



March 10, 2008

The Honorable Chris Dodd
Chairman
Senate Committee on Banking, Housing, and Urban Affairs
132 Hart Senate Office Building
Washington, DC 20510

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The Honorable Richard Shelby
Ranking Member
Senate Committee on Banking, Housing, and Urban Affairs
132 Hart Senate Office Building
Washington, DC 20510

RE: Greater Oversight of HUD's Implementation of the 2005 Violence Against Women Act Housing Protections Is Required

Dear Chairman Dodd and Ranking Member Shelby:

On March 12, 2008, the Senate Committee on Banking, Housing, and Urban Affairs will hold an oversight hearing for the Department of Housing and Urban Development (HUD). On behalf of the American Civil Liberties Union (ACLU) and its more than half a million members and activists and 53 affiliates nationwide, we ask the Committee to examine HUD's implementation, or lack thereof, of the 2005 Violence Against Women Act ("VAWA") housing provisions as part of its mandate.

Through its Women's Rights Project, founded in 1972 by Ruth Bader Ginsburg, the ACLU has long been a leader in the legal battles to ensure women's full equality. In recent years, the ACLU has taken an active role at the local, state, and national levels in advancing the housing rights of survivors of domestic violence, sexual assault, and stalking by engaging in litigation, legislative and administrative advocacy, and public education.

Congress has recognized the importance of addressing the housing needs of victims of domestic violence, stalking, and dating violence. In its findings for the 2005 reauthorization of VAWA, Congress acknowledged that domestic violence is a primary cause of homelessness, that 92% of homeless women have experienced severe physical or sexual abuse at some point in their lives, and that

victims of violence have experienced discrimination by landlords and often return to abusive partners because they cannot find long-term housing.¹

THE PROBLEM AND VAWA'S PROMISE

The ACLU has represented a number of victims of violence who faced eviction because of the abuse perpetrated by their batterers.² For example:

- In 2001, the ACLU successfully represented Tiffani Alvera in a first of its kind lawsuit challenging a notice to quit issued by her subsidized housing provider in Oregon based on her husband's assault. Although Ms. Alvera had obtained a protection order barring her husband from the property and was cooperating in his criminal prosecution, her landlord nevertheless sought to evict her.
- In 2002, the ACLU of Michigan sued on behalf of Aaronica Warren, a single mother and then-VISTA volunteer who was living in public housing run by the Ypsilanti Housing Commission (YHC) in Michigan. After her ex-boyfriend forced his way into her apartment and assaulted her, YHC attempted to evict Ms. Warren and her son because of the violence that had occurred, even though Ms. Warren was the victim.
- In 2004, the ACLU represented Quinn Bouley, a Vermont resident who received a notice to quit her apartment after calling the police and reporting the domestic violence perpetrated by her husband, in a federal court action challenging her eviction.
- Also in 2004, the ACLU represented Laura K., a Michigan resident whose landlord locked her and her infant son out of her apartment at her batterer's request despite the order of protection she had barring him from coming near the home, thus rendering her homeless.
- In 2005, the ACLU represented Rubi Hernandez, who lived in California with her children in public housing operated by the Housing Authority of the City of Stanislaus. When her abusive estranged husband repeatedly physically attacked her, she sought an emergency transfer in an attempt to flee her husband. The housing authority initially refused the request, saying that although Ms. Hernandez had obtained a protective order and fled to a domestic violence shelter, she had not proven that she was in danger from her husband.
- Also in 2005, the ACLU represented Tina J., a resident of public housing operated by the St. Louis Housing Authority in St. Louis, Missouri. When Ms. J.'s ex-boyfriend broke her windows on multiple occasions because she refused to let him into her home, the Housing Authority attempted to evict Ms. J., despite the fact that she had obtained an order of protection against him and had consistently reported his unlawful behavior to the police and to the Housing Authority.
- In 2007, the ACLU sued on behalf of Tanica Lewis, a Michigan tenant of a property financed by the federal Low-Income Housing Tax Credit. Ms. Lewis had obtained an order of protection against her ex-boyfriend, but when he broke into her apartment in violation of the order, her landlord blamed her for the actions of her "guest."

¹ 42 U.S.C. § 14043e.

² Information about our housing litigation on behalf of survivors of violence is available at www.aclu.org/fairhousingforwomen.

These stories demonstrate the unfortunate reality faced by many victims of domestic violence—landlords, including public housing authorities, all too often blame them for the abuse, re-victimizing them by threatening their housing.

VAWA 2005 took a multi-pronged approach to the problem.³ The law barred public housing authorities and section 8 owners and landlords from discriminating against housing applicants or tenants based on status as a victim of domestic violence, stalking, or dating violence. Public housing and voucher tenants could no longer be evicted based on the criminal activity perpetrated against them by their batterers. Furthermore, public housing authorities were given the ability to “bifurcate” a victim’s lease, thereby removing an abuser from tenancy while permitting the rest of the family to remain, and the ability to permit a voucher holder to move with her voucher to another unit before her prior lease term was up if necessary to ensure the voucher holder’s safety. In order to implement these protections, the law provided a mechanism by which a tenant could certify that she had been a victim of one of these crimes and ensured that this certification would be confidential.

VAWA required public housing authorities to provide notice of VAWA’s protections to public housing and voucher tenants, as well as voucher owners and managers. Congress also obligated public housing authorities to describe the programs provided to child and adult victims of domestic violence, dating violence, sexual assault, and stalking in the Annual and Five-Year Plans public housing authorities are required to submit to HUD.

VAWA’S PROMISE REMAINS UNFULFILLED

We applaud Congress for including these vital protections in VAWA 2005. However, more than two years later, the promise of the law has gone largely unfulfilled. We and our coalition partners strongly believe that oversight of HUD’s implementation of VAWA is sorely needed.

We know that HUD (1) has failed to issue regulations or sufficient guidance to public housing authorities about the VAWA provisions; (2) has approved Annual and Five-Year Plans submitted by public housing authorities that do not address the needs of domestic violence survivors as required by statute; (3) and has distributed incorrect information about VAWA’s applicability.

Many public housing authorities remain unaware of VAWA and have failed to train their staff or to give notice to tenants and voucher landlords about the availability of VAWA protections. Even those public housing authorities that have attempted, in good faith, to enforce VAWA’s provisions cannot resolve certain issues that require direction from HUD and that would benefit from a consistent, national interpretation.

Without proper implementation of the law, we fear that discrimination against survivors of violence will continue, threatening both their housing and long-term safety. The ACLU continues to receive reports like those set forth above of unlawful conduct by housing authorities and landlords, many of whom operate both private and voucher-funded housing, from across the country. Like our coalition partners, the ACLU has advocated with local housing authorities to correct problems that arise in individual cases and to push for adoption of VAWA policies. However, such localized advocacy is insufficient to ensure nationwide compliance with the law.

³ Violence Against Women Act and Department of Justice Reauthorization Act of 2005, Pub. L. No. 109-162, §§ 601-607 (2006).

Thus, we call on the Committee to use its oversight powers over HUD to ensure VAWA implementation. HUD should be required to respond to the following questions:

- In the past, HUD has stated that it was planning to issue regulations implementing VAWA's protections, but none have been issued. What is the status of these regulations?
- Why has HUD approved Annual and Five-Year Plans submitted by public housing authorities that do not include statutorily required information, such as the programs that will enable the housing authority to serve the needs of child and adult victims of domestic violence, dating violence, and sexual assault?
- What is HUD doing to ensure that public housing authorities give the statutorily required notice to tenants, landlords, and owners and train their staff about tenants' rights under VAWA?
- Is HUD monitoring the number of public housing evictions and voucher terminations based on incidents of domestic violence, dating violence, and stalking and taking corrective action when wrongful evictions or terminations occur?

The VAWA 2005 housing protections attacked outdated modes of thinking that punished victims for the abuse they suffered. Until the promise of the law is put into practice, however, victims of violence will continue to face discrimination, fear, and danger as they seek to obtain and maintain secure and stable housing.

The ACLU looks forward to working with the Committee and HUD to ensure implementation of VAWA's important protections. Should you have any questions, please don't hesitate to call Vania Leveille at 202.715.0806 or vleveille@dcaclu.org.

Sincerely,



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