

HUD, the U.S. Department of Justice (DOJ), and the National Fair Housing Alliance (NFHA) are hosting a series of online discussions regarding emerging fair housing issues during this unprecedented time. These Forums convene HUD's FHIP and FHAP partners in a multi-directional conversation regarding processing complaints, conducting investigations, and managing agencies during a crisis and its aftermath.

This is the second in that series.

JULY 9, 2020, 2:00 – 3:30 EDT

NATIONAL FAIR HOUSING FORUM

Investigating Complaints of Sexual Harassment in Housing Situations

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Speakers: Melody Taylor, Regional Director, Office of Fair Housing at U.S. Department of Housing and Urban Development; Lynn Grosso, Director, Office of Enforcement and Programs; Kathleen Pennington, Assistant General Counsel, Fair Housing Enforcement; Megan Whyte de Vasquez, Trial Attorney, Civil Rights Division, U.S. Department of Justice; Lisa Rice, President and CEO, National Fair Housing Alliance; Betty Bottiger, Regional Director of the Office of Fair Housing in Kansas City, Region 7; Robert Doles, FHEO Director of Enforcement Support, Washington D.C.; Jeff Olivet, Facilitator, Cloudburst Consultant; TJ Winfield, Technical Support, Cloudburst.

JEFF OLIVET: Welcome everyone to the Fair Housing forum today. This is part of the National Fair Housing Training Academy from HUD's Fair Housing Equal Opportunity office.

Today our focus is investigating complaints of sexual harassment in housing situations. This is the second Fair Housing forum we've done. I know many of you were here with us two weeks ago for the first portion of this conversation. It's great to have you all back. If you're here for the first time, welcome. And we'll be sharing a lot of resources today and you'll be hearing from some incredible experts on this very difficult issue of investigating complaints of sexual harassment in housing situations.

Before we get to the meat of our panel, we wanted to get a sense of who you are. And I know a number of you have already been entering into the chat box, telling us your names and what organization you are with, where in the country you are. We want to ask you a poll, though. You'll see in the polling section of your screen a question that says "Are you associated with HUD, a FHIP organization, a FHAP organization, a community-based or advocacy organization, or other. And if you can just take a minute and click on the option that best captures who you are and who you are representing. You have to do two steps here with Webex: you have to hit the button by the answer, and then hit submit. So, if you can hit the submit button at the bottom right, we'll know that your answer is complete, and we'll get a sense of who all is here.

So, we'll give that another few seconds and then we'll broadcast those results.

So, are you associated with HUD, with a FHIP program, a FHAP program, or community-based or advocacy program, or other if one of those doesn't fit you? And TJ, if we could go ahead and broadcast those results, we'll get a sense of who's here on the call with us today.

Looks like a pretty big mix: 19 percent of you are with FHIP organizations, 23 percent with FHAP organizations, about 18 percent from HUD, and another of others in community organizations or who don't quite fit the bill.

Let's go to the second poll question. In this question, we'd like to ask you is how long have you worked in Fair Housing? If you have worked in this field for less than two years, 2 to 5 years, 6 to 10 years, 11 to 20 years, more than 20 years. While you are doing that, again, just remember to click the "answer" and then hit "commit." While you are doing that, I'll briefly introduce myself. My name is Jeff Olivet. I am a consultant with the Cloudburst Group who is working very closely with HUD and National Fair Housing Alliance and all of the other experts and partners on the Fair Housing Training Academy. I'm based in Cambridge, Massachusetts, and if I had to pick one of those, I am off the charts at the bottom, in a way. I've been working in homelessness and housing work and racial justice work for more than 27 years, I believe, is where I mark it now. So, I'm in E-plus at the bottom.

Go ahead and submit your longevity in this field, hit submit. And TJ, let's go ahead and broadcast that.

A lot of you, less than two years. About 22 percent have been in this work for less than two years. 17 percent, 2 to 5 years. A little dip: 11 percent in the 6- to 10-year category. And then looks like all together about 25 percent of you have been in the field for at least 11 years and many of you more than 20. So, that's fantastic.

And then we've got one more poll question for you. Just to get a sense of who is returning after coming to the first NFHTA forum two weeks ago on June 25th. It was the first part of a conversation about sexual harassment in housing. If you were here two weeks ago, just hit "yes" and hit "submit." If you were not able to join two weeks ago, we'll point you to where you can find a recording of the previous session and this one. But if you are not able to join, hit "no" and T.J., let's broadcast those results.

About half of you were here two weeks ago, and 25 percent were not and 28 percent maybe I went too fast to get your voice included in that poll.

Let's get into it. I'd like to start by a quick overview of where we're going with today's session. And then we'll get moving.

First, I'll share with you just briefly how to find Fair Housing resources on the HUD Exchange, and then we'll fairly quickly get into the emerging topic for the day of Investigations

of Sexual Harassment in Housing Situations. And you'll hear from Melody Taylor with HUD's Fair Housing Office, you'll hear from Lynn Grosso, who will be moderating the panel with some incredible expertise on the panel today. Before we get into some of the resources, I'd like to turn it over to TJ with Cloudburst, who will just walk you through some of the functionality of WebEx.

TJ: Thanks, Jeff. Hi, everyone. Today we're using the WebEx online platform for this webinar. And before we get started with the forum, I'm going to walk you through some of the features in WebEx that we'll be using, and some other tips to get the most out of today's session. First of all, we just request that you close your e-mail, other Internet browsers, and any other programs that might affect the streaming of this event. If you experience technical difficulties with audio or video at any time, we recommend that you first sign out of the meeting then sign back in. If you are still having trouble after that, we ask that you request help in the chat box, located on the WebEx panel section on the right side of your screen. If you don't see the chat box in your tool bar, it may not be activated. Please locate and click on the chat box button, which is the fourth button in the WebEx meeting control, to add the chat box to your screen.

The webinar is scheduled for 90 minutes and we are recording it. The recording and PowerPoint slides will be made available on the HUD Exchange website next week. While questions regarding technical questions or technical difficulties are answered in the chat box, all questions related to the webinar topics should be submitted in the Q & A box. The Q & A box is located at the bottom right of your screen, and please click the arrow next to Q & A to expand the window. We'll make time at the end of today's event to review and answer attendees questions. Please submit questions at any time as you think of them.

We are expecting a large number of attendees today, so we're going to keep everyone on mute. If you'd like to change your audio settings from phone to computer or vice versa, please click on the communicate button on the top left of your WebEx screen, and then click "audio connection." From there, you can switch the selection from phone to computer audio, or vice versa.

We do recommend that you listen to today's event through your computer. Shortly, we'll be showing a video that can only be heard through your computer speakers.

I also wanted to let you know we're making closed captioning available during this event. And to access that, you can open the multimedia viewer box, located at the bottom right of your screen. If you are going to use closed captioning, it's recommended that you adjust your font settings to the sunrise view. That option would optimize your readability by changing the background to blue and lettering to yellow. You can choose this setting by clicking on the themes dropdown, located in the multimedia viewer box. Additionally, you can adjust the font size using the same function.

As you have seen already, we'll be utilizing poll questions throughout this event and, as Jeff said, make sure you hit the "submit" button after selecting your response.

With that, I'll turn it back to Jeff who will introduce our speakers and special guests.

JEFF OLIVET: I'd like to very quickly show you where to find resources on the HUD Exchange. A lot of the questions that came in two weeks ago were about "where can I find this resource, where can I find that resource?" Our team has done a very good job pulling together a lot of resources related to Fair Housing and specific to today's topic on the HUD exchange. So, I'll very quickly show you how to get to that. And you can navigate this in multiple ways with the search function on the Exchange. But if you go to [HUDexchange.info](http://HUDexchange.info), there's a Programs button up at the top, and if you click on that Programs button, it opens up to a lot of things. Under "N," you can go to National Fair Housing Training Academy (NFHTA). Within that, once you click on it, you will see information about upcoming forums. Here is the advertisement for today's. If you click on join an upcoming forum, then you get information about that, as well as resources and references. So, all of the materials that presenters will be referring to today are available in one place, along with the agenda. You can also access the recording of this event and prior events on that portion of the HUD exchange. So, don't stress if people are naming resources very quickly, they are available to you via the HUD exchange.

And here are a number of the resources that people will be sharing today. All of these will be available both on the exchange and in live links in the slides which you can download as well. So, you will see this and all of the other slides today and you can access those resources easily that way.

I've talked briefly about the purpose of today. In general, the forums are designed to go deep on a particular topic. So, today we're following up the session two weeks ago on sexual harassment in housing situations with a real focus on investigations. And to set up that conversation, before I hand it to Melody, I've got two more very quick poll questions for you.

The first is, have you ever been part of an investigation of sexual harassment in a housing situation? So just take a moment and click your answer on this: yes, no, or not applicable. Have you been part of an investigation around sexual harassment in a housing situation?

And TJ, let's go ahead and broadcast those. I know we want to give people time, but we also want to get into the panel.

It looks like a third of you have, a third of you have not and a number didn't have a chance to answer.

One more question for you: what is your role, or what would be your role, related to investigations of sexual harassment in housing cases? Are you involved in intake, are you an investigator, are you involved in conciliation or litigation, are you the director of an agency, or do none of those quite fit? Just take a minute and click your answer and hit the submit button in the bottom right, and let's go ahead and broadcast those, TJ.

Looks like we have a pretty good mix. A number of investigators here. So about a quarter of you are investigators. 13 percent of you are involved with intake. We have a number of litigators and agency directors here today as well. So that gives us a pretty good sense for the panel of who we are talking to and how we dive in

And with that, I'd like to introduce Melody Taylor, who has really been such a spearhead behind Fair Housing work in general, but particularly around the National Fair Housing Training Academy. Melody, it's great to see you. The floor is yours.

MELODY TAYLOR: Great seeing you as well, Jeff. Thank you so much. And thanks for opening up this forum.

As Jeff mentioned, I'm Melody Taylor, Regional Director and Senior Advisor to the National Fair Housing and Training Academy. Again, we're really excited to introduce the Academy's second Fair Housing Forum as we continue the conversation on sexual harassment.

The Academy endeavors to engage our partners to facilitate learning opportunities and information sharing, to assist HUD and its partners in increasing the quality of our investigations, and to carry out meaningful Fair Housing work. I know many who are FHIP and/or FHAP agencies may hear from our headquarter's leadership, Myron Newry or Aztec Jacobs, and for sure Joe Pelletiere, who talks about the quality of our investigations and making sure we do timely and comprehensive investigations. And so, the purpose of these forums is to do just that—share information and create learning opportunities so that we can increase the quality of the work that we do for the clients that we serve.

So based on the polls, we have a broad range of experience here in the room today. And we hope to reach all of our participants on a level and place and space in which you operate so you can get good information to do your jobs better. Last week, our panelists provided fundamental information and concepts relating to sexual harassment complaints. We provided tools and strategies to better serve our clients. However, today's panel, which will be moderated by Lynn Grosso, HUD's director of enforcement, will provide an in-depth review of cases. We'll do a deeper dive into tools and strategies to conduct comprehensive and thorough investigations.

However, before we get started with the panelists, I would like to share a HUD DOJ PSA with you guys. The purpose of this PSA is to set the tone and drive home the impact that sexual harassment has on individuals.

<https://www.justice.gov/crt/video/sexual-harassment-housing-psa>

[Captioned video playing]

STEPHANIE: He knew that I needed a place to live, so that's when he started making his move on me.

AUTUMN: He was like well, if you don't sleep with me, then the sheriff will be putting you out

on Monday.

TAMEKA: Before I knew it, I heard his belt buckle rattling, I looked up and he was exposed.

AUTUMN: I felt like no one would listen to me. He had more power than I did. I was just an attendant, he was a property manager.

TAMEKA: I would always be on alert, like when is he going to use his key or have you already been in my house already, like while I was asleep or something.

STEPHANIE: It was like you either do this or you're on the streets.

AUTUMN: I felt like I didn't have a choice, so I did what I had to do.

TAMEKA: Yeah, I was afraid.

STEPHANIE: People shouldn't be treated like this because they need a place to live.

[Captioned video ends]

MELODY TAYLOR: Great. Thanks for sharing that video, T.J.

And without further ado, I'd like to introduce the moderator for today's session, Lynn Grosso.

LYNN GROSSO: Hi, Melody. Can you hear and see me?

MELODY TAYLOR: Yes.

LYNN GROSSO: Excellent. Excellent.

Before I move to the panel, I want to thank everybody for joining us. Our staff and FHIP agencies across the country. I also want to thank and commend Melody. She's doing double duty right now, leading our National Fair Housing Training Academy implementation at launch. And she has, for many years, also served as our Regional Three Director in Philadelphia. And Melody, I don't know if you're aware, but just this morning the assistant secretary has signed a proposal that came out of your office to commence a significant and major secretary-initiated investigation involving sexual harassment, which all of you will read about in the next couple days. We intend to issue a press release about this matter. Very serious, egregious allegations. And Melody and her staff have worked very expeditiously to bring them to the secretary's attention. So, very pleased and very happy that, on this day when we're doing this presentation that we've been, we are able to move forward on that.

I guess I would say that as all of you know, harassment is probably one of the most difficult types of cases that you will investigate. And sexual harassment, in particular, is particularly

sensitive, particularly difficult, and raises its own unique challenges.

Over the last couple years, the assistant secretary—Assistant Secretary Farías—has prioritized our work in the area of sexual harassment. We have worked closely with the Department of Justice to bring trainings and roundtables across the country to raise the profile of conversations in this area, to raise awareness and to educate housing providers, as well as tenants and residents about sexual harassment and the interventions that are available through our programs to investigate violations of this nature.

I think over the last several years, because of the increase emphasis we've put on this, in 2019 HUD and staff agencies saw the highest annual number of complaints brought to our agencies than ever before. So, we really are seeing the results of this raised conversation, these trainings, the education and outreach that we're doing in partnership with Fair Housing organizations and the National Fair Housing Alliance. So, we're very pleased about that. And so, I am particularly happy all of you under these circumstances are joining us to learn more about sexual harassment investigations, how to improve the work that we do in this area, how to reach victims of sexual harassment and how to better collaborate.

So with that, I want to invite our panelists to open up their video. I would like to have all of our panelists on while we have the conversation. And let me introduce who we have here. For those of you that were with the first session, most of the panelists will look familiar to you. We have Betty Bottiger right there. Give us a wave, Betty. Betty is HUD's Regional Director of the Office of Fair Housing in Kansas City, Region 7. Her region has been particularly impactful working sexual harassment cases for many years now. And we're very pleased to have her on the panel. We have Kathleen Pennington, the Assistant General Counsel for Fair Housing Enforcement in the office of General Counsel at HUD. Give us a wave, Kathy. All right. Also joined us on the first panel. Megan Whyte de Vasquez. Do we have Megan's video up? Give us a wave, Megan. A trial attorney with the civil rights division in the United States Department of Justice, also on the panel the first time around. And then we have Lisa Rice. Lisa Rice, give us a wave. She is a familiar face to many of you. She is the President and CEO of the National Fair Housing Alliance, part of the first conversation that we had a couple weeks ago. Very happy to have in here again here. Coming in from her office instead of her home, doing her diligence there. And then finally a fresh face. This is a person who was not on our first panel and is also not new to the office of Fair Housing at HUD, but new in his role in headquarters. Robert Doles is the Director of Enforcement Support in our headquarters office in Washington for Fair Housing. So, very happy to have Robert on the panel with us today.

Thank you, panelists.

We hear a lot about sexual harassment. And we hear about sexual harassment in a variety of different contexts. In housing and employment. But what I'd like to do is start with Robert and ask Robert to talk to us about how sexual harassment is covered by the Fair Housing Act. Robert?

ROBERT DOLES: Thank you. It's my pleasure to be able to speak with everyone today.

As an overview, the Fair Housing act prohibits discrimination in housing on the basis of race, color, national origin, religion, familial status, disability and sex. And falling from that, sexual harassment is a form of sex discrimination. And it's important to note that same-sex harassment would also be covered. So case law established in HUD's 2016 harassment rule describes two distinct types of harassment claims. One is quid pro quo, which is defined as unwelcome request or demand made in condition of a person's housing or housing-related service. An example would be if a landlord conditions making repairs to a tenant's unit on a tenant providing the landlord with some sort of sexual favor. And also, hostile environment, which is defined as unwelcome conduct that is sufficiently severe or pervasive to interfere with a person's housing or housing-related service. An example of that would be if a landlord, for instance, repeatedly made sexual comments that are unwelcome to a tenant, that would be an example of hostile environment.

So speaking directly, Lynn, to your question, sexual harassment allegations essentially violate multiple sections of the Fair Housing Act, including Section 804(a) by making housing unavailable, Section 804(b) by imposing discriminatory terms and conditions, as I mentioned in my previous example. 804(c) by making a statement with respect to sale or rental of a dwelling. That would indicate a discriminatory preference. And 818, by interfering with a person's housing or housing-related service through coercion, threat, or intimidation.

So that's a brief overview of the answer to the question you asked.

LYNN GROSSO: Thank you, Robert.

Kathy, I'm going to go to you next. You were an integral part of the 2016 rule making we did in the area of harassment generally, in particular, sexual harassment. Can you tell us about the sexual harassment component under HUD's harassment rule?

KATHLEEN PENNINGTON: Sure. Good afternoon, everybody. Great to see you all and to speak with you. And welcome again to those who were here last time and welcome to the new people. Glad you could be here. I was going to talk today about the rule itself. We did spend a lot of time really researching the case law, and the rule very much reflects what the case law is in the country on harassment in general, not just sexual harassment. Today's training is about sexual harassment, but the rule is much broader than that, and covers all the protected classes. So you may get a complaint on racial harassment, or national origin harassment, and you would use the same rule to, you know, analyze it and do your investigation and see what the elements are and what the case law is.

So, the rule defines quid pro quo and hostile environment harassment. Sprinkled throughout other parts of the reg, I should say, Section 100.600 is the primary portion of the harassment rule. But there are, sprinkled throughout there are illustrations of different types of harassment. If you, for example, look at the reg for examples of what is a violation of 804(b),

you would see these different types of examples, which are not in 100.600 but are in other aspects of the rule. And the rule applies to anyone who is covered by the act. Anyone. So, the same times of liability that apply for other types of discrimination apply for harassment. So, a landlord is responsible for his own harassment. A landlord is responsible for the harassment of his employees or his agent. Whether or not he knew about them, he may be vicariously liable, he may be directly liable if he knows about it and doesn't do anything about it. So, the liability is quite broad.

For those of you who do FHAP investigation, you probably are familiar with the exception for liability for employers—from vicarious liability—because they've met certain training requirements. That defense does not apply under the Fair Housing Act. So, just something to keep in mind that you might have in your head from when you have been doing a Title 7 investigation, it does not apply under the Fair Housing Act.

I meant to mention that the regs are posted on HUD exchange. I believe it's the entire reg that has the preamble to the reg as well. So, it's very helpful, I think, to read the preamble to the proposed reg and to the final reg. Because that would give you an idea of, first of all, the case law and how we came up with what the rule says. But also, just a little bit more in depth discussion about what certain provisions might mean in the rule.

I'll talk a little bit about quid pro quo sexual harassment. We have up here on the slide just what the rule says. And, you know, you just heard Robert say it as well. But it basically means that a landlord, or perhaps his very frequently the maintenance man, or perhaps the manager who is in charge of who gets to have housing and who doesn't, those are the types of individuals that frequently are the ones who make a quid pro quo or engage in quid pro quo sexual harassment. So, what it involves is this individual, let's just say, for example, it's the person who is making the decision about who gets to live in the unit, the person accepting the application. He conditions the provision of housing on sex or sexual favors or some other type of sexual conduct. Frequently, we see requests for nude pictures or sexual acts. If this person conditions the housing on acceptance of that "offer," illegal offer, then that's a quid pro quo. It doesn't matter if the person rejects the offer or acquiesces. If it's unwelcome, it's sexual harassment. And it does not negate the fact that it's harassment because the person may have acquiesced because they needed the housing. Or, for example, say it's the maintenance person who is conditioning repairs on whether or not a person acquiesces to their sexual request. If the person acquiesces and it's unwelcome, it's still illegal. It doesn't matter that the person acquiesced. It's important to keep in mind. The request can be explicit or implied. In other words, the person doesn't necessarily have to say I am going to evict you if you don't engage in sexual activity with me. They just have to make it implicit that that's what they're saying.

Then the other thing that is important to keep in mind is you only need one quid pro quo. You don't need to have multiple quid pro quos to have a violation of the act. A single quid pro quo violation of the act. So I'll move on to hostile environment harassment, which is the other type of harassment. And hostile environment, I will say, very frequently also involves quid pro quo sexual harassment as well. It's not infrequent to see that a hostile environment involves that as

well. But you don't need to have a quid pro quo to have a hostile environment.

So, a hostile environment sexual harassment is unwelcome conduct that's sufficiently severe or pervasive as to interfere with the person's ability to enjoy their housing basically or have their housing.

Now, we have in bold the "or" because it's not uncommon for people to get confused and think that it's severe and pervasive. It's "or" pervasive. So, you need only have one very severe instance of sexual harassment for it to-- you don't need more than one and it is still a hostile environment. For something that's particularly severe, it's illegal even if it's not pervasive. And that is really important to keep in mind, I think. And you don't have to have necessarily a negative action in terms of eviction or an increase in rent. You just need to have this hostile situation that a person is living in. And what are some examples of that? Examples are things like the maintenance man is consistently making sexual remarks or touching a person or—this is fairly common—entering a person's unit without permission or reason to be there. You know, they have the key, so they have the power. And they can get into the unit frequently. And we see that fairly often in these types of cases.

A sexual assault, a one-time thing, that's a hostile environment harassment. An exposure by a maintenance man or landlord, exposure of his, you know, that would alone be severe enough, I think, to constitute a hostile environment. But you often have just repeated instances of the individual making requests or touching the person, the resident. Those are the types of things that can amount to a hostile environment when there's been a sufficient number of them.

So, the way that we determine whether there's been a hostile environment is outlined on the next slide. It is a totality of the circumstances test. We look at all these different factors to determine whether we think there's been a hostile environment. No single one of these is controlling, and you don't have to meet every single one of them. But the factors include things like the nature of the conduct, the types of things I just talked about. The context in which they occurred. Is it happening in the person's house? Is it happening in the application process, where the landlord is making the statements at the same time that he is making a decision about who is going to live there? Or is he making it at the same time that he is discussing whether or not you are going to get repairs on your unit? How severe is it? What's the scope of it? How frequent is it? The duration. How long is it? The location, it's almost always in or right around the person's home. Then the relationships of the person involved. So, these are different factors that you can look to. None of them are controlling, as I said.

And then, it's determined based on a reasonable person standard. So, you don't look at the evidence as the investigator from your own perspective. You look at it from the reasonable person's perspective. And when we make a decision at HUD on whether we're going to issue a [inaudible] or not, that's what we look at, the reasonable person. What is the reasonable person's position?

So, I think that's mainly what I needed to say. I also wanted to point out that the statute of

limitations for if a complaint is going to be filed with HUD is one year. I think it may be shorter for some of the FHAPs. And I think it's two years in federal court.

So, I think I'll pass it back to you, Lynn.

LYNN GROSSO: Thank you, Kathy. There's a lot there.

Before we get into some of the nuts and bolts of conducting this kind of investigation, if I may, Megan, I'd like to go to you and ask you to give us an example or talk to us about a case that kind of illustrates this type of complaint, this type of enforcement action that we take when we have a violation, a sexual harassment violation before us. Particularly a case that the Department of Justice has worked on.

MEGAN WHYTE DE VASQUEZ: Sure, I'm going to talk about the United States versus Encore Management. This came to the Department of Justice from HUD. It was a HUD election complaint. Actually, a number of individuals had filed HUD complaints and there was also a secretary-initiated complaint. It came to the Department of Justice through the election process, and when we filed the lawsuit, we added a pattern of practice claim because of the extent of the harassment.

There were two harassers. I'm going to focus on one today, who was the property manager. And he was sexually harassing tenants. He actually lived on the property with his wife and their kids. And some of the examples of his harassment included making sexual advances or comments to tenants. For example, the first time one tenant went into the office, he told her he would, quote, hit it in a minute. Another tenant went into the office to pay her rent, and he asked her to pull down her shirt to expose herself. He obtained tenant's phone numbers from their tenant files and sent them unwelcome text messages including sexual messages saying things like I've got to tell you I'd really like to get in that bed of yours. Are you going to let me come up there and hit it? He asked at least one tenant for sex in lieu of rent and threatened to evict her otherwise. He grabbed a tenant's buttocks when responding to a maintenance request. And most egregiously, he entered the apartment of two different tenants and forced them to have sex with him. One tenant awoke to find him standing over her bed late at night. When she asked how he got there, he said he had gotten his key from the office. Another tenant, he knocked on her door late at night. When she opened it, he pushed his way into the apartment, pushed her through the apartment into her bedroom and on to her bed.

In addition to this, he also threatened tenants. He made them fear they would lose their housing, or they would lose their vouchers if they objected to his advances, or if they complained to anybody. And he even called the police on one tenant after she refused his advances. So not all cases have got this egregious. It's not required to be at this level to violate the Fair Housing Act, but I thought this gave a good example of some of the types of conduct that could constitute sexual harassment under the Fair Housing Act.

LYNN GROSSO: It is a good example. Exceptional work that you and your colleagues did and, of

course, this initiated over at HUD and we appreciated that collaboration on that important matter.

We want to turn now to, as I said, some of the nuts and bolts of investigating complaints of sexuality harassment in housing. And to start us off, I'm going to go back to Robert and ask Robert to just start us off with a basic outline of investigative techniques and strategies in this area. Robert?

ROBERT DOLES: Yes, thank you, Lynn. Sure.

I'm going to take a few moments to discuss four tips that could be utilized to effectively investigate allegations of harassment. And while our focus here today is sexual harassment in housing or it's just how the law could be utilized for Title 7 investigations in addition to Title 8. First, you want to make sure you identify all the parties—the complainant and aggrieved persons—that are affected by the allegation. You also want to ensure all the appropriate allegations are explored. And what you want to do is just go through the Fair Housing Act and look at the section, like I mentioned in my previous comments, and just make sure what you are investigating is appropriate and fits. And that you are not missing any possible violation of a section of the Fair Housing Act.

Elements of proof. I would take time to understand the elements of proof. Because by doing so, it often will help you with a road map towards your investigation. And the elements of proof documents can be found on HUD exchange that was mentioned at the beginning of this presentation. So, referring to that resource and understanding the elements of proof is extremely important.

Now the nuts and bolts. The collection of evidence. So, the documents that, for instance, you would want to collect from a complainant, and this is not exclusive, this is just an example, would be records, lease violation letters, text messages, voicemails, emails. Now, with respect to text messages, I would encourage everyone to try to obtain that type of evidence as soon as possible. Because a lot of times in these cases, that type of evidence is either lost, deleted, and the storage period from the various carriers can vary and aren't that long. So, it's really important if possible, to try to preserve and collect that type of evidence. Even if it's something as simple as a screen shot, I would really recommend trying to obtain that evidence.

So documents that you may want to get from respondent would be the tenant roster, application, denial letters, rent records, rent receipts, tenant files, policies and procedures, any type of records that the respondent may have provided their employee Fair Housing training, that would be really important to collect. The maintenance request records. It could go on and on. But those are just some quick items that you may want to get. Evidence from third parties that may be relevant, whether it be court records or police records, those are also other types of evidence that you want to keep in mind when you are in the process of determining what evidence you need to collect.

Now we move on to interviews, which is crucial. And I know this is obvious to a lot of you, but prepare your questions in advance. Make sure you are asking the who, what, when and where. Get specific on each alleged incident of unwelcome conduct. Ask about witnesses. That's going to be really important when I turn to the credibility analysis. Ask open-ended questions to make sure you try to get a complete picture about the situation as possible. You want to ask the respondent about any type of documentation they may have to support their position. What is their defense? Potential third-party witnesses that you'd like to consider interviewing. It could be current, it could be a former tenant, it could be friends or family of a victim, they may have relevant information. It could be from a neighbor. That could be helpful. Also, when you are identifying witnesses, it's extremely important not just to corroborate what the complainant's allegations are, but those witnesses could, down the line, become additional victims. So it's extremely important to identify as early as possible.

Now, when you turn to credibility, because at the end of the day, all the evidence is collected and all the interviews that you record, there's going to have to be a credibility analysis and determination whether to move forward or not. And the standard—the legal person standard, but there's also a preponderance of the evidence. Was this allegation more likely than not that the event occurred as described by either the respondent or the complainant? So, just a few methods in which you can use to determine credibility. And I labeled them as plausibility, which refers to any inconsistencies in the individual's statements that were provided, that will determine whether or not their version is plausible. Motive. Does the complainant or respondent have a reason not to be truthful? Corroboration, as I touched on earlier. Were the witness statements supporting or not supporting those individual's version of events? Also, you can look to the past records. Was there anything in the history of either side that would seem to make what's currently being alleged more likely or less likely to have occurred as described in the allegations.

So that's a quick reference of four tips that hopefully you in the audience will find useful in your conduct of investigation. Back to you, Lynn.

LYNN GROSSO: Thank you. One thing I would add is in the years I've been doing investigations, particularly where it's a critical interview. It can be a resource challenge, but it's always enormously more helpful to have two investigators at those critical interviews. So, even though you go with prepared questions like you mentioned, that you don't get stuck in a script, right. That you are asking question but you are also listening critically and analytically and, you know, with two investigators, you are not doing that tug-of-war between critically thinking and trying to capture in notes, you know, details of what the witness offered. So, I always find it so helpful on those critical interviews to partner up on those interviews. I find that to be one tip and trick. I want to go to Betty because, as I mentioned, Betty's region has handled some pretty challenging and impressive investigations over the years in sexual harassment.

Betty, I have to say when I introduced you it occurred to me since I introduced you, that you too are a fresh face on the panel like Robert. You were not on our panel earlier. I am so used to working with you, but I just wanted to let the audience know. If Betty is not familiar to you, she

was not on the first panel. You are not crazy. She is joining us right now.

So Betty, can you tell us about the tips, tricks and techniques you have found particularly helpful when you and your team out there have done these investigations?

BETTY BOTTIGER: Thank you, Lynn. I'd be happy to.

We've been investigating quite a few of those sexual harassment cases in recent years. And we're grateful for the opportunity to share what we've learned. One of the things we've learned is this is a team effort. People have to cooperate with each other and collaborate. The investigators, the supervisor, and our legal experts. And we've also found it's important to collaborate with other enforcement agencies, too. Local Fair Housing agencies, HUD, the United States Department of Justice.

I had a case in St. Louis that I think illustrates all of that. The case is the United States versus Webb. The complainant was Mrs. Bell. And Ms. Bell was sexually harassed by her landlord. He offered to reduce her rent for sexual favors. He wanted to touch her breast. He talked to her about sexually explicit things. And so ultimately, he evicted her when she rebuffed his sexual advances. And so, she turned to the local Fair Housing Agency, our FHIP in St. Louis, the Metropolitan St. Louis Equal Housing and Opportunity Council, EHOC. And EHOC met with Ms. Bell and did the intake interview and informed her about the HUD process of investigation, helped her frame her allegation, looked for additional witnesses that could add to her case, and ultimately helped her file her complaint with HUD. Now when HUD received the complaint, we ended up interviewing 16 current and former tenants of the respondent's. Because we had those interviews and knew how to locate those people, when we charged the case and it went to the Department of Justice as an election case, they were able to locate additional victims. Justice added a claim for pattern and practice to cover 14 additional victims, and ultimately the case settled for \$625,000. I think it's an exemplary case for showing what we can do and the results that we can get when we all work together and collaborate.

Now I'd like to give you some tips before I conclude. Real world investigation tips from real world investigators in Region 7.

So, each of these cases typically begin with just one complainant. Our investigations reveal usually multiple victims. And so, the interviews are numerous, and they are important. And our investigators, they, you know, we come to the interview with an open mind, not judgmental, and try to make the person they're interviewing, whether it is a witness, a victim, or the complainant, comfortable with the process. And if there's another allegation in the complaint besides sexual harassment, they'll even start with that allegation and do the interview about it first, so that the person becomes increasingly comfortable in speaking with the investigator and telling their story.

We try to not interrupt. Let them get through the whole story. And we try not to react to explicit language or vulgarities. I would tell any investigator out there if you haven't done one of

these cases, yet I recommend that you read the Webb case and particularly the Kansas City, Kansas Housing Authority case. That's the United States versus the Kansas City, Kansas Housing Authority. Because that will give you an opportunity to deal with your own emotions that might get stirred up when you read about these things. And it will prepare you when you go out to investigate a situation that involves a real person that is currently in this sort of situation.

On the first interview, we rarely get the full story. Usually, it takes multiple interviews with the complainant and other witnesses. And our investigators have to be both soft-spoken but persistent. We reached out to one victim at least seven times before she agreed to sit down and speak with us. So, persistence is a key.

Another case: every time we met with the complainant, she cried. Every time. So, you have to be emotionally and mentally prepared for these situations. We try to begin interviews with an open question. For example, has the respondent done anything to make you feel uncomfortable? After she's had the opportunity to tell the story, we follow up with specific questions.

In three of our cases the respondent did expose himself to the complainant. So, the investigator wisely asked, did he have—did his body have any marks on it. And interestingly the answers to that question became very important evidence in two of the three cases.

We enter all of our interviews and all the documents that we collect in the HEM system. That's HUD's computer system for recording evidence. But we also have a couple other tools that we use to help us analyze and organize information. These cases, like I say, involve so many witnesses and potential victims, that we developed an Excel spreadsheet to organize all the materials. The name of the person we're interviewing, or that we want to interview, their address, email, their phone, another contact person that needs how to get ahold of them. Who identifies them as a potential victim or a witness? What we hope to find out from them when we interview them. Their proposed interview date. And then, after they're interviewed, we try to identify some particular things that we want to be reminded of. For example, in the Webb case, several of the tenants said the respondent gave them a gift card then evicted them. So that was a common theme with more than one person.

In our Wichita case, two women told us that the respondent asked them for *cuchi-cuchi*, and that showed up on the spreadsheet. So, the spreadsheet is a good way to organize things.

When we're done with an interview, we ask each witness to sign their statement. Their attorneys like that and we have, you know, a signed statement. As far as interviewing the respondent, we try to interview the respondent last. We want to have the story from everybody and everybody's perspective, all the documents collected before we sit down and listen to his version of the events. Because all of that prior information gives us material for the specific follow-up questions that we want to address to the respondent. The second tool we use is a detailed timeline of the event. We've organized the timeline in chronological order. It helps us find out how many times the behavior occurred, when it occurred. It helps us evaluate

whether terms and conditions changed after the request for sex, or after the respondent was rebuffed. It's also—investigators like it because it's also helpful for writing up the determination of reasonable cause. You got a nice layout of what happened when, in chronological order. You just go through the story.

By all means, we encourage you to use one of these tools if they will help you out, and we certainly encourage you to collaborate with other enforcement agencies. And remember the United States versus Webb case as an example of that. Thanks, Lynn.

LYNN GROSSO: Thank you, Betty. Thank you very much.

We cannot talk about investigations without talking about the important role that Fair Housing organizations take in that process.

Lisa, you and your member organizations play a very unique role in supporting complainants and preparing matters for investigation by enforcement agencies. I would like you to talk to us about how your organization can help further sexual harassment enforcement.

LISA RICE: Thank you, Lynn. I'm happy to talk about that.

And I just wanted to share—highlight a point that Betty made earlier about the importance of collaborating with other partners. These cases are profoundly difficult to investigate, and it can be very emotionally draining when you are working on these types of cases and you can find yourself individually impacted. But having partners like HUD, like our FHAP organizations and also other local stakeholders in your community is extremely important.

Private Fair Housing organizations are sort of the first line, if you will, because typically the victim of sexual harassment will reach out to a private organization first before interacting or engaging with HUD or the Department of Justice or the local FHAP organization.

In 2018, we reported in our Fair Housing trends report last year that in 2018, private Fair Housing organizations received 139 sexual harassment complaints. So, this is an issue that private organizations are dealing with. We did a poll a couple of weeks ago in which private organizations said that a number of them are actually realizing increases in sexual harassment complaints with the onset of the COVID-19 pandemic.

So, this is a very important issue, and I think the first thing that private organizations have to keep in mind is we sort of play a little different role than our HUD, DOJ, and FHAP partners. We're able to be more of an advocate for the victim of sexual harassment. So, support and care for victims of sexual harassment is profoundly important. Our role as not only Fair Housing advisors and counselors, but also our ability to sort of hand-hold, if you will, the victim of sexual harassment, is profoundly important. So, it's important to provide that support to victims, and to also continually ask the victim of sexual harassment what his or her needs are. So, you're constantly asking so that the person who has experienced sexual harassment understands you

are there in a supportive capacity, as well as to help investigate and move the case along and see the case come to complete resolution.

I won't go into much more about narrative statements, because I think that Betty and Robert have talked extensively about that. I'll just put a pin in the point that this process may, because it is so emotionally charging, it may take quite some time for you to get the complete narrative statement put together. You want it to be in chronological order, and you want it to be as comprehensive as possible. And our partners at DOJ and HUD and our FHAP organizations understand that, particularly in harassment complaints, that developing the narrative statement is iterative. It will grow and fill in over time.

In terms of obtaining additional evidence, Robert talked about some of the critical pieces of evidence that private Fair Housing organizations can capture. I'll just highlight a couple of other additional kinds of evidence that Fair Housing organizations can collect.

So, in terms of things like police reports and documents, let me point out that you don't just want to get the police report. You want to get as many corroborating pieces of evidence from your local police department that you possibly can. So, for example, processing sheets. If the landlord has been arrested or if your tenant was arrested, you want to make sure that you get that, because that processing sheet can contain some critical information to help build a fuller story as to what happened. Social media posts: you want to be paying attention to whether or not the landlord or the maintenance person is sort of following your complainant on social media sites. And you want to grab screen shots of that to show that there is this ongoing pattern of harassment.

Canvassing the neighborhood in order to get witness statements to talk to people who are familiar with the entities involved is extremely important as well. Because those statements that you get from other witnesses can help build on that point that Robert made about, you know, who is more credible, right? So, if you've got multiple people talking about the character of the individuals who are involved, it can help to provide some substantiating evidence for the victim of discrimination.

You also want to make sure that you are interviewing family members and friends and children. And you may have to have a professional with you when you are interviewing children, because it is a very ginger situation. So, I encourage private Fair Housing organizations to be establishing relationships with these other stakeholders right now. It's sort of like, you know, you want to fix the roof when the sun is shining. Because trying to fix the roof in the middle of a storm is profoundly difficult. So, establish those relationships now so that when you need those supportive services, they're there for you.

Connecting your complainant with those supportive services like your local YWCA, your Rape Crisis Center, sexual violence centers, hospitals, psychologists and things of that nature. One of the things that private Fair Housing organizations should be particularly adept at is watching your victim, watching the members of the family, to see if there are signs of mental duress, of

emotional duress, of physical harm so that you can encourage the victim of discrimination to seek the professional counseling and assistance that they should be getting. And, you know, we do provide training on those kinds of things. Because getting that emotional support, getting that sort of professional support is important to making sure that the victim of discrimination can make a full recovery.

Coordinating with law enforcement is also extremely important. If you attended the first webinar, you heard me talk about this a little bit. I have never worked on a sexual harassment case without collaborating with local law enforcement. Now, I will say, I will hasten to say, that I have been burned by local law enforcement. Yes, I have. And that's why it's important to have a back-up. So, I always maintain a relationship not only with the local police department, the local sheriff's department, but also with the FBI. There have been situations where I could not rely on the police department. In fact, I had a case where a detective—a new detective in the sexual crimes division—messed up our case, and so we had to move to the FBI as a back-up. We're dealing with a situation like that right now in Alabama, where the landlord is a very well-heeled person, a very well-connected person. He allegedly has raped his tenant and the tenant went to file a complaint with the sheriff's department and the sheriff's department told her, we're not investigating the case against this particular person. So, we've had to move to DOJ and FBI to help us in that matter.

So, establishing the relationship with local law enforcement is critically important because they can be your co-investigator. I'll talk about testing in a second, but we never do testing without being joined by local law enforcement. Because they have that—they can add a protective—an added layer of protection, but also the utilities and tools that they have for gathering evidence can be more extensive than what we can do.

I will say that in some cases, we have had situations where we coordinate, we work with the complainant in order to gather additional evidence. In one case that I had—I think most of you know that I used to work at the Toledo Housing Center. So, this was in Toledo Ohio. We had a victim who was in a quid pro quo situation. The landlord was telling her, if you engage in certain sexual favors, I will take certain, you know, I'll give you a reduction in your rent. We met with local law enforcement. The more we talked to the victim, we saw she was emotionally stable. She was very strong. And she offered to go back in to get additional information. So, the Toledo Police Department wired her up, sent her back in. She met with the landlord, the landlord repeated everything to her, gave her a price list, and as soon as he finished with his quid pro quo offer, the police department went right in, arrested the landlord for solicitation. So, we had the criminal charge against the landlord as well as the civil charge.

Let me just end by talking about testing a little bit and temporary restraining orders. Testing can be profoundly useful, but it is not necessary. You only do it if you have to have testing evidence. Again, and you only want to do it when you are corroborating with local law enforcement. Because they can take—they can wire. They have the authority to do that. And that taped evidence is profoundly useful. I've never had a testing case—except for Shell Hammer. But every other case where we had testing, it resolved immediately.

Then I'll close by talking about temporary restraining orders. It may be necessary to get a temporary restraining order, particularly if your victim is facing eviction and you want to halt that eviction. So, the temporary restraining order or the prompt judicial action, it maintains the state can stop that eviction, or if there's a house or unit that your tenant really wants it can take that house or unit off of the market, so that if your tenant really wants it, they can get it. And again, that goes back to my first point. You're always asking the complainant: what do you want in this situation?

So, what I'll say there is, again, you're establishing relationships with your local HUD office right now, so that if you need to get a prompt judicial action, then all the wheels are set in motion to be able to do that.

And I'll stop there. Thanks, Lynn.

LYNN GROSSO: Thank you very much, Lisa. I appreciate all that information.

We are running a little bit behind, no matter how much we choreograph it does happen. I think I'm going to make up a little bit of time in our third and final section. But I can't leave this section without going to Megan. Several of the panelists have talked about identifying other victims. The Department of Justice has pattern of practice investigation authority under the Fair Housing Act is there anything quickly you would like to add to somewhat of the other panelists said?

MEGAN WHYTE DE VASQUEZ: Just a couple of points. One of this them obviously finding additional witnesses can be important. They can corroborate what people have said to the extent that, you know, it's a little bit of a he said/she said. You might have witnesses who have heard things from the complainant right after it happened. You know, you might be able to find creative ways of corroborating some of the allegations, even if folks didn't first-hand witness all the harassment. But I want to mention, these people could have always been harassed themselves. It's important to talk to them even if they experienced the harassment a long time ago, and even if they couldn't timely file their own complaint. Again, it may corroborate the allegation, but also having that information in the file the way Betty talked about, if it's an election case and comes to the Department of Justice, DOJ may still be able to bring them into the lawsuit. While the statute of limitations, you know, for filing with HUD or filing a private lawsuit in federal court are shorter, the Department of Justice has a longer statute of limitations for the cases, and they allow us to bring in victims who are harassed much longer ago.

For example, in the Waterbury case that we talked about on the last webinar, the allegations in the Department of Justice complaint went back to the 1990s. And that was filed, I want to say, in 2016, but sometime in the last few years. So, you know, it is very important to try to find as many witnesses, even if they would not timely be able to timely file their own complaint.

LYNN GROSSO: Thanks, Megan.

Our last section I want to spend about the next five to eight minutes talking about the documentation of injury and types of relief in these cases. I absolutely want to honor enough time for questions from our participants. So panelists, if we could be as brief as we can, but still cover the important information. I'm going to go to you first, Kathy. Can you tell us about the kind of damages that are availability in these cases, and what an investigator should do to preserve evidence to support those damages?

KATHLEEN PENNINGTON: Sure. Thanks, Lynn. And I will be very quick.

We have here on the slide what the different types of damages are. I won't go into a lot of detail about them because we're running out of time, but I will say a few things and that is that you should keep in mind that anyone who is injured by the harassment is entitled to recover damages. And that means not just the person who is harassed, but the family members who live in the house with them, children, spouses, anyone else who is, in some way, injured by the fact that the complainant or the victim has been harassed.

What the investigation should do is look into the damages—try, to the extent possible, have the complainant preserve the documentation that might show damages, especially out-of-pocket damages which they might have receipts. And obtain those documents from the complainant if you can. But if not, make sure you let the complainant know they need to be preserving these documents, because we'll need them down the line when the case goes trial.

You should also ask the complainant to provide any names of additional witnesses that can testify about the damages or provide evidence about the damages, even if it doesn't go to trial. And that includes family members, friends, co-workers, doctors, psychiatrists, psychologists, social workers, anyone else they may have spoken to about the harassment. And, of course, those who may have seen the harassment or experienced it themselves can provide additional evidence.

The investigation does not need to put a number on the damages, but should at least try to gather as much evidence as possible about those damages.

And I think maybe I just won't go into the examples of the types for time purposes, but let me know if you want me to give some examples.

LYNN GROSSO: Thank you. Of course, this material can be availability to the participants. Megan, from the DOJ perspective?

MEGAN WHYTE DE VASQUEZ: Sure. So, the appropriate relief varies a lot based on the specific circumstances of the case. It's built on the types of information that Kathy just described, which can be gathered during the investigation as well as the point at which there is a lawsuit. And it's looking at the harm to the individuals, specifics of the situations when you are crafting

remedies. So, for damages there might be out-of-pocket and things like that, but generally it is often largely emotional distress. It could be things like, you know, does the harasser still manage the property might factor into the relief? I won't go into all the provisions, but I did want to mention two DOJ settlements. One is in the United States versus Webb, which Betty talked about earlier. That's a case that involved a husband and a wife who owned the property. The husband was the alleged harasser. As Betty mentioned, it was settled for \$625,000. \$600,000 of that was damages that were paid to 15 women. But we also had a lot of injunctive relief there. So, the harasser was not allowed to enter the rental properties. He couldn't work in property management. He couldn't do any property management or maintenance work at his own properties. He had to hire an independent manager. He couldn't have any contact with people who were identified as aggrieved persons. He had to attend in-person training. In this case, we required the couple to sell or transfer their property. That is not typical relief in our cases, but it was appropriate there and that was a piece of that settlement.

The other that I'll mention quickly is from the Kansas City, Kansas Housing Authority, which we talked a bit more during the last webinar. That involved the public Housing Authority and three different harassers. One was a hearing examiner, one a property manager, and one was a Director of Housing Management. So, when that settlement agreement compensates 14 women and \$360,000 in damages for those women. Then there was relief as to the Housing Authority, and specifically involved officer and employee training on the Fair Housing act, adopting new policies and procedures, and a complaint process, and then they had to redo the appeals hearing process. Hiring an independent professional to conduct them. They had to keep written records of the appeals proceedings. They had to notify people who filed an appeal of their right to bring an advocate to the hearing. And they had to make sure they did not reemploy the three individuals

And then as far as relief for the three individuals, they were not allowed to participate in any public housing program going forward. The appeals officer was permanently prohibited from doing anything related to residential property management in the future. There were limits on the other two individuals being involved in residential property management. They could not contact the aggrieved person, and they were not allowed to enter any Housing Authority properties after that.

So again, the appropriate circumstances, the appropriate damages will vary depending on the situation but, you know, if you look at different settlement agreements at the Department of Justice—and there is a link in the resources on how to our sexual harassment cases—that can give you an idea of things deemed appropriate in some of our cases. Back to you, Lynn.

LYNN GROSSO: Thanks. And Lisa, I think most of our participants know that Fair Housing organizations very often have standing to file complaints in this area. Could you speak to the unique issues around injury and relief very briefly for Fair Housing organizations.

LISA RICE: Yeah. The only thing that I will add because we're running out of time is that private organizations, you know, I always encourage private organizations to file their own separate

cases in these matters, when you've got diversion of resources or some other kind of injury. Because your victims may want to settle, but you as an organization may want to hold out to get more comprehensive relief, more injunctive relief, so that you can change things more systemically. Like making sure there's Fair Housing policies. Making sure that the managers and other employees at the entity get training. And the other kinds of things that you see there on the slide.

So, the Fair Housing organization can always hold out for more while the victims can resolve their cases and move forward.

LYNN GROSSO: And Betty, while we queue up some questions, could you just tell us, just briefly, some types of relief that you can put into an agreement before a charge or enforcement act. A conciliation agreement that is less formal than a descent degree.

BETTY BOTTIGER: Anything in a conciliation agreement that the parties will agree to. That includes all the kinds of relief that were in the Kansas City agreement, or the St. Louis agreement with Mr. Webb. So, virtually anything is possible, because it's all negotiated. We look for two kinds of relief: relief for the victims, the complainant, the aggrieved party, and we look for public interest relief that is aimed at preventing a recurrence of the behavior.

LYNN GROSSO: Okay. Thank you, panelists. Thank you. A lot there. I know this is a very heavy, information-rich discussion. I want to go now and open the floor up to questions.

Jeff, I'm not seeing the queued-up questions.

JEFF OLIVET: I believe Cat Cloud was going to voice a few of those. I think that's the plan. So Cat, do you have a question at the top for you?

CAT CLOUD: Yes, just the first question: When the matter involves a possible criminal sexual assault, do you engage the police and do a joint investigation? Do you do your investigation first? Or hold your investigation pending the outcome of the police investigation?

LYNN GROSSO: Lisa, yes, let's go to you for that.

LISA RICE: We always do a joint investigation with the police. Because you never know what you are going to run into. We've had cases where the perpetrator was involved in all kinds of criminal activity, including sex trafficking, child pornography, et cetera. Because you don't know what you might run up against, I strongly encourage you to connect with the police or local law enforcement right away. Again, you want to have that relationship preestablished. Please learn from my experience. You only want to work with law enforcement officials who you know, and you trust. If you get really good detectives who care about this work, and you've got a great relationship with them, the investigation of the case is that much easier.

Now I will note, there have been times when we've had to use our surveillance equipment

because our equipment was better than the police force's equipment, or better than the sheriff's equipment. So, we had more state-of-the-art surveillance equipment. And that's fine. As long as law enforcement says that your equipment can be used, that's fine. But you have them going in and making sure that everything is covered—and again, as soon as the criminal activity happens, they can run in and arrest the perpetrator, and that really helps your case.

LYNN GROSSO: Cat, the next question?

CAT CLOUD: The next question is: When you talked about making a determination of sexual harassment, when a tenant is concerned about losing their housing, so does not explicitly rebuke the offensive behavior.

LYNN GROSSO: We may have lost you at the end there, Cat. But I think Kathy, I think we've got the gist of the question. Do you want to field that?

KATHLEEN PENNINGTON: I think if I understand the question is whether if the person acquiesces to the demand, is it still an illegal activity? And it is. The person doesn't have to rebuke it: so long as it's unwelcome, it is a violation of the act. Many times, you will find that the victims do acquiesce. They want to keep their housing. They're desperate for their housing. And that does not negate the violation.

LYNN GROSSO: That's right. Thank you, Kathy.

CAT CLOUD: Next question is, how does it affect credibility when tenants have an eviction record? Especially as in some cases it's easy for landlords to trump up eviction charges.

LYNN GROSSO: This is not something unusual. Robert, I want to turn to you to take a try at answering that. These are things that come up in investigations rather often.

ROBERT DOLES: Sure. Yes. These types of situations does occur quite frequently. And past evictions themselves do not affect the credibility one way or the other. In any situation and case, look at the facts individually. But in general, a past record of eviction shouldn't negatively affect the credibility of the complaint.

CAT CLOUD: The next question is, can you provide advice or recommendations about the confidentiality of statements and the investigative style?

LYNN GROSSO: Betty, you want to tackle that one?

BETTY BOTTIGER: Could you repeat it.

LYNN GROSSO: It was about confidentiality. Witness confidentiality in the investigation.

BETTY BOTTIGER: Okay. You know, we tell them that, you know, we'll try to keep your identity

confidential, but if the case gets charged that you are going to have to, you know, you might have to be a witness to proceed with the case. So, we just have an honest discussion about what the situation is with that.

LYNN GROSSO: Right. From a DOJ perspective, Megan, do you have anything to add when you have witnesses that may feel the need for confidentiality?

MEGAN WHYTE DE VASQUEZ: Well, I mean, when things come to DOJ from HUD, there's one track and when complainants come to DOJ directly for a pattern of practice, there's a little bit of a different one. But in terms of if something comes through HUD and comes to us as an election case, then we would have to name the individuals in the complaint. Because it's part of our jurisdiction for actually being able to file the lawsuit. If it's a straight pattern of practice case, we would not typically name the individuals in the complaint, and we would only provide information pursuant to a protective order.

LYNN GROSSO: Thank you. Good question. Cat?

CAT CLOUD: The next question is: How do we get the timeline, the dates, the order of incidents and other information without the victim feeling like they're being questioned about whether or not the incident even occurred, or didn't feel like the intake person was listening?

LYNN GROSSO: Your know, Lisa, I would like to hear from you on this question. Because I think it has to do with sensitivity on the complainant's part.

LISA RICE: Sure. I am happy to do that.

So, when you are going back through the narrative statement that you've built, or that the complainant has written out, depending on what your practices are, you're not asking them to repeat what happened as though you don't trust them. And you are saying things like, "I hear what you said. I want to make sure I understand you clearly. I want to make sure that I have the correct information." So, you are using phrases like that. So, you are not suggesting to the complainant that you don't believe that that complainant was credible, or that they said something. And you are not even saying things like, "Well you told me this, but your sister said something else and it's not jiving." You don't say that. You are again saying "Okay. I want to make sure that I understand what you said." And you can also show the complainant pieces of evidence. So, if there is a social media post or if there is a crime report, or any kind of evidence that you have, you can say "Okay I've got this crime report here, so I just want to verify, you called the police on this time, on this particular date or you called 911 at this particular date," and so forth and so on. So, again you are never saying it in a derogatory tone or a questioning tone. And you are always making it—you are always making it clear that you want to understand, not that the complainant is saying something that isn't veritable.

LYNN GROSSO: Thank you, Lisa. I think that's all the time we have for questions.

KATHLEEN PENNINGTON: I think the question was asking specifically about intake. I don't think the intake person needs to get into this kind of detail at all. That's the investigator's job not the intake person's job. They shouldn't be quizzing the complainant about all of these details at that point.

LYNN GROSSO: That's right. I think this information is relevant and applicable in the course of the investigation. But, yes, that's a little too probative for intake. Thank you, Kathy.

LISA RICE: When you say intake because at private Fair Housing organizations, we have intake specialists who do get into some of that level of detail. And the intake specialist may actually stay with the complainant for a while. So, that's where I was coming at it, from a perspective of an intake specialist in a private organization.

KATHLEEN PENNINGTON: So, the staff is doing that on intake.

LISA RICE: Yeah.

LYNN GROSSO: Before I turn this back to Jeff, let me just thank you, panelists, so much. I think this was—I think even though it is a short amount of time, you provided so much very good, rich information for our FHAPs, FHIPs and even our HUD colleagues across the country. We have resources availability. I'm going to turn it back to Jeff. I think that the platform here makes it clear how to access those. Jeff?

JEFF OLIVET: Thank you, Lynn. And thank you, panelists. And thank you, all of you who attended today. The slide presentation from today, as well as the recording, will be availability on the HUD Exchange. We also encourage you to complete the feedback evaluations. When you close out this meeting, you will go to an evaluation. Please, please, please, take the time to do that. You will help us continue to make these forums better all the time. Today's event was made possible by HUD's office of Fair Housing and Equal Opportunity, and by the National Fair Housing Alliance. Thank you all so much for being here. Thank you to our panelists. And stay tuned for more information about upcoming events. You will receive emails. There's information on the HUD Exchange about additional forums and training opportunities that will be coming your way. Have a great day, everybody. Thank you.

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