

Domestic Violence Victims a Nuisance to Cities

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I. INTRODUCTION

Lakisha Briggs’s ex-boyfriend broke a glass ashtray against her head and used the broken glass to stab Lakisha in the neck.¹ Lakisha lost consciousness from blood loss, a neighbor called the police for help, and a trauma helicopter

1. First Amended Complaint ¶¶ 97–99, *Briggs v. Borough of Norristown*, No. 2:13-CV-02191 (E.D. Pa. Apr. 29, 2013) [hereinafter *Briggs Complaint*], http://www.aclu.org/files/assets/norristown_complaint.pdf.

flew Lakisha to the hospital.² Three days later, the city told Lakisha's landlord his rental license would be revoked until Lakisha vacated his property.³ Because the police were called to respond to three incidents of domestic violence at her residence in the span of four months, Lakisha, the victim and a single mother, faced eviction.⁴ A police officer told her, "You are on three strikes. We're gonna have your landlord evict you."⁵

Unfortunately, this is not the first time a domestic violence victim has faced eviction for calling the police, and it is unlikely to be the last unless municipal nuisance ordinances change.⁶ Lakisha Briggs faced eviction because of the requirements in her city's nuisance ordinance.⁷ Nuisance ordinances generally impose fines on a property owner or landlord when the police are called to respond to incidents of crime a certain number of times at the same residence.⁸ Many nuisance ordinances also revoke a landlord's rental license if a property is deemed a nuisance; thus, landlords are encouraged to evict the tenant making the police calls.⁹

City nuisance ordinances serve many beneficial purposes, such as ensuring the efficiency of police resources so that the police do not spend time frequently responding to the same calls at the same residence.¹⁰ Nevertheless,

2. *Id.* ¶¶ 100–01.

3. *Id.* ¶ 104.

4. *Id.* ¶¶ 73–75, 112–15; *see infra* note 131 and accompanying text.

5. *See* Briggs Complaint, *supra* note 1, ¶ 56.

6. *See, e.g.*, Second Amended Complaint, *Grape & Wilce v. Town/Vill. of E. Rochester*, No. 07-CV-6075CJS(F) (W.D.N.Y. May 6, 2007) [hereinafter *Grape Complaint*], <http://www.nhlp.org/files/Grape%20WDNY%20nuisance%202d%20compl.pdf> (arguing that the nuisance law directly harms women who are victims of domestic violence).

By using the term "victim," I do not intend to diminish any survivor's agency or strength. I do not believe there is anything shameful or weak about being the recipient of abuse. I use the term "victim" throughout this Comment to be able to consistently discuss the damaging effects of a nuisance ordinance without a domestic violence exception, but I acknowledge and respect that survivors of violence have the agency to determine how to identify themselves. *See generally* Carol Mosely, *The Language We Use: Victim and Survivor*, WE END VIOLENCE, <http://www.weendviolence.com/blog/2013/06/04/the-language-we-use-victim-and-survivor/> (last visited Feb. 20, 2016).

7. Briggs Complaint, *supra* note 1, ¶ 39.

8. *See* Matthew Desmond & Nicol Valdez, *Online Supplement: Unpolicing the Urban Poor: Consequences of Third-Party Policing for Inner-City Women*, AM. SOC. REV. 2 (2013), http://scholar.harvard.edu/files/mdesmond/files/unpolicing.asr2013.online.supplement_0.pdf.

9. *See infra* note 37 and accompanying text.

10. *Cf. Chronic Nuisance and Crime-Free Ordinances: Endangering the Right of Domestic Violence Survivors to Seek Police Assistance*, ACLU [hereinafter *Chronic Nuisance and Crime-Free Ordinances*], https://www.aclu.org/sites/default/files/assets/nuisance_ordinance_issue_summary_-_final.pdf (last visited Feb. 20, 2016) (noting that proponents of nuisance ordinances "argue that these ordinances are necessary to deter crime and recoup costs").

many of these nuisance ordinances do not have an exception for incidents of domestic violence, and consequently, victims are scared to call and report the abuse perpetrated against them or request police assistance.¹¹

This past year, awareness of the prevalence of domestic violence in America has grown, as well as efforts to combat domestic violence.¹² President Barack Obama addressed the problem of domestic violence in America at the 2015 Grammy Awards by saying, “It’s not okay, and it has to stop.”¹³ Domestic violence was a frequent news topic this year in articles discussing sports news¹⁴ and student safety on college campuses.¹⁵ The media has addressed the prevalence of domestic violence in America, and legal norms must change to recognize the problem as well.¹⁶

This Comment explores the history and reasoning behind property nuisance ordinances,¹⁷ examines contemporary jurisprudence challenging nuisance ordinances without a domestic violence exception,¹⁸ and assesses the legal challenges to nuisance ordinances without such an exception,¹⁹ arguing that there is a legal and policy basis for adding a domestic violence exception to municipal property nuisance ordinances.²⁰ Part II surveys the development of property nuisance ordinances and laws related to domestic violence in the

11. See, e.g., Briggs Complaint, *supra* note 1, ¶ 91. Briggs admitted feeling scared that her attacker would harm her daughter and that she would lose housing for her daughter if she called the police. *Id.* ¶ 92.

12. See *infra* note 233 and accompanying text; see also Lindsey Cook, *Domestic Violence Is as American as Apple Pie*, U.S. NEWS & WORLD REP. (Sept. 25, 2014), <http://www.usnews.com/news/blogs/data-mine/2014/09/25/domestic-violence-is-as-american-as-apple-pie>.

13. See also Nicole Arce, *Obama Grammy Awards Message: Sexual Violence Must Stop*, TECH TIMES (Feb. 9, 2015), <http://www.techtimes.com/articles/31674/20150209/obama-grammy-awards-message-sexual-violence-must-stop-video.html>.

14. See also Louis Bien, *A Complete Timeline of the Ray Rice Assault Case*, SB NATION (Nov. 28, 2014), <http://www.sbnation.com/nfl/2014/5/23/5744964/ray-rice-arrest-assault-statement-apology-ravens>; David MacAnally, *NFL to Tackle Domestic Violence with Super Bowl PSA*, WTHR NEWS, <http://www.wthr.com/story/27979168/nfl-to-tackle-domestic-violence-in-super-bowl-psa> (last updated Jan. 31, 2015, 1:35 PM); Jethro Mullen & Mayra Cuervas, *Soccer Star Hope Solo Apologizes After Domestic Violence Incident*, CNN (June 27, 2014), <http://www.cnn.com/2014/06/27/justice/hope-solo-apology>.

15. See also, e.g., Ariel Zwang, *Let’s Not Forget About Domestic Violence on College Campuses*, HUFFINGTON POST, http://www.huffingtonpost.com/ariel-zwang/domestic-violence-on-college-campuses_b_5634562.html (last updated Oct. 1, 2014) (noting that “one in four women will experience domestic violence in her lifetime, and women between the ages of 20 and 24 are most at risk”).

16. See *infra* note 239 and accompanying text.

17. See *infra* Part II.A.

18. See *infra* Part III.

19. See *infra* Part IV.

20. See *infra* Parts IV–V.

United States and discusses the broader concerns victims of domestic violence face.²¹ Part III describes real situations where three women suffered abuse, called the police for assistance, and consequently faced eviction.²² Part IV analyzes the constitutional and statutory challenges to property nuisance ordinances without a domestic violence exception, contending that there is a strong legal basis for adding an exception.²³ Part V focuses on the positive social implications of adding a domestic violence exception, emphasizing the recent spread of awareness regarding the consequences of domestic violence in America.²⁴ Part VI concludes.²⁵

II. BACKGROUND

A. *A History of Property Nuisance Ordinances in the United States*

Chronic nuisance ordinances generally impose sanctions on property owners when the police are called to a residence a certain number of times in a set time period.²⁶ Public nuisance is a tort that includes any “unreasonable interference with a right common to the general public.”²⁷ Historically, public nuisance ordinances were used to address frequent cases of illegal alcohol sales and prostitution at the same residence.²⁸ Today, public nuisance ordinances are used to prevent the use of property for illegal acts, such as drug activity, by holding owners responsible for the crime on their property.²⁹ Nuisance ordinances often charge owners to reimburse the city for the cost of responding

21. *See infra* Part II.

22. *See infra* Part III.

23. *See infra* Part IV.

24. *See infra* Part V.

25. *See infra* Part VI.

26. *See* Desmond & Valdez, *supra* note 8, at 2. For example, Chicago’s nuisance ordinance defines a chronic nuisance property as “any premises that is the subject matter of three or more calls for police service on three different days within any 90-day period.” CHI. CODE § 8-4-087 (2010). Although the majority of ordinances are addressed to those that own property, a few ordinances expand the scope of the ordinance to also forbid managers or tenants to allow “the existence of a public nuisance at the property.” *See* Desmond & Valdez, *supra* note 8, at 2.

27. RESTATEMENT (SECOND) OF TORTS § 821B (AM. LAW INST. 2000); *see also* Cari Fais, Note, *Denying Access to Justice: The Cost of Applying Chronic Nuisance Laws to Domestic Violence*, 108 COLUM. L. REV. 1181, 1184 (2008) (explaining that public nuisance laws aim to “criminalize actions that are considered offensive to the public”).

28. *See, e.g.*, B.A. Glesner, *Landlords as Cops: Tort, Nuisance & Forfeiture Standards Imposing Liability on Landlords for Crime on the Premises*, 42 CASE W. RES. L. REV. 679, 717 (1992).

29. *Id.* Portland, Oregon first used its public nuisance law to foreclose drug houses in 1987, and many other cities soon followed to target illicit drug activity with nuisance laws. *Id.* at 717 n.201.

to the nuisance, and similar city laws charging citizens for the use of public services have survived judicial scrutiny if the laws are reasonable and aimed at promoting the safety of city residents.³⁰

The purpose of public nuisance ordinances is to save police time and resources from responding to a large amount of calls, protect neighbors from disruptive tenants, help landlords maintain property by protecting the land from frequent disruption, and deter crime.³¹ To do so, ordinances often impose sanctions for the number of incidents of “disruptive behavior” on a premise.³² In many jurisdictions, domestic violence is classified as an incident of disruptive behavior.³³ Nuisance ordinances differ in each jurisdiction, but most include a broad list of activities characterized as nuisance for which property owners can be penalized for through “fines, property forfeiture, or even incarceration.”³⁴ The fines threatened are substantial and can force owners to take action so that they are not responsible for steep payments.³⁵ For example,

30. See Fais, *supra* note 27, at 1187–88. For instance, in Macungie, Pennsylvania, an ordinance charging property owners a fee based on the amount of trash the individual property owner produced was upheld. See *Nat’l Props., Inc. v. Borough of Macungie*, 595 A.2d 742, 746 (Pa. Commw. Ct. 1991) (asserting “[f]ees charged by a municipality for services rendered are proper if they are reasonably proportional to the costs of the regulation or the services performed,” but not if the purpose of a fee is to raise revenue); see also *Rizzo v. City of Phila.*, 668 A.2d 236, 238 (Pa. Commw. Ct. 1995) (finding Philadelphia ordinance charging residents fees to reimburse the municipality for costs acquired when offering emergency medical services to be reasonable and “necessary to preserve the health, welfare and safety of its residents”).

31. See *Chronic Nuisance and Crime-Free Ordinances*, *supra* note 10; see also Fais, *supra* note 27, at 1182 (asserting that nuisance laws “are aimed at recovering the cost of the government’s police response”); Carolyn Davis, *Simpson Responds to Criticism of Norristown Ordinance*, PHILLY.COM, http://www.philly.com/philly/blogs/montco_memo/Simpson-responds-to-criticism-of-Norristown-ordinance.html#3OWsmBTWvIAYg5OC.99 (last updated May 1, 2013, 12:25 PM) (quoting Norristown, Pennsylvania Municipal Council President Gary Simpson stating the purpose of a nuisance ordinance was to “place greater levels of accountability on the landlords”).

32. See Anna Stolley Persky, *Ordinance that Evicts Tenants for Seeking Police Aid Is Putting Abused Women out on the Street*, A.B.A. J. (Sept. 1, 2013), http://www.abajournal.com/mobile/mag_article/ordinance_that_evicts_tenants_for_asking_police_aid_is_putting_abused_wome (asserting that there may be “increased fines if the landlord fails to curtail the disruptive behavior or evict the tenant”).

33. *Id.* In addition, many cities, such as Cincinnati, Ohio, include “assault, aggravated assault, or felonious assault” by “owners, operators, occupants, or persons associated with a premises” as an identified nuisance activity. CINCINNATI, OHIO, MUN. CODE ch. 761, § 761-1-N (Nov. 11, 2006), https://www.municode.com/library/oh/cincinnati/codes/code_of_ordinances. Under such provisions, when a guest associated with a premises commits assault on that premises, the resident faces the consequence. See, e.g., *id.*

34. See Matthew Desmond & Nicol Valdez, *Unpolicing the Urban Poor: Consequences of Third-Party Policing for Inner-City Women*, 78 AM. SOC. REV. 117, 120 (2013), http://scholar.harvard.edu/files/mdesmond/files/desmond.valdez.unpolicing.asr_0.pdf.

35. See Desmond & Valdez, *supra* note 8, at 2.

Menashe, Wisconsin charges “\$991 per incident for each day the nuisance continues,” and Seattle, Washington charges up to a “\$500 penalty per day from the date of the notice issued until the Chief of Police confirms that the property is no longer a nuisance property.”³⁶ Ordinances that impose fines on landlords force landlords to choose between evicting the tenant that they would otherwise have offered housing to or paying the rising fees.³⁷

B. Context of Concerns Domestic Violence Victims Face

In order to reach a more comprehensive understanding of the issues stemming from the lack of a domestic violence exception to property nuisance ordinances, it is important to recognize broader concerns victims of domestic violence face.³⁸ The abuse manifested in a relationship affected by domestic violence is not only physical violence, but can also include psychological and sexual harm.³⁹ Because victims may face threats from their abusers, embarrassment, or feelings of helplessness, many domestic violence cases are never reported to the police.⁴⁰ Approximately 85% of the victims of domestic violence are women.⁴¹ Often, there is a pattern in violent relationships—known

36. *Id.*

37. See Dahlia Lithwick, *Public Nuisance: What Happens when Calling 911 Could Cost You Your Home*, SLATE (2013), http://www.slate.com/articles/news_and_politics/jurisprudence/2013/09/an_aclu_lawsuit_fights_against_treating_abused_women_who_call_911_as_a_nuisance.html (asserting that nuisance ordinances fining landlords without an exception for domestic violence calls not only affect victims, but also make “landlords the unwilling arbiters of whether and when the women deserve that protection”); see also Desmond & Valdez, *supra* note 34, at 135 (quoting one landlord’s response regarding the struggle of choosing between paying costs and evicting tenants after being notified by the police that he violated a Wisconsin nuisance ordinance since “his tenant, a domestic violence victim, had been beaten and called the police. The landlord responded to the police: ‘We suggested she obtain a gun and kill him in self-defense, but evidently she hasn’t. Therefore, we are evicting her.’”).

38. Some scholars argue the term “intimate partner abuse” is a more appropriate label than “domestic violence” because the violence can occur at any location, rather than only in a home as the word “domestic” implies. In addition, “abuse” may be a more inclusive term than “violence” because an abuser also may employ tactics other than physical violence, such as emotional harm to their victims. *MSU Expert Reveals Intimate Partner Violence Misconceptions, Solutions*, MISS. ST. U. (Oct. 27, 2014) [hereinafter *Intimate Partner Violence Misconceptions*], <http://www.msstate.edu/newsroom/article/2014/10/msu-expert-reveals-intimate-partner-violence-misconceptions-solutions/>.

39. *Id.*

40. See Cameryn Barbeau, *Silenced. Domestic Violence Proves Under Reported*, U. ILL. SPRINGFIELD J. (Mar. 5, 2013), <http://uisjournal.com/features/2013/03/05/silenced-domestic-violence-proves-under-reported/> (citing isolation and a lack of resources available to victims as reasons that victims do not report abuse).

41. *Domestic Violence Facts*, NAT’L COALITION AGAINST DOMESTIC VIOLENCE, <http://www.ncadv.org/learn/statistics> (last visited Mar. 29, 2016). It is important to note that domestic violence victims are

as the “Cycle of Violence”—wherein a “Honeymoon Period” follows an abusive incident.⁴² During the Honeymoon Period, an abuser is loving and apologetic towards the victim, and the abuse is dismissed.⁴³

An incredibly dangerous time for a victim is when he or she decides to leave the relationship.⁴⁴ This is why it is pressing that victims are not discouraged from contacting the police after a certain number of incidents have occurred.⁴⁵ For example, suppose a victim is in an abusive relationship and after two incidents of abuse, she decides to leave the relationship. That is a critical time when the victim should be able to rely on police response instead of fearing eviction because the abuser may retaliate violently after learning the victim wishes to end the relationship.⁴⁶

There are many compelling reasons why victims stay in abusive relationships. Victims may fear physical harm to themselves or their family.⁴⁷ In addition, some victims fear that leaving will have negative consequences on their children, such as a lack of financial support or maybe even a threat to their children’s health.⁴⁸ Furthermore, the abuser may promise to reform, guilt the victim into staying to support him, or systematically attack the victim’s self-esteem to the point where the victim does not feel capable of leaving.⁴⁹ The victim may also be economically dependent on the abuser and feel that it is

not always women, and abusers are not always men. *See also* Maya Shwayder, *A Same-Sex Domestic Violence Epidemic Is Silent*, THE ATLANTIC (Nov. 5, 2013), <http://www.theatlantic.com/health/archive/2013/11/a-same-sex-domestic-violence-epidemic-is-silent/281131/>.

42. *See* Jacqie Spradling, *The Cycle of Violence*, OFF. KAN. ATT’Y GEN., <http://www.hruth.org/files/library/CycleofViolence.pdf>.

43. *Id.*

44. *See* BUREAU OF JUSTICE STATISTICS, U.S. DEP’T OF JUSTICE, CRIME VICTIMIZATION IN THE UNITED STATES, 1995, at 41 (1995), <http://www.bjs.gov/content/pub/pdf/cvus95.pdf>; *see also* *Intimate Partner Violence Misconceptions*, *supra* note 38 (“When a victim tries to leave the relationship . . . that person’s chances of being murdered increase by 75 percent.”).

45. *See* Fais, *supra* note 27, at 1197 (“Strange though it may seem—staying can be safer than leaving . . .”).

46. *Id.* Violence is not the only threat victims face when deciding to end an abusive relationship; economic abuse and emotional control tactics can dissuade a victim from leaving. *See id.* at 1196–97.

47. *See* *Domestic Violence: Reasons Why Battered Victims Stay with the Batterers*, L.A. POLICE DEP’T [hereinafter *LAPD on Domestic Violence*], http://www.lapdonline.org/get_informed/content_basic_view/8877 (last visited Mar. 29, 2016) (“Even if it is a neighbor who reports, the batterer may take it out on the victim. Often when the police come, the victim will not admit the battering.”).

48. *Id.* The battered are not the only victims of domestic violence. Lois A. Weithorn, *Protecting Children from Exposure to Domestic Violence: The Use and Abuse of Child Maltreatment*, 53 HASTINGS L.J. 1, 6 (2001) (noting that children exposed to domestic violence “may develop a range of social, emotional, and academic problems, including aggressive conduct, anxiety symptoms, emotional withdrawal, and serious difficulties in school”).

49. *See* *LAPD on Domestic Violence*, *supra* note 47.

necessary to stay in the relationship to be supported.⁵⁰ These reasons demonstrate why it is crucial that victims are not dissuaded from calling for help by a threat of eviction.

Laws and policies surrounding domestic violence have changed drastically in the last few decades.⁵¹ In America's early history, "husbands were legally permitted to physically 'chastise' their wives."⁵² By 1860, only two states in America had outlawed wife beating.⁵³ In 1879, 1883, and 1891, legislation was proposed regarding protections for wives that were criminally assaulted by their husbands.⁵⁴ That legislation involved granting a right to an assaulted wife "to apply at a neighborhood police court for: (a) a legal separation; (b) an order requiring her husband to pay support for her and her children; and (c) an award of child custody."⁵⁵ The legislation failed each of the three times it was proposed.⁵⁶

In 1904, the Supreme Court recognized a husband's "property right in the sexual enjoyment of his wife."⁵⁷ The Court determined:

It is also said that the husband has, so to speak, a property in the body and a right to the personal enjoyment of his wife. . . . This is a right of *the highest kind*, upon the thorough maintenance of which the whole

50. *Id.*; see also Fais, *supra* note 27, at 1197 n.98 (arguing that a lack of housing options is a dispositive factor in choosing to stay in a relationship and citing as evidence the fact that "46% of homeless women in Minnesota reported that they had stayed in an abusive relationship in the past because they had nowhere else to go").

51. Emily J. Sack, *Battered Women and the State: The Struggle for the Future of Domestic Violence Policy*, 2004 WIS. L. REV. 1657, 1661 (2004).

52. See Rebecca Licavoli Adams, Note, *California Eviction Protections for Victims of Domestic Violence: Additional Protections or Additional Problems?*, 9 HASTINGS RACE & POVERTY L.J. 1, 4 (2012); see also Sack, *supra* note 51, at 1661 (noting that due to the belief that husbands were accountable for the conduct of their wives, husbands "had the right to control their wives' behavior, through physical violence if necessary"). This chastisement was justified as an interaction similar to how "a father would correct a child or a master an apprentice." *Id.* at 1661.

53. See Michelle J. Nolder, *The Domestic Violence Dilemma: Private Action in Ancient Rome and America*, 81 B.U. L. REV. 1119, 1134 (2001); see also *Fulgham v. State*, 46 Ala. 143, 145-46 (1871) (refusing to acknowledge in law a husband's right over his wife to physically discipline her even though this was previously socially accepted as an "ancient privilege" for "moderate correction" against family subordination).

54. See Nolder, *supra* note 53, at 1135. Although this legislation was unsuccessful, the women's rights movement brought awareness to the effort to liberalize divorce, and by 1870, many states allowed women "to bring actions on the grounds of cruelty or misconduct." *Id.*

55. *Id.*

56. *Id.*

57. See Jeffrey R. Baker, *Trifling Violence: The U.S. Supreme Court, Domestic Violence and a Theory of Love*, 42 CUMB. L. REV. 65, 91 (2012).

*social order rests, and in the order to the maintenance of the action it may properly be described as a property right.*⁵⁸

Six years later in 1910, the Supreme Court asked: “[M]ay a wife bring an action to recover damages for an assault and battery upon her person by the husband?”⁵⁹ The Court determined that the legislature did not intend to change the common law policy of protecting the sanctity of marriage, and thus, a wife must sue for divorce before seeking relief from the husband’s battery.⁶⁰ Ultimately, the Court reasoned that women had the right to bring actions in their own name, but not against their husbands.⁶¹

Though criminalized in most states by the beginning of the twentieth century, domestic violence still was not treated with the same level of seriousness as other crimes, often seen as a “private family matter that courts should not be involved in.”⁶² As a result, law enforcement officers were trained to tell the abuser to “cool off” and take “a walk around the block,” instead of encouraging victims to rely on the criminal justice system to handle domestic violence cases.⁶³ Domestic violence calls were considered a low priority, and it was rare for a batterer to be arrested.⁶⁴ A high rate of domestic violence cases

58. *Tinker v. Colwell*, 193 U.S. 473, 483–84 (1904) (emphasis added), *superseded by statute as stated in In re Hendry*, 77 B.R. 85 (Bankr. S.D. Miss. 1987); *see also Bradwell v. Illinois*, 83 U.S. 130, 141 (1872) (denying a woman’s application to practice law in Illinois and discussing the wife’s role in the family, stating the “constitution of the family organization . . . indicates the domestic sphere as that which properly belongs to the domain and functions of womanhood”).

59. *Thompson v. Thompson*, 218 U.S. 611, 614 (1910); *see also Baker, supra* note 57, at 89 (arguing that the principal issue in this case was if the District of Columbia had exercised too much power to “enable a wife to sue her husband in tort for domestic violence”).

60. *Thompson*, 218 U.S. at 618–19. This common law policy was the notion that “the husband and wife were regarded as one,” and therefore, they could not be liable against each other in court. *See Baker, supra* note 57, at 89.

61. *Thompson*, 218 U.S. at 617.

62. Adams, *supra* note 52, at 5; *see also Sack, supra* note 51, at 1662 (noting that courts were reluctant to interfere unless “serious violence” had taken place). All states had declared “wife beating” illegal by 1920. *See Cheryl Hanna, Domestic Violence*, ENCYCLOPEDIA CRIME & JUST., http://www.encyclopedia.com/topic/Domestic_violence.aspx (last visited Feb. 23, 2016).

63. *See Sack, supra* note 51, at 1662. This is even more troubling because victims were not interviewed about the abuse away from their abuser when they would feel safer and be more willing to tell the truth. *Id.*; *see also Katie Pickert, What’s Wrong with the Violence Against Women Act?*, TIME MAG. (Feb. 27, 2013), <http://nation.time.com/2013/02/27/whats-wrong-with-the-violence-against-women-act/> (describing law enforcement responses in America’s past when “police officers responding to a domestic violence incident would merely tell a batterer to cool off and walk around the block”). *But see supra* note 8 and accompanying text (providing an example of the starkly contrasting focus law enforcement officers take today to respond to domestic violence incidents).

64. Sack, *supra* note 51, at 1663 (“[T]hese cases were considered noncriminal, [and] police assigned domestic violence calls low priority and often did not respond to them for several hours or ignored them

were dismissed at the request of the victims to drop charges, which gave prosecutors little incentive to pursue cases involving domestic violence.⁶⁵

Despite the legal community's lack of involvement in domestic violence issues early in American history, growing awareness prompted social change and eventual legal change.⁶⁶ The Protective Agency for Women and Children was founded in 1885 to provide aid to domestic violence victims.⁶⁷ In 1870, most states had legalized divorce for reasons of cruelty or misconduct.⁶⁸ In addition, the women's movement in the nineteenth century prompted the eradication of the marital exemption to assault.⁶⁹ Because women were not afforded the right to vote until 1920 (or the right to be judges or serve on juries until even later), major political change did not occur until the women's rights movement in the 1970s when women had access to more opportunities for their voices to be heard.⁷⁰ During the 1970s, the government responded to reports of abuse of women by forming shelters for battered women and initiating police reform.⁷¹ This led to the 1994 Violence Against Women Act, which provided remedies for victims because "all persons within the United States have the right to be free from crimes of violence motivated by gender."⁷² Although great strides have been taken to better address domestic violence, there is still clear room for change in the area of property nuisance ordinances.⁷³

altogether.").

65. *Id.* at 1665. Prosecutors complained that since victims often did not want to cooperate with charging an abuser, it was not the government's responsibility to continue the prosecution and "it was not worth the expenditure of prosecutorial resources to charge the cases." *Id.*

66. *See infra* notes 225–28 and accompanying text (discussing how this social change continues to spread throughout America).

67. *See Nolder, supra* note 53, at 1135.

68. *Id.*

69. *Id.*; *see also* Fulgham v. State, 46 Ala. 143, 146 (1871) (arguing a husband's assault of his wife can be viewed as a "brutal and unchristian privilege wholly to the lower rank of the people"); Jill Hasday, *Contest and Consent: A Legal History of Marital Rape*, 88 CALIF. L. REV. 1373, 1392 (2000) (discussing the evolution of the marital rape exception and asserting "[t]here was not the slightest suggestion in nineteenth-century case law and treatises that a husband could be prosecuted for raping his wife").

70. *See Nolder, supra* note 53, at 1136.

71. *Id.* at 1137. At the same time, the media began to focus on women's rights more as well, and the *New York Times* reported numerous articles about wife beating. *Id.* at 1136 n.126.

72. 42 U.S.C. § 13981(b) (2012); *see infra* note 213 (providing an analysis of the Violence Against Women Act as it applies to property nuisance ordinances without a domestic violence exception).

73. For a discussion of how changing property nuisance ordinances to include a domestic violence exception could better address public safety concerns, *see infra* note 230 and accompanying text.

C. *The Connection between Property Nuisance Ordinances and Domestic Violence*

Property nuisance ordinances are commonly used in most cities to address disruptive behavior on the premises, but most do not have a clear and documented exception for domestic violence victims.⁷⁴ Consequently, domestic violence incidents are encompassed within the broad scope of prohibited behavior targeted in a nuisance ordinance.⁷⁵ Therefore, when a victim of domestic violence contacts the police in a city with a nuisance ordinance that does not have a domestic violence exception, the victim risks having their 911 call count as a strike against them, moving them one step closer to eviction.⁷⁶ Eviction due to domestic violence incidents is a “leading cause of homelessness in major cities” because of problematic lease provisions prohibiting violent acts in a lease or noise complaints from neighboring tenants.⁷⁷ Victims of domestic violence often feel pressure to return to abusive partners to avoid homelessness.⁷⁸

In a study of fifty-nine U.S. municipalities’ property nuisance ordinances—including the twenty most populous cities nationwide and a range from major metropolises to small towns—only four took precautions to exclude domestic violence from the list of nuisance activities.⁷⁹ Thirty-nine ordinances included

74. See Fais, *supra* note 27, at 1187; see also *infra* note 79 and accompanying text (discussing a study of the number of property nuisance ordinances without a domestic violence exception).

75. See Fais, *supra* note 27, at 1192 (quoting supporters of nuisance ordinances, such as the Coaldale Chair of the Council Police Committee, and explaining that their “intent in supporting the chronic nuisance law was to target victims of domestic violence who refuse to ‘follow through’ with the prosecution of their partner”).

76. *Id.*; see *infra* Part III.

77. See Adams, *supra* note 52, at 1. A few reasons domestic violence victims commonly face homelessness could be “because of lease provisions that allow eviction due to a violent or criminal act occurring in their unit, or because of noise complaints from other tenants.” *Id.*; see also Kristen M. Ross, Note, *Eviction, Discrimination, and Domestic Violence: Unfair Housing Practices Against Domestic Violence Survivors*, 18 HASTINGS WOMEN’S L.J. 249, 251 (2007) (discussing how landlords may be reluctant to rent to domestic violence victims because the landlords could be held liable for breaching the covenant of quiet enjoyment if the abuser puts tenants at risk in the housing community).

78. See also SCOTT SMITH, KEVIN JOHNSON, STEPHANIE RAWLINGS-BLAKE, A.C. WHARTON, JR., HELENE SCHNEIDER & TOM COCHRAN, HUNGER & HOMELESSNESS SURVEY 56 (2013), <http://www.usmayors.org/pressreleases/uploads/2013/1210-report-HH.pdf> (citing domestic violence as a reason for homelessness amongst families and reporting that sixty percent of homeless adults in Asheville, North Carolina are domestic violence victims); cf. Meris Bergquist, *After the Violence: Using Fair Housing Laws to Keep Women and Children Safe at Home*, 34 VT. B.J. 46, 46 (2008) (“The lack of affordable housing . . . leads many victims of domestic violence and their children into homelessness if they try to leave their abusive relationships.”).

79. See Desmond & Valdez, *supra* note 8, at 3. The study examined a large range of city ordinances,

“assault, sexual abuse, battery, or domestic violence among their list of nuisance activities.”⁸⁰ Most defined a nuisance as a property that causes a specific amount of police calls within a certain time period, but some cities defined a nuisance in vague terms.⁸¹ This leads to uncertainty for domestic violence victims, who wonder how many times it is safe for them to call the police before being cited for nuisance activities.

These property nuisance ordinances have a disproportionate effect on certain races.⁸² In a large study of every nuisance citation in Milwaukee from 2008 to 2009, 503 properties were labeled as nuisances.⁸³ Out of the 503 total nuisances, “319 were located in black neighborhoods, compared to 18 in white neighborhoods, 14 in Hispanic neighborhoods, and 152 in mixed neighborhoods. Of the nuisance properties in mixed areas, 124 were in areas in which the proportion of black residents exceeded that of white or Hispanic residents.”⁸⁴ Of all the properties labeled nuisances, those in black neighborhoods were more likely to actually receive a citation compared to white and Hispanic neighborhoods.⁸⁵

In this study of Milwaukee nuisance citations, domestic violence was the third most common nuisance activity.⁸⁶ The most common response to address nuisance citations by property owners was eviction, even more commonly used than the strategies of communicating with tenants, working with the police, or evicting upon next nuisance.⁸⁷ One landlord explains why he chooses to evict his tenants:

Like I tell my tenants: You can't be calling the police because your boyfriend hit you again. They're not your big babysitter. It happened

and the results were very similar. *Id.* Only Chicago, Madison, Phillipsburg, and Village of East Rochester excluded domestic violence from nuisance acts. *Id.*

80. *Id.*

81. *See id.* at 2. Dallas's nuisance ordinance states, “Whenever a nuisance is found to exist within the city, the city manager has the right to order the owner to abate the nuisance.” *Id.* Columbus, Detroit, Phoenix, Philadelphia, and San Diego had similarly vague nuisance ordinances, giving the city housing authority more discretion to determine what constitutes a nuisance. *Id.*

82. *See infra* note 84 and accompanying text.

83. *See* Desmond & Valdez, *supra* note 34, at 122.

84. *Id.* at 125.

85. *Id.* In Hispanic neighborhoods, one in fifty-four properties received a nuisance citation. *Id.* For white neighborhoods, the ratio was one in forty-one, and for black neighborhoods, the ratio was one in sixteen. *Id.*

86. *Id.* at 130. The most common nuisance activity was the general category of “trouble with subjects,” and the second most common was noise violations. *Id.*

87. *Id.* at 131.

last week, and you threw him out. But then you let him back in, and it happens again and again. Either learn from the first experience or, you know, leave. Don't take him back and get hit because you tell him, I don't know, "I don't want to sleep with you."⁸⁸

Landlords have an interest in maintaining a peaceful property, but given the dangers that victims face when leaving an abusive relationship, it is imperative that eviction is not a deterrent for a victim to call 911 on the eve of or after an attack.⁸⁹ Out of the nuisance citations for domestic violence in 2008 in Milwaukee, 57% involved a landlord evicting the tenants in the residence where the domestic violence incident occurred.⁹⁰ These recorded incidents of domestic abuse took various forms, such as a woman having bleach thrown at her face, being hit over the head with a can, being choked, being beaten, or even covered in lighter fluid near a fire.⁹¹ Fourteen percent included weapons such as guns, box cutters, or knives.⁹² Calling the police for help after an attack should not cause a property to be labeled a nuisance. These victims should not be the ones punished for calling the police after experiencing abuse.

III. THE CURRENT STATE OF THE DOMESTIC VIOLENCE EXCEPTION

Recently, a few women have challenged their cities' property nuisance ordinances that did not contain an exception for victims of domestic violence.⁹³ Fortunately, the challenged cities have repealed the ordinances, added an exception, and settled the cases.⁹⁴ Unfortunately, that leaves no case precedent for future cases of women that face eviction from similar ordinances in their cities.⁹⁵ Outlined below are the facts of three incidents involving women that experienced abuse, called the police for help, and consequently faced eviction.⁹⁶ Each of these women at some point felt scared to call law enforcement because

88. *Id.*

89. *See supra* Part II.B.

90. Desmond & Valdez, *supra* note 34, at 133.

91. *Id.* Note that 44% of domestic violence incidents involved physical abuse. *Id.*

92. *Id.*

93. *See infra* Part III.A–B. *See generally* Briggs Complaint, *supra* note 1 (providing an example of domestic violence victim challenging nuisance ordinance that led to her eviction); Grape Complaint, *supra* note 6 (same).

94. *See infra* note 171 and accompanying text.

95. *See infra* note 231 and accompanying text.

96. *See infra* Part III.A–B.

they did not want to lose their housing.⁹⁷ Each of these women had to make the choice that no citizen should have to: call the police to report abuse and potentially lose their homes or remain silent and persecuted.⁹⁸ These three cases show how a small exception can have a huge impact on a citizen's life.

A. Challenging the Ordinance: The Pennsylvania Case Facts

Lakisha Briggs, a thirty-three-year-old African-American female, rented a home in Norristown, Pennsylvania on November 1, 2010, with her three-year-old daughter.⁹⁹ After three police calls to this residence responding to domestic violence incidents, the city initiated eviction proceedings against Briggs.¹⁰⁰ Briggs sued the Pennsylvania municipality, its administrator, and its Chief of Police for enforcing two ordinances authorizing the city to penalize landlords if law enforcement responded to incidents of disorderly behavior at a tenant's rental property.¹⁰¹

The first ordinance, section 245-3 of the Norristown Municipal Code, authorized the Defendants to “revoke or suspend a landlord’s rental license and forcibly remove a tenant from any property where the police have responded to three instances of . . . ‘disorderly behavior’ at the property within a four month period.”¹⁰² The ordinance listed examples of disorderly behavior activities, which included “[d]omestic disturbances that do not require that a mandatory arrest be made.”¹⁰³ The Chief of Police had the sole discretion to conclude if an activity amounted to disorderly behavior, and a “strike” was assigned to the landlord and tenant for every incident of disorderly behavior.¹⁰⁴ This ordinance

97. See *infra* Part III.A–B.

98. See *infra* Part III.A–B.

99. See Briggs Complaint, *supra* note 1, ¶¶ 27–30. Briggs was limited in the areas where she could afford to rent, but she was able to rent this home with a Section 8 voucher. *Id.* ¶ 46; see also Desmond & Valdez, *supra* note 34, at 139 (acknowledging the impact socioeconomic status has on a domestic violence victim’s housing opportunities and hypothesizing that “the only reason [nuisance property ordinances] are tolerated is because families struggling to make ends meet in the low-income housing market are simply too poor or too vulnerable to assert their obvious rights”).

100. See *infra* note 120 and accompanying text. The city also attempted to revoke the landlord’s rental license. See *infra* note 129 and accompanying text.

101. See Briggs Complaint, *supra* note 1, ¶¶ 31–37.

102. *Id.* ¶ 39.

103. *Id.* (noting that Pennsylvania does not have a mandatory arrest provision for domestic violence).

104. *Id.* The ordinance had an exception for calls asking for emergency assistance, but this exception only applied if the call was made by a tenant or tenant’s family member or guest and, therefore, calls from neighbors did not apply. *Id.* ¶ 40. An exception did not apply if the Norristown Police Department later decided disorderly behavior had occurred at the premises.

was enforced until November 2012.¹⁰⁵

On April 9, 2012, Briggs's boyfriend at the time, Wilbert Bennett, came to Briggs's house intoxicated and hit Briggs.¹⁰⁶ Briggs's twenty-one-year-old daughter called the police, who arrested Bennett but did not charge Bennett with a crime.¹⁰⁷ The police informed Briggs about the ordinance and warned her that this was her first strike.¹⁰⁸ Briggs was not given paperwork explaining the ordinance.¹⁰⁹ Then, on April 15, 2012, the police responded to another incident of violence involving Bennett at Briggs's home.¹¹⁰ The police did not inform Briggs of a strike from this incident, but later Sudman, Briggs's landlord, received a notice of the second strike.¹¹¹ After this incident, Briggs ended her relationship with Bennett and informed him that he could not go to her home any longer.¹¹²

Around May 2, 2012, Briggs came home from work and ran into Bennett near her home.¹¹³ Bennett had been drinking and chased Briggs with a brick and attacked her at her home.¹¹⁴ Then, an unidentified person alerted the police.¹¹⁵ Bennett hid inside Briggs's home while Briggs stayed on the porch and told the police there was no one inside because she feared a third strike.¹¹⁶ The police entered her home, arrested Bennett, and cited Briggs and Bennett for disorderly conduct.¹¹⁷

Norristown "then initiated license-revocation proceedings against Mr.

105. *See id.* ¶ 39. The Defendants enforced the ordinance against Briggs between April and September 2012. *Id.* ¶ 8.

106. *Id.* ¶¶ 51–52.

107. *Id.* ¶¶ 53–54.

108. *Id.* ¶ 55. After arresting Bennett and informing Briggs about the ordinance, a police officer told Briggs, "You are on three strikes. We're gonna have your landlord evict you." *Id.* ¶ 56.

109. *Id.* After this incident, Briggs talked with her family and Bennett about the ordinance and told them she needed to keep this rental house for her daughter. *Id.* ¶ 57.

110. *Id.* ¶ 58. Briggs's family and Bennett went to Briggs's home for a barbeque. *Id.* The boyfriend of Briggs's older daughter and Bennett began to fight, and a neighbor called the police. *Id.* ¶¶ 59–61. Briggs's family was afraid to call the police and wanted to avoid a strike. *Id.* ¶ 60. The police arrested Bennett and the daughter's boyfriend. *Id.* ¶ 62.

111. *Id.* ¶¶ 63–64. Briggs then filed a "Right to Know" Request and talked with a detective of the Norristown Police Department about the strike. *Id.* ¶ 65.

112. *Id.* ¶ 66. Briggs was afraid of losing housing for her daughter. *Id.* ¶ 67. *But cf. LAPD on Domestic Violence, supra* note 47 (citing reasons victims stay with the abusers).

113. *See* Briggs Complaint, *supra* note 1, ¶ 68.

114. *Id.* ¶ 69.

115. *Id.* ¶ 70.

116. *Id.* ¶¶ 71–72. Briggs was wearing only her bra because Bennett had torn her shirt off, and therefore, Briggs noticeably appeared attacked when the police arrived. *Id.* ¶ 72.

117. *Id.* ¶ 74.

Sudman, Ms. Briggs’[s] landlord.”¹¹⁸ Sudman attested that “it would be a significant loss for him to lose Ms. Briggs as a tenant and . . . an even greater loss for Ms. Briggs to lose her home because she had a three year old child to care for.”¹¹⁹ Norristown officials put Sudman’s property on a probationary period and explained that if any more violations occurred in the thirty-day period, Sudman’s rental license would be suspended or revoked.¹²⁰

Bennett was incarcerated following the May 2 incident, but after he was released in June, Bennett went to Briggs’s house with the intention of getting back together.¹²¹ He told Briggs, “You are going to be with me or you are going to be with no one.”¹²² After Briggs told Bennett that she did not wish to be in a relationship with him, Bennett refused to leave.¹²³ Briggs knew “she could not by herself physically force him to leave and knew that she could not call on the police to remove him without violating the probationary period and facing eviction.”¹²⁴ Therefore, Briggs did not call for help, and Briggs remained subjected to a dangerous abuser who soon instigated another fight.¹²⁵ This time, Bennett “broke a glass ashtray against the right side of her head, knocking her down and leaving a two-inch gash.”¹²⁶ Bennett then took one of the glass shards and stabbed Briggs in the neck, causing her to lose consciousness from blood loss.¹²⁷ A neighbor called the police, and a trauma helicopter took Briggs to the hospital for emergency care.¹²⁸

Three days later, the Norristown Municipal Administrator told Sudman that Briggs must vacate his property in ten days and the city revoked Sudman’s rental license.¹²⁹ Briggs’s counsel intervened, and the Defendants agreed to

118. *Id.* ¶ 75. On May 23, 2012, Briggs attended a meeting with Sudman and Norristown officials regarding if Sudman’s license should be suspended and if Briggs should be evicted. *Id.* ¶ 76.

119. *Id.* ¶ 82. Briggs’s landlord Darren Sudman reported Briggs was a “good tenant who paid her rent in a timely manner.” *Id.* ¶ 81.

120. *Id.* ¶¶ 84–85. Briggs’s willingness to communicate with law enforcement was restricted by her fear of violating the probationary period. *Id.* ¶ 86; *cf.* Barbeau, *supra* note 40 (explaining reasons domestic violence victims are hesitant to report incidents to the police).

121. *See* Briggs Complaint, *supra* note 1, ¶¶ 87–89.

122. *Id.* ¶ 89.

123. *Id.* ¶ 90.

124. *Id.* ¶ 91. Briggs admitted feeling intimidated and was worried that Bennett would harm her daughter if she kicked him out. *Id.* ¶ 92.

125. *Id.* ¶¶ 95–96. On June 23, 2012, Bennett accused Briggs of flirting with another man and bit her lip. *Id.*

126. *Id.* ¶ 97.

127. *Id.* ¶¶ 98–99.

128. *Id.* ¶¶ 100–01. Briggs did not call the police during this incident. *Id.*

129. *Id.* ¶ 104. Briggs had just been in the hospital after being stabbed in the neck and she could not

repeal the ordinance and cease enforcing it against Briggs.¹³⁰ On November 7, 2012, the Defendants repealed the ordinance.¹³¹ Within two weeks in December 2012, the Defendants enacted a new ordinance, Ordinance No. 12-15, permitting the Defendants to “assess a series of daily, escalating criminal fines against landlords of any property where the police have responded to three instances of what the Chief of Police—in his sole discretion—considers ‘disorderly behavior’ at the property within a four month period.”¹³² This ordinance still gave the Chief of Police discretion to decide what constitutes disorderly behavior and still included domestic disturbances as disorderly behavior.¹³³ The two ordinances both imposed consequences for police responses to disorderly behavior, but the first ordinance imposed a suspension or revocation of a landlord’s rental license, and the second ordinance imposed fines on the landlord but not on the tenant.¹³⁴ The second ordinance “strongly encouraged” landlords to include in their lease agreements with tenants that “it is a breach of the lease for a tenant to be convicted for disorderly behavior.”¹³⁵ Briggs sued seeking damages for injuries and an injunction to prevent the Defendants from enforcing the ordinance.¹³⁶ Norristown has now repealed both ordinances and Briggs’s case settled on September 8, 2014.¹³⁷

afford to go somewhere else. *Id.* ¶ 105. At an eviction hearing on August 22, 2012, Justice Hunsicker ruled that if Briggs paid rent and court filing fees, she could still live at her home. *Id.* ¶ 111. Briggs paid timely; however, on August 27, 2012, Defendant Forrest, the Norristown Municipal Administrator that had the responsibility of determining when to revoke rental licenses, emailed Sudman to “strongly recommend” Sudman to “encourage Ms. Briggs to vacate the property voluntarily” since Norristown still had the right to revoke the landlord’s license. *Id.* ¶¶ 112–15. Sudman told the judge that he was only bringing the eviction action “because he was required to do so by the borough.” *Id.* ¶ 108.

130. *Id.* ¶ 120. On September 10, 2012, Briggs’s counsel wrote a letter demanding the city cease enforcement of the ordinance. *Id.* ¶¶ 116–17. Briggs’s counsel met with the Defendants on September 19, 2012, and following the meeting, the Defendants agreed to cease enforcement of the ordinance and stop eviction proceedings against Briggs and Sudman. *Id.* ¶¶ 118–20.

131. *Id.* ¶ 123. The Defendants conceded, in repealing the ordinance, that the ordinance deprived tenants’ property rights “without due process in violation of the 5th and 14th Amendments to the U.S. Constitution” and a repeal was “in the best interests of protecting the rights of the residents of Norristown.” *Id.* ¶ 124.

132. *Id.* ¶ 129.

133. *Id.* The ordinance broadly defined what constitutes disorderly behavior. *Id.* ¶ 132.

134. *Id.* ¶ 131. Although the second ordinance seems to target landlords instead of tenants, the tenants would be adversely affected since the landlords will take action if they are fined. *Id.*

135. *Id.* ¶ 133. Although the language of the new ordinance does not directly target tenants, fining the landlords and encouraging landlords to change lease agreements would shift responsibility to tenants for disorderly behavior, even from domestic violence incidents. *Id.*

136. *Id.* ¶ 18.

137. *Briggs v. Borough of Norristown et al.*, ACLU, <https://www.aclu.org/womens-rights/briggs-v-borough-norristown-et-al> (last updated Sept. 18, 2014). Norristown will pay Briggs \$495,000 in

B. Other Contemporary Cases Regarding the Lack of A Domestic Violence Exception

In *Grape v. Town/Village of East Rochester, New York*,¹³⁸ two women with disabilities, Laurie Grape and Darla Wilce, challenged the Village of East Rochester's nuisance law requiring a landlord to evict any household where there had been three police calls in a one-year period, including incidents of domestic violence.¹³⁹ The law stated that the Village would revoke the landlord's leasing permit if the landlord failed to evict the household.¹⁴⁰ The Village of East Rochester's nuisance law did not distinguish between calls made by a victim or abuser, nor did it have any exception for an individual, such as Plaintiff Grape, who was "seeking to enforce the court ordered provisions of an Order of Protection."¹⁴¹

Grape and her daughters lived in Martin Adwin's building since August 2005.¹⁴² Adwin considered Grape to be "a desirable tenant" and did not want to evict her and her daughters.¹⁴³ In November 2006, Grape's boyfriend Mike Baker physically assaulted Grape.¹⁴⁴ Grape told Baker before Thanksgiving of that year that she no longer wanted to be in a relationship with him.¹⁴⁵ When Baker came uninvited to retrieve his possessions in Grape's home, Baker threw Grape to the ground and strangled her neck with his hands, leaving visible bruises.¹⁴⁶ Grape's daughter called the police for emergency assistance, but the police did not arrest Baker or remove him from Grape's home.¹⁴⁷

Later that same evening, Baker "punched Mrs. Grape in the face causing

compensation and fees. *Id.*

138. Grape Complaint, *supra* note 6.

139. *See id.* at 1. Plaintiff Laurie Grape was a thirty-year-old woman with Multiple Sclerosis who lived with her two daughters, Nicole (age thirteen) and Amber (age ten). *Id.* ¶ 4. Plaintiff Darla Wilce was a forty-four-year-old woman with a visual impairment. *Id.* ¶¶ 76–77.

140. *Id.* at 1. Plaintiffs sued East Rochester's mayor, David Bonacchi, the building inspector, Lawrence Pierce, and the Chief of Police, David Pugliese. *Id.* ¶¶ 7–11.

141. *Id.* at 1–2.

142. *Id.* ¶¶ 18–19.

143. *Id.* ¶¶ 20–23. Adwin stated to be "satisfied that Laurie Grape has met all of her obligations under her lease with him." *Id.* Adwin has told Grape "he wished all of his tenants could be like her." *Id.* ¶ 21.

144. *Id.* ¶ 28.

145. *Id.* ¶¶ 26–29; *cf. Myths & Facts About Domestic Violence*, DOMESTIC VIOLENCE INTERVENTION PROGRAM, <http://www.dvpiowa.org/myths-facts-about-domestic-violence/> (last visited Feb. 23, 2016) (explaining why the point when a victim leaves the relationship is a dangerous time period because victims are "[seventy] times more likely to be killed in the two weeks after leaving than at any other time during the relationship").

146. *See Grape Complaint, supra* note 6, ¶¶ 30–31.

147. *Id.* ¶¶ 31–34. Grape also injured her wrist during the incident. *Id.*

bruises and pain, and tore her ear.”¹⁴⁸ Grape called the police, and was told upon their arrival that if Grape pressed criminal charges against Baker, Grape too would be criminally charged and risked losing her children to foster care.¹⁴⁹ The officers told Grape in the presence of Baker and her minor children that this was her second call, and a third police call would result in eviction.¹⁵⁰ Grape “felt intimidated and afraid,” and Baker continued to harass Grape with “threatening and obscene telephone calls” and text messages, but Grape did not call the police out of fear of losing her children.¹⁵¹

After Grape’s landlord received a letter that said another police call could lead to a revocation of the rental premises, Grape feared she would be evicted if she called for police protection and was “shocked, dismayed, and immediately and intensely fearful for her safety.”¹⁵² Up until the time Grape filed a complaint, Baker continued to stalk her, monitor when she left the house, call her throughout the night, and threaten to call the police if Grape did not let him inside of her home.¹⁵³ Grape’s fear of losing her housing and fear for her safety caused her significant stress, leading to two flare ups of her Multiple Sclerosis since December 2006.¹⁵⁴ The Village of East Rochester settled the case with Grape and paid her attorneys’ fees.¹⁵⁵

In this same case, Plaintiff Wilce also sued the Village of East Rochester.¹⁵⁶ Wilce was married to Stephen Scalise, who, during the course of their marriage, punched Wilce in the face, “push[ed] her down a flight of stairs, physically

148. *Id.* ¶ 37.

149. *Id.* ¶ 41.

150. *Id.* ¶ 42.

151. *Id.* ¶¶ 43–47.

152. *Id.* ¶¶ 48, 53–54. On January 5, 2007, Defendant Pierce, the building inspector of East Rochester, sent a letter to Grape’s landlord, Adwin, to inform him that the police had notified Pierce of two incidents at Grape’s residence and a third could lead to the consequences of a revocation of the rental permit for the premises. *Id.* ¶ 48. Pierce did not send this letter to Grape, but Adwin mailed a copy to her. *Id.* ¶ 49. The Defendants did not tell Grape of any municipal procedure that could inform her of the specific potential consequences against her. *Id.* ¶ 50. Grape called Defendant Pierce to ask if she could prevent this ordinance from being enforced against her and was told there was nothing that he could do. *Id.* ¶¶ 57–60.

153. *Id.* ¶¶ 65–67. Grape believed she was on her own and unprotected from Baker without any remedies for her injuries. *Id.* ¶ 63. Because Grape was not married to Baker, she is barred from using New York’s Family Court and would have to file criminal charges against him. *Id.* ¶ 64.

154. *Id.* ¶ 73. Studies have identified stress as a potential trigger for a Multiple Sclerosis flare-up. Jeri Burtchell, *Study Shows that Stress Can Lead to MS Flare-Ups*, HEALTHLINE NEWS (Dec. 18, 2013), <http://www.healthline.com/health-news/ms-stress-could-predict-ms-disease-activity-121813>.

155. Stipulation of Discontinuance of Action on the Merits and with Prejudice, *Grape v. Town/Vill. of E. Rochester*, No. 07-CV-6075CJS(F) (W.D.N.Y. Mar. 26, 2014).

156. *See Grape Complaint*, *supra* note 6, ¶ 5.

dragg[ed] her up a flight of stairs by her hair, and attempt[ed] to rape her in front of their two sons.”¹⁵⁷ After an argument with Scalise where Wilce called the police for assistance, Wilce’s landlord Fiorvanti received a letter threatening to revoke his rental permit, and Fiorvanti asked Wilce not to call the police because he could not afford to have his license revoked.¹⁵⁸ Even though Wilce had a Family Court Order of Protection against Scalise, Scalise came to Wilce’s home, and when the police arrived, Scalise taunted, “That’s one! Two more times, Darla, and you’re out!”¹⁵⁹ Wilce felt scared to call the police for help and did not feel safe in East Rochester, and consequently, she joined the suit against the Village of East Rochester.¹⁶⁰ Again, the Village of East Rochester settled this case.¹⁶¹ Following this lawsuit by Grape and Wilce, the Village of East Rochester expressly excluded domestic violence from its list of activities that can be legally characterized as a nuisance, and as of 2013, the Village of East Rochester is one of four cities out of a study of fifty-nine that has a domestic violence exception to its nuisance ordinance.¹⁶²

C. *Common Themes of Nuisance Cases with Domestic Violence Victims*

Briggs, Grape, and Wilce are all victims who were forced to handle the fear of eviction and the fear of abuse at the same time.¹⁶³ These women and other domestic violence victims are not responsible for preventing violence against them.¹⁶⁴ Disincentivizing domestic violence victims from calling the police prevents the reporting of violent acts while also allowing the abuser to continue the violence.¹⁶⁵ In addition, domestic violence is “one of the leading causes of

157. *Id.* ¶ 80. Scalise did not only use physical violence against his wife, but was also financially abusive and criticized Wilce with derogatory names. *Id.* During another incident of violence on July 1, 2002, Wilce and her sons moved out of the home they shared with Scalise and into their own apartment, where Scalise later kicked in the door and screamed at the family. *Id.* ¶¶ 83–84. Scalise and Wilce finalized divorce proceedings on March 4, 2003. *Id.* ¶ 86. Scalise began to harass Wilce with phone calls about the custody of their sons, and consequently, Wilce obtained an Order of Protection against Scalise from January 15, 2003, to January 15, 2004. *Id.* ¶¶ 87–88.

158. *Id.* ¶¶ 89–91.

159. *Id.* ¶ 96.

160. *Id.* ¶¶ 110–12. This move caused Wilce to lose custody of her sons because of the distance from her new home to their school district. *Id.*

161. *See supra* note 155 and accompanying text.

162. *See* Desmond & Valdez, *supra* note 8, at 3. The other cities with exceptions are Chicago, Illinois; Madison, Wisconsin; and Phillipsburg, New Jersey. *Id.*

163. *See supra* Part III.A–B.

164. *See* Briggs Complaint, *supra* note 1, ¶ 136.

165. *Id.*

homelessness for women and children.”¹⁶⁶ Even Briggs’s hometown “Norristown itself reported to the federal Department of Housing and Urban Development in 2012 that 20% of its homeless population are domestic violence victims.”¹⁶⁷ These victims already face a higher rate of homelessness and should not have to also worry about being evicted for calling the government for help. The American Civil Liberties Union reported that “46% of homeless women said that they had previously stayed in abusive relationships because they had nowhere else to go.”¹⁶⁸ Furthermore, Congress has recognized that domestic violence victims need certain protections so that the victims are not discriminated against when seeking housing.¹⁶⁹ Thus, the increased housing pressures faced by domestic violence victims have been both proven statistically and recognized by Congress.¹⁷⁰ Consequently, the government should respond to this pressure to protect the safety of all citizens inside of the home.

IV. UNDERSTANDING THE PENNSYLVANIA CASE: WHAT ARE THE LEGAL CHALLENGES TO THE NUISANCE ORDINANCE?

The above cases have settled, and each city has repealed its respective challenged nuisance ordinance; however, many cities continue to have nuisance ordinances without an exception for domestic violence victims.¹⁷¹ These ordinances pose both constitutional and statutory legal issues.¹⁷² The

166. LINDA OLSEN, CHIQUITA ROLLINS & KRIS BILLHARDT, *THE INTERSECTION OF DOMESTIC VIOLENCE AND HOMELESSNESS* 7 (2013), <http://wscadv.org/wp-content/uploads/2015/05/IntersectionPaperDVHF.pdf>.

167. See Briggs Complaint, *supra* note 1, ¶¶ 43–44.

168. *Domestic Violence and Homelessness*, NAT’L COALITION FOR HOMELESS (Aug. 2007), <http://www.nationalhomeless.org/publications/facts/domestic.pdf>.

169. 42 U.S.C. § 14043e (2012).

170. See *supra* notes 166–69 and accompanying text.

171. See *supra* note 79 and accompanying text.

172. Although the ordinances potentially pose several constitutional violations, I will focus primarily on the right to petition and substantive due process. Other possible constitutional challenges to nuisance ordinances without a domestic violence exception that a domestic violence victim could bring are equal protection claims and procedural due process claims. See generally Briggs Complaint, *supra* note 1.

The Fourteenth Amendment to the United States Constitution prohibits the government from denying any citizen of equal protection of the law. U.S. CONST. amend. XIV, § 1. An equal protection argument challenging a city’s nuisance ordinance that listed domestic disturbances as a nuisance activity would assert that the ordinance “provided less protection to victims of domestic violence than to other victims of violence, because ‘domestic disturbances’ were specifically targeted as ‘disorderly behavior’ that can result in the eviction of the victim.” See Briggs Complaint, *supra* note 1, ¶ 196.

Then, the victim would have to argue that the ordinance intentionally discriminated against

constitutional challenges to nuisance ordinances without an exception for domestic violence victims explored below are the First Amendment right to petition the government and a substantive due process challenge.¹⁷³ The statutory challenge to the ordinances discussed is the Fair Housing Act¹⁷⁴ with a small discussion of the Violence Against Women Act.¹⁷⁵

A. *The Right to Petition the Government*

According to the First Amendment to the United States Constitution, “Congress shall make no law . . . abridging the . . . right of the people

female tenants. See 28 AM. JUR. PROOF OF FACTS 3d *Proof of Equal Protection Violation by Municipal Police Department in Failing to Protect Victims of Domestic Violence* §§ 12, 20, Westlaw (database updated Feb. 2016) (asserting that equal protection of laws “does not mean that the state may not treat one class of individuals differently from others,” but rather that the state cannot intentionally discriminate against a class of individuals). Unlike a substantive due process claim, the plaintiff asserting an Equal Protection claim must show evidence of discriminatory intent by the city. *Id.* § 14. This could be a difficult argument, but one possible way would be to assert that the ordinances are “premised on the gender stereotype that domestic violence victims should be held responsible for the conduct of their abusers, which federal courts have routinely held supports a finding of intentional discrimination.” Response in Opposition at 54, *Briggs v. Borough of Norristown*, No. 2:13-cv-02191 (E.D. Pa. Apr. 29, 2013) [hereinafter *Briggs Response*].

Courts have recognized the ability of domestic violence victims to bring equal protection claims against the city for the city’s treatment of domestic violence victims. See *Estate of Macias v. Ihde*, 219 F.3d 1018, 1028 (9th Cir. 2000) (“There is a constitutional right, however, to have police services administered in a nondiscriminatory manner—a right that is violated when a state actor denies such protection to disfavored persons.”); *Balistreri v. Pacifica Police Dep’t*, 901 F.2d 696, 701–02 (9th Cir. 1988) (holding district court abused its discretion by dismissing equal protection claim alleging police ignored complaints of domestic violence victim); *Smith v. City of Elyria*, 857 F. Supp. 1203, 1212 (N.D. Ohio 1994) (finding genuine issue of material fact regarding discriminatory intent by sex discrimination when police treated domestic violence complaints differently than other complaints).

173. See *infra* Part IV.A–B. A procedural due process challenge is also plausible. According to the Fourteenth Amendment, no state shall “deprive any person of life, liberty, or property, without due process of law.” U.S. CONST. amend. XIV, § 1. A procedural due process challenge to nuisance ordinances without a domestic violence exception could be that the ordinances attempt to evict victims, denying them of a property interest, without affording them adequate procedural protections. See *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (holding that “some form of hearing is required before an individual is finally deprived of a property interest”). For example, if the ordinance does not require the city to give any notice of nuisance violations to the tenant, “nor gives the tenant an opportunity to contest the Chief of Police’s discretionary decision to characterize an incident as ‘disorderly behavior’ or the borough’s decision to enforce the Ordinance against the landlord,” then the ordinance may be challenged on procedural due process grounds. See *Dusenbery v. United States*, 534 U.S. 161, 167 (2002) (holding that when a citizen’s property interests are at risk, the citizen is entitled to “notice and an opportunity to be heard” (quoting *United States v. James Daniel Good Real Prop.*, 510 U.S. 43, 48 (1993))); *Briggs Complaint*, *supra* note 1, ¶ 179.

174. See *infra* Part IV.C.

175. See *infra* note 213.

peaceably to assemble, and to petition the Government for a redress of grievances.”¹⁷⁶ The First Amendment right to petition defends an individual’s ability to seek protection from harm.¹⁷⁷ This right “protects individuals seeking access to the courts and access to the aid of law enforcement officers.”¹⁷⁸ The right to petition guarantees the right to request emergency services or report a crime, not to receive a particular response by the providers of such services.¹⁷⁹ The Supreme Court has even described this right as “essential to freedom.”¹⁸⁰

Various courts have addressed the right to petition.¹⁸¹ The Fourth Circuit “held that the right to petition included defendants’ activities of reporting suspicious or illegal activity to law enforcement officials.”¹⁸² The Fourth Circuit recognizes that anything that would produce a chilling effect on information flow to the police would cause law enforcement to be “handicapped in protecting the public.”¹⁸³ Furthermore, the Ninth Circuit reasons the right to petition is integral to protecting a “free flow of information

176. U.S. CONST. amend. I (emphasis added). See generally Stephen A. Higginson, *A Short History of the Right to Petition Government for the Redress of Grievances*, 96 YALE L.J. 142 (1986) (discussing the history of the Petition Clause and different interpretations of it).

177. Tamara L. Kuennen, *Recognizing the Right to Petition for Victims of Domestic Violence*, 81 FORDHAM L. REV. 837, 844 (2012). As Kuennen notes, a victim calling the police for assistance is “invok[ing] her right to petition the government for one of the most fundamental services it can provide: protection from bodily harm.” *Id.*

178. See Fais, *supra* note 27, at 1220; see also *Cal. Motor Trans. Co. v. Trucking Unlimited*, 404 U.S. 508, 510 (1972) (recognizing that the right to petition “extends to all departments of the Government”).

179. Briggs Response, *supra* note 172, at 21.

180. See *Borough of Duryea v. Guarnieri*, 131 S. Ct. 2488, 2491 (2011) (discussing the scope of the protection the Petition Clause gives to public employees in disputes with the government). Additionally, the Supreme Court further defended the right to petition when the Court “reaffirmed that petitioning activity aimed at executive branches of the government (as opposed to the legislative focus of *Noerr*) is protected by the First Amendment.” See Fais, *supra* note 27, at 1220 (citing *United Mine Workers of Am. v. Pennington*, 381 U.S. 657 (1965)). The *Noerr–Pennington* doctrine was established by two cases that hold petitioning the government with efforts to influence certain legislators is a protected activity that does not violate antitrust laws if the petition could be characterized as “mere attempts to influence the passage or enforcement of laws,” even if the petitioning activity had an anticompetitive purpose. See Fais, *supra* note 27, at 1219–20 (citing *E. R.R. Presidents Conference v. Noerr Motor Freight Co.*, 365 U.S. 127, 129 (1961)).

181. See *infra* notes 182–85 and accompanying text.

182. See Fais, *supra* note 27, at 1221; see also *Ottensmeyer v. Chesapeake & Potomac Tel. Co. of Md.*, 756 F.2d 986, 993 (4th Cir. 1985) (discussing the importance of “preserving an individual’s first amendment right to petition government officials and encouraging the free flow of ideas to political bodies in order to ensure intelligent decisionmaking”). The Supreme Court also recognized the right to petition in *NAACP v. Claiborne Hardware Co.*, 458 U.S. 886, 907 (1982), and ruled that a boycott by black residents of white merchants to expose racial inequality was protected by the First Amendment. See Fais, *supra* note 27, at 1220 n.221.

183. *Ottensmeyer*, 756 F.2d at 994 (describing this chilling effect as if it “hovered ominously overhead”).

to the police.”¹⁸⁴ The Ninth Circuit concluded that to have an effective police force, residents cannot be scared to provide information to the police, and monetary fines could have a “chilling effect” on a citizen’s desire to further report crime.¹⁸⁵

Property nuisance ordinances that do not contain an exception for domestic violence victims restrict a victim’s right to petition the government by threatening eviction or fines to residents that petition the police.¹⁸⁶ This fear of eviction or fees creates a substantial barrier for victims deciding to call, and as a result, there is a concrete chilling effect on a victim’s decision to call the police.¹⁸⁷ These ordinances increase the severity of injuries because chilling a victim’s right to petition both deprives the victim’s ability to request emergency health services and prevents the reporting of crimes to deter future abuse.¹⁸⁸ In addition, the most dangerous time for a victim is when the victim decides to leave the relationship, and therefore, this is a time when the victim is in great need of police accessibility.¹⁸⁹

In the Pennsylvania case, the fear of eviction caused a concrete, tangible chilling effect on Briggs’s communication with the police to report abuse.¹⁹⁰ As a result, Briggs did not call to report her attacker, even after he stabbed her in the neck!¹⁹¹ As a United States citizen, Briggs “may call the police for help when she needs it. And yet, when a victim calls the police she not only seeks law enforcement assistance, but also invokes her constitutional right to seek one of the most fundamental services the government can provide—protection

184. *Forro Precision, Inc. v. Int’l Bus. Machs. Corp.*, 673 F.2d 1045, 1060 (9th Cir. 1982) (holding the right to petition includes access to police aid).

185. *See Fais*, *supra* note 27, at 1221.

186. *See Briggs Complaint*, *supra* note 1, ¶ 158. Some may argue that giving consequences to residents that contact the police does not fully take away the right to petition, but the First Amendment prohibits the government from abridging a resident’s right to petition, and simply diminishing a resident’s right to communicate with the police would abridge this right. *See Fais*, *supra* note 27, at 1222.

187. *See Briggs Complaint*, *supra* note 1, ¶¶ 159–60. This fear can be exacerbated for mothers who must provide housing to their children. *See Kuennen*, *supra* note 177, at 857.

188. *See Briggs Complaint*, *supra* note 1, ¶ 161. Reporting the crime prevents future abuse by confronting the abuser before the next incident can occur. *See Janet Reno et al., Breaking the Cycle of Violence: Recommendations to Improve the Criminal Justice Response to Child Victims and Witnesses*, OFF. FOR VICTIMS CRIME (June 1999), <http://www.ovc.gov/publications/factshts/monograph.htm>.

189. *See supra* note 44 and accompanying text. For example, if the domestic violence victim decides to leave the relationship after two incidents of abuse, the victim is in danger of a retaliatory attack, and this attack would be the third strike against them if the victim contacted the police.

190. *Briggs Response*, *supra* note 172, at 22.

191. *Id.* at 10.

from harm.”¹⁹² A citizen’s First Amendment right is chilled when “an official’s acts would chill or silence a person of ordinary firmness from future First Amendment activities.”¹⁹³ Briggs’s fear of contacting the police is one that a reasonable person in the circumstances would have when trying to avoid eviction.¹⁹⁴ After the third incident of abuse, Briggs did face eviction, which raises constitutional questions because “[i]f a battered woman is evicted after the housing authority learns of the abuse as a result of police activity or an order of protection, she is essentially being punished for exercising her right to petition the government.”¹⁹⁵

If a law does infringe on the First Amendment, there must be a compelling interest and the government must take the least restrictive means to further that interest.¹⁹⁶ It is true that the government has an interest in conserving its limited time and resources to respond to calls; however, property nuisance ordinances without a domestic violence exception are not the least restrictive means to further that interest because an exception would not substantially

192. See Kuennen, *supra* note 177, at 839. In *Simmons v. City of Rochester*, Plaintiff Javonta Simmons asserted claims of her right to petition the government. Complaint at 2, *Simmons v. City of Rochester*, No. 6:12-cv-06705 (W.D.N.Y. Dec. 27, 2012). The City of Rochester threatened Simmons with eviction if she were to call the police again for protection for her and her children from their abuser. *Id.* at 5–6. The City of Rochester relied upon a local law that authorized the revocation of a leasing permit if a certain number of violations was accumulated on the property, making “no distinction for calls made by a person who is the target or victim of the criminal behavior.” *Id.* at 2. Although the case settled, the complaint is available and outlines the Plaintiff’s arguments against the city, including that “[b]y depriving the Plaintiff of her right to request the assistance of any police agency in order to protect [herself] and [her] children from harm or potential harm related to incidents of domestic violence,” the government infringed upon Simmons’s right to petition the government. *Id.* at 8. The Simmons complaint argued that the local law was overbroad and, thus, had the consequence of deterring Simmons from exercising her right to petition to law enforcement for protection for both herself and her children. *Id.*

193. *Mendocino Env’tl. Ctr. v. Mendocino Cty.*, 192 F.3d 1283, 1300 (9th Cir. 1999) (quoting *Crawford-El v. Britton*, 93 F.3d 813, 826 (D.C. Cir. 1996)).

194. See *White v. Lee*, 227 F.3d 1214, 1241 (9th Cir. 2000) (finding that, when Housing and Urban Development officials conducted a lengthy investigation and media campaign against individuals who opposed a housing project, the government’s informal actions “would have chilled or silenced a person of ordinary firmness” so that the individual did not engage in First Amendment acts in the future).

195. See Lenora M. Lapidus, *Doubly Victimized: Housing Discrimination Against Victims of Domestic Violence*, 11 AM. U. J. GENDER SOC. POL’Y & L. 377, 383 (2003). Oftentimes police report mothers who are victims of domestic violence to Child Protective Services, and consequently, “a significant number of victims choose not to call the police for help, for fear of having their children taken away.” See Kuennen, *supra* note 177, at 841.

196. See Briggs Complaint, *supra* note 1, ¶ 161. See generally *United States v. Playboy Entm’t Grp., Inc.*, 529 U.S. 803, 816 (2000) (discussing the government’s obligation to show that an alternative approach would be ineffective when infringing on an individual’s First Amendment rights).

impede the government's ability to respond to calls.¹⁹⁷ In fact, an exception would arguably protect the public good by promoting victims' safety and allowing them access to emergency services and the freedom to report their abusers, which would help stop future abuse and incentivize reporting of violent crimes.¹⁹⁸

B. Substantive Due Process: Ensuring Life, Liberty, AND Property

According to the Fourteenth Amendment to the U.S. Constitution, no state shall deprive a person of "life, liberty, or property, without due process of law"¹⁹⁹ Under the Fourteenth Amendment, the government does not have a duty to protect citizens from violence committed by private parties.²⁰⁰ Nevertheless, if the state itself created the danger, then the state can be liable for a substantive due process violation.²⁰¹ To meet this requirement, the state must have affirmatively acted to create the danger.²⁰² Some courts also require that the government action shock the conscience for a valid substantive due process claim.²⁰³

197. For a discussion regarding the purpose of nuisance ordinances, see *supra* note 31 and accompanying text.

198. See *infra* note 230 and accompanying text.

199. U.S. CONST. amend. XIV, § 1.

200. Erwin Chemerinsky, *The State-Created Danger Doctrine*, 23 *TOURO L. REV.* 1, 1 (2007). In *DeShaney v. Winnebago County Department of Social Services*, 489 U.S. 189, 191–92 (1989), a father abused his four-year-old son, Joshua, to the point where the son suffered irreversible brain damage. The boy's guardian sued the government on due process grounds because the Department of Social Services failed to respond to child abuse complaints over a two-year period. *Id.* 193–94. The Court found "there was no duty on the part of the government to protect Joshua from his father" unless a special relationship existed between the state and the specific individual. See Chemerinsky, *supra*, at 3.

201. See Milena Shtelmakher, Note and Comment, *Police Misconduct and Liability: Applying the State-Created Danger Doctrine to Hold Police Officers Accountable for Responding Inadequately to Domestic-Violence Situations*, 43 *LOY. L.A. L. REV.* 1533, 1540 (2010).

The Tenth, Sixth, and Third Circuits have created factor tests that allow domestic violence victims to assert due process claims, taking into account "whether the harm suffered by the victim was foreseeable and fairly direct, whether defendant's conduct put the victim at substantial risk of serious, immediate and proximate harm, and whether the police officer took affirmative action to increase the danger to the victim." See Atinuke O. Awoyomi, Note, *The State-Created Danger in Domestic Violence Cases: Do We Have a Solution in Okin v. Vill. of Cornwall-on-Hudson Police Department?*, 20 *COLUM. J. GENDER & L.* 1, 3–4 (2011).

202. Lisa Snead, *Domestic Violence Litigation in the Wake of Deshaney and Castle Rock*, 18 *TEX. J. WOMEN & L.* 305, 312 (2009). The Supreme Court held "standing by and doing nothing is not enough to hold a state accountable" since "knowledge and negligent inaction are not the same as culpable action." Lela Gray, Comment, *Municipal Accountability in Domestic Violence: A Promising New Case*, 4 *ALB. GOV'T L. REV.* 362, 366 (2011).

203. See Snead, *supra* note 202, at 311. Recently, the Second Circuit ruled that it does not require all

A domestic violence victim making a substantive due process claim against property nuisance ordinances without a domestic violence exception could assert that state action is involved because the municipality has created and enforced these ordinances that grant strikes for police calls.²⁰⁴ Then, when an individual is challenging a law on substantive due process grounds, the court must decide the correct level of scrutiny to apply to determine if the challenged law is adequately related to the government interest.²⁰⁵ The Supreme Court has not yet decided whether the right to remain in one's home is a fundamental right, important liberty interest, or non-fundamental right; however, evaluating whether the asserted liberty interest is deeply rooted in America's history and traditions, evident in Supreme Court precedent, or manifested in emerging awareness for modern values can suggest which level of scrutiny applies.²⁰⁶

factors to be met for a due process claim, but instead only one factor must be established and the party must show "the state action was so egregious, so outrageous, that it may fairly be said to shock the contemporary conscience." *Okin v. Vill. of Cornwall-on-Hudson Police Dep't*, 577 F.3d 415, 431 (2d Cir. 2009). Importantly, the Second Circuit holds that "police officers' deliberate indifference to the circumstances surrounding repeated incidents of domestic violence is sufficient, by itself, to shock the conscience and thereby rise to the level of a violation of the substantive due process clause of the Fourteenth Amendment." *Gray*, *supra* note 202, at 378.

204. *Cf. Griswold v. Connecticut*, 381 U.S. 479, 485 (1965) (applying a substantive due process analysis when Connecticut passed a law prohibiting the use of contraception). Using the Pennsylvania case as an example of a substantive due process application, Norristown acted affirmatively when it enacted and enforced the nuisance ordinance, which "effectively prohibited from calling the police during an emergency without risking a strike and ultimate eviction." *See Briggs Complaint*, *supra* note 1, ¶ 185. Norristown knew that Bennett had a history of abusing Briggs and that giving strikes to a domestic violence victim for calling for police help would cause the victim to hesitate to call out of fear of eviction, thus likely resulting in injury. *Id.* ¶¶ 186–87. Norristown was grossly negligent to Briggs, a victim of domestic violence, when the city continued to give Briggs strikes regardless of her signs of physical abuse. *Id.* ¶¶ 189–90. The city even tried to remove Briggs days after she was almost killed by her abuser! *Id.* ¶ 190. Norristown actively enforced the ordinance against Briggs when the city attempted to remove her from her rental property. *Id.* ¶ 191. Finally, "[b]ut for Defendants' overt actions, Ms. Briggs would have sought police protection against the repeated domestic violence perpetrated against her by Wilbert." *Id.*

205. *United States v. Brandon*, 158 F.3d 947, 956 (6th Cir. 1998) (asserting that "[d]eciding the appropriate standard of review is crucial, because the ultimate decision in a case is often shaped by the standard applied").

206. *See, e.g., Lawrence v. Texas*, 539 U.S. 558, 572 (2003) (recognizing the importance of considering contemporary societal values as well as previous cases because history "and tradition are the starting point but not in all cases the ending point of the substantive due process inquiry").

For fundamental rights, strict scrutiny is applied to ask if the government has a compelling interest and if the law is necessary to achieving the interest. *See Seal v. Morgan*, 229 F.3d 567, 574 (6th Cir. 2000) (holding the law must be "narrowly tailored" to the government interest). The government has the burden of proof and it must use the least restrictive means. *See Shelton v. Tucker*, 364 U.S. 479, 488 (1960) (finding that even when "the governmental purpose be legitimate and substantial, that purpose cannot be pursued by means that broadly stifle fundamental personal liberties when the end can be more narrowly achieved"). For important liberty interests, the analysis is a case-by-case balancing

The property interest a person has in remaining in one's home is likely a deeply rooted right in our nation's history and traditions.²⁰⁷ Although the government does have an interest in efficiently using its police force and promoting peaceful living environments, an ordinance threatening eviction to domestic violence victims who call the police for help is not reasonably related to that interest.²⁰⁸

using intermediate scrutiny to evaluate if there is an important or substantial interest and a substantial relation between the law and achieving that interest. *See, e.g., Cruzan by Cruzan v. Dir., Mo. Dep't of Health*, 497 U.S. 261, 278–82 (1990) (acknowledging the right of a competent individual to refuse medical treatment). For non-fundamental rights, deferential rational basis scrutiny is used to determine if a reasonable relationship to a legitimate interest exists. *See Washington v. Glucksberg*, 521 U.S. 702, 728 (1997) (finding the right to receive assistance in suicide is not a fundamental right and a state may prohibit physician-assisted suicide if the ban is rationally related to the interest of preserving human life).

Liberty interests that the Court has deemed fundamental rights include the right to use contraception, travel interstate, marry, procreate, direct the upbringing and education of one's children, court access for criminal defendants, and vote. *See Seal*, 229 F.3d at 575; *see also Griswold*, 381 U.S. at 486 (concluding there is a right to marital privacy preventing a state to prohibit married couples from using contraception); *Skinner v. Oklahoma ex rel. Williamson*, 316 U.S. 535, 541 (1942) (invalidating Oklahoma's Criminal Sterilization Act on the basis that marriage and procreation are deemed fundamental rights and sterilization infringed upon these rights); *Pierce v. Soc'y of the Sisters of the Holy Names of Jesus & Mary*, 268 U.S. 510, 536 (1925) (recognizing the right to educate one's children as one chooses); *Meyer v. Nebraska*, 262 U.S. 390, 403 (1923) (validating a parent's right to dictate their child's study of German language in school). Important liberty interests are the right to private sexual relationships and a competent person's right to refuse medical care. *See Cruzan*, 497 U.S. at 278, 281 (concluding a competent person has a constitutional right to refuse lifesaving nutrition but an incompetent person is not able to make an informed and voluntary choice). Non-fundamental rights are the right to abortion and assisted suicide. *See Glucksberg*, 521 U.S. at 720 (holding the right to receive assistance in suicide is not a fundamental right); *Planned Parenthood of Se. Pa. v. Casey*, 505 U.S. 833, 846, 894 (1992) (upholding the right to obtain an abortion prior to fetal viability but finding a spousal notification requirement before an abortion imposes an undue burden with a substantial obstacle for a woman).

207. *See generally Moore v. City of E. Cleveland*, 431 U.S. 494, 500 (1977) (recognizing the right to live in a house with extended family and invalidating an East Cleveland ordinance that made it a crime for a homeowner to live with certain individuals). The government also evidences its respect for the privacy of one's home in its deference to Fourth Amendment restrictions regarding entering a home without a warrant. *See Kyllo v. United States*, 533 U.S. 27, 31 (2001) ("With few exceptions, the question whether a warrantless search of a home is reasonable and hence constitutional must be answered no.").

208. *See supra* note 31 and accompanying text. Regardless of the level of scrutiny applied, property ordinances without an exception for domestic violence victims are not the most efficient method of approaching nuisance issues because adding an exception would not impede the ordinance's ability to achieve a government interest in promoting the efficient use of municipal services and overall peace amongst a housing community. *See infra* note 230 and accompanying text. As seen in Briggs's case, the fear of calling the police can exacerbate injuries and result in disruption in the housing communities. *See supra* notes 125–28 and accompanying text. An exception for domestic violence victims would be a small change to the text of an ordinance because it would not affect the government's response to other nuisance activities, but it could bring a large positive change to the lives of domestic violence victims.

C. Statutory Concerns under the Fair Housing Act

Under the Fair Housing Act, it is unlawful to “refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, familial status, or national origin.”²⁰⁹ Additionally, the Fair Housing Act makes it unlawful to “discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling.”²¹⁰ In the context of domestic violence and property nuisance ordinances, female victims of domestic violence that have been evicted because of incidents of abuse against them at their homes can state a claim under the Fair Housing Act for sex discrimination.²¹¹

The Fair Housing Act has broad standing requirements, authorizing claims from any person “injured by a discriminatory housing practice.”²¹² The lenient standing standards in the Fair Housing Act make it a vehicle for domestic

See supra note 29 and accompanying text. Adding an exception would also make governmental emergency responses to incidents of domestic violence more efficient because the victims would not face as much of a fear to report before the situation escalated. *See supra* note 124 and accompanying text.

Even if the government argued an economic rights takings clause claim to the property for public use under the Fifth Amendment, the government would have to give just compensation for the property. *See Kelo v. City of New London*, 545 U.S. 469, 489 (2005) (concluding the taking of property from a private owner for economic development constitutes “public use”). The government could argue a legitimate broad public objective in taking the property, such as for economic development, but the government must provide just compensation as fair market value for the owner. *Id.*

209. 42 U.S.C. § 3604(a) (2012). The Act was first passed without a ban on sex discrimination but was amended in 1974 “to end housing practices based upon sexual stereotyping.” *See* Elizabeth M. Whitehorn, *Unlawful Evictions of Female Victims of Domestic Violence: Extending Title VII’s Sex Stereotyping Theories to the Fair Housing Act*, 101 NW. U. L. REV. 1419, 1443 (2007).

210. 42 U.S.C. § 3604(b).

211. *See* Whitehorn, *supra* note 209, at 1447. Lower courts have held sex discrimination under the Fair Housing Act includes discriminating against domestic violence victims. *See* *Bouley v. Young-Sabourin*, 394 F. Supp. 2d 675, 678 (D. Vt. 2005) (finding a prima facie case alleging sex discrimination was made when landlord gave victim thirty days to leave housing because he believed “violence that has been happening in your unit would continue”).

The first federal case that brought a claim under the Fair Housing Act that discrimination against domestic violence victims is sex discrimination settled and the apartment complex agreed to not evict tenants simply because they had been victims of domestic violence. *See* Complaint at 9–12, *United States v. C.B.M. Grp.*, Civil No. 01-857-PA (D. Or. June 8, 2001) <http://www.legalmomentum.org/legal-cases/united-states-and-alvera-v-cbm-group-inc>. In this case, the owner of a housing complex gave a domestic violence victim one day to leave the apartment after her husband assaulted her under a zero-tolerance for violence leasing policy. *Id.* at 6.

212. *See* Fais, *supra* note 27, at 1208 (quoting 42 U.S.C. § 3602(i)). The Act also gives standing to those that believe they will be injured in the future by a discriminatory housing practice. *Id.*

violence victims to use to challenge housing practices.²¹³ Domestic violence victims that are facing eviction likely meet standing requirements because the victims have an injury in the loss of housing, economic harm, and emotional damage.²¹⁴ The injury is caused by property nuisance ordinances that penalize individuals for calling the police, such that an injury arises when a victim does not call the police and consequently faces unreported domestic abuse or a victim does call the police but is harmed with fines or the loss of housing.²¹⁵ The injury is redressable by a court ruling that property nuisance ordinances must not be applied in the context of domestic violence to the victim; therefore, making it so the victim will not face eviction or fines for police calls reporting domestic violence.²¹⁶

Housing eviction policies can violate Fair Housing Act § 3604(a) if the policies make housing unavailable or deny housing to a tenant because of the tenant's sex.²¹⁷ For example, to make a § 3604(a) claim, a victim of domestic violence would have to show that a housing policy, such as a nuisance ordinance, "affected the availability of housing for a protected class."²¹⁸ To do

213. *Id.* Victims who want to challenge housing discrimination must meet the Article III requirements of injury, causation, and redressability to bring suit. *Id.* Conversely, the Violence Against Women Act (VAWA), another statute that domestic violence victims can use to challenge unfair housing practices, does not have as broad of a scope to protect victims as the Fair Housing Act. See SARA K. PRATT, U.S. DEP'T OF HOUS. & URBAN DEV., ASSESSING CLAIMS OF HOUSING DISCRIMINATION AGAINST VICTIMS OF DOMESTIC VIOLENCE UNDER THE FAIR HOUSING ACT AND THE VIOLENCE AGAINST WOMEN ACT 4 (2011), http://www.fairhousing.com/include/media/pdf/Domestic_Violence_Guidance.pdf. Under the VAWA, landlords cannot evict a tenant based on "criminal activity directly relating to domestic violence" that was perpetrated by "a member of a tenant's household or any guest or other person under the tenant's control," unless there exists a threat to others. *Id.* at 3. Although the VAWA does provide some protections for victims of domestic violence, it only protects women in "public housing, voucher, and Section 8 project-based programs." *Id.* at 4. Thus, the Fair Housing Act's more lenient standards allow it to protect victims in private housing. *Id.*

214. See Fais, *supra* note 27, at 1209.

215. *Id.* It is important to emphasize that a domestic violence victim is not responsible for the harm perpetrated against him or her. See generally Sherry Hamby & Andrea Bible, *Battered Women's Protective Strategies*, NAT'L ONLINE RES. CTR. ON VIOLENCE AGAINST WOMEN (July 2009), http://www.vawnet.org/applied-research-papers/print-document.php?doc_id=1872.

216. See Fais, *supra* note 27, at 1209.

217. 42 U.S.C. § 3604(a) (2012). This requirement is broad and does not only prohibit discrimination in granting housing, but also makes housing unavailable through eviction. *Id.* In Briggs's case, this is evident when the city arguably made housing unavailable by forcing Briggs to choose between calling for police help and losing her housing or remaining silent during abuse. See Briggs Complaint, *supra* note 1, ¶ 72.

218. Fais, *supra* note 27, at 1212. In *Bouley v. Young-Sabourin*, 394 F. Supp. 2d 675, 677 (D. Vt. 2005), a domestic violence victim received a letter from her landlord after an assault giving her thirty days to leave because the landlord told her he thought the violence would continue. The court found Bouley made a prima facie case when she argued that "because women represent the great majority of

so, a female victim could argue that the fees or eviction that the nuisance ordinance prescribed for incidents of domestic violence discriminated based on sex because women experience disproportionate rates of domestic violence.²¹⁹

Lower courts have applied the Fair Housing Act to housing practices that result in a disparate impact on a protected class.²²⁰ To make this claim, a victim must make a prima facie demonstration of disparate impact.²²¹ Nuisance ordinances without a domestic violence exception produce a disparate impact on females because the vast majority of domestic violence victims are women, and therefore, women are facing fines and evictions more often than men from these ordinances.²²² Then, the defendant has the burden to justify the practice with legitimate reasons and to address if there is a less restrictive alternative available.²²³ A less restrictive alternative would be to add an exception for

domestic violence victims, discriminating against tenants based on their domestic violence victim status has a discriminatory impact on women in violation of the FHA.” See Fais, *supra* note 27, at 1216. For a female victim, such as Bouley who was told she was evicted because of a belief that violence would happen again, to prove sex was a motivating factor in her eviction, she can argue “that her landlord based the decision to evict her on sex-based stereotypes about how she would act in the future, rather than an individualized assessment” of how the victim was involved in the crime for which she was evicted. See Whitehorn, *supra* note 209, at 1448.

219. See Fais, *supra* note 27, at 1213. Victims could prove this by obtaining local data regarding the percentage of domestic violence victims that are women in their town. *Id.*

220. See Erica Franklin, *When Domestic Violence and Sex-Based Discrimination Collide: Civil Rights Approaches to Combating Domestic Violence and Its Aftermath*, 4 DEPAUL J. FOR SOC. JUST. 335, 374 (2011). The disparate impact claim of the Fair Housing Act, unlike the Equal Protection Clause, does not require proof that a law was created with a discriminatory intent towards a group of people, and therefore, domestic violence victims would not have to show that the city passed the nuisance ordinances with the intent to discriminate against female victims. *Id.* at 375.

221. *Id.* Statistical evidence showing the discriminatory effect of the policy on a certain sex can help make a prima facie case. See Fais, *supra* note 27, at 1210; see also *Metro. Hous. Dev. Corp. v. Vill. of Arlington Heights*, 558 F.2d 1283, 1289 (7th Cir. 1977) (holding the Fair Housing Act applied to zoning decisions with a discriminatory impact on citizens). The Seventh Circuit uses several factors to determine if the zoning decisions had a discriminatory impact, including evidence of intent to discriminate, the strength of “plaintiff’s showing of discriminatory effect,” the defendant’s interest in the action, and the remedy the plaintiff is seeking. *Id.* at 1290.

222. See MICHELE C. BLACK ET AL., U.S. DEP’T OF HEALTH & HUMAN SERVS., NATIONAL INTIMATE PARTNER AND SEXUAL VIOLENCE SURVEY: 2010 SUMMARY REPORT 18, 38–39, 54–55 (2011), http://www.cdc.gov/violenceprevention/pdf/nisvs_report2010-a.pdf. The statistics showing the disproportionate amount of female victims are staggering, including “about 1 in 4 women will experience intimate partner violence in their lifetimes. The U.S. Bureau of Justice Statistics found that 85% of victims of domestic violence are women. In 2009, women were about five times as likely as men to experience domestic violence.” PRATT, *supra* note 213, at 2. A disparate impact analysis is appropriate when “there is no direct evidence of unequal treatment, but a facially neutral housing policy, procedure, or practice disproportionately affects domestic violence victims.” *Id.* at 5.

223. See Fais, *supra* note 27, at 1211. Justification is a hard case to make and “[m]ost Title VIII impact cases have held that the defendant failed to satisfy its burden of justification.” *Id.*

domestic violence because adding an exception would not impede the ability of the ordinance to protect a landlord against other nuisance activities but would protect victims from being punished for calling the police.²²⁴

In addition to making a claim that the city discriminatorily affected the availability of housing for females, a victim can also make a claim that the city affected the victim's access to municipal services under the Fair Housing Act § 3604(b).²²⁵ A § 3604(b) claim would assert that the nuisance ordinance "limited access to services based on sex," and therefore, in the domestic violence context, a § 3604(b) claim would be applicable if a city fined certain groups of citizens in a discriminatory fashion for using the city's services.²²⁶

V. THE IMPACT ON AMERICA OF NUISANCE ORDINANCES WITHOUT A DOMESTIC VIOLENCE EXCEPTION

Property nuisance ordinances without a domestic violence exception are prevalent nationwide.²²⁷ In a study of the property nuisance ordinances of fifty-nine U.S. cities, including the twenty most populous cities and also a range of small towns, only four contained an exception for domestic violence victims.²²⁸ In addition, this study showed that nuisance ordinances disproportionately affect women, individuals of color, and individuals of a lower income.²²⁹ Adding an exception to each nuisance ordinance would help combat under-reporting of domestic violence incidents, promote victim safety, maintain peace in housing neighborhoods, combat housing discrimination, and increase the efficiency of police responses.²³⁰

224. See Franklin, *supra* note 220, at 376. Other policies could still reduce violence on a property through less discriminatory means, such as "a housing provider could file a civil or criminal complaint against the batterer, help a domestic violence survivor obtain and enforce a restraining order, improve security, or allow a survivor to transfer units, terminate a lease early, or change the locks in order to protect herself from her abuser." *Id.*

225. 42 U.S.C. § 3604(b) (2012).

226. See Fais, *supra* note 27, at 1216. A § 3604(b) claim could argue that applying the nuisance ordinance in a police response call to a domestic violence incident "has a disparate impact on the provision of police services to women." *Id.* at 1215. In Briggs's case, this is evident in how the city impeded her ability "to seek access to Norristown's municipal police services." Briggs Response, *supra* note 172, at 62 (emphasis removed).

227. See Desmond & Valdez, *supra* note 8, at 2.

228. *Id.* Thirty-nine ordinances in the study included "assault, sexual abuse, battery, or domestic violence" in the list of activities deemed a nuisance to the municipality. *Id.* at 3. One of the four cities with an exception, the Village of East Rochester, added the exception only after a suit was filed against the city for its nuisance ordinance. See *supra* Part III.B.

229. See *supra* notes 82–85 and accompanying text.

230. With an exception, victims would not face the additional pressure of losing housing if the victim

It is promising that each of the recent cases discussed above have settled and the nuisance ordinance has been repealed, but a lawsuit in every city should not be the necessary means to spark change nationwide.²³¹ Furthermore, not all victims are in the position to challenge a law or know the process for how to challenge a law.²³² It is time to combat discrimination, whether unintentional or not, against domestic violence victims.

Awareness of the prevalence and of the damaging consequences of domestic violence has spread throughout America this past year.²³³ At the 2015 Grammy Awards, President Obama addressed the problem of violence against women by stating, “[M]ore than one in four women has experienced some form of domestic violence. It’s not okay, and it has to stop.”²³⁴ Domestic violence was a frequent news topic in sports discussions²³⁵ and on college campuses.²³⁶ The Los Angeles Police Department has declared a focus on violence prevention through the Citywide Domestic Violence Prevention Initiative after noticing an increase in aggravated assaults during the past year.²³⁷ In addition, numerous human rights articles reported the Pennsylvania case, exposing the

called the police to report a domestic violence incident. *See Domestic Violence Facts*, D.C. COALITION AGAINST DOMESTIC VIOLENCE, http://www.dccadv.org/img/fck/file/Resources/DCCADV_DomesticViolenceFacts_Sheet.pdf (last visited Mar. 30, 2016) (discussing the problem of under-reporting in domestic violence incidents and thus highlighting the importance of not impeding a victim’s path to reporting abuse). Additionally, this would ensure better protection of victims because the victims could call for help before the situation has escalated and could receive services quicker. *See supra* note 95 and accompanying text. Addressing the abuse with police intervention rather than failing to report the abuse would help promote peace in housing communities so that the problem does not persist. Adding an exception would help eradicate the discrimination evident when a victim is evicted because of incidents of violence perpetrated against her. *See supra* Part IV. Finally, police response could be more efficient with an exception because the police could address the problem before it escalated into a more dangerous situation. *See Have You Thought About Calling the Police but...*, CTR. FOR DOMESTIC PEACE, <http://www.centerfordomesticpeace.org/calling-police> (last visited Mar. 30, 2016) (discussing responses to common fears domestic violence victims have of calling the police).

231. *See supra* note 171 and accompanying text.

232. *See The National Domestic Violence Pro Bono Directory*, A.B.A. COMMISSION ON DOMESTIC & SEXUAL VIOLENCE, <http://www.probono.net/dv/> (last visited Mar. 30, 2016) (discussing the need for pro bono legal services for domestic violence victims because “studies show that the collective civil legal aid effort is meeting only about 20% of the legal needs of low-income people”).

233. *See Cook, supra* note 12.

234. *See Arce, supra* note 13.

235. *See Bien, supra* note 14; MacAnally, *supra* note 14; Mullen & Cuervas, *supra* note 14.

236. *See Zwang, supra* note 15.

237. *See 2014 & 2015 Crime Initiatives*, L.A. POLICE DEP’T, http://assets.lapdonline.org/assets/pdf/crimesnap%20shot%202015-Final-APPROVED_2-optimized.pdf (last visited Mar. 30, 2016). After analyzing the increase in aggravated assaults, the Los Angeles Police Department determined “nearly one third of the increase was due to domestic violence.” *Id.*

issue of nuisance ordinances without a domestic violence exception.²³⁸ America's media has recognized and greatly reported this past year that domestic violence is simply unacceptable, and legal norms must change to recognize this as well.²³⁹ Laws prohibiting domestic violence have been in place in all states for nearly one hundred years, but it is time to revisit laws that have unintended consequences of discriminating against domestic violence victims.²⁴⁰

VI. CONCLUSION

Nuisance ordinances serve a valuable purpose—to ensure that police resources are being allocated efficiently for the public good—but nuisance ordinances can also have a dangerous effect if the ordinances do not contain an exception for incidents of domestic violence.²⁴¹ Adding an exception to municipal nuisance ordinances would promote safer housing communities nationwide and combat housing discrimination.²⁴² As shown in the above public policy concerns²⁴³ and legal discussion,²⁴⁴ citizens should have access to report abusers or request assistance without worrying about losing their homes. Even though Lakisha Briggs, Darla Wilce, and Laurie Grape have settled outside of court, another victim in another city will inevitably be forced to make the same difficult decision between calling the police and risking eviction or staying silent and facing abuse until every nuisance ordinance contains an exception for victims of domestic violence.²⁴⁵

238. See Frank Krummer, *ACLU: "Three Strikes" Evicted Battered Woman from Home*, PHILLY.COM (Apr. 25, 2013), http://www.philly.com/philly/news/ACLU_files_federal_suit_for_battered_woman_forced_from_Norristown_home_.html; John Luciew, *Pa. Town Pays \$495K to Battered Woman over Law that Punished Domestic Violence Victims*, PENNLIVE.COM (Sept. 9, 2014), http://www.pennlive.com/midstate/index.ssf/2014/09/pa_town_pays_495k_to_battered.html; *Pennsylvania City Agrees to Repeal Law that Jeopardizes Safety of Domestic Violence Survivors*, ACLU (Sept. 8, 2014), <https://www.aclu.org/womens-rights/pennsylvania-city-agrees-repeal-law-jeopardizes-safety-domestic-violence-survivors>.

239. See *supra* notes 233–38 and accompanying text.

240. See Hanna, *supra* note 62.

241. See *supra* note 31 and accompanying text.

242. See *supra* note 230 and accompanying text.

243. See *supra* notes 44–50 and accompanying text.

244. See *supra* Part IV.

245. See *supra* Part III.

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[Vol. 43: 1101, 2016]

Domestic Violence Victims a Nuisance to Cities
PEPPERDINE LAW REVIEW
