic violence. But if local policies like nuisance ordinances deter victims from reporting multiple instances of abuse, it will be more difficult to establish such a pattern and to collect other evidence to bolster the case.
- **Nuisance ordinances treat domestic violence as a lesser, low-priority violation.** The mission of any local law enforcement agency is to appropriately investigate domestic violence offenses and afford protection and support to the victims.¹⁸ Local nuisance ordinances contradict this mission by treating domestic violence incidents as “nuisances” or matters that landlords must correct. Moreover, police officers are often required to enforce these ordinances, diverting valuable law enforcement resources away from criminal justice investigation.

The best practices described above arise from years of research and experience with law enforcement responses to domestic violence. Nuisance ordinances undermine all of these law enforcement best practices by deterring victims and witnesses from reporting incidents of domestic violence, blaming and re-traumatizing victims, and making it difficult for police to gather the evidence needed to appropriately prosecute domestic violence.

Notably, **domestic violence exceptions to nuisance ordinances do not address their negative effects on law enforcement.** Many incidents that arise from domestic violence may not appear that way to first responders, especially when abusers intimidate victims from reporting what happened to police. And every resident in need of police or emergency assistance should be able to reach out for it, regardless of the criminal activity at issue.

In order to effectively combat domestic violence and other crimes, nuisance laws should be eliminated. Municipalities must cease penalizing victims for the crimes committed against them.

For more information, see www.aclu.org/notanuisance.

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¹ RANA SAMPSON, U.S. DEP'T OF JUSTICE OFFICE OF CMTY. ORIENTED POLICING SERVICES (COPS), PROBLEM-SPECIFIC GUIDES SERIES: DOMESTIC VIOLENCE 1, 15 (2007), http://www.popcenter.org/problems/pdfs/domestic_violence.pdf [hereinafter DOJ COPS GUIDE].

² ANDREW R. KLEIN, NAT'L INST. OF JUSTICE, PRACTICAL IMPLICATIONS OF CURRENT DOMESTIC VIOLENCE RESEARCH: FOR LAW ENFORCEMENT, PROSECUTORS AND JUDGES (June 2009), <http://www.nij.gov/topics/crime/intimate-partner-violence/practical-implications-research/Pages/welcome.aspx> [hereinafter NIJ PRACTICAL IMPLICATIONS REPORT].

³ See generally NIJ PRACTICAL IMPLICATIONS REPORT, *supra* note 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 (Aug. 2013), <http://povertylaw.org/sites/default/files/files/housing-justice/cost-of-being-crime-free.pdf>.

⁵ Second Amended Complaint ¶ 42, 46-7, *Grape v. Town/Village of East Rochester*, No. 07 CV 6075 CJS (F) (W.D.N.Y. July 6, 2007), available at <http://www.nhlp.org/files/Grape%20WDNY%20nuisance%20d%20compl.pdf>.

⁶ DOJ COPS GUIDE, *supra* note 1, at 30 (citing Richard B. Felson, Jeffery M. Ackerman, & Catherine Gallagher, *Police Intervention and the Repeat of Domestic Assault*, 43(3) CRIMINOLOGY 581-582, 563-588 (2005)).

⁷ *Id.*

⁸ Complaint ¶ 39, *Briggs v. Borough of Norristown*, NO. 2:13-cv-02191-ER (E.D.P.A. Apr. 29, 2013) (ECF 9), available at https://www.aclu.org/files/assets/2013.04.29_-_verified_first_amended_complaint.pdf.

⁹ Joshua A. Ederheimer, Joyce Frost & Bea Hanson, U.S. Office of Community Oriented Policing Servs., U.S. Office for Victims of Crime, & U.S. Office on Violence Against Women, *Addressing Gender-Discrimination in Policing* (June 21, 2013), http://www.ncdsv.org/images/COPS-OVC-OVW_Address-Gender-Discrimination-in-Policing_6-21-2013.pdf; PRAXIS INT'L, *Becoming a Blueprint Community*, in THE BLUEPRINT FOR SAFETY 7-9 (2010), available at <http://www.praxisinternational.org/blueprintforsafety.aspx>.

¹⁰ DOJ COPS GUIDE, *supra* note 1, at 41; INT'L ASS'N OF CHIEFS OF POLICE, DOMESTIC VIOLENCE MODEL POLICY 4-5 (2006), <http://www.theiacp.org/Portals/0/documents/pdfs/MembersOnly/DomesticViolencePolicy.pdf>.

¹¹ NIJ PRACTICAL IMPLICATIONS REPORT, *supra* note 2.

¹² DOJ COPS GUIDE, *supra* note 1, at 36.

¹³ *Id.*

¹⁴ DOJ COPS GUIDE, *supra* note 1, at 32-37.

¹⁵ *Id.* at 23-24, 30-32.

¹⁶ *Id.*

¹⁷ Domestic Violence Crisis Center, Evidence Based Prosecution: An Effective Tool in Adjudicating DV, Verve, Feb. 2012, available at <http://www.dvccct.org/dvcc-updates/dvcc-360-c/3238-february-2012-verve-evidence-based-prosecution-an-effective-tool-in-adjudicating-dv.html>; Christopher Mallios and John Wilkinson, *Going Forward Without the Victim: Evidence Based Prosecutions in Domestic Violence Cases*, www.aequitasresource.org/trainingDetail.cfm?id-94; Cari Fais, *Denying Access to Justice: The Cost of Applying Chronic Nuisance Laws to Domestic Violence*, 108 COLUM. L. REV. 1181, 1225 (2008).

¹⁸ INT'L ASS'N OF CHIEFS OF POLICE, *supra* note 10, at 1.