

Chronic Nuisance and Crime-Free Ordinances: Endangering the Right of Domestic Violence Survivors to Seek Police Assistance

Across the U.S., a growing number of cities are adopting chronic nuisance ordinances, or crime-free ordinances, that penalize landlords and tenants when the police are called too many times to the premises. Proponents argue that these ordinances are necessary to deter crime and recoup costs. Yet there is no evidence that this is the case. There is evidence, however, that these ordinances can cause real harm to survivors of domestic violence, people with mental disabilities, and people of color.

Nuisance ordinances take a variety of forms but generally impose fines or criminal charges on building owners when the police respond to a home over a set number of times in a given time period (e.g. 3 times in 6 months). Enumerated nuisance activities can range in severity from violent crime to loitering and disorderly conduct. After a citation, landlords are pressured to evict the resident at issue, as this is the only certain way to abate the “nuisance” and avoid penalties.

Vulnerable communities bear the brunt of these ordinances. The laws imperil domestic violence victims, preventing them from calling 911 when endangered by abuse and increasing housing discrimination by landlords. Their inclusion of “disorderly conduct” also threatens persons with mental disabilities, as this characterizes much of law enforcement’s interactions with this population. Finally, studies have found that the laws have been disproportionately enforced against communities of color and black women in particular.

Legal Concerns

These laws raise serious legal concerns. Depending on their structure, they may violate the federal Fair Housing Act and the Violence Against Women Act, Constitutional guarantees of due process and the First Amendment right to petition, as well as State Constitutions and anti-discrimination laws.

How Relevant Cases Arise

While not limited to these instances, the following scenarios may indicate the presence of problematic nuisance ordinances and the existence of a cause of action for litigation:

- A domestic violence victim receives an eviction notice, which cites violations of such an ordinance.
- A landlord engages in informal eviction or refuses to renew a tenant’s lease, telling her that she is no longer welcome due to her use of police services or the violence committed against her.
- A victim of domestic violence or other crime refuses to call 911 for fear of losing her housing.
- A landlord instructs a tenant that she must stop calling the police or she may face eviction.

Three Strikes: “Shut Up or Get Out”

Ms. Briggs first called 911 when her boyfriend attacked her. The police arrived and arrested him. But an officer then told Ms. Briggs, “You are on three strikes. We’re gonna have your landlord evict you.”

After this "strike," Ms. Briggs was terrified of calling the police. Even when her now ex-boyfriend attacked her with a brick, she did not call. When later he stabbed her in the neck, she begged her neighbors not to call 911. Thankfully, both times, someone else did call the police and on the second incident Ms. Briggs was airlifted to the hospital.

Based on these "strikes," the city pressured her landlord to evict. After a housing court refused to order an eviction, the city said it planned to condemn the property and forcibly remove her.

The ACLU intervened and has filed a federal lawsuit challenging the law and the city’s actions.

Contact Us:

The ACLU Women’s Rights Project wishes to speak with advocates, landlords, tenants, and others who have experienced problems with these ordinances. We are also looking to work with advocates to oppose proposed and existing ordinances through legislative advocacy and litigation. Please contact Sandra Park at spark@aclu.org, 212-519-7871 and Michaela Wallin at mwallin@aclu.org, 212-284-7356.

If you have been evicted or threatened with eviction because you experienced domestic violence, or if an ordinance has discouraged reporting of domestic violence, please fill out this survey: www.aclu.org/dvsurvey.