
May 2021

Welcome Home? An Analysis of Federal Housing Programs and Their Efficacy in Reducing Homelessness Among Domestic Violence Survivors

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Recommended Citation

Courtney Veneri, *Welcome Home? An Analysis of Federal Housing Programs and Their Efficacy in Reducing Homelessness Among Domestic Violence Survivors*, 14 DePaul J. for Soc. Just. (2021)
Available at: <https://via.library.depaul.edu/jsj/vol14/iss2/3>

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**WELCOME HOME?
AN ANALYSIS OF FEDERAL HOUSING PROGRAMS AND THEIR EFFICACY IN
REDUCING HOMELESSNESS AMONG DOMESTIC VIOLENCE SURVIVORS**

COURTNEY VENERI*

ABSTRACT

Housing is arguably the biggest barrier facing survivors of domestic violence who leave their abuser. Many survivors remain in situations highly dangerous to their life and health because they do not have any options for stability if they leave. Although there are federal housing programs that survivors are often eligible for, these programs have not adequately addressed the particular needs of domestic violence survivors, and they are not implemented collaboratively, leaving some survivors on waiting lists for years, creating gaps in services for survivors in rural areas, and treating survivors across state lines differently. By federally prioritizing survivors, creating more collaboration between service providers allocating federal housing funds, and bringing VAWA back to the forefront, survivors of domestic violence will have easier access to housing—in terms of emergency shelter, transitional housing, and permanent housing—and the success rate for survivors seeking to leave an abusive household and establish a stable life for themselves will increase in the long-term.

* The author would like to thank Professor Ezra Rosser for his guidance and advice throughout this process. She would also like to thank the numerous survivors that she worked with during her time as a crisis intervention specialist for sharing their lives and their stories and for pushing her to rethink the current systems in place.

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INTRODUCTION

Domestic violence¹ is a pattern of abuse used to maintain power and control over another person.² Domestic violence is often cyclical, meaning that episodes of abuse will be followed with apologies, promises to change, and a period of peace before tensions build again and the cycle repeats.³ The cycle of abuse is paired with the “Power and Control Wheel,”⁴ which is commonly used to explain the particular ways an abuser will exert control over a survivor during periods of peace, tension, and abuse. While physical and sexual abuse remain the most visible types of domestic violence, other types of abuse factor heavily into the reasons why a survivor may not be able to, or want to, leave an abuser.⁵ In

¹ 34 U.S.C. § 12291(a)(8) (2013).

² *Understand Relationship Abuse*, NATIONAL DOMESTIC VIOLENCE HOTLINE, <https://www.thehotline.org/is-this-abuse/abuse-defined/> (last visited Apr. 22, 2021).

³ *Domestic Violence Against Women: Recognize Patterns, Seek Help*, MAYO CLINIC (Feb. 25, 2020), <https://www.thehotline.org/is-this-abuse/abuse-defined/>.

⁴ *Understanding the Power and Control Wheel*, DOMESTIC ABUSE INTERVENTION PROGRAMS, <https://www.theduluthmodel.org/wheels/> (Apr. 22, 2021).

⁵ *Id.*

particular, economic abuse is common, with abusers preventing survivors from having a job or their own money, which leaves them without their own means of financially supporting themselves.⁶ Economic abuse is coupled with other forms of abuse, including psychological abuse—such as isolating a survivor from their family, using children as a bargaining chip, or gaslighting⁷ a survivor into feeling like they are the reason for the abuse.

The specific combination of economic and psychological abuse provides an explanation for why domestic violence has such a strong link both to homelessness and a subsequent return to an abusive partner.⁸ Survivors who leave an abuser will likely face difficulties in finding a place to live—both emergency shelter and permanent housing.⁹ Emergency shelters are often full, and survivors tend not to have the immediate means to move into permanent housing upon leaving their abuser.¹⁰ Survivors may be unwilling to enter into that level of instability, particularly if they also have children.¹¹ They may decide that the guarantee of food and supplies for themselves and their children is a safer bet, even considering the abuse, than risking homelessness and extreme poverty.¹² Even for survivors that are able to find emergency shelter, the average stay is only about 60 days, an incredibly short time in comparison to the average length of time to find permanent housing, which is six to ten months.¹³ Many shelters (both homeless- and domestic violence-specific) impose time limits on how long a person can stay. Some limits may be from restrictions from grant funders, while others are structural choices made to maximize the amount of people who can be served.¹⁴ The instability of shelter life combined with the difficulty in accessing housing often pushes survivors to return to an abusive partner, where they at least know what to expect.¹⁵

There tends to be a high rate of return of survivors to abusive partners.¹⁶ On average, a survivor will return to their abusive partner around seven times before

⁶ *Id.*

⁷ *Gaslighting*, DICTIONARY.COM (2020), <https://www.dictionary.com/e/pop-culture/gaslighting/> (“Gaslighting is a form of emotional abuse or psychological manipulation involving distorting the truth in order to confuse or instill doubt in another person to the point they question their sanity or reality.”).

⁸ 34 U.S.C. § 12471 (2018).

⁹ Sarah M. Buel, *Fifty Obstacles to Leaving, A.K.A., Why Abuse Victims Stay*, 28 COLO. LAW. 19, 24 (1999) (discussing barriers facing survivors trying leave an abusive partner).

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ 34 U.S.C. § 12471 (2018).

¹⁴ *Shelter Rules and Structure*, VAUNET, <https://vawnet.org/sc/shelter-rules-and-structure> (last visited Apr. 22, 2021).

¹⁵ 34 U.S.C. § 12471 (7) (2018).

¹⁶ *50 Obstacles to Leaving: 1-10*, NATIONAL DOMESTIC VIOLENCE HOTLINE, <https://www.thehotline.org/2013/06/10/50-obstacles-to-leaving-1-10/> (last visited Apr. 22, 2021).

leaving for good.¹⁷ This does not reflect a lack of willpower or ability on the part of the survivor, but rather reflects the psychological toll that abuse takes on a survivor coupled with the relative stability an abusive partner provides. While it seems counterintuitive to say that staying with an abusive partner provides stability, it often does. Many times, survivors are in a house or lease with their abuser and survivors may not be allowed by their partner to work or earn an income. If they leave their partner, they face economic hardship and a high potentiality for homelessness. Many unknowns come with leaving an abusive relationship that, in contrast, the survivor has likely adapted to and can make expectations and judgements about. Leaving the relationship may seem, and often is, relatively unstable in comparison.

Congress has recognized that “[w]omen and families across the country are being discriminated against, denied access to, and even evicted from public and subsidized housing because of their status as [survivors] of domestic violence.”¹⁸ Survivors are frequently arrested along with their abusers during police intervention in an episode of abuse, giving them a criminal record that may disqualify them from certain types of housing.¹⁹ Further, private landlords often discriminate against survivors of domestic violence. Although discrimination is impermissible under the Fair Housing Act,²⁰ landlords are still able to find loopholes,²¹ and survivors do not have the luxury of waiting through a potentially costly lawsuit.

Congress further addresses particular issues survivors (specifically female survivors) face in accessing emergency shelter,²² and recognize that survivors “often return to abusive partners because they cannot find long-term housing.”²³ While President Obama added housing rights for survivors of domestic violence with his 2013 reauthorization of the Violence Against Women Act (VAWA),²⁴ this was the first attempt to make provisions for the housing barriers faced by survivors and it has not been adequately carried out. Survivors remain in limbo, potentially for years, waiting on acceptance into federal housing programs, the dispensation of federal housing benefits or vouchers, and acceptance into permanent housing.

¹⁷ *Id.*

¹⁸ 34 U.S.C. § 12471 (3) (2018).

¹⁹ Olivia Alden, *Housing Preservation Under VAWA: The Case for Treating Housing as an Immediate Safety Need*, 25 PUB. INT. L. REP. 5, 6 (2019).

²⁰ Cecily Fuhr, *Cause of Action Under Fair Housing Act (42 U.S.C.A. §§ 3601 et seq.) for Discrimination Against Victim of Domestic Violence*, 74 CAUSES OF ACTION 2D. 107, 107 (2016).

²¹ Charlotte Gerchick, *Where is Home? The Challenge of Finding Safe Housing via Early Lease Termination for Victims of Domestic Violence*, 26 WASH. & LEE CIVIL RTS. & SOC. JST. 279, 294 (2019).

²² 34 U.S.C. § 12471 (5) (2018).

²³ *Id.*

²⁴ Gerchick, *supra* note 21, at 306.

Federal housing schemes intended to address these issues fall short of the actual need survivors have. The application process for acceptance into a federal housing program is extensive,²⁵ and even upon approval, applicants are not able to access their benefits immediately. Waiting lists for federal housing vouchers may span years,²⁶ and survivors may not have options for shelter during the interim. There is no federal policy prioritizing survivors particularly in need of housing aside from VAWA,²⁷ so states can choose whether or not survivors are able to move to the top of waiting lists for public housing. Even survivors that are prioritized by state law may still have to wait for closed waiting lists to open.²⁸ In the interim, transitional housing has been successful in bridging the gap between emergency and permanent housing,²⁹ by providing survivors with housing for up to 24 months and providing case management and social services during the length of their stay. However, the prior focus on Rapid Re-Housing³⁰ and the subsequent restructuring of McKinney-Vento into the HEARTH Act has brought a reduction in the funding and accessibility of transitional housing programs.³¹ Further, Rapid Re-Housing removed the social services that are part of transitional housing programs,³² effectively leaving survivors on their own and decreasing the likelihood of them accessing social services or vocational training, which may be far away or not advertised.

Prioritizing survivors of domestic violence over other populations equally in need of housing makes sense for two reasons: first, a lack of housing is one of the top reasons that survivors of domestic violence choose to stay with an abusive partner, and second, survivors of domestic violence are at particular risk for grievous bodily harm or death if they remain with an abusive partner.

²⁵ Eliza Hirst, *The Housing Crisis for Victims of Domestic Violence: Disparate Impact Claims and Other Housing Protection for Victims of Domestic Violence*, 10 GEO. J. ON POVERTY L. & POL'Y 131, 134 (2003).

²⁶ *Id.* at 137.

²⁷ *Id.*

²⁸ “If the PHA determines that the existing waiting list contains an adequate pool for use of available program funding, the PHA may stop accepting new applications, or may accept only applications meeting criteria adopted by the PHA.” Section 8 Tenant-Based Assistance: Housing Choice Voucher Program, 24 C.F.R. § 982.206 (1999).

²⁹ Laura L. Rogers, *Transitional Housing Programs and Empowering Survivors of Domestic Violence*, OFFICE ON VIOLENCE AGAINST WOMEN (Nov. 1, 2019), <https://www.justice.gov/ovw/blog/transitional-housing-programs-and-empowering-survivors-domestic-violence>.

³⁰ “Rapid re-housing is an intervention designed to help individuals and families that don’t need intensive and ongoing supports to quickly exit homelessness and return to permanent housing.” *Rapid Re-Housing*, UNITED STATES INTERAGENCY COUNCIL ON HOMELESSNESS, <https://www.usich.gov/solutions/housing/rapid-re-housing/> (Apr. 22, 2021).

³¹ Sharon Lee, *The Overselling of Rapid Re-housing*, SHELTERFORCE (Nov. 28, 2017), <https://shelterforce.org/2017/11/28/the-overselling-of-rapid-re-housing/>.

³² *Id.*

It is true that survivors do not all follow the same path and do not require or want all the same services. Some may seek emergency shelter immediately following a serious episode of abuse, while others want to leave and find independent living immediately. There is no “one size fits all” type of domestic violence housing program. Rather, it is important that the existing programs address the needs of survivors at any stage, instead of forcing them into one type of program or another based on Congress’s assessment of the “right” way to leave an abusive partner.

This article seeks to address the particular issues faced by domestic violence survivors in finding permanent housing, and where federal programs fall short in dealing with this need. Part I analyzes the housing provisions in the Violence Against Women Act (VAWA) and considers how the federal guidelines fail to be legitimately implemented at the state level. Part II looks at housing options for survivors of domestic violence once they leave an abuser—namely the HEARTH Act and Section 8 housing—and addresses how those programs have not adequately addressed the housing needs of survivors and leaves many survivors with a false choice between homelessness and returning to an abusive partner. Finally, Part III provides recommendations for improving federal housing programs for survivors of domestic violence based on the actual implementation of federal programs at the state level.

I. THE VIOLENCE AGAINST WOMEN ACT (VAWA)

The Violence Against Women Act of 1993³³ was signed into law by President Clinton under the Violent Crime Control and Law Enforcement Act. The 1993 Act was created “to combat violence and crimes against women,”³⁴ and intended to address the risks women face in society, on campus, and at home. The creation of VAWA brought with it the creation of the Office of Violence Against Women within the Department of Justice, which administers the provisions contained within the Act.

Although VAWA was not reauthorized at its expiration in 2018 due to the government shutdown at the time,³⁵ it was reauthorized in the House of

³³ The Violence Against Women Act is a subchapter of the Violent Crime Control and Enforcement Act. Violence Against Women Act, Pub. L. No. 103-322, 108 Stat. 1902-55 (codified in part at 42 U.S.C. 13981 (1994)).

³⁴ *Id.* at § 1701(a). The Senate version of the Violence Against Women Act, S. 11, 103d Cong. (1993) also states this purpose.

³⁵ Jenny Gathright, *Violence Against Women Act Expires Because of Government Shutdown*, NPR (Dec. 24, 2018), <https://www.npr.org/2018/12/24/679838115/violence-against-women-act-expires-because-of-government-shutdown/>.

Representatives in April 2019.³⁶ At the time of writing this article, the bill remains in the Senate, and has thus far been ignored. However, there is a possibility of VAWA being reinstated, particularly since Joe Biden was elected president, and he was instrumental in getting VAWA passed initially. VAWA's 2005 and 2013 additions have been instrumental in the determination of who addresses housing issues for domestic violence survivors and how they do so. Thus, VAWA is important to consider in determining the federal housing provisions for domestic violence survivors.

VAWA 1993 provides, among other programs, funding for grants to combat crimes against women,³⁷ for rape prevention programs,³⁸ and victim compensation.³⁹ It also prioritized improving safety for women on college campuses⁴⁰ and encourages arrests,⁴¹ while providing civil remedies for women whose abusers were not prosecuted or charged.⁴² Part of VAWA also includes the "Domestic Violence Firearm Prevention Act,"⁴³ which prohibits the use or possession of firearms by those who have committed domestic violence.

Title II of VAWA 1993 is entitled "Safe Homes for Women,"⁴⁴ but interestingly, this iteration of VAWA did not provide any sort of housing protections. Rather, Title II was intended to protect the safety of women *in their homes* as opposed to providing safe housing. Title II's sections deal with domestic violence across state lines and the proper measures for when an abuser violates a protective order.⁴⁵ Within Subtitle D,⁴⁶ specific provisions are given for the protection of immigrant women, including the suspension of deportation.⁴⁷

VAWA 1993 fell short in addressing the specific issues faced by survivors of domestic violence in finding appropriate housing. It did not provide protections against discrimination in finding housing, did not provide dedicated funding to help survivors access permanent housing, nor did it provide survivors with

³⁶ Ashley Killough, *House Passes Reauthorization of Violence Against Women Act*, CNN (April 4, 2019), <https://www.cnn.com/2019/04/04/politics/house-passes-violence-against-women-act-reauthorization/index.html>.

³⁷ Violence Against Women Act of 1993, H.R. 1133, 103d Cong. § 401 (1993).

³⁸ *Id.* at § 1801 (Subtitle B of Title I is entitled Rape Prevention Programs).

³⁹ *Id.* at § 131 (Subtitle C of Title I is entitled Victim Compensation).

⁴⁰ *Id.* at § 141 (Subtitle D of Title I is entitled Safe Campuses for Women).

⁴¹ *Id.* at § 221 (Subtitle B, part S of Title II is entitled Grants to Encourage Arrest Polices).

⁴² Violence Against Women Act of 1993, H.R. 1133, 103d Cong. § 2264.

⁴³ *Id.* at § 231.

⁴⁴ *Id.* at § 201.

⁴⁵ *Id.* at §§ 2261—62.

⁴⁶ *Id.* at § 241 (Subtitle D of Title II is entitled Protection for Immigrant Women). Note that the Senate version of the Violence Against Women Act, S. 11, 103d Cong. (1993), introduced on January 21, 1993, did not contain a similar subtitle.

⁴⁷ *Id.* at § 243.

protection in keeping permanent housing. The Act was reauthorized once again in 2000,⁴⁸ but still did not contain any additions in the law pertaining to housing.

It was not until the 2005 reauthorization of VAWA (the “Violence Against Women and Department of Justice Reauthorization Act of 2005”⁴⁹) that housing protections were finally added to protect survivors of domestic violence in finding and keeping permanent housing. With the 2005 additions, Congress “recognized. . . that families experiencing domestic violence have unique needs that should be addressed by those administering the Federal housing programs,”⁵⁰ and provided funding and anti-discrimination provisions to survivors of domestic violence in their search to find and keep housing after leaving an abuser. In 2013, President Obama reauthorized VAWA with further rights and protections for survivors of domestic violence.⁵¹

Despite the housing protections within VAWA, the Act still falls short in recognizing the intersectionality of domestic violence and the potentiality of survivors being non-female. However, VAWA does apply to all survivors, regardless of gender, and has been able to specifically enumerate provisions relating to the housing struggles of domestic violence survivors.

The subsequent parts of this section will address the housing protections within VAWA and consider the efficacy of these provisions. Part B will specifically enumerate the protections in VAWA, while Parts C and D will consider where VAWA has been successful in helping survivors access housing and where it has fallen short, respectively.

A. VAWA’s Housing Protections

The 2005 and 2013 reauthorizations of VAWA created Part L, “Addressing the Housing Needs of Victims of Domestic Violence, Dating Violence, Sexual Assault, and Stalking.”⁵² This section is “to reduce domestic violence, dating violence, sexual assault, and stalking and to prevent homelessness”⁵³ by protecting survivors of domestic violence in whatever their current housing situation is, creating long-term housing solutions for victims of domestic violence, creating collaboration among service providers to address the housing needs of survivors, and enabling housing providers to respond appropriately to survivors of domestic violence. VAWA underscores the importance of long-term housing, and

⁴⁸ 34 U.S.C. § 10441(c) (2018).

⁴⁹ Jenifer Knight & Maya Raghu, *Advancing Housing Protections for Victims of Domestic Violence*, 36 COLO. L. 77, 79 (2007).

⁵⁰ 34 U.S.C. § 12471 (12) (2018).

⁵¹ Gerchick, *supra* note 24, at 306.

⁵² Violence Against Women Act of 2013, Pub. L. No. 113-4, Title VI, § 603 (2013).

⁵³ 34 U.S.C. § 12472 (2018).

the housing provisions in Part L are intended to promote that goal. For the purposes of VAWA, “long-term housing” refers to housing that is “sustainable, accessible, affordable, and safe for the foreseeable future”⁵⁴ and is either rented or owned, subsidized by a voucher without a time limit, or provided directly by a program without a time limit.⁵⁵

VAWA deals with the difficulties of finding long-term housing for survivors of domestic violence in two ways:⁵⁶ the first is by providing grants for programs intended to promote long-term housing solutions to survivors and the second is by enumerating the housing rights that survivors of domestic violence have.

1. VAWA Grant Programs

In large part, VAWA’s housing protections are realized by providing grants to develop housing solutions for survivors of domestic violence.⁵⁷ The grant program is twofold: one program provides grants to programs that prioritize long-term housing while the other is specific to public and assisted housing.⁵⁸ In order to be eligible to receive a long-term housing grant under VAWA, each eligible entity must apply as a coalition with a domestic violence-specific service provider and a housing-specific service provider.⁵⁹ For public or assisted housing grants, grantees must keep policies that allow residents to call for emergency assistance, prioritize survivors of domestic violence in the housing program, ensure anti-discrimination against survivors, and coordinate with local service providers.⁶⁰

Both grant programs prioritize long-term, permanent housing as opposed to emergency shelter, in realization of their findings that, among other issues, survivors of domestic violence often return to abusers because they cannot find long-term housing.⁶¹ The grant program to increase stability was created to “develop long-term sustainability and self-sufficiency options,”⁶² while the public and assisted housing grant intends to prevent “the status of being a victim of such a crime [violence against women] is not a reason for the denial or loss of housing.”⁶³ These underscore VAWA’s goal—to ensure safe, permanent housing for survivors of domestic violence.

⁵⁴ *Id.* at § 12474(g)(2).

⁵⁵ *Id.*

⁵⁶ *See generally, Id.* at §§ 12471-12491.

⁵⁷ *Id.* at § 12474-74.

⁵⁸ *Id.*

⁵⁹ 34 U.S.C. § 12474(b)(1)-(2) (2018).

⁶⁰ *Id.* at § 12475(c)(2).

⁶¹ *Id.* at § 12471 (7).

⁶² *Id.* at § 12474(a)(1).

⁶³ *Id.* at § 12475(a).

2. VAWA Housing Rights

VAWA's 2005 and 2013 revisions provide certain housing rights for survivors of domestic violence in order to prevent discrimination.⁶⁴ These rights apply only to survivors living in public housing, housing subsidized by a federal Section 8 voucher, or any building with a direct federal Section 8 subsidy.⁶⁵

Landlords cannot discriminate against a survivor on the basis of their identity as a survivor of domestic violence,⁶⁶ and VAWA encourages landlords to “respond appropriately” to survivors “while maintaining a safe environment for all housing residents.”⁶⁷ The inclusion of this “safe environment” provision has ironically been used, sometimes successfully,⁶⁸ by landlords in order to argue that survivors of domestic violence should not live in their properties due to the risk it brings to other tenants.

Despite that caveat, VAWA prohibits discrimination in admission or eviction from housing on the basis of the applicant's status as a survivor of “domestic violence, dating violence, sexual assault, or stalking”⁶⁹ if they otherwise meet the qualifications for admission into the unit, housing program, or occupancy. Further, instances of domestic violence cannot be considered a lease violation under a housing program or good cause for termination.⁷⁰

VAWA provides survivors of domestic violence with new defenses to evictions once they find long-term housing.⁷¹ A tenant cannot be evicted for the criminal activity of another if the tenant is a survivor or under threat of domestic violence.⁷² Landlords also have the right to bifurcate leases under VAWA, allowing them to preserve the survivor's housing and keep the survivor on the lease while evicting the perpetrator of domestic violence.⁷³ If the perpetrator is the only tenant receiving assistance under a housing program, the landlord must provide the remaining tenant/the survivor the opportunity to establish their eligibility to remain in the house.⁷⁴ If the survivor is ineligible, the landlord must

⁶⁴ *Id.* at § 12491.

⁶⁵ Alden, *supra* note 19, at 5.

⁶⁶ 34 U.S.C. § 12491(b)(1) (2018).

⁶⁷ *Id.* at § 12472(4).

⁶⁸ Kristen M. Ross, *Eviction, Discrimination, and Domestic Violence: Unfair Housing Practices Against Domestic Violence Survivors*, 18 HASTING'S WOMEN'S L.J. 249, 251 (2007).

⁶⁹ 34 U.S.C. § 12491(b)(1) (2018).

⁷⁰ *Id.* at § 12491(b)(2).

⁷¹ Jenifer Knight & Maya Raghu, *Advancing Housing Protections for Victims of Domestic Violence*, 36 COLO. LAW. 77, 79 (2007).

⁷² 34 U.S.C. § 12491(b)(3)(A) (2018).

⁷³ *Id.* at § 12491(b)(3)(B).

⁷⁴ *Id.* at § 12491(b)(3)(B)(ii).

provide them with a “reasonable time” to find new housing or establish eligibility.⁷⁵

When survivors exercise their housing rights, landlords are entitled to request documentation showing the survivor’s status as protected under VAWA.⁷⁶ The documentation certifies that the applicant is a survivor of domestic violence, that the incident of domestic violence qualifies the applicant to protection, and provides the name of the perpetrator “if the name is known and safe to provide.”⁷⁷ The name is not a requirement for documentation to be accepted. This documentation should be signed by a provider of victim services, legal services, medicine, or mental health services along with the applicant.⁷⁸ This documentation is confidential unless disclosure is consented to by the survivor, required for use in an eviction proceeding, or otherwise required to be disclosed by law.⁷⁹ It is important to note that landlords providing housing assistance are not required to request documentation from an individual.⁸⁰

VAWA also includes the requirement for landlords and housing agencies to create an emergency transfer plan for survivors of domestic violence.⁸¹ This plan allows survivors to transfer to another “available and safe dwelling unit”⁸² if the survivor expressly requests a transfer, they believe they are threatened with imminent harm by remaining in the unit, or the incident occurred on the premises within 90 days of the request.⁸³ The plan must also incorporate measures to ensure confidentiality and non-disclosure of the new unit the survivor transfers to.⁸⁴

Through the new VAWA 2005 additions, survivors have specific, enumerated housing rights that protect them against housing discrimination by landlords or public housing agencies. Protections are also built in for keeping survivors in long-term housing, namely, lease bifurcation and emergency transfer plans. These protections are included in VAWA separately from the grant programs. By separating the housing rights and grant programs, survivors are protected from discrimination not only in the programs funded by VAWA grants, but also from other public housing providers in the community.

⁷⁵ *Id.*

⁷⁶ *Id.* at § 12491(c)(1).

⁷⁷ *Id.* at § 12491(c)(3)(A)(iii).

⁷⁸ 34 U.S.C. § 12491(c)(3)(B)(i) (2018).

⁷⁹ *Id.* at § 12491(c)(4).

⁸⁰ *Id.* at § 12491(c)(5).

⁸¹ *Id.* at § 12491(e).

⁸² *Id.* at § 12491(e)(1).

⁸³ *Id.* at § 12491(e)(1)(A)-(B).

⁸⁴ 34 U.S.C. § 12491(e)(2) (2018).

B. *Where Does VAWA Help Survivors?*

VAWA is one of the primary sources of protection against housing discrimination for survivors of domestic violence.⁸⁵ Prior to VAWA, protections for survivors of domestic violence were up to state discretion, without specific federal protections.⁸⁶ With the introduction of VAWA and the subsequent reauthorizations in 2005 and 2013, which added in housing protections, the federal government has taken a role in regulating some of the rights and protections for survivors. Now, survivors have specific protections and avenues for redress irrespective of the state or city they live in.

VAWA has numerous grant programs and protections outlined for survivors of domestic violence. The allocation of funds to housing programs has helped to increase the amount of specified housing for survivors of domestic violence and has provided for sensitivity training for providers of housing,⁸⁷ which makes finding and keeping long-term housing easier. Further, even for survivors who are not in specific domestic violence housing programs, the housing rights outlined in VAWA protect survivors who are living in other types of federally-subsidized housing.

The creation of two grant programs encourages both the creation of domestic violence-specific housing programs and the extension of staff knowledge and capacity to deal with domestic violence survivors. Both grant programs require prioritizing survivors of domestic violence,⁸⁸ and with many non-profit organizations and public housing landlords looking for grants to continue funding their organization or housing programs, VAWA's grant program pushes organizations to either begin prioritizing survivors of domestic violence or for organizations who already work with survivors, to start prioritizing housing for survivors. The grants are open to private and for-profit housing providers, and require nondiscrimination based on the status of domestic violence survivors.⁸⁹ Even though VAWA's housing protections only apply to federally-funded or subsidized housing,⁹⁰ those are extended to private landlords who are grantees of the VAWA programs, further increasing the protections.

⁸⁵ Meris L. Bergquist, *After the Violence: Using Fair Housing Laws to Keep Women and Children Safe at Home*, 34 VT. B. J. 46, 46 (2008).

⁸⁶ Margaret Groban, *The Federal Government's Role in Securing Justice in Domestic Abuse Cases*, 69 ME. L. REV. 235, 238-39 (2017).

⁸⁷ *The Violence Against Women Act (VAWA): Historical Overview, Funding, and Reauthorization*, EVERYCRSREPORT.COM (Apr. 23, 2019), https://www.everycrsreport.com/reports/R45410.html#_Toc6934673 (see Table A-3: Five-Year Funding History for VAWA by Administrative Agency).

⁸⁸ 34 U.S.C. §§ 12474-75 (2018).

⁸⁹ *Id.* at § 12474.

⁹⁰ *Id.* at § 12491.

The funds allocated from these programs can only be used for advancing the housing rights for survivors of domestic violence. For the first grant program, grantees must develop “sustainable long-term living solutions in the community,”⁹¹ which increases the amount of housing available locally to survivors of domestic violence. The second grant program is focused on training and technical assistance and collaboration with community partners, focusing on allowing survivors to access long-term housing even with disqualifying applications (i.e., criminal history, incomplete rental history, etc.) and assisting survivors in maintaining their safety while in the housing unit.⁹² This grant program requires housing owners and authorities to take an active role in ensuring survivors have safe, long-term housing.

Within the grant program to preserve long-term stability, VAWA prioritizes certain underserved populations.⁹³ Historically, immigrants and Native Americans have been underserved in housing and are also at greater risk for domestic violence than white women.⁹⁴ ⁹⁵ The VAWA grant program prioritizes linguistically and culturally specific services,⁹⁶ inducing grant applicants to fully consider having diverse, intersectional programming. Further, a minimum of 15 percent of funds awarded goes to tribal organizations,⁹⁷ which increases the number of housing units available to Native American survivors of domestic violence. Finally, this section also prioritizes applications that include sexual assault services, encouraging a diversification in services provided.⁹⁸

Outside of the grant programs, VAWA places a large emphasis on allowing survivors of domestic violence to remain in long-term housing. One of the goals of VAWA is to “create long-term housing solutions,”⁹⁹ and the prevention of eviction for survivors is in line with that goal. VAWA stresses finding solutions with landlords to protect survivors of domestic violence while allowing them to remain as tenants under the same lease or funding program. That emphasis, plus the housing rights enumerated in VAWA are all intended to allow survivors to find and keep long-term housing.

⁹¹ *Id.* at § 12474(d)(1).

⁹² *Id.* at § 12475(f).

⁹³ *Id.* at § 12474(f).

⁹⁴ *Domestic Violence in Immigrant Communities*, VAWNET (Sept. 30, 2020, 8:33 PM), <https://vawnet.org/sc/domestic-violence-immigrant-communities>.

⁹⁵ André B. Rosay, *Violence Against American Indian and Alaska Native Women and Men*, NATIONAL INSTITUTE OF JUSTICE (Jun. 1, 2016), <https://nij.ojp.gov/topics/articles/violence-against-american-indian-and-alaska-native-women-and-men/>.

⁹⁶ 34 U.S.C. § 12474(f)(1).

⁹⁷ *Id.* at § 12474(f)(3).

⁹⁸ *Id.* at § 12474(f)(2).

⁹⁹ *Id.* at § 12472(2).

The main benefit of VAWA is the prohibition against discrimination of domestic violence survivors. The protection is two-fold: prevention of discrimination in finding housing and prevention of discrimination once a survivor is in housing.¹⁰⁰ Historically, survivors have feared that they would be penalized for disclosing their status as a survivor and may have hesitated to ask for help from a landlord in preventing further abuse—i.e., changing locks, transferring units, etc.¹⁰¹ VAWA's protections encourage landlords to take an active role in helping survivors remain safe in their housing unit, while also preventing discrimination or giving survivors a means for legal redress if the discrimination happens.

Another important protection of VAWA is that the outlined housing protections not only protect survivors of domestic violence, but their immediate families as well.¹⁰² Oftentimes, episodes of abuse may affect the survivor as well as the survivor's children living in the home. By protecting these resident family members along with the survivor, survivors will not have to worry about their children being evicted due to a perpetrator abusing the survivor. If a tenant is evicted due to their status as a survivor of domestic violence, it is possible for the children being evicted with her to use VAWA to seek redress.¹⁰³

The lease bifurcation clause¹⁰⁴ allows landlords to retain the survivor in their current housing, while removing the perpetrator. By giving landlords the opportunity to keep a tenant by splitting the lease and terminating one tenant as opposed to terminating the whole lease, survivors are more likely to be able to stay in their long-term housing after an incident or report of abuse. Without the bifurcation clause, survivors would be less likely to report abuse as they would be subject to eviction along with the perpetrator.

While VAWA does allow landlords to ask for documentation, it does not require that they do so.¹⁰⁵ Survivors can invoke the protections of VAWA even without documentation, and it sets the precedent for survivors to be believed in their stories without needing hard proof. Even if the landlord does require documentation, VAWA provides options to the survivor within the law. The name of the perpetrator can be requested, but the survivor does not have to disclose it unless the name is known and safe to provide.¹⁰⁶

¹⁰⁰ See generally, 34 U.S.C. §§ 12471-12491.

¹⁰¹ Erica Franklin, *When Domestic Violence and Sex-Based Discrimination Collide: Civil Rights Approaches to Combating Domestic Violence and its Aftermath*, 4 DEPAUL J. FOR SOC. JUST. 335, 373 (2011).

¹⁰² Jenifer Knight & Maya Raghu, *Advancing Housing Protections for Victims of Domestic Violence*, 36 COLO. LAW. 77, 79 (2007).

¹⁰³ *Id.*

¹⁰⁴ 34 U.S.C. § 12491(b)(3)(B) (2018).

¹⁰⁵ *Id.* at § 12491(c)(5).

¹⁰⁶ *Id.* at § 12491 (c)(3)(A)(iii).

VAWA also prioritizes the confidentiality and privacy of survivors. Any disclosures made by survivors to landlords must be kept private,¹⁰⁷ except where the survivor consents or disclosure is required by law. The confidentiality requirement not only reduces the risk of disclosure by landlords, but also provides a specific legislative provision that a survivor could take legal action with if their confidentiality is breached.

The emergency transfer allowances are an incredibly important provision in VAWA.¹⁰⁸ Survivors may need alternative housing before ending an abusive relationship,¹⁰⁹ and the emergency transfer allowance plus lease bifurcation makes it possible for a survivor to keep their housing benefits while also ensuring that they are in a safe location or closer to their support system. Landlords are required to assist survivors in finding another available unit to transfer to so that their abuser does not know where they live.¹¹⁰ Further, the costs associated with the transfer are supposed to be borne by the housing provider where permissible under VAWA,¹¹¹ which prevents financial strain as a barrier to survivors accessing the emergency transfer benefit.

VAWA also allows for the preemption of other laws that protect survivors further. The law explicitly states that it should not supersede any “Federal, State, or local law”¹¹² providing more protection for survivors of domestic violence. In this way, survivors have the protection of VAWA along with any other laws that may protect them further. Seeing VAWA as a baseline, rather than the ultimate power, allows survivors to look at other laws (i.e., the Fair Housing Act or state laws) if it would provide a greater avenue for relief. However, the existence of VAWA provides a baseline of rights to which every survivor is entitled, regardless of the state they live in.

Since the 2005 and 2013 reauthorizations, VAWA has played a significant role in the protection of domestic violence survivors. The grant programs push housing organizations to prioritize educating themselves about the issues survivors face and also to prioritize housing survivors themselves. Once a survivor has identified a long-term housing solution, VAWA then acts as a protective mechanism against discrimination or unfair eviction. The existence of VAWA also provides any survivors who have been discriminated against with a legal avenue to seek redress.

¹⁰⁷ *Id.* at § 12491(c)(4).

¹⁰⁸ *Id.* at § 12491(e).

¹⁰⁹ Alden, *supra* note 65, at 7.

¹¹⁰ 34 U.S.C. § 12491(e) (2018).

¹¹¹ Alden, *supra* note 65, at 7.

¹¹² 34 U.S.C. § 12491(b)(3)(C)(iv) (2018).

C. Where Does VAWA Fall Short?

Despite the forward steps made by VAWA's 2005 and 2013 reauthorization housing amendments, the Act falls short in many ways. Its protection is very limited, and there are many loopholes that can be exploited—even for the landlords that it applies to. While it does provide an avenue for redress or to challenge these loopholes, that avenue may require a lengthy and costly lawsuit—something that many survivors of domestic violence do not have the ability to pursue. While waiting for a lawsuit to conclude, survivors may be homeless and likely would not have the funds to pay for private counsel.

One of the main weaknesses of VAWA is its emphasis on “women.” The Act is titled for violence against women, specifically.¹¹³ This leaves out so many other survivors of domestic violence, who may not be identified as “women.” Although the housing rights section does not specify gender,¹¹⁴ the presence of these rights within an act “for women” naturally limits its application. Most often, VAWA and its provisions will be considered within the scope of violence against women, not violence against survivors of domestic violence.

A second major weakness of VAWA is the lack of knowledge among landlords and tenants. Many people are unaware of the rights conferred on survivors through the VAWA housing rights.¹¹⁵ With both landlords and tenants remaining generally ignorant as to what rights survivors have, it limits which survivors are actually protected in practice by the Act.

Although VAWA sets aside funding for grants, the funding is very limited compared to the need. Congress found that 92 percent of all homeless women have experienced abuse in their lives,¹¹⁶ which is an incredibly large number compared to the housing available. The grant program that encourages creating long-term housing options has a yearly cap of \$4 million total,¹¹⁷ which when compared to the amount of people who need shelter, is woefully underfunded. Assuming the average apartment building costs \$70,000 per unit,¹¹⁸ the grant would only cover building 57 units total. The training program grants have the same cap,¹¹⁹ which greatly limits the number of landlords and housing staff that can be trained and sensitized to issues of domestic violence.

¹¹³ See generally, 34 U.S.C. § 12291 et. seq. (2018).

¹¹⁴ “An applicant for or tenant of housing . . .” 34 U.S.C. § 12491(b)(1) (2018).

¹¹⁵ Bergquist, *supra* note 85, at 47.

¹¹⁶ 34 U.S.C. § 12474(i).

¹¹⁷ *Id.* at § 12474(i).

¹¹⁸ This is noted to be on the low end of pricing as well. *Apartment Building Construction Cost Breakdown*, PROEST (Feb. 22, 2021), <https://proest.com/apartment-building-construction-cost-breakdown/>.

¹¹⁹ 34 U.S.C. § 12475(g) (2018).

Further, although Congress has recognized the “additional barriers” faced by women in rural areas,¹²⁰ the grant programs do not specify or prioritize rural housing. Although Congress recognizes “geographical isolation”¹²¹ inherent in rural areas, it does not prioritize working on ending the isolation or mitigating the extra risks for survivors living in rural areas.

Congress fails to realize, in the same way it does for rural women, the barriers faced by people of color, specifically Black women, in finding permanent housing. VAWA makes no mention of race or communities of color outside of prioritizing “culturally specific” services and prioritizing Native American and tribal populations.¹²² Black women are at risk for homelessness and experiencing domestic violence, and they are also consistently over-policed in subsidized housing.¹²³ Even Black women who are not survivors of domestic violence struggle to remain in long-term housing, and that is exacerbated with the status of survivor. The lack of any targeted mention of the disparate impact between white survivors of domestic violence and Black survivors of domestic violence is a major weakness of VAWA and how it protects survivors. VAWA intends to treat almost all survivors equally, without taking into account the specific intersections of a survivor’s identity that may make it more difficult to find long-term housing.

As to nondiscrimination provisions, VAWA’s housing protections apply only to tenants of housing assisted under a “covered housing program.”¹²⁴ Private landlords are not covered under the nondiscrimination provisions of VAWA, leaving numerous survivors of domestic violence unprotected.¹²⁵ This essentially penalizes survivors who are living in self-sufficient, long-term private housing. If a survivor no longer qualifies for benefits or is able to maintain their housing independently, they are outside of the protection of VAWA and do not have the same benefits afforded to federally-subsidized housing tenants.¹²⁶ Some states have enacted statutes to protect survivors in private leases; however, these statutes are not consistent with each other,¹²⁷ so survivors in one state may be protected better than in another. Survivors moving from state to state may also not be aware of how the statutes in each state differ and might have had protections in one state that they do not in the next.

¹²⁰ *Id.* at § 12471.

¹²¹ *Id.*

¹²² *Id.* at § 12474(f)(1).

¹²³ Priscilla A. Ocen, *The New Racially Restrictive Covenant: Race, Welfare, and the Policing of Black Women in Subsidized Housing*, 59 *UCLA L. REV.* 1540, 1542-43 (2012).

¹²⁴ 34 U.S.C. § 12491(b)(1).

¹²⁵ Alden, *supra* note 19, at 5-6.

¹²⁶ Although survivors would not be able to assert protection under VAWA, they can use the Fair Housing Act as an alternative option.

¹²⁷ Gerchick, *supra* note 21, at 324-325.

VAWA's stated purpose immediately builds in a loophole that landlords can exploit to discriminate against survivors of domestic violence. The Act states that it is intended to prevent homelessness by enabling landlords to respond appropriately to domestic violence "while maintaining a safe environment for all housing residents."¹²⁸ Of course, it is important that the housing units are safe for all tenants, regardless of their status as survivor or non-survivor. However, the "safe environment" language has been used by landlords¹²⁹ as a reason not to allow a survivor into housing or to evict a survivor. The idea is that the presence, or potential presence, of the survivor's abuser creates a risk for other tenants and requires the landlord to reject the survivor's application or evict the survivor. While there may be cases where an abuser creates a danger to other tenants, this is not a reason to evict a survivor. A perpetrator's criminal behavior should not be vicariously assigned to a survivor. The housing rights in VAWA prohibit episodes of abuse from being used against a survivor;¹³⁰ however, it has not been made clear whether the "safe environment" standard overrules this right.

The lack of a documentation requirement¹³¹ under VAWA can actually be looked at as a weakness of the Act as it relates to keeping permanent housing. The benefit of the requirement is that survivors do not have to provide "proof" of or even disclose their status as a survivor in order to access housing. Nevertheless, landlords have the right to request documentation and can deny housing to or evict a survivor if documentation is not received within 14 days.¹³² Often, eviction proceedings happen following an episode of abuse when a survivor may be injured, in a negative mental space, or may not have the capacity to follow all of the requirements for correct documentation of their status as a survivor. By not having survivors provide documentation up front, landlords have the ability to wait until they want to evict a survivor, ask them for documentation, and then assert that such documentation is wrong or is late and thus, they are able to evict the survivor.

Although the emergency transfer provision requires survivors of domestic violence to be allowed to transfer,¹³³ it does not require that they actually be prioritized for transfers. There is no guarantee that there will be a unit available that is the correct size, price, etc.¹³⁴ Although these are factors that might be outside of the landlord's control, survivors should still be prioritized in transfers when a new unit becomes available, which is not a requirement set up in VAWA.

¹²⁸ 34 U.S.C. § 12472.

¹²⁹ Ross, *supra* note 68.

¹³⁰ 34 U.S.C. § 12491(b)(1).

¹³¹ *Id.* at § 12491(c).

¹³² *Id.* at § 12491(c)(2)(A).

¹³³ *Id.* at § 12491(e)(1).

¹³⁴ Alden, *supra* note 19, at 7.

Landlords could exploit this as a loophole, making a survivor choose between moving out (and thus eliminating the VAWA requirements for the landlord) or staying in an abusive relationship so that they can remain in their current home.

Finally, VAWA's biggest weakness is within its methods of redress for survivors. Survivors may not have the resources to fight for their rights under VAWA.¹³⁵ There is no right to counsel in a civil case.¹³⁶ If a survivor's rights have been infringed on and they are able to seek redress through VAWA, they must also be able to afford a lawyer and afford to spend time on a potentially lengthy lawsuit. Without an easier, more streamlined method to initiate cases under VAWA, survivors likely have to just deal with the discrimination. If they are wrongfully evicted, they will likely need to prioritize their resources to finding housing, rather than asserting their federal civil rights.

The crux of the issue is simply that survivors do not have time to wait for their rights to be enforced. The nature of bureaucracy is that it is inherently clunky and does not move quickly—this is not a luxury that survivors share. If survivors are unlawfully evicted, they are out of luck while waiting for their case to be heard, if they are able to get counsel to file and have their case be heard at all. There needs to be a mechanism to allow for quicker injunctions or stays of eviction for survivors that are facing an infringement of their rights, or VAWA will end up leaving them homeless, the very issue that the Act intends to prevent.

Though not a weakness of VAWA itself as an act, the Supreme Court in 2000 struck down the Civil Rights Remedy that was originally in the Act.¹³⁷ This would have allowed survivors to bring civil rights protections to issues of domestic violence.¹³⁸ Without this remedy, it is that much harder for survivors of domestic violence to be protected from discrimination and assert their rights as survivors. It is clear that, despite the intention of the 2005 and 2013 reauthorizations of the Violence Against Women Act and the subsequent additions of housing protections, it falls short in accomplishing its goal. The real-world applicability of VAWA is difficult to discern, particularly because of the difficulty survivors have in asserting their rights under the Act.

VAWA is an important stepping stone and a recognition that housing is a critically underserved need of domestic violence survivors. It also provides recognition that survivors have certain rights of non-discrimination when they are in long-term housing. The Act sets forth a skeleton of grant funding and rights to

¹³⁵ Bergquist, *supra* note 85, at 47.

¹³⁶ *Why Are We Talking About the Right to Counsel in Civil Cases on the Anniversary of Gideon?*, NATIONAL COALITION FOR A CIVIL RIGHT TO COUNSEL, http://civilrighttocounsel.org/uploaded_files/113/NCCRC_Gideon_anniversary_flyer.pdf. (last visited Sept. 30, 2020).

¹³⁷ Franklin, *supra* note at 101, at 357.

¹³⁸ *Id.* at 355.

begin the process of promoting long-term, stable housing for survivors of domestic violence. The designation of funds towards capacity building of housing providers both acknowledges and works to improve one of the Act's biggest weaknesses—the fact that many people do not know what it is or what it entails.

The Act also is successful in setting forth research acknowledging the difficulties survivors of domestic violence have in finding long-term housing. This in and of itself is of considerable importance—by Congress's recognition of the need for long-term housing juxtaposed with the extreme difficulty in finding it, Congress attempts to make these issues common knowledge. Public knowledge of housing issues is one of the first steps in activism towards finding a solution.

In theory, by codifying rights that have never been acknowledged federally, VAWA is a huge step forward. However, the downfall of VAWA is its application by the population it is meant to protect. To start, VAWA is not universally known to landlords, survivors, or even domestic violence advocates. Without knowledge of the rights survivors are entitled to, VAWA will not be applied in real world housing situations. Second, VAWA lacks an accessible enforcement mechanism; thus, survivors who know their rights cannot always assert them. Requiring a survivor to go through what is likely to be a lengthy, expensive federal civil suit is unrealistic. Codified rights that cannot be asserted are, in effect, not rights at all.

This is not to argue that VAWA is useless or has no practical application, quite the contrary. VAWA created federally-guaranteed housing rights for survivors that did not exist prior to 2005—extremely late in the game. The importance of VAWA as a piece of legislation cannot be understated; however, it is important to recognize the substantial limits it has practically. As it stands, only a select few survivors, often with the help of legal aid or advocates, are able to use VAWA to assert housing rights. Until VAWA is universally known and able to be applied, its impact will continue to be stunted. Nonetheless, the existence of the housing rights under VAWA provides the basis on which to build a better method of redress for survivors. It is much easier to build upon already codified rights than wait for the mechanisms of the federal government to create them.

II. FEDERAL HOUSING PROGRAMS FOR SURVIVORS OF DOMESTIC VIOLENCE

There are several federal programs set up to provide housing to the homeless, though not, specifically, for survivors of domestic violence. The only domestic violence-specific housing program is set up in VAWA, which is limited to a grant program intended to help survivors find and keep long-term housing. The other federal programs—namely, the HEARTH Act and the Section 8 housing programs—deal with homelessness in general. Survivors of domestic violence are often eligible for and tend to receive benefits from these programs. For housing

providers, federal grants are generally a large part of their income—domestic violence-specific emergency shelters are often funded in part by Housing and Urban Development grants, and thus must conform to the regulations of federal programs.

This is not to say that the federal programs are the *only* housing options available for survivors of domestic violence. Most emergency shelters are not funded entirely by federal grants¹³⁹ and some states have housing priority programs for survivors of domestic violence.¹⁴⁰ However, the scope of those housing programs are often limited due to a lack of funds and space or residency requirements. The federal programs are universally applicable throughout all fifty states and are easily the most known and utilized housing programs for people experiencing homelessness, including survivors of domestic violence. It is important to recognize the gaps in federal programming for the homeless, as it directly affects survivors throughout the country whether they are in emergency shelter, transitional housing, or long-term housing.

A. HEARTH Act

The introduction of the Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act of 2009 consolidated and changed the way federal homeless programs operated. The Act replaced the McKinney-Vento Homeless Assistance Act,¹⁴¹ which was one of the main grant programs in effect for emergency shelters and transitional housing. McKinney-Vento provided funding for short-term, emergency homeless shelters as well as larger transitional housing programs where people could live for up to two years while continuing to have case management and other services.¹⁴²

For a time, HEARTH worked alongside other federal housing programs used by survivors of domestic violence—for example, the Rapid Re-Housing program. Rapid Re-Housing was in existence at the same time as HEARTH and allocated funds to quickly place people experiencing homelessness in long-term housing.¹⁴³

¹³⁹ Emergency shelters generally operate through a mixture of federal, state, and private grant funding.

¹⁴⁰ *Domestic Violence and Family Justice*, BOSTON HOUSING AUTHORITY, <https://www.bostonhousing.org/en/Departments/Public-Safety/Domestic-Violence-and-Family-Justice.aspx> (last visited Sept. 30, 2020).

¹⁴¹ Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, Pub. L. No. 111-22, Div B, § 1002, 123 Stat. 1664 (2009).

¹⁴² 42 U.S.C. § 11302 (2012) (amending the McKinney-Vento Homeless Assistance Act with the Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act of 2009).

¹⁴³ *Homelessness Prevention and Rapid Re-Housing Program*, HUD EXCHANGE, <https://www.hudexchange.info/programs/hprp/> (last visited Sept. 29, 2020).

The Rapid Re-Housing Program ended in 2012,¹⁴⁴ and was swallowed by HEARTH. The United States Department of Housing and Urban Development (HUD) still retains certain outside programs to combat homelessness (particularly those to help veterans)¹⁴⁵ but the bulk of the universally known and used federal homeless programs are contained within the HEARTH Act. Organizations receiving federal grant money for homelessness programs are likely receiving it through HEARTH, unless they are receiving population- or project-specific funding—for example, through VAWA.

HEARTH still retains the salient features of McKinney-Vento and Rapid Re-Housing but consolidates many of the Housing and Urban Development homelessness programs into one piece of legislation and retains one database of information on grantees and the populations assisted by the programs through the Homeless Management Information Systems. The Act establishes three main grant programs to combat homelessness: the Emergency Solutions Grants Program, the Continuum of Care Program, and the Rural Housing Stability Assistance Program.¹⁴⁶

The Emergency Solutions Grants Program takes the place of the emergency shelter grants from McKinney-Vento and provides funding for homeless shelters (including domestic violence-specific shelters). It also outlines what homeless programs and populations are eligible under the grant program.

The Continuum of Care Program replaces prior McKinney-Vento transitional housing programs as well as the Rapid Re-Housing Program. It is intended to provide services for people who need assistance as they find permanent housing, but it mainly follows the Rapid Re-Housing model of quickly rehoming people.

Finally, the Rural Housing Stability Assistance Program works to reduce homelessness in rural areas specifically. Aside from geographic area, it also works with and focuses on people with long histories of homelessness, in imminent danger of losing housing, and the lowest-income.

The HEARTH Act does explicitly mention survivors of domestic violence within its definitions. The Act:

shall consider to be homeless any individual or family who is fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life threatening conditions in the individual's or family's current housing situation, including where the health and safety of children are jeopardized,

¹⁴⁴ *Id.*

¹⁴⁵ *U.S. Department of Housing and Urban Development-VA Supportive Housing (VA-VASH) Program*, U.S. DEPARTMENT OF VETERAN AFFAIRS, <https://www.va.gov/homeless/hud-vash.asp> (Sept. 30, 2020).

¹⁴⁶ 42 U.S.C. § 11301 et seq.

and who have no other residence and lack the resources or support networks to obtain other permanent housing.¹⁴⁷

The HEARTH Act also makes references to homelessness that fall outside of its definition. For example, the Act considers unaccompanied youth and homeless families with children to be “homeless,” particularly where they at risk for continued homelessness due to other intersecting features, such as domestic violence or childhood abuse.¹⁴⁸

Within the definition of tenant-based housing,¹⁴⁹ HEARTH incorporates the emergency transfer provision of VAWA.¹⁵⁰ By defining tenant-based housing as rental assistance, this allows for a survivor to move to another unit, which protects survivors of domestic violence who may be at risk if they remain in a unit.

Along with the main definition associating domestic violence with homelessness, the Act also protects the confidentiality of survivors.¹⁵¹ HEARTH notes in its definitions that “personally identifying information” includes information that would disclose the location of a domestic violence survivor.¹⁵² Although HEARTH contains provisions requiring grantees to participate in the Homeless Management Information Systems,¹⁵³ victim service providers do not have to and are actually prohibited from disclosing any identifying information within that system. Beyond the definitions section and the confidentiality section, HEARTH makes no other mention of domestic violence.

It is important to note this and recognize that none of the HEARTH programs prioritize or target survivors of domestic violence, which is the greatest weakness inherent in the HEARTH Act when it comes to homelessness among that population. Although it is key that HEARTH at least acknowledges survivors through the explicit mentions of domestic violence within the definitions, there are no further mentions within the different programs themselves. However, HEARTH is not intended to be a population-specific grant program. It deals with homelessness itself. Rather, it is VAWA that contains the domestic violence-specific grant program combatting homelessness among survivors.

Despite the programs themselves not specifically prioritizing survivors, they do benefit survivors. However, there are limitations. For example, the HEARTH grants are available to domestic violence-focused organizations, but they are always in competition with other homeless shelters and housing programs serving

¹⁴⁷ 42 U.S.C. § 11302(b).

¹⁴⁸ 42 U.S.C. § 11302(a)(6).

¹⁴⁹ 42 U.S.C. § 11360.

¹⁵⁰ *Id.*

¹⁵¹ 34 U.S.C. § 12491.

¹⁵² 42 U.S.C. § 11363.

¹⁵³ *Id.*

a larger, broader population. Although survivors can make use of general homeless shelters and programs, those programs do not provide specific care or services for survivors of domestic violence.

The remainder of this section 1) considers the strengths and weaknesses of the three main HEARTH Act programs used to combat homelessness—the Emergency Solutions Grants Program, the Continuum of Care Program, and the Rural Housing Stability Assistance Program; 2) analyzes each programs’ requirements and application in the context of combatting homelessness among survivors of domestic violence seeking housing through one of the funded grantees; and 3) evaluates the efficacy of HEARTH grants using case studies both from organizations serving the general homeless population, as well as organizations with a domestic violence-specific housing program.

1. Emergency Solutions Grants Program

The Emergency Solutions Grants (ESG) Program is mainly intended for states and local governments to carry out activities to combat homelessness.¹⁵⁴ There are opportunities for private nonprofits to receive reallocated amounts of grant funding provided their programs assist people experiencing homelessness or those at risk of becoming homeless.¹⁵⁵ Funding allocated to states and local governments is then distributed to community partners, including non-profits, to carry out grant work.¹⁵⁶ Out of the federal grants used to combat homelessness, 20 percent of funding must come through the ESG program.¹⁵⁷

The program name was changed from the Emergency Shelter Grants Program to Emergency Solutions Grants Program.¹⁵⁸ This name change “reflects the change in the program’s focus from addressing the needs of homeless people in emergency or transitional shelters to assisting people in quickly regaining stability in permanent housing after experiencing a housing crisis”¹⁵⁹ and shows the government’s focus on long-term, rather than short- or medium-term solutions. The ESG program denotes several eligible activities to be carried out with grant funds. These activities include certain emergency shelter-specific activities:¹⁶⁰ renovation of buildings to become emergency shelters, services related to

¹⁵⁴ 42 U.S.C. § 11375(f).

¹⁵⁵ 42 U.S.C. § 11372.

¹⁵⁶ *The HUD Homeless Assistance Grants: Programs Authorized by the HEARTH Act*, EVERYCRSREPORT.COM Aug. 30, 2017, <https://www.everycrsreport.com/reports/RL33764.html> (last visited Sept. 29, 2020).

¹⁵⁷ 42 U.S.C. § 11372a(a).

¹⁵⁸ *Emergency Solutions Grants Program*, HUD EXCHANGE, <https://www.hudexchange.info/programs/esg/> (last visited Sept. 29, 2020).

¹⁵⁹ *Id.*

¹⁶⁰ 42 U.S.C. § 11374(a).

emergency shelter or street outreach, and maintenance of emergency shelters. Street outreach includes services that deal with employment, health, education, family support services for homeless youth, victim services, substance abuse, or mental health services; however, the grant can only be used for these purposes if the essential services have not been provided by the local government in the last year, the local government is in severe financial deficit, or the assistance complements the provided essential services.¹⁶¹

The other eligible activities under the grant focus on preventing homelessness and quickly rehousing people who lose their homes. These activities include¹⁶² short- or medium-term rental assistance and relocation or stabilization of housing for homeless individuals. Stabilization of housing programs might include assisting in a housing search, mediation or outreach to property owners, legal services, credit repair, security or utility deposit assistance, utility payment assistance, rental assistance for the last month at a location, moving costs, or other activities to keep families in current housing or quickly move families to another permanent housing location.¹⁶³

However, any funds used for the creation or maintenance of an emergency shelter must not exceed 60 percent of assistance provided or exceed the amount expended by the grantee for maintenance in the previous fiscal year.¹⁶⁴ The remaining amount should be used for homelessness prevention and rehousing programs.¹⁶⁵

Those receiving funds under this grant program, emergency shelters and homeless prevention programs in particular, must participate in any community Homeless Management Information System,¹⁶⁶ which tracks non-identifying data about the clients that use services under this grant and allows for accurate grant reporting. All recipients must also consult with the grantees under the Continuum of Care program to determine how exactly the funds should be allocated.¹⁶⁷ Since any beneficiaries of programs operating under ESG must meet the federal definition of homeless,¹⁶⁸ the specific inclusion of domestic violence ensures that any survivor is eligible to receive emergency housing. This is one of the ESG

¹⁶¹ *Id.* § 11374(a)(2)(A)-(B).

¹⁶² *Id.* § 11374(a)(4)-(5).

¹⁶³ *Id.* § 11374(a)(5).

¹⁶⁴ 42 U.S.C. § 11374(b).

¹⁶⁵ *Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act of 2009 Section By Section Analysis*, NATIONAL ALLIANCE TO END HOMELESSNESS, <http://endhomelessness.org/wp-content/uploads/2009/06/hearth-section-by-section-analysis.pdf> (Sept. 29, 2020).

¹⁶⁶ 42 U.S.C. § 11375(f).

¹⁶⁷ *ESG Requirements*, HUD EXCHANGE, <https://www.hudexchange.info/programs/esg/esg-requirements/> (Sept. 29, 2020).

¹⁶⁸ *Id.*

program's strongest features—that there is explicit inclusion of both adult and youth survivors of domestic violence within their definitions. The further inclusion of defining victim service providers and victim services to include domestic violence service providers ensures that programs benefitting survivors specifically are permitted under ESG.

Where the program falls short is in failing to specify to whom states and local governments sub-grant funds. The ESG program does specify what percentage of funds can be used for emergency shelter versus homelessness prevention,¹⁶⁹ but does not specify what sorts of nonprofits can be sub-granted under the program. In theory, a local government could grant all of its funds to general population homeless programs and have a vacuum of services for domestic violence survivors specifically. The VAWA grant amounts¹⁷⁰ are not enough to ensure every locality has survivor-specific services, which can make it much more difficult for survivors to access what they need, particularly if they are living in a rural area. Without any particular requirements for priority population spending, the intersections of homelessness are lost. Very rarely is a person homeless without any other contributing factors¹⁷¹—often there are co-morbidities, such as mental health issues, substance abuse, or domestic violence. If all the funds in a given locality went to just general homeless shelters and general homelessness prevention, it would miss the particular intersections and services required by homeless survivors of domestic violence.

An example of how the ESG program works generally is the case of Henrico County, Virginia. Henrico County has federal funds from the ESG program that are distributed to partners throughout the county.¹⁷² Out of the 19 partners they distribute federal funds to (not just ESG funds), not a single one is a domestic violence shelter.¹⁷³ Their focus is on building houses, not emergency shelter, but the organization Housing Families First does maintain a homeless shelter along with the home building program.¹⁷⁴

Housing Families First does provide specific counseling for domestic violence, as well as other needs; however, the shelter accepts families and single individuals who are homeless generally.¹⁷⁵ All of the people placed into their

¹⁶⁹ 42 U.S.C. § 11374(b).

¹⁷⁰ 34 U.S.C. § 12474.

¹⁷¹ Maryam Noor, *The Intersectionality of Homelessness*, THE DAILY Apr. 29, 2019, http://www.dailyuw.com/opinion/article_1ae720b0-6a37-11e9-bef8-bf9511040455.html (last visited Sept. 30, 2020).

¹⁷² *Program Partners*, HENRICO COUNTY VIRGINIA, <https://henrico.us/revit/federal-block-grant-programs/program-partners/> (last visited Sept. 29, 2020).

¹⁷³ *Id.*

¹⁷⁴ *Hilliard House Shelter*, HOUSING FAMILIES FIRST, <https://www.housingfamiliesfirst.org/hilliardhouse/> (Sept. 29, 2020).

¹⁷⁵ *Id.*

shelter must be referred from either the Homeless Crisis Line or Regional Domestic Violence Hotline.¹⁷⁶ The placement process requires multiple steps in Henrico County/the Greater Richmond area, which is not ideal for survivors of domestic violence. Survivors of domestic violence often try to leave an abusive partner multiple times,¹⁷⁷ and each additional step reduces the chances that a survivor will be able to actually leave. Further, Housing Families First is the only temporary shelter funded in Henrico County, and can only house up to 30 children and adults.¹⁷⁸ Since survivors of domestic violence are competing with other county residents for a place in a shelter, there is a higher likelihood that the shelter will be at capacity and survivors will be unable to leave their abusive partner.

Henrico County's use of ESG program funds is clearly leaning towards homelessness prevention and promoting long-term housing. While it is not bad to prioritize long-term housing, they do so at the expense of short-term emergency shelters that are a critical steppingstone in many survivors' journeys away from an abusive partner. It is rare to find permanent housing immediately, and survivors are less likely to go through the process of qualifying and finding new long-term housing while still sharing a space with their abuser.

As a contrast, Aiken County in South Carolina has only two ESG funded shelters—but one of them is specifically for domestic violence.¹⁷⁹ One shelter in Aiken is the Salvation Army which provides emergency shelter as well as homeless prevention and rapid rehousing.¹⁸⁰ The other shelter is the Cumbee Center, which is specifically a domestic violence shelter.¹⁸¹

The Cumbee Center to Assist Abused Persons receives ESG funding and provides a 60-day emergency shelter program.¹⁸² It services six counties, including Aiken. They do not work specifically on homelessness prevention but do provide case management services so that clients within the emergency shelter can find permanent housing.¹⁸³ They assist survivors of domestic violence and sexual assault specifically, so survivors do not have to go through the general Salvation Army program and are guaranteed to have tailored services to their needs.

The distribution of ESG funds throughout Aiken County is a very efficient use of the federal program funds, at least for survivors of domestic violence. They

¹⁷⁶ *Id.*

¹⁷⁷ *50 Obstacles to Leaving: 1-10*, NATIONAL DOMESTIC VIOLENCE HOTLINE, <https://www.thehotline.org/2013/06/10/50-obstacles-to-leaving-1-10/> (Sept. 27, 2020).

¹⁷⁸ *Hilliard House Shelter*, *supra* note 175.

¹⁷⁹ *Emergency Solutions Grant Subrecipients*, SOUTH CAROLINA OFFICE OF ECONOMIC OPPORTUNITY, <http://oeo.sc.gov/documents/ESG%20Subrecipients.pdf> (Sept. 29, 2020).

¹⁸⁰ *Id.*

¹⁸¹ *Id.*

¹⁸² *Programs and Services*, CUMBEE CENTER, <https://www.cumbeecenter.org/programs-and-services/> (Sept. 29, 2020).

¹⁸³ *Id.*

have the option to use the general services of Salvation Army, which does have an emergency shelter, but also to focus on quickly finding people long-term housing. However, survivors of domestic violence do not have to compete with the rest of the general homeless population; rather, they are able to access a specific shelter and services that are tailored to their particular housing needs.

Unlike Henrico County, survivors in Aiken County have easier access to emergency shelter while going through the process of finding long-term housing. The ESG funds are not distributed exclusively to organizations building long-term housing or working on homelessness prevention and are instead distributed to make use of both programs, which serves a wider community need.

Although the ESG program does fund numerous homeless shelters and homelessness prevention programs, the lack of identification of priority populations and the great leeway given to grantees on how funds should be spent leads to counties with huge inequalities in services. The specification that 60 percent of funds maximum should be used on emergency shelter does not mean that there is a minimum amount that needs to be spent on shelters. Counties are free to designate one or no emergency shelters and make it their goal to focus solely on long-term housing, which is unrealistic, particularly for survivors of domestic violence. Survivors often go through many steps to reach the point of independent, long-term housing and emergency shelters are usually the first steppingstone on that path. Counties that only prioritize long-term housing and do not prioritize domestic violence-specific services are doing a disservice to survivors.

2. Continuum of Care Program

The Continuum of Care (CoC) Program in the HEARTH Act essentially combines the transitional housing programs and Rapid Re-Housing into one. It provides funding with the goal of quickly rehoming individuals experiencing homelessness, as well as promotes continued self-sufficiency of those individuals.¹⁸⁴ The program emphasizes community-wide commitment and solutions to ending homelessness.¹⁸⁵ Unlike the ESG program grants, CoC grants actively fund nonprofits alongside local governments.¹⁸⁶ Only one collaborative applicant can receive funds per geographic area.¹⁸⁷ Solo applicants can only apply for funding if they “attempted to participate in the continuum of care process,”¹⁸⁸ but were not allowed to do so. Essentially, if an applicant was not allowed to

¹⁸⁴ *Continuum of Care (CoC) Program*, HUD EXCHANGE, <https://www.hudexchange.info/programs/coc/> (last visited Sept. 29, 2020).

¹⁸⁵ 42 U.S.C. § 11378.

¹⁸⁶ *Id.*

¹⁸⁷ *Id.*

¹⁸⁸ *Id.*

participate in the collaborative application process as a project partner, they can apply as a solo applicant.

Eligible activities under CoC can be organized into two broad categories: housing/rehoming and operation costs for collaborative applicant organizations. Within housing and rehoming, eligible activities are:¹⁸⁹ constructing new transitional or permanent houses, acquiring or rehabilitating an existing structure for housing other than emergency shelter, leasing property to provide housing or supportive services, rental assistance, paying operating costs for housing units, supportive services for homeless or recently homeless people, rehoming services such as credit repair, deposits, etc. For projects with new housing, the grantee may be required to have a minimum grant term of up to five years.¹⁹⁰ For projects involving the acquisition, rehabilitation, or construction of housing, the building must be operated for the purpose stated in the grant application for at least 15 years.¹⁹¹ If the housing unit does not provide the services for that amount of time, the grantee may have to repay some or all of the grant, unless it falls under an exception.¹⁹² The second broad category of the eligible activities falls under organizational and operational costs for collaborative applicants. This allows for administrative costs to project sponsors of no more than 10 percent of the funds available to that sponsor.¹⁹³ Any “reasonable costs” associated with staff training are permissible under the activities.¹⁹⁴ Administration of permanent housing rental assistance must be done by a state, a local government, or a public housing agency, not a private non-profit.¹⁹⁵

The CoC program has some incentive and priority programs with designated funding amounts for each fiscal year. The programs prioritize permanent housing for families with disabilities and families with children.¹⁹⁶ They also provide financial incentives for projects using proven strategies that reduce homelessness as well as projects that have been proven to be successfully implemented.¹⁹⁷

Applicants may not use more than ten percent of their funding for eligible activities dealing with housing construction, leasing, or maintenance for populations defined as homeless under other federal statutes.¹⁹⁸ However, the allowance for this 10 percent does not apply to families with children and unaccompanied youth because they tend to be unstable and remain unstable for a

¹⁸⁹ *Id.*

¹⁹⁰ *Id.* § 11383(b).

¹⁹¹ 42 U.S.C. § 11383(c)(1).

¹⁹² *Id.* § 11383.

¹⁹³ *Id.*

¹⁹⁴ *Id.* § 11383(e).

¹⁹⁵ *Id.* § 11383(g).

¹⁹⁶ *Id.* § 11386.

¹⁹⁷ 42 U.S.C. § 11386(d)-(e).

¹⁹⁸ *Id.* § 11386(j)(1).

period of time.¹⁹⁹ Grantees may use that amount only if they show the use of funds in this way is a priority or is equally cost-effective.²⁰⁰ This limitation does not apply if the rate of homelessness in the area is less than 0.1 percent of the population.²⁰¹

Each year, certain collaborative applicants are designated as “high performing communities.”²⁰² A high performing community must demonstrate through data that the five requirements are met for the geographic area.²⁰³ The five requirements are: 1) episodes of homelessness are less than 20 days or there are at least ten percent fewer families in similar situations as compared to the previous year; 2) less than five percent of homeless individuals who leave homelessness become homeless again; 3) the communities in the geographic area have actively encouraged participation in homeless services and are involved in the Homeless Management Information System; 4) the activities carried out under the grant have been effective; and 5) projects serving people under other federal definitions of homelessness were effective.²⁰⁴

The focus not just on permanent but also transitional housing is a strength of the CoC program. Transitional housing is an important step in the journey for many survivors of domestic violence. It is arguably the link in the chain that does the most in preventing survivors from going back to their abuser. Emergency shelter is, by its nature, short-term and does not provide stability. However, permanent housing can be difficult to come by, even with the HEARTH Act and Section 8 assistance (discussed below). Survivors may want the continued assistance of a case manager or legal advocate as they disentangle themselves from their abuser. Transitional housing provides a semi-permanent housing option where survivors can continue to have easy and continuous access to support groups and case management, while also living autonomously until they have an option for permanent housing. Transitional housing generally also has little to no rent, allowing survivors to save money while waiting for an opening at a permanent unit.

The requirements of collaboration between entities are another benefit of the CoC program. Within the application process, there is a huge emphasis on the collaborative nature of the program. Even outside of the CoC program, the ESG program also emphasizes having service providers working in tandem.²⁰⁵ The emphasis on a “continuum” and a collaborative process creates more effective

¹⁹⁹ *Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act of 2009 Section By Section Analysis*, *supra* note 166.

²⁰⁰ 42 U.S.C. § 11386(j)(1).

²⁰¹ *Id.* § 11386(j)(2).

²⁰² *Id.* § 11383.

²⁰³ *Id.* § 11383(d).

²⁰⁴ *Id.*

²⁰⁵ *See above*, Emergency Solutions Grant.

programming and is very beneficial for survivors of domestic violence. It makes the transition into permanent housing smoother and allows services to be streamlined. Uncertainty or an inability to discern or access the “next step,” whether it be moving from emergency shelter to transitional housing or transitional housing to permanent housing, can push a survivor back to their abuser if they do not have any other legitimate options. Emphasizing service providers working together to streamline the process increases the likelihood that survivors will continue through the program to permanent housing.

Although the CoC program does prioritize housing solutions that are beneficial to survivors of domestic violence, it does not prioritize them or their needs. The program does create priority populations, but survivors of domestic violence are not within those provisions. There are many survivors of domestic violence, however, that are living with disabilities or have children. Survivors with these intersections will benefit greatly from the priority population provisions. But, without creating a blanket provision prioritizing all survivors, there will be groups of grantees with housing that in effect excludes survivors of domestic violence.

The City of Seattle has a collaborative Continuum of Care program, with one of the project partners being a facet of the Salvation Army called Hickman House. Hickman House is a survivor-specific transitional housing program that bridges the gap between emergency shelter and permanent housing.²⁰⁶ Hickman House provides case management, financial education, children’s programs, and support in searching for permanent housing.²⁰⁷ The apartments are furnished, which allows families to save money and avoid buying large pieces of furniture until they move into permanent housing. Hickman House programs are specific to domestic violence survivors, and provides tailored services while being mindful of survivors’ particular needs.

Although Hickman House provides specific services to survivors of domestic violence, these services are only available for survivors with children.²⁰⁸ Though providing stability for families and children is important, this severely limits who can access transitional housing services as a survivor. Further, Hickman House has only ten apartments,²⁰⁹ which, in a city as large as Seattle, is almost nothing. Despite the benefits of having a domestic violence transitional housing program,

²⁰⁶ *Salvation Army: Hickman House*, UNITED WAY, https://volunteer.uwkc.org/agency/detail/?agency_id=58630 (last visited Sept. 29, 2020); see also Senator Murray, *Senator Murray Announces more than \$84 Million in Federal Awards to Combat Housing Insecurity Across Washington State During COVID-19 Pandemic* (Jan. 29, 2021), <https://www.murray.senate.gov/public/index.cfm/mobile/newsreleases?ID=238799F7-B7B2-46D7-A0CA-C919D77CBDBD>.

²⁰⁷ *Id.*

²⁰⁸ *Id.*

²⁰⁹ *Id.*

the limits on who can access it and how many apartments are available essentially means that survivors will likely have to seek housing help elsewhere. Of course, something is better than nothing, but the CoC funds and Hickman House project should be expanded to meet the needs of the number of survivors in a large city such as Seattle. The project should also, with expansion, include single survivors of domestic violence as well, who may need a step in between emergency shelter and finding permanent housing.

In San Joaquin County, California, there are only two CoC programs and one of them is from the Central Valley Low-Income Housing Corporation. This project is a rental assistance program that helps families with rent for up to 12 months. The rental assistance is combined with mandatory self-sufficiency case management to develop a plan that allows the family to maintain their housing by themselves after the rental assistance program ends.²¹⁰ The project re-evaluates eligibility every three months. This allows families to find permanent housing, rather than transitional housing, and receive cash assistance to maintain their housing.

Central Valley is not specific to domestic violence, but like Hickman House, also requires that applicants have a child to be eligible. While the lack of a physical housing unit probably allows them to help more people by cutting maintenance costs and other operational needs, they still do not provide any counseling or case management for survivors beyond maintaining self-sufficiency. The lack of focus on domestic violence in combination with the requirement for any applicants to have children shrinks the number of survivors who can be helped by the program—a survivor without children has to compete against all other homeless families in the area. Aside from Central Valley, San Joaquin has only one other partner receiving CoC funds, so survivors without children are competing against all other homeless people without children in the county.

Comparing Hickman House to Central Valley is in some ways a Catch-22. Hickman House has the benefit of providing transitional housing to survivor families that are not ready for permanent housing and tailored case management with services that help survivors find housing. However, they are extremely limited in the amount of help they can offer. Hickman House has only ten units in a city with millions of people. Of course, those ten units are likely life-changing for those who occupy them, but the project's impact is negligible overall. In contrast, Central Valley does not provide survivor-specific services, but their focus on rental assistance rather than a physical building likely allows them to

²¹⁰ Central Valley Low-Income Housing Corporation, *Homelessness Prevention and ESG Rapid Re-Housing*, COMMUNITY CONNECTIONS, <https://communityconnectionssjc.org/programs/details/central-valley-low-income-housing-corp-homelessness-prevention-and-rapid-rehousing/> (last visited Sept. 29, 2020).

help far more people. Both projects, however, require that the applicants have children, limiting the help available to survivors of domestic violence who are single and reducing their chance of finding assistance in transitional housing or permanent housing after leaving an emergency shelter (assuming that there is one available).

The focus on families for many CoC programs makes sense—it is important to place children into a stable home as quickly as possible, and it is often difficult for families to find space in emergency shelters. Finding a family permanent housing, or at least getting children out of shelter life, will stabilize the family unit. When it comes to considering survivors of domestic violence though, many CoC programs leave a lot to be desired. There is a focus on rapidly rehousing people, which ignores the need for case management, transitional housing, and consideration of survivors. Single survivors of domestic violence miss that middle step that is often crucial in going between emergency shelter and permanent housing. The application process for permanent housing can be long, and as seen through the two case studies above, the CoC program emphasizes families. Without having legitimate options for transitional housing, survivors are more likely to go from emergency shelter back to their abuser.

Overall, the CoC program is beneficial for people experiencing homelessness because it creates housing options like permanent and transitional housing and bridges the gap between emergency shelter and long-term housing. However, as its name suggests, it works in a continuum—it must be preceded by emergency shelters and followed by non-assisted permanent housing. Transitional and assisted permanent housing themselves are not effective on their own for survivors of domestic violence, particularly when survivors come from different intersections and are not always arriving in shelter with children. There must be options for short-term emergency shelter when needed and effective case management for permanent housing that allows survivors to transition into self-sufficient living regardless of their situation or family structure. Counties should increase the CoC funding for domestic violence-specific transitional housing so that the current program partners filling that gap are better able to service more of the population in need.

3. Rural Housing Stability Assistance Program

The last program in the HEARTH Act is the Rural Housing Stability Assistance (RHSA) program, which provides re-housing or improves housing for homeless individuals in particular geographic areas.²¹¹ RHSA grants should also be used to stabilize individuals in imminent danger of homelessness and to allow low-

²¹¹ *Rural Housing Stability Assistance Program*, HUD.GOV, <https://www.hud.gov/hudprograms/rural-housing> (Sept. 29, 2020).

income residents in the rural area to afford stable housing²¹² in areas where affordable housing options are often limited. Within the RHSA program, the grants allocated can combine the ESG and CoC programs but focus on a rural area. RHSA funds can be used for emergency shelter as well as transitional housing, permanent housing, or rental assistance.²¹³ For survivors of domestic violence living in rural areas, housing is a particular barrier in leaving an abuser because the geographic isolation means that their options are severely limited. When attempting to leave an abusive partner, they may have nowhere to go—the area they live in may not have an emergency shelter, transitional housing, or a permanent housing program nearby which could require them to travel long distances and may make them decide not to leave at all.

As a whole, women in rural areas are at an increased risk of experiencing domestic violence partly due to the geography of rural areas.²¹⁴ Not only are rates of abuse higher for women in rural areas, but the distance to the nearest domestic violence-specific resources are three times as far.²¹⁵ The accessible programs often serve more people and counties and have fewer services.²¹⁶ This shows the great need faced by rural women experiencing domestic violence and why programs like RHSA are very important.

The three purposes of the RHSA program are: 1) rehousing and improving the housing situations of those who are homeless or in bad housing situations in the area; 2) stabilizing those in danger of losing their homes; and 3) improving the accessibility of stable housing for low income residents.²¹⁷ Eligible activities include construction, acquisition and rehabilitation, housing assistance such as rental assistance, and operational costs for both permanent and transitional housing.²¹⁸ Applicants to the program must submit a report detailing the extent and nature of homelessness in the area, as well as a description of the worst housing situations.²¹⁹ Along with the participant report, the government will conduct a study detailing homelessness in rural areas and assess what barriers homeless people face in rural areas.²²⁰

In determining who is allocated funding, the federal government considers the participation of potential beneficiaries in determining need, how the program addresses harmful housing conditions, the level of collaboration, the

²¹² *Id.*

²¹³ *Id.*

²¹⁴ Corinne Peek-Asa et al., *Rural Disparity in Domestic Violence Prevalence and Access to Resources*, J. OF WOMEN'S HEALTH 1743-1749 (2011).

²¹⁵ *Id.*

²¹⁶ *Id.*

²¹⁷ 42 U.S.C. § 11408(a).

²¹⁸ *Homeless Emergency Assistance*, *supra* note 166.

²¹⁹ *Id.*

²²⁰ *Id.*

organization's performance and success, the outcomes for grantees who received funding previously, and pro-rata need.²²¹ Along with these criteria, the area where the project will take place must be "rural"—the county must have at least 75 percent of the population living in a rural area or a state with a population density that is less than 30 people per square mile.²²² However, even if the state meets this requirement, a metropolitan city within that state cannot be the sole beneficiary.²²³ Having a specific program tailored for rural housing does significantly benefit survivors of domestic violence. As found in VAWA, "victims of domestic violence in rural areas face additional barriers, challenges, and unique circumstances."²²⁴ Living in a rural area means geographic isolation, which in turn leads to fewer services, fewer options for housing if a survivor leaves an abusive partner, and less affordable housing. Survivors in rural areas are at a particular disadvantage and at particular risk because they do not have the resources to allow them to leave an abusive partner, particularly when factoring in the lack of accessible transportation to metropolitan areas with services. Creating affordable housing in the rural areas where people live is extremely important to the overall ability of survivors to make decisions about leaving an abuser and knowing that there are services to help with the transition to affordable, permanent housing.

The RHSA program; however, does not create any funding for emergency shelters, which is a critical need in rural areas. In rural areas, survivors may need emergency short-term housing while figuring out a permanent housing solution. It may be difficult to find a job in a rural, isolated area, and a survivor may need to stay in emergency housing until they find a job and are able to save money. Emergency shelter, along with case management, may be a necessary step for survivors in leaving an abuser. By failing to provide emergency shelter as an eligible activity, RHSA creates a huge barrier for groups trying to obtain funding for emergency shelters in rural areas, and in turn creates a barrier for survivors looking to stay in emergency shelter while finding permanent housing.

The RHSA program also overlooks the creation of case management services within the housing programs. Unlike the ESG and CoC programs, eligible activities do not include capacity building for staff members or homelessness prevention, rather it is all in the construction or rehabilitation of buildings for housing. Arguably, survivors in rural areas could benefit more from case management than their counterparts in metropolitan areas because the services they may be trying to access are likely not all in the same town where they live. Transitional housing is mentioned under the grant, and transitional housing often

²²¹ *Id.*

²²² *Id.*

²²³ *Id.*

²²⁴ 34 U.S.C. § 12471.

includes case management services; however, it is clear that the grant prioritizes the construction of permanent housing units. This model essentially operates on a rapid re-housing model—clients are placed into homes as soon as possible and essentially left on their own. While this does promote self-sufficiency and encourages clients to stand on their own two feet, it does nothing to address the root causes of homelessness, and instead is akin to sticking a Band-Aid on a stab wound.

Finally, the RHSA program is not specific to domestic violence survivors. The housing projects and units under the program do not have to specify or be tailored to survivors. With housing in rural areas, this makes sense. There are fewer people, a smaller capacity, and less of a need to have multiple functioning homelessness programs for very specific populations. However, this still creates a gap in overall services for survivors. Without housing programs tailored for survivors, they may still have to travel far away to get the counseling and case management they need or want.

West Virginia in particular has a lot of rural areas and counties within their state. It has taken advantage of the funds offered by the RHSA program to address rural homelessness by creating the PATH Program.²²⁵ Within the program, West Virginia's program incorporates the Homeless Management Information System to collaborate with other service providers and reduce the likelihood of duplicating services. When serving individuals in West Virginia, the PATH program uses the Vulnerability Index/Service Priority Decision Assistance Tool (VI/SPDAT), which identifies the type of housing support appropriate for individual clients—permanent supportive housing, rapid re-housing, or affordable housing.

PATH benefits from a statewide dedication to the program—as a rural state, West Virginia has implemented a strong rural homelessness program. The main benefit of the PATH program though is the emphasis on individualized care. The use of VI/SPDAT encourages providers to view their clients as unique and thus requires tailored services. It is unclear whether clients have any sort of choice in this process, or whether their preferences are taken into account. However, the mere presence of a tool to address the various needs of survivors is a step in the right direction. This type of housing process benefits survivors of domestic violence because it takes into account their particular needs when accessing

²²⁵ *West Virginia PATH Program Addresses Rural Homelessness*, SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION, <https://www.samhsa.gov/homelessness-programs-resources/hpr-resources/path-program-rural-homelessness> (last visited Sept. 29, 2020). See also West Virginia Interagency Council on Homelessness, *Opening Doors in West Virginia: A Plan to Prevent and End Homelessness / 2015 – 2020* (Dec. 2015), <http://www.wvich.org/docs/Opening%20Doors%20in%20WV%20Plan%20-%20FINAL-%20low%20res.pdf>; *Senator Manchin's Actions Addressing Homelessness*, <https://www.manchin.senate.gov/imo/media/doc/042321%20Homelessness%20Timeline.pdf?cb>.

services through a beneficiary provider of the PATH program. Survivors are not forced into one option but rather can move forward after being screened for a host of different options.

The drawback of PATH, however, is that the VI/SPDAT tool screens specifically for different types of long-term housing—there is no mention of emergency shelter or transitional housing, which is a challenge inherent in the federal RHSA program. Screening is done only for permanent supportive, rapid re-housing, or affordable long-term housing. Therefore, PATH is unhelpful for survivors who require transitional housing or short-term emergency housing and may be hindered from seeking out housing through this program.

Interestingly, there are no findable programs with RHSA funding that are domestic violence specific. This does not necessarily mean that they do not exist; simply, they may not have advertised their funding through that program. It seems likely, however, that there are few, if any, domestic violence programs funded by RHSA due to the overwhelming need for affordable housing in rural areas.

Despite a lack of traditional services for survivors, such as housing or case management, the Pennsylvania Coalition Against Domestic Violence (PCADV) has been participating in working groups and meetings with, among others, the Rural Advocacy Task.²²⁶ The task force is trying to “push the agenda,” so to speak, for issues facing survivors, and to educate service providers on domestic violence. Even if their program is not specific to survivors, they are educated on the types of issues survivors face and services they might need. By advocating for survivors to be included in the priorities for rural housing coalitions, PCADV increases the likelihood that more tailored services will end up being available. However, without the funding to back it up, it remains unlikely that there will ever be RHSA programs funded for survivors specifically.

Housing remains a large barrier for survivors of domestic violence and continues to be an unmet need. In 2016, the Pennsylvania legislature, focusing on rural issues, conducted a study on domestic services in rural Pennsylvania. Within a 24-hour period of requests for domestic violence programs, they found that 73 percent of unmet requests were for housing.²²⁷ Whether this means that there is no housing, no appropriate housing, or no housing that is available remains unclear. However, this data emphasizes and underscores the serious need for housing but also the serious lack of options for survivors in rural areas. Rural counties have resource gaps, particularly in transitional housing.²²⁸ Even for organizations that

²²⁶ *Rural Communities*, PENNSYLVANIA COALITION AGAINST DOMESTIC VIOLENCE, <https://www.pcadv.org/initiatives/underserved-populations/rural-communities/> (last visited Sept. 29, 2020).

²²⁷ Gayatri Devi et al., *Analysis of Domestic Violence Services in Rural Pennsylvania*, THE CENTER FOR RURAL PENNSYLVANIA, 3 (2016).

²²⁸ *Id.* at 17.

might prioritize survivors of domestic violence, RHSA funding does not provide for emergency shelters or transitional housing. This requires other organizations to fill in the gap that the federal government has not provided for in its housing provisions for rural areas. Rural areas often need to make referrals,²²⁹ adding an extra step in finding housing or services and reducing the likelihood that the survivor will actually, or can actually, continue through the process of leaving an abusive partner and finding new housing.

The need for affordable permanent housing in rural areas must also be balanced with the need for survivors of domestic violence to be able to fully utilize the housing programs in their area. Survivors living in rural areas are essentially stuck into one model of housing after leaving an abuser—permanent, rapid re-housing. Survivors seeking steppingstones between leaving a partner and starting an entirely new life in a new home are missing the security and services of emergency shelter and case management tailored to their needs. The RHSA model does provide more autonomy to survivors of domestic violence who do not want to participate in case management but seems to remove the option for those who do. Further, rural areas continue to lack adequate housing services for survivors, even if they want to use the services that exist in the area. Referrals are common, and survivors are often faced with having to bounce between service providers before finding the service they are seeking.

Despite the limitations inherent in RHSA, such as overlooking emergency shelter and case management, a program such as RHSA is critical in ensuring that survivors in all geographic locations are protected and able to access housing. Survivors living in rural areas who are trying to leave an abusive partner are often stopped by the fact that they have nowhere to go—if they try to use (often expensive) public transportation, they may be leaving their support system in favor of a metropolitan city where they have no connections and no stability. But, if they stay in the rural area, they often cannot find affordable housing. The specification of a grant program tailored to creating affordable housing in rural areas makes leaving an abuser a possibility, even for those survivors living in isolated areas. Although the creation of permanent housing should then be supplemented by transitional housing and emergency shelter, the existence of more options is critical for a survivor trying to leave an abusive partner.

B. Section 8 Housing

Section 8 housing (also known as the housing choice voucher program) is the main federal program to combat homelessness and provide housing for low

²²⁹ *Id.*

income families, the elderly, and those living with disabilities.²³⁰ Oftentimes, survivors of domestic violence utilize housing choice vouchers—whether with an abuser, or after leaving an abuser. This program is extremely important in providing housing for survivors. The program is funded by the U.S. Department of Housing and Urban Development, but local public housing agencies are the ones who actually distribute vouchers and determine eligibility and waitlist positioning.²³¹ Although public housing agencies are unable to make discriminatory decisions in their voucher distribution, they are free to prioritize certain populations, just as they are free not to. For example, one county may choose to put survivors of domestic violence on the top of their voucher waiting list, while another county may choose to prioritize another population.

All Section 8 programs implemented through any state, county, or city via this federal funding are subject to the housing protections laid out in the Violence Against Women Act. This means that the housing rights are available for survivors—any landlord that discriminates against a survivor due to their status is entitled to take legal action under VAWA. Beyond that, the survivor is entitled to other protections while using housing choice vouchers. For example, survivors are entitled to emergency transfers if they need to be moved to a different unit to prevent an abuser from knowing where they live. Landlords can also allow survivors to bifurcate a lease if they are sharing an apartment with an abusive partner and want to stay in the unit on the same lease.

The housing choice voucher program allows participants a great deal of autonomy. Participants in the program can remain in private housing and are able to choose where they live rather than being pushed into a particular housing or projects unit. They can live wherever they want, provided it meets the program requirements.²³² In theory, families falling on hard times who are currently living in a unit that they want to remain in could stay there and use housing choice vouchers to pay for, or supplement, their rent. However, the housing unit needs to be approved and meet the regulations of the federal HUD program as well as local housing requirements.

The choice aspect of Section 8 is highly beneficial for survivors of domestic violence. They do not have to be assigned a unit in a housing project, they are able to find a unit and apply for it independently, provided that it meets the HUD federal requirements and passes the inspection requirements for the implementing public housing authority. This means that survivors can choose to live near their support system, near their job, or further away from their abuser. The choice

²³⁰ *Housing Choice Vouchers Fact Sheet*, HUD.GOV, https://www.hud.gov/topics/housing_choice_voucher_program_section_8 (last visited Sept. 29, 2020).

²³¹ *Id.*

²³² *Id.*

aspect also allows for more anonymity for survivors. When a survivor can choose to live in housing owned by a private landlord, as opposed to being moved into federally subsidized housing units or project housing, abusers are less likely to know where the survivor is living, reducing the potentiality that the abuser will follow and subsequently threaten the survivor.

Despite the benefits of choice and autonomy, one of the major issues with the Section 8 program is that there are too few vouchers to meet the needs of survivors. Section 8 waitlists have incredibly long wait times. In fact, sometimes the waitlists are so long that public housing agencies close them and applicants have to wait until they are open again. For example, at the time of writing this article, only one Section 8 waiting list is open for the entire state of Mississippi.²³³ Any survivor of domestic violence trying to apply for Section 8 housing choice vouchers in Mississippi is competing with every other person experiencing homelessness for a spot on that single waiting list. They may choose to wait for a waiting list to open in their county where they could receive priority, but then also are waiting with the general homeless population in the same county for those same spots. Survivors looking to access housing through the housing choice voucher program essentially have to wait to continue waiting. Waiting lists can take a long time to open and may not open in the county or community in which a survivor's support system is located. Further, even after getting on the waiting list, their position on the list may be low, and they may need to wait upwards of three years before they actually receive a voucher.

Beyond the waiting list, there are numerous other steps in the process of getting a Section 8 voucher. For example, the Bloomington, Indiana housing authority has an eight-step process for applicants to receive a housing choice voucher.²³⁴ First, applicants have to apply and be approved to be placed on the waiting list for the housing choice voucher program. After a seemingly interminable wait to actually be put on the waiting list, they have to then complete a full application and attend an interview—the initial application and acceptance does not necessarily mean that they are actually approved to receive a housing choice voucher. After a second approval, they must then attend a voucher briefing to learn about the program requirements. After that, they can look for an appropriate unit, but before signing the lease they must wait for it to be inspected and approved by the public housing authority. Only after that approval can they sign the lease and move into their housing. They must also stay on top of not only HUD's rules and regulations but also those of the local housing agency. These

²³³ *Section 8 Waiting Lists Open Now*, AFFORDABLEHOUSINGONLINE, <https://affordablehousingonline.com/open-section-8-waiting-lists> (last visited Sept. 29, 2020).

²³⁴ *Housing Choice Voucher (Section 8)*, BLOOMINGTON HOUSING AUTHORITY, <http://bhaindiana.net/housing-programs/hcv-section-8/> (last visited Sept. 29, 2020).

numerous steps lengthen the process of finding housing, may be confusing, and may prevent survivors of domestic violence from utilizing the program. Public housing agencies implementing the Section 8 housing choice voucher programs are allowed under the HUD regulations to prioritize certain populations as long as they do not discriminate on the basis of sex, race, status as survivor, disability, etc. The freedom of public housing agencies to prioritize or not prioritize certain populations can cause hardships to survivors trying to get their own long-term housing. Survivors in counties without prioritization of domestic violence survivors may wait for years to get on a waitlist or to get a voucher, and that waiting time may push them to stay with an abuser. If they know they will not have housing for years, they may choose to remain in the relative stability of their current housing situation. The Section 8 regulations codified by the federal government do suggest that public housing agencies “consider” whether to prioritize survivors of domestic violence, but it is not by any means a requirement.²³⁵ Each agency can choose to prioritize, or not prioritize, survivors based on the decisions they make internally.

Prioritization can take different forms. Bloomington, Indiana, for example, uses a point system to determine where Section 8 applicants are placed on the waitlist. Applicants are given “points”—the more points you have, the higher you are placed on the waiting list. Domestic violence survivors do receive extra points and thus are more likely to obtain a favorable place on the waiting list and to acquire a housing choice voucher more quickly. A “Current Victim of Domestic Violence”²³⁶ receives two points—to compare, a Monroe county resident (where Bloomington is located) receives four points and a military veteran or spouse one point. The Bloomington Housing Authority does prioritize its own county residents and residents of surrounding counties but does also provide prioritization for domestic violence survivors as well, giving them a higher chance of getting vouchers sooner. A domestic violence survivor from Monroe County automatically receives six points, which translates to a higher position on the waiting list.

In contrast, Fairfax County, Virginia does not provide any sort of prioritization for survivors of domestic violence.²³⁷ They do explicitly state the requirement not to discriminate against survivors, as is required federally in order to implement the Section 8 program, but that is as far as it goes. They make priority populations, but survivors of domestic violence are not within that

²³⁵ Section 8 Tenant-Based Assistance: Housing Choice Voucher Program, 24 C.F.R. § 982.207(b)(1), (4) (2016).

²³⁶ *Housing Choice Voucher (Section 8)*, *supra* note 235.

²³⁷ *Administrative Plan for the Housing Choice Voucher Program*, FAIRFAX COUNTY, VIRGINIA, https://www.fairfaxcounty.gov/housing/sites/housing/files/assets/documents/hcv%20admin%20plan/ferha_hcv_admin_plan.pdf (last visited Sept. 29, 2020).

criterion. They have local preferences for homelessness, people living with disabilities, working applicants, residents of Fairfax County and surrounding counties, and those paying more than 30 percent of income for rent and utilities. Families meeting any of those circumstances will be placed higher on the waiting list than those who do not. A domestic violence survivor placed on the Section 8 waiting list in Fairfax County may be continually pushed down the list as more applicants meeting those circumstances apply and are added to priority placements.

These discrepancies from city to city or county to county create significant challenges for survivors in domestic violence. Two survivors living in the same state may have very different wait times for Section 8 housing choice vouchers. This can create confusion for survivors as well as service providers trying to assist their clients. Without a specified set of priority populations from HUD, survivors' levels of protection and ability to leave an abusive partner are unequal. For survivors in agencies that do not prioritize survivors of domestic violence, transitional housing could help with the issue. Transitional housing programs give a middle step for survivors not wanting or able to stay in an emergency shelter but not wanting to return to their abuser. This would be an important addition to the services offered in counties that do not prioritize survivors, as the uncertainty of housing choice vouchers is a significant barrier to survivors leaving an abusive partner.

The Section 8 housing choice voucher program has the potential to be a very effective and strong program for combatting homelessness and helping survivors of domestic violence find permanent housing. It is crippled, however, by the sheer level of demand over and above the vouchers and funding available. Waitlists are so long that they often aren't even open, and survivors have to wait to be on a waitlist that may still require them to wait years before they can fill out a full application and be interviewed. These factors are all proven to be major barriers for survivors and often push survivors to go from emergency shelters back to an abusive partner. The idea of waiting for years to receive permanent housing, combined with what is often a lack of transitional housing in the interim, makes Section 8 housing choice vouchers an untenable and unrealistic program for survivors of domestic violence.

In sum, the federal government has implemented many initiatives for housing, but the main initiatives intended to be used country-wide to end homelessness are the HEARTH Act and Section 8 housing choice vouchers. These are the widest-reaching programs that survivors are most likely to interact with as they leave an abuser and go through the process of finding permanent housing solutions and recreating their lives. Neither program, however, specifically prioritizes survivors; they are general programs to combat homelessness. Further, as there is a lot of choice at the implementation level, some partners may be implementing domestic

violence-specific programs and priorities, while others may not. The experience of a survivor using the same part of the same program can be vastly different depending on where they are located. For Section 8, specifically, a lack of uniform prioritization criteria can make a difference of years in wait times for a survivor seeking housing.

In theory, the two programs could work together to provide housing through every step of the process—emergency shelter right after leaving, transitional housing during the wait for permanent housing, and Section 8 vouchers to ease the transition into long-term housing until a survivor has become self-sufficient. In practice, however, this is rarely the case. It is imperative that implementing communities create comprehensive programs that are able to meet the needs of domestic violence survivors even if they also respond to the needs of the general homeless population. Using the programs in tandem and creating comprehensive programs intended to help survivors through the journey of leaving an abusive partner do not just benefit individual survivors, but rather, communities as a whole.

III. POLICY RECOMMENDATIONS

On the whole, housing remains a significant barrier for survivors of domestic violence. The federal government has attempted to knock down that barrier to some degree with the implementation of the Violence Against Women Act, by providing grant programs intended to promote housing solutions for survivors, and by protecting survivors from housing discrimination. To some extent, the HEARTH Act and Section 8 housing contribute to the reduction of homelessness among domestic violence survivors, although they are not programs tailored to the individual needs of domestic violence survivors particularly.

Unfortunately, however, the federal programs have not done enough to bridge the gap during that critical time when a survivor leaves an abusive partner and begins looking for their own housing. On average, survivors will return to an abusive partner seven times before permanently leaving²³⁸—a statistic bolstered by the risks inherent in leaving a partner and potentially facing homelessness and financial hardship. Through the implementation of certain strategic federal policies, survivors will have better access to tailored housing needs and have a high probability of remaining separated from an abusive partner, rather than returning.

The goal of all of these policy recommendations is to empower the survivor to make choices. Inherent in the ability to make the choice is the identification of realistic options. As it stands, survivors may want to choose an option that does

²³⁸ *50 Obstacles to Leaving: 1-10*, NATIONAL DOMESTIC VIOLENCE HOTLINE, <https://www.thehotline.org/2013/06/10/50-obstacles-to-leaving-1-10/> (last visited Sept. 27, 2020).

not exist. The survivor seeking intensive case management coupled with emergency shelter may be faced only with rapid rehousing programs. A survivor seeking independent permanent housing may be living in an area with no Section 8 waitlist open. These recommendations intend to expand the current programs in a way that makes them accessible and makes them an option for survivors in any geographic location or situation.

This policy recommendation will dive into detail on several suggested policy implementations. First, it will explore a highly integrated HEARTH Act that has cooperation from the local Section 8 housing authority, streamlining services from emergency shelter to transitional housing to permanent housing. Second, it will consider an expansion of VAWA grant programs to create more domestic violence-specific housing programs. Finally, it will recommend an alteration to the Section 8 housing choice voucher program in an attempt to homogenize the experience of survivors regardless of their physical location when applying for vouchers.

Of course, there are many people experiencing homelessness who could benefit from access to these programs and may experience barriers in accessing them. The reason for prioritizing survivors of domestic violence, however, is due to the particular risk of grievous bodily harm or death inherent in remaining with an abusive partner, as well as the clear fact that a lack of housing is one of the top reasons for a survivor of domestic violence to remain with an abuser.

A. Integration of VAWA, the HEARTH Act Programs, and Section 8

Potentially the best way to remove housing barriers from the path of domestic violence survivors is to integrate the HEARTH Act in a way that ensures that three “steppingstones” are readily available to survivors leaving an abusive partner. The “steppingstones” in a “typical” housing journey for a survivor are 1) emergency shelter, 2) transitional housing, and 3) long-term, self-sufficient permanent housing. This is not to assume that every survivor will need, want, or use all three of the programs on this path. However, just as the integration of VAWA, the HEARTH Act, and Section 8 recognizes that survivors may not want or require services, it also recognizes that there are many survivors who do want case management or do need short-term crisis care.

Forcing survivors into following a prescribed path and requiring them to start with emergency shelter is not the goal. Rather, the goal is to create a continuum that allows survivors to choose from multiple options. An integrated set of services ensures that the needs of all survivors in all situations are met. They can enter the path at any point they choose and receive services that align with their

personal goals. Ideally, each county²³⁹ would have an emergency shelter for survivors of domestic violence, transitional housing, and permanent housing.

All three of these programs would work in tandem with each other, so that survivors are not left hanging at the end of their association with one program. Survivors in emergency shelter are given intensive case management with an easy referral to transitional housing, eliminating the uncertainty that leads many to return to an abusive partner, who may at least offer financial or housing stability. Within transitional housing, survivors should be able to work with case managers for permanent, rapid re-housing or the local Section 8 housing authority.

This service provider cooperation should seamlessly move survivors from one form of housing to another without creating periods of uncertainty regarding whether or not they will be accepted into transitional housing before their stay at an emergency shelter ends, and so on. Engaging multiple service providers also provides multiple options for survivors who may not be eligible for one program but could be eligible for another. While staying in transitional housing, they may be able to wait until a Section 8 waitlist opens and they are accepted, or they could apply to another permanent housing program operated through HEARTH or VAWA.

VAWA itself already has a program integrating coordination between VAWA and some providers of public housing. One of the grant programs allows for capacity building of public housing agency staff, which would include staff executing programs under the HEARTH Act and Section 8 housing choice vouchers. VAWA service providers can train local community organizations and partners on the issues that survivors face. Along with the training, there should be implementation and coordination of services between the agencies who benefit from VAWA training. Upon completion of capacity-building under VAWA, public housing agencies are in a perfect position to understand the needs of survivors and coordinate with other service providers in the area.

Further, VAWA's housing rights are mandatorily in effect for administrators of the HEARTH Act and Section 8 housing choice vouchers. No service providers under those acts can bypass the rights afforded to survivors through VAWA. Any federally-funded housing program must integrate the rights into their policies and cannot discriminate against survivors on the basis of admittance into housing or eviction from housing. Through this, public housing agencies are already set up to integrate VAWA into their services in some respects, which should streamline the process of cooperation on a higher scale.

Integration and cooperation among service providers will also reduce the amount of "shuffling" between programs that survivors are often subjected to. So often a survivor tries to gain entrance into one program, only for it to be full and

²³⁹ I am using county as the unit of geographic measurement as I have found that many housing authorities throughout the United States have control over a county, versus a state or town.

to then be referred back and forth among multiple, independent service providers. Many times, survivors are sent in circles from one shelter to another and back again. By integrating services among different community providers and streamlining referrals through them all, the process of finding housing will be easier for survivors and there will be less confusion among providers.

The coordination of housing programs will increase the chances of a successful transition from an abusive partner to self-sufficient living and will also maximize the benefits of the programs themselves. The goals of all these programs are to reduce homelessness and prevent a return to homelessness. People often return to homelessness when they are not able to get into homelessness-reduction programs or housing programs. Having an integrated set of programming will not only allow more survivors to access services but reduce the chance that the survivors will then go back to an abusive partner and return to emergency shelter or other programs at a later date.

The coordination of programs also ensures survivors have a safe place in times when they do need to wait for housing. Due to the inherently limited capacity of social services, even (or especially) federally funded ones, there will always be situations where survivors have to wait for one type of housing or another. There will not always be permanent housing units available, nor will there always be transitional housing or even emergency shelter. With an integration of programs, survivors will not have to experience homelessness during the time that they are waiting to move from one program to the next. Currently, there are often situations where a survivor outstays their time at a shelter or transitional housing unit and then must figure something out, go back to an abusive partner, or be homeless. Integration of services will provide a cushion and buffer for those periods, as coordinators of the programs can take into account the wait times at other housing programs and can hopefully put survivors on the shortest waiting list or get them into another cooperating service provider if their time expires at the first.

Overall, the integration of HEARTH Act programs and Section 8 housing choice vouchers will improve the organization of the programs and streamline services. They have similar goals and are both federally funded, so they should be able to work together in order to create a well-rounded program for survivors of domestic violence and begin to eliminate the risk of homelessness while waiting to go from one “step” to the next.

B. Expansion of the VAWA Grant Program

The Violence Against Women Act provides a grant program to construct and run housing for survivors of domestic violence. This is the main federal grant program that specifically prioritizes survivors and provides survivor-specific

housing. The grant program does not set aside very much money per year to go towards these housing programs, so an expansion of the grant program and allocation of more money would help to offset the levels of homelessness among survivors of domestic violence.

Currently, Section 8 housing choice vouchers and HEARTH Act programs do not require prioritization of survivors of domestic violence and often include general homeless populations within the funded programs. An increase in VAWA funding will lead to an increase in housing options for survivors who have to wait years among the general population to be assigned a housing unit or who may be denied emergency shelter if it's full. Survivors consistently have long waiting times for shelter, particularly in general homeless shelters. Expanding VAWA would reduce the burden on general population homeless shelters while reducing barriers that survivors have when they are trying to leave an abusive partner.

Another benefit of VAWA funding currently is the multiple types of housing and housing programs that are eligible for funds. VAWA grant funding prioritizes multiple types of housing—it can fund emergency shelters, transitional housing, and permanent housing. VAWA grant funding provides the different types of housing that survivors seek, unlike federal Section 8 housing choice vouchers and HEARTH Act programs that tend to prioritize rapid, permanent re-housing and are not always tailored to domestic violence survivors. Increasing the amount of funding available under VAWA allows Section 8 and HEARTH Act programs to continue prioritizing permanent housing without leaving a gap for survivors seeking emergency shelter or transitional housing.

Expanding the VAWA grant program will help the integration of the HEARTH Act and Section 8 services to run smoother as well, by offering another type of housing, reducing the burden on Section 8. As survivors “age out” of emergency shelter or transitional housing, they will be seeking permanent housing. Section 8 housing choice vouchers have been one of the main programs survivors go to, but as discussed above, it often has long wait times. Both HEARTH and VAWA can fund emergency shelters, transitional housing, and permanent housing, which will heighten the chances that a survivor can find permanent housing when they seek it.

This expansion will also expand the capacity building training programs, which will hopefully have the effect of reducing the amount of VAWA violations survivors potentially are subjected to and subsequently would need to file a claim against. Having adequately trained service providers, even without more VAWA housing, will still help to reduce homelessness among survivors. Understanding lease bifurcations and emergency transfers in and of itself will help survivors to maintain the housing they currently live in and may not require them to experience homelessness at all.

Further, expanding VAWA and working in tandem with HEARTH and Section 8 will ensure that there is some form of housing for a survivor, ideally at all times. While the intention of this integrated, expanded program is to give survivors a choice of housing in all cases, reality has shown that it simply is not always possible. By having a multitude of options that are part of a collaboration, survivors may be able to wait in “second choice” housing until their first choice opens up. This may mean that a survivor has a short stay in emergency shelter before finding permanent housing, or if the emergency shelters are full survivors can access transitional housing instead. While it is ideal and the ultimate goal to provide survivors with the services they seek, housing is better than homelessness, and expanding VAWA will help to ensure that survivors are not turned away, even if they have to accept a different type of housing than they anticipated.

This expansion of VAWA grant programs will likely have the effect of reducing homelessness as a whole among the American population. Currently, survivors are competing against the general population for spots in homeless shelters and housing units. By providing survivor-specific housing options, there will be more places open for the general population seeking to get into emergency shelters, transitional housing, and permanent housing.

Further, expansion of VAWA grant programs opens up opportunities for programs to be implemented in more areas, including traditionally underserved communities. Rural communities tend to have the least amount of housing and knowledge among both survivors and providers on what survivors’ rights are in relation to VAWA. Expanding both the amount of housing and capacity building training for those that provide the housing will ensure not only that survivors have specialized housing and services tailored to their needs, but also that those tasked with the responsibility of upholding those services and the rights inherent within them understand the requirements of their position.

C. Standardize Prioritizing Survivors Under Section 8

As it currently stands, the Section 8 housing choice voucher program allows implementing housing authorities to choose which populations to prioritize. While VAWA ensures that survivors are not actively discriminated against, it does not ensure that they are prioritized. It is critical that Section 8 waitlists prioritize survivors. While homelessness in general creates risks, survivors of domestic violence experiencing homeless are at extremely high risk. Along with

experiencing all the risks inherent in homelessness, survivors may return to an abuser who injures them, or they may be revictimized while living on the street.²⁴⁰ Section 8 waiting lists are incredibly long—waitlists are so long they often are not open. The length of time between a decision to leave an abusive partner and identification of new housing is critical. When faced with an interminable wait on a waitlist, survivors may choose to remain with an abuser in order to retain housing stability. Creating a blanket prioritization for survivors of domestic violence will help reduce their wait time for housing and increase the chances for a successful transition into housing. Survivors may be in emergency shelter and then go back to a survivor when faced with the reality of how long it will take to acquire permanent housing. Transitional housing can help bridge this gap. However, rather than having a few survivors stuck in transitional housing and unable to move to permanent housing, combining transitional housing with prioritization will help many more survivors find permanent housing solutions.

Further, as it stands, survivors have unequal treatment in Section 8 housing choice voucher applications based on their geographic location. Since public housing authorities have the choice on who to prioritize, survivors in two adjacent counties or states may have completely different wait times or experiences with their Section 8 applications. This impacts where survivors feel they are able to go for housing. Survivors may be prioritized in the county where they live with their abuser and have a better chance of quickly finding permanent housing, but their support system may live in a county with no prioritization and a years-long wait. Standardization of procedures for putting survivors of domestic violence on the Section 8 waitlists would promote equality and provide survivors with more choices when seeking permanent housing.

Section 8 is often the easiest program to access—it is in most geographic locations, does not have the population-specific programming that HEARTH Act programs do (i.e., only prioritizing families with children, etc.), and allows for autonomy when choosing a unit. In this way, it is a popular choice among survivors of domestic violence. When survivors in Section 8 programs are cycled off of a waitlist and placed into self-sufficient housing, it increases the long-term success of the survivor after leaving an abusive partner.

However, Section 8 housing choice vouchers can take a long time to get, even after being taken off the waitlist. The process for personal approval, and then approval of a unit, often has many steps and can serve as another barrier in accessing Section 8 housing. Prioritizing survivors does not mean that they will never have to wait, but it does mean that they will not have to wait as long. Survivors of domestic violence who become or remain homeless are at great

²⁴⁰ *Domestic Violence and Homelessness*, HUD EXCHANGE, <https://www.hudexchange.info/homelessness-assistance/domestic-violence/> (last visited Sept. 30, 2020).

risk—people experiencing homelessness are at a much higher risk of experiencing domestic violence. But the risk of survivors staying with an abusive partner are similarly great—continued abuse. There is the potentiality for death in both circumstances, so finding permanent housing for survivors should be a priority of the Section 8 housing choice voucher program, not just an option for local public housing authorities.

As a whole, the main needs of current federal programs addressing homelessness among survivors of domestic violence are 1) expansion, 2) prioritization, and 3) coordination. All three of the federal programs discussed in this article could benefit from expanding, prioritizing survivors, and coordinating with each other. None has it exactly right, but all create benefits for survivors, as well as the general population.

The programs as they currently exist do not have adequate funding to address the need of the general homeless population in the United States along with the specific subset of survivors experiencing homelessness. Expanding the existing programs does not require creating something from nothing, but rather requires better funding of programs that are already staples of federal public benefits. The current system is already strained. Although increased funding may be challenging, it is easier than starting a new program from scratch, which will likely be given little funding. It is most logical to improve upon and expand the programs that currently. Further, these programs can be expanded in more ways than just funding. The funding can lead to expansion of services, as well. With more money to do more implementation, service providers need not choose between emergency shelters and transitional housing, they can construct both and increase the capacity of what they already have and begin to offer services that were previously financially inaccessible. Some of the programmatic gaps in these acts may be addressed by increased funding allocated to new programming.

When the programs are expanded, they then need to ensure prioritization of survivors. The Violence Against Women Act already does this as the main cornerstone of the Act. However, the HEARTH Act and Section 8 housing choice vouchers do not ensure prioritization. The HEARTH Act has some participating programs that are specific to domestic violence, but it is not ensured that some percentage of the funding goes to issues of housing for domestic violence survivors. As for Section 8, some prioritization does exist in pockets across the United States. Public housing agencies are allowed to make determinations on how to rank applicants on the waiting list, and there are examples of counties that prioritize survivors of domestic violence. However, this is not standardized and leads to inequalities and inconsistencies for survivors, even amongst those living in the same state.

Finally, the federal housing programs serving domestic violence survivors need to ensure that they are efficiently coordinating among themselves. VAWA

has been set up to encourage and require cooperation among service providers by creating a grant program for capacity building and applying the rights outlined in VAWA to housing programs subsidized by the federal government. The HEARTH Act encourages cooperation among other HEARTH service providers but does not have any sort of integration of their programs nor cooperation with Section 8 public housing agencies. Coordination from emergency shelter to transitional housing to permanent housing will decrease the wait times survivors are subjected to and create stability for them through their journey, thus reducing the rate of return to an abusive partner.

All of these recommendations are intended to be implemented in tandem. While something is better than nothing, implementing these recommendations as a unit will maximize the benefits of each and promote permanent housing for survivors of domestic violence. Proper implementation of the recommendations as a unit will create a unified, streamlined process by which survivors of domestic violence can access housing solutions based on their own needs at the time, and move on to new types of housing as they are ready. This streamline approach combined with prioritization of survivors and expansion of VAWA housing ensures that survivors can move more easily from one “step” to another and eliminates the periods of uncertainty and homelessness that push survivors to return to abusive partners.

Further, these recommendations will lighten the load on programs that serve the general homeless population in the United States. Survivors of domestic violence make up a large portion of the homeless population, and oftentimes people experiencing homelessness will subsequently experience domestic violence. Homelessness is one of the highest risk factors for experiencing domestic violence—by having inadequate housing options for those experiencing homelessness, the number of domestic violence survivors actually increases, as well. Expanding housing options for survivors provides more options to homeless survivors while leaving more spaces open in general shelters and, hopefully, reduces the incidences of domestic violence for those who are at risk after becoming homeless.

Expanding domestic violence-specific housing programs will create more options for survivors and the general population as well as protect the autonomy of survivors by allowing them to make the choice on what type of housing they need at that moment. Even though there will often be situations where a survivor’s first choice of housing is unavailable, they will not be left without any options. Streamlining services through different community providers will ensure that survivors will be able to access housing in their community when they need it without prohibitively long wait or travel times.

CONCLUSION

As shown by the analyses of the current federal housing programs most tailored to or utilized by survivors of domestic violence, it is clear that homelessness is a significant, if not the most significant, barrier facing survivors of domestic violence. This has been recognized not only by service providers working with survivors, but also the federal government, though findings by Congress. Housing is often the determinative factor in whether a survivor leaves their abusive partner. Stability is one of the driving forces behind the choices survivors make, and housing tends to be the first immediate need survivors encounter and also the most difficult problem to solve.

The federal government has attempted to meet the need of housing for survivors. The Violence Against Women Act is the main program addressing homelessness and housing for survivors of domestic violence. The two-pronged Act creates grant funding specified for different types of survivor housing—emergency shelter, transitional housing, and permanent housing—as well as funding to train non-survivor specific housing providers on the rights survivors are entitled to and the difficulties they face. The Act also includes a section of housing rights intended to ensure that survivors are not denied housing or evicted from their housing due to their status as survivors. Although there are many places where VAWA could be improved—namely, a need for expansion of the grant program creating housing—the existence of VAWA in and of itself is a benefit to survivors. It attempts to ensure protection of survivors' rights at least in public government housing, although does not necessarily provide an affordable way for survivors to assert those rights. Nevertheless, an incomplete VAWA is better than no VAWA.

Although the HEARTH Act is not just an Act providing survivor-specific services, it provides funding that can be used specifically for survivors of domestic violence. It includes three main programs, although only one of them can be used for emergency shelter creation. HEARTH mainly focuses on permanent and rapid rehousing, which is not a bad programmatic focus. Survivors do, at some point, need permanent housing. However, despite its emphasis on, and creation of a program named Continuum of Care, it does not adequately address each step a survivor may be on during their search for housing. It is not accurate to say that every survivor is ready for or wants permanent housing immediately upon leaving an abusive partner.

Finally, Section 8 housing choice vouchers play a major role in housing for survivors of domestic violence. It is by far the most common federal housing program used by survivors, as administered through public housing agencies in their respective communities. While it allows for choice of housing and provides autonomy in determining where a survivor chooses to live, the application stage

alone can be difficult to reach due to insurmountably long wait times. In many states, certain waiting lists are not even open, and waitlist times can span years. Further, it does not require any sort of prioritization of survivors—that is a choice that public housing agencies can make. In this way, survivors may not always view Section 8 as a viable option for their housing. In the meantime, they may choose to go back to the relative stability of their abusive partner.

The need for housing is a predominant concern among survivors of domestic violence. Housing, or a lack thereof, can mean the difference between staying with an abusive partner or taking the first step towards moving away from them and beginning to live independently. Varied housing options—emergency shelter, transitional housing, and permanent housing—are necessary to provide the services needed by every survivor and allows them to make housing decisions and access services based on their own particular needs. Providing just one type of housing program does not take into account the emergency, short-term needs of survivors, although there is a push to eliminate emergency housing in favor of rapid rehousing programs.

Survivors must be given options to choose from when it comes to their housing situation. They should not be pushed into one type of program simply because it is the only one available. Survivors are the best identifiers of their own needs and should be given the agency to decide the type of housing program most suitable for them. However, survivors are often unable to exercise their agency due to a lack of accessible housing options. With the expansion of current federal programs, survivors' agency will be better protected. The expansion of current federal programs will help to protect that agency.

Leaving an abusive partner may be more unstable for a survivor due to the current state of housing. Although survivors experience abuse, they generally know what to expect based on past situations. In contrast, leaving creates a host of unknowns—initially, where will they go? Often, survivors are isolated from their support systems and might not even have somewhere to go short term in an emergency. For survivors with children, there is an extra layer of uncertainty. Staying with an abuser might mean their kids have food every night. Attempting to go to a shelter in another town or seeking permanent housing that may take years to procure could subject their kids to uncertainty as well and may not be a risk that survivors are willing to take. This relative instability is something that the federal government is attempting to address and needs to continue addressing.

Housing often means the difference between a survivor staying with an abusive partner or leaving and starting a new life. Removing barriers to housing, specifically, is the most important issue the federal government can address to promote the long-term stability for survivors of domestic violence. Through the expansion of VAWA grant programs, prioritization of survivors under Section 8 housing choice vouchers, and better integration of HEARTH Act programs,

survivors will have fewer barriers to housing and be able to enter housing programs available in their area. Further, the expansion of programs will reduce the burden on general population homeless shelters and may also have the effect of reducing homelessness as a whole among the American population.