

How Nuisance Ordinances and Crime-Free Leases Undermine Safety and Housing of Crime Victims

NORRISTOWN, PA

Lakisha Briggs was assaulted by her boyfriend in 2012. He was arrested, but a police officer told her that more calls to the police would lead to her eviction under a local nuisance law. The law trapped Ms. Briggs in a vicious Catch-22: call the police when he returned to attack her and lose her home, or keep her home and perhaps lose her life.

After Ms. Briggs suffered further serious violence requiring police aid, the city pressured her landlord to evict her and her young daughter.



Ms. Briggs' story represents the way nuisance ordinances are devastating for victims of crime, and survivors of domestic violence in particular.

What Are Nuisance Ordinances and Crime-Free Leases?

Nuisance ordinances are local laws that designate properties as a “nuisance” when they are the site of a certain number of calls for police service or instances of alleged crimes. Because the designation is assigned to the property, **the laws penalize people who live there and need emergency assistance.** These laws exist across the country, in every region, and continue to be enacted regularly.

Typically, police will inform the landlord when there have been 911 calls or criminal activity triggering the ordinance. As a result, landlords are pressured into evicting crime victims or face penalties that can include high fines, loss of rental permits, or condemnation of the property. Landlords end up removing victims of domestic violence and other crimes from their homes, even when the perpetrator did not live at the property.

Crime-free leases usually include a provision that authorizes a landlord to evict a tenant based on any single criminal activity at the property – even when the tenant is the victim. Many municipalities now require all landlords to use crime-free leases.

Who Are Harmed By Nuisance Ordinances and Crime-Free Leases?

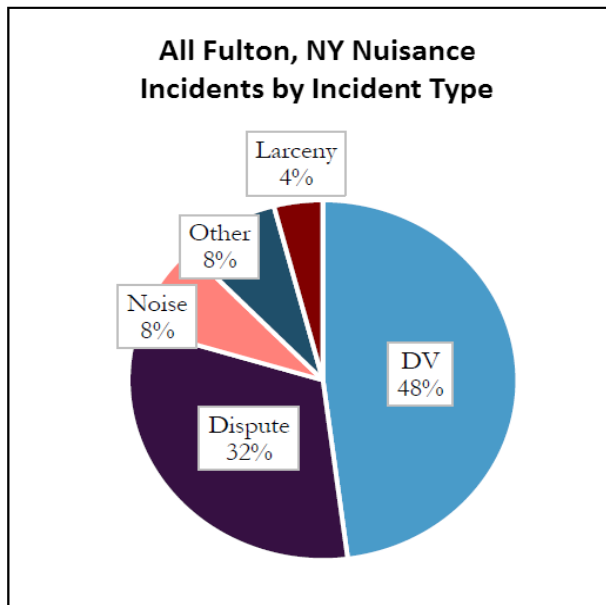
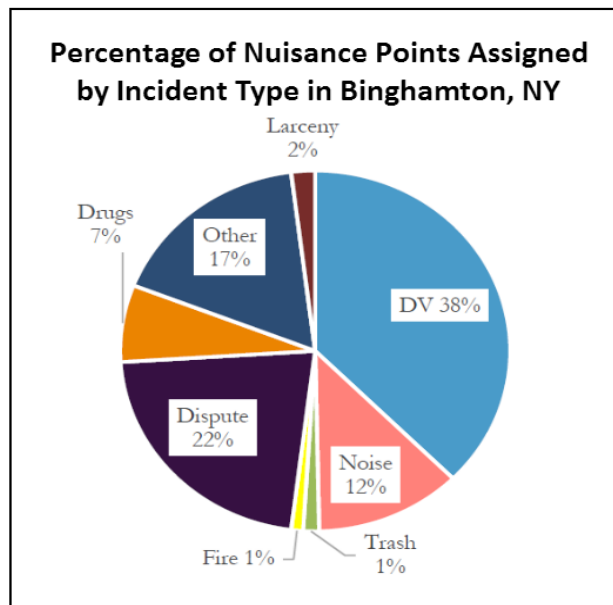
- All tenants who need emergency or police aid, particularly those who are crime victims or have disabilities
- Landlords, who may face liability under the ordinance and under federal and state laws if they evict
- Law enforcement agencies, which receive fewer reports of crimes, undermining community safety

Nuisance Ordinances Especially Harm Domestic Violence Survivors

Experiences and studies from around the country show that domestic violence is routinely cited as nuisance conduct, leaving victims in the impossible position of risking their housing by calling for help, or risking their safety by remaining silent. This outcome is to be expected, because calls regarding domestic violence make up the single largest category received by police departments. **When victims of domestic violence and other crimes are afraid to call the police for help in an emergency, communities become less safe.**

A study conducted by Matthew Desmond and Nicol Valdez of Milwaukee, WI’s ordinance concluded that calls about domestic violence were the third most common reason for a nuisance citation. In 83% of cases where landlords received a citation, they evicted or threatened to evict victim if they called police again. Moreover, a tenant living in a black neighborhood was three times more likely to receive a nuisance citation compared to a tenant in a white neighborhood who had also violated the ordinance.

A study conducted by the ACLU on two upstate New York ordinances similarly concluded that domestic violence (DV) made up the largest category of incidents resulting in nuisance enforcement, frequently leading to eviction:



Data from SILENCED: How Nuisance Ordinances Punish Crime Victims in New York, a 2015 report issued by the ACLU and SSRC.

The St. Louis, MO nuisance ordinance discouraged people from calling the police, for any reason. One survivor told Professor Gretchen Arnold: “If you getting abused, raped, stabbed, shot, you’re not allowed to call police ‘cause they say it’s a nuisance law ... We just in danger. If anything happens to us, we can’t call no police.”

How Can This Problem Be Fixed?

Advocacy groups like the ACLU have opposed new proposed ordinances and worked to repeal or amend existing ones. In our view, exceptions for domestic violence are not an effective solution because many domestic violence incidents do not appear that way at first, and all tenants should be able to seek emergency aid.

In addition, we have urged states to pass legislation preempting local ordinances that penalize residents for calls for police service or when criminal activity occurs at the property against them. So far, Iowa, Pennsylvania, California, Illinois, and Minnesota have enacted state law protections.

The ACLU and others also have brought lawsuits challenging these ordinances based on violations of the First Amendment right to petition the government, due process and equal protection guarantees, the Fair Housing Act, and the Violence Against Women Act. These cases have resulted in repeal of the challenged ordinances, along with significant compensation and attorneys’ fees.

The U.S. Department of Housing and Urban Development issued important guidance on how these ordinances violate the Fair Housing Act, and explained that municipalities can promote fair housing by repealing these ordinances. The U.S. Department of Justice also issued a statement advising its grantees that they should review their ordinances to make sure they do not discriminate against crime victims. The HUD Secretary initiated two investigations against Pennsylvania and New Hampshire cities and their nuisance ordinances, while the Department of Justice filed suit based in part on the discriminatory enforcement of a California ordinance.

For more information, contact Sandra Park at spark@aclu.org
www.aclu.org/notanuisance

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