

# CLEARINGHOUSE REVIEW

JOURNAL OF POVERTY LAW AND POLICY



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Sargent Shriver National Center on Poverty Law

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## JOURNAL OF POVERTY LAW AND POLICY

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Legal self-help materials are a critical piece of the access-to-justice movement. But if those materials threaten a litigant's sense of self-worth, the litigant may ignore their advice. Self-affirmation theory posits that people are more likely to be receptive to potentially threatening information if their self-worth is bolstered before they encounter the threatening information. Applying self-affirmation techniques to legal self-help materials may make them more effective.

# A Collaborative Approach to Housing Under the Violence Against Women Reauthorization Act of 2013



BY KATHERINE E. WALZ AND MONICA MCLAUGHLIN

On March 7, 2013, President Obama signed into law the Violence Against Women Reauthorization Act of 2013 (VAWA 2013).<sup>1</sup> Starting with the 2005 reauthorization of VAWA, the law provided housing protections for victims of domestic violence, dating violence, and stalking; such victims were residents of public housing or project-based Section 8 housing or applicants for the Housing Choice Voucher program.<sup>2</sup> The 2013 reauthorization of VAWA gives legal aid providers, domestic-violence and sexual-assault-victim advocates, and housing providers subject to the law (housing providers) the opportunity to advance a collaborative approach to VAWA implementation. Through additional policies, the collaborative approach can build upon VAWA's statutory framework and enhance survivor safety. Such an approach will ultimately improve the safety and security for survivors, improve housing provider practices as they relate to survivors of violence, improve communications between advocates and housing providers, and overall improve safety at properties.

## Violence Against Women Act —an Overview

At its most basic level, VAWA protects survivors and affiliated individuals from losing their housing or being denied housing due to their status as victims or incidents of actual or threatened violence.<sup>3</sup> VAWA also prohibits any tenant or affiliated individual who is a victim from being denied assistance, tenancy, or occupancy rights solely on the basis of criminal activity if that activity is directly related to the violence engaged in by a household member, guest, or any person “under the tenant’s control.”<sup>4</sup> A housing provider may evict or terminate assistance to a victim if the provider can demonstrate an actual and imminent threat to other tenants or employees at the property if the tenant is not evicted or terminated from assistance.<sup>5</sup> However, with the new VAWA provision permitting survivors to transfer to other covered housing in certain circumstances or to receive a tenant protection voucher, housing providers should work with survivors before taking steps toward

eviction. In determining whether to evict or terminate assistance for lease violations unrelated to the violence, victims of violence may not be subjected to a more demanding standard than other tenants.<sup>6</sup>

Housing providers can also bifurcate a lease to evict or terminate assistance to any tenant or lawful occupant who engages in criminal acts of violence against an individual or others.<sup>7</sup> This action may be taken without penalizing the survivor.<sup>8</sup> A public housing authority may permit a survivor with a Housing Choice Voucher to move to another jurisdiction, even in the middle of a lease term, if the household has complied with all other program obligations and is moving to protect the health or safety of an individual who is or has been the victim of violence.<sup>9</sup> Housing providers must honor all court orders regarding rights of access or control of property, distribution or possession of property, as well as protective orders issued to victims.<sup>10</sup>

As to proof requirements, housing providers can apply VAWA's protections to an individual solely based on the victim's

1 Violence Against Women Reauthorization Act of 2013 (VAWA 2013), Pub. L. No. 113-4, 127 Stat. 54 (2013); VAWA 2013 repealed many of the VAWA 2005 prior provisions that had been replicated in several program statutes and consolidated them into a new section under the Violence Against Women Act.

2 Violence Against Women Act (VAWA), Pub. L. No. 109-162, 119 Stat. 2960 (2005).

3 “Affiliated individual” is defined as the spouse, parent, brother, sister, or child of a victim or an individual to whom the victim stands in loco parentis, or an individual, tenant, or lawful occupant living in the victim’s household (see generally VAWA 2013 § 601 (to be codified at 42 U.S.C. § 141411)).

4 *Id.* (to be codified at 42 U.S.C. § 14043-11(b)(3)(A); striking 42 U.S.C. §§ 1437d(1)(6)(A), 1437f(c)(9)(C)(i), 1437f(o)(20)(C)).

5 *Id.* (to be codified at 42 U.S.C. § 14043e-11(b)(3)(C)(iii); striking 42 U.S.C. §§ 1437f(c)(9)(C)(v), 1437f(o)(20)(D)(iv)); “actual and imminent threat” is defined by U.S. Housing and Urban Development regulations implementing VAWA 2005 (24 C.F.R. § 5.2005(e) (2013)).

6 VAWA 2013 § 601 (to be codified at 42 U.S.C. § 14043e-11(b)(3)(C)(ii); striking 42 U.S.C. §§ 1437d(1)(6)(D), 1437f(c)(9)(C)(ii), 1437f(o)(20)(D)(i)).

7 *Id.* (to be codified at 42 U.S.C. § 14043-11(b)(3)(B)(i); striking 42 U.S.C. §§ 1437f(c)(9)(C)(ii), 1437f(o)(20)(D)(i)).

8 *Id.*

9 42 U.S.C.A. § 1437f(r)(5) (West 2013).

10 VAWA 2013 § 601 (to be codified at 42 U.S.C. § 14043e-11(b)(3)(C)(i); striking 42 U.S.C. §§ 1437d(1)(6)(C), 1437f(c)(9)(C)(iii), 1437f(o)(20)(D)(ii)).

statement. Any request for certification that the person is a victim of violence must be in writing and give the person at least 14 business days to respond to the request or any extension granted therein.<sup>11</sup> Failure to submit the documentation within the 14 days or any extension granted can serve as a basis by the housing provider to deny victims their VAWA rights.<sup>12</sup> Certification can be in the form of the U.S. Housing and Urban Development (HUD) self-certification form or a third-party documentation. Housing providers cannot mandate that victims produce third-party documentation or more than one form of proof.<sup>13</sup>

Housing providers are required to keep confidential the information that a victim gives about her status.<sup>14</sup> Housing providers cannot enter the information into any shared databases or disclose the information to another entity or individual, unless disclosure is required by law, is requested or consented to by the individual in writing, or is required for use in an eviction proceeding.<sup>15</sup>

VAWA also requires public housing authorities to include in the annual plan a description of any goals, objectives, activities, services, or programs being undertaken to assist victims of violence.<sup>16</sup> A public housing authority's five-year plan must also include a description of any goals, objectives, policies, or programs established to

11 *Id.* (to be codified at 42 U.S.C. § 14043e-11(c)(3)(D), (c)(5); striking 42 U.S.C. §§ 1437d(u)(1)(D), 1437(ee)(1)(D)).

12 *Id.* (to be codified at 42 U.S.C. § 14043e-11(c)(2); striking 42 U.S.C. §§ 1437d(u)(1)(B), 1437f(ee)(1)(B)).

13 [HUD Programs: Violence Against Women Act Conforming Amendments](#), 75 Fed. Reg. 66246 (Oct. 27, 2010) (codified at 24 C.F.R. pt. 5 (2010)).

14 While domestic-violence, dating-violence, sexual-assault, and stalking victims are both women and men, statistics show that women are overwhelmingly the victims of this violence. For that reason, we use feminine pronouns throughout this article (VAWA 2013 § 601 (to be codified at 42 U.S.C. § 14043e-11(c)(4); striking 42 U.S.C. §§ 1437d(u)(2)(A), 1437f(ee)(2)(A)).

15 *Id.*

16 42 U.S.C. § 1437c-1(d)(13); 24 C.F.R. § 903.7(m)(5) (2014).

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## With the new VAWA provision permitting survivors to transfer to other covered housing in certain circumstances or to receive a tenant protection voucher, housing providers should work with survivors before taking steps toward eviction.

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serve survivor's housing needs.<sup>17</sup> Housing authorities must include as an attachment to the plan a description of any activities, services, or programs provided or offered (1) by an agency, either directly or in partnership with other service providers, to child or adult victims of domestic violence, dating violence, sexual assault, or stalking; (2) to help child or adult victims of domestic violence, dating violence, sexual assault, or stalking obtain or maintain housing; and (3) to prevent domestic violence, dating violence, sexual assault, and stalking, or to enhance victim safety in assisted families.<sup>18</sup>

### Expanded Protection for Survivors Under VAWA 2013

The 2013 reauthorization expanded upon the 2005 housing protections and now covers nine additional federally assisted housing programs; victims of sexual assault; lesbian, gay, bisexual, and transgender survivors; and undocumented survivors.<sup>19</sup> VAWA 2013 allows survivors who remain in a covered housing program unit after the abuser leaves and the lease is bifurcated, the time to establish eligibility for any covered federally assisted housing program or to find new housing. VAWA 2013 creates an emergency transfer process specifically for survivors allowing them to move to other covered housing (emergency transfer process) and requires the HUD

17 42 U.S.C. § 1437c-1(a)(2); 24 C.F.R. § 906.3(a)(3)(2014).

18 [U.S. Department of Housing and Urban Development \(HUD\), VAWA and the PHA Plan](#) (Dec. 9, 2010).

19 [National Housing Law Project, VAWA 2013 Continues Vital Housing Protections for Survivors and Provides New Safeguards](#) (Jan. 2014) (fact sheet).

secretary to establish policies under which survivors may receive tenant protection vouchers.<sup>20</sup> And VAWA 2013 requires housing providers to notify applicants and tenants of their VAWA rights through a HUD form, along with the agency-approved, self-certification form.<sup>21</sup> This must be done at three critical junctures: at the time an applicant is denied admission to housing, at the time an applicant is admitted to the housing program, and with any notice of eviction or termination of assistance from the covered housing program.<sup>22</sup> The HUD notice must be available in multiple languages and consistent with HUD's language access guidance for limited-English-proficiency populations.<sup>23</sup>

VAWA 2013 expanded the types of third-party documentation that a victim may provide. In addition to information from a victim service provider, attorney, or a medical professional, or a federal, state, tribal, territorial, local law enforcement, or court record permitted under VAWA 2005, VAWA 2013 allows a victim to submit information from a mental health professional or administrative record.<sup>24</sup> VAWA 2013 revises the certification process created by VAWA 2005 and requires the

20 VAWA 2013 § 601 (to be codified at 42 U.S.C. § 14043e-11(e)-(f)).

21 [U.S. Department of Housing and Urban Development, HUD Forms 90003 Through 999](#) (n.d.) (HUD-91066: Certification of Domestic Violence, Dating Violence or Stalking (Sept. 2008)).

22 VAWA 2013 § 601 (to be codified at 42 U.S.C. § 14043-11(d); striking 42 U.S.C. § 1437f(ee)(2)(B)).

23 *Id.* (to be codified at 42 U.S.C. § 14043e-11(d); striking 42 U.S.C. §§ 1437d(u)(2)(B), 1437f(ee)(2)(B)).

24 E.g., an administrative record may come from a formal administrative hearing offered to tenants in certain types of federally subsidized housing.

## The 2013 reauthorization now covers nine additional federally assisted housing programs; victims of sexual assault; lesbian, gay, bisexual, and transgender survivors; and undocumented survivors.

victim to give the perpetrator's name only if known by the victim and if safe to give.<sup>25</sup> If the housing provider receives conflicting certifications, the housing provider may require an applicant or tenant to submit third-party documentation.<sup>26</sup>

### Survivor Challenges Not Addressed in VAWA 2013

Survivors' housing needs are not fully addressed by VAWA 2013's mandates and protections. Indeed, survivors face escalated risks of harm including the heightened impact of physical or psychological violence on their physical and mental health, economic stability, employment, relationships, and other significant aspects of daily life and functioning—all of which is

well documented in the literature.<sup>27</sup> Despite the expansion of protection and individuals covered under VAWA 2013, the law fails to address other common situations which affect survivors and may jeopardize their housing; among such situations are a victim's prolonged absence from the unit due to violence; failure of the abuser to pay rent as part of the cycle of violence; property damage caused by the abuser where the victim agrees to pay for the damages; the victim signing no trespass orders which are ultimately violated; and situations where the abuser and victim appear to reconcile or the abuser has moved back

into the unit.<sup>28</sup> VAWA 2013 did not include provisions that could help survivors escape violence and maintain their housing; among such provisions are those permitting early lease termination for victims of violence in the Housing Choice Voucher program; clarifying the legal obligations of private landlords with respect to voucher tenants; permitting a victim to port with a Housing Choice Voucher even when the victim is not in compliance with all of the voucher program obligations; accommodating missed appointments and deadlines due to violence, control, or abuse; and easing compliance with any work requirements for residents in public housing.

Neither does VAWA mandate that housing providers offer admissions preferences to victims of violence or that housing providers collaborate with domestic-violence and sexual-assault advocates on VAWA implementation. Nor has HUD issued proposed regulations, a new HUD notice of VAWA rights or instructions, or guidance on VAWA transfers.<sup>29</sup> Housing policies should fill in these gaps of VAWA 2013 to address all of the risks and barriers that survivors face.

### Proposed Model Collaboration

Although these gaps present obstacles and safety concerns for survivors, legal aid offices and victim advocates can urge housing providers to resolve these problems. Indeed, the U.S. Interagency Council on Homelessness, of which HUD is a member, encourages housing providers to institute and adopt best practices beyond the mandates of VAWA to help ensure that survivors do not become homeless

27 RICHARD R. BEBOUT, *TRAUMA-INFORMED APPROACHES TO HOUSING* (2001); Sandra L. Bloom, *Revised Trauma Theory: Understanding the Traumatic Nature of Sexual Assault*, in *SEXUAL ASSAULT VICTIMIZATION ACROSS THE LIFESPAN: A CLINICAL GUIDE* 405–32 (Angelo P. Giardino et al. eds., 2003); [Rebecca Campbell, Mental Health Services for Rape Survivors: Current Issues in Therapeutic Practice](#) (Oct. 2001) (paper commissioned by Violence Against Women Online Resources); [Jill Davies, Helping Sexual Assault Survivors with Multiple Victimization and Needs: A Guide for Agencies Serving Sexual Assault Survivors](#) (July 2007); [Elizabeth K. Hopper et al., Shelter from the Storm: Trauma-Informed Care in Homelessness Services Settings](#), 3 *OPEN HEALTH SERVICES AND POLICY JOURNAL* 80–100 (2010); [Ann Jennings, National Technical Assistance Center for State Mental Health Planning & National Association of State Mental Health Program Directors, Models for Developing Trauma-Informed Behavioral Health Systems and Trauma-Specific Services](#) (2004); [Rebecca Marie Loya, Economic Consequences of Sexual Violence for Survivors: Implications for Social Policy and Social Change](#) (June 2012) (unpublished Ph.D. dissertation, Brandeis University); [Rebecca M. Loya, The Role of Sexual Violence in Creating and Maintaining Economic Insecurity Among Asset-Poor Women of Color](#), 20 *VIOLENCE AGAINST WOMEN* 1299 (2014); [Donna Greco, National Sexual Violence Resource Center, Sexual Violence and Economic Security: Overview of the Temporary Assistance for Needy Families Programs](#) (2013) (part of Sexual Violence and the Workplace information packet); [National Sexual Violence Resource Center, What is Sexual Violence?](#) (2010) (fact sheet).

25 VAWA 2013 § 601 (to be codified at 42 U.S.C. § 14043e-11(c)(3)(A)); striking 42 U.S.C. §§ 1437d(u)(1)(A), 1437f(ee)(1)(A)).

26 *Id.* (to be codified at 42 U.S.C. § 14043e-11(c)(7)). This statutory revision is consistent with the HUD regulations issued in 2010 (24 C.F.R. § 5.2007 (2014)).

28 Given the coercive and threatening nature of domestic violence, what appears to the outside world to be a "choice" made by the victim to reconcile will likely have resulted from threats or coercion or is based upon the economic needs of the victim.

29 [The Violence Against Women Reauthorization Act of 2013: Overview of Applicability to HUD Programs](#), 78 Fed. Reg. 47717 (Aug. 6, 2013) (HUD notice seeking guidance on certain provisions).

as a result of being victims.<sup>30</sup> The council recommends that housing providers adopt the following best practices: enact an admissions preference for victims of violence; work with community partners to recognize

assisted housing. For example, a victim who is admitted to a domestic-violence shelter or contacts a domestic-violence helpline is generally not asked whether she has left federally assisted housing

how the housing provider currently treats victims of violence. This preevaluation should review how the legal advocates and victim service providers currently aid violence victims who participate in housing programs covered by VAWA or who are eligible for those programs. The organizations should consider what training is needed by legal advocates and victim service providers. For example, a primer on federally assisted housing, domestic violence, and sexual assault (including confidentiality and trauma-informed responses) may be recommended. The collaborators should discuss and determine roles and tasks before implementation begins with a particular housing provider.

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### **Together the legal aid and victim service providers can determine which policies to evaluate and then interview stakeholders to understand how the housing provider currently treats victims of violence.**

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and respond to domestic violence for assisted families; collaborate in partnerships with victim service providers to train housing staff to understand violence and trauma and facilitate outreach and referrals; and link services to Housing Choice Vouchers and other affordable housing.<sup>31</sup>

The council's recommendation for VAWA collaboration is an important one. While legal advocates may know VAWA and other related federally assisted housing program obligations, they may lack competency and training on domestic violence, dating violence, stalking, and sexual assault. Due to evictions, terminations, and other litigation against housing providers, legal advocates also may have an adversarial relationship with them. Unlike their family-law peers, legal advocates, particularly those lawyers working within housing-focused units in legal aid offices, may not have established relationships with victim service providers. At the same time, not fully understanding the legal intricacies of VAWA and other related federally assisted housing program obligations, victim service providers may not appreciate some of the legal barriers that survivors face if they live in or are applicants for federally

or if she is on the wait list for federally assisted housing. Knowing to ask those questions may ensure that the victim's VAWA rights and housing are protected.

Some relationship building between the legal advocates and victim service providers may be necessary before identifying how and in what areas to collaborate. Both groups need to understand how their programs may be deficient in helping survivors who live in or are in need of federally assisted housing. Both groups need to review the housing providers' existing policies and identify how they might be improved. They also need to determine to what extent the policies violate VAWA, the Fair Housing Act, other state or local laws protecting survivors, or otherwise impede a survivor's ability to be safe, maintain housing, and recover emotionally and physically from the violence.<sup>32</sup> Together the legal aid and victim service providers can determine which policies to evaluate and then interview stakeholders to understand

The next step is to approach housing providers about working together to implement VAWA and other model policies for survivors. If an adversarial relationship exists between the housing provider and the legal services program, the victim service providers may be in a better position to make the initial approach. Victim service providers can offer technical assistance on VAWA implementation and state their objective to help develop model policies beyond VAWA mandates. The stated primary goal of the collaboration should be the advancement of policies that allow survivors to access and maintain safe and affordable housing.<sup>33</sup>

As the collaboration begins, the parties should determine what additional information is needed from the housing provider, such as the housing provider's actual practices (as opposed to written policies). Transparency and candor are key to this part of the collaboration. For example, early conversations with the Chicago Housing Authority (CHA), legal

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30 [U.S. Interagency Council on Homelessness, PHA Programs and Policies Working to Prevent Homelessness Protecting Victims of Domestic Violence](#) (n.d.)

31 *Id.*

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32 Policies that have the intent or effect of discriminating against victims of domestic violence can constitute sex discrimination since the overwhelming majority of domestic-violence victims are women ([Sara K. Pratt, Deputy Assistant Secretary for Enforcement and Programs, HUD, Assessing Claims of Housing Discrimination Against Victims of Domestic Violence Under the Fair Housing Act and the Violence Against Women Act](#) (Feb. 9, 2011) (memorandum to Office of Fair Housing and Equal Opportunity directors and regional directors)); [National Law Center on Homelessness and Poverty, There's No Place Like Home: State Laws that Protect Housing Rights for Survivors of Domestic and Sexual Violence](#) (Oct. 2012).

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33 See The Violence Against Women Reauthorization Act of 2013: Overview of Applicability to HUD Programs, 78 Fed. Reg. at 47717.



advocates, and the Mayor's Office on Domestic Violence revealed that some CHA staff had directly witnessed domestic violence assaults (or perpetrated) against tenants but were unclear about how to deal with those situations. Legal advocates in particular need to make clear that the goal is not to pursue litigation against the housing provider. The parties also should discuss the practical limitations of the housing stock and community resources. For example, public housing authorities with a small number of public housing units in the same community area may view safety and transfer concerns as central to the discussions. Communities without a domestic-violence shelter or even victim service providers or legal aid offices in the immediate area may limit what services and options can be offered to survivors.

In these conversations, the housing provider may also take positions or make statements showing implicit bias against survivors or advancing other stereotypes. Victim service providers may be in a better position to consider these positions and statements when identifying a training need for the housing provider staff.

The implementation of VAWA 2005 has had mixed results. Some housing authorities and project-based Section 8 owners simply failed to include VAWA language in their plans and policies, altered VAWA language in ways to limit VAWA's protections for survivors, or even took steps to blame the victim for the acts of the

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**As the collaboration begins, the parties should determine what additional information is needed from the housing provider, such as the housing provider's actual practices (as opposed to written policies).**

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abuser.<sup>34</sup> These missteps, however, offer a template for areas that should be discussed in the VAWA 2013 implementation.

For example, easing proof requirements for survivors is critical to successful implementation. A survivor's eligibility for protection should focus on the victim's own reasonable belief of the threat she faces and the physical or emotional harm or both that she has already suffered. For that reason, oral statements by the survivor or completion of the VAWA self-certification form should be sufficient proof in almost every circumstance.

Admissions preferences for survivors, while not a mandate under VAWA, give survivors a meaningful opportunity to access safe and affordable housing quickly. The absence of admissions preferences may be a key obstacle to escaping the cycle of violence.

Legal aid and housing providers will likely need training on understanding and responding to the complex dynamics of violence. For instance, housing providers often cite that a perpetrator of domestic violence may return to the property in what appears to be a "reconciliation."

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<sup>34</sup> In a review of public housing authority Admissions and Continued Occupancy Policies in Illinois, many housing authorities in Illinois altered the "actual and imminent threat" exception to a bar on domestic-violence-related evictions to an "actual or imminent threat." Many Illinois housing authorities also imposed heightened proof requirements on survivors, such as multiple forms of proof, a protective order, or a no less than a 30-day-old police report (on file with Katherine E. Walz); see also *Meister v. Kansas City Housing Authority*, 2011 WL 765887, slip op. (D. Kan. Feb. 25, 2011) (public housing authority's termination of assistance from Housing Choice Voucher program for damage caused to unit by abuser could constitute sex discrimination in violation of Fair Housing Act).

The housing provider must hold the perpetrator, not the victim, accountable. The victim of violence is likely responding to coercion, threats, or an economic need. The perpetrator's presence at the unit cannot be attributed to the victim, and the housing provider can attempt to engage with the survivor confidentially to offer resources or connection with services.

The proper use of no-trespass orders to remove abusers from the property must be understood. Frequently abusers violate no-trespass orders to continue the cycle of violence, gain access to the victim, or threaten the victim's housing. The no-trespass order should be a document between the housing provider and the perpetrator and should not involve the victim in any manner. If the perpetrator breaks the trespass order by entering the premises, it becomes a matter among the housing provider, law enforcement, and the perpetrator. Forcing the survivor of violence to sign, or in any way enforce, a no-trespass order is not appropriate. Victim service providers can educate housing providers about the reasons why a victim may seem to allow the perpetrator entry to the unit. Ultimately obeying the no-trespass order is the perpetrator's responsibility.

Frequently VAWA's portability provision may be too restrictive for survivors with Housing Choice Vouchers; this is because the household must have complied with all other obligations of the program in order to receive the new voucher. The abuser may have left the household, and this would trigger a recertification of the household's

income. The household may be facing a pending eviction or termination due to the abuser's actions. In short, there are many program obligation violations that could be the result of the violence; such violations could impede the survivor's ability to move to another jurisdiction to escape the violence. Victim service providers and the legal aid program should urge the housing authority to ease the program compliance obligation as a condition of porting; they need to explain the circumstances and the dynamics of the abuser's power and control that likely led to the violations. By allowing the survivor to move and attend to recertification and other matters with the receiving housing authority, the survivor has a better chance of escaping the abuser and starting over. In addition to suggesting the possibility of porting, advocates should ask that victims of violence be issued emergency moving papers to move within the housing authority jurisdiction when there is an ongoing threat of violence, even in the middle of a lease term.<sup>35</sup>

This collaborative process may also institute the following policies to protect survivors: ensuring that housing provider policies on absence from the unit specify an express exception for victims who fled the housing for safety or emotional reasons and may need more time to inform the housing provider; easing any work, case management, or other non-housing-related requirements imposed by housing providers so that survivors can first focus on safety and recovery; avoiding any program requirements mandating counseling, calling the police, criminal prosecution of the abuser, or securing protective orders; barring any policy seeking recovery of

<sup>35</sup> This right to move in the middle of a lease term, even absent landlord consent, should be permitted in both those states with early lease termination laws for survivors and those jurisdictions without such protections for survivors (see generally National Law Center on Homelessness and Poverty, *supra* note 32).



money from the survivor to cover the cost of repairs to the unit caused by the abuser, even by agreement; and providing an express defense to nonpayment of rent by the survivor when the violence and control is the cause of the nonpayment.<sup>36</sup>

VAWA has delivered a clear mandate that confidentiality is vital to ensuring a victim's safety. Thus the parties should outline the law and best practices around sharing information that a victim gives pursuant to VAWA. This is particularly important in light of the new VAWA emergency transfer process since that process will require identification of victims, potentially some form of documentation, and the victim's posttransfer location. Legal advocates and victim service providers should remind housing providers of their obligation to keep confidential the information submitted by a victim pursuant to VAWA or for other domestic-violence, sexual-assault, stalking, or dating-violence matters and that information should be used, only as necessary, to protect or assist the victim, as she requests. The housing provider should share information only when it has the victim's written consent for that confi-

<sup>36</sup> As advocates await guidance from HUD on the new transfer process, communities can begin to develop local or regional transfer policies; they are encouraged to develop policies that exceed HUD's expectations.

dential information to be used for a defined and time-limited purpose; it should not use the typically broad, non-time-limited release that housing providers have tenants and applicants sign. Only key designated staff within housing programs should have access to this information.

### Systematizing Your Model Program

When working toward an agreement on VAWA and beyond, codify VAWA implementation and model policies into the housing providers' planning documents, such as the Admissions and Continued Occupancy Policy, Administrative Plan, Tenant Selection Plan, House Rules, and the Affirmative Fair Housing and Marketing Plan. These documents should incorporate both the mandates set forth for housing providers pursuant to VAWA and the additional protections and policies developed in collaboration with advocates.

Publicizing new policies and educating stakeholders and participants are also important. First, the new policies should be incorporated into or added to any notice to tenants and applicants. When appropriate, advocates should ask for additional notices to tenants and applicants beyond the mandates of VAWA. Second, advocates should at the same time offer

“Know Your Rights” training sessions and materials on the new policies to tenants, Housing Choice Voucher landlords, housing advocates, and domestic-violence and sexual-assault advocates (who can share materials with clients in shelters and receiving services). Sharing information on the new policies will contribute to effective implementation and encourage advocates and survivors to report problems with the new policies. And, third, advocates should ensure that housing providers are trained on VAWA and the new policies and again offer to collaborate. For example, the Chicago Hub of the HUD Office of Multifamily Housing annually cohosts a “Smart Management” training with a tenants’ rights–focused community-based organization.<sup>37</sup> Because HUD invites all of the owners and managers of project-based Section 8 housing in the area, there are very high participation rates. The Sargent Shriver National Center on Poverty Law conducts the annual training on VAWA and the fair housing rights of survivors.

The parties should develop efficacy measurements and meet regularly to evaluate the VAWA implementation and the model policies. For example, in 2011 the CHA retained the Loyola University Center for Urban Research and Learning program to determine the effectiveness of its programs and policies aimed at protecting survivors of violence. The findings from that research led to further improvements and changes in policies aimed at assisting survivors.<sup>38</sup>

Collaboration among these three groups—legal aid offices, victim advocates, and housing providers—may be challenging and marked by incremental progress.

The benefits of role clarity and community-specific responses will serve the needs of the collaborators and enhance the systemwide response to survivors.

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 **Hangout on Air with Katherine E. Walz**

Please join us for a live Google Hangout on Air with Katherine E. Walz. With Senior Attorney Editor Amanda Moore, Walz will chat about this article and will gladly take your questions. The half-hour Hangout on Air will be held at 12:00 noon (CST) on Tuesday, December 16, 2014.

<sup>37</sup> E-mail message from Robert Clack, Metropolitan Tenants Organization, to Katherine E. Walz (May 15, 2014) (on file with Walz).

<sup>38</sup> Loyola University Center for Urban Research and Learning, Research findings (2011) (on file with Walz).

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