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Department of Housing and Urban Development
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Docket No. FR-7061-N-18

January 3, 2023

Dear Ms. Pollard:

Please accept these comments in response to the U.S. Departments of Housing and Urban Development's (HUD) Information Collection Notice issued on Nov. 4, 2022, regarding HUD's implementation of the Violence Against Women Act ("VAWA") and HUD Forms 5380, 5381, 5382, and 5383, emergency transfer reporting and data collection by covered housing providers, model emergency transfer policies, family break-up, lease bifurcation, and lease addendums. The undersigned organizations are a collective of domestic violence, sexual assault, legal aid, housing, and culturally specific organizations throughout the country who have supported tens of thousands of survivors eligible for and residing in federally subsidized housing covered by VAWA. Thus, these comments reflect our experiences directly interacting with survivors who often have their VAWA housing rights violated, their safety jeopardized, or their trauma exacerbated. We urge HUD to consider the unique and often complicated experiences of survivors and to create systems, policies, and forms that prioritize and accommodate their needs.

I. HUD Must Ensure that Language Access Requirements Are Adhered To For All VAWA Forms and Information.

The U.S. Department of Justice (DOJ) recently issued a memorandum requesting that federal agencies review their language access practices and policies to strengthen the federal government's engagement with individuals with limited English proficiency.¹ In line with this memorandum, we recommend that HUD translate the VAWA forms into multiple languages. Indeed, during the COVID-19 pandemic, the Centers for Disease Control (CDC) provided its Eviction Declaration Form (Declaration) in multiple languages such as Spanish, Vietnamese, Chinese, and Korean, and made it available on its website. This access allowed litigants who do not speak, read, or write in English to obtain and complete the Declaration and give it to their landlord to avail themselves of the eviction protections to remain housed. Additionally, HUD should prominently place the language access requirements for the VAWA forms as a standalone provision so that survivors who are limited English proficient ("LEP") can easily see it and know they have the right to have these forms interpreted or translated to them in their native language if they do not proficiently read or speak English. Currently, the information is so far down on the form that it is likely to be missed by a LEP survivor who needs help. This access is particularly critical for survivors who live in housing owned and operated by housing providers who repeatedly refuse to provide interpreters or translated forms for LEP survivors, notwithstanding their Title VI obligations.

¹ See [Attorney General Merrick B. Garland Issues Memorandum to Improve Access to Services for People with Limited Proficiency in English | OPA | Department of Justice](#), last accessed on December 9, 2022.

II. HUD Forms 5380, 5382, and 5383 Need to Connect Survivors to Services in Their Communities. (HUD VAWA Certification, Notice of Occupancy Rights, and Transfer Request Form)

HUD should ensure information on where to seek additional help is on each HUD VAWA implementation form, in sections that are easily identifiable. Providing consistent information, across all forms, strengthens survivors' access to and awareness of the variety of resource and service options available. This is especially critical in supporting survivors' ability to connect to local and/or culturally specific victim service providers within their communities.

III. HUD Forms 5380, 5382, and 5383 Need to be More Accessible and Readable

While we appreciate the revisions to HUD Form 5380 and HUD Form 5382, the forms have a lot of words, which may make them less accessible to survivors. Accordingly, we recommend HUD strike repetitive or unnecessary words and streamline these forms to give survivors the essential information they need to invoke their rights under VAWA. Further, because these are public facing documents, we recommend HUD change the title of the HUD Form 5380, "Protections for Victims of Domestic Violence, Dating Violence, Sexual Assault," to "Rights for Survivors," or "Help for Survivors" to inform more survivors and help them understand that the Notice of Occupancy Rights are rights they have under federal law. Other federal agencies have done this and simplified the titles to their documents to help members of the public understand their rights. For instance, in explaining rights to crime victims, the DOJ has used the broad heading "What Rights do Crime Victims Have?"

Further, HUD should review the forms to ensure they are accessible, readable, and understandable for people with low literacy, and those who have disabilities, are cognitively impaired, are color blind, or have visual impairments. HUD should encourage covered housing providers to use plain language and accessible practices in the development of HUD VAWA implementation forms. This is particularly important in their development of covered housing provider emergency transfer plans, as doing so contributes to reducing implementation barriers.

IV. Safety Planning Needs to be Spelled out in the Forms, with Clear Directions for Covered Housing Providers.

As advocates for survivors of violence, we urge HUD to ensure the forms and related training underscore the danger that survivors face when taking steps to end the abusive relationship and establish safe housing. In our collective experience working with survivors who are attempting to use VAWA protections, we find that housing stakeholders often disregard the danger survivors face and the urgency of their circumstances. There must be safety protocols in place when a survivor reaches out to assert their VAWA rights. Safety planning is especially critical when a survivor is trying to exercise their VAWA rights, such as asking the landlord that the perpetrator be removed from the lease and housing subsidy.

Covered housing providers need to know what safety planning means, what their role is with respect to safety planning, and why partnerships with victim service providers and culturally specific organizations are so important. We are not suggesting that covered housing providers

should do the safety planning. Instead, they need to competently refer the survivor to a provider that understands and is trained on the escalation of violence, lethality indicators, or cultural nuances in the way violence may be described. Covered housing providers (“CHP”) need to adhere to the safety plans articulated by survivors and understand that survivors know their own safety needs.

We appreciate listing the national hotlines as a first step. Most survivors will benefit from access to local victim service providers and legal service providers to navigate the complex steps of asserting their VAWA rights. While it is good to see the national hotlines on the forms, HUD should consider if they will need training on the specifics of VAWA related rights so that they can also make appropriate referrals.

In particular, we encourage HUD to create a safety planning form for family break-ups and lease bifurcation processes. Removing the perpetrator from the lease or home, by the survivor’s request, is a critical step but can be dangerous for the survivor. Safety planning for survivors attempting to exit an abusive relationship is often complex and necessitates both short- and long-term steps. At the same time, for sexual assault survivors, the trauma can resurface at any time and trauma responses are often varied and subject to change. To address these complexities, survivors must be offered multiple paths to support both their short-term and long-term needs.

Safety planning also means that for tenants and program participants to truly be supported in their efforts to live free from abuse and trauma, they must be given options which allow them to address the varied and competing needs of their families. Each survivor’s situation and family dynamic are unique. Some survivors may wish to remain in their current housing – perhaps because it is close to family supports, work, or allows children to remain in the same school – while others will wish to move. HUD has an obligation to ensure that, whenever possible, survivors are empowered to choose what is best for them, their family, and their situation.

HUD should make family break-up and lease bifurcations rights available to all survivors, regardless of what housing program they participate in. Survivors should be able to affirmatively request to have their lease bifurcated and that housing providers must process those requests, while offering (but not mandating) safety planning. Survivors should have an array of options, lease bifurcation, family break-up, and emergency transfers.

V. Confidentiality & Safe Communications Needs to be of Paramount Importance

VAWA regulations have strict confidentiality measures that prohibit sharing personally identifying information about survivors without informed, time-limited, written consent, even among employees at the CHPs. However, this language is missing from the forms. HUD should include this requirement in HUD Form 5380. Overall, HUD must do more to protect survivors’ confidentiality and actively penalize those providers who violate the confidentiality rules. Additional helpful language on confidentiality practices can be found at <https://nnedv.org/wp-content/uploads/2022/11/EHV-Roadmap-Serving-Survivors.pdf>.

In making changes to HUD Form 5382, we urge HUD to adopt protocols to ensure the safety of the witness and the confidentiality of their status as a VAWA survivor, including but not limited to clarifying the question in the form that asks the participant to identify the best method of

contact (phone number, mailing address, e-mail address) to be framed as at which *they can safely and securely receive communications* regarding their rights as a survivor and their option to enforce those rights. HUD should also leave additional space for any additional circumstances that should be considered to ensure the survivor's safety when communicating with them. While asking if it is okay to leave a voicemail is helpful, technology is increasingly used to track and harm survivors. So reframing the question to ask what methods are safe to use and expressly noting that the survivors can regularly update safe methods of contact is key. The form could also permit a survivor to offer written consent and a release of information to another person, such as an advocate or lawyer, as the point of contact.

VI. HUD Must Revise Its Emergency Transfers, Lease Bifurcations, and Family Break-Up Policies.

We appreciate the more detailed guidance HUD is offering on the emergency transfer plans. HUD should require providers to provide a timeframe for the processing of the request. Emergency Transfer plans must also be publicly available, displayed prominently on provider websites, and bulletin boards that tenants will be able to access. Anyone else should be able to receive a free copy of the plan in whatever format is accessible to them. Additionally, HUD should provide a "key elements" notice that informs tenants of key elements which should be present in emergency transfer plans (i.e. definitions, eligibility requirements, documentation requirements).

Emergency transfer plans must also allow survivors to consent in writing for a victim service provider, culturally specific organization, legal aid organization, friend or family to be their point of contact. This may help reduce lethality concerns. HUD should also mandate that covered housing providers cover moving expenses.

HUD should also stop distinguishing between internal and external transfers. Internal transfers rarely make survivors safe or free from trauma and external transfers rarely occur. HUD must require transfers when there is an available, safe unit within the same subsidy program (or in the case of RAD converted projects, also to public housing units) regardless of waiting lists.

We appreciate the changes made to the 5383 form regarding the best method to contact survivors, and believe additional changes would help keep survivors safe. Best contact information is frequently changing as survivor's plans evolve, and the best way to contact survivors should include a space to provide updated or changed information so that the housing provider and the survivor can update the plan when necessary without executing a new document. It would also be helpful if the form had a space for any survivor preferences or interim safety planning measures regarding how providers can use safe contact methods when working with survivors on a transfer (e.g. only calling at certain times of day, not identifying any information about the transfer if the survivor is not alone, setting up /a standing time and day of the week for the survivor to check-in on the transfer). The form should also allow space for survivors to identify if they may need to have a temporary absence from the unit while the transfer is pending. By explicitly allowing survivors to identify that they need to be absent from the unit, HUD will eliminate common issues caused by a survivor's absence, including a housing provider issuing an eviction notice or considering the unit abandoned.

We support HUD creating options for survivors to identify features of a safe unit. Additional factors that help survivors identify what is safe for them, including whether a unit allows essential parts of their safety network to remain accessible, such as their job, childcare, healthcare, family, or victim service provider. These are the supports that help survivors remain safe and rebuild after experiencing violence, and HUD should recognize that these can be an essential part of a safe transfer. For these reasons, HUD should include accessibility to safety network supports (job, childcare, healthcare, family, or victim service provider) as an option under this section and add more space for a survivor to include anything else that they believe will make them safe and reduce their trauma.

HUD can similarly make this form more accessible to survivors by explicitly identifying space for them to request a reasonable accommodation. Although “accessibility needs” are referenced in the safe unit section, this is not enough to support survivors with disabilities. There is significant overlap between survivors and people with disabilities, and gender-based violence can cause a temporary or permanent disability. Additionally, people with disabilities experience higher rates of gender-based violence, are often harmed by someone that they trust, and may face unique violence tailored to their disability-related needs. It can be harder for people with disabilities to get help when they are experiencing violence because the person harming them may be an essential part of their daily care. It is important that HUD make requesting an accommodation as easy and low-barrier as possible.

Finally, survivors seeking an emergency transfer, lease bifurcation, or family break-up, must be provided information about all of their options. Each form (and the transfer plan itself) must explain what lease bifurcation, family break-up, and emergency transfers are and how they interrelate. Given the limited success with emergency transfers, survivors in homes where the perpetrator is on the lease and receiving the subsidy, should be made especially aware of their family break-up/lease bifurcation options. Ultimately, HUD must connect these options for survivors and covered housing providers.

VII. Data Collection on Emergency Transfers Should Focus on Gathering the Information Necessary to Improve Transfers.

We also support HUD’s efforts to define what data housing providers must collect and provide to HUD regarding VAWA emergency transfers (“ET”). In addition to the data already outlined by HUD in its notice, HUD should also request additional aggregate data points, identified below. The data points suggested will not add significant time or resources to housing providers but will give HUD a greater understanding of housing barriers for survivors of gender-based violence.

1. Tracking the number of survivors who leave a housing program while a VAWA emergency transfer is pending. Often VAWA ETs take months to years to complete, while survivors wait in unsafe housing for a safe unit to become available. HUD should track the number of survivors who leave the program during this time, including tracking whether the survivor gave up the subsidy, abandoned the unit, or was evicted. Information on these adverse outcomes will inform how VAWA timelines adversely affect survivors and increase housing instability.

2. Tracking the time that it takes a survivor to secure a safe unit from the time the VAWA ET happens to the time that they receive keys to a new unit. By tracking these timelines, which should be easy for providers to report because they will simultaneously be working with survivors on their transfer documents, HUD will be able to understand how long it is taking survivors to reach safe housing, evaluate whether alternative options are necessary for certain housing programs, and identify any barriers that are increasing the time it takes to move.
3. Having providers identify any partnerships they have with local victim service providers (both domestic violence and sexual assault) and culturally specific organizations and the amount of referrals made through that partnership. Tracking this data will encourage housing providers to establish these partnerships, and having these partnerships increases safety options and resources for survivors in housing programs.
4. Having providers identify if they have a VAWA coordinator on staff, the number of hours the staff member has dedicated to this role, and the number of survivors that utilize the VAWA coordinator's services. Tracking this information is helpful to VAWA implementation and exploring how VAWA coordinators may be an essential part of making sure survivors are able to utilize VAWA's protections.
5. Providers should have to report if they have or have considered an admission preference for VAWA survivors. If they elected not to offer an admissions preference, the CHPs should be required to explain what analysis was conducted to determine that the preference should not be provided.
6. Survivors with disabilities (or in households with disabilities) find it particularly difficult to make a safe, trauma free, and accessible move. Thus, CHPs should have to report on how many ET requests are coupled with a request for an accessible or visitable unit, or coupled with a reasonable accommodation request. CHPs should then have to report on how many ETs are granted for this population and if their accessibility and accommodation needs are met.
7. We remain concerned that providers primarily focus on survivors of domestic violence and their ET requests, which must be based upon a representation that they have an imminent threat of future violence. Providers are often not seeing survivors of sexual assault as covered by VAWA or entitled to an ET if there is no imminent threat. Thus, providers should be required to specifically note how many transfer requests are from survivors of sexual assault not alleging an imminent threat and the results of those requests.

We thank you for the opportunity to provide these comments and look forward to continuing to support HUD's efforts to implement VAWA. You may reach out to Kate Walz at (773) 793-3560 if you have any questions.

American Civil Liberties Union

Asian Pacific Institute on Gender-Based Violence

California Partnership to End Domestic Violence

Casa Myrna Vasquez – Boston, MA

DC Coalition Against Domestic Violence

Downtown Women's Center – Los Angeles, CA

End Domestic Abuse Wisconsin

Georgia Coalition Against Domestic Violence

Hawaii State Coalition Against Domestic Violence

Illinois Coalition Against Domestic Violence

Indiana Coalition Against Domestic Violence

Iowa Coalition Against Domestic Violence

Jane Doe, Inc. The Massachusetts Coalition Against Sexual Assault and Domestic Violence

Kentucky Coalition Against Domestic Violence

Maine Coalition to End Domestic Violence

Maryland Network Against Domestic Violence

Michigan Coalition to End Domestic and Sexual Violence

Mid-Minnesota Legal Aid

Missouri Coalition Against Domestic and Sexual Violence

National Housing Law Project

National Low-Income Housing Coalition

National Network to End Domestic Violence

National Resource Center on Domestic Violence

Nebraska Coalition to End Sexual and Domestic Violence

New Hampshire Coalition Against Domestic and Sexual Violence

New Jersey Coalition to End Domestic Violence

North Carolina Coalition Against Domestic Violence

Ohio Domestic Violence Network

Oregon Coalition Against Domestic and Sexual Violence

Pennsylvania Coalition Against Rape

RESULTS Educational Fund

Texas Council on Family Violence

Vermont Network Against Domestic and Sexual Violence

Violence Free Minnesota

Virginia Sexual & Domestic Violence Action Alliance