

University of Miami Law School

University of Miami School of Law Institutional Repository

Articles

Faculty and Deans

2008

The Harsh Reality of Choosing Between Safety and Housing: Solutions for Victims of Domestic Violence

Jill Barton

University of Miami School of Law, jbarton@law.miami.edu

Follow this and additional works at: https://repository.law.miami.edu/fac_articles



Part of the [Family Law Commons](#), and the [Housing Law Commons](#)

Recommended Citation

Jill Barton, *The Harsh Reality of Choosing Between Safety and Housing: Solutions for Victims of Domestic Violence*, 93 *Women Law. J.* 21 (2008).

This Article is brought to you for free and open access by the Faculty and Deans at University of Miami School of Law Institutional Repository. It has been accepted for inclusion in Articles by an authorized administrator of University of Miami School of Law Institutional Repository. For more information, please contact library@law.miami.edu.

The Harsh Reality of Choosing between Safety and Housing: Solutions for Victims of Domestic Violence

By Jill Barton*

NAWL has established the annual Selma Moidel Smith Law Student Writing Competition to encourage and reward original law student writing on issues concerning women and the law. This is the third year of the competition and we were gratified to receive many superb entries. The winning essay is by Jill Barton, a third year law student at the University of Missouri-Kansas City.

Selma Moidel Smith, in whose honor the Competition is named, has been an active member of NAWL since 1944. Smith is the author of NAWL's Centennial History (1999), and recently received NAWL's Lifetime of Service Award. She is a past Western Region Director, State Delegate from California, and chair of numerous NAWL committees. Selma served two terms as president of the Women Lawyers Association of Los Angeles, and was recently named their first and only Honorary Life Member. She was also president of the Los Angeles Business Women's Council. In the ABA Senior Lawyers Division, Selma was appointed the chair of the Editorial Board of *Experience* magazine (the first woman to hold that position) and was elected to the governing Council for four years, also serving as chair of several committees and as NAWL's Liaison to the Division. Selma is a member of the Board of Directors of the California Supreme Court Historical Society. She was president, and also a Charter Member, of the National Board of the Medical College of Pennsylvania, which recently honored her at the Board's 50th anniversary.

Selma's career as a general civil practitioner and litigator are recognized in the first and subsequent editions of *Who's Who in American Law* and *Who's Who of American Women*, and also in *Who's Who in America*, among others. Her articles on the history of women lawyers have been published in the *Women Lawyers Journal* and *Experience* magazine, and have been posted online by the Stanford Women's Legal History Biography Project (together with her own biography). Her original research includes the discovery of the first two women members of the ABA (Mary Grossman and Mary Lathrop), both of whom were vice presidents of NAWL.

Selma is also a composer. Many of her 100 piano and instrumental works have been performed by orchestras and at the National Museum of Women in the Arts. She is listed in the *International Encyclopedia of Women Composers*.

Introduction

Reuben Thomas began stalking Tanica Lewis after she broke off their relationship and left him, taking their two young daughters with her.¹ Thomas repeatedly harassed Lewis at work, called her ten times or more a day, and threatened her life.² Lewis took all the right steps to secure her safety. She found a new apartment, obtained a personal protection order and told her apartment's management that Thomas was prohibited from coming near the complex.³ Lewis also changed her work schedule and parking habits, so Thomas could not catch her on her way to or from work, and she notified police each time Thomas violated the personal protection order.⁴ But her efforts were not enough to keep her home life safe. A few weeks after she moved, Thomas showed up at Lewis' apartment.⁵ He threw bricks to smash through the windows of Lewis' home and kicked down the door.⁶

Lewis immediately called police and reported the incident to her apartment's management.⁷ Authorities filed criminal charges against Thomas, who was convicted of home invasion and ordered to pay restitution.⁸ But the apartment's management, Northend Village, took aim at Lewis, issuing her a 30-day notice of eviction because she allegedly violated the terms of her lease, which made a tenant liable for any damage resulting from "lack of proper supervision" of her "guests." The management's repeated notices to terminate her tenancy forced Lewis and her two children to leave on March 31, 2006, and move into a shelter.⁹ Lewis had no other option that was both safe and affordable.¹⁰ When she finally found new housing, it required her to pay \$200 more a month in rent, commute a farther distance to her job, and pay more for childcare.¹¹

The American Civil Liberties Union ("ACLU") filed a sex discrimination suit on Lewis' behalf charging that the apartment's policy of evicting domestic violence victims'

“Congressional studies have found a strong link between domestic abuse and homelessness and have recognized that victims of domestic violence are too frequently discriminated against because of the violence and instability in their lives.”

based on the actions of their abusers violated the federal Fair Housing Act¹² and Michigan’s Civil Rights Act.¹³ Lewis’ case ended with a settlement agreement announced in February 2008,¹⁴ and her case demonstrates the harsh reality faced by many victims of domestic violence who are forced to choose between safety and housing.

This article examines current housing protections available to domestic violence victims and analyzes the effectiveness and shortcomings of available housing laws and programs. Part I describes the link between domestic violence and homelessness and details the Violence Against Women Act of 2005 and other laws. Part II discusses the goals of these protective housing provisions and analyzes whether these objectives have been accomplished. And Part III provides a proposal for addressing additional problems faced by domestic violence victims.

I. Protections for Domestic Violence Victims

A. The Link Between Domestic Violence and Homelessness

Women who are living in poverty and make the difficult choice to leave their abuser and their home often end up without a secure place to sleep at night.¹⁵ As a result, victims of domestic violence often become trapped in their abusive situations because of housing concerns. A 2003 study of homeless women in Minnesota, for example, found that forty-six percent of them reported that they stayed in abusive relationships because they had nowhere to go, and others were afraid to call the police on their abusers because they feared being evicted by a landlord or being turned out onto the streets by the abuser who provided the housing,¹⁶ leaving them trapped in a dangerous situation. The fears of domestic violence victims are not unfounded. In 2000, nearly 300,000 women and children were unable to access the emergency shelter they needed to escape from domestic violence.¹⁷

Some landlords enforce policies against domestic violence victims because they believe it will make their properties safer.¹⁸ These property managers often point to zero tolerance policies and federal one-strike rules which require evictions if any type of criminal activity occurs in the home.¹⁹ These rules are often stretched to cast blame on the victims of domestic violence, as demonstrated by Tanica Lewis’ case.²⁰ Lewis’ notice of eviction stated that her “guest kicked in the apartment door and broke several windows, causing extensive property damage” and “[d]isrupting the quiet enjoyment of others.”²¹ Also troubling is the fact that some victims of domestic violence are refused housing

because years of abuse have caused them to have poor credit, rental and employment histories.²² A 2005 survey found that fifty percent of U.S. cities identified domestic violence as a leading cause of homelessness.²³ A more staggering statistic is that ninety-two percent of women who are homeless also report suffering severe physical or sexual abuse at least once during their lives.²⁴

Living in poverty further complicates an already challenging housing situation for domestic violence victims. The rate of domestic violence is much higher for poor women. For example, women with annual household incomes of less than \$7,500 are seven times more likely to suffer from domestic violence, compared with those who have annual household incomes of more than \$75,000.²⁵ In addition, women who rent are three times more likely to become the victims of domestic violence than women who own their own homes.²⁶ And, women living in poor neighborhoods are two times more likely to suffer domestic violence than women living in more affluent neighborhoods, even if both are in economically distressed situations.²⁷ Although domestic violence affects women in every social, ethnic and economic circumstance, women living in poverty will have more complex needs than women who have more resources readily available to them.²⁸

A severe shortage of affordable housing makes matters even worse. More than five million American households are spending more than half of their income on rent, living in substandard housing or are doubling up with other families to be able to pay their rent.²⁹ Housing assistance programs and shelters are under-funded and insufficient to meet the growing needs for their services.³⁰ As a result, lawmakers and social service providers have tried to develop solutions focused on the specialized needs of victims of domestic violence who are living in poverty.

B. Violence Against Women Act and Other Protective Housing Laws

In the last two decades, federal and state governments have recognized the housing challenges for victims of domestic violence and enacted various protections. Congressional studies have found a strong link between domestic abuse and homelessness and have recognized that victims of domestic violence are too frequently discriminated against because of the violence and instability in their lives.³¹

The Violence Against Women Act (“VAMA”), passed in 2005, provides protections to women who might otherwise lose their federal housing and also establishes remedies and punishments to deal with existing problems. Originally passed in 1994, reauthorized in 2000 and again

in 2005, VAWA amends federal programs to help ensure that women and their children are not refused housing or evicted because of domestic violence.³² These programs include public housing and Section 8 voucher programs, which provide subsidized housing to low-income families and individuals.

The primary protective housing provisions in Title VI of VAWA restrict policies that retaliate against domestic violence victims, provide for additional resources, and protect victims' confidentiality. These provisions include:

- An individual's status as a victim of domestic violence (which includes dating violence or stalking) cannot be used as a basis to deny housing or housing assistance or to terminate a lease.
- An incident of domestic violence cannot qualify as an incident that would invoke federal "one-strike" policies. The statute states that an incident of actual or threatened domestic violence does not qualify as a "serious or repeated violation of the lease" or "good cause for terminating the assistance, tenancy, or occupancy rights of the victim."
- Housing agencies and landlords accepting Section 8 vouchers are required to honor court orders that address rights of access to property or control of the property.
- Public housing agencies and landlords accepting Section 8 vouchers also may bifurcate a lease to evict an abuser or terminate the abuser's public assistance, while also allowing the tenant-victim to remain.
- Section 8 vouchers are "portable," meaning that domestic violence victims are allowed to move when required for their safety and to keep their public assistance.
- To protect the confidentiality of domestic violence victims, public housing agencies and landlords accepting Section 8 vouchers may not enter personally-identifying information into shared databases.³³

These protective provisions cover victims of domestic violence, dating violence and stalking who are tenants in federal public housing and programs that accept Section 8 vouchers.³⁴ An individual qualifies as a victim after a single incident of domestic violence, dating violence or stalking.³⁵ And all public housing projects and all landlords, owners and managers who participate in the Section 8 voucher programs are required to comply with VAWA requirements.³⁶ In addition, if a state or local law would

provide greater protection to domestic violence victims, VAWA requires that landlords comply with the terms of the more protective provisions.³⁷

Other laws that provide protections include the federal Fair Housing Act, which is a part of the Civil Rights Act of 1968 and prohibits landlords from discriminating on the basis of sex.³⁸ The ACLU, which brought the suit on Tanica Lewis' behalf, used a violation of the Fair Housing Act as a basis for its lawsuit, but the organization reports that few courts have addressed whether the Fair Housing Act applies to domestic violence victims.³⁹ A Vermont federal court in 2005 was the first to issue a ruling that discriminating against domestic violence victims represented sex discrimination in violation of the Fair Housing Act. In *Bouley v. Young-Sabourin*, the Vermont court found that the Fair Housing Act provides protection for tenants when their landlord attempts to evict them following an incident of domestic violence.⁴⁰ Other courts have acknowledged that discrimination against domestic violence victims is unlawful when it is based on "gender stereotypes."⁴¹ In addition, the ACLU suggests that policies that discriminate against domestic violence victims would likely qualify as unlawful sex discrimination because of their disparate impact on women.⁴²

Other laws that offer housing protection to women include local human rights laws. For instance, the ACLU's suit on Lewis' behalf also alleged that the landlord's actions violated Michigan's Civil Rights Act.⁴³ In addition, some states and municipalities have enacted anti-discrimination laws that offer more protection than federal statutes and cover more housing providers than federal housing agencies and Section 8 landlords. The human rights law in Washington D.C. offers wide-ranging protection with broad language. The law prohibits landlords from refusing to make "reasonable accommodations" that are necessary to maintain a tenant's confidentiality or to ensure her safe use of the property.⁴⁴ In addition, Washington state law has a provision that allows victims of domestic violence to sue landlords if they violate anti-discrimination housing laws and to recover damages, court costs and attorney's fees. But some state laws offer protection for landlords as well. For example, in Oregon, landlords are allowed to terminate the lease of a domestic violence victim if she allows the offender onto the property and the safety of other tenants is in jeopardy.⁴⁵

Another important provision in many states is the ability for victims of domestic violence to terminate their lease before their contractual obligation ends without forfeiting deposits and prepaid rent and without making themselves liable for future rental charges. In Colorado, domestic violence victims may terminate their lease immediately and pay only the next month's rent without incurring any further

liability.⁴⁶ Other states, including New York, allow a victim to break a lease with as little as ten days' notice.⁴⁷ Illinois allows tenants to immediately end their lease with written notice if a court finds that either the tenant or a member of the tenant's household faced a "credible, imminent threat" of domestic or sexual violence.⁴⁸

In addition, most states allow tenants to successfully defend against a potential eviction if the eviction was caused by an incident of domestic violence. Much like the federal protection offered in VAWA, some states have provisions that allow for the bifurcation of a lease so that a victim can keep her housing while an alleged abuser is evicted. In addition to allowing a landlord to bifurcate leases beginning in 2007, Indiana law also ensures that a perpetrator who is excluded from housing because of a court order is still liable for continued lease payments.⁴⁹ Arkansas law allows landlords to evict a domestic abuse offender, even if the offender is not named on the lease, but the law stops short of providing continued housing for the victims of domestic violence.⁵⁰

II. Analysis of Effectiveness of VAWA

A. Protective Housing Laws At Work

Since the VAWA was originally passed in 1994, advocates have praised the law for its effectiveness in addressing many of the housing needs of victims of domestic violence and their families. VAWA has effectively brought an end to a long string of housing abuses and discrimination. As recently as 2002, the U.S. Supreme Court upheld the one-strike policies of public housing that allowed landlords to evict tenants if they or their guests were arrested for having guns or drugs on the property—even if the tenant was unaware that any criminal activity was taking place.⁵¹ The zero-tolerance policy made no exception for victims of domestic violence in cases where the charges were dropped or where the person was found not guilty. Writing for the majority, Chief Justice Rehnquist presumed that the same external factors contribute to both drug crimes and domestic violence crimes and rested his reasoning on the false assumption that domestic violence is comparable to other crimes.⁵² In fact, although domestic abuse is a crime of violence, it is distinct from other crimes because it is based on power and control—as opposed to anger or addiction—and it often happens in the privacy of the abuser's home.⁵³ The ruling put victims of domestic violence in jeopardy of losing their housing and provided for no safety net. VAWA now allows for both the guarantee of housing and the safety net—although the funding for the latter has fallen short.

B. Protective Housing Laws Fall Short on Funding and Meeting Other Stated Goals.

Despite the many added protections and resources provided by VAWA and its state law equivalents, such laws still fall short in many respects—both in meeting their stated objectives and in providing the full gamut of protection that is needed for victims of domestic violence. The most obvious of these shortcomings is the lack of funding. The 2005 version of VAWA authorized a stunning \$3.3 billion to support VAWA programs over five years, but the bill merely sets forth a spending limit. The bill itself does not provide the much-needed funding. For each of the five years authorized in the bill, Congress needs to approve legislation that would appropriate a specific amount for each of the VAWA programs. And, the bill provides no assurance that Congress will appropriate the \$3.3 billion or any amount at all.⁵⁴ The struggling economy, Iraq war and budget cuts have yielded less money for social service programs, including VAWA.⁵⁵ President Bush's 2007 budget failed to include enough funding for many of the VAWA programs and services that were previously established. As Kerry Hyatt Blomquist, the legal counsel for the Indiana Coalition Against Domestic Violence noted, signing the bill into law provided President Bush "a glorious photo op," but VAWA cannot be completely effective until Congress fully funds its programs.⁵⁷

In many ways, the VAWA's social programs pay for themselves. In the first six years after VAWA's initial passage in 1994, at least \$14.8 billion in taxpayer savings was generated by averting the social costs of domestic abuse.⁵⁸ There is also a greater cost to society when much-needed programs do not receive the necessary funds. Prisons, courtrooms, hospital emergency rooms and morgues see added costs because of domestic violence.⁵⁹ The federal Centers for Disease Control reports that the health-related costs for domestic abuse, including assault, stalking, homicide and rape committed by intimate partners, are more than \$5.8 billion annually.⁶⁰ But there has been no increase in funding for the much-heralded VAWA since 2003.

One unfunded VAWA grant programs is designed to foster collaboration between federal and local agencies to create long-term affordable housing for domestic violence victims who have lost their homes or who are at risk of becoming homeless.⁶¹ Through the use of partnerships between housing agencies, victim service providers and other groups, the grant program is intended to provide incentives to allow victims of domestic violence to achieve stable, long-term housing. Programs like these offer long-term solutions by using all available resources instead of creating temporary fixes and must be funded for domestic violence victims to recognize that they can escape an abusive situation and find safe *and* affordable housing.

The gross shortage of affordable housing only complicates a difficult situation for victims of domestic abuse. VAWA does not provide a domestic violence victim any guarantee that she will receive housing. Nor does it give a victim any priority in the long waiting lists for public housing. Victims of domestic violence are not necessarily more entitled to the public housing compared to other people who need it, but because they often stay in dangerous situations due to a lack of housing, another solution must be found to meet their needs. In the last decade, the nation has seen a real estate boom that led to an increase in housing for people with higher incomes, but the cost of that growth was an increase in the number of people who were forced to pay more than half of their incomes on housing or were forced to the streets. With more than five million families who are homeless, living in substandard housing or paying an excessive portion of their income on housing, the affordable housing crisis must be addressed simultaneously with domestic abuse.⁶²

Another shortcoming of protective housing laws is that state laws often offer less protection than the federal VAWA. Because VAWA only binds federal public housing agencies and landlords that accept Section 8 vouchers, state laws are needed to provide the same protections to victims of domestic violence on a wider scale. Without state protections, many victims of domestic abuse would have little, if any, recourse. In Oregon, for example, state law provides some protection by allowing victims of domestic violence to terminate their leases if necessary to ensure their safety. But it does not offer the additional and much-needed protection of defending against eviction.⁶³ States that have modeled their own laws after VAWA come closer to providing the full gamut of needed protection.

In addition, another pitfall of VAWA and its state law equivalents is a lack of education—of both the landlords who are supposed to follow the laws and the tenants who are supposed to be protected. Many tenants do not know they have an absolute defense against eviction if the eviction was caused by an incident of domestic violence. And many landlords do not know that they cannot deny a rental application because of a criminal incident in an applicant's past if that incident is caused by domestic violence. VAWA contains some provisions that would inform tenants and public housing agencies of these protections, including requiring public housing agencies to provide tenants notice that an incident of domestic violence does not invoke a one-strike policy and notifying them that victims are protected through confidentiality provisions. This information is required to be in the lease and in contracts between public housing agencies and Section 8 landlords.⁶⁴ But it is unknown if tenants notice these new rights. Leases

are notorious for their legalese and excessive length and many tenants probably sign them without learning of the new VAWA protections available to them. In addition, people living in poverty traditionally have less access to information and would likely be less informed about their rights under VAWA and similar laws. More information must reach victims of domestic violence so that they can take full advantage of the protections available.

III. A Proposal for a More Effective Protective Housing Law for Victims of Domestic Violence Who Live in Poverty

A proposal for a more effective protective housing law can be shaped by examining the benefits and shortcomings of the protective provisions in VAWA and similar state laws. These provisions have provided valuable tools and resources for victims of domestic violence, dating violence and stalking, but they could reach many more victims if they were broadened. More importantly, the federal VAWA only holds public housing agencies and Section 8 landlords accountable. Although state laws reach more housing providers, private housing policies are also needed to ensure that all victims of domestic violence receive the protection needed to ensure their safety and home security.

The best model of this extensive protection is illustrated by the settlement reached by the ACLU in Tanica Lewis' lawsuit. The settlement went beyond federal housing laws by affirmatively providing that tenants who have suffered from domestic abuse may terminate their leases early.⁶⁵ The settlement also provides that relocation may be provided for tenants who must flee their homes to ensure their safety.⁶⁶ The relocation assistance can work similarly to the Section 8 voucher portability provided for in VAWA, which allows tenants to transfer their vouchers to another property. Large management companies, such as Lewis' landlord, Management Systems, Inc., can use their extensive property holdings to offer their tenants the same flexibility. The ACLU settlement recognized that property management companies can help a domestic violence victim escape a dangerous situation by allowing a tenant to transfer a lease and relocate to another property. This policy allows a tenant to quickly find safe housing without suffering the added financial burden of incurring liability for the lease term and losing security deposits and prepaid rent.

An additional model for providing relocation assistance can be found in Florida.⁶⁷ Florida law provides for one-time payments of up to \$1,500 to help victims of domestic violence relocate. The maximum benefit under the program is \$3,000. To qualify, Florida residents must meet several requirements, including providing proof that

“Victims of domestic violence are not necessarily more entitled to the public housing compared to other people who need it, but because they often stay in dangerous situations due to a lack of housing... another solution must be found to meet their needs.”

a domestic violence offense occurred and demonstrating that the incident was reported to authorities.⁶⁸ A state-certified domestic violence center also must certify the victim's need for the assistance and assert that the victim is both cooperating with authorities and has developed a safety plan.⁷⁰ These requirements would provide the necessary safeguards to ensure only those who truly need the assistance would receive the limited funding. A model protective housing law should include similar provisions for relocation assistance and the funding for the program.

In addition to this relocation assistance, a model program should provide for continued financial assistance where possible as is found in the U.S. territories of Guam, the Northern Mariana Islands, and the Virgin Islands.⁷¹ In these island nations, for instance, a victim of domestic violence may maintain possession of a rental property if it was shared with the offender—while the offender is evicted.⁷² The policy works like the VAWA lease bifurcation provision. But the islands add an additional requirement that if the offender has a duty to support the victim or minor children who are living in the rental housing, the offender could be court ordered to continue paying the rent. Or, the offender can provide “suitable alternative housing” through a consent agreement.⁷³ These laws establish a domestic violence victim's ability to enforce her rights—not only to housing but to the financial support to which she is legally entitled.

A more obvious way to improve the current protective housing laws is to provide the funding. Appropriations for VAWA have fallen short every year since it was originally passed in 1994. Under the current VAWA, the authorized funding has not been provided for innovative prevention and other programs, including rape crisis centers and programs that provide assistance to children who witnessed violence.⁷⁴ One program authorized \$10 million for public housing agencies to create programs to address domestic violence and allowed for the best practices demonstrated by the various programs to serve as national models.⁷⁵

President Bush's budget for the 2008 fiscal year includes an impressive \$421.6 million for VAWA programs, but that appropriation falls \$406.4 million short of the amount Congress authorized in 2006.⁷⁶ More problematic is that President Bush's budget request proposes putting all VAWA programs into one block accessible by all programs, which would sidestep Congress' intent to create separate programs with their own funding.⁷⁷ The disparity caused some advocacy groups, such as the National Coalition Against Domestic Violence, to urge Congress to reject Bush's proposal. It would be easy for lawmakers to use the difficult economic times as justification for cutting VAWA funding. But it is important to note that financial stress only

serves to increase domestic violence, which makes funding during difficult times even more essential to keep victims of domestic violence safe.

In addition, a model protective housing program only works with increased awareness and education of the requirements and resources available. Any new program would depend on both housing providers and tenants being aware of their rights and responsibilities. Some states have taken the extra step of ensuring this awareness. In Iowa, legislation is pending that would pay for the creation and distribution of brochures with information to landlords and property managers about the dangers of domestic violence.⁷⁸ The brochure would also encourage housing providers to assist victims with relocation when possible.⁷⁹ Similar efforts should be made to ensure that tenants are educated about their rights. Providing information on a wider scale would allow the available assistance to reach those who need it most.

IV. Conclusion

The protective housing provisions currently in place offer a great deal of support and resources to low-income victims of domestic violence, dating violence and stalking. Without this protection, many more domestic violence victims and their children would be forced into the objectionable position of choosing between their own safety and housing. Not only do laws such as VAWA provide protection against the discrimination domestic violence victims have suffered for decades, but they also provide important resources to help victims achieve long-term stability. The assistance provided by these laws pays for itself—not only by saving lives and keeping survivors out of harm's way but also by reducing the great social costs of domestic violence in the healthcare, social service and judicial systems.

Before the developments in this area over the last two decades, many victims were refused public and subsidized housing or they were unfairly evicted because of the domestic violence in their lives. Because of this harsh reality, many victims made the tragic choice of staying in a dangerous situation so they could hold onto an adequate place to sleep at night. Much progress has been made, but advocacy groups, municipalities, states and the federal government should take on the challenge of creating a more far-reaching protective housing law. The model described in this article requires adequate funding for housing programs as well as additional education for both landlords and tenants. In addition, this model would ideally hold private housing providers accountable in the same way VAWA obligates public housing agencies and Section 8 landlords. And, the proposed housing protections would

WINNER—SELMA MOIDEL SMITH LAW STUDENT WRITING COMPETITION

provide the grant money needed to foster collaboration between social service providers, law enforcement agencies, municipalities and state governments to create long-term solutions. Most importantly, the proposed model would fill gaps in the existing system by providing relocation assistance, continued financial support and guaranteed

shelter for all domestic violence victims in the short- and long-term. This model aims to provide every low-income victim of domestic violence the freedom of choice they need to escape their dangerous situations. That freedom is an essential part of the solution to domestic violence.

- * Juris Doctor Candidate, University of Missouri-Kansas City, 2009. Bachelor of Journalism, University of Missouri-Columbia, 1997. The author would like to thank Professor Barbara Glesner Fines for her guidance and support in preparation of this article.
- ¹ Press Release, ACLU, *Private Housing Company Won't Evict Domestic Violence Victims After ACLU Lawsuit*, (Feb 26, 2008) (hereinafter ACLU Press Release), available at <http://www.aclu.org/womensrights/violence/34213prs20080226.html>.
- ² Lewis v. North End Village, et. al., Complaint filed in the U.S. District Court for the Eastern District of Michigan, available at http://www.aclu.org/pdfs/womensrights/lewis_complaintdem_20070221.pdf.
- ³ ACLU Press Release, *supra* note 1.
- ⁴ *Id.*
- ⁵ *Id.*
- ⁶ Lewis v. North End Village, et. al., Complaint, *supra* note 2.
- ⁷ *Id.*
- ⁸ *Id.*
- ⁹ *Id.*
- ¹⁰ *Id.* Northend Village was partially funded by the U.S. Department of Housing and Urban Development's Low-Income Housing Tax Credit program, which provides tax credits to companies for "the acquisition, rehabilitation, or new construction of rental housing targeted to lower-income households." Low-Income Housing Tax Credit, available at <http://www.huduser.org/datasets/lihtc.html>.
- ¹¹ ACLU Press Release, *supra* note 1.
- ¹² Fair Housing Act, 42 U.S.C. § 3601-31 (1988).
- ¹³ ACLU Press Release, *supra* note 1; Michigan Elliott-Larsen Civil Rights Act, available at http://michigan.gov/documents/act_453_elliott_larsen_8772_7.pdf.
- ¹⁴ ACLU Press Release, *supra* note 1.
- ¹⁵ National Law Center on Homelessness & Poverty (hereinafter NLCHP), *The Impact of the Violence Against Women Act 2005 (VAWA) on the Housing Rights and Options of Survivors of Domestic and Sexual Violence*, report available at www.nlchp.org.
- ¹⁶ ACLU Women's Rights Project, *Domestic Violence and Homelessness*, report available at <http://www.aclu.org/FilesPDFs/housing%20paper.4.pdf>; Editorial Opinion, Philadelphia Daily News, *Stopping Domestic Violence: Federal Law Can Help Do That*, July 21, 2005 at 17.
- ¹⁷ National Coalition Against Domestic Violence, *Detailed Shelter Surveys (2001)*.
- ¹⁸ ACLU Women's Rights Project, *The Rights of Domestic Violence Survivors in Public and Subsidized Housing*, report available at <http://www.aclu.org/pdfs/subsidizedhousingdv.pdf>.
- ¹⁹ *Id.* One-strike or zero-tolerance policies allow landlords to evict tenants based on a single violation. A tenant violates these policies if the tenant or a guest is arrested on or off the premises with drugs or guns, regardless of the tenant's knowledge of the activity. See Sargent Shriver National Center on Poverty Law, *U.S. Supreme Court Upholds Public Housing Authorities' One-Strike Eviction Policy: Impact on Victims of Domestic Violence*, available at http://www.povertylaw.org/news-and-events/woman-view/2002_05_10.
- ²⁰ Lewis v. North End Village, *supra* note 2.
- ²¹ *Id.*
- ²² Susan A. Reif and Lisa J. Krisher, National Center On Poverty Law, Clearing House Review, *Subsidized Housing and the Unique Needs of Domestic Violence Victims*, (2000).
- ²³ U.S. Conference of Mayors—Sodexo, Inc., *Survey on Hunger and Homelessness (2005)*, available at <http://www.usmayors.org/uscm/hungersurvey/2005/HH2005FINAL.pdf>.
- ²⁴ NLCHP, *supra* note 15.
- ²⁵ *Domestic Violence and Homelessness*, *supra* note 16. This disparity could also be due to a difference in the rate of reporting or because domestic violence victims who are poor have fewer resources readily available to them.
- ²⁶ *Id.*
- ²⁷ *Id.*
- ²⁸ Missouri Coalition Against Domestic & Sexual Violence, *The Nature and Dynamics of Domestic Violence*, (Sept. 2006), available at www.mocadsv.org.
- ²⁹ NLCHP, *supra* note 15.
- ³⁰ *Id.*
- ³¹ ACLU Press Release, *New Federal Law Forbids Domestic Violence Discrimination in Public Housing*, (Jan. 25, 2006), available at <http://www.aclu.org/womensrights/violence/23929res20060125.html>.
- ³² The Violence Against Women Act (VAWA), originally passed in 1994 as Title IV, §§ 40001-03 of the Violent Crime Control and Law Enforcement Act., Pub. L. 103-322. In 2000, VAWA was reauthorized and modified slightly as part of the Trafficking Victims Protection Act, Pub. Law 106-306. The 2005 version of VAWA is Pub. Law 109-162.

WINNER—SELMA MOIDEL SMITH LAW STUDENT WRITING COMPETITION

- ³³ 42 U.S.C. § 1437(d), (f) (2006); NLCHP, *supra* note 15.
- ³⁴ NLCHP, *supra* note 15.
- ³⁵ *Id.*
- ³⁶ *Id.*
- ³⁷ *Id.*
- ³⁸ ACLU Women's Rights Project, *Housing Discrimination and Domestic Violence*, report available at http://www.aclu.org/images/asset_upload_file790_24325.pdf.
- ³⁹ *Id.*
- ⁴⁰ This case is unreported. See ACLU Press Release, *supra* note 1.
- ⁴¹ ACLU *Housing Discrimination and Domestic Violence* report, *supra* note 38.
- ⁴² *Id.*
- ⁴³ Lewis v. North End Village, et. al., Complaint, *supra* note 2.
- ⁴⁴ D.C. CODE §2-1401.01-.02 (2007); National Law Center, *State Laws and Legislation to Ensure Housing Rights for Survivors of Domestic and Sexual Violence*, (hereinafter *State Laws and Legislation*), available at www.nlchp.org.
- ⁴⁵ OR. REV. STAT. § 659A.431(4) (2007).
- ⁴⁶ COLO. REV. STAT. § 32-12-402(2) (2006).
- ⁴⁷ NY REAL PROP. § 227-C (2007).
- ⁴⁸ 820 ILL. COMP. STAT. 180/30 (2006).
- ⁴⁹ IND. CODE ANN. § 32-31-9(1)-(15) (2007).
- ⁵⁰ ARK. CODE ANN. § 18-16-112(c)(3)(C) (2007).
- ⁵¹ Department of Housing and Urban Development v. Rucker, 535 U.S. 125 (2002).
- ⁵² *Id.* at 134. Rehnquist said: "There is an obvious reason why Congress would have permitted local public housing authorities to conduct no-fault evictions: Regardless of knowledge, a tenant who "cannot control drug crime, or other criminal activities by a household member which threaten health or safety of other residents, is a threat to other residents and the project." With drugs leading to "murders, muggings, and other forms of violence against tenants," and to the "deterioration of the physical environment that requires substantial governmental expenditures," it was reasonable for Congress to permit no-fault evictions in order to "provide public and other federally assisted low-income housing that is decent, safe, and free from illegal drugs." *Id.*
- ⁵³ The Nature and Dynamics of Domestic Violence, *supra* note 28 at 3, 5-6.
- ⁵⁴ Allison Harris and Meghan Musso, *Violence Against Women Act of 2005: April 2006 Update*, available at <http://www.center4research.org/vawa2005.html>.
- ⁵⁵ *Id.*
- ⁵⁶ *Id.*
- ⁵⁷ Kerry Hyatt Blomquist, Letter to the Editor, *Violence Against Women Act Needs Funding To Be Real*, The Indianapolis Star, Sept. 17, 2006.
- ⁵⁸ *Id.*
- ⁵⁹ Ann Fisher, Domestic Violence Cutbacks Risk Lives, The Columbus Dispatch, Feb. 11, 2008 at 1B.
- ⁶⁰ *Id.*
- ⁶¹ NLCHP, *supra* note 15.
- ⁶² See *supra* Section I-A.
- ⁶³ *Housing Discrimination and Domestic Violence*, *supra* note 38.
- ⁶⁴ NLCHP, *supra* note 15 at 6.
- ⁶⁵ ACLU Press Release, *supra* note 1.
- ⁶⁶ *Id.*
- ⁶⁷ FLA. STAT. ANN. § 960.198 (2007); *State Laws and Legislation*, *supra* note 44 at 13.
- ⁶⁸ FLA. STAT. ANN. § 960.198 (2007).
- ⁶⁹ *Id.*
- ⁷⁰ *Id.*
- ⁷¹ 7 GCA § 40105, 1986 N. MAR. I. P.L. 5-20 § 1230; and V.I. CODE ANN. TIT. 16 § 97(b)(3).
- ⁷² *Id.*
- ⁷³ *Id.*
- ⁷⁴ National Coalition Against Domestic Violence, *Violence Against Women Act Appropriations Factsheet*, available at <http://www.ncadv.org/files/2008vawa.pdf>.
- ⁷⁵ ACLU Press Release, *New Federal Law Forbids Domestic Violence Discrimination in Public Housing*, *supra* note 31.
- ⁷⁶ *Id.*
- ⁷⁷ *Id.*
- ⁷⁸ *State Laws and Legislation*, *supra* note 44 at 20.
- ⁷⁹ *Id.*