



# ACLU Files Suit to Stop Burlington Evictions Resulting from Calls to Police

## *Burlington Policy Punishes Residents for Requesting Police Assistance*

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MONTPELIER –The ACLU of Vermont filed a lawsuit on behalf of a Burlington man evicted from his apartment on the basis of having requested police assistance on multiple occasions. Joseph Montagno of Burlington was unaware that City of Burlington officials were tallying his calls to police, and was not provided any notice or opportunity to contest his resulting designation as a “public nuisance.” Instead, city officials pressured Mr. Montagno’s landlord to evict him or be penalized under the housing code.

The ACLU’s lawsuit seeks to enjoin the city from enforcing its unconstitutional policy, as well as compensatory relief for Mr. Montagno who was evicted from his apartment and is at risk of homelessness as a result of seeking police assistance.

ACLU of Vermont staff attorney Jay Diaz: “No one should have to choose between being safe or homeless. If Burlington is the compassionate city it claims to be, why is it punishing some of its most vulnerable residents just for calling the police to ask for help?”

Joseph Montagno is a life-long Vermonter and ten-year resident of Burlington who has faced unemployment and homelessness before. More recently, things were going better for Mr. Montagno—he found steady work, and with the help of public programs, succeeded in stabilizing his life. Thanks to housing assistance, he has resided in the same Burlington apartment for the past several years. At that address, however, Mr. Montagno experienced recurring safety concerns and threats from neighbors. Mr. Montagno’s apartment was also vandalized and burglarized.

Mr. Montagno and others repeatedly called the police to report these problems and request assistance. Eventually, Burlington police started tracking the number of calls for police help from Mr. Montagno and other tenants in the building. Based on the number of calls received, city officials classified Mr. Montagno as a “frequent caller” and “public nuisance.”

Then, without notifying him or providing him the opportunity to contest those classifications, city officials contacted Mr. Montagno’s landlord. The city threatened that unless “appropriate remedial action” was taken, the landlord’s occupancy certificate would be revoked. Mr. Montagno’s landlord immediately moved to have him evicted and threatened the other tenants

with eviction for continued calls to the police. As a result, Mr. Montagno's life has been severely disrupted and he is again faced with the threat of homelessness.

ACLU of Vermont executive director James Lyall: "Calling 911 for help should never get you evicted. Burlington's punitive and arbitrary policy violates residents' free speech and due process rights, jeopardizes community safety, and hurts those most in need of our support."

Other cities have pressed evictions through similar ordinances, which have targeted low income communities and people of color, and are known to have a disproportionate impact on victims of domestic violence. Those problems are highlighted in a recent [letter](#) from 29 U.S. Senators to the Department of Housing and Urban Development (HUD) calling for written guidance to cities and landlords. The Senators' letter notes that, while some of these ordinances are intended to address crime, they often undermine public safety by discouraging crime victims and their neighbors from calling the police, emboldening perpetrators and ultimately making those communities less safe.

*Montagno v. City of Burlington* was filed August 23<sup>rd</sup> in U.S. District Court for the District of Vermont in Burlington. The city has retained private counsel and plans to contest the case in court.

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