

NEW YORK STATE OFFICE FOR THE PREVENTION OF DOMESTIC VIOLENCE

OPDV Bulletin/Spring 2014

IN THIS ISSUE

From the Executive Director	Cover
Public Housing Priority Status for Victims of Domestic Violence	Cover
Did You Know	Cover
Chronic Nuisance Ordinances	Page 2
Q&A: Public Housing Priority Status for Victims of Domestic Violence	Page 3
Legislative Update	Page 4
Updated: Finding Safety & Support	Page 4
Financial Relief for Victims of Domestic Violence	Page 4

April is Sexual Assault
Awareness Month

For more information on sexual assault, visit http://opdv.ny.gov/whatisdv/about_dv/sexual_abuse/dvsexabuseinfo.pdf

Public Housing Priority Status for Victims of Domestic Violence

While various laws and regulations require the general population to submit multiple documents and meet specific criteria in order to become eligible for public housing, it is often unsafe and/or impossible for victims of domestic violence (VDV) to access and submit such information. For this reason, V DVs are considered emergency priorities for public housing, automatically granting them shorter waiting periods and waiving certain requirements that apply to non-emergency applicants. However, sometimes victims of domestic violence are improperly denied housing, despite their emergency priority status. The recent J.C. v. Rhea case, filed against the NYC Housing Authority (NYCHA) in March 2013 on behalf of ten V DV plaintiffs, established a review process for denied V DV applications. The January 2, 2014 settlement allowed the ACLU to bring individual issues of V DV non-compliance with to NYCHA's counsel for resolution.

For more information about J.C. v. Rhea, see [Page 3](#).

Did you know...

In 2012, applicants for public assistance indicated danger due to domestic violence 21,721 times, a 7% increase from 2011.

This statistic is taken from the 2012 New York State Domestic Violence Dashboard, available at the end of July at: <http://www.opdv.ny.gov/statistics/nydata/2012/index.html>

From the Executive Director



In addition to welcoming the longer days and the warmer weather, this issue recognizes two important awareness events: April is Sexual Assault Awareness Month and April 6-12 is National Crime Victims' Rights Week. We invite you to access the [OPDV website](#) for information and ideas to support your crime victim awareness raising events and activities.

This issue's feature article, "Chronic Nuisance Ordinances", by Michaela Wallin, explains the role and purpose of nuisance ordinances and discusses their potentially negative impact on victims of domestic violence. She also provides some helpful suggestions for navigating the legal challenges of nuisance ordinances, and for taking action to prevent additional unintended harm to victims.

Our Q&A, by Terry Lawson, examines the critical J.C. v. Rhea settlement, filed in 2013, and its impact on the New York City Housing Authority's Victims of Domestic Violence (VDV) Priority System. In addition to explaining the various components and eventual outcome of the January 2, 2014 settlement, Lawson provides resources and information about how to respond to V DV priority requests that are wrongly denied or improperly processed.

I wish you a happy spring and early summer, and I look forward to our continued efforts to make New York State safer for everyone.

Gwen Wright

Gwen Wright
Executive Director

Chronic Nuisance Ordinances

Michaela Wallin is an Equal Justice Works Fellow at the ACLU Women's Rights Project, sponsored by Morgan Stanley and Simpson Thacher & Bartlett LLP.

No victim of domestic violence or other person threatened with a crime should be afraid to access police or emergency assistance because they fear that doing so may jeopardize their housing. Nevertheless, numerous municipalities throughout New York State have enacted so called "nuisance ordinances" that have this precise result. These laws cite a property as a nuisance when the police respond to a home a specific number of times within a given time period. Property owners are then pressured to evict the tenants at issue or face stiff penalties. While nuisance ordinances may seek to deter crime and disorderly conduct, they are frequently overbroad and have been shown to punish domestic violence victims far more frequently than the offenses they intend to target. In turn, these ordinances have a chilling effect on crime victims' reporting that, in fact, undermines public safety.

Impact on Domestic Violence Survivors

In communities with nuisance ordinances, domestic violence victims reasonably feel they have no choice but to endure threats, harassment, or violence without police intervention when the alternative is the likely eviction, housing insecurity, and risk of homelessness that can result from a nuisance citation. In East Rochester, police warned a survivor that, pursuant to such an ordinance, her third call for help would result in eviction. Though her ex-boyfriend continued to harass and stalk her, the victim would not call the police because she feared losing her home. Empowered by the ordinance, the abuser used it as a tool to further terrorize her. Stripped of any real right to police protection, this woman and her housing were placed in ongoing jeopardy simply because she was a victim—both of her abuser and the ordinance.

Nuisance ordinances also pressure landlords to pursue formal or informal evictions in order to avoid sanctions. This was allegedly the case in another community, when police responded to a property after a tenant's boyfriend brandished a weapon and assaulted her. Understanding that this offense had triggered a local nuisance ordinance, the property owner allegedly warned that he would have to evict the tenant if she refused to leave of her own accord. With no formal action to contest and the knowledge that an eviction on her record would make finding replacement housing immensely difficult, the tenant felt forced to leave her home despite her status as a victim.

Forms of Nuisance Ordinances in New York State

Spanning the entire state, problematic nuisance ordinances are well established and multiplying in New York. Nuisance ordinances may take several forms. Many assign points to or "strikes" against properties where listed criminal, municipal, or other offenses have allegedly occurred. Other times, they are triggered if police or emergency services provide aid or are called to a property a set number of times over a given time period (e.g. three calls over twelve months).

Nuisance ordinances regularly penalize activities that are likely to affect crime victims, such as assault, harassment, stalking, or even domestic violence. Many include disorderly conduct, which encompasses fighting or threatening behavior, and is one of the most common crimes related to domestic violence. Very few of these laws distinguish or exempt victims of the listed criminal behavior. Instead, ordinances routinely state that lack of knowledge of, participation in, or responsibility for a nuisance is no defense.

Once a property is designated as a nuisance, ordinances can directly penalize the residential occupant or may hold property owners responsible for their tenants' behavior. Property owners typically are instructed to "abate the nuisance," otherwise they face fines, revocation of rental permits, or property closure. This frequently results in landlords evicting the tenants at issue because, even if not expressly required, eviction is the only certain abatement method. Tenants often have no notice of or standing to contest a citation, even in the face of eviction.

Legal Concerns

Depending on their structure, nuisance ordinances may violate the Violence Against Women Act, Constitutional guarantees of due process, and the First Amendment right to petition, as well as State Constitutions and anti-discrimination laws.

Next Steps

The ACLU Women's Rights Project is partnering with domestic violence and housing advocates in New York to oppose proposed and existing ordinances through legislative advocacy and litigation. We are always looking for allies in our work to preserve survivors' housing and the right of all victims of crime to call the police. Please contact Michaela Wallin (mwallin@aclu.org) and Sandra Park (spark@aclu.org) if you have encountered or experienced problems with local nuisance ordinances or are interested in additional information.

Scenarios That May Indicate the Presence of Problematic Nuisance Ordinances:

- A survivor receives an eviction notice that cites nuisance ordinance violations.
- A landlord asks a tenant to leave or refuses to renew her lease on the basis of her use of police services or violence committed against her.
- A victim of domestic violence or other crime refuses to call 911 for fear of losing her housing.
- A landlord instructs a tenant that she must stop calling the police or she may face eviction.

Q&A: Public Housing Priority Status for Victims of Domestic Violence

This Q&A was conducted with Terry Lawson, Director of the Family and Immigration Unit, Legal Services NYC - Bronx

Q: What is J.C. v. Rhea?

A: J.C. v. Rhea was filed in the Southern District of New York in March 2013 by Legal Services NYC-Bronx and Queens Legal Services on behalf of ten plaintiffs seeking relief from the New York City Housing Authority (NYCHA). The lawsuit alleged that the plaintiffs' Victims of Domestic Violence (VDV) priority requests were improperly denied, delayed, or never properly adjudicated, and sought proper treatment of their requests. The suit also sought global reforms to the VDV priority system to eliminate lengthy periods of uncertainty and insecurity and to provide a review process for applicants denied the priority when they had met the VDV criteria. The case was settled on January 2, 2014.

Q: What does the J.C. v. Rhea settlement require NYCHA to do?

A: In addition to addressing the priority applications of the plaintiffs, NYCHA agreed to several systemic changes in the VDV priority system, and established a review process for denied VDV applications.

1. VDV Document Receipt:

NYCHA plans to allow VDV applicants to submit supporting documentation online by the end of the first quarter of 2014. Until then, VDV applicants submitting their supporting documentation at Customer Contact Centers will be provided with a VDV Document Receipt which describes the documents provided to NYCHA by the applicant.

2. VDV Document Review Form Changes:

When NYCHA determines that an applicant has submitted insufficient or illegible supporting documentation

for the VDV priority, it will send a VDV Document Review Form with detailed information about the deficiencies and will invite the applicant to submit additional documentation. The form will also contain information about where the applicant can obtain certain types of documentation.

3. VDV Denial Notice and Review Process:

When NYCHA denies a VDV priority request, it will send a VDV Denial Notice and a VDV Document Review Form detailing the deficiencies in the request. The notice will describe the applicant's right to request a review of the denial by submitting a written description of the reasons why the decision was incorrect, and submitting additional documents in support of the review request. The reviewer of the request will be knowledgeable about NYCHA's VDV priority requirements, and, when possible, will not be the same person who reviewed the original application. The reviewer may call the applicant or the victim's advocate for further clarification. NYCHA will then send a written response to the review request within 30 days. If the VDV priority is denied after review, the decision will state the reasons why the request was denied.

4. Waitlist and Zip Codes Postings:

Each quarter, NYCHA will post on its website information regarding the waitlist for applicants certified with N0 and N1 priorities, broken down by priority, borough and apartment size. The VDV priority is an N1 priority. NYCHA will also put on its website the zip codes of exclusion (zip codes in which it will not place a VDV priority applicant due to proximity to the incidents of abuse).

Q: What can clients and advocates do about VDV priority requests that are wrongly denied or improperly processed?

A: Beginning April 4, 2014, if you believe your client has been wrongly denied the VDV priority, please utilize the VDV review process. If after utilizing the review process, you believe your client is still being wrongly denied and would like plaintiffs' counsel to intervene with NYCHA regarding the denial, please contact plaintiffs' counsel using the [JC v. Rhea Informal Relief Form](#).

Under the settlement, plaintiff's counsel can bring individual instances of non-compliance with the settlement to NYCHA's counsel for resolution. If you believe NYCHA has not complied with the terms of the settlement as it relates to your client's request for the VDV priority, please contact plaintiffs' counsel using the [JC v. Rhea Informal Relief Form](#).

Q: Is there anything else that I should know when helping a client with their VDV priority request?

A: NYCHA has clarified that supporting documentation for a VDV priority request must be no more than one year old (for Category A documents) and two years old (for Category B documents) at the time the priority request is made. The age of the documents on the date of the eligibility interview is not relevant.



Legislative Update

Help for Immigrant Domestic Violence Victims with Limited English Proficiency

The Family Court system can be difficult to navigate – it can be intimidating and confusing for anyone seeking services.

This challenge is compounded for domestic violence victims with no, or limited, English proficiency.

In addition to the risk of further abuse faced by many victims, immigrant victims may fear that their abuser will report them to law enforcement or

immigration officials. Knowing their rights and where/how to get assistance may make the difference in encouraging an immigrant victim to reach out for help.

To respond to this need, the Empire Justice Center has developed a resource that provides answers to frequently asked questions about how to obtain an order of protection in Family Court. In addition to English, the pamphlet is available in Russian, Spanish and Simplified Chinese.

<http://www.empirejustice.org/publications/brochures/seeking-protection-from.html>

New Resource on Domestic Violence Laws

OPDV has launched a new website feature to make it easier to find domestic violence legislation that has been signed into law. In addition to the annual summaries, the laws are now available by subject category, making it easier to find laws without having to remember what year they passed. The feature also includes instructions and links for accessing bill text and memos on the website of the NYS Legislature and bill jackets on the the NYS Library website at: <http://www.opdv.ny.gov/law/summ-subject/index.html>

Updated: Finding Safety & Support



OPDV recently completed revisions of our publication "Finding Safety & Support".

In addition to our new cover design, we have added information for victims and survivors of

domestic violence on topics such as military-related victims, gang

involvement, victims of human trafficking, commonly-asked questions, and legislative updates.

We have also expanded on some of our previous publications topics to offer more in-depth assistance and resources. We hope that you find this resource helpful.

How can you access Finding Safety & Support?

1. For an electronic copy, go online to: <http://www.opdv.ny.gov/help/fss/fss.pdf>
2. For a hard copy, go to our website at www.opdv.ny.gov. Click on "Publications," then click on "Order materials," and indicate the number of

booklets you would like. The booklet is available in both English and Spanish.

*Please note: When ordering materials online, you should first clear your cache if you have ordered booklets from our website previously, because the old form will still be stored in your cache. In order for the order to process current orders going forward, you will need to clear that history of the previous form. If you are unable to order through our website, you can contact our agency for assistance by dialing 518-457-5800.

Financial Relief for Victims of Domestic Violence

The New York State Office of Victim Services (OVS) provides financial relief to victims of crime and their families by paying unreimbursed crime-related expenses, including but not limited to:

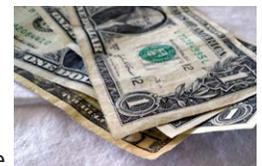
- medical and funeral expenses
- loss of earnings or support,
- counseling costs
- crime scene clean-up expenses,
- the cost to repair or replace items of essential personal property
- reasonable and necessary court transportation expenses
- assistance to crime victims acting as a good Samaritan
- the cost of residing at or utilizing

the services of a domestic violence shelter, and limited attorney fees.

A physical injury is generally required to be eligible for compensation, but the OVS understands victims of domestic violence (DV) may not always present in such a way. That is why the law allows victims of DV-related crimes such as certain unlawful imprisonment, kidnapping, menacing, harassment, criminal contempt or stalking crimes to be eligible for reimbursement of some crime-related expenses.

The OVS also administers the federal Victims of Crime Act (VOCA) Victim and Witness Assistance funds which are awarded through a competitive process to organizations across the State serving all crime victims.

Currently, OVS administers and processes nearly 200 contracts with Victim Assistance Programs across the State serving all 62 counties.



While all of these programs are able to assist a person with an OVS claim and can explain what financial relief may be available given a person's circumstances, many are DV-specific programs which focus on the needs of victims of domestic violence.

All of these programs can be found on our website at: <http://www.ovs.ny.gov/locateaprogram.html>

NYS Office for the Prevention of Domestic Violence www.opdv.ny.gov

Please send any comments or content ideas to: opdvbulletin@opdv.ny.gov

If you would like to subscribe to the OPDV Bulletin, visit www.opdv.ny.gov/public_awareness/bulletins/subscribe.html

Articles by outside authors are invited, but publication does not indicate endorsement of the opinions contained therein.

Permission to copy, use, and distribute content from The OPDV Bulletin is granted for personal, private, and educational purposes, except that reproducing materials for profit or any commercial use is strictly forbidden without specific permission from OPDV. Any reproduction or distribution of this material must expressly credit OPDV in a prominent manner, such as, "From the NYS Office for the Prevention of Domestic Violence, OPDV Bulletin, Spring 2014". This statement does not pertain to material from other sources.