

IN THE SUPREME COURT OF IOWA

No. 17-1377

Upon the Petition of

LINDA AGAN,
Plaintiff-Appellee,

And Concerning

GREG KRAMBECK and TAMMY KRAMBECK,
Defendants-Appellants

APPEAL FROM THE POLK COUNTY, IOWA DISTRICT COURT
HONORABLE ODELL MCGHEE, JUDGE

BRIEF AMICUS CURIAE* OF THE AMERICAN CIVIL LIBERTIES
UNION OF IOWA, IOWA COALITION AGAINST DOMESTIC
VIOLENCE, AMERICAN CIVIL LIBERTIES UNION, NATIONAL
HOUSING LAW PROJECT, NATIONAL LAW CENTER ON
HOMELESSNESS AND POVERTY, NATIONAL NETWORK TO END
DOMESTIC VIOLENCE, SARGENT SHRIVER NATIONAL CENTER
ON POVERTY LAW

**Filed Conditionally in Final Form*

IN SUPPORT OF DEFENDANT-APPELLANT **TAMMY KRAMBECK**

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STATEMENT OF INTEREST OF AMICI

The **American Civil Liberties Union of Iowa** (ACLU of Iowa) is the statewide affiliate of the ACLU, a nationwide, non-partisan organization dedicated to preserving constitutional, civil, and human rights. The **ACLU Women's Rights Project**, founded in 1972 by Ruth Bader Ginsburg, has been a leader in efforts to eliminate the barriers to women's full equality in American society, which efforts include challenging discrimination against victims of domestic violence, with a particular focus on housing and access to law enforcement. The work of the ACLU of Iowa to confront housing discrimination against victims of domestic violence and gender bias in policing are a part of this nationwide ACLU effort, and the ACLU of Iowa's work to spearhead the legislative effort to pass the Right to Assistance Act in Iowa is a centerpiece of these efforts in our state. By design, Iowa has one of the strongest Right to Assistance laws in the country.

The **Iowa Coalition Against Domestic Violence** (ICADV) is a non-profit organization that provides education and technical assistance to the domestic violence programs across Iowa and acts on a state and national level to promote public policy and legislation behalf of victims of domestic violence and their children. Additionally, ICADV specializes in the development of law relating to the protection of survivors of domestic

violence and crime, and specifically, was in an advisory capacity to the Iowa State Legislature and the Governor of Iowa during the drafting and enactment of Iowa Code §562A.27B in 2016.

The National Housing Law Project was established in 1968. Its mission includes ensuring that survivors are able to access and maintain safe, decent, and affordable housing. **The National Law Center on Homelessness & Poverty** is the only national organization dedicated solely to using the power of the law to end and prevent homelessness. **The National Network to End Domestic Violence** (NNEDV) is a not-for-profit organization incorporated in 1994 to end domestic violence. **The Sargent Shriver National Center on Poverty Law** (Shriver Center) is a national non-profit legal and policy advocacy organization. Its housing unit operates the Safe Homes Initiative, which provides legal representation and policy advocacy to advance and protect the housing rights of survivors of violence.

Additional information regarding Amici's interests in this Matter is set forth in their Motion for Leave.

6.906(4)(D) STATEMENT

No party's counsel authored this brief in whole or in part nor contributed money to fund the preparation or submission of this brief. No

person other than the *Amici* have contributed anything to fund the preparation or submission of this brief.

ARGUMENT

Amici submit this brief in support of Tammy Krambeck as it pertains to the Right to Assistance argument in section IV of her brief.

I. Introduction and Background

In 2012, Lakisha Briggs was brutally assaulted by her boyfriend. She called the police, who came and arrested her boyfriend. But they also told her that any more calls would result in her eviction under a recently passed nuisance ordinance, which regulated “disorderly behavior.” When he returned and again attacked her, this time with a brick, she decided that she was more likely to survive the attack than the certain eviction of herself and her toddler, and didn’t call the police. When he later stabbed her in the neck, she again begged her neighbors not to call 911. Thankfully, they ignored this plea and called, summoning police and medical teams that airlifted her to the hospital, saving her life. As promised, the city pressured her landlord to evict her, and when the housing court refused, the city promised to condemn the property and forcibly remove her.¹

¹ The ACLU intervened. Compl., *Briggs v. Norristown*, 2:13-cv-02191 (E.D. Pa. Apr. 29, 2013), available at <https://www.aclu.org/legal->

Domestic violence victims are not “nuisances.” But under local crime nuisance ordinances, they are treated as just that. Iowa’s Right to Assistance Act, H.F. 493, 86th Gen. Assemb., Reg. Sess. (Iowa 2016); Iowa Code §§ 331.304 (11), 364.3 (11), 567A.27B, 562B.25B (2017),² was passed by legislators to confront a troubling trend by some cities nationwide and in Iowa implementing these crime nuisance ordinances. Sometimes also called ‘Crime Free,’ ‘Three-Strikes’, or ‘Disorderly House’ ordinances, they impose penalties—either on property owners and landlords, residents, or both—when certain offenses occur on a property or police are called a requisite number of times. They either expressly require eviction or

[document/briggs-v-borough-norristown-et-al-complaint](#). Norristown repealed its ordinance, agreed not to enact another ordinance that punishes tenants and landlords as a result of requests for police or emergency assistance, and paid \$495,000 in damages and attorney’s fees. *See also* Erik Eckholm, *Victims’ Dilemma: 911 Calls Can Bring Eviction*, N.Y. Times, Aug. 13, 2013, http://www.nytimes.com/2013/08/17/us/victims-dilemma-911-calls-can-bring-eviction.html?_r=0.

² Passing the RTA was a proactive legislative priority for Iowa amici. *See* ACLU of Iowa, *Fighting to Assure Crime Victims’ Right to Call Police*, The Defender (Dec. 2015) at 1, 4, available at https://www.aclu-ia.org/sites/default/files/aclu_newsdec2015_final.pdf; Jeremy Rosen and Laurie Schipper, *Guest Column: Nuisance Ordinances Are Punishing Victims*, The Gazette, Apr. 22, 2015, <http://www.thegazette.com/subject/opinion/guest-columnists/nuisance-ordinances-are-punishing-victims-20150422>. *See also* Laura Belin, *Iowa Crime Victims Need No Longer Fear Eviction for Calling 911*, Bleeding Heartland (Apr. 29, 2016), <http://www.bleedingheartland.com/2016/04/29/iowa-crime-victims-need-no-longer-fear-eviction-for-calling-911/>

implicitly mandate it—by passing on the cost of policing services to landlords whose tenants have qualifying police calls and by requiring landlords to “abate” the “nuisance activity,” for which eviction is typically the only option. These penalties are often imposed even if the perpetrator of the crime is an unwanted trespasser, an abuser, or if the resident is the victim of abuse or crime. In some cases, a single occurrence can trigger a “nuisance” designation.

Research shows that these ordinances undermine, rather than further, public safety.³ Police intervention is essential to stopping violence and deterring future violence, even when police do not make an arrest. Rana Sampson, U.S. Dep’t of Justice Office of Cmty. Oriented Policing Svcs. (COPS), *Problem-Specific Guides Series: Domestic Violence 1*, 15 (2007), http://www.popcenter.org/problems/pdfs/domestic_violence.pdf [hereinafter DOJ COPS Guide]. But nuisance ordinances discourage victims from calling police, even at the risk of serious bodily harm or death, if they know it may cause them to lose their homes. Nuisance ordinances also perpetuate victim-blaming, undermining over thirty years of criminal justice reforms related to domestic violence that treat it as a serious crime and recognize that

³ ACLU, *How Nuisance Ordinances and Crime-Free Leases Undermines Safety and Housing of Crimes Victims*, <https://www.aclu.org/other/how-nuisance-ordinances-and-crime-free-leases-undermine-safety-and-housing-crime-victims>.

victim-blaming is counter-productive. Joshua A. Ederheimer et al., 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_Addresssing-Gender-Discrimination-in-Policing_6-21-2013.pdf; Praxis Int'l, *Blueprint For Safety* 7-9 (2010), <http://praxisinternational.org/blueprint-for-safety/>; DOJ COPS Guide, at 41; Int'l Ass'n Of Chiefs Of Police, *Domestic Violence Model Policy* 4–5 (2006). Nuisance ordinances do the opposite by perversely penalizing victims for the abuse perpetrated against them. These ordinances also impede enforcement of restraining orders and impedes efforts of service-providers, because sharing information with police risks jeopardizing survivors' housing. DOJ COPS Guide, at 23–24, 30–32; 36.

The magnitude of this problem is overwhelming. One in three women has been a victim of domestic violence. U.S. Ctrs. For Disease Control, *National Intimate Partner and Sexual Violence Survey* (2010) 2, https://www.cdc.gov/violenceprevention/pdf/nisvs_report2010-a.pdf.

Domestic violence victims need law enforcement protection more frequently than other groups. Calls regarding domestic violence comprise the single largest category of calls received by police, accounting for 15-20 percent of

all calls. Andrew Klein, Nat'l Inst. Of Justice, *Practical Implications of Current Domestic Violence* (June 2009), <http://www.nij.gov/topics/crime/intimate-partner-violence/practical-implications-research/Pages/welcome.aspx>. Between January 1, 2015 and June 30, 2016 in Cedar Rapids, Iowa, which enforced its crime nuisance ordinance against domestic violence survivors and others who summoned police prior to the RTA, there were 6,536 domestic violence related calls to police for protection. The Gazette, *Cedar Rapids Officers Asking Questions to Save Lives in Domestic Abuse*, Oct. 25, 2014, <http://www.thegazette.com/subject/news/public-safety/linn-county/cedar-rapids-officers-asking-questions-to-save-lives-in-domestic-abuse-20170319>.

Domestic violence is *the primary driver* of homelessness for women and their children. See Richard Tolman et al., *Domestic Violence and Economic Well-Being of Current and Former Welfare Recipients* (2015) (“Women who are victims of domestic violence often have to decide between staying with an abusive partner and foregoing sufficient shelter and food.”), https://www.researchgate.net/publication/255663057_Domestic_Violence_and_Economic_Well-Being_Of_Current_and_Former_Welfare_Recipients; Pavao et al., *Intimate Partner Violence and Housing Instability*, 32 *Am. J. of*

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<https://pdfs.semanticscholar.org/ad51/7e7b9ffef5d7f0e619d93b1e7c32983bf>

[87f.pdf](#). Particularly difficult is that “women may have to find new housing

to escape from their partners’ abuse.” Charlene Baker et al., *Domestic*

Violence and Housing Problems, 9 *Violence Against Women* 754, 755

(2003). The choice can be a matter of life or death. In Iowa, since 1995

alone, 291 Iowans have been killed in domestic violence related crimes

according to the Iowa Attorney General’s Office. Iowa Dept. of Justice,

Chronicle of Women, Men, and Bystanders Killed in Domestic Violence

Crimes, Mar. 31, 2017,

https://www.iowaattorneygeneral.gov/media/cms/DV_Homicide_List_3311

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Thus, the harms of crime nuisance ordinances fall hardest on domestic violence victims, who are overwhelmingly women. *See also* Gretchen W.

Arnold, *From Victim to Offender: How Nuisance Property Laws Affect*

Battered Women, J. Interpers. Violence (May 4, 2016) (concluding St.

Louis’s nuisance law caused sustained harm to the battered women studied).

But the ordinances also have a disproportionate harm on people with mental

and other disabilities, communities of color, and innocent victims of crime

generally. *See, e.g.*, Joseph Mead et al., *Who is a Nuisance? Criminal*

Activity Nuisance Ordinances in Ohio, Cleveland State Univ., 14-15, Maxine Goodwin Levin College of Urban Affairs (Nov. 8, 2017), http://engagedscholarship.csuohio.edu/cgi/viewcontent.cgi?article=2513&context=urban_facpub. Ordinances target conduct that frequently characterizes law enforcement's interactions with people with mental disabilities, who may have additional unmet needs when it comes to managing stresses in their environments and interactions with others. Emily Werth, *The Cost of Being "Crime Free"*, Sargent Shriver Nat'l Ctr. on Poverty Law, 14-15 (2013), <http://www.povertylaw.org/files/docs/cost-of-being-crime-free.pdf>.

A study conducted of Milwaukee's crime nuisance ordinance concluded that calls about domestic violence were the third most common reason for a nuisance citation. Matthew Desmond & Nicol Valdez, *Unpolicing the Urban Poor: Consequences of Third-Party Policing for Inner City Women*, 78 Am. Sociological Rev. 117, 131-32 (Feb. 2013), <http://asr.sagepub.com/content/78/1/117>. In 83% of cases where landlords received a citation, they evicted or threatened to evict victims if they called police again. *Id.* Moreover, a tenant living in a black neighborhood was three times more likely to receive a nuisance citation than a tenant in a white neighborhood who had also violated the ordinance. *Id.*

The U.S. Dept. of Housing and Urban Development (HUD) has recognized these harms, finding that crime nuisance ordinances may violate Fair Housing laws because of their impact on women, people of color, and people with disabilities. Office of General Counsel, *Guidance on Application of Fair Housing Act Standards to the Enforcement of Local Nuisance and Crime-Free Housing Ordinances* (Sept. 13, 2016), <http://portal.hud.gov/hudportal/documents/huddoc?id=FinalNuisanceOrdGuidance.pdf>. HUD has recommended repeal of these local ordinances, stating cities have a “difficult burden” in justifying local laws that penalize crime victims with eviction or loss of services. *Id.* at 9.

In ACLU cases challenging crime nuisance ordinances, federal courts have found they pose serious constitutional challenges. Crime nuisance ordinances give rise to violations of the First Amendment right to petition the government, due process guarantees, federal and state prohibitions against housing discrimination, and the Violence Against Women Act. *See, e.g., Peters v. City of Wilkes-Barre*, No. 3:15-cv-152, 2016 WL 320748 (M.D. Pa. Jan. 27, 2016) (finding violation of due process in denying motion to dismiss); *Victor Valley Family Res. Ctr. v. City of Hesperia*, No. ED CV 16-00903-AB, 2016 U.S. Dist. LEXIS 92609 (C. D. Cal. July 1, 2016) (finding violation of due process and granting plaintiff preliminary

injunction). *See also Bd. of Trustees of Vill. of Groton v. Pirro*, 152 A.D.3d 149, 160, 58 N.Y.S.3d 614, 623 (N.Y. App. Div. 2017) (holding challenged nuisance law was facially overbroad and chilled the First Amendment right to petition the government); *Watson v. City of Maplewood, Missouri*, No. 4:17CV1268 JCH, 2017 WL 4758960, at *5 (E.D. Mo. Oct. 20, 2017) (allowing First Amendment, Equal Protection, and Due Process claims to proceed); Compl., *Markham v. City of Surprise*, 2:15-cv-01696 (D. Ariz. Aug. 25, 2015) (alleged enforcement of ordinance violated First Amendment right to seek police assistance and the Fair Housing Act's prohibition on gender discrimination), *and Settlement Agreement* (Mar. 26, 2016), <https://www.aclu.org/legal-document/nancy-markham-v-city-surprise-settlement-agreement-mar-21-2016> (requiring repeal of the ordinance, damages, fees, and costs).

Besides Iowa, the Pennsylvania, Illinois, Indiana, and Minnesota state legislatures have also passed laws expressly preempting crime nuisance ordinances, often in response to high-profile cases of domestic violence victims facing loss of their housing after receiving police services. 53 Pa. Cons. Stat. Ann. § 304; 65 Ill. Comp. Stat. Ann. 5/1-2-1.5; Minn. Stat. § 504B.205 (2)(a), (3); Ind. Enrolled Act No. 558, 120th Gen. Assemb., 2017 session (eff. July 1, 2017).

In passing the Right to Assistance Act (RTA), Iowa legislators recognized that all Iowans have a right to seek help from our government when they need it. No person should have to choose between calling the police for assistance or facing eviction. But before the RTA, that dangerous choice is one that women in Iowa were forced to make in places like Cedar Rapids and Des Moines. Iowa's RTA sought to protect them from that perilous choice, and this Court should interpret it accordingly. Both on its face and according to this legislative history, the RTA demonstrates an intent to protect the ability of all Iowans to call 911 without fear of eviction when they need help, summon police to help others, or receive assistance as a victim of crime or abuse following a call from a good Samaritan.

II. Crime Nuisance Ordinances Perpetuate Domestic Violence and Homelessness.

Domestic abuse is often thought of as physical violence between intimate partners; however, abuse consumes almost every part of a victim's life. Physical assault is often employed sporadically when other mechanisms of control fail to obtain the desired behavior from a victim. More frequently, victims are subjected to emotional abuse such as name-calling, constant criticism, belittling, or sabotaging relationships with children and other loved ones. Women's Law, *Domestic Violence* (Dec. 4, 2017), <https://www.womenslaw.org/domestic-violence>. Abuse can appear

as emotional, financial, psychological, physical or sexual acts or threats designed to intimidate, coerce, and control. *Id.* The tactics of abuse are often cyclical, with a rising period in which no violence or lower levels are used, escalating to a period of physical violence. Financial abuse occurs in 99% of domestic violence relationships and has a direct impact on housing instability. Adrienne Adams, *Measuring the Effects of Domestic Violence on Women's Financial Well-Being*, Center for Financial Security Research 3 (2011),

[https://centerforfinancialsecurity.files.wordpress.com/2015/04/adams2011.p](https://centerforfinancialsecurity.files.wordpress.com/2015/04/adams2011.pdf)
[df](https://centerforfinancialsecurity.files.wordpress.com/2015/04/adams2011.pdf). This can surface as maintaining total control over family finances, stealing the victim's paychecks or other resources, refusing to allow the victim to work, or sabotaging the victim's job if she doesn't comply with the abuser's demands abuser. *Id.* at 1.

Barriers for victims can quickly compound, preventing them from attaining self-sufficiency and safety. Of all the resources victims identify as important to attaining safety, housing is one of the most important. Survivor safety requires that basic necessities like food and housing be met before anything less critical can be addressed, like therapy or legal proceedings.

In one study in Iowa, the following barriers to safe housing were identified by more than 60% of the participating domestic violence

programs: lack of affordability, lack of transportation, insufficient funds for security deposits, long wait times for public or Section 8 housing, insufficient housing suitable for large families, lack of safety resources for women to remain in their home, and discriminatory practices by landlords.

Amy Correia, *Housing and battered women: A Case Study of Domestic*

Violence Programs in Iowa., Nat'l Res. Ctr. on Domestic Violence,

Pennsylvania Coal. Against Domestic Violence 7 (1999),

https://vawnet.org/sites/default/files/materials/files/2016-07/BCS3_IA.pdf.⁴

Women who experienced intimate partner violence in the preceding year were nearly four times more likely to report housing instability. Pavao, *Housing Instability* at 143. Research shows more than 90% of homeless women have been the victim of severe physical or sexual abuse at some point, and 63% of homeless women have been victims of intimate partner violence as adults. Ellen Bassuk et al., *Responding to The Needs of Low-*

⁴ The NNEDV 2016 Census gives a snapshot of the many ways that domestic violence perpetuates homelessness. In one day, the census captured the stories of a survivor who was forced to sleep in her car with her child after being threatened with a gun by her abuser, a woman who was evicted after her abuser broke her apartment door for a second time, a woman that moved for the fifth time when her abuser located her residence, and a woman who faced homelessness after her abuser stole her rent money and emptied her bank accounts. NNEDV, 11th Ann. Domestic Violence Counts Report (2016) at 4, https://nnedv.org/mdocs-posts/census_2016_handout_report/.

Income and Homeless Women Who Are Survivors Of Family Violence, 53 J. of the Am. Med. Women's Ass'n 57, 57 (1998).

Some victims may not be able to afford housing payments without the combined income of her abusive partner, or the housing that s/he can afford is substandard. She is faced with an impossible choice: to either move into substandard housing, face homelessness, or continuing to endure abuse. The result is that victims are forced to stay in housing with an abusive partner just to maintain shelter for themselves and their children. A Minnesota report found 46% of homeless women had previously stayed in an abusive relationship due to lack of alternate housing. Wilder Research Center, *Homeless in Minnesota 2003* 22 (2003). Another shelter reported that 85 percent of clients returned to abusive relationships because of difficulties finding housing and employment. Kimberle Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics and Violence Against Women of Color*, 43 Stan. L. Rev. 1241, 1246 n.13 (1993).

Once a victim is caught in a cycle of domestic abuse, she is also much more likely to experience future housing discrimination. Tolman, *Economic Well-Being* at 12. In 2005, Congress found nearly 150 “documented eviction cases in the previous year where the tenant was evicted because of the domestic violence crimes committed against her.” Violence Against Women

Act and Department of Justice Reauthorization Act of 2005, Pub. L. No. 109-162, § 41401, 119 Stat. 2960 (2005). Atop mechanisms like crime nuisance ordinances, landlords often check applicants' court records and screen out those whose name appears in conjunction with a protection order. This means that if a victim seeks a protection order to cure a clear and present danger eviction notice, she flags herself as a risk for future landlords.

Additionally, identity theft, fraudulent use of the victim's credit and other similar financial abuse damage victims' credit scores, making them unable to pass a credit check and ineligible for housing. Lenora Lapidus, *Doubly Victimized: Housing Discrimination Against Victims of Domestic Violence*, 11 Am. U. J. of Gender Soc. Policy & Law 377, 385 (2003).

Finally, due to the intentional isolation from supportive networks and the disruption of employment, victims may find it difficult to obtain adequate references. *Id.*

Studies show that policies that support housing stability for a victim are essential to reducing future violence and achieving safety. Correia, *Housing at 10*. Policies like the RTA that protect victims of violent crime and prevent homelessness allow victims to focus on the other areas of their lives that are necessary to security, including medical and mental health services, job security, and custody of minor children. By contrast, penalizing

requests for emergency assistance with eviction deters victims from seeking help and puts the entire community at increased risk of violence.

III. The Impetus for the Right to Assistance Act in Iowa Was the Harmful Impact of Crime Nuisance Ordinances in Iowa Cities.

In Iowa, the first case that the ACLU and ACLU of Iowa consulted on occurred in 2011, and involved a Des Moines woman, T.Y., who was forced to move out of her apartment when her landlord served her with a Notice of Termination and a Notice to Quit following her call to police for assistance during an incident of domestic violence. Petition, *T.Y. v. City of Des Moines*, Polk Co. No. CVCV8282 (Iowa Dist. Ct. July 15, 2010); *see also T.Y. v. City of Des Moines et al.*, 4:10-cv-00463 (S.D. Iowa Feb. 2, 2011) (following removal to federal court, denying motion to dismiss). After fleeing the apartment and calling police, officers arrived and charged the abuser with domestic assault and possession of marijuana. T.Y. also turned over a gun that belonged to the abuser. *Id.* Subsequently, the police informed T.Y.’s landlord that her apartment had been designated as a “Specified Crime Property” under Des Moines’s former Code Div. 3, §§ 70-211—219.⁵

⁵ After RTA’s enactment, Des Moines amended its ordinance. *See* Div. 3, §§ 70-211 (2016) (exempting cases when “the resident, owner, tenant or landlord seeking assistance had a reasonable belief that the emergency assistance was necessary . . . or . . . the emergency assistance was actually needed.”)

Id. As typical with crime nuisance ordinances, T.Y., as the resident, was not copied on the letter to the landlord. *Id.* Shortly after she obtained a criminal no-contact order against her abuser, T.Y. received the notice of eviction. *Id.*

Around the same time, Cedar Rapids passed the first version of its Crime Nuisance ordinance. Former Chapter 29 required all landlords to sign a Crime Free Lease Addendum by which renters would agree that residents, guests, or “other persons affiliated with the resident” would not engage in any criminal activity. It also provided the landlord good cause to terminate a lease and pursue eviction for all residents for criminal activity on the premises, specifically stating that “No proof of conviction is required.”

Landlords who failed to seek to terminate a lease could lose their license to rent property in the city. Cedar Rapids landlords sued, successfully blocking the ordinance. Ruling on Mots. For Summ. J., *Landlords of Linn Co. et al. v. City of Cedar Rapids*, Linn Co. No. EQCV069920 (Iowa Dist. Ct. July 1, 2011) (blocking implementation of Crime Free Lease Addendum mandate).

However, Cedar Rapids quickly moved to pass a second version of the ordinance in 2012. The ACLU of Iowa and ICADV urged the City Council to reject Chapter 22A (“SAFE CR”). They warned that the ordinance would undermine law enforcement efforts, impose unfair burdens on owners, conflict with the City’s fair housing obligations and federal Violence

Against Women Act, and have devastating effects on Cedar Rapids residents who are most in need of law enforcement services—especially victims of domestic violence. Letter from Rita Bettis and Laurie Schipper to Cedar Rapids City Council, (Dec. 17, 2012), on file with ACLU of Iowa; ACLU of Iowa, Blog (Dec. 19, 2012), <https://www.aclu-ia.org/en/news/cedar-rapids-city-council-passes-ordinance-could-evict-domestic-violence-victims>. The City ignored those concerns and adopted the ordinance as proposed.⁶ Waterloo soon followed by passing its own ordinance, modeled on Cedar Rapids'. The ACLU of Iowa again urged the City Council to vote down the proposal, Letter from Rita Bettis to Waterloo City Council, (May 14, 2014), on file with ACLU of Iowa, to no avail.⁷

Facing the continued spread of crime nuisance ordinances that threatened the safety and equality of Iowa women, and mounting intransigence by the cities to address constitutional, civil rights, and safety concerns, the ACLU of Iowa, ICADV, and a coalition of advocates—

⁶ Under the SAFE-CR program, police costs passed on to owners were \$94.00 per hour, per officer. City of Cedar Rapids, SAFE-CR FAQs, http://www.cedar-rapids.org/local_government/departments_g_v/police/frequently_asked_questions.php.

⁷ In Waterloo, the fee imposed once designated a nuisance was \$100 for each call plus \$50.00 per hour, per officer. Waterloo Cedar Falls Home Consortium, *Analysis of Impediments to Fair Housing Choice* 86 (2015), http://www.cityofwaterlooiaowa.com/document_center/Comm%20Dev/Reports/Analysis%20of%20Impediments%20to%20Fair%20Housing%20Choice.pdf.

including Iowa landlords and Realtors⁸—turned to legislators to preempt the ordinances in our state.

As part of this legislative advocacy effort, the organizations documented instances of significant harms to Iowans caused by municipal crime nuisance ordinances. In addition to those already discussed, these included one instance reported to the ACLU in 2015 by Waypoint Domestic Violence Victim Services Program in Cedar Rapids, Iowa. ACLU of Iowa, *Harms of Crime Nuisance Ordinances in Iowa Cities: Stories and Examples* at 2 (Apr. 7, 2015) (prepared for Iowa legislators to support passage of H.F. 493) (on file with ACLU of Iowa). Waypoint had assisted a victim of domestic violence, who was instructed by the judge to call 911 if her abuser violated the civil protective order against him. *Id.* Reasonably trusting that advice, she made multiple calls to law enforcement: when she noticed her abuser was walking around her apartment complex, on several other occasions when he knocked on her door, and once when he attempted to push himself into her apartment. *Id.* This resulted in a conversation with her landlord in which he discussed the instances of the police showing up to

⁸ See Iowa Finance Authority, Minutes of Iowa Council on Homelessness, www.iowafinanceauthority.gov/File/DownloadFile/4656; see also Landlords of Linn County, *Legislative Update* (2016), <http://landlordsoflinncounty.org/wp-content/uploads/2016/12/State-Newsletter-2nd-3rd-Qtr-2016-1.pdf>.

assist her and the negative impact it could have on him as a property owner under the crime nuisance ordinance, sending a clear message to her that further calls to law enforcement would result in eviction. *Id.*

In another account, Waypoint arranged to provide a survivor of domestic violence in Cedar Rapids with financial assistance to flee from her abuser and set up her own, independent household. ACLU of Iowa, *Harms of Crime Nuisance Ordinances*, at 2. However, she was not able to find an apartment that would take financial assistance from a domestic violence program. *Id.* The landlords that she and her advocate from Waypoint spoke with conveyed that they equated domestic violence with problems and police, and that they didn't want write-ups for having nuisance properties. *Id.*

Another incident was related on the floor of the Iowa House in 2015 by State Representative Nunn. H.F. 493, 86th Gen. Assemb., Reg. Sess. (video of debate Mar. 25, 2015 at 10:19:05 am) (statement of Rep. Nunn), <http://www.legis.state.ia.us/dashboard?view=video&chamber=H&clip=1414&dt=2015-03-25&offset=1395&bill=HF%20493&status=i>) In that case, a mother of three was assaulted at her property with a weapon, and her call to the police for assistance resulted in a nuisance ordinance designation. *Id.* The landlord evicted her and her children. *Id.* Compounding her injuries, she

was left with a rental history that then included the eviction, making it even harder for her to find housing. *Id.*

IV. The Iowa Legislature Specifically Intended the RTA to Prevent Eviction Based on the Need for Emergency Assistance.

The status of domestic violence victims in Iowa prior to the RTA left them with narrow options for defending their right to tenancy. The three options enumerated in Iowa Code Section 562B.25A prior to RTA included seeking a protective order, reporting the activity to law enforcement, or writing to “the person not to return to the premises.” A landlord could easily retaliate against a victim of domestic violence for seeking law enforcement intervention, which prevented her from exercising this remedy without fear of eviction, and in crime nuisance cities in Iowa, landlords were encouraged or required to do so. Additionally, in a circumstance in which the victim of the assault and the perpetrator of the assault were co-tenants on a lease and therefore unable to exclude their abuser from their property—a regular occurrence in cases of domestic violence—the sole viable option for a victim was a protection order.⁹

⁹ Problematically, the burden in Iowa’s Clear and Present Danger law is on the victim of domestic violence to cure the breach caused by her abuser. Iowa Code § 562A.27A(3)(a)-(b). In 2004, the legislature amended the law to require landlords to notify a tenant of this ability to cure. S.F 2199, 80th Gen. Assemb. Reg. Sess. (Iowa 2004) (“making certain changes concerning family violence and domestic abuse”). The title and legislative history of this

The intent of the Iowa legislature in passing the Right to Assistance Act was to protect all Iowans from housing penalties imposed either by local governments or by landlords as a result of calling for emergency or police assistance, or, for abuse or other crime victims, for receiving such assistance as a result of a third-party call.

On its face, the statute provides in relevant part:

1. *a.* A landlord shall not prohibit or limit a resident's or tenant's rights to summon law enforcement assistance or other emergency assistance by or on behalf of a victim of abuse, a victim of crime, or an individual in an emergency.”
b. A landlord shall not impose monetary or other penalties on a resident or tenant who exercises the resident's or tenant's right to summon law enforcement assistance or other emergency assistance.
c. Penalties prohibited by this subsection include all of the following:
 - (1) The actual or threatened assessment of penalties, fines, or fees.
 - (2) The actual or threatened eviction, or causing the actual or threatened eviction, from the premises.

Iowa Code § 562A.27B (1)(a) -(c) (2017). Thus, the RTA expressly protects from eviction residents or tenants who summon law enforcement assistance.

In addition, a resident or tenant who is a victim of abuse or crime is protected from such housing penalties when someone else (a neighbor or other good Samaritan) summons law enforcement assistance on her behalf.

amendment evidence the legislature's intent to address housing issues plaguing victims of family violence, namely that victims were regularly being evicted for the criminal acts of their abusers, and were not aware of available remedies to stay in their home.

While somewhat less clearly drafted in the provision of the RTA governing prohibitions on landlords set forth above, the intent to protect victims in the case of third party calls is plain. Iowa Code § 562A.27B (1)(a) (“or on behalf of a victim of abuse, a victim of crime, or an individual in an emergency”). The placement of this language in the context of the bill as a whole also makes this intent clear. Specifically, section 2 sets out that “An ordinance, rule, or regulation . . . shall not authorize imposition of a penalty against a resident, owner, tenant, or landlord *because the resident, owner, tenant, or landlord was a victim of abuse or crime.*” Iowa Code § 562A.27B (2) (a) (2017) (emphasis added).

Logically, of course, without this protection for tenants on whose behalf emergency assistance is summoned by third parties, the purpose of the bill to protect victims of crime of abuse from eviction is frustrated. It makes little sense to protect the crime victim who can reach her cell phone and call the police, but not the victim whose phone is ripped out of the wall by her abuser, who instead must scream for help and hope her neighbors or a passerby will call the police on her behalf, or a crime victim who is otherwise unable to call or summon assistance on her own behalf for other reasons—for example, she is a child, lacks a phone, is frozen in fear, or

knows doing so will place her or others in immediate harm from the perpetrator.

The Explanation to HF 493 describes RTA's overarching purpose to protect victims of crime and abuse from eviction on that basis:

This bill enacts new Code chapter 562C to prohibit a city, county, or other governmental entity from penalizing a resident, owner, tenant, or landlord for a contact made for law enforcement assistance or other emergency assistance *by or on behalf of* a victim of abuse, a victim of a crime, or an individual in an emergency if *the person who made the contact* reasonably believed that emergency assistance was necessary to prevent the perpetration or escalation of the abuse, crime, or emergency, *or if the intervention or emergency assistance was actually needed. . . .*

The bill also prohibits an owner or landlord from restricting a resident's or tenant's right to summon law enforcement assistance or other emergency assistance *by or on behalf of* a victim of abuse, a victim of a crime, or an individual in an emergency, or impose monetary or other penalties on *a person who exercises that right. . . .*

H.F. 493, as introduced, 86th Gen. Assemb., Reg. Sess. (Iowa 2015), Bill Explanation. (emphasis added)

The legislative history further demonstrates intent to protect from eviction those crime and abuse victims who are unable to call on their own behalf. After introduction and unanimous passage by the House in 2015, the bill was amended twice in the Senate. *See* H.F. 493, 86th Gen. Assemb., Reg. Sess. (Iowa 2015-16), Enhanced Bill History,

<https://www.legis.iowa.gov/legislation/billTracking/billHistory?enhanced=tr>

[ue&ga=86&billName=HF493](#). In amending the bill, Iowa Senators sought to address concerns that the House bill unintentionally limited cities’ ability to respond to nuisances unrelated to the need for emergency assistance—things like animal issues, junk in the yard, or loud parties—and that it would allow the perpetrators of abuse to also seek protection from eviction, which would undermine the safety of victims. Amend.S-5085 to H.F. 493, 86th Gen. Assemb., Reg. Sess. (Iowa 2016) (striking definitions and reorganizing bill to treat landlords and cities in separate sections). Senators also amended the remedies available to the parties. Amend. S-5115 to S-5085 to H.F. 493, 86th Gen. Assemb., Reg. Sess. (Iowa 2016) (striking attorneys’ fees for landlord plaintiffs but keeping them for tenant plaintiffs, and ensuring local government could collect fees for services “unrelated to responding to a call for law enforcement assistance”.)

At all times in the amendment process, however, lawmakers manifested an intent to keep intact the bill’s housing protections for those who call for emergency assistance, as well as for victims of crime or abuse, regardless of who calls 911. Legislator statements during floor debate in the Senate demonstrate this intent. Speaking on behalf of the Senate Judiciary Committee, Senator Hogg stated the Act was focused on ensuring victims of domestic abuse have safe, stable housing:

So a lot of work has been done on this legislation over the course of the last year. And we are now at this point where I believe that we are ready to move forward with a statewide policy that establishes in statute the right of assistance, that people across our state will know that there will not be city or county ordinances, or landlord tenant agreements that inhibit in any way, shape, or form, the right of people to call for emergency assistance to address their needs. And yet I believe we've also met an effective balance that gives cities and counties that ongoing ability to deal with the nuisance properties that exist in their neighborhoods and in their communities.

Let me say one other thing about this bill. *This bill addresses all requests for emergency assistance. But very prominent in the discussion that we have had over this last year is in particular the rights of victims of domestic abuse. And there is very little that is more important for government than to be able to respond to aid those who are in domestic situations where they are being victimized by abuse.* And so, I want to thank the advocates who have spoken up for victims of domestic abuse across our state.

Those advocates tell us *that the most important thing for someone who is in an abusive relationship in a domestic situation is to be able to extricate themselves from that situation and find safe, stable housing. And so this policy—which is not just about victims of domestic abuse, it is about all emergency assistance—but this policy will move us forward toward that goal of making sure victims of domestic abuse can have safe, stable housing.*

H.F. 493, 86th Gen. Assemb., Reg. Sess. (video of debate Apr. 6, 2016 at 1:26:17 p.m.) (statement of Sen. Hogg),

<http://www.legis.state.ia.us/dashboard?view=video&chamber=S&clip>

[=s20160406133747440&dt=2016-04-06&offset=425&bill=HF%20493&status=r.](#)

Senator Hogg explained the purpose of Senate Amendment S-5085 was to ensure that perpetrators would not be protected by the bill,¹⁰ while victims of crime or abuse would be—regardless of whether they or a third party summons assistance:

I don't believe the House File was in any way intended to do this, but as we've dived into this bill, I told you I had that concern that it swept too broadly in its preemptive effect. It is one thing to say a person has a right to call and summon assistance. It is another thing to say that cities can't do things when anybody calls.

And let me be more specific about this. If you're in the situation which I know constituents of mine have experienced, where there is some nuisance property on the street, and it is the neighbor that calls. If the neighbor calls and says, 'hey, there is a nuisance property down my street; the grass is too long; there's debris all over the place; it's teeming with rodents; maybe too many animals on the property; maybe there are people in and out of the place who don't have any business being there.' And that neighbor calls.

What this amendment coming out the Senate Judiciary Committee says is that the right of the person who calls is going to be protected. No landlord or city is going to take action against the person who calls. However, the person who might be affiliated with that property that is the nuisance property, they are not protected in that situation, because they are the perpetrator of the problem. And in my judgment, the House File

¹⁰ Importantly, the other tenant captioned in this case, Greg Krambeck, is not protected by the RTA from eviction.

swept too broadly and protected *perpetrators* of problems. It protected the slum lord, or the drug dealer, or the criminal gang.

So what we have done in this amendment is we have said *a city cannot enforce an ordinance against a person because the person called for assistance or because the person is a victim of a crime*. That's different from saying a city can't act when there is a call made [in other situations].”

That's the core of what the Senate Judiciary Committee does. It sets up that framework. It says in our residential landlord tenant law or our manufactured housing mobile home park tenant law that people have rights—if they're the victim they can't have punishment brought upon them, and they also cannot be punished for making a call.

I think that is the right balance.

Id. at 1:48:57 p.m.

Finally, there is no affirmative duty for either callers or victims who receive emergency assistance to certify anything or assist police in any way. That notion is simply nowhere in the RTA, nor is it evident in any legislative history. Moreover, to read such an affirmative duty into the RTA, as the district court did in this case, (Ruling and Order at 6), would frustrate the intent of the legislature to protect abuse or other crime victims from housing penalties. Any such affirmative requirement would undermine the legislature's intent to address the real-world consequences of crime nuisance ordinances for domestic violence victims, who often face the most severe risk of violence if they actively assist in the enforcement of criminal laws

against their abusers, may be unable to participate because of circumstances outside their control, or interact with first responders who are unable to correctly assess domestic violence.

The enactment of H.F. 493 will literally be life-saving for thousands of Iowa women over the years. Faced with the choice between taking the chance of surviving an abuser's attack, or calling the police and facing certain eviction, many women have made the potentially deadly choice not to call 911. A legal system that allowed Iowans to be put in such a position was unacceptable, which is why the Iowa legislature and Governor's Office acted forcefully to put a stop to it. The plain language and legislative history of the RTA show an intent to protect from eviction both victims of abuse and crime, as well as those who summon assistance on behalf of others. Its purpose was centered on the realities of the intersectionality of domestic violence and homelessness of women in our state and nationally. It is essential to thousands of Iowa women who will call the police, or whose lives will be saved because of the calls of neighbors or passersby on their behalf, that this Court interpret the Right to Assistance Act accordingly.

V. The Right to Assistance Prohibits the Eviction in this Case.

In this case, the Plaintiff's statement, "06/28/17 Tammy screaming...he beat me, call the police" is the only specific allegation

included in the Three-Day Notice to Quit. (1st Notice.) Applying section 562A.27B to the present case, the landlord's treatment of a Tammy's call for emergency assistance as grounds to evict her expressly prohibited. Mrs. Krambeck is thus protected by the RTA from eviction on two grounds, either of which provides a sufficient, independent basis for relief: as a caller for emergency assistance, and as a victim of a crime or abuse in the case of any third-party calls.

The degree to which she assisted law enforcement once on the scene is absolutely irrelevant to this protection, and that is by design of legislators seeking to address the complicated realities of domestic violence that lead a victim to cooperate in some cases, and be silent in others.

CONCLUSION

For the foregoing reasons, as well as those others stated by the Defendant-Appellant, *Amici* respectfully asks this Court to grant the Defendant-Appellant's requested relief. In so doing, we urge this Court to construe the Right to Assistance as intended to protect both callers for emergency assistance and victims of abuse or crime who receive assistance as a result of third-party callers, and to specifically overrule the district court in reading into the RTA any affirmative duty on the part of the caller or victim of abuse or crime to assist law enforcement.

Respectfully submitted:

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I certify that this document was served upon the following parties pursuant to Iowa R. Elec. P. 16.316, on January 17, 2018:

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