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28 *****Admitted pursuant to Ariz. Sup. Ct. R. 38(f)***
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

NANCY MARKHAM,

Plaintiff,

v.

CITY OF SURPRISE; MICHAEL
FRAZIER; and CHRISTOPHER TOVAR,

Defendants.

No. 2:15-cv-01696-SRB

AFFIDAVIT OF GRETCHEN ARNOLD

1 STATE OF MISSOURI)
2) ss.
3 City of St. Louis)

4 Gretchen Arnold, after having been sworn upon her oath, states the following:

5 1. I am over eighteen years of age and am a resident of St. Louis, Missouri. I
6 have personal knowledge of the matters described herein.

7 2. I am currently an Assistant Professor of Women and Gender Studies at St.
8 Louis University. A copy of my curriculum vitae is attached as Exhibit A.

9 3. I submit this Affidavit in support of Plaintiff's Motion for a Preliminary
10 Injunction.

11 4. I have received no compensation for my service.

12 5. I have found through my research that local nuisance ordinances harm
13 domestic violence victims in a myriad ways, including by penalizing them for the abuse
14 they experience. As a result, these laws force many domestic violence survivors to stop
15 calling for police assistance.

16 6. My areas of academic concentration include gender and women's issues;
17 gender-based violence and the law; social movements and political sociology; and social
18 theory and philosophy of social science.

19 7. I teach courses on topics including violence against women, gender and
20 society, research methods, law and society, social problems, and the structure of poverty.

21 8. I also supervise students' applied research on the dynamics of domestic
22 violence as they play out in the courts, with law enforcement, and with domestic violence
23 advocates.

1 9. I have published a number of academic articles and presented in numerous
2 fora on domestic violence.

3 10. I have also engaged in research on alternative education and education
4 focused on systems change. I received the Robert A. Johnston S. J. Award for Excellence in
5 Undergraduate Teaching in the Social Sciences from St. Louis University.

6 11. I am currently a member of the National Women's Studies Association, the
7 Midwest Sociologists for Women in Society, and Sociologists for Women in Society. I am
8 also an editorial associate for the journal *Theory and Society*.

9 12. I hold a B.A. in Sociology from Washington University in St. Louis and an
10 M.A. and Ph.D. in Sociology from Boston University.

11 13. Most intimate partner violence involves heterosexual relationships in which a
12 man commits abuse against his female partner. For that reason, I often refer to domestic
13 violence victims as battered women, and vice-versa.

14 14. Over the last five years, I have researched the impact of local nuisance
15 property laws on domestic violence victims. In particular, I have studied the experiences of
16 survivors of domestic violence who have come into contact with a nuisance property law in
17 St. Louis when they or others call 911 in response to a domestic violence situation. I also
18 studied police officers' and domestic violence advocates' conflicting interpretations of the
19 nuisance property law's impact on domestic violence survivors.

20 15. My research on nuisance ordinances has thus far been pursued in two phases.
21 In the first phase of this research, I interviewed domestic violence advocates, as well as
22 police and prosecutors in the city of St. Louis to find out what these professionals thought
23 was the nuisance property law's impact on battered women. My findings are available in a
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1 paper that will be published in *Law and Social Inquiry*, a journal of the American Bar
2 Foundation. Exhibit B, Gretchen Arnold and Megan Slusser, *Silencing Women's Voices:*
3 *Battered Women and Nuisance Property Laws*, forthcoming in *Law & Social Inquiry*, Vol.
4 40, no. 4 (2015).

5
6 16. In the second phase of this research project, I interviewed battered women
7 themselves to better understand the events that bring domestic violence victims into contact
8 with nuisance laws, how the law is enforced, the ways in which it impacts their lives, and
9 how they interpret this experience. I identified twenty-seven subjects for semi-structured
10 qualitative interviews with the help of St. Louis area domestic violence and other social
11 services organizations. To qualify, domestic violence must have been a predominant factor
12 for an individual's involvement with the nuisance property law. My findings are detailed in
13 a forthcoming paper, which is currently available in draft form. Exhibit C, Gretchen
14 Arnold, *Do Nuisance Property Laws Harm Battered Women?*, unpublished manuscript.

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16
17 17. While my work focuses in St. Louis, these types of nuisance property laws are
18 prevalent throughout the country and have been studied elsewhere. For example, scholars at
19 Harvard and Columbia Universities published a study of the Milwaukee, WI nuisance
20 ordinance and found that domestic violence was the third most commonly cited nuisance
21 offense, that the majority of property owners responded by evicting the victim of domestic
22 violence, and that there was disproportionate enforcement of the ordinance in communities
23 of color. Matthew Desmond & Nicol Valdez, *Unpolicing the Urban Poor: Consequences*
24 *of Third-Party Policing for Inner-City Women*, 78 Am. Sociological Rev. 117, 131 (2013),
25 http://scholar.harvard.edu/files/mdesmond/files/desmond.valdez.unpolicing.asr_0.pdf. A
26
27 supplement to their paper also summarizes nuisance ordinances from 59 cities across the
28

1 country but does not attempt to catalogue all existing nuisance ordinances.

2 18. My work has allowed me to identify patterns of enforcement and
3 consequences for survivors that would be relevant in jurisdictions with similar local laws.
4 This declaration describes my findings on the operation and consequences of nuisance
5 property laws for survivors of domestic violence.
6

7 19. I reviewed the Nuisance Policy adopted by the City of Surprise in Article III
8 of the Surprise Municipal Code, which includes §105-104 on nuisance properties (“the
9 Nuisance Property Section”) and §105-106 requiring crime free lease provisions (“the
10 Crime Free Lease Section”), together the “Nuisance Policy,” as well as the Complaint filed
11 by the Plaintiff, Nancy Markham.
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13 20. Based on this review, which is discussed below, I have determined that the
14 Surprise Nuisance Policy is significantly similar to and in some ways more punitive than the
15 nuisance property law in St. Louis. Consequently, the Surprise Nuisance Policy can be
16 expected to have similar or more substantial negative impacts on domestic violence
17 survivors as those described in St. Louis.
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19
20 The Impact of Local Nuisance Ordinances on Domestic Violence Victims

21 21. In my forthcoming paper, *Do Nuisance Property Laws Harm Battered*
22 *Women?*, I use evidence from interviews with domestic violence victims to assess how these
23 laws work in practice, as well as how and why they negatively affect domestic violence
24 victims’ lives.
25

26 22. Long-form interviews with participants reveal that, by chilling domestic
27 violence survivors’ ability to call the police or evicting them for doing so, these laws
28 increase survivors’ vulnerability to further violence, homelessness, and other dangerous or

1 unstable living conditions. They also re-traumatize victims by treating them as if they, not
2 the perpetrators of the crimes against them, are the problem.

3 23. While nuisance property laws can have slightly different structures or content,
4 most share three common features. First, they designate properties as “nuisances” based on
5 an excess of 911 calls, criminal activity, or police responses to a property within a certain
6 period of time. Second, nuisance laws list a number of different types of activity that
7 qualify as a “nuisance,” often making no exception where the tenant of the property was the
8 victim of, or could not control, the alleged nuisance activity. Third, nuisance laws require
9 that property owners “abate the nuisance” or face penalties that can include fines, property
10 forfeiture, or even incarceration. In response, property owners often direct the tenant to stop
11 calling 911 and will ultimately evict the tenant to avoid sanctions under the nuisance law.

12 24. In the typical pattern of enforcement of these laws, a victim who has made
13 multiple calls to 911 to report domestic violence is notified that further calls to the police
14 could result in fines or eviction. Next, one of two things usually happens: 1) either the
15 victim feels that she can no longer call the police due to threat of penalty and must face
16 increased violence on her own, or 2) the victim, her children, or the neighbors call 911 to
17 report another abusive incident and the victim faces eviction on this basis. Unfortunately,
18 the impact of nuisance property laws does not end there, but rather sets off a chain of
19 negative events that compounds the trauma of the domestic violence, enhances abusers’
20 power over victims, and renders victims and their children even more vulnerable to further
21 violence and poverty.

22 25. The St. Louis nuisance property law and its enforcement follow this basic
23 formula. The law defines a nuisance as “a continuing act or physical condition which is
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1 made, permitted, allowed or continued by any person . . . which is detrimental to the safety,
2 welfare or convenience of the inhabitants of the City.” St. Louis, Missouri Municipal Code
3 §15.42.010.

4
5 26. The ordinance construes nuisance behavior very broadly to include any
6 activity that is considered a felony, misdemeanor, or ordinance violation under federal, state,
7 or municipal law, and it states that a public nuisance exists whenever two instances of crime
8 occur at a particular property within a 12-month period. St. Louis, Missouri Municipal
9 Code §15.42.020. Once a property is deemed a public nuisance, the property owner is sent a
10 cease and desist letter and informed that failure to abate the nuisance within thirty days can
11 result in fines or property closure. The property owner may set up a joint meeting with a
12 number of city officials to discuss the cause of the nuisance activity and develop a plan to
13 abate it under the direction of City officials. As discussed further below, domestic violence
14 survivors whose homes were the subject of a cease and desist letter were routinely evicted
15 or informally forced to move from their property under these abatement processes.

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18 27. Even though the St. Louis ordinance does not explicitly define nuisance
19 properties based on calls to the police, in practice, I found that the ordinance is usually
20 triggered when there have been two or more calls to 911 reporting nuisance behavior at a
21 specific address. Consequently, after learning about the nuisance property law, the vast
22 majority of domestic violence victims I interviewed stopped calling 911 for fear of negative
23 repercussions, including eviction.

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26 28. For many women, the police had been the sole means of protection from their
27 abusers’ physical violence. Lack of access to these police services left them extremely
28 vulnerable, with no recourse to further abuse. One survivor reported, “I’m barricading

1 myself more in the house, you know. Like put sticks and stuff behind the door and stuff
2 because I don't want anybody coming in there. Then if they do, you know, I'll be scared to
3 call the police or whatever." Others stated that they would avoid calling 911 if at all
4 possible and would only be willing to call 911 in dire circumstances, which most described
5 as life-or-death situations. This was the case even where a survivor was not the subject of
6 active enforcement of the nuisance ordinance. Mere knowledge of the existence of a
7 nuisance property law can chill crime victims' ability to seek police assistance.
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10 29. As a result, nuisance property laws allow abusers to operate with impunity and
11 can lead to escalated levels of violence because abusers feel that they will not be held
12 accountable for the violence they perpetrate. By limiting victims' access to police services
13 and threatening eviction if they seek such services, nuisance property laws magnify abusers'
14 power to strip domestic violence victims of the ability to make decisions and take control
15 over some of the most basic conditions of life, such as where and how they live.
16

17 30. One survivor described such a situation, saying "[h]e punched me in my face
18 and I fell over the chair, broke the chair. He tried to choke me to death, but somehow, some
19 reason, I was able, where I had nails and try to scratch, to get him off of me, he's choking
20 me. And I couldn't call the police. Everything that has been going on, can't call the police.
21 So I think [my boyfriend] is taking advantage of that."
22

23 31. Chilling the reporting of crime to the police can have far reaching effects that
24 undermine law enforcement effectiveness and public safety as a whole. A number of
25 survivors reported that they felt unable to call the police for any reason. As one woman
26 stated, "If somebody breaks into my house, I feel like I can't call the police. I feel like I
27 can't call for anything! I feel like I'm going to get in trouble for it. . . That's basically what
28

1 the landlord told me. ‘If you call the police, you’re going to lose your apartment.’”

2 32. Another woman described how this chilling effect can be especially serious
3 for those who live in high-crime areas or have medical problems, saying, “Well where I
4 moved at, you cannot count on no police for help. If you getting abused, raped, stabbed,
5 shot, you’re not allowed to call the police ‘cause they say it’s a nuisance law. But I feel if
6 you need the police, you supposed to CALL the police, you know? But they said if we call
7 the police, we was gonna get evicted from our homes. . . . And I have a daughter that has
8 Crohn’s and is pregnant. And [the landlord] said I can’t call an ambulance because the
9 police come with the ambulance. . . So I just don’t feel – We just in danger. If anything
10 happen to us, we can’t call no police. We just got to deal with it. And I don’t think that’s
11 right.”
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14 33. Nuisance property laws’ chilling effect on reporting crime to the police
15 conflicts with law enforcement’s best practices. Inhibiting survivors’ ability to reach out to
16 the police and treating such calls or police response as a nuisance runs counter to reforms in
17 domestic violence policing over the last three decades intended to address long-standing
18 problems of police dismissiveness or victim-blaming that can deter survivors from coming
19 forward and places them in greater danger. Police and other professionals are now trained
20 to encourage people to call the police if they experience or witness domestic violence and to
21 treat victims with sensitivity. Government policies that aim to strengthen law enforcement’s
22 response to domestic violence include policies that specifically address the investigation,
23 arrest, and prosecution of domestic violence offenses and federal housing protections that
24 bar eviction of domestic violence victims based on the abuse committed against them, such
25 as the Violence Against Women Act or the Fair Housing Act.
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1 34. One survivor described the disconnect between the chilling effect of nuisance
2 ordinances and the instructions crime victims are typically given by police. She felt unable
3 to call police because she had already been evicted once under the nuisance property law on
4 the basis of domestic violence, but ultimately the abuse became so severe that she called
5 911. She explained the exchange saying, “I called the police and I said, ‘I just had to call
6 the police because he caught me comin’ in or out of my apartment like three days in a row
7 and jumped on me.’ I was all upset. I can’t take any more. I can’t even open my door to go
8 out for work, and he’s attackin’ me. He’s hidin’ in the bushes. . . [The police officer] told
9 me, ‘He jumped on you three days in a row and you’re just now callin’ us? Why didn’t you
10 call the first day?’ And that’s when I told her, ‘I lost my apartment because of the nuisance
11 law. I’m scared to call the police. That’s how I lost the other apartment, so I’m tryin’ not to
12 call the police.’”

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16 35. Additionally, my studies indicate that the vantage point of law enforcement
17 officials may lead police officers to misinterpret dynamics of abuse and misperceive
18 survivors to be responsible for repeated incidents of domestic violence or uncooperative
19 with law enforcement efforts to maintain order. Police and prosecutors that I interviewed
20 use an incident-focused approach in which interactions with domestic violence victims
21 focus on physical abuse, and their objective is to eliminate this problem. This limits the
22 information that police receive about the victim’s situation beyond the immediate physical
23 abuse, such as coercive or controlling elements of a relationship, that would influence a
24 victim’s continued involvement with an abuser despite her desire to end the abuse.
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27 36. Police, acting on incomplete information and misunderstandings about abused
28 women, may thus punish the victim of abuse for her perceived role in it and further

1 discourage victims from coming forward.

2 37. Local nuisance laws can entrench these misperceptions and increase the risk to
3 victims of reporting abuse.

4 38. Eviction is a looming and well-grounded fear for domestic violence survivors
5 who live in jurisdictions with a local nuisance property law. At the time of their interviews,
6 about half of the participants in my study had already been forced to move because of the
7 nuisance property law. Many women were evicted as a direct result of too many 911 calls.
8 Others were forced to move before a formal eviction action, or opted to move to avoid the
9 negative consequences of a possible eviction.
10

11 39. Regardless of whether the eviction was formal or informal, the nuisance
12 property law operated to penalize victims of domestic violence for calling the police and had
13 devastating impacts on their well-being and ability to access housing in the future.
14

15 40. Many of the survivors who were evicted ended up homeless or in unstable
16 living situations, often with their children. Some went to shelters (either battered women's
17 shelters or general homeless shelters), some slept on friends' or relatives' couches, and
18 some ended up in more dangerous living situations. For example, one survivor moved from
19 place to place during three months of a particularly frigid winter and had to split up her five
20 children between friends and relatives because at times she was sleeping in her car.
21 Explaining the distressing decision to be separated from her children, she said "after I . . .
22 was staying in the car, I didn't want my kids to be sleeping in a car. I figured like I could,
23 but it was dangerous for me, [so] it would also be dangerous for them also. So I made them
24 stay with relatives and friends, because I didn't want to drag them out. . . . And it was kinda
25 cold then, too, when that was going on."
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1 41. Because of the short notice common with eviction, other survivors were
2 forced into significantly inferior and dangerous housing. One woman described the
3 dangerous boarding house that was the only housing she was able to secure when she was
4 evicted: “I didn’t feel comfortable down there at all. The first week I was down there, they
5 were shooting and I was up in the bed, and it was a very uncomfortable place to be. . . . It
6 was buggy. It wasn’t safe. No security on the doors. Then the other roomers . . . were just
7 lettin’ anybody in. I either had to be in the house before it got dark, or . . . look around and
8 make sure nobody is [in the room].”
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11 42. Several women also described the long-term impact that a nuisance eviction
12 had on their ability to access housing going forward. The eviction was often revealed when
13 a potential landlord ran a background check on the prospective tenant. In most cases,
14 landlords who found out that survivors were the subject of nuisance violations then refused
15 to rent to them. With a nuisance eviction on their records, domestic violence survivors’
16 attempts to secure safety by calling the police could follow them for years. This was the
17 case for one survivor who explained that “a couple of people, when I tried to get an
18 apartment told me, ‘We see that there are some things in here about you calling the police.’
19 And they didn’t want to rent to me.”
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22 43. Losing eligibility for low-income housing can be another devastating
23 consequence of eviction. Many low-income survivors need access to housing subsidies in
24 order to rebuild their lives. Loss of housing subsidies dramatically reduces a survivor’s
25 ability to obtain adequate, affordable housing in the future. After losing her Section 8
26 housing voucher because she was evicted pursuant to the nuisance property law, one
27 domestic violence victim was told that the waiting list to obtain another Section 8 voucher
28

1 was now ten years long. While it is possible to contest revocation of the rental subsidy, the
2 process can be difficult and many domestic violence survivors are unable to re-claim the
3 subsidy. Consequently, when facing the false choice between the long-term impact of a
4 nuisance eviction and enduring domestic violence without police protection, another victim
5 of domestic violence chose to leave before a possible eviction. She explained her situation,
6 saying “if I lose this apartment, then I won’t ever be able to get into another low income
7 apartment and I have one more violation to get [before I am evicted].” Although the path to
8 losing her housing was different from a formal eviction, this survivor was nevertheless
9 forced out of her home because of the nuisance property law.
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12 44. In addition to the immediate difficulties of being forced from one’s home,
13 eviction and the housing insecurity that results can create a domino effect, destabilizing
14 multiple other areas of a domestic violence survivor’s life. Given the tenuous situation of
15 many victims of domestic violence, evictions pursuant to nuisance property laws trigger
16 adverse events for which these women are already at risk. The threat of eviction takes on
17 even greater consequence when coupled with existing conditions of poverty, dangerous
18 neighborhoods, resource-poor social support networks, and already compromised physical
19 and mental health. Threat of penalty under nuisance property laws thereby places a
20 correspondingly heightened chilling effect on survivors’ ability to seek police assistance and
21 an unmanageable burden on those who do call 911.
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24 45. Many of the women interviewed lost all of their personal possessions when
25 they were evicted, either because they had no time or means with which to take their
26 belongings with them on short notice or because the landlords dumped their property on the
27 curb and passersby took them.
28

1 46. Some women reported that, once they were evicted, they could no longer go to
2 work because of the extreme stress and/or because they had to take time to find new housing
3 right away.

4 47. For others, evictions exacerbated physical illness and not having a permanent
5 residence made it difficult for some women to get proper health care. One survivor of
6 domestic violence explained that she had diabetes and, after her eviction, wasn't able to get
7 the medical care she needed for her foot, which became infected and eventually required
8 surgery: "[D]uring that time when [I was homeless and] I first started getting the blisters and
9 all that, they wanted to send a home health nurse out. Well I couldn't get a home health
10 nurse because I didn't have any address to send a home health nurse. . . to come out and
11 make sure to check my blood and do whatever it was supposed to be done."

12 48. Eviction also triggered or aggravated existing mental health problems for
13 several of the women interviewed, as the lack of stable housing made it hard for them to
14 function effectively. Eviction also compounded the trauma that resulted from the abuse they
15 suffered. For example, one woman who had previously been hospitalized for mental illness
16 stated that flashbacks from the abuse, coupled with her inability to find stable housing after
17 the nuisance eviction, was making it very hard for her to cope. Similarly, another victim of
18 domestic violence described how eviction heightened the trauma of the rape that had been
19 perpetrated by her abuser. She stated that the eviction ultimately caused her to fall into a
20 deep depression and try to commit suicide: "[B]y then, well, I was trying to black out what
21 had happened with the rape. I didn't want to think about that and the fact that I was being
22 evicted."

23 49. Accordingly, nuisance property laws that encourage or require evictions based
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1 on police responses to a property directly punish domestic violence survivors for reaching
2 out to police and create substantial, tangible barriers to reporting the violence perpetrated
3 against them. Survivors are forced to either 1) face escalating violence in silence, chilled
4 from calling 911 to seek protection from abuse; or 2) leave their housing, risking long-term
5 housing insecurity and homelessness.
6

7 50. Because these laws broadly fail to distinguish between the perpetrator and
8 victim of crime, they have been shown to have a similar impact on crime victims and other
9 individuals who are blamed for crime outside their control, inhibiting their ability to call the
10 police and resulting in evictions.¹
11

12 51. These nuisance laws and the enforcement processes that flow from them are
13 designed to focus attention on victim's calls to 911 or their need for police services, rather
14 than on the violence or crime that precipitated it. This places crime victims in a situation
15 where they are made responsible for stopping the violence or other crimes committed
16 against them but are denied the most basic institutional supports for doing so.
17

18 52. In domestic violence situations, the abuser exercises power and control over
19 the partner. Nuisance laws can deprive survivors of domestic violence the ability to rely on
20 a primary means of changing the power and control exerted by the abuser – namely, police
21 assistance. And, if they ask for help anyway, the law punishes the victims, thus re-
22 victimizing them after the abuse.
23

24 53. Because these laws characterize calls to the police as the problem and
25 downgrade the actual domestic violence to a “nuisance,” they drastically alter the categories
26

27 ¹ Desmond & Valdez, *supra* at 136; Erik Eckholm, *Victims' Dilemma: 911 Calls Can Bring Eviction*, N.Y. Times, Aug.
28 17, 2013, at A1.

1 of “victim” and “offender.” The result is that nuisance property laws obscure the real crime
2 of gender-based violence and turn the victim into the offender. Under this rubric, law
3 enforcement’s goals shift away from intervening in abuse to protect the survivor and focus
4 instead on eliminating the “nuisance” by stopping repeat 911 calls at whatever cost.
5

6 Surprise, AZ Nuisance Policy

7 54. Based on my research and review of Article III of the Surprise Municipal
8 Code, I have significant concerns about the impact of both its Nuisance Section and its
9 Crime Free Lease Section on survivors of domestic violence.
10

11 55. The Surprise Nuisance Policy mirrors, and in some ways is more expansive
12 than, the St. Louis ordinance, and thus predictably burdens domestic violence survivors’
13 ability to seek police assistance. In doing so, the Nuisance Policy is likely to similarly
14 increase domestic violence survivors’ vulnerability to existing violence, allow their abusers
15 to operate with impunity, and leave them with no recourse in the face of severe and
16 escalating abuse.
17

18 56. First, like the St. Louis nuisance property law, the Nuisance Property Section
19 of the Nuisance Policy defines a nuisance as any two instances of crime under federal or
20 Arizona law that “negatively impacts the quality of life or threatens the safety and/or health
21 of those in the area and which occurred on or near the property.” This is strikingly similar
22 to the nuisance property law in St. Louis in its broad definition hinging on safety and
23 welfare, its low trigger of two crimes under federal or state law, and its lack of any
24 distinction for situations in which the tenant is the victim of the criminal activity. Like the
25 law in St. Louis, the Nuisance Property Section is likely to be triggered by police calls to
26 report crime at the property and will consequently deter domestic violence survivors from
27
28

1 reporting crime perpetrated against them.

2 57. Moreover, Surprise's Nuisance Property Section goes a step beyond the
3 nuisance provisions in St. Louis by explicitly defining a nuisance property based on calls to
4 the police. By imposing a citation after four calls reporting any criminal activity that
5 impacts the quality of life or threatens the safety or health of those in the area, the Nuisance
6 Property Section directly burdens the ability of survivors of domestic violence to report
7 crime against them to police and request police assistance in the face of violence.
8

9 58. Finally, Surprise imposes a similar deterrent through its Crime Free Lease
10 Section that requires landlords to adopt leases that would permit eviction upon a single
11 instance of crime on the property. While this restriction operates through a landlord's lease
12 as opposed to police enforcement of an ordinance, the effect is the same. The crime free
13 lease provisions would be triggered whenever police are called to respond to crime at the
14 property, just like the nuisance definition that is based on multiple instances of crime
15 without any distinction for situations in which the tenant is the victim of the criminal
16 activity. Thus, simply by requiring that such a provision is included in all leases, Surprise's
17 policy works to chill tenants from calling the police and reporting crime.
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21 59. The Nuisance Policy, in both its definitions of a nuisance offense and in the
22 crime free lease requirement, authorizes penalties when a tenant "allows" the occurrence of
23 criminal conduct committed by herself or others or when it occurs within her "sphere of
24 influence." However, in failing to indicate or enforce the Nuisance Policy in such a way that
25 no crime victim could be deemed to have "allowed" the crime against her, Surprise's
26 Nuisance Policy necessarily engages in victim blaming and encourages police to consider
27 ways that the victim of a crime might be seen as at fault. The Nuisance Policy also creates
28

1 opportunities for police bias that is already all too common in many departments, in which
2 police inaccurately perceive continued contact with an abuser as within a survivor's control
3 and blame the survivor for any subsequent violence against her.

4
5 60. The Nuisance Policy also imposes process and penalties similar to those
6 established in the St. Louis law, which gives landlords an opportunity to abate a nuisance,
7 after which they are threatened with property closure, as well as civil and criminal penalties.
8 Surprise's Nuisance Property Section directs that the "responsible party" will be notified of
9 the alleged nuisance and, if the nuisance is not abated after an opportunity to do so, Surprise
10 may revoke or suspend the property owner's business license and impose additional fines
11 and criminal penalties.
12

13 61. In establishing this process, the Nuisance Policy will likely lead to what
14 happened in St. Louis: the routine eviction and removal of tenants from alleged nuisance
15 properties, often before any formal nuisance adjudication occurs. Indeed, the Nuisance
16 Property Section states that it is a violation for "a property owner, agent, or manager to rent
17 or continue to rent . . . to a tenant when the property owner, agent, or manager knew or
18 becomes aware that the tenant allows any offense [that amounts to a nuisance violation]."
19
20

21 62. The Nuisance Property Section, coupled with the Crime Free Lease Section
22 that establishes the right of all landlords to evict tenants upon a single incident of criminal
23 activity at the property, strongly indicates the City's preferred method for landlords to
24 address alleged nuisances at their properties.
25

26 63. From the complaint that was provided to me, I understand that, in practice,
27 notices about alleged nuisance activity are only provided to the property owners. This was
28 the case in St. Louis and renters were typically shut out of the process of nuisance

1 abatement unless and until the City issued a summons for them to appear in court. As a
2 result, tenants were given no information about their rights and had no opportunity to
3 meaningfully advocate on their own behalf in communications with the City.
4

5 64. This lopsided exchange of information also allowed tenants to be taken
6 advantage of by landlords. With the landlord as the primary source of information, tenants
7 were vulnerable to landlords who wanted to charge them additional money (ostensibly to
8 cover fines under the ordinance) or tried to evict them illegally or encourage them to move
9 for fear of future penalty.
10

11 65. The Nuisance Policy is likely to result in a similar silencing of domestic
12 violence survivors who are the subject of enforcement actions and makes them vulnerable to
13 unlawful actions by their landlords. Though property owners and managers are routinely
14 informed about alleged problems at their properties, the tenants who are the subject of these
15 complaints are given no notice or opportunity to advocate on their own behalf. The police
16 officers that enforce the Nuisance Policy may thus operate on less than full information.
17 Moreover, landlords may feel pressured to abate regardless of extenuating circumstances
18 that show the tenant is not the cause of the problem, calculating that the only way to
19 completely avoid the risk of penalty is to evict the tenant at issue.
20
21

22 66. This is apparent in the description of Surprise's enforcement of its Nuisance
23 Property Section against Ms. Markham.
24

25 67. Surprise officials never notified Ms. Markham about the existence of the
26 Nuisance Property Section or the potential for Surprise to impose penalties on her or her
27 landlord based on her calls to police. Instead, her first indication that this might be the case
28 came when the property manager informed her that Surprise had put the landlord in a

1 position where they could not continue to rent to her. With this incomplete information, Ms.
2 Markham was then told that she had a choice: either leave voluntarily or she would face
3 eviction, housing insecurity for herself and her children, and the long-term impact an
4 eviction record would have on her ability to access other housing in the future. She
5 protested, explaining that she was not the source of any problems at her property and that
6 the true reason for any disturbance – her abuser – had been arrested and would be barred
7 from the property. However, with the background threat of penalty upon a future nuisance
8 designation, the landlord nevertheless reaffirmed her intent to evict Ms. Markham.
9
10

11 68. While Ms. Markham sought legal assistance to challenge this threatened
12 eviction, my research in St. Louis shows that many survivors in the same position would
13 feel they had no recourse or would not have the resources or capacity to challenge the
14 operation of the Nuisance Policy against them. Others in Surprise may thus feel forced to
15 stay silent in the face of violence and will be vulnerable to landlords who take improper
16 action pursuant to the Nuisance Policy.
17

18 69. My research demonstrates the multiple ways that local policies like that
19 established and enforced through the Nuisance Property and Crime Free Lease Sections of
20 the Nuisance Policy harm victims of domestic violence.
21

22 70. The Surprise Nuisance Policy's threat and imposition of penalties based on
23 911 calls and police responses to criminal activity at a property predictably establish
24 significant barriers to domestic violence survivors' ability to report the violence perpetrated
25 against them.
26

27 71. As a result, the Nuisance Policy forces domestic violence victims to face
28 escalating violence in silence. Survivors that do call the police face penalties, such as

1 eviction and its consequent risk of homelessness and long-term housing insecurity, which
2 can fundamentally destabilize their lives and undermine their efforts to live free from abuse.

3 Further Affiant sayeth not.

4
5 DATED this 25th day of August, 2015.

6
7
8 /s/ Gretchen Arnold

9 SUBSCRIBED AND SWORN TO before me this 25th day of August, 2015, by
10 Gretchen Arnold.

11 /s/ Tamara R. Lackland

12 Notary Public

13 My Commission Expires:

14 02-24-2017
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