

United States Senate

WASHINGTON, DC 20510

August 17, 2016

The Honorable Julian Castro
Secretary
U.S. Department of Housing and Urban Development
820 First Street, NE
Washington, DC 20002

Dear Secretary Castro:

We write to express our support for the U.S. Department of Housing and Urban Development's (HUD) efforts to combat unfair and discriminatory nuisance ordinances that disproportionately affect survivors of domestic violence. In recent years, we have seen a troubling rise in local nuisance laws that impede access to housing and place vulnerable individuals in danger. No one should be forced to choose between safety from an abuser and shelter for themselves and their families. Unfortunately, all too often, women across the nation are forced to make that decision. As such, we urge you to do everything in your power to prevent further evictions of domestic violence victims and to ensure all Americans have critical access to emergency services without fear of retaliation. Specifically, we ask that HUD provide written guidance on how nuisance ordinances may raise fair housing issues and harm vulnerable populations. Such guidance will help ensure that communities do not force crime victims and those in need of emergency services to choose between safety and eviction.

Although local nuisance ordinances purport to decrease crime rates and increase public safety, they often do the opposite by creating an untenable situation for victims of crime. Like the laws at issue in HUD's recent complaints against Norristown, Pennsylvania, and Berlin, New Hampshire,¹ nuisance ordinances established by local governments across the nation are penalizing victims for calls requesting police protection or emergency assistance for crimes occurring at their homes. In most cases, landlords are forced to evict tenants who made the call for help or face significant fines, loss of rental permits, or property foreclosure. As an unintended consequence, individuals, particularly those who are victims of crime, are being removed from their homes when they are at their most vulnerable. Those victims who choose not to report the criminal activity to the police – for fear of eviction – are prevented from accessing emergency assistance and placed in heightened danger.

Moreover, nuisance ordinances have a disproportionate impact on victims of domestic violence by exacerbating housing insecurities that may be unique to survivors and further increasing victims' likelihood of becoming homeless. As HUD has frequently recognized, survivors of domestic violence face unique challenges in securing and maintaining adequate housing. Indeed, according to the Department of Justice, one-in-four homeless women in the

¹ Housing Discrimination Complaint, Assistant Sec'y for Fair Hous. & Equal Opportunity v. Borough of Norristown, No. 03-13-0277-8 (Jun. 5, 2013), http://www.aclu.org/sites/default/files/assets/hud_complaint.pdf; Dep't of Hous. & Urban Dev., No. 01-15-0017-8, Conciliation Agreement between Assistant Secretary of the Office of Fair Housing and Equal Opportunity and City of Berlin, New Hampshire (Jan. 29, 2015), <http://portal.hud.gov/hudportal/documents/huddoc?id=TownBerlin.pdf>.

United States is a survivor of domestic violence.² And not surprisingly, once a woman becomes homeless, she becomes more vulnerable to violence and exploitation. In fact, nine-in-ten homeless women have experienced severe physical or sexual abuse.³ Nuisance ordinances exacerbate the link between homelessness and domestic violence by designating calls for police assistance or criminal activity as nuisances, even where the tenant is the victim. Research has found that calls regarding domestic violence generally make up the largest category of emergency assistance calls.⁴ Thus, nuisance violations are frequently triggered by domestic violence incidents.

Because women make up approximately 85 percent of domestic violence victims⁵ and are far more likely to be affected by nuisance ordinances, we believe nuisance laws may violate fair housing protections found in the Fair Housing Act (FHA) and the Violence Against Women Act (VAWA). The FHA prohibits housing discrimination based on sex, and it applies to policies that are intentionally discriminatory or those that have a disparate impact on a protected class, including women. HUD has also stated that discrimination against survivors of domestic violence can be considered sex discrimination.⁶ Accordingly, regardless of whether a locality intended to discriminate against victims of domestic violence, nuisance ordinances run contrary to the FHA if they have a disproportionate impact on women.

VAWA further prohibits certain housing providers, including local governments and landlords who receive federal funding, from denying “assistance, tenancy, or occupancy” to any person because of domestic violence-related criminal activity committed by a household member, guest, or “other person in control” of the tenant if the tenant or an “affiliated individual” is the victim.⁷ As such, nuisance ordinances violate VAWA when they require or encourage housing providers to evict or deny housing to survivors of domestic violence.

When victims of domestic violence cannot request police protection for fear of potential eviction, abusers commit their attacks under the cover of law. These ordinances, rather than ensuring public safety, exacerbate domestic violence and heighten the risk of assault and homelessness among domestic violence survivors. In addition, people with disabilities and people of color have been adversely impacted by these laws, raising independent and intersecting fair housing concerns.

² CARMELA DECANDIA ET AL., NAT’L CTR. ON FAMILY HOMELESSNESS, CLOSING THE GAP: INTEGRATING SERVICES FOR SURVIVORS OF DOMESTIC VIOLENCE EXPERIENCING HOMELESSNESS 2 (2013), http://www.air.org/sites/default/files/downloads/report/Closing%20the%20Gap_Homelessness%20and%20Domestic%20Violence%20toolkit.pdf.

³ INST. FOR CHILDREN, POVERTY & HOMELESSNESS, THE AMERICAN ALMANAC OF FAMILY HOMELESSNESS 12 (2013), http://www.icphusa.org/filelibrary/ICPH_Almanac_url%20watermark_ALL.pdf.

⁴ ANDREW KLEIN, PRACTICAL IMPLICATIONS OF CURRENT DOMESTIC VIOLENCE RESEARCH, PART III: JUDGES 7 (2008), <https://www.ncjrs.gov/pdffiles1/nij/grants/222321.pdf>.

⁵ Memorandum from Sara K. Pratt, Deputy Asst. Sec. for Enf’t and Programs, Dep’t of Hous. & Urban Dev., to FHEO Office Directors and FHEO Regional Directors, *Assessing Claims of Housing Discrimination against Victims of Domestic Violence under the Fair Housing Act and the Violence Against Women Act 2* (Feb. 9, 2011), <http://www.hud.gov/offices/fheo/library/11-domestic-violence-memo-with-attachment.pdf>.

⁶ *Id.*

⁷ 42 U.S.C. § 14043e-11 (b)(3)(A) (2013).

Given that nuisance ordinances are increasingly prevalent and may be violating federal law on a wide-ranging scale, we urge HUD to do everything in its power to prevent such ordinances from harming individuals and to ensure that all tenants have access to secure housing as well as necessary emergency assistance. Specifically, we request that HUD provide written guidance on how nuisance ordinances may raise fair housing issues and violate the FHA and VAWA and incorporate assessment of these laws into its efforts affirmatively furthering fair housing work with HUD grantees. Grantees, including municipalities, should be evaluating the fair housing impact of these laws both before and after enactment. We also strongly encourage HUD to continue its work with the Office of Fair Housing and Equal Opportunity to ensure every FHA complaint is evaluated in accordance with the guidance requested.

While the link between homelessness and domestic violence is undeniable, it is not unbreakable. Thank you for considering our request, and we look forward to working with you to address the housing needs of domestic violence survivors and other vulnerable populations.

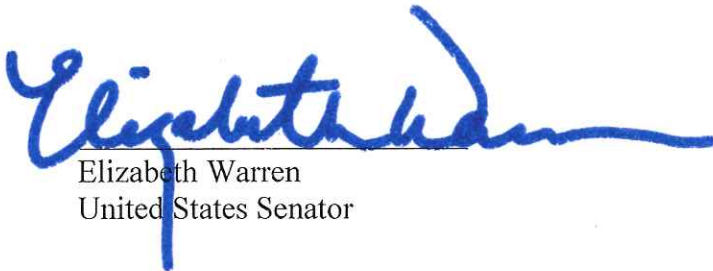
Sincerely,



Al Franken
United States Senator



Sherrod Brown
United States Senator



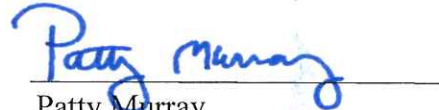
Elizabeth Warren
United States Senator



Charles E. Schumer
United States Senator



Richard J. Durbin
United States Senator



Patty Murray
United States Senator



Kirsten Gillibrand
United States Senator



Richard Blumenthal
United States Senator

Edward J. Markey

Edward J. Markey
United States Senator

Jeffrey A. Merkley

Jeffrey A. Merkley
United States Senator

Jeanne Shaheen

Jeanne Shaheen
United States Senator

Amy Klobuchar

Amy Klobuchar
United States Senator

Bern Sanders

Bernard Sanders
United States Senator

Tammy Baldwin

Tammy Baldwin
United States Senator

Chris Murphy

Christopher S. Murphy
United States Senator

Patrick Leahy

Patrick Leahy
United States Senator

Benjamin L. Cardin

Benjamin L. Cardin
United States Senator

Barbara Boxer

Barbara Boxer
United States Senator

Bob Casey, Jr.

Robert P. Casey, Jr.
United States Senator

Debbie Stabenow

Debbie Stabenow
United States Senator

Barbara A. Mikulski

Barbara A. Mikulski
United States Senator

Chris Coons

Christopher A. Coons
United States Senator

Mazie K. Hirono

Mazie K. Hirono
United States Senator

J. A. B.

Cory A. Booker
United States Senator

Ron Wyden

Ron Wyden
United States Senator

Gary C. Peters

Gary C. Peters
United States Senator

Robert Menendez

Robert Menendez
United States Senator

Tom Udall

Tom Udall
United States Senator

Dianne Feinstein

Dianne Feinstein
United States Senator