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THE CONTINUED IMPORTANCE OF THE VIOLENCE AGAINST WOMEN ACT

HEARING

BEFORE THE

COMMITTEE ON THE JUDICIARY UNITED STATES SENATE

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THE CONTINUED IMPORTANCE OF THE VIOLENCE AGAINST WOMEN ACT

WEDNESDAY, JUNE 10, 2009

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Committee met, pursuant to notice, at 10:07 a.m., in room SD–226, Dirksen Senate Office Building, Hon. Patrick J. Leahy, Chairman of the Committee, presiding.

Present: Senators Leahy, Whitehouse, Klobuchar, Kaufman, and Sessions.

OPENING STATEMENT OF HON. PATRICK J. LEAHY, A U.S. SENATOR FROM THE STATE OF VERMONT

Chairman LEAHY. Good morning.

Since 1994, the Violence Against Women Act, or VAWA, has been the centerpiece of the Federal Government's commitment to combating domestic violence and other violent crimes against women. Its passage and reauthorization were a signal achievement in support of the rights of women in America. I am glad to see Senator Kaufman from Delaware because his predecessor, who now has another job in Government, Joe Biden, was, of course, so instrumental in the passing of VAWA. The landmark law filled a void in Federal law that had left too many victims of domestic and sexual violence without the help they needed. It is interesting that it passed with very strong bipartisan support, and I would compliment then-Senator Biden and Senator Hatch, who were Chairman and Ranking Member, respectively, who worked so hard in getting this passed.

I look forward to working with members of the Committee, the Obama-Biden administration, and experts in the field to ensure the law remains a vital resource for prosecutors, law enforcement agencies, victim service providers, but, most importantly, the women and families who are threatened with violence.

Today we have an extraordinary panel of witnesses. Of course, the first one is going to be Catherine Pierce, and I am glad to see you here, Ms. Pierce. She is the Acting Director of the Office on Violence Against Women at the Justice Department. Of course, Karen Tronsgard-Scott, whom I have known for many years and was just talking with, is a leader for ending domestic and sexual violence in Vermont.

I mention Karen because people think of Vermont—like so many small, rural, bucolic States, we have a very low crime rate and everything else. But we have domestic violence in every State—every

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State, every situation. Sometimes in more rural areas it is more hidden because it is something people do not want to talk about. I know that.

Three witnesses will be sharing their personal stories with the Committee. One has gone on to become a successful actor, one has helped pass a Rhode Island State law requiring teen dating violence education in public schools, and one has become a passionate advocate for victims in California.

I saw the devastating effects of domestic and sexual violence early in my career as a prosecutor, the Vermont State's Attorney for Chittenden County. I know that violence and abuse reach into the homes of people from all walks of life every day, regardless of gender or race or culture, age, class, sexuality, or economic status. Domestic violence is a crime. We should never forget that: Domestic violence is a crime. When I became a prosecutor, people did not prosecute it. I changed that. And now everybody knows you have to. It does not make any difference whether it is a family member, a current or past spouse, a boyfriend or girlfriend, an acquaintance or a stranger. It is a crime. It is a crime. It is a crime.

We have made some remarkable progress in recognizing that domestic violence, sexual assault, stalking, and dating violence are crimes. Since the enactment of VAWA, the rates of non-fatal and fatal domestic violence have declined, more victims have felt confident to come forward to report these crimes, and States have passed more than 600 laws to help this and to fight this kind of crime. But we still have millions of women, men, children, and families who are traumatized by abuse. We know that one in four American women and one in seven men are victims of domestic violence. One in six women and one in 33 men are victims of sexual assault, and 1.4 million individuals are stalked each year. So we have to keep on with these programs.

A 2008 census by the National Network to End Domestic Violence found that in just 1 day, more than 60,500 adults and children were served by local domestic violence programs. Almost 9000 requests went unmet.

Numbers like these are why I advocated for increased funding in the American Recovery and Reinvestment Act for important VAWA programs. The STOP—Services, Training, Officers, Prosecutors—Formula Grant program is one of these. The inclusion of $175 million for STOP grants in the Recovery Act is going to give resources to law enforcement agencies and prosecutors and courts and victim advocacy groups to improve victim safety; also, $50 million for the Transitional Housing Assistance Grant, something I authored to provide safe havens. There is a lot more in this. I want to get on to the witnesses, and I will put my full statement in the record. But the bill we have before us will make corrections and improvements so that the law which has helped so many can continue to serve as a powerful tool to combat violence perpetrated against women and families. We were able to pass this through Committee in early May. I have trying to get it passed out to the Senate. It has bipartisan support. I think every victim of domestic violence in this country would tell us how important this is.

With that, I will yield to another former and distinguished prosecutor, Senator Sessions of Alabama.

STATEMENT OF HON. JEFF SESSIONS, A U.S. SENATOR FROM ALABAMA

Senator SESSIONS. Thank you, Mr. Chairman, and thank you, Ms. Pierce. We are delighted to have you here. I will not delay with any long remarks, and we look forward to hearing your testimony.

We do spend a considerable sum of money. It has a very important mission. Every dollar of it needs to be wisely and most effectively spent, and I want to discuss that because programs as they age sometimes become less vibrant and effective than they were when they initially started. So I would like to talk about that.

I would agree with the Chairman. It has been tremendous progress. When I started as United States Attorney in 1981, I guess, I sensed that that local police departments, even small police departments, were becoming far more attuned to the dangers that occur from ignoring domestic violence. Training programs have increased dramatically, and most departments are far more sophisticated today than when this program originally passed, and that is all to the good.

So let us talk about what good things have happened and what challenges we face and how to make sure that these programs are the most productive programs to reduce violence in America.

Thank you, Mr. Chairman.

Chairman LEAHY. Thank you very much.

Senator Kaufman, do you want to say something?

Senator KAUFMAN. I just wanted to say I can remember in 1990 when then-Senator Biden, now Vice President Biden, first started working on the Violence Against Women Act, and I know what a lonely job it was getting started, and it really is incredible. It has always been a great example to me of what you can if you really put your mind to doing it and you have a just cause, and he just picked up people as he went along.

Clearly, I want to thank the Chairman for picking this up and moving with it and carrying it even further and for his introducing the Improving Assistance to Domestic and Sexual Violence Victims Act. But, you know, a lot of things have happened since the Act was passed which are very promising. Reported incidents of rape are down by 60 percent, and the number of women killed by an abusive husband or boyfriend is down 22 percent. Really striking, today more than half of all rape victims are stepping forward to report the crime—acts of rape that often need the protection and encouragement that VAWA's funding provides.

But we still have a long way to go, and that is why we are here today, and this is what we have to talk about. We cannot afford to turn our backs on women and families in need of protection. We need to pass the Improving Assistance to Domestic Violence Victims Act and reinvigorate funding for Violence Against Women Act programs today.

I just want to thank you for what you are doing. What you are doing is absolutely the most incredibly important thing that I see every day in the job that I do, and I want to thank you all.

Thank you, Mr. Chairman.

Chairman LEAHY. Senator Klobuchar.

STATEMENT OF HON. AMY KLOBUCHAR, A U.S. SENATOR FROM THE STATE OF MINNESOTA

Senator KLOBUCHAR. Thank you, Mr. Chairman.

Chairman LEAHY. Again, another former prosecutor.

Senator KLOBUCHAR. That is right. And I know somewhere Paul and Sheila Wellstone are looking down on us today. I think you know that this was their passion, and some of it came from Paul's fighting for anyone that did not get the best luck in life or was the most vulnerable, and Sheila really took this on in an amazing way. I still remember her arriving in Washington with her kind of frizzy hair and 8 years later, so she was just an amazing advocate for this nationally. And part of that advocacy actually came out of the work in Minnesota. I was the Hennepin County prosecutor for 8 years, the head of that office, and our Domestic Abuse Center really was a model for the country, a one-stop shop where there was a daycare center, and there was a place for police and prosecutors and restraining orders signed and everything, instead of having to go through a bureaucratic maze of red tape, which even lawyers could not figure out.

So this is something near and dear to my heart. I am proud of the work we have done in Hennepin County and the work that has been done nationally since VAWA passed, and I am looking forward to working on the reauthorization.

Thank you very much.

Chairman LEAHY. Thank you.

Our first witness, Catherine Pierce, is currently the Acting Director of the Department of Justice's Office of Violence Against Women. Prior to her appointment as Acting Director, Ms. Pierce was the Deputy Director of the office in charge of public outreach and communications. She was responsible for launching the office's Sexual Assault Services Program and the Culturally and Linguistically Specific Service program. She originally joined the Office of Violence Against Women as one of the original staff members when the office opened in 1995. She has also worked in an advisory role with the State Department on human-trafficking issues, another matter of enormous seriousness.

Prior to her time at the Department, she served as deputy at the State Justice Institute, where she oversaw the development of judicial education and training initiatives. She has a bachelor's from the University of Massachusetts at Amherst.

Please go ahead, Ms. Pierce, and thank you for being here.

STATEMENT OF CATHERINE PIERCE, ACTING DIRECTOR, OFFICE ON VIOLENCE AGAINST WOMEN, U.S. DEPARTMENT OF JUSTICE

Ms. PIERCE. Thank you, Chairman Leahy and Ranking Member Sessions and members of the Committee, for the opportunity to speak with you today. As you said, my name is Catherine Pierce, and I am the Acting Director of the Department of Justice's Office on Violence Against Women. I am here today to discuss both the remarkable progress made since the Violence Against Women Act was enacted almost 15 years ago and the challenges ahead.

I want to personally thank the Chairman and Committee staff for working so closely with the Department on S. 327, the Improv-

ing Assistance to Domestic and Sexual Violence Victims of 2009. This bill contains a number of much needed amendments to improve VAWA's grant programs.

Every day, VAWA funding makes a difference in how communities across America assist and protect victims. OVW's 19 grant programs provide funding to States, local governments, tribal governments, and nonprofit organizations to assist communities, encouraging them to develop innovative strategies to respond to violence against women.

We are grateful to Congress for reauthorizing VAWA in 2005 and expanding our ability to respond to all victims of violence against women, including victims of sexual assault.

We are pleased to report that this year, for the first time, OVW will make awards under the new Sexual Assault Services Program to support essential services provided by rape crisis centers throughout the Nation.

OVW has increased its efforts to respond to the serious crime of stalking. In January of this year, the Department released a special report which confirms what the field has long known: Stalking is pervasive, women are at higher risk of being stalked, and there is a dangerous intersection between stalking and more violent crimes.

As the Nation's understanding of domestic violence, sexual assault, and stalking has increased, so, too, has our awareness that these forms of violence affect all age groups and that violence within relationships often tragically begins during adolescence.

In addition, with the reauthorization of VAWA 2005, Congress directed OVW to take new steps to address the critical problem of violence against Indian women. The Department appointed a Deputy Director for Tribal Affairs for OVW, established a Federal Advisory Committee to provide recommendations on a program of research, and instituted annual tribal consultations to learn how the Department can improve its response to these crimes.

While we are rightly proud of our accomplishments, we recognize that there is still much to do. Looking forward, the office will focus on a number of areas where greater effort is needed. For example, over the years we have learned that law enforcement officers, prosecutors, and judges alike work with victim advocates to use their distinct roles to create coordinated community responses to violence against women. While this approach has been important to our efforts, we recognize that we cannot rely solely on the criminal justice system to end violence against women and that, to be effective, local responses must be informed by the voices and experiences of survivors, and also diverse representatives of the community. While VAWA has made a tremendous difference in the lives of many, we recognize that we have also left many women behind, particularly women of color.

In the months and years to come, we will engage in efforts that place accountability for the safety of women and girls on the community as a whole. I am constantly inspired by the extraordinary commitment of the women and men who have devoted their lives to ending violence against women. But our lives have most been changed by survivors, women like Gabrielle Union and Ann Burke,

who have experienced the unthinkable and who have the courage to tell their stories to advocate for change.

I was compelled to commit my life to this work over 15 years ago when I read the story of Kristin Lardner. Like one of my own daughters, Kristin was an art student with her entire life ahead of her. She was dating a man who became abusive. She broke up with him after he seriously beat her, and even then tried to help him get counseling. His response was to threaten and stalk her.

Kristin successfully obtained a protection order against him, but he did not comply, came to her workplace, and insisted that she continue to see him. When she refused, he shot her in the head and then returned a few minutes later to shoot her twice more. He went back to his own apartment and committed suicide.

The man who murdered Kristin had a three-page arrest record, was convicted of multiple offenses, was the subject of multiple restraining orders, and was on probation for repeatedly assaulting and abusing women. At the time of Kristin's murder, he had violated the terms of his probation in another jurisdiction and should well have been in jail.

I learned about Kristin because her father, George Lardner, a reporter, investigated his own daughter's death and wrote a series of articles which won him the Pulitzer Prize. While this story changed my life, and perhaps many others, it did not bring Kristin back. Every day, stories about similar homicides, rape, domestic violence, and stalking remain in our headline. This is unacceptable. We have much, much more to do.

Thank you, Mr. Chairman, Ranking Member Sessions, and members of the Committee, for your commitment, your ongoing commitment to this issue and your time this morning. I would be very happy to answer your questions.

[The prepared statement of Ms. Pierce appears as a submission for the record.]

Chairman LEAHY. Thank you, and thank you for mentioning George Lardner's writing on that. I remember being gripped by that and wondering—one, it was very important he wrote it, but I can only imagine how difficult that must be for a parent to write something like that. I have three children of my own and now grandchildren. I can only imagine how that must tear one apart.

We have a serious economic crisis in this country, Ms. Pierce. Has that affected, increased or decreased or in any way affected the need for the services that we have in VAWA?

Ms. PIERCE. I think it has, but I think I would like to state sort of unequivocally that unemployment is one of many factors that, in combination, can lead to an escalation in violence. We know from the research that Dr. Jacqueline Campbell has done that there are other things that happen in combination with unemployment and abusers threaten to kill her or her children, a woman or her children, or to harm them: threats to commit suicide, forced sex, and, most importantly, the presence of a gun. So these are additional factors that we always need to look for and that unemployment alone really is not the cause.

I think I should also state that we know that shelters help women avoid that kind of abuse during situations where their partner or their husband may be unemployed, but also what is helpful

is when judges know that they should issue a protection order and when guns should be removed from the home.

Chairman LEAHY. We put extra money in the Recovery Act for VAWA. Has that money started going out yet? Is it having any effect?

Ms. PIERCE. I am glad you asked that question.

Chairman LEAHY. I thought you might be.

[Laughter.]

Ms. PIERCE. We have announced 46 formula awards to the States totaling more than $120 million. Those awards have been made, and this week 29 State coalition awards totaling more than $2.5 million have been made.

Also, sometime around the middle of July, we will have made awards through our transitional housing program. We received 567 applications for Recovery Act transitional housing relief, and we will be able to really support only about 20 percent of those. So there is a tremendous need.

Similarly, we received 91 applications from tribal governments and will only be able to fund about a third of those.

Chairman LEAHY. You know, times change. I was mentioning to others earlier, when I was a prosecutor we did not have any of these programs, and we had to kind of make them up as we went along and fortunately had a lot of very dedicated people who contributed everything from housing on through. In fact, on occasion, my wife and I would provide that. But we have done a lot more than decades ago, but are there needs currently unmet for victims of domestic violence, sexual assault, dating violence, stalking? Are there things that we should be doing? Are there things that we could be doing at the Federal Government level? Obviously, the State governments have their own programs, but are things that we should be doing?

Ms. PIERCE. I think we really do need to enhance our response to sexual assault services, and we will be looking very specifically at the need for enhanced sexual assault services in rural America, in particular. We are very concerned about custody issues in domestic violence cases, and we will be looking very closely at why women are losing custody of their children either to the courts or through the States to the child protection system.

We are also going to be looking very closely at the problem of children exposed to violence, and we know that children are safer when their mothers are safer, and that that safety is inextricably linked.

The other thing, as I alluded to in my testimony, that is of great concern to us is that we begin to focus our efforts on homicide prevention more so than we ever have before, and that we use research to inform our practice and we use practice to inform our research.

Chairman LEAHY. I do not mean this as an either/or thing, by any means, but thank you for mentioning rural areas because, again, it is sometimes neglected. You also mentioned tribal issues. There has been a concern about the lack of communication between U.S. Attorney's Offices and Indian tribes regarding declinations, when a U.S. Attorney decides not to bring charges.

Can anything be done about that? We do not have that situation in my State of Vermont, but I have talked to a number of the Western Senators of both parties who are concerned about it. Is there some way that we can get more timely information to tribal officials when they decline prosecutions?

Ms. PIERCE. Well, our office is responsible for providing direct funding to tribal governments and to tribal coalitions. Our mission is to make sure that we are providing victim services to Alaska Native villages and to different tribes in Indian country. So I would have to say that the mission of our office is not related to the prosecution of those crimes with the U.S. Attorneys.

Chairman LEAHY. But would you suggest that there is some way of getting better—do we need better communication?

Ms. PIERCE. Well, I was about to say, I mean, there is always room for better communication and better coordination within the Department and across Federal agencies, and we are very committed to enhancing that in the future as well.

Chairman LEAHY. I may make a few suggestions to the Attorney General and others to make sure that that is done.

Senator Sessions.

Senator SESSIONS. Well, thank you. You asked, Mr. Chairman—or began our discussion, I think, about what our new challenges are and what our studies are showing and how we can get that information out to local law enforcement. I remember our former colleague Fred Thompson used to say that the most valuable thing the Department of Justice can do is to do the good research that helps individual police departments and prosecutorial offices make the right decisions.

You mentioned some of the studies that you have ongoing. Are you satisfied that the VAWA office and the Department of Justice programs are identifying in a very practical way the kind of protocols and procedures that would be most effective for a law enforcement agency of a mid-sized city, let us say, a police department, that they are getting the kind of guidance that helps them establish the very best protocols for success?

Ms. PIERCE. Thank you for asking that. I think yes, the answer is yes. With the help of some national law enforcement organizations, we have been able to develop what I think are clear protocol and practices, and you should be aware that we are also going to be updating what we call a manual on promising practices. We will be looking at law enforcement. And I think the thing for us to remember is that, you know, since the VAWA was passed, we have a whole new generation of police officers and prosecutors who need to be educated on those very promising practices and protocol that you have mentioned. And we do not need to go back and reinvent the wheel. We have done some significant work in that area, and what we need to do is to continue to educate.

Senator SESSIONS. Well you gave the story about Kristin, and that is such a powerful story. I guess my question is: Could that stalker have been identified earlier? Do we have any kind of identifying characteristics that say this is an abusive person, but this was an abusive person who could become homicidal and dangerous? The average prosecutor and judge and police department, do they

know what these are? And are they making the right identifications of the most dangerous people?

Ms. PIERCE. Again, thank you for raising that. I think we do have those indicators. I think we have that knowledge. I mentioned some of what those indicators were, and in the case of Kristin Lardner, I think a lot of those indicators were present. She did everything right——

Senator SESSIONS. What are some—that is right.

Ms. PIERCE. Well, in her case, I mean, she went to get a protection order.

Senator SESSIONS. She sought a protective order and got it.

Ms. PIERCE. But the problem was that, as I understand it, she got a protection order in Boston, and he had been arrested in other jurisdictions and across States lines, in New York. And so we need, obviously, data bases that speak to one another, and it would be great if every judge were able to pull up that information while on the bench. And that is something that we need to continue to do.

But in lieu of that, I think that our judicial institutes that we support, the Leadership Institute for Chiefs of Police that we support, and the Prosecutors Resource Center that we support, are ways of getting that information out. We have the information, and we need to get it in the hands of local practitioners.

Senator SESSIONS. I really think that is true. But just because you do a study and issue a report in Washington does not mean that a busy prosecutor or a busy judge has the opportunity to study it. And I do not know how we—and I assume there are some disputes about what the best protocols are on various type circumstances. But I would assume there are some areas in which there is virtual uniformity of agreement that under these circumstances this represents a real danger, and strong action should be taken. Would you agree?

Ms. PIERCE. I entirely agree with you. And, again, I think it is our responsibility to reach out——

Senator SESSIONS. Have you thought about how to make sure that information is more widely spread? Do we have effective enough programs to get that information out?

Ms. PIERCE. I think we do. I think we need to continually reach out to prosecutor coordinators and to, you know, national associations that can provide us with lists of prosecutors whom we can go to and say, "Please, we have this training. We are making it available with VAWA funding." And, actually, I think we have been quite successful in doing that. But we can always do better, and we continue to try to enhance, as you said, those data bases of judges, prosecutors, and law enforcement officers in every State.

I have to say we have created, as a result of those educational programs, dedicated units like in Minneapolis and St. Paul and other parts of the country.

Senator SESSIONS. I think that virtually every community has more specialized units, Penelope Houses, protective houses for women and children who have been abused.

Ms. PIERCE. Yes.

Senator SESSIONS. I am real pleased by that, but I just would say continue the good research, continue to get the information out so it can be utilized, and we will have fewer of these cases like Kris-

tin. It is my personal view that a lot of individuals, unfortunately, are very dangerous, and the number of people who would actually kill somebody or stalk somebody consistently or sexually assault somebody is not that large in this country. If they are properly identified, some of them need to be detained and locked up for the offenses they commit, and that will perhaps prevent offenses in the future.

Thank you, Mr. Chairman.

Chairman LEAHY. Thank you very much, Senator Sessions.

Senator Klobuchar.

Senator KLOBUCHAR. Thank you very much, Mr. Chairman.

Ms. Pierce, I always thought that one of the real beauties of VAWA is how it tried to encourage community-based responses and getting groups involved. And the way I see this, I will just tell our own experience of how this worked. We actually got our hospital involved so that we had victim witness advocates accessible to people when things were discovered. They were part of the community response. We actually started a post-review process for cases where the thought was something might have gone bad, or maybe something did not go back, kind of like they do in surgery after a hospital looks at all their errors to figure out what went wrong. And we did it not publicly, but we got all the partners together to figure out what went wrong, and sometimes they were little things of, you know, some police department not answering a phone call or someone not checking one kind of computer system. And we were able to do a better job because we did those reviews.

Do you want to talk a little bit about that coordinated community response, how you think it could be improved and how it has contributed to the value of VAWA?

Ms. PIERCE. Definitely, and also let me say I did visit your office and saw what an extraordinary job you all were doing several years ago and continue to do, so I thank you for that.

As I alluded to in my comments, I think that coordinated community responses will only be strengthened when we begin to turn to the communities, particularly the diverse communities, who we are charged with responding to. And I think that we have not done a good enough job of listening to the voices of survivors.

But you alluded to something I would think has been an extraordinary and an excellent tool, which is the safety audits that were developed by one of our grantees. It is a tool that can be used to pull a coordinated community response together by looking at cases and figuring out where women fall through the cracks and who could have done a better job, without blaming or shaming or pointing the finger. To me, that has been one of the most useful tools that we have had.

The other issue is, I think, for prosecutors, judges, and law enforcement officers to work with advocates in balance and to listen to advocates and survivors. I cannot underscore it enough.

Senator KLOBUCHAR. Right. One of the things I know was always frustrating for some of our prosecutors and the victims was just the enforcement of protection orders across jurisdictional boundaries, and I know that you have been looking into that. Part of your testimony was about that. Could you talk about what you think we could do better with that?

Ms. PIERCE. Well, I think as I said earlier, if we could begin to develop data bases that were more reliable for prosecutors, for judges, for law enforcement, I think that would make an enormous difference.

Senator KLOBUCHAR. Another thing—just thinking of my list of things that if my victims were here they would want to ask—was just the rape kits, and I believe that the Violence Against Women Act prohibits grantee jurisdictions from charging victims of sexual assault for the cost of collecting and processing their rape kit. There are many jurisdictions, however, where the victim still ends up paying the price, either because a State does not compensate the victims for the full cost of the kit or because victims are expected to pay the cost themselves and have States reimburse them after the fact.

Should we be taking more steps up front to ensure that no one has to pay for the rape kit?

Ms. PIERCE. Absolutely, unequivocally.

Senator KLOBUCHAR. Well, it is a growing——

Chairman LEAHY. Good. I would have been upset if you had answered the other way.

[Laughter.]

Senator KLOBUCHAR. I am not making this up.

Ms. PIERCE. No. I know.

Senator KLOBUCHAR. It happens all the time, and in our State there were proposals to do this. So I know that it happens all the time. I think people would be surprised if they knew the facts.

Last year, it was discovered that Los Angeles County has the largest backlog of untested rape kits of any jurisdiction in the country, almost 13,000 untested kits as of last summer. And even if L.A. County is the worst offender, it is really a national problem. The National Institute of Justice at one point estimated that there were approximately 400,000 untested kits nationwide. So as we look at this reauthorization, is this something we should be looking at as well?

Ms. PIERCE. Yes, and I think that we need to be looking at ways that our office can coordinate more effectively with other parts of the Department to make sure that this backlog gets addressed across the country.

Senator KLOBUCHAR. All right. Thank you very much. We appreciate your work.

Ms. PIERCE. Thank you.

Chairman LEAHY. Thank you very much.

Did you have a follow-up question you wanted to ask?

Senator SESSIONS. Just one, if I could. What do you think about the requirement in 2005 Congress created a funding incentive to cause States to test rapists, the perpetrators, for HIV within 48 hours, I believe, after arrest? Is that being effectively done? Do you think that is a good policy that every State should test sexual perpetrators for HIV?

Ms. PIERCE. Well, we definitely believe that women who have been exposed to HIV certainly have the right to request that the offender be tested. But as we all know, those of us who have worked in the criminal justice system for years, it is not always so that the offender is apprehended within 48 hours or so. So what

we are focused on is being able to provide the victim with the alternative to receive counseling about prophylaxis herself. Our focus is on her. And what we have learned is that about 84 percent of State and local governments who receive funding through the grant program that you are referring to, the grants to encourage arrest program, are unable to meet that requirement.

So what we want to do is to——

Senator SESSIONS. Why are they unable?

Ms. PIERCE. It could be any number of reasons, but not the least of which is that the offender is not always available within that period of time.

Senator SESSIONS. Well, that is obvious. They cannot do it if they are not arrested. But for those who are arrested, I do not know why that would not be just a standard protocol and why we would not support that.

Ms. PIERCE. Well, I think it is about giving the offender—excuse me. It is about giving the victim an alternative. We need to have—yes, we need to test as we can——

Senator SESSIONS. What information do you have that every department should test a rapist for HIV?

Ms. PIERCE. I do not.

Senator SESSIONS. Okay. Well, we have got a law that says it. You are changing the subject on me. I just do not understand what the hesitation——

Ms. PIERCE. No, no, no. I am just saying that victims, where that offender is not available, we need to give the victim——

Senator SESSIONS. Okay. I agree.

Ms. PIERCE. We need to put our focus on the victim and provide an alternative for her.

Senator SESSIONS. Thank you.

Chairman LEAHY. Thank you.

Senator Klobuchar, do you have any follow-up?

Senator KLOBUCHAR. No. Thank you.

Chairman LEAHY. Thank you very much, Ms. Pierce. Thank you for being here, and thank you for the emphasis you put on this.

Ms. PIERCE. Thank you very much. Thank you for all of your work. We appreciate it so much.

Chairman LEAHY. We are in this one together.

Chairman LEAHY. We will call up the next panel.

Thank you all for being here. We are going to start with Gabrielle Union, an accomplished actress, made frequent appearances on television and in more than 20 films. When she is not acting, she serves as Ambassador for the Susan G. Komen for the Cure, an organization supporting breast cancer research. My wife and I have been on not the run but the fast walk for the cure.

[Laughter.]

Chairman LEAHY. She is an advocate for victims of sexual assault. She is a graduate of UCLA where she received a bachelor's in sociology.

Ms. Union, please go ahead.

STATEMENT OF GABRIELLE UNION, ACTOR AND ADVOCATE, BEVERLY HILLS, CALIFORNIA

Ms. UNION. First, I would just like us all to join together and say the words "sexual assault." All together now: "Sexual Assault." It is a little crazy that sometimes if we cannot even say the words, we cannot effectively begin to deal with the problem. So a brief back story.

At 19 years old, I got a summertime job, like a lot of us, and while I was at work one night, a man came into the store, robbed the store, and during the course of the robbery, decided to rape me. During the course of the rape, he very calmly put the gun down that he had been holding to my head and said, "Do you mind handing me the gun?" And at that point I did my best Starsky and Hutch and I fell on my back, I popped the clip in, and I tried to kill him. And I missed, and we began to tussle, and he beat me beyond recognition.

Luckily enough, I was—and I hate to say this. It really makes me sick to have to say that I had the privilege of being raped in a wealthy community. The police arrived within minutes. It is a police department that was adequately funded and staffed. They immediately took my statement. They were well trained. We immediately went to the rape crisis center, where they took my rape kit, and I was able to start the path from rape victim to rape survivor.

I cannot say enough about the difference it made that I was raped in a wealthy community, with an adequately funded and staffed rape crisis center. I immediately began to get the treatment that I needed. Within days, my rape kit was tested and analyzed, and within a few days after that, my rapist was apprehended, and within a few months he took a plea, and I had my justice. It is rare. It does not happen. And I just cannot say enough about the need for adequately funded and staffed rape crisis centers throughout the United States. I work very closely with law enforcement, and what they always say is, "We do not have the time or the resources to help get a rape victim between victim and survivor. Rape victims, they say, make terrible witnesses. Rape survivors are amazing and effective to help us get rapists off the street.

So if you kind of want to bottom-line it, having adequately funded rape crisis centers helps get rapists off the streets. I have to reiterate that rapists do not go away at the end of the day to Rape Land where, you know, we like to think they go. They live next door to us. They are raping our mothers, our sisters, our daughters, our grandparents. They do not magically disappear. We have to help law enforcement get them off the streets. We have to be advocates for the victims to help them become survivors and lead happy, productive lives. And it starts with adequate funding.

To tell a brief story, I was in Africa and I was sitting at the bar, and there was an image of Paris Hilton and her little dog that came on TV. And it got the bar all, you know, riled up, and they started telling these jokes. And this man said, you know, "Silly American, you care more about your pets than you do about your people. They will spend tons of money to put a man away for abusing a dog, but they do not care if you beat your wife. So if you are ever in America, when in doubt, beat your wife and not your dog. You will not go to jail."

And I just want to say we have to make human beings a priority. We have to make our women and our children a priority and keeping them safe a priority, and it starts with adequately funding these programs with domestic violence programs and sexual assault programs.

It has become a sad reality that when I go to Third World countries to speak to women and give them, you know, the "just hang in there" speech, I found that I have to give the exact same speech to women in America. In Third World countries, we do not have an expectation of, you know, criminal justice. There is no justice in those countries. There is no chance for, you know, therapy and handholding. And I am finding that I have to give the same exact speech to girls and women in America. We are supposed to be better than that, and we are not. And we have to do better.

Thank you.

[The prepared statement of Ms. Union appears as a submission for the record.]

Chairman LEAHY. Thank you.

Karen Tronsgard-Scott has been the Director of the Vermont Network Against Domestic Violence and Sexual Assault since 2007, and I would note that my office and I have worked with her a lot during that time. Before she came to Vermont, she had worked with various victims services groups in Ohio for 15 years. She received her bachelor's degree from Bowling Green State University, her master's degree from Ohio University. She currently lives in Hinesburg, Vermont, where the head of my Vermont office lives. The Vermont Network that she leads is a member coalition of the National Network to End Domestic Violence, and I would like to thank President Sue Else and members of the board and staff who worked tirelessly on behalf of everybody here and please, when you go back, give my thanks. And I think it would be fair to say give ourselves thanks, too.

Go ahead.

STATEMENT OF KAREN TRONSGARD-SCOTT, DIRECTOR, VERMONT NETWORK AGAINST DOMESTIC AND SEXUAL VIOLENCE, MONTPELIER, VERMONT

Ms. TRONSGARD-SCOTT. Chairman Leahy, Ranking Member Sessions, and distinguished members of the Committee, thank you for the opportunity to discuss the success of the Violence Against Women Act, or VAWA, and the importance of reauthorizing it in 2011. The Vermont Network Against Domestic and Sexual Violence is a statewide coalition of domestic and sexual violence programs, and our 15 member programs are located throughout the State and provide lifesaving services to victims and their families. VAWA-funded programs like these are a critical part of our work in Vermont and across the country, and I am here today to discuss the success of VAWA programs and the need to sustain and strengthen VAWA with its upcoming reauthorization in 2011.

The crime of domestic violence is pervasive and life-threatening. In total, one in four women will experience domestic violence in her lifetime. One in six women and one in 33 men have experienced an attempted or completed rape. Of course, the most heinous of these crimes is murder. And in 2005 alone, 1,181 women were murdered

by an intimate partner in the United States. Even in one of our Nation's safest States, Vermont, there were seven domestic violence-related homicides and an additional three domestic violence-related suicides in just 1 week in 2007.

Additionally, the cycle of intergenerational violence is perpetuated as children witness violence. Approximately 15.5 million kids are exposed to domestic violence every year.

In addition to the terrible cost domestic violence and sexual violence have on the lives of individual victims and their families, these crimes cost taxpayers and communities. However, in addition to saving and rebuilding lives, VAWA actually saved taxpayers $14.8 billion in net averted social costs in its first 6 years alone. VAWA was not only the right thing to do; it was also fiscally sound legislation.

VAWA has unquestionably improved the national response to domestic and sexual violence. Since VAWA passed in 1994, States have passed more than 660 laws to combat domestic violence, sexual assault, and stalking. The rate of non-fatal intimate partner violence against women has decreased by 63 percent. Remarkably, the number of individuals killed by an intimate partner has decreased by 24 percent for women and 48 percent for men.

My written testimony details the impact of VAWA grants, including Transitional Housing grants, Legal Assistance to Victims grants, grants to encourage arrest and enforce Protection orders. Each of these grant funds has created systems through which adults and children can find paths to safer, peace-filled lives.

But in my 15 years working to end violence against women, I have had a firsthand view of the impact of VAWA, and I would like to highlight three VAWA programs.

Through the STOP Grants program, VAWA has helped to educate an entire generation of law enforcement officers, prosecutors, and judges about violence against women. STOP Grants help State, local, and tribal governments to strengthen effective law enforcement and prosecution strategies, and to develop and strengthen victims services in cases involving violent crimes against women. And I can personally attest to the results of a study performed by the Urban Institute which said STOP Grants have ensured that victims are safer, better supported by their communities, and treated more uniformly and sensitively by first response workers.

VAWA Rural Grants allow jurisdictions to develop and implement programs that address the specific barriers faced by victims in rural areas. In Vermont, our statewide Rural Grant program has created an innovative, specialized domestic violence unit within the Department for Children and Families, which now reviews 100 percent of intake child abuse and neglect cases where domestic violence may be present, ensuring that children and their non-offending parents get the supports they need.

For the first time, in fiscal year 2008, the Sexual Assault Victims Service Program, or SASP, was funded and will begin to meet the extreme needs of victims of sexual assault. The continuation and expansion of these funds is critical to the creation of services and collaborative relationships that will result in safer communities.

Due to the overwhelming success of VAWA-funded programs, more and more victims are coming forward each year. However,

this rising demand for services, without concurrent increases in funding, means that many desperate victims are turned away from life-saving services.

Mr. Chairman, you noted that in just 1 day nearly 9,000 requests for services went unmet across the country due to a lack of resources. Services for sexual assault victims are even more scarce and underfunded: with only 1,315 rape crisis centers nationwide, women, children, and men are on waiting lists to receive treatment and therapy after a sexual assault.

The Violence Against Women Act is working, but the job is not done. Although VAWA has done much to create systems that help victims and survivors, so much more is needed. We must strengthen VAWA so that it can work for all victims of domestic and sexual violence. Whether they live in rural or urban areas, whether they are children or elderly victims, whether they speak English or another language, every victim deserves the chance to live a peace-filled life. Congress has a unique opportunity to make a difference in the lives of so many by reauthorizing the Violence Against Women Act with key and strategic improvements.

Thank you, Chairman Leahy, Ranking Member Sessions, and the distinguished members of the Committee, for all you have done and all you will do to help victims of domestic violence and sexual assault.

Thank you.

[The prepared statement of Ms. Tronsgard-Scott appears as a submission for the record.]

Chairman LEAHY. Thank you very much.

Ann Burke is our next witness, and I think, Senator Whitehouse, you wanted to say something about Ms. Burke. Of course, having been married to a registered nurse for 47 years, I am delighted to have you here, although I am sorry for the reason you are here.

Senator WHITEHOUSE. Thank you, Mr. Chairman. I just want to welcome Ms. Burke here as a fellow Rhode Islander. Rhode Island is a small State, and I do not think there is a person in the State who was not aware of the tragedy that befell her family and the terrible way in which her life changed when Lindsay was murdered by an ex-boyfriend at the age of 23.

We have also been very inspired by the way that Ann, as a teacher and a nurse, has taken what for many would be a disabling calamity in their life and turned it for as much good as one could possibly imagine that could be achieved out of such a tragedy. She has fought for, along with her husband, Chris, and obtained passage through the Rhode Island Legislature of the Lindsay Ann Burke Act, which requires programs in high school to support awareness of teen dating violence and support in the schools for those programs. She started the Lindsay Ann Burke Memorial Fund to provide support for those efforts, and she has co-founded a group called MADE, Moms and Dads for Education, to stop teen dating abuse, which is a parent support network for parents across the country to support healthy teen dating relationships and cope with the tragedies that still take place.

So she is somebody Rhode Island is very proud of. We have shared with her as much as the public can such a deeply private tragedy, and we have seen what wonderful success she has drawn

from that tragedy. So she is an inspiration to many of us, and I welcome her here today.

Chairman LEAHY. Thank you.

Ms. Burke, please go ahead.

STATEMENT OF ANN BURKE, RN, M.ED., PRESIDENT AND FOUNDER, LINDSAY ANN BURKE MEMORIAL FUND, SAUNDERSTOWN, RHODE ISLAND

Ms. BURKE. Chairman Leahy, Ranking Member Sessions, and distinguished members of the Committee, thank you for the opportunity to testify today on the importance of creating awareness on the issue of dating abuse and prevention education efforts. I appreciate the opportunity to share my daughter Lindsay's story and the positive legacy that has come from her loss.

My husband, Chris, is here today and, as Senator Whitehouse mentioned, we are members of MADE, Moms and Dads for Education to stop dating abuse, a group that we co-founded along with Liz Claiborne. We advocate nationally that all middle and high schools teach a dating violence curriculum.

Today, I would like to tell you about my lovely daughter, Lindsay. She could easily be described as "the girl next door." She grew up on a small street in the suburbs, knowing the neighbors, playing with all the children in the neighborhood. She had plenty of friends, took dance lessons, piano lessons, played soccer, tennis, and graduated from St. Mary's Academy and Rhode Island College with a degree in elementary and secondary education. Her many friends would often describe her as having a sweet and compassionate nature.

My daughter met her killer by chance at a wedding. In this 2-year relationship, her father and I noticed things in Lindsay that did not seem quite right, including a change in her personality, but we did not know the cause at first. As the police would later describe, it was a classic case of abuse and that every form of abuse—verbal, emotional, sexual, and physical—was used.

Let's not overlook the strong correlation between stalking and intimate-partner violence—intimate-partner murder, excuse me. Until after Lindsay's death, I did not know that 76 percent of women murdered by an intimate partner had been stalked by that intimate partner, but only about half of stalking victims recognized the crime for what it was. Lindsay was no exception. After Lindsay left the boyfriend for the third time and was living with my son and his wife, she got calls constantly from him, according to cell phone records, more than 20 hours a week worth of calls. She was fearful and anxious. Earlier, he had threatened to kill her.

She had the support of friends and family. Yet, after leaving him and trying to start a new life, Lindsay's life ended almost 4 years ago, when she was only 23 years old. The police statements and autopsy showed that she was brutally tortured and murdered by her ex-boyfriend. As Rhode Island Attorney General Patrick C. Lynch said after the sentencing, "I am hopeful that Lindsay's death will provide lessons for our teenagers that will prevent others from being victimized by dating violence."

After Lindsay's murder, I spent many painful months researching this topic. Given the alarming statistics for dating violence, I

began to wonder: Why don't we require educators to teach our children about the importance of healthy relationships and prevention of dating and domestic violence?

Over and over I asked myself, "If Lindsay was properly educated about this major health issue in health class, would she still be alive today?" I believe she would. I never learned about it while pursuing my degrees in nursing, secondary education, or my graduate degree in health education. As a result, in my 24 years of being a school nurse and health teacher in a middle school, I never addressed it with my students. I have since learned that my lack of education on this topic is more the norm in our country rather than the exception. As a teacher, I realized we have school policies for bullying and sexual harassment, and we teach our students and our staff about these issues. I strongly believed that the same needed to be done for dating violence.

I believe that if my daughter was taught about dating violence from middle through high school and if we as parents knew all the facts as well and reinforced this information at home, she would still be with us. Having known Lindsay, a confident and assertive young lady who always spoke her mind, who did not hesitate to change friends in high school when some of them started drinking alcohol, who did not hesitate to seek help from her guidance counselor when needed, and from the school principal when she thought something unfair was occurring, wouldn't she have been more careful about a safety plan and seeking proper help if she had heard about all of this before and had some frame of reference in her mind from prior learning? Knowing my daughter, I believe she would have been. And now we will never know for sure.

How many more daughters have to lose their lives at the hands of an abusive partner? How many more teens have to suffer in an abusive relationship, fearing for their lives, and yet afraid to tell anyone? The teen dating violence statistics are alarming. Teen dating violence is a major health problem that leads to other health problems: substance abuse, eating disorders, depression, suicide. Recent research has found a strong connection between violence among young people and poor reproductive health outcomes. A study published in the Journal of the American Medical Association found that one in three U.S. high school girls who has been abused by a boyfriend has become pregnant. By reducing dating violence, we can reduce unintended teen pregnancies. The psychological effects on its victims are also devastating—devastation I know all too well. Dating violence, the same as domestic violence, destroys and kills people. How can we ignore this major health problem any longer?

In 2006, my family founded the Lindsay Ann Burke Memorial Fund to address dating violence primarily through education. Through our workshops, we have trained 224 health teachers from 89 schools in Rhode Island. We have donated over $40,000 worth of curriculum to these schools, and through our workshops for general school staff we have trained well over 1,000 teachers so far.

More recently, Rhode Island legislators showed foresight and took a stand by passing the Lindsay Ann Burke Act with the support of Attorney General Patrick Lynch. Rhode Island now mandates annual dating violence education for students in grades 7

through 12 through our comprehensive health education curriculum, training in this topic for school staff in middle and high schools, a school district policy to address episodes of dating violence at school and at school events, and the law strongly recommends parent training.

Episodes of dating violence at school in Rhode Island will no longer be ignored. Teens, school staff, and parents will now get the education on this topic that they rightfully deserve. An interesting thing happens when you educate all three groups—teens, school staff, and parents—at the same time. Everyone begins to talk openly about this topic, removing the shame and stigma that now exists. This helps teen victims to come forward and seek help; it gives teens the knowledge and skills to help each other; and it helps parents to reinforce this information at home with their teens and watch for signs of unhealthy relationships. And abusers, once educated, may think twice about their own behavior and seek ways to change.

Since passage of the Lindsay Ann Burke Act in Rhode Island, we have gotten support from both the National Association of Attorneys General and the National Foundation for Women Legislators. They have partnered with us in our effort to support Lindsay's law and to pass dating violence education in all States. As a result of their efforts, several States have passed laws, with bills pending in other States. However, I want to point out that some have been watered down due to lack of funding for implementation.

Funding and leadership from the Federal level is needed for comprehensive dating violence education for all teens. The last VAWA bill created the STEP program—Supporting Teens through Education and Protection Act—that would support training in schools, but it has never received funding. This funding is exactly what States and school districts need to implement dating violence education laws.

And this is more critical in light of a survey released this morning by the Family Violence Prevention Fund and Liz Claiborne that says American teens are experiencing alarmingly high levels of abuse in their dating relationships. At the same time, the survey found parents are out of touch with the level of teen dating violence and abuse among their teens. The large majority of abused teens are not informing parents, and even when they do, most stay in abusive relationships. This highlights the need to start funding for STEP. To do anything less is selling our children short. We should not delay.

[The prepared statement of Ms. Burke appears as a submission for the record.]

Chairman LEAHY. Thank you very much.

Our next witness is Collene Campbell. She is the current National Chair of Force 100 and a sitting member of the National Institute of Corrections Advisory Board. She formerly served as mayor of the city of San Juan Capistrano, California. She has endured tragedy several times in her life: the murder of her son, the murder of her brother. Her experiences have made her a leading, widely respect victims rights advocate nationwide.

Ms. Campbell, thank you. I know this is not an easy thing, but I appreciate your being here.

STATEMENT OF COLLENE CAMPBELL, NATIONAL CHAIR, FORCE 100, SAN JUAN CAPISTRANO, CALIFORNIA

Ms. CAMPBELL. Thank you. Thank you so much, Mr. Chairman and Senators. Thank you for the opportunity to allow me to address you today. You are right. It is not easy, but it is worth it if it helps.

The Violence Against Women Act has been a very important addition to help strengthen our Nation's ability to assist women who are victims of terrible sexual acts and physical violence. However, that Act standing alone does not provide enough necessary means to address the crimes and their victims. Facing reality, our criminal justice system lacks due process and basic common sense. We certainly acknowledge resources alone are not sufficient to bring true justice, but they help?

There are huge issues in our justice system that have and will continue to affect hundreds and thousands of families just like mine. The sad truth is my family members and many others would be alive today if our justice system worked like it was intended to, like we planned for it to, like it should. But, instead, sadly, in our home our only son, brother, and sister-in-law are all dead, all murdered.

Chairman LEAHY. Take your time.

Ms. CAMPBELL. To adequately judge its importance for our Nation's decisionmakers—this makes me so mad because I am such a told old broad, and it makes me so mad because when I want to be really tough, I am not. And I know my husband is watching, and that really ticks me off.

[Laughter.]

Chairman LEAHY. Ms. Campbell, let me tell you, you are being as effective a witness as I have seen in 35 years. Don't let it bother you a bit.

Ms. CAMPBELL. God bless you. Thank you, sir.

But to adequately judge what is going on, it is important for you, our national decisionmakers, to try and personally identify with the tragedy of the crime and the truth and reality of what victims are forced to endure. It really stinks.

You have taken on the huge responsibility of the most important job in our Nation: the safety of our citizens. And it is critical to the American people that you fully understand the truth and what is going on.

We must have predictable sentencing and keep dangerous criminals behind bars. It is critical to have rapid access to DNA to save lives and save precious time for law enforcement and our crowded courts. It is also important to have victims present and heard at all proceedings. They know too much to keep them out of the courtroom.

I realize that it is more than important, and it is impossible in just a few moments to bring to you the real world of being a victim of crime. It is not a great thing, and by gosh, we have got to stop it.

For a quarter of a century without a break, my family has been through living hell. The hell was furnished firsthand by the killers, the criminals who should have remained in prison. Then more hell was distributed by the justice system. If our justice system had

worked properly, along with many others, my murdered family would be alive today.

In 1982, our only son, Scott, just disappeared from the face of the Earth. We frantically looked for him for 11 months. Two parolees had stolen his expensive sports car and decided if both the car and our son were missing, they would never get caught. The killers' statement to the undercover agent was, "We took him for an airplane ride, strangled him, and threw him into the Pacific Ocean where the sharks would eat him and he wouldn't be found."

Senators, what if the killers had been given three indeterminant life sentences and was released in only 4 years? The other killer was out on work furlough after killing somebody else.

You see, both of these criminals had been given another chance. They were given their chance. But, Senators, we never have another chance to see our son. But we are still going through the 8 years of our son's murderers' trial where we were excluded from the courtroom.

My only sibling, auto racing legend Mickey Thompson, and his wife, Trudy, were also murdered. It took another 19 years to get those killers convicted.

From the very beginning, I was certain who had killed Mickey and Trudy, and naturally, there were attempts on my life so they would not be brought to justice. However, let me tell you, Senators. I am the proud daughter of a wonderful man who was captain and chief of detectives in the Alhambra, California, Police Department. And at a young age, he taught my brother and me how to have courage and always do the right thing. And I am a hell of a good shot, by the way. Not too many victims have self-defense training and are able to survive a quarter of a century of murderers wanting to take them out because they are trying to bring justice.

I respectfully ask you to please place yourself in the decision that many of us have been forced to endure, and only then will you understand the best steps to take to provide for better safety for our citizens. And I thank you for allowing me to sit up here and slobber all over myself. And I guess it is because I flew most of the night and I am really tired, but I wanted to be here because I never want other people to have to endure what some of us have gone through.

Thank you, Senators.

[The prepared statement of Ms. Campbell appears as a submission for the record.]

Chairman LEAHY. Ms. Campbell, I am glad you took that flight. I am sorry for what you endured before that. You have four former prosecutors sitting on this panel here.

Ms. CAMPBELL. I know that. Bless you.

Chairman LEAHY. Senator Sessions, myself, Senator Klobuchar, and Senator Whitehouse. The things you have described should never happen to any victim. The crimes should not have happened in the first place. The delays and everything else after that never should have happened. We are trying in every way possible to get the resources, the training, the steps Ms. Burke has in her own—with the law in Rhode Island. I mean, these are—well, I think of the murder cases that I prosecuted, and 75 to 80 percent of them, had steps been taken earlier, they would have been avoided. There is nothing more tragic than being at a murder scene at 3 o'clock

in the morning, blue lights flashing, people sobbing, and to have the "if only" or the "what if" or the other things. So thank you for what you said. You put a human face on what so many of us have seen in the past. Thank you.

Ms. CAMPBELL. Thank you.

Chairman LEAHY. Sally Wells is the Chief Assistant to the Maricopa County Attorney in Phoenix. She helps to oversee an office of more than 350 attorneys, more than 900 support staff, and supervises the operation of the civil and prosecution divisions within the office. She has been an attorney in Maricopa County for 23 years. She received her bachelor's degree from the University of Virginia and her law degree from Arizona State University.

Ms. Wells, please go ahead.

STATEMENT OF SALLY WOLFGANG WELLS, CHIEF ASSISTANT, OFFICE OF THE MARICOPA COUNTY ATTORNEY, PHOENIX, ARIZONA

Ms. WELLS. Thank you, Mr. Chairman, members of the Committee. Thank you very much for allowing me the opportunity to present the views of the Maricopa County Attorney's Office concerning the continued importance of the Violence Against Women Act and more specifically, about the value of mandatory minimum sentencing for sexual assault and sexual abuse as well as prompt DNA and HIV testing in cases of sexual assault and sexual abuse.

The Maricopa County Attorney's Office is located in Phoenix, Arizona, and as you said, it employs more than 350 lawyers, prosecutors who prosecute more than 40,000 felonies a year. As a 23-year veteran of the office and as Chief Assistant, I have prosecuted domestic violence cases, sexual abuse cases, and I currently oversee the specialized bureaus that focus on prosecuting those crimes.

Sexual violence causes lasting trauma to victims beyond physical injury. In many cases, these crimes go unreported due to the fear and trauma associated with sexual violence—fear of retaliation from the offender and fear of public scrutiny. In our experience, it is not uncommon for a sexual offender who is finally caught to admit to other sexual assaults that were never reported. In a 2004 statewide study in Arizona, it was estimated that only 16 percent of all sexual assaults ever came to the attention of law enforcement.

With respect to the fear of public scrutiny, the value of education cannot be underestimated. The dissemination of accurate information about sexual offenders and their victims is essential to change public attitudes about these crimes so that victims do not suffer embarrassment or humiliation when they report sexual abuse. One message that should be clear in any statutory scheme and that should be part of any educational effort is that sexual violence is one of the most serious of crimes. The punishment associated with sexual violence should be commensurate with the damage that it inflicts. A mandatory minimum sentence of incarceration does send that message.

With respect to the fear of retaliation, victims suffering the physical and emotional trauma of sexual abuse and assault need to know they are safe from the person who hurt them. They need a time to heal. For at least some period of time, victims need to know

that the offender cannot return to inflict more pain or punish them for reporting the crime to authorities. A mandatory minimum sentence of incarceration sends that message.

Arizona's statutory scheme does send that message. Sexual assault is a class 2 felony, the second highest class felony. A person who is convicted of sexual assault in Arizona is not eligible for probation. A person convicted of sexual assault is exposed to a presumptive sentence of 7 years in prison. If mitigating factors exist, the sentence may be reduced to a minimum of 5.25 years in prison. And if aggravating factors are found, the sentence may be increased to 14 years in prison. In every case, a victim may expect the offender to be in prison for at least 5 years, and that 5-year window of safety not only encourages reporting and participation in court proceedings, it also gives the victim time to heal without fear of retaliation.

In 2005, Arizona moved away from classifying sexual assault of a spouse as a lesser crime than sexual assault. As part of that debate, I was asked by the legislature to provide some information about the effect such a change might have on reporting. Some of our legislators were concerned that the higher penalties associated with sexual assault might discourage reporting. In looking at the past reported cases, the crime of sexual assault of a spouse was often accompanied by more serious offenses, like kidnaping, which is a class 2 felony, or aggravated assault, a class 3 felony. The belief that a lower penalty would encourage reporting for sexual assault of a spouse—or, if you want, that a higher penalty would discourage reporting—was not supported by the evidence.

Another important component in dealing with the crimes of sexual assault and sexual abuse is biological testing. Along with the need to know that they are safe from any diseases that offenders may have transmitted to them, they need the assurance that they are safe from those diseases. There are several arguments for early biological testing of suspects. And although I am not a medical expert, prosecutors generally accept that if a victim reports significant exposure during a sexual assault within 72 hours of the assault, doctors can prescribe a 28-day regimen that will help the victim and help prevent the contraction of HIV. The sooner this regimen is begun, the more effective it is.

The medication to prevent HIV infection is expensive, and it may cause serious side effects. Victims who do not know whether the attacker had HIV are forced to choose between the risk of HIV infection and the risk of side effects associated with the prophylactic treatment. Those side effects could include liver enlargement or bone marrow suppression. Information from prompt offender testing would alleviate the uncertainty in making that choice. Information that the offender did not have HIV would allow the victim to feel safe and begin to heal.

In addition to biological testing to ensure the safety of the victim, another kind of testing plays a vital role in the investigation and prosecution of these crimes. DNA testing of the suspects ensures that suspects are identified as early as possible. As I mentioned before, many sexual assaults by the same suspect go unreported. Others are reported but the suspects are unknown. Sexual offenses are often repetitive crimes. The ability to link these crimes to specific

individuals early and to specific geographic areas helps law enforcement to put an end to serial offenses sooner.

Sexual offenders are often linked to other types of crimes like burglary, criminal trespass, or other types of felonies. DNA evidence is important to create an accurate criminal history for suspects. It also eliminates suspects so that law enforcement resources are not wasted.

DNA sampling and testing also brings relief to victims who have lived for years——

Chairman LEAHY. Ms. Wells, I am sorry to interrupt. We will put the rest of your statement in the record. There is going to be a roll call vote very soon, and I am trying to make sure that we all have a chance for questions.

Incidentally, when you were talking about the HIV testing, you probably noticed Senator Sessions and I whispering to each other. This is something we both strongly believe in, not only for being able to go on the regimen of medication that you talked about, but to be able to avoid it if it is unnecessary and for the peace of mind. Lord knows there is enough things that are going through a victim's mind to begin with, but that is one that might be eliminated.

[The prepared statement of Ms. Wells appears as a submission for the record.]

Chairman LEAHY. Ms. Union, your story—and I am sure it is painful to tell, but if you could talk about the effect, and it should be heard. Go into a little bit more about what you said in your statement that fortunately you were in a community that could afford to do the right things. How important is that, not just the things that might help catch the perpetrator, but I think you are referring also to the counseling that goes along with that? Do you want to elaborate on that a little bit, please?

Ms. UNION. Definitely. The main difference in a wealthy community like the one I was raped in is that the system kicks in immediately. The rape crisis center is well staffed, so that means whether it was me or someone who speaks Spanish or Tagalog or Cantonese or Mandarin, there would have been someone there who could have translated, which is different if you are in an ethnic enclave community where that rape crisis center might not have a translator. Rural communities also suffer from the same sort of thing, crimes that happen on Native American reservations, urban communities, they do not have the same access to translators, to therapists, to counselors. A lot of States do not even offer free HIV and STD testing. That was covered.

As much as I would love to test all the suspects, I am a little bit more concerned about the victims. So I would rather prioritize that money to offer free testing for HIV and STDs for victims immediately. That is what happened to me, but I was also raped in a very wealthy community that could afford to do that.

It is those kinds of differences that took me from rape victim to rape survivor, and I was able to be an active participant in the criminal justice system that allowed me to help apprehend the suspect in a timely fashion. It was not within 48 hours, so that would not have really helped in my case, but in a timely fashion, it helped, you know, get him off the streets. And without the funding for rape crisis centers in all communities, you sort of create a par-

allel universe of justice where only, you know, a few, specifically who are raped in wealthier communities, are going to get the justice and the treatment.

So it is great to have somebody behind bars, but if you cannot get on your path of recovery and reclaiming your dignity and your integrity and getting your mental health issues in check, you have been left as a shell of a person. And it is very important to have those rape crisis centers, you know, well staffed and well funded and properly trained.

Chairman LEAHY. Let me follow up on that with Ms. Tronsgard-Scott. I live in a town of 1,500 people. It is rural enough, I live on a dirt road, and my nearest neighbor is half a mile away. Not unusual in parts of Vermont, not unusual in parts of California. Rural California can make rural Vermont look like an urban area. What about in those areas? If something happens in a very small town in Vermont or a very small town in California, what is available? I would assume not what Ms. Union had available to her.

Ms. TRONSGARD-SCOTT. Well, I would think that is a very accurate description of rural Vermont and probably rural areas throughout the country, Chairman Leahy. You know, the reality of being a victim of domestic violence or sexual assault in a rural area is that help is sometimes miles and miles away. There are certainly barriers to finding transportation. Also, in Vermont, our rural communities are small communities, and one of the things we love about living in a small community is it is very tightly knit. People know each other. They are often related to each other. But this also can create a situation where victims feel that they cannot come forward because of the relationships that they have with the people living around them.

I have talked to many victims who have been living in rural communities in both Vermont and in Ohio, where the law enforcement person in their town was actually the brother of their perpetrator. And so there are real problems for victims living in rural communities because of the nature of the towns and outlying areas where they live.

The other factor, you know, is that in domestic violence in particular, victims are often isolated by their perpetrators in many ways. They are isolated socially from their families and their friends. They are isolated economically from jobs and access to family assets. But in rural areas, they are isolated geographically. They may live in very, very rural circumstances. I have certainly had the experience of visiting victims of domestic violence and having driven through creeks to get to the place where I was meeting them.

So rural conditions are incredibly difficult for victims and offer—the challenges are huge.

Chairman LEAHY. Thank you. My time is up, but I want to say, Ms. Burke, the Lindsay Ann Burke Act, I agree with Senator Whitehouse, is a great achievement, the education that is necessary.

Ms. BURKE. Thank you, Senator. I appreciate that.

Chairman LEAHY. It would have been very easy for you and your husband to just say that is it, we have had a tragedy, we are shutting off the rest of the world. But, instead, you are helping people.

And, Ms. Campbell, you were married in 1951. I was married in 1962. It does not seem that long ago anymore. But I also want to applaud the bravery of both you and your husband. Again, these are all things where it would be so easy to just run away and not refer to it anymore. Instead, you have been very helpful to this Committee, and that is extremely important.

Ms. CAMPBELL. Senator, I appreciate your thoughtfulness and your kindness. It means a lot. You are very special. You always have been.

Chairman LEAHY. Thank you very much. And, Ms. Wells, thank you for being here. I am going to turn over the questioning to Senator Sessions, and I am going to turn the gavel over to Senator Klobuchar.

Senator SESSIONS. Ms. Wells, Ms. Campbell described individuals, murderers, who had previous records that she rightly believes should have been in jail and not able to commit these kind of crimes again. Let us pursue that a little bit. You are a professional, and you have been at this a long time. And I have come to believe that mathematics is a factor in all of this, that there are just not that many people that sexually assault women. And there are a certain numbers of those that are repeat offenders who are exceedingly dangerous.

Just from a purely public safety point of view, is it important we identify those persons early, and that they be incarcerated in order to protect the people of this country from this kind of violence?

Ms. WELLS. Well, Senator, you said it as well as I could say it. Yes, that is critical. And there are a lot of studies already that are helping us to identify those persons. And as soon as we can identify them, then our goal should be to incarcerate them for as long as possible, because——

Senator SESSIONS. Now, you represent a very sophisticated department. You have been at this a long time. You personally try these kind of cases. So I know you are really an expert in it. Do you think that there are other department of district attorney offices, young prosecutors, or maybe young police officers, who deal with one of these cases and are not aware sufficiently to identify a person who may be a highly dangerous offender that needs to be given as long a sentence as appropriate under the law? Do you think we are missing some people and that is causing additional crimes that could have been avoided?

Ms. WELLS. I do, and I agree with one of my colleagues who said there is a new generation of police officers and prosecutors coming who have not had the education that I have, and it is important to keep the continuity of that education and to keep doing the studies that help us identify those offenders. And, of course, I believe that DNA testing is one of the tools we have to identify people early.

Senator SESSIONS. Tell me about the DNA. In a sexual assault case, how important is it that DNA be determined and maintained for potential future use? How does that work to solve crimes and prevent crimes?

Ms. WELLS. Well, anyone who watched television knows DNA is a very useful tool in identifying suspects, and it can be preserved for a long time. Arizona recently passed legislation that requires

DNA evidence to be held for at least 35 years, and that legislation was introduced by victim groups because, as we heard today, many sexual assaults are not reported or they are reported much later than they occurred, and the offenders may not be identified for many, many years. But the closure, the ability to find out who the culprit was, who the offender was, and to find out maybe that they are in prison somewhere else because they have been doing this over the course of their offender career, if you want to call it that, is very important to victims.

Senator SESSIONS. Ms. Union, the person that assaulted you sexually assaulted a person later that same day. Is that correct?

Ms. UNION. No; a couple days later.

Senator SESSIONS. A couple of days later. So if you did not identify that person, the DNA that was obtained immediately, the investigators would know it is the same rapist. Is that correct?

Ms. UNION. That is correct.

Senator SESSIONS. And if they had had a previous arrest for rape and you had that on record, you would know exactly who that person was.

Ms. UNION. That is correct. And as we heard today as well, it is important to have data bases so that law enforcement agencies in different jurisdictions can identify a single offender who——

Senator SESSIONS. What is your opinion, Ms. Wells, on what other departments are doing with regard to maintaining DNA around the country? Do you have any idea how well other departments are maintaining DNA in these types of sexual assault cases?

Ms. WELLS. I do think more and more States are passing legislation to make sure DNA is collected early, that it is collected from a broader range of suspects, not just suspects who commit sexual crimes. There are a number of crimes that seem to be precursors or associated with sexual crimes, like burglary, petty theft, other kinds of felonies like that. Many States are expanding their DNA testing to those offenders as well so that, like I said, if we can identify them early and stop even one sexual assault, it is worth it.

Senator SESSIONS. I could not agree more. Ms. Campbell, thank you for your testimony. Ms. Burke, thank you for your work. I wish we had more time to talk about it, but I think you are touching on an extremely important societal problem that we face, and I am glad that you are showing that leadership. And all of you, thank you for speaking up and being effective on these issues.

We have had—Ms. Campbell, you were part of the movement of victims rights, and it has really changed the law enforcement mechanism. I think that is one reason murders are down substantially from what they were in the 1980's when you lost your family members. And I do warn, however, that I sense about a movement that is beginning to go soft on the lessons we learned, and it simply is this: Certain people are dangerous. The fact they attacked one person is very indicative that they may attack another one. And we do have to maintain tough sentences. I wish it were not so, but we have to for certain dangerous offenders.

Thank you, Madam Chairman, and it is a pleasure to work with you.

Senator KLOBUCHAR. [Presiding.] Well, thank you very much.

Senator SESSIONS. I have also enjoyed your great leadership on our delegation to Canada with the United States-Canadian interparliamentary. It was a fabulous group, and you did a great job as our leader.

Senator KLOBUCHAR. Thank you. You did pretty well singing with the fiddler, Senator Sessions.

[Laughter.]

Senator SESSIONS. I will not reveal more. There were a lot of negotiations with Canada.

Senator Whitehouse.

Senator WHITEHOUSE. Thank you, Chairman.

Ms. Burke, you have done such good work in this area. As we look to Rhode Island as a potential national model here, what further feedback would you give us on what elements of the Lindsay Ann Burke programs have been best received, have been most effective? What are the lessons learned from what you have done that you think Congress should focus on?

Ms. BURKE. I think the lessons learned have been the need for funding. The implementation of the law is working in Rhode Island mostly because our organization and the Rhode Island Coalition Against Domestic Violence, from even before we had the law passed, stepped up to the plate and said that we would be willing to provide free training for school staff so that there was no funding attached to the bill when it was passed in Rhode Island.

However, the drawback in other States is that what we are finding is that many States have good intentions, but they are very concerned, especially in these hard economic times, about the cost of training school personnel. In fact, I have gotten calls even this week from the State of Ohio, from New Mexico, asking, you know, how we implemented Lindsay's law, what were the specifics, and what was the cost involved.

I think for it to be successfully implemented in other States, we have to have funding. There is no way of getting around that. I also believe very strongly as an educator that we need to pass Lindsay's law maintaining all the components of the law. It would be a very severe drawback to educate the students and not have the staff educated at the same time. Also, I think that we would not want to leave our parents out of that equation either. I think that you need to educate all three at the same time.

I do not think it takes a great deal of funding, not as much as perhaps most people would imagine, because once your staff is educated and your health teachers or whatever teachers are designated in other States—not all States require health education, but what other teachers are designated in other States to be the primary teachers of the students, once you have that training done, it only has to be done sporadically for new hires. And that even can be incorporated at the college level, in their college education program for student teachers.

Senator WHITEHOUSE. But you at least want enough funding for the program to be persistent year to year.

Ms. BURKE. Persistent, correct. I think initially you will probably need a substantial amount of funding, and after that in time, that number should drop down so that it could just be maintained.

I have seen firsthand the success. Two of my own former students have come back to me at different times, one who went on to a private high school and one who went on to our public high school, and after learning about it at the middle school, they did find themselves in those types of situations, due to the nature of an abusive relationship, they were not aware at the beginning. In one case, the student themselves after a while recognized the warning signs and was able to get herself out. In the other case, it was the friends who also had the educational piece in eighth grade who recognized the signs, and they worked with their friend to get them out.

I know the education works. There is no doubt in my mind, and I think that all students have a right to that education. I think to deprive them of that education is simply wrong. We can save lives. I was talking to Catherine Pierce last evening. I think it is even going to be difficult to measure how many lives we are saving. Many people will not come forward and tell us. Long after they graduate—they are learning—when we teach this education, we are teaching them life skills. It is no different than anything else that we teach in health class. We teach them about heart disease prevention. The chances of them becoming involved in an abusive relationship in high school are far greater than them developing heart disease in high school.

Senator WHITEHOUSE. Well, thank you for what you have done. I recall in 1999, I think it was, when I was Attorney General, my Juvenile Justice Task Force did a film in high school and distributed it to all the high schools and all the police departments, but that program did not meet the test of persistence, so I will take that lesson from you today.

Ms. BURKE. In fact, I was talking to Reley, and I was trying to find that tape to see if we could duplicate it and hand it out to all of our schools again.

Senator WHITEHOUSE. One very quick question in my last seconds for Ms. Wells.

Senator KLOBUCHAR. You can take your time, Senator Whitehouse.

Senator WHITEHOUSE. Thank you, Chairman.

When it comes to testing suspected perpetrators of sexual assault and obtaining DNA samples, what level of suspicion do you recommend be reached before the testing can take place? Do you require full probable cause or more of sort of a clearly articulable suspicion, a Terry stop standard? At what point would it be appropriate to require DNA testing in the spectrum of suspicion from we have no idea, round up the usual suspects, to we have a victim who has identified who their perpetrator was and we know who it is? There is a wide band of suspicion. At what point should this kick in?

Ms. WELLS. In our State—and I agree with this—the standard is probable cause, and that is the same standard that police use when they make an arrest.

Senator WHITEHOUSE. An arrest.

Ms. WELLS. And we also have a statute that allows DNA testing for certain crimes, not every crime, upon arrest or charging by a prosecutor, and——

Senator WHITEHOUSE. So, again, a probable cause standard.

Ms. WELLS. Yes, there is at least probable cause that the offender did commit the offense.

Senator WHITEHOUSE. And that is adequate for your purposes?

Ms. WELLS. I believe that is a fair balance.

Senator WHITEHOUSE. Very good. Thank you, Chairman. Thank you. This is a wonderful panel of witnesses, I have to say.

Senator KLOBUCHAR. All right. Thank you.

I just wanted to also give my thanks for the courage, to you, Ms. Union, and just the way you told that story. It is so clear you are now a survivor in how you told it. And to you, Ms. Burke, for the great work you are doing. And, Ms. Campbell, I know your husband was proud of you when he watched you. You know, you just showed him. I would not worry about that at all.

Ms. CAMPBELL. Thank you.

Senator KLOBUCHAR. Anyway, thank you for your work.

I wanted to follow up on a few things that some of the other Senators asked. First, to Ms. Wells, my colleague Senator Sessions was asking about DNA, which is, you know, so incredibly important right now. One of the things that I have found recently in the last 10 years—we call it the "CSI effect"—is that juries are actually expecting to have DNA. And sometimes you may have a sexual assault that does not have DNA, or you may have a domestic abuse case that most likely may not have DNA. And we actually lost a case or two, some smaller cases, because the jurors actually said later, "Well, why wasn't there DNA?" They agreed with the defense lawyer on this, and so that is when we got the right to rebuttal, actually, and our State was the last one, where the prosecutors had the last word, and we got that changed.

But do you want to comment on that, just evidentiary changes that have allowed—I know one of the big issues a few years back was allowing us to go forward with domestic abuse cases when the victim would not even testify because we had other evidence from the scene. And just what you have seen in the development of either laws or evidentiary techniques, technologies to help with those cases where you do not have DNA.

Ms. WELLS. You are absolutely correct. Juries expect some kind of forensic evidence, and especially DNA, in cases of sexual assault. In fact, that is probably the crime where the CSI effect is really——

Senator KLOBUCHAR. Just to define this, the CSI effect, for everyone, is that juries expect this and, if they do not have it, they may think that the person is not guilty.

Ms. WELLS. That is correct. They think that there is a new threshold now. In the old days, we could present a witness who would identify the defendant, there was no DNA, and we were able to obtain convictions for sexual assault. Now, and in our State, jurors are allowed to ask questions during the trial, we get pages of questions: Was DNA done? Why wasn't it done? And sometimes because DNA is a complex chemical analysis, the questions get very detailed, and some jurors ask very, very complex medical questions during the trial of a sexual assault case.

So it is very important, though, not to lose sight of the fact that if you do not have DNA, you still have to fall back on all of the

things we learned when we prosecuted sexual assaults before. Interview as many people as possible. It is very useful to tape-record interviews. It is very useful to get other kinds of evidence that corroborate what the victim has to say. Even if you do get DNA, you should not stop there. You should continue to get all of that evidence, because you do not know, maybe the DNA will not be admissible later on. But it is still critical to investigate these crimes as thoroughly as possible.

Senator KLOBUCHAR. Thank you.

Ms. Tronsgard-Scott, one of the things you talked about was kids at the scene and kids living in the home. I remember the statistic I always used to use was that a kid growing up in a violent home where there was domestic abuse was something like 76 times more likely to commit crimes themselves. In fact, we had a picture in our office when you came in of a woman with a Band-aid on her nose holding a baby, and it said, "Beat your wife, and it is your son who will go to jail."

Do you want to talk about any advances that have been made? I know that there has been more interaction with Child Protection, bringing them in so that kids get help when they live in a home, and also obviously kids can be witnesses, too, and what has been happening with that, and as we look at the VAWA reauthorization, if we should be looking at this aspect of it as well.

Ms. TRONSGARD-SCOTT. Thank you, Senator. Thanks for the opportunity to talk about children living in violent homes. I agree with you, kids are at particular risk. The statistic that I use is that kids living in violent homes are 300 times more likely to be abused themselves, which I think is incredibly distressing. So kids growing up in violent homes not only are more likely to commit violent crimes as adult, but it is likely that they themselves have been abused. And, of course, from my belief system, a child that is witnessing domestic violence is suffering from abuse.

So there have been great strides made, and I can talk about Vermont.

Senator KLOBUCHAR. That is fine.

Ms. TRONSGARD-SCOTT. In Vermont, I am, of course, very proud of Vermont and the work we have done working with our children. Our rural grant in Vermont, as I referred to in my testimony, has created the opportunity for us to create a unique and innovative relationship with our Children'S Protective Services Division of our State government, and what we did was we were able to provide intensive training for child abuse investigators in that unit, and so now they are experts at working with victims of domestic violence and their kids.

In many cases, victims of domestic violence in the past were almost held accountable for the abuse that their children were suffering at the hands of their abusers. But in Vermont, this innovative program allows investigators to go in and do an investigation, and instead of blaming the victim for the abuse that the kids are suffering, they work with the victim to be able to provide them with the supports that they need to be able to make choices about living in a safe, peace-filled home.

Senator KLOBUCHAR. OK, very good.

Ms. Union, you did such a good job of talking about how—you said it so directly, how the fact that you had been raped in an area that had the resources, and that very much resonated with me because I have just seen that in smaller counties that do not have the resources, they just may not have the expertise sometimes in cases, or you have, like you said, a rape crisis center that does not have the resources in some areas.

I brought up earlier with Ms. Pierce that issue of the rape kits, and I just wondered for anyone that has knowledge about that, that is what we have been hearing, that there have been efforts to make victims pay for them or they are paying for them, or they pay for them and then they have to be paid back by the State. Any comments on that?

Ms. UNION. Yes, we have been having this discussion for the last few years. I live in California, and there is a backlog, and I work very closely with UCLA rape crisis centers, and as a rape survivor myself, I have—basically when your DNA is collected, your rape kit is collected, it is stuck in a brown bag, and it goes in—it sits on a counter, and I go to UCLA rape crisis centers, I just see the line of brown bags. That is children, women, men—everyone has—you become this brown bag. And I know that some brown——

Senator KLOBUCHAR. And this is DNA that could connect people to a crime.

Ms. UNION. Oh, yes. Oh, yes.

Senator KLOBUCHAR. Identify a perpetrator.

Ms. UNION. Oh, yes. And you know, after working in this business, everyone who deals with rape and domestic violence, you realize that there is a priority that is placed on certain brown bags, and they call them "sexy victims," and the victims that—generally a sexy victim is a white woman, preferably young, preferably formally educated, ideally if they are attractive, even better, cases that can get media attention and that are slam-dunks. But if you are not a sexy victim, that includes African Americans, Latinos; basically anybody who is not a young white, educated, attractive women is not deemed a "sexy victim," and those cases are the ones that make up the bulk of the backlog cases.

It is so transparent, and when you sit there and you see the row of these brown bags, it breaks your heart. Like I said, when I talk to rape victims in the United States, I have to give them the same spiel because the likelihood of justice that you think you are going to get because you watch "CSI," well, they took my DNA and I was sort of revictimized again by having to do the rape kit so soon after. You know, my rapist is going to be apprehended, and I am going to get justice, and I can get on this path of recovery. And it just does not work like that for the majority of people.

When we start to prioritize certain people, we create a parallel universe of justice, and that has to stop.

Senator KLOBUCHAR. All right. To end here, I noticed that, and thank you for that point, and as we look at this reauthorization and the tools we need in the criminal justice system, I think sometimes laws and funding were set back at a time before we had this extent of the technology we have and some of the State laws that we have now. And so that is why it is such an opportunity to look at what we should be doing differently and doing better.

But I will point out, to end on a positive note here, Ms. Tronsgard-Scott, you said in your testimony that VAWA saved taxpayers $14.8 billion in net averted social costs in the first 6 years alone. Do you want to comment about that and where you see those savings?

Ms. TRONSGARD-SCOTT. I want to say that back in 1984, when I was a young person living in Cleveland, Ohio, I lived next door to a family where the husband was violent, and we had to tell the police officers that there was a burglar outside our house to get them to respond. They would not come to that house if we called the police.

And so that family was left—the victim was left. There were no supports. There was no prosecution, there was nothing. That family went on, they were a family that was poor, they used the social services system, and their lot was fairly hopeless.

Today, that same family would be embraced with a social services net that would in many ways, especially with the new economic justice work that we are doing in our movement, not only help them maintain safety but help them move forward in their economic goals. And so for me, it is money well spent.

Senator KLOBUCHAR. Thank you. Well, I think part of the successes that we have had with so many challenges ahead, as Ms. Union pointed out, but the successes are a tribute to all of you, and the way this movement has developed on the grassroots level with victims saying I am not going to take it anymore and being willing to come forward and speak. So I want to thank you all for that.

We are looking forward as a Committee to working on this. As you can see, it is a bipartisan effort, strongly supported by both sides of the aisle. So I just want to thank you and wish you well, and your courage is unbelievable, and it is going to make a difference. Thank you very much.

This hearing is adjourned.

[Whereupon, at 11:55 a.m., the Committee was adjourned.]

[Questions and answers and submission for the record follow.]

QUESTIONS AND ANSWERS

Response to Questions from Senator Arlen Specter
Ann Burke, RN, M.Ed.
President and Founder, Lindsay Ann Burke Memorial Fund

US Senate Judiciary Committee
July 8, 2009

Questions for Panel II

Q1. Taking from the same article I asked Ms. Pierce about in the first panel, many scholars have argued that the popular notion of crime rates going up in a bad economy is just a myth. However, David Kennedy of the John Jay College of Criminal Studies suggests that a troubled household with a history of domestic violence is much more likely to be further strained during an economic downturn. **Do you agree with Professor Kennedy's assessment that domestic violence may occur more frequently during an economic recession? Have you noticed during this economic downturn or past periods of economic trouble that the number of incidents and severity of those incidents of domestic violence have increased? Have you noticed a drop-off in state funding of and charitable giving to programs devoted to victims of domestic abuse and sexual abuse and assault?**

Response: Although common sense may tell us that there is an increase in domestic violence during hard financial times, I did a review of recent newspaper articles to determine the actual facts. According to an AP article in Nation/World, dated April 11, 2009, "the National Domestic Violence Hotline reported calls were up 21 percent in the third quarter of 2008 compared to a year earlier. The San Diego Domestic Violence Hotline reported a 20 percent increase in calls in January 2009 over the prior year." In San Joaquin County, Calif., a county which leads the nation in foreclosures, their women's center has seen a 50% increase during the first quarter of 2009 in clients seeking restraining orders. The article goes on to state that Maine's domestic violence-related homicides have doubled in the past year. In 2008, Fairfax County, VA, had seen an increase of 23 percent in the number of abuse/neglect cases. Montgomery County, Md had seen an increase of 29 percent and and an increase of 18 percent in Washington, DC. On June 24, 2009 the Yuma Sun paper reported that DV centers in Arizona have seen a 10-28 percent rise in calls from the number of victims of abuse."

It appears that domestic violence is indeed on the rise in the US during this economic downturn. It has been widely reported in newspapers that due to the economic crisis there has been a drop-off in funding to all non-profit organizations. These organizations then must rely more on private funding and in this economic climate, I tend to doubt that private funding would make up the difference.

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Q2. How do you think VAWA funding is best utilized moving forward?

Response: Victims of domestic violence should be able to receive assistance when needed. It is so very difficult for a victim to even reach the point of asking for help that certainly when they are ready to get that help, they should not be turned away. Given the fact that their life and their childrens' lives may be in danger, how can we turn our backs on them and say that due to lack of funding a shelter cannot help them?

But in addition, we need to address prevention of domestic violence as well. And sadly, this has been an area that has long been neglected by both the federal and state governments. Had we addressed this sooner, we would not be in the position of having to address it now during one of our worst financial downturns.
It is our responsibility to provide our youth and the public with a proper education on dating/domestic violence so that they are equipped with the knowledge and skills to help themselves and others.

So, I believe we need to use VAWA funding to both help and support victims as well as to address this problem through prevention, and that is to provide funding for the STEP program, which will help train school personnel to address dating violence and teach our youth in school about this major health issue. It also means that we need to fund comprehensive educational programs in school. The time has come to go beyond awareness campaigns.

Q3. What should our top priorities be in strengthening the VAWA program?

Response: Again, due to the alarming teen dating abuse statistics (in my written testimony), authorizing funding of the STEP program so that states and schools can move forward with prevention through education should be one of the top priorities. I would also recommend that the federal government mandate education on this topic as well. This could have been done in the 1990's when our researchers were well aware that domestic violence started during the teen years and started using the term "dating violence" to refer to this problem. Since that time, prevention of domestic violence has been addressed through public awareness campaigns and limited education provided by some non-profit agencies in our schools. This simply is inadequate to effect real education and change.

The statistics on dating violence show that this is a serious and widespread public health problem. As such, the time for comprehensive educational programs through our public schools has come. We should approach this health problem the same way we approach other health problems, such as HIV. HIV education was mandated in schools, and because of this, we educated a nation about that problem. The same must be done for dating/domestic violence.

Prior to giving our testimony to the Senate Judiciary Committee, Katherine Pierce asked me how I knew education about dating violence worked. I responded by telling her that 3 years ago I started teaching my eighth grade students about dating violence. One year later, one of those

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students became involved in an abusive relationship when in ninth grade. She came back to my school to tell me that her friends, who also were educated in my eighth grade class, noticed the warning signs first and began to speak to her about her new relationship. She told me that it took her a few months to get herself out of that relationship but she was successful. She told me that she wanted me to know that the education worked and that I should keep pursuing mandated education for all teens. This past school year another student came back to school to see me to tell me of a similar episode, except that this time she recognized the warning signs herself, and left the relationship. She too wanted me to know so I would continue to pursue mandated dating violence education for all teens. Numerous college students, after attending my trainings, have approached me and said they too had been in abusive relationships or are in one now, and wish they had learned about this in high school.

We may never know how many teens we are helping through education, but by revising the Youth Risk Behavior Survey to include a question that asks of those teens that were provided dating violence education, how many of them feel it is beneficial to them, that it might help them in the future, or has helped them already to make a decision about their dating relationships.

In closing, one of the top priorities in addressing this problem should be prevention through education. The federal government should pursue mandating dating violence education through a comprehensive health education program and provide funding for training of school staff, training of those teachers designated to teach the topic to students, and funding for curriculum materials for schools. This is the right thing to do. It is long overdue.

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Responses of Collene Campbell

Questions for Panel II

Q1. Taking from the same article I asked Ms. Pierce about in the first panel, many scholars have argued that the popular notion of crime rates going up in a bad economy is just a myth. However, David Kennedy of the John Jay College of Criminal Studies suggests that a troubled household with a history of domestic violence is much more likely to be further strained during an economic downturn. **Do you agree with Professor Kennedy's assessment that domestic violence may occur more frequently during an economic recession? Have you noticed during this economic downturn or past periods of economic trouble that the number of incidents and severity of those incidents of domestic violence have increased? Have you noticed a drop-off in state funding of and charitable giving to programs devoted to victims of domestic abuse and sexual abuse and assault?**

A. I do not have the proper knowledge or information to answer this question accurately.

Q2. How do you thinking VAWA funding is best utilized moving forward?

A. I strongly recommend that VAWA funding be used, in part to provide legal services to victims, through organizations like the National Crime Victims Law Institute, so victims can assert their rights in court.

Q3. What should our top priorities be in strengthening the VAWA program?

A. I strongly recommend that VAWA funding be used, in part to provide legal services to victims, through organizations like the National Crime Victims Law Institute, so victims can assert their rights in court.

Note:
I answered the above questions with the personal experience of being excluded from the courtroom during three trials of our Son's murder; not being notified of an appellant hearing; having the capital case convicted killer released without our knowledge, plus many other acts of injustice and unfairness.

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U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

April 30, 2010

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Chairman Leahy:

Enclosed please find responses to questions for the record arising from the appearance of Catherine Pierce, Acting Director for the Department's Office on Violence Against Women, before the Committee on June 10, 2009, at a hearing entitled "The Continued Importance of the Violence Against Women Act." We apologize for the delay in responding and hope that this information is of assistance to the Committee.

Please do not hesitate to call upon us if we may be of additional assistance. The Office of Management and Budget has advised us that there is no objection to submission of this letter from the perspective of the Administration's program.

Sincerely,

FOR

Ronald Weich
Assistant Attorney General

Enclosure

cc: The Honorable Jeff Sessions
Ranking Minority Member

Questions for the Record
Acting Director Catherine Pierce
Office on Violence Against Women
Senate Committee on the Judiciary
June 10, 2009

Questions Posed by Senator Specter

Question 1: In Ms. Union's written testimony she voices her concern about the extremely high rates of sexual assault committed against American Indian women. She states that, "In fact, the *Denver Post* did a series of articles on injustice in Indian Country in late 2007 and reported that the Department of Justice declined to prosecute 76.5% of adult rapes between 2004 and 2007." Can you explain this?

Response: Federal prosecutors take seriously their obligation to pursue justice for American Indians and Alaska Natives and work diligently to improve the lives of Native people. Indian Country prosecutions, particularly violent crime prosecutions falling under either the Major Crimes Act or the General Crimes Act, are an important part of the Department of Justice's mission and the Department continually works to improve efforts in this area. These cases are a specific district priority for the 25+ Federal districts with non-PL 280 tribes. The majority of Federal districts with significant Indian Country responsibility have dedicated Assistant United States Attorneys assigned to these critical cases.

Decisions by United States Attorney's Offices to decline cases are made carefully. Declinations are driven by the evidence, applicable law, and circumstances of each case. But a decision to decline one or many cases does not suggest a lack of commitment to the enforcement of the law or unwillingness to do so. In some cases it may be because the United States Attorney's Office has no authority to proceed. Indeed, where Indian Country enforcement may be at issue, a declination may reflect a determination that no federal crime was committed (e.g., that the act was not sufficient to satisfy the Major Crimes Act), that there was no federal jurisdiction (e.g., because the locus of the crime was not on reservation land), that the evidence or witnesses were unlikely to support a conviction, that a state or tribe was proceeding with a prosecution, or that a federal prosecution was inappropriate for some other reason. The Department of Justice's case management system, which was originally designed to manage attorney workloads, was not originally designed to track information in this manner and thus does not reflect the full extent of the Department's commitment to law enforcement in Indian Country. The Department is now working to improve the manner in which it tracks Indian Country case statistics so that it will be able to provide more meaningful information.

The total number of declinations recorded as Indian Country matters fell from 899 in FY 2007, to 814 in FY 2008; the number of referrals received increased slightly from 1,721 matters in FY 2007, to 1,735 matters in FY 2008. Federal case referrals from

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outside Indian Country in FY 2007 were 118,220 with 24,436 declinations.[1] In FY 2008, Federal case referrals from outside Indian Country numbered 155,774 with 24,321 matters declined for prosecution.

Question 2: VAWA was funded at $415,000,000 for FY09, and in my appropriations request letter for 2010, I urged the Subcommittee to provide funding for the VAWA programs at the highest possible level above the fiscal year 2009 level of $415 million for fiscal year 2010. In your testimony you outline the Department's continued efforts and new programs. What would you say are your top priorities for the remainder of the year and next?

Response: There are a number of areas that I see as top priorities for the Office on Violence Against Women (OVW) in the immediate future. As I mentioned in my testimony, OVW will support community-defined solutions that engage culturally specific communities and communities of color. We will expand our efforts to address increased access to sexual assault services, particularly in rural America. We will work more closely with American Indian and Alaska Native women to be more responsive to their priorities. We will address the complicated issue of child custody and our growing concern that battered women are losing custody of their children either to perpetrators (through the courts) or the State (through the Child Protection System). We will address the problem of children exposed to violence, and we will support programs that recognize that the safety of children is directly related to the safety of their mothers. Finally, we will focus on preventing the homicide of women and girls who have suffered from domestic violence, dating violence, sexual assault, and stalking.

Question 3: Many scholars have argued that the popular notion of crime rates going up in a bad economy is just a myth. However, David Kennedy of the John Jay College of Criminal Studies has suggested that a troubled household with a history of domestic violence is much more likely to be further strained during an economic downturn. Do you agree with Professor Kennedy's assessment that domestic violence may occur more frequently during an economic recession? If so, has OVW devoted specific resources to addressing this issue?

Response: Identifying the cause or causes of crime, including domestic violence, is an immensely difficult task. I would agree with Professor Kennedy's assertion, however, that, if a household already has a history of domestic violence, that violence may escalate during economic hard times. There has been research that supports this statement, and it is consonant with what we hear from experts and service providers in the field. I would also note that, during an economic downturn, a victim of domestic violence faces

[1] The question refers to a declination rate of 76.5% of adult rapes occurring in Indian Country. This is not a number provided by the Executive Office for United States Attorneys' (EOUSA) case management system, the Legal Information Office Network System (LIONS). We understand the number may have been provided by the Transactional Records Access Clearinghouse (TRAC), a private organization that obtains data from LIONS through the Freedom of Information Act and re-sorts and re-configures it in ways that are not apparent to EOUSA or to the public at large. As a result, there is no way to confirm the accuracy of figures provided by TRAC.

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additional obstacles to leaving her abuser: in the best of economic times, a victim worries about finding a job and housing and providing for her children; these problems intensify during a recession. We therefore are extremely grateful that the American Recovery and Reinvestment Act provided OVW with $225 million in funding to support OVW's formula grant program for States, our State and Tribal Coalitions Programs, our Tribal Governments Program, and our Transitional Housing Assistance Program.

Funding from these programs enables States, local governments, tribes, and victim service providers to retain and hire personnel to serve victims and hold offenders accountable. In particular, our Recovery Act Transitional Housing Program plays a critical role in helping victims escape violence and weather financial difficulties. These funds support programs that provide transitional housing, short-term housing assistance, and support services to victims of domestic violence, dating violence, sexual assault and stalking. To meet the goals of the Recovery Act and the needs of victims, we encourage applicants to propose projects that will employ victim advocates, renovate housing, offer additional housing units, and increase job opportunities for victims through employment counseling, job training, education, and other support services.

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Question Posed by Senator Schumer

Question 1: Many prosecutors have told me that one of the huge impediments in fighting human trafficking and other operations who exploit immigrant women is that the S-visa power of prosecutors to encourage people to come forward and expose these operations is limited. Should the Department of Justice do more to make sure that witnesses who come forward to expose operations that exploit immigrant women are given S-visas that permit their eventual adjustment to that of lawful permanent resident? Is there anything Congress can do to facilitate this function?

Response: The key witnesses to uncovering human trafficking crimes are victim witnesses. The Trafficking Victims Protection Act of 2000, as reauthorized in 2008, provides immigration relief, including Continued Presence pursuant to 22 U.S.C. Section 7105, and T visas pursuant to 8 U.S.C. Section 1101(a)(15)(T), to victims of severe forms of trafficking. In addition, other immigrant victims of enumerated crimes, including human trafficking, assault, and other offenses, are entitled to apply for U visas. Federal law enforcement agencies, including the Federal Bureau of Investigation and the Department of Homeland Security's Immigration and Customs Enforcement, play a significant role in assisting victims in applying for such immigration relief. Accordingly, we believe that the current visa structure is sufficient to permit the full investigation of human trafficking crimes. However, many members of immigrant communities are unaware of these legal protections and are reluctant to come forward to law enforcement.

The Department of Justice has funded task forces to train state, local, and federal law enforcement and non-governmental victim service providers in developing proactive, multi-disciplinary, victim-centered investigation strategies designed to detect hidden human trafficking crimes that would otherwise remain hidden, and to earn the trust of victims who would otherwise be reluctant to confide. These task forces are directed primarily at engaging state and local law enforcement and NGOs to help identify and protect human trafficking victims; they do not direct any federal law enforcement resources toward the protection of human trafficking victims or the federal investigation or prosecution of their abusers. Focusing federal investigative and prosecutorial resources on human trafficking would be an effective means of enhancing the capacity of these task forces to rescue victims of human trafficking and related forms of exploitation and bring the perpetrators to justice.

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July 13, 2009

Sarah Guerrieri, Hearing Clerk
United States Senate
Committee on the Judiciary
224 Dirksen Senate Office Building
Washington D.C. 20510

Dear Ms. Guerrieri:

Please find enclosed my responses to written questions from Committee members.

Thank you for your assistance with the record of my testimony.

Sincerely yours,

Karen Tronsgard-Scott
Director

Encl.

PO Box 405 Montpelier, VT 05601 802.223.1302 www.vtnetwork.org

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Q1. Taking from the same article I asked Ms. Pierce about in the first panel, many scholars have argued that the popular notion of crime rates going up in a bad economy is just a myth. However, David Kennedy of the John Jay College of Criminal Studies suggests that a troubled household with a history of domestic violence is much more likely to be further strained during an economic downturn. **Do you agree with Professor Kennedy's assessment that domestic violence may occur more frequently during an economic recession? Have you noticed during this economic downturn or past periods of economic trouble that the number of incidents and severity of those incidents of domestic violence have increased? Have you noticed a drop-off in state funding of and charitable giving to programs devoted to victims of domestic abuse and sexual abuse and assault?**

The National Institute of Justice has supported studies addressing this issue. Researchers in one study found a strong relationship between couples worried about financial strain (*subjective* feelings of financial strain) and the likelihood of intimate partner violence. In another study, researchers found that repeat victimization of women is more frequent in couples feeling financial strain. The choice to stay or leave violent relationships may be based on the decision that a partner's economic contribution to the relationship outweighs the risk of violence. It also may compel women to live with men's violent behavior rather than seek help or take other steps to leave the violent relationship. Yet another study showed that for couples where the male was always employed, the rate of intimate partner violence was **4.7 percent**. When men experienced one period of unemployment the rate rose to **7.5 percent** and when men experienced two or more periods of unemployment the rate of intimate partner violence rose to **12.3 percent**. It is important to note, though, that economic distress is an exacerbating factor for domestic violence, and it may be one of several factors exacerbating an existing predilection for perpetration of such violence.
http://www.ojp.usdoj.gov/nij/topics/crime/intimate-partner-violence/economic-distress.htm

Q2. How do you thinking VAWA funding is best utilized moving forward?

VAWA Stimulus funding has turned out to be a significantly important resource, as the need for domestic violence victim services increases in this economic crisis. As the need has grown, the funding support has grown, also. Basic VAWA funding is equally crucial to maintain core services and saving jobs, even as VAWA Stimulus funding supports an increased demand for services across the country. All of VAWA's authorized funding streams are of critical importance to

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programs across the country, but the STOP and LAV programs are especially helpful to victims of domestic violence. Supporting greater authorization levels for them—WITHOUT CUTTING OTHER IMPORTANT VAWA GRANT PROGRAMS—will help ensure that victims of domestic violence, dating violence, sexual assault and stalking will receive the enhanced services they need.

Q3. What should our top priorities be in strengthening the VAWA program?

Unfortunately, there is high turnover among helping professionals in the fields of domestic violence, dating violence, sexual assault and stalking. Training of new judges, prosecutors, law enforcement officers, lawyers, probation and parole officers and other justice system personnel is crucial to maintaining the high standards for victim safety set out in VAWA. Additionally, VAWA's funding goes primarily to the justice system, even the many victims of domestic violence, dating violence, sexual assault and stalking may never reach out to the justice system for help. The many VAWA 2005 programs supporting specialized victims services (e.g., services for children and youth and prevention) have never been funded, and it is important that they be reauthorized so that, in future years, it is still possible to fund them. The state domestic violence coalitions have stated that the highest priorities for them are funding core resources in the justice and victim services systems through STOP and increasing the availability of Legal Assistance for Victims funding. Firearms are also a crucial issue in domestic violence cases: we need better enforcement of the federal firearms prohibitions in domestic violence cases.

Questions for Panel II
Responses from Gabrielle Union

Q1. Taking from the same article I asked Ms. Pierce about in the first panel, many scholars have argued that the popular notion of crime rates going up in a bad economy is just a myth. However, David Kennedy of the John Jay College of Criminal Studies suggests that a troubled household with a history of domestic violence is much more likely to be further strained during an economic downturn. **Do you agree with Professor Kennedy's assessment that domestic violence may occur more frequently during an economic recession? Have you noticed during this economic downturn or past periods of economic trouble that the number of incidents and severity of those incidents of domestic violence have increased? Have you noticed a drop-off in state funding of and charitable giving to programs devoted to victims of domestic abuse and sexual abuse and assault?**

A: This is a question best answered by experts in the field of domestic violence.

Q2. How do you thinking VAWA funding is best utilized moving forward?

A: In order to ensure that sexual assault services are adequately funded and sexual assault prevention is prioritized, the Sexual Assault Services Program and the Rape Prevention Education Program must be fully funded.

Q3. What should our top priorities be in strengthening the VAWA program?

A: Congress must focus attention on the complex and challenging issue of sexual assault. Although we've come a long way, sexual assault is still an issue lost in the shadows. Sexual assault must be meaningfully addressed in all of the areas of VAWA including legal services, court and law enforcement response, prevention and funding for services. I urge Congress to continually seek the input of sexual assault experts like those at the National Alliance to End Sexual Violence.

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Questions for Panel II

Q1. Taking from the same article I asked Ms. Pierce about in the first panel, many scholars have argued that the popular notion of crime rates going up in a bad economy is just a myth. However, David Kennedy of the John Jay College of Criminal Studies suggests that a troubled household with a history of domestic violence is much more likely to be further strained during an economic downturn. **Do you agree with Professor Kennedy's assessment that domestic violence may occur more frequently during an economic recession? Have you noticed during this economic downturn or past periods of economic trouble that the number of incidents and severity of those incidents of domestic violence have increased? Have you noticed a drop-off in state funding of and charitable giving to programs devoted to victims of domestic abuse and sexual abuse and assault?**

There is much data to indicate that domestic violence does indeed increase during an economic downturn.[1] That may well be the case in this jurisdiction, but it has been difficult for us to measure any increase for a number of reasons. In fact, we have recently seen a decrease in the number of domestic violence cases that we receive from law enforcement. The timing of this decrease, however, corresponds with the budget reductions in local law enforcement agencies. In addition to other reductions, many agencies have stopped or severely decreased the amount of overtime they will allow. Thus, the investigation and referral for prosecution of domestic violence cases is directly impacted.

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[1]"Economic Downturn Fuels Up Tick in Domestic Violence"http://newamericamedia.org/news/view_article.html?article_id=ec853694d18d54c5ae987a50138e1075&from=rss ; Allstate Foundation nation poll shows that two-thirds of Americans believe the poor economy has caused an increase in domestic violence http://clicktoempower.org/media/7971/executive_summary.pdf ; Mary Kay, Inc. survey showed that 75% of domestic violence shelters surveyed reported an increase in women seeking assistance since September of 2008, when the U.S. economy started its downturn http://www.pcadv.org/Resources/MaryKay_Beauty_That_Counts_Release.pdf; "Experts link domestic violence to recession" http://www.coloradodaily.com/news/2009/may/29/boulder-count-broomfield-murder-suicide-recession/ ; National Domestic Violence Hotline data suggests a link between financial stress and domestic violence http://ndvh.org/2009/01/increased-financial-stress-affects-domestic-violence-victims/ .

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Anecdotally, we have noticed the impact of the housing crisis in some of our cases. Home foreclosures have forced extended families to move in together and, in some cases, forced separated or divorced spouses to move back in together.

Q2. How do you thinking VAWA funding is best utilized moving forward?

Police and prosecutors everywhere have experienced drastic budget reductions. The investigation and prosecution of domestic violence and sex offenders will undoubtedly suffer as a result. Perhaps VAWA funding could be used to assist with the investigation and prosecution of these cases.

We also see a need for victims to have a safe alternative to living with their perpetrator. In this economic climate, social services are being especially impacted. Child protective services personnel are being reduced and shelters are closing.

Another area of need is statutory authority and/or funding for defendants to be mandatorily tested and for victims to receive voluntary testing for HIV and STDs.

In early 2009, a VAWA mandate went into effect which requires that non-cooperating victims receive rape examinations at no cost. This was an unfunded mandate that has impacted state and local budgets. The increases in the number of successful prosecutions or other benefits from this program, in our experience, have not been realized. The dollars spent on this particular program could better be used elsewhere to help domestic abuse victims. Therefore, we recommend that this particular mandate be revisited.

Q3. What should our top priorities be in strengthening the VAWA program?

The preservation, availability, and admissibility of a perpetrator's domestic violence history is of critical importance for law enforcement, prosecutors, juries and judges to assess the true impact of the perpetrator's conduct upon a victim's life. We would urge that all states have funded protocols to preserve this information, make it available, and allow it to be used in domestic violence proceedings, including as part of a prosecutor's case in chief. This is one type of prosecution where "past conduct" is clearly related to and probative of "current conduct."

Another area of priority is the development of programs to provide ways for victims to be safe from the sometimes unrelenting pursuit of their abusers. That may include more shelters, prohibitions from public access to location information or other measures.

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Questions for the Record to Sally Wolfgang Wells
Chief Assistant
Office of the Maricopa County Attorney
From Senator Charles Schumer
June 10, 2009

One of the greatest problems we have, and that we have tried to address through VAWA, are the incidents of domestic violence in which spouses of immigrants threaten to call immigration enforcement if they report their beatings to the police.

1. Where are we, based on your experience, on making sure that women who are victims of domestic violence know they can call the police and will not be reported to immigration?

   In our jurisdiction, we have a large number of cases involving victims who reported domestic violence and who were vulnerable to a threat of that nature. In fact, victims of domestic violence, generally, are subject to a number of similar threats: threats to report outstanding warrants, threats to report alleged drug use, threats to kidnap children, threats to report true or untrue information to employers, etc. The list is endless. In our experience, victims report domestic violence because they feel that their immediate safety is of primary importance.

   With respect to victim cooperation in prosecution, we have used a number of methods, some described below, to ensure that victims receive the services they need. We do not recommend creating a legal situation that might be viewed as a shelter against immigration consequences.

2. Do we need to do more to make sure that local officials enforcing immigration law under 287(g) agreement know not to do so in this context?

   We have seen no problems with local law enforcement using 287(g) against victims.

   Although suspects may be asked about immigration status, there is no similar practice with respect to victims. Obviously, when the perpetrator is a family member or a domestic partner, the perpetrator knows the victim's immigration status. It is not unusual for the defendant or defense attorney to try to leverage that information to gain an advantage. In our experience, ICE does not usually respond to defendant or defense attorney allegations of a victim's possible illegal immigration status. In the event that the immigration status of a victim does become an issue, we work with ICE to confer some type of temporary legal status on the victim, at least during the pendency of the case.

   In addition, we have a staff of victim advocates who specialize in caring for victims who have immigration issues. Our Victim Compensation program, of course, offers compensation without regard to immigration status.

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Questions for Panel II

Q1. Taking from the same article I asked Ms. Pierce about in the first panel, many scholars have argued that the popular notion of crime rates going up in a bad economy is just a myth. However, David Kennedy of the John Jay College of Criminal Studies suggests that a troubled household with a history of domestic violence is much more likely to be further strained during an economic downturn. **Do you agree with Professor Kennedy's assessment that domestic violence may occur more frequently during an economic recession? Have you noticed during this economic downturn or past periods of economic trouble that the number of incidents and severity of those incidents of domestic violence have increased? Have you noticed a drop-off in state funding of and charitable giving to programs devoted to victims of domestic abuse and sexual abuse and assault?**

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[1]"Economic Downturn Fuels Up Tick in Domestic Violence"http://newamericamedia.org/news/view_article.html?article_id=ec853694d18d54c5ae987a50138e1075&from=rss ; Allstate Foundation nation poll shows that two-thirds of Americans believe the poor economy has caused an increase in domestic violence http://clicktoempower.org/media/7971/executive_summary.pdf ; Mary Kay, Inc. survey showed that 75% of domestic violence shelters surveyed reported an increase in women seeking assistance since September of 2008, when the U.S. economy started its downturn http://www.pcadv.org/Resources/MaryKay_Beauty_That_Counts_Release.pdf; "Experts link domestic violence to recession" http://www.coloradodaily.com/news/2009/may/29/boulder-count-broomfield-murder-suicide-recession/ ; National Domestic Violence Hotline data suggests a link between financial stress and domestic violence http://ndvh.org/2009/01/increased-financial-stress-affects-domestic-violence-victims/ .

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Anecdotally, we have noticed the impact of the housing crisis in some of our cases. Home foreclosures have forced extended families to move in together and, in some cases, forced separated or divorced spouses to move back in together.

Q2. How do you thinking VAWA funding is best utilized moving forward?

Police and prosecutors everywhere have experienced drastic budget reductions. The investigation and prosecution of domestic violence and sex offenders will undoubtedly suffer as a result. Perhaps VAWA funding could be used to assist with the investigation and prosecution of these cases.

We also see a need for victims to have a safe alternative to living with their perpetrator. In this economic climate, social services are being especially impacted. Child protective services personnel are being reduced and shelters are closing.

Another area of need is statutory authority and/or funding for defendants to be mandatorily tested and for victims to receive voluntary testing for HIV and STDs.

In early 2009, a VAWA mandate went into effect which requires that non-cooperating victims receive rape examinations at no cost. This was an unfunded mandate that has impacted state and local budgets. The increases in the number of successful prosecutions or other benefits from this program, in our experience, have not been realized. The dollars spent on this particular program could better be used elsewhere to help domestic abuse victims. Therefore, we recommend that this particular mandate be revisited.

Q3. What should our top priorities be in strengthening the VAWA program?

The preservation, availability, and admissibility of a perpetrator's domestic violence history is of critical importance for law enforcement, prosecutors, juries and judges to assess the true impact of the perpetrator's conduct upon a victim's life. We would urge that all states have funded protocols to preserve this information, make it available, and allow it to be used in domestic violence proceedings, including as part of a prosecutor's case in chief. This is one type of prosecution where "past conduct" is clearly related to and probative of "current conduct."

Another area of priority is the development of programs to provide ways for victims to be safe from the sometimes unrelenting pursuit of their abusers. That may include more shelters, prohibitions from public access to location information, or other measures.

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SUBMISSIONS FOR THE RECORD

WASHINGTON
LEGISLATIVE OFFICE

June 17, 2009

The Honorable Patrick J. Leahy
Chairman
Senate Judiciary Committee
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Jeff Sessions
Ranking Member
Senate Judiciary Committee
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RICHARD ZACKS
TREASURER

RE: ACLU Statement in Support of Senate Hearing on Violence Against Women Act

Dear Chairman Leahy and Ranking Member Sessions:

On behalf of the American Civil Liberties Union ("ACLU") and its more than half a million members and activists and 53 affiliates nationwide, we applaud your leadership in convening this hearing to examine the benefits the Violence Against Women Act (VAWA) has conferred upon women and families across the country since its passage. Such a hearing begins an important discussion that will culminate, next year, in a stronger, reauthorized VAWA. We write to express our support for the Committee's attention to this legislation and look forward to working with the Committee as it moves to improve the protections for and rights of survivors of domestic violence.

Congress has long recognized the destructive impact of domestic and sexual violence on the lives of women and their families. Through passage of the Violence Against Women Act of 1994 and its reauthorization in 2000 and 2005, Congress has taken important steps in providing legal remedies and services for survivors of intimate partner abuse, sexual assault, and stalking. These efforts are vital to ensuring that women and their children can lead lives free of abuse.

Through its Women's Rights Project, founded in 1972 by Ruth Bader Ginsburg, the ACLU has long been a leader in the legal battles to ensure women's full equality. The ACLU has taken an active role at the local, state, and national levels in advancing the rights of survivors of domestic violence, sexual assault, and stalking by engaging in litigation, legislative and administrative advocacy, and public education.

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We have been especially pleased with the housing protections enacted in the 2005 reauthorization of VAWA. The next reauthorization of VAWA should expand these housing rights and also guarantee that survivors of domestic violence, sexual assault, stalking, and dating violence do not experience employment or insurance discrimination because of the abuse they have experienced.

I. VAWA 2005

A. Landmark Housing Protections

In the last VAWA reauthorization, Congress specifically acknowledged the interconnections between housing and abuse. It found that domestic violence is a primary cause of homelessness, that 92% of homeless women have experienced severe physical or sexual abuse at some point in their lives, and that victims of violence have experienced discrimination by landlords and often return to abusive partners because they cannot find long-term housing. Our experience echoes these findings. The ACLU has represented a number of victims of violence who faced eviction because of the abuse perpetrated by their batterers.[1] For example:

- In 2001, the ACLU successfully represented Tiffani Alvera in a first of its kind lawsuit challenging a notice to quit issued by her subsidized housing provider in Oregon based on her husband's assault. Although Ms. Alvera had obtained a protection order barring her husband from the property and was cooperating in his criminal prosecution, her landlord nevertheless sought to evict her.

- In 2002, the ACLU of Michigan sued on behalf of Aaronica Warren, a single mother and then-VISTA volunteer who was living in public housing run by the Ypsilanti Housing Commission (YHC) in Michigan. After her ex-boyfriend forced his way into her apartment and assaulted her, YHC attempted to evict Ms. Warren and her son because of the violence that had occurred, even though Ms. Warren was the victim.

- In 2004, the ACLU represented Quinn Bouley, a Vermont resident who received a notice to quit her apartment after calling the police and reporting the domestic violence perpetrated by her husband, in a federal court action challenging her eviction.

- Also in 2004, the ACLU represented Laura K., a Michigan resident whose landlord locked her and her infant son out of her apartment at her batterer's request despite the order of protection she had barring him from coming near the home, thus rendering her homeless.

- In 2005, the ACLU represented Rubi Hernandez, who lived in California with her children in public housing operated by the Housing Authority of the City of Stanislaus. When her abusive estranged husband repeatedly physically attacked her, she sought an emergency transfer in an attempt to flee her husband. The housing authority initially refused the request, saying that although Ms. Hernandez had obtained a protective order and fled to a domestic violence shelter, she had not proven that she was in danger from her husband.

[1] Information about these cases can be found at www.aclu.org/fairhousingforwomen.

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- Also in 2005, the ACLU represented Tina J., a resident of public housing operated by the St. Louis Housing Authority in St. Louis, Missouri. When Ms. J.'s ex-boyfriend broke her windows on multiple occasions because she refused to let him into her home, the Housing Authority attempted to evict Ms. J., despite the fact that she had obtained a protective order against him and had consistently reported his unlawful behavior to the police and to the Housing Authority.

- In 2007, the ACLU sued on behalf of Tanica Lewis, a Michigan tenant of a property financed by the federal Low-Income Housing Tax Credit. Ms. Lewis had obtained a protective order against her ex-boyfriend, but when he broke into her apartment in violation of the order, her landlord blamed her for the actions of her "guest."

These stories demonstrate the unfortunate reality faced by many victims of domestic violence—landlords, including public housing authorities, all too often blame them for the abuse, re-victimizing them by threatening their housing.

VAWA 2005 took a multi-pronged approach to the problem. For the first time, the law barred public housing authorities and Section 8 owners and landlords from discriminating against housing applicants or tenants based on status as a victim of domestic violence, stalking, or dating violence. Public housing and voucher tenants could no longer be evicted based on the criminal activity perpetrated against them by their batterers. Furthermore, public housing authorities were given the ability to "bifurcate" a victim's lease, thereby removing an abuser from tenancy while permitting the rest of the family to remain, and the ability to permit a voucher holder to move with her voucher to another unit before her prior lease term was up if necessary to ensure the voucher holder's safety. In order to implement these protections, the law provided a mechanism by which a tenant could certify that she had been a victim of one of these crimes and ensured that this certification would be confidential.

VAWA required public housing authorities to provide notice of VAWA's protections to public housing and voucher tenants, as well as voucher owners and managers. Congress also obligated public housing authorities to describe the programs provided to child and adult victims of domestic violence, dating violence, sexual assault, and stalking in the Annual and Five-Year Plans public housing authorities are required to submit to the Department of Housing and Urban Development (HUD).

By including these vital protections in VAWA 2005, Congress took an important first step in addressing some of the worst housing discrimination faced by survivors. Had the law been in place years earlier, our clients Aaronica Warren, Rubi Hernandez, and Tina J. – all public housing residents – would have benefited. And since the law's enactment, the ACLU has consulted with attorneys, advocates, and survivors from across the country who have successfully invoked the law to stop evictions based on domestic violence. In a recent case litigated in New York City, a court dismissed the eviction of a Section 8 tenant who had been accused of committing a "nuisance" when she experienced domestic violence.[2] The court found that the evidence submitted by the tenant – her statement, three police reports, and a criminal

[2] *Metro North Owners v. Thorpe*, 2008 N.Y. Slip Op. 28522 (N.Y. Civ. Ct. Dec. 25, 2008).

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court order of protection – clearly established that she was a victim of domestic violence whose tenancy was protected by VAWA, despite her ex-partner's accusations against her. The law has served as an important shield for survivors facing homelessness because they have experienced abuse.

B. Enforcement of Protective Orders

In June 1999, Jessica Gonzales' estranged husband abducted her three daughters, in violation of a protective order. Ms. Gonzales called and met with the police repeatedly to report the abduction and restraining order violation. Her calls went unheeded. Nearly ten hours after her first call to the police, Ms. Gonzales' estranged husband, Simon Gonzales, arrived at the police station and opened fire. The police immediately shot and killed Mr. Gonzales, and then discovered the bodies of the Gonzales' children – Leslie, 7, Katheryn, 8, and Rebecca, 10 – in the back of his pickup truck. Ms. Gonzales filed a lawsuit against the police, but in June 2005, the U.S. Supreme Court found that she had no constitutional right to police enforcement of the order.

Following Ms. Gonzales' ordeal, we were pleased to see that VAWA 2005 established Jessica Gonzales Victim Assistance Grants, which support the placement of special victim assistants in local law enforcement agencies to serve as liaisons between victims of domestic violence, dating violence, sexual assault, and stalking and personnel in local law enforcement agencies in order to improve the enforcement of protective orders.

II. LOOKING AHEAD TO VAWA REAUTHORIZATION

The next version of VAWA should build on this record of progress by expanding the housing rights of survivors of violence and providing new protections when victims experience employment and insurance discrimination.

A. Extension of Housing Protections

While VAWA 2005 created a vital baseline of housing rights for survivors of violence, our experience has taught us that there are many gaps that have yet to be addressed. We outline below some of the pressing issues that the next reauthorization should tackle.

Currently, VAWA's anti-discrimination provisions apply only to residents of public and Section 8 housing. For that reason, our client Tanica Lewis, referenced earlier, could not rely on VAWA when she and her children were evicted from their home because of the property damage caused by her ex-boyfriend in 2006. In the few states that have passed laws prohibiting housing discrimination against survivors of violence, advocates have reported that they have been able to prevent evictions and keep victims and their families in their homes. Survivors across the U.S. should be able to access these same protections, regardless of what type of housing they have or in what state they live. At a minimum, the anti-discrimination provisions should be extended to cover other types of federally-funded housing, such as housing funded by the Low Income

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Housing Tax Credit, where Ms. Lewis lived, and USDA Rural Housing, where Tiffani Alvera lived.

While VAWA 2005 included victims of domestic violence, dating violence, and stalking in the list of protected victims, sexual assault survivors are not explicitly mentioned. However, sexual assault victims, much like victims of domestic violence, dating violence, and stalking, face evictions and subsidy terminations based on criminal acts committed against them. The statute should be expanded so as to cover these tenants.

VAWA 2005 did not provide for a mechanism of administrative enforcement. HUD's office of Fair Housing and Equal Opportunity (FHEO) currently does not accept or investigate complaints regarding violations of VAWA's housing provisions. As a result, victims who have been denied, terminated, or evicted from housing do not have a federal administrative remedy for VAWA violations. Additionally, although housing discrimination based on an individual's status as a victim of domestic violence, stalking, or sexual assault can constitute sex discrimination,[3] FHEO frequently has not looked into these types of claims. The law should explicitly provide that FHEO has jurisdiction to act on claims of discrimination based on an individual's status as a victim domestic violence, dating violence, stalking, or sexual assault. This could be done, for example, by recognizing status as a victim of one of these crimes as a protected class under the Fair Housing Act or by crafting an administrative remedy for VAWA violations. However, any such remedy should not preclude affirmative enforcement by the tenant of her rights.

The ACLU and its coalition partners also believe that the next VAWA should provide HUD with much clearer direction concerning VAWA implementation. For example, in November 2008, HUD issued an Interim Rule that was the first regulation that that purported to implement VAWA. Docket No. FR-5056-I-01, published at 73 Federal Register 72,336 (Nov. 28, 2008) ("Interim Rule"). However, dozens of organizations representing domestic violence survivors, tenants, public housing authorities, landlords, and housing managers filed comments objecting to the Interim Rule's lack of clarity and guidance.[4] Domestic violence and housing advocates especially are concerned with the Interim Rule's departures from statutory language and the failure to adequately explain how public housing authorities and landlords can implement VAWA's protections. HUD has also approved Annual and Five-Year Plans submitted by public housing authorities that do not address the needs of domestic violence survivors as required by statute.[5] Congress should ensure that HUD fulfills the promise of the VAWA 2005 housing protections.

B. Employment and Insurance Discrimination

Experiencing domestic or sexual violence is a direct cause of workplace problems for the vast majority of victims who work. Batterers often exercise control over victims by preventing them

[3] Bouley v. Young-Sabourin, 394 F. Supp. 2d 675, 677 (D. Vt. 2005); Alvera v. CBM Group, HUD ALJ 10-99-0538-8 (Apr. 16, 2001).
[4] Available at www.regulations.gov, or on file with the ACLU.
[5] Nat'l Law Ctr. on Homelessness & Poverty, *Insult to Injury: Violations of the Violence Against Women Act* (Apr. 2009) (finding that 40% of HUD-approved plans did not comply with VAWA).

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from going to work or harassing them on the job.[6] The work lives of survivors are also disrupted if they need to seek housing or medical or legal help in response to abuse. Three studies collected by the U.S. General Accounting Office found that between 24 and 52 percent of victims of domestic violence reported that they were either fired or had to quit their jobs as a result of abuse.[7] Up to 96% of domestic violence victims have experienced employment difficulties because of abusers and violence.[8]

These statistics represent a troubling reality: thousands of employees who are suffering from intimate partner abuse are at great risk of losing their jobs. Without work, they may find that they do not qualify for unemployment insurance or health insurance for reasons directly related to the abuse they have experienced. For example, an employee who leaves her job when her employer will not accommodate her safety needs may be deemed ineligible for unemployment benefits because she left her position "voluntarily." Health insurance companies frequently choose to deny, refuse to renew, or cancel a survivor's policy or benefits plan, particularly when originally issued in the name of the abuser.

Some states and localities have addressed the employment and insurance issues faced by survivors of violence. New York City, for example, amended its Human Rights Law in 2001 to prohibit employment discrimination against victims of domestic violence – the first jurisdiction in the country to do so.[9] The City extended these protections in 2003 to require employers to make reasonable accommodations – such as allowing time off from work or shifts in schedule – to employees who are experiencing domestic and sexual violence or stalking.

The ACLU relied on these provisions of the Human Rights Law when representing "Kathleen,"[10] a long-time employee of the New York City public schools. After her intimate partner assaulted her, Kathleen obtained an order of protection. She needed to take off several days of work in order to attend court proceedings and seek medical attention. When her employer reprimanded her for excessive absences, she disclosed her partner's violence and requested to be transferred to another school for safety reasons. Shortly after this conversation, she was fired. The same day, another woman at the school where Kathleen worked who had also experienced domestic violence was terminated under similar circumstances. Because she lost her job and was unable to find comparable employment, Kathleen was forced to move to substandard housing and send her son to live with a relative.

The ACLU brought suit against the New York City Department of Education on Kathleen's behalf, invoking the anti-discrimination mandate of the City Human Rights Law. Ultimately, the Department of Education agreed to settle the case and to void Kathleen's termination and pay her retroactive compensation and damages. It also agreed to undertake systemic changes, including amending its Equal Employment Opportunity policy to cover victims of domestic violence, sexual assault, and stalking as protected classes, acknowledging that reasonable accommodations

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[6] Richard M. Tolman & Jody Raphael, A Review of Research on Welfare and Domestic Violence, 56 J. Soc. Issues 655, 664-70 (2000).
[7] U.S. Gen. Acct. Office, Domestic Violence: Prevalence and Implications for Employment Among Welfare Recipients 19 (1998).
[8] U.S. Dep't of Labor, Women's Bureau, Domestic Violence: A Workplace Issue 1 (1996).
[9] N.Y.C. Admin. Code § 8-107.1.
[10] A pseudonym has been used to protect "Kathleen"'s identity.

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must be offered to these survivors, and publicizing its new policies throughout the school system. Had the New York City Human Rights Law not existed, Kathleen could have been out of work with no recourse, as a result of the violent conduct of her partner. Had Kathleen lived almost anywhere else in the country, financial ruin likely would have been her fate.

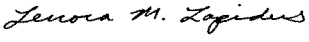
Survivors need comprehensive federal legislation to address the obstacles to employment and economic security caused by violence. Members of Congress have previously introduced legislation that would bolster the financial independence of survivors by reducing the likelihood that violence will force survivors out of their jobs and by providing a safety net for those who do lose employment as a result of domestic violence, sexual assault, or stalking.[11] The ACLU urges Congress to include provisions in the next VAWA reauthorization that promote the employment opportunities of abuse survivors, including but not limited to provisions for emergency leave, unemployment insurance eligibility, reasonable employment accommodations, and protection from employment and insurance discrimination. This effort would transform the current state-by-state patchwork of laws and allow survivors across the U.S. to pursue both physical security and economic independence.

In conclusion, the ACLU applauds the Chairman and Ranking Member for your attention to and support of VAWA and we look forward to working with members of the Committee in the months ahead. Should you have any questions, please don't hesitate to contact Vania Leveille at 202 715-0806 or vleveille@dcaclu.org.

Sincerely.

Caroline Fredrickson
Director
Washington Legislative Office

Vania Leveille
Legislative Counsel
Washington Legislative Office



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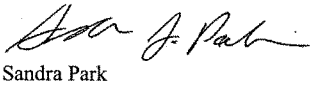

Sandra Park
Staff Attorney
Women's Rights Project

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[11] *See, e.g.*, Security and Financial Empowerment Act (S 1801, HR 739); Unemployment Insurance for Survivors Act of 2007 (HR 4016); Survivors' Empowerment and Economic Security Act (S1136).

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Testimony of
Ann Burke, RN, M.Ed.
President and Founder, Lindsay Ann Burke Memorial Fund

U.S. Senate Judiciary Committee
June 10, 2009

Chairman Leahy, Ranking Member Sessions, and Distinguished Members of the Committee, thank you for the opportunity to testify today on the importance of creating awareness on the issue of dating abuse and prevention education efforts. I appreciate the opportunity to share my daughter, Lindsay's story, and the positive legacy that has come from her loss.

First, let me recognize other parents who share similar stories. My husband Chris is here along with Bill and Michele Mitchell from Maryland. Their daughter, Kristin, was attacked and brutally murdered by her boyfriend three weeks after her college graduation. And, Kim Davidson whose daughter Kari Ann was just 18 when she was killed by her abusive boyfriend. They are members of MADE (Moms and Dads for Education to stop dating abuse), a group that my husband and I co-founded along with Liz Claiborne. We advocate nationally that all middle and high schools teach a dating violence curriculum.

Today, I would like to tell you about my lovely daughter, Lindsay. Lindsay could easily be described as "the girl next door." She grew up on a small street in the suburbs, knowing all the neighbors and playing with all the children in the neighborhood. She had plenty of friends, took dance and piano lessons, played soccer, tennis, and graduated from St. Mary's Academy and Rhode Island College with a degree in elementary and secondary education. Her many friends would often describe her as having a sweet and compassionate nature.

My daughter met her killer by chance at a wedding. In this two year relationship, her father and I noticed things in Lindsay that didn't seem quite right, including a change in her personality but we didn't know the cause at first. As the police would later describe, it was a classic case of abuse and that every form of abuse (verbal, emotional, sexual, and physical) was used.

Let's not overlook the strong correlation between stalking and intimate partner murder. Until after Lindsay's death, I did not know that 76% of women murdered by an intimate partner had been stalked by that intimate partner, but only about half of stalking victims recognized the crime for what it was. Lindsay was no exception. After Lindsay left the boyfriend for the third time and was living with my son and his wife, Lindsay got calls constantly from him, according to cell phone records, more than 20 hours a week worth of calls. She was fearful and anxious. Earlier, he threatened to kill her.

She had the support of friends and family. Yet, after leaving him and trying to start a new life, Lindsay's life ended almost four years ago, when she was only 23 years old. The police statements and autopsy showed that she was brutally tortured and murdered by her ex-boyfriend. As Rhode Island Attorney General Patrick C. Lynch said after the sentencing, "I am hopeful that Lindsay's death will provide lessons for our teenagers that will prevent others from being victimized by dating violence. "

After Lindsay's murder, I spent many painful months researching this topic. Given the alarming statistics for dating violence, I began to wonder why we don't require educators to teach our children about the importance of healthy relationships and prevention of dating and domestic violence.

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Over and over I asked myself, "if Lindsay was properly educated about this major health issue in health class, would she still be alive today?" I believe she would. I never learned about it while pursuing my degrees in nursing, secondary education, or my graduate degree in health education. As a result, in my 24 years of being a school nurse and health teacher in a middle school, I never addressed it with my students. I have since learned that my lack of education on this topic is more the norm in our country rather than the exception. As a teacher, I realized we have school policies for bullying and sexual harassment, and we teach our students and our staff about these issues. I strongly believed that the same needed to be done for dating violence.

I believe that if my daughter was taught about dating violence from middle through high school and if we as parents knew ALL the facts as well and reinforced this information at home, she would still be with us. Having known Lindsay, a confident and assertive young lady who always spoke her mind, who didn't hesitate to change friends in high school when some of them started drinking alcohol, who didn't hesitate to seek help from her guidance counselor when needed, and from the school principal when she thought something unfair was occurring, wouldn't she have been more careful about a safety plan and seeking proper help if she had heard about all of this before and had some frame of reference in her mind from prior learning? Knowing my daughter, I believe she would have been. And now we will never know for sure.

How many more daughters have to lose their lives at the hands of an abusive partner? How many more teens have to suffer in an abusive relationship, fearing for their lives, and yet afraid to tell anyone? The teen dating violence statistics are alarming. Teen dating violence is a major health problem that leads to other health problems: substance abuse, eating disorders, depression, and suicide. Recent research has found a strong connection between violence among young people and poor reproductive health outcomes. A study published in the Journal of the American Medical Association found that one in three U.S. high school girls who has been abused by a boyfriend has become pregnant. By reducing dating violence, we can reduce unintended teen pregnancies. The psychological effects on its victims are also devastating. Devastation I know all too well. Dating violence, the same as domestic violence, destroys and sometimes kills people. How can we ignore this major health problem any longer?

In 2006, my family founded the Lindsay Ann Burke Memorial Fund to address dating violence primarily through education. Through our workshops, we have trained 224 health teachers from 89 schools in Rhode Island. We have donated over $40,000 worth of curriculum to these schools, and through our workshops for general school staff we have trained well over 1,000 teachers so far.

More recently, Rhode Island legislators showed foresight and took a stand by passing the Lindsay Ann Burke Act with the support of Attorney General Patrick Lynch. Rhode Island now mandates annual dating violence education for students in grades 7 - 12 through our comprehensive health education curriculum, training in this topic for school staff in middle and high schools, a school district policy to address episodes of dating violence at school and at school events, and the law strongly recommends parent training.

Episodes of dating violence at school in Rhode Island will no longer be ignored. Teens, school staff, and parents will now get the education on this topic that they rightfully deserve. An interesting thing happens when you educate all three groups, teens, school staff, and parents at the same time. Everyone begins to talk openly about this topic, removing the shame and stigma that now exists. This helps teen victims to come forward and seek help; it gives teens the knowledge and skills to help each

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other; and it helps parents to reinforce this information at home with their teens and watch for signs of unhealthy relationships. And abusers, once educated, may think twice about their own behavior and seek ways to change.

Since passage of the Lindsay Ann Burke Act in Rhode Island, we have gotten support from both the National Association of Attorneys General and the National Foundation for Women Legislators. They have partnered with us in our effort to support Lindsay's law and to pass dating violence education in all states. As a result of their efforts, several states have passed laws, with bills pending in other states. However, I want to point out that some have been watered down due to lack of funding for implementation.

Funding and leadership from the federal level is needed for comprehensive dating violence education for all teens. The last VAWA bill created the STEP program (Supporting Teens through Education and Protection Act) that would support training in schools, but it has never received funding. This funding is exactly what states and school districts need to implement dating violence education laws.

And this is more critical in light of a survey released this morning by the Family Violence Prevention Fund and Liz Claiborne that says American teens are experiencing alarmingly high levels of abuse in their dating relationships. At the same time, the survey found parents are out of touch with the level of teen dating violence and abuse among their teens. The large majority of abused teens are not informing parents, and even when they do, most stay in abusive relationships. This highlights the need to start funding for STEP. To do anything less, is selling our children short. We should not delay with our children's health and lives.

In addition, other programs authorized in VAWA, such as the Services to Advocate for and Respond to Youth Grant Program (STARY), the Children and Youth Exposed to Violence Grant Program, and Engaging Men and Youth Program have received a small amount of funding. These programs need to be fully funded. The Engaging Men program is an important part of making clear that men and boys are critical as part of the solution to ending violence. As one established model, the Family Violence Prevention Fund runs the Coaching Boys into Men program to engage athletic coaches to help shape the attitudes and behaviors of young male athletes.

I commend Chairman Leahy for authoring the Improving Assistance to Domestic Violence Victims Act which strengthens dating violence provisions, and I urge the full Senate to quickly pass this bill.

And so I ask, how many more daughters have to lose their lives at the hands of an abusive partner? How many more teens have to suffer in silence in an abusive relationship fearing for their lives?

The time to go beyond awareness is now! Senators, give our youth the education they deserve. Every teen has a right to know this information—ALL the facts. Education gives power, the power to recognize an abusive relationship and help ourselves and others. By fully funding these programs, you will help educate our youth. This can and will save lives. It's the right thing to do; it's long overdue. If we wait, teens will continue to suffer in silence and the loss of life will continue. This is unacceptable. We can help them. You can help them. The time to educate a nation is NOW. Thank you.

Chapter 490
2007 -- S 0875 SUBSTITUTE B
Enacted 07/03/07

A N A C T
RELATING TO EDUCATION - DATING VIOLENCE "LINDSAY ANN BURKE ACT"

Introduced By: Senators Lanzi, Paiva-Weed, Perry, Gallo, and Goodwin
Date Introduced: March 20, 2007

It is enacted by the General Assembly as follows:
SECTION 1. Title 16 of the General Laws entitled "EDUCATION" is hereby amended by adding thereto the following chapter:

CHAPTER 85

LINDSAY ANN BURKE ACT

16-85-1. Short title. – This chapter shall be known and may be cited as the "Lindsay Ann Burke Act."

16-85-2. Legislative findings. – The general assembly hereby finds, determines and declares that when a student is a victim of dating violence, his or her academic life suffers and his or her safety at school is jeopardized. The general assembly therefore finds that a policy to create an environment free of dating violence shall be a part of each school district. It is the intent of the general assembly to enact legislation that would require each school district to establish a policy for responding to incidents of dating violence and to provide dating violence education to students, parents, staff, faculty and administrators, in order to prevent dating violence and to address incidents involving dating violence. All students have a right to work and study in a safe, supportive environment that is free from harassment, intimidation and violence.

SECTION 2. Chapter 16-21 of the General Laws entitled "Health and Safety of Pupils" is hereby amended by adding thereto the following section:

16-21-30. Dating violence policy. – (a) As used in this section:
(1)"Dating violence" means a pattern of behavior where one person uses threats of, or actually uses, physical, sexual, verbal or emotional abuse to control his or her dating partner.
(2) "Dating partner" means any person, regardless of gender, involved in an intimate relationship with another primarily characterized by the expectation of affectionate involvement whether casual, serious or long-term.
(3) "At school" means in a classroom, on or immediately adjacent to school premises, on a school bus or other school-related vehicle, at an official school bus stop, or at any school-sponsored activity or event whether or not it is on school grounds.
(b) The department of education shall develop a model dating violence policy to assist school districts in developing policies for dating violence reporting and response. The model policy shall be issued on or before April 1, 2008.
(c) Each school district shall establish a specific policy to address incidents of dating violence involving students at school by December 1, 2008. Each school district shall verify compliance with the department of education on an annual basis through the annual school health report.
(1) Such policy shall include, but not be limited to, a statement that dating violence will not be tolerated, dating violence reporting procedures, guidelines to responding to at school incidents of dating violence and discipline procedures specific to such incidents.
(2) To ensure notice of the school district's dating violence policy, the policy shall be published in any

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school district policy and handbook that sets forth the comprehensive rules, procedures and standards of conduct for students at school.

(d) Each school district shall provide dating violence training to all administrators, teachers, nurses and mental health staff at the middle and high school levels. Upon the recommendation of the administrator, other staff may be included or may attend the training on a volunteer basis. The dating violence training shall include, but not be limited to, basic principles of dating violence, warnings signs of dating violence and the school district's dating violence policy, to ensure that they are able to appropriately respond to incidents of dating violence at school. Thereafter, this training shall be provided yearly to all newly hired staff deemed appropriate to receive the training by the school's administration.

(e) Each school district shall inform the students' parents or legal guardians of the school district's dating violence policy. If requested, the school district shall provide the parents or legal guardians with the school district's dating violence policy and relevant information. It is strongly recommended that the school district provide parent awareness training.

(f) This section does not prevent a victim from seeking redress under any other available law, either civil or criminal. This section does not create or alter any tort liability.

SECTION 3. Chapter 16-22 of the General Laws entitled Curriculum" is hereby amended by adding thereto the following section:

16-22-24. Dating violence education. – (a) Each school district shall incorporate dating violence education that is age-appropriate into the annual health curriculum framework for students in grades seven (7) through twelve (12).

(1) Dating violence education shall include, but not be limited to, defining dating violence, recognizing dating violence warning signs and characteristics of healthy relationships. Additionally, students shall be provided with the school district's dating violence policy as provided in subsection 16-21-30(c).

(2) For the purposes of this section:

(i) "Dating violence" means a pattern of behavior where one person uses threats of, or actually uses, physical, sexual, verbal or emotional abuse to control his or her dating partner.

(ii) "Dating partner" means any person involved in an intimate association with another primarily characterized by the expectation of affectionate involvement whether casual, serious or long-term.

(iii) "At school" means in a classroom, on or immediately adjacent to such school premises, on a school bus or other school-related vehicle, at an official school bus stop, or at any school sponsored activity or event whether or not it is on school grounds.

(3) To assist school districts in developing a dating violence education program, the department of education shall review and approve the grade level topics relating to dating violence and healthy relationships in the "health literacy for all students: the Rhode Island health education framework."

(4) The provisions of this section shall be amended in the health education curriculum sections of the Rhode Island rules and regulations for school health programs, R16-21-SCHO, and the Rhode Island basic education program at their next revisions.

(b) Upon written request to the school principal, a parent or legal guardian of a pupil less than eighteen (18) years of age, within a reasonable period of time after the request is made, shall be permitted to examine the dating violence education program instruction materials at the school in which his or her child is enrolled.

SECTION 4. This act shall take effect upon passage.

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LC01262/SUB B

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Testimony of
Honorable Collene (Thompson) Campbell
Before the Committee on the Judiciary
United States Senate
June 10, 2009

Campbell is former two-term Mayor, San Juan Capistrano, CA;
Commissioner, California Peace Officer Standards & Training, Chairman four term;
Board Member, Corrections Standards Authority, State of California;
Board Member, National Institute of Corrections;
One of the hardest hit crime victims in our Nation..

Mr. Chairman, Senators, thank you for the opportunity to address you this morning. The "Violence Against Women Act" (VAWA) has been a significant addition to the resources available that strengthen our nation's capacity to help women victims of sexual and physical violence. However, standing alone and without more, VAWA is not enough. VAWA's resources may be a necessary condition to address these crimes and their victims, but resources alone, in the face of a criminal justice system that lacks adequate punishment, that lacks due process or justice for victims, or lacks even basic common sense, will never be sufficient. Today I will focus on a few of these justice system failures.

I'm frequently asked, "What are your credentials to speak on matters of criminal justice and crime victims' issues, and what "degrees" do you possess in this regard?"

Well, Senators, I have three complex degrees that I don't want others to obtain..

In April, 1982, I received my first devastating degree. Regrettably, it was the first-degree murder of our only son, Scott. Six years later, on the 16th day of March, 1988, I received two additional degrees. It was the first-degree murders of my only sibling, my brother, auto racing legend, Mickey Thompson and his wife, Trudy.

My husband and I have endured the criminal justice system since 1982 and have continued to attempt to deal with the inequalities up through today. That's twenty-seven straight, exhausting and discouraging years. So, Senators, there are "degrees" and then there are "degrees," and I will leave it up to you to decide which are the most significant and educational in our fight for justice and due process for the law-abiding. I wish to God I could say I have no credentials to address these issues.

I do not intend to be a whiner, however I feel it important for you to understand a small portion of the real and truthful world of being a victim of crime.

Our son, Scott, became missing and we desperately searched for him for eleven agonizing months, before we learned the horrible truth. Scott was kidnapped, assaulted, strangled and thrown from an airplane into the Pacific Ocean by two repeat felony criminals. His body was never found. We are among thousands of other good hard-working Americans who have become victims of evil repeat predators who should have remained in prison. One of the killers had previously been sentenced to three indeterminate life sentences, but was released in only four years, providing him with the opportunity to kill our Son. The other killer was out on work furlough after killing his passenger in a drug related accident. Our son, Scott, is dead because of a weak and forgiving criminal justice system. His killers both would have been "Three-Strikers" under today's California law and should have remained in prison. If they had been incarcerated our Son would be alive today.

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There are many thousands just like us who have lost their loved ones because a criminal was given that "one more chance", which is a huge and an unforgivable "price" for a Mom and Dad.

My final "degrees" came with the first degree murders of my brother, racing legend Mickey Thompson and my sister-in-law, Trudy. They were murdered execution style in the driveway of their home in a vicious crime orchestrated by Mickey's former short-term business partner, Michael Goodwin. We waited for justice as the investigation was continually stalled. Finally, sixteen years after the murders and venue challenge from Orange County, CA., on June 8, 2004 Goodwin was formally charged in Los Angeles County. After another two years of legal maneuverings, in October, 2006, a Pasadena Superior Court judge ordered Goodwin to stand trial for the two murders. Lastly, on January 4, 2007, almost 19 years after Mickey and Trudy's murders, a jury found Goodwin guilty of two counts of murder. He was sentenced to two consecutive life sentences, without the possible of parole for the murders of my brother and sister-in-law.

The pain of the delay in our road to justice was long and devastating for our family. And we still must continue to prepare for parole hearings for our son's murderers. The system should have sentenced the killers of Scott to life and spared our family the living hell of returning to confront the murderers at repeated parole hearings. Let me repeat, like all too many, we are the devastated victims of a weak and forgiving justice system and we have paid the price with the murders in our family.

For any family to deal with murder is excruciating. However, to allow the American justice system to add additional agony is both intolerable and shameful. Possibly if victims had an organization such as the ACLU or the Trial Attorneys' Associations our situation might improve. We have very few factions representing victims and that is why it is so very important that you step forward to help protect the honest, law-abiding citizen who just happens be become a victim of crime. Why are so many interested in helping the perpetrators of crime and not the victims of the criminals' evil actions?

Our experience has compelled us to fight for reform. We started M.O.V.E., in Memory of Victims Everywhere to fight for victims' rights in California. We started FORCE 100, a national grassroots advocacy group, with leaders in every state, to fight for a U.S. Constitutional Amendment for victims rights. Our efforts have led, among other things, to the passage, in 2004, of the Crime Victims' Rights Act, which we were honored to have named after our son, Scott.

However, today, we address victims of sexual and physical violence. I am here to ask three things of you.

1. Protect victims by increasing the federal sentence for rape. Make it long and make it mandatory. Send a message that this evil crime will not be tolerated. Send a message that the safety of victims is a primary purpose of our government. Tell the victims of this country that their protection matters. And tell those who would commit this crime that they will be severely punished. Only in this way can we begin to deter this violence against women.

Our family knows all too well the costs imposed by weak laws that release dangerous criminals too early. And those costs are not borne by the inanimate state. They are borne by the rapist's next victims and by citizens who live in fear. We can do better than this.

In my work in corrections and law enforcement, I have seen over and over again, the consequences of weakness and falsely sentimental leniency: is responsible for more and more victims. I have also seen the deterrent effect of sentences that do not undervalue the gravity of violent crime. I ask you today to stand for the innocent and the law-abiding and pass a mandatory sentence for rape in the federal system.

2. Increase the ability of the nation's law enforcement agencies to solve crimes through an increased reliance on DNA testing. Every person arrested should be required to submit a DNA sample. DNA sampling protects the innocent and helps identify the guilty. There is no reason why our country should not be in the forefront of using this important investigative tool.

Just as important as the expanded use of collecting DNA samples, is increasing the capacity of our crime labs to test DNA evidence when it is found at crime scenes, and then comparing those results to the samples in the national databases. It must be done to save the lives of families just like mine.

All across our country, there are rape kits and other DNA evidence that remain in a backroom of a lab or evidence storage facility, untested because labs have long delays before testing and analysis can occur, because of severe under funding. This is a disgrace. When we are spending billions of dollars for less worthy projects, how can we call ourselves a nation of laws, a nation committed to justice, if we do not do everything possible to protect the innocent and bring the guilty to justice?

Many families know the expanded cost and the pain of delays that result because resources are too scarce to pursue justice vigorously. Every day brings a haunting, gnawing sense of loss, betrayal, and abandonment. Let me assure you, the pain of constant delay is not felt by the salaried lawyers, the judges and the other professionals in the justice system nearly as much as it is felt by the devastated victims.

Please, start utilizing the science we have available at our finger tips and succeed for the law-abiding, protect the innocent and assist in identify the guilty. Provide and implement the laws needed to test all arrestees and obtain the resources needed to use the results from that growing database to find the guilty when crimes are committed.

3. Preserve and protect the rights of crime victims to justice and due process both in our laws and in our courts. Victims' rights to be informed, present and heard at critical stages must not only be preserved in our laws but also enforced in our courts.

Our family knows of the injustices that are done to victims in this country because we have lived it. During the several trials of our Son's murderers we were not given notice of proceedings, we were excluded from the courtroom and forced to sit on a hard wooden bench in the hallway, while the murderers family members were escorted into reserved seats. We were not allowed to speak at critical stages. Through it all, we continually felt the deep sense of unfairness and betrayal by a system that was supposed to be there for us. That was in the mid-1980s. We took up the cause for victims' rights and fought hard for reforms. While some progress was made it has been slow and frustrating.

When the trial of Michael Goodwin took place we were again the target of a motion to exclude us from the courtroom. By using some of the very reforms that we had fought for after Scott's murder, we were allowed to be present during most of the trial, however, not without a legal fight that we initiated and was delivered by an amazing and knowledgeable attorney, kind enough to volunteer his time and fly to the trial to argue our exclusion. His name is Steve Twist.

If we are to truly seek justice in our great Nation, we cannot forget the due process rights of the victims, any more than we can ignore those rights for defendants. The rights contained in the Crime Victims' Rights Act, and those contained in the recently voter-passed Victims Bill of Rights in California, set the standard for the rights to justice and due process that should be the birthright of every person in this country. These rights are well known to this committee.

Our direct experience in the Goodwin trial has demonstrated beyond any doubt that even strong statutes like our laws in California, or the CVRA, are too often words on paper when confronted with a hostile or uncaring court system. We still need to fight for equal rights for justice. That is why the work of the National Crime Victims Law Institute (NCVI) and the legal clinics it supports now in ten states and the District of Columbia is so very critical.

I ask you to support a full funding appropriation, already authorized by the Congress, for NCVLI and its clinics. If necessary, allow the Crime Victims Fund to be used for this purpose after raising the cap on the use of these funds. Clinics have been in the forefront of bringing the words of victims' rights to life. When Patrick Kenna was denied his CVRA right to speak at the sentencing of the convicted con man who stole his savings, the Arizona clinic was there to fight for his right to speak all the way to the Ninth Circuit, where his right was vindicated. When a murder family's right to be present was denied despite our new state constitutional right in California, the new California clinic has been there to fight for their rights in a case still pending. And the stories are being replicated across our country through the critical work of these clinics.

And what does all this mean for VAWA? How important is it for a woman to be able to tell the court about her needs for safety before her violent abuser is released after arrest? It might be a matter of life or death. How critical is it for a woman who has been raped to be heard on the matter of a plea agreement that might diminish the severity of the crime against her? For justice and for the rapist's next victims it might be crucial. How important is it for a mom and dad to be heard at sentencing when their little daughter has been the victim of violence?

For us, there is no need to speculate. It is just as fundamental for the parents of a daughter as for a son. The rights to safety and privacy, the rights to be informed, present, and heard, the rights to be free from unreasonable delay, to confer with the prosecutor and to be treated with fairness. These rights are as fundamental to justice as the air we breathe is to our life. This is not idle speculation on my part; this is the "real world" of my life for nearly the last three decades. When these rights are denied to you, as they have been to us, you are abandoned and betrayed.

In order to judge moral fiber, fortitude, courage and justice, it is important for you, our Nation's decision makers, to create a strong effort to try and personally identify with and recognize why there is such a strong need for crime victims to be served with justice and the protection of our citizens.

As horrifying as the thought may be, just for a moment, please try to put yourself in the place of a victim's family, where someone you love deeply has been brutally murdered, raped, or badly wronged. No, I would never want or ask you to suffer the pain that so many of us victims are forced to endure…but if you don't try to understand by placing yourself in the situation that many are forced to endure, then it is impossible for you to use knowledge and high-quality judgment in setting the essential standards for our great Nation.

Yes, it is impossible in just a few moments to bring you into the real world of being a victim of violent crime and I certainly do not want you to ever be forced to endure the reality that my family has been forced to live. For a straight quarter-of-a-century, without a break, my family has been through living hell. . . furnished first hand to my family by evil killers who should have remained in prison... and then our misery and sorrow was greatly expanded by our justice system. If our justice system had worked the way it was intended, my murdered family would be alive today.

We are from a good, honest, hard working family. We never thought we could become victims of horrible crimes. Our family is among the millions of Americans who have been forced to undergo the everlasting devastation caused by criminals, and in addition, we are further required to suffer added enormous stress caused by the inequities within our justice system.

You have the power to make things better. As you consider VAWA today and the good it has done, please remember the important work that has been left undone and must be completed to bring true justice to our nation.

Pass a strong mandatory prison sentence for rape in the federal system.

Rapidly enhance our DNA sampling and testing laws to give our law enforcement officers the tools they need and deserve to solve more crimes, seek justice for victims and protect our citizens.

Fully fund the CVRA through the National Crime Victim Law Institute and its clinics, whereby victims' rights can be made a reality by enforcing them in our courts.

In this way you will protect women by solving more crimes, deterring more crimes, and treating victims with fairness and dignity.

Thank you, Senators, for your consideration of the foregoing facts and my strong beliefs obtained through heartbreaking first-hand experiences. I deeply appreciate your trust in allowing me to utilize your precious time by hearing my views on the actuality of the "real world" of crime and the unnecessary additional high cost to victims and their families.

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In Support of Senator Coburn's Effort to Alleviate the Suffering of Rape Victims

For the past twenty-one years we have worked with families affected by HIV disease and fully appreciate its power to harm or destroy the lives of children and parents alike. The transmission of the virus and the resulting physical and emotional pain it causes cannot be overstated. It takes a tremendous toll on all family members whether or not they are the one infected or their loved one. In the case of rape the pain is multiplied many times for the victim and their family.

We must stop protecting perpetrators of rape as if they have more rights than the person they have brutalized. Any woman who has been raped (or men for that matter) should be able to learn as quickly as possible whether or not their assailant carries this terrifying disease or any sexually transmitted disease. Having that knowledge will allow the victim to receive post exposure prophylactic treatment if necessary and not receive it if it is not needed. Perhaps more importantly the emotional trauma can be alleviated to a much greater extent with this knowledge than without it.

Senator Coburn is correct to pursue this needed measure in S 327 of allowing rape victims to know the HIV status of assailants for other reasons as well. Women who are married or have a committed partner can know if there is any risk of infection of HIV in future intimacy with their husband or partner. Importantly they can also share with their children and other loved ones that they are either safe from acquiring HIV or are working to avoid it or dramatically reduce its consequences. And when it is child - either a little girl or little boy - that has been brutalized, raped or sodomized the need to reduce lifetime negative psychological and emotional damage is equally great or greater. We feel anti-social behavior, no matter what it may be, carries with it legal sanctions and rape should be no exception. The HIV status of the rapist should not become a negotiating tool for anyone who commits such outrageous behavior. Their HIV status must be learned at the earliest possible time.

June 10, 2009

www.childrensaidsfund.org

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FAMILY VIOLENCE
PREVENTION FUND

EMBARGOED UNTIL WEDNESDAY, JUNE 10th at 9:00AM EST

Teen Dating Abuse 2009 Key Topline Findings

Liz Claiborne Inc. and Family Violence Prevention Fund commissioned research to quantify levels of Teen Dating Abuse, better understand Parental Engagement on the issue, and determine if the Economy had an impact.

Key Findings: American teens from across the country are experiencing alarmingly high levels of abuse in their dating relationships, and the economy appears to have made it worse. Nearly half of all teens whose families have experienced economic problems in the past year report having witnessed their parents abusing each other. These teens report a higher incidence of abuse in their own dating relationships.

Parents are disturbingly out of touch with the level of teen dating violence and abuse among their teens. The large majority of abused teens are not informing parents and, even when they do, most stay in abusive relationships.

Methodology in Brief

TRU was commissioned to conduct quantitative research among teens who have been in a relationship (ages 13-18) and parents of teens (ages 11-18) about young dating relationships and the presence/absence of abusive behaviors. TRU independently sampled the two groups and fielded a customized 15-minute survey online to both groups from April 10 to May 5, 2009. TRU recommended online as the data-collection method for this research not only because of its high penetration (93%) among this population, but also because of the sensitive nature of the content of this survey, allowing young people to answer candidly (i.e., no adult interviewer) within the context of their preferred communications method. A total of 1,233 teens and 500 parents completed the survey, resulting in a margin of error (at the 95% confidence level) of ±2.8 percentage points for teens in total, and ±4.4 percentage points for parents.

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FAMILY VIOLENCE PREVENTION FUND

I. Incidences of Teen Dating Abuse are unexpectedly high. Nearly 1 in 3 report actual sexual abuse, physical abuse, or threats of physical abuse. Nearly 1 in 4 have been victimized through technology, and nearly 1 in 2 teens in relationships report being controlled, threatened, and pressured to do things they did not want to do.

47%	Have personally been victimized by controlling behaviors from a boyfriend or girlfriend
29%	Have been the victim of sexual abuse, physical abuse, or threats of physical abuse by a boyfriend or girlfriend
24%	Have been victimized by the use of technology from a boyfriend or girlfriend
11%	Have been the victim of verbal abuse from a boyfriend or girlfriend

> Further, extremely high numbers of teens know **someone their age** who has experienced abuse in their dating relationships.

80%	Know someone who has been a victim of controlling behaviors from a boyfriend or girlfriend
60%	Know someone who has been the victim of sexual abuse, physical abuse, or threats of physical abuse by a boyfriend or girlfriend
51%	Know someone who has been victimized via the use of technology from a boyfriend or girlfriend
35%	Know someone who has been the victim of verbal abuse from a boyfriend or girlfriend

*See key on last page for specific acts included in abusive behavior categories above

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FAMILY VIOLENCE
PREVENTION FUND

II. There appears to be a link between the economy, higher levels of violence and abuse between parents, and teens' own experience with dating violence and abuse.

> Nearly three-fourths **(74%)** of all teens surveyed report their families have experienced economic problems in the past year.

> Nearly half of these teens **(44%)** report witnessing some form of violent or abusive behavior between their parents. These behaviors include repeated verbal abuse (35%), severe controlling behavior (27%), or physical abuse and threats (18%).

> Notably, **67%** of these same teens experienced some form of dating violence and abuse themselves (vs. 45% of teens who have not witnessed domestic violence between their parents).

> Teens who have witnessed domestic violence and abuse between their parents experience abuse at a **50%** higher rate than those who have not witnessed abuse.

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FAMILY VIOLENCE
PREVENTION FUND

III. Despite the high numbers of teens experiencing abuse, parents are dangerously out of touch with the level of dating violence and abuse taking place in their children's lives.

> Nearly two-thirds of parents **(63%)** whose children have been in a dating relationship say dating violence and abuse have not been a problem for their teens, but the data shows otherwise.

» Parents are unaware of specific types of abuse that their teens are experiencing.

	% of relationship teens who say they've been a victim	% of parents who are unaware of abuse in teen's relationship
Controlling behaviors	47%	67%
Tech abuse	24%	82%
Verbal abuse	19%	88%
Sexual abuse	17%	90%
Physical abuse	12%	90%

Parents feel confident they can spot the signs of abuse, but they are mistaken:

> Though **82%** of parents feel confident that they could recognize the signs if their child was experiencing dating abuse, a majority of parents **(58%)** **could not** correctly identify all the warning signs of abuse.

> While nearly **two-thirds** of parents claim to be comfortable talking to their teen about the most serious aspects of dating abuse and **75%** of parents say they have had a conversation with their teen about what it means to be in a healthy relationship, the research shows these conversations between parents and teens have not been effective.

FAMILY VIOLENCE PREVENTION FUND

IV. The majority of teens in abusive relationships have not confided in their parents. When these teens do confide in their parents, significant numbers do not heed parents' advice.

Of those who have been in an abusive dating relationship, fewer than one-third (32%) have confided in a parent about their abusive relationship.

> But when they do have conversations, significant numbers of teens do not take their parents' advice. Alarmingly, **78%** of teens who have experienced ***dating abuse*** report **staying in relationships** despite their parents' advice.

When encouraged by their parent to break up with their boyfriend/girlfriend due to abusive behavior, teens…

	Abused Teens
… decided to give their boyfriend/girlfriend one more chance	63%
… listened to parents advice, but decided not to break up	62%
… ignored their advice because they profess love for their boyfriend or girlfriend	31%
… lied to parents, telling them they broke up, simply to get them "off their back," but continued the relationship	28%
…have done at least one of the above	78%

FAMILY VIOLENCE PREVENTION FUND

V. Overall, despite its prevalence, dating abuse remains hidden and is not being talked about by teens and parents.

> **74%** of sons and **66%** of daughters say they have ***not*** had a conversation about dating abuse with a parent in the past year.

> Only **28%** of teens say they have had a conversation about dating abuse with **Mom**, and fewer than half as many **(13%)**, say they have had a dating abuse conversation with **Dad.**

» The frequency of parent-teen conversations about the topic of abuse pales in comparison to that of other tough issues. While fewer than 1 in 3 **(31%)** teens have talked to parents about dating abuse in the past year, more than **6 out of 10** teens have had a conversation with a parent in the past year about…

- Drugs (**71%**)
- Alcohol (**71%**)
- Sex (**64%**)

Among teens whose families have experienced economic problems in the past year, conversations about dating abuse are drowned out by talks about money.

> **71% of teens** whose families have been affected by the economy in the past year have **NOT** had a conversation with a parent about dating abuse.

> In comparison, more than **8 out of 10** of these teens say **they HAVE had** a conversation with a parent about:

» Money (**92%**)

» The economy in general (**86%**)

» Family finances (**82%**)

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FAMILY VIOLENCE PREVENTION FUND

VI. Teens are not talking to their parents or other authority figures about abuse.

> **80%** of teens who've been in an abusive relationship have turned to a friend for help.

» Fewer than **1 in 3** have…

	Abused Teens
… talked to a parent	32%
… gone to a website or online resources for help	21%
… talked to a school counselor or social worker	15%
…called an abuse help line	5%

FAMILY VIOLENCE PREVENTION FUND

VII. Conversations on dating abuse are difficult and unproductive because both teens and their parents are extremely uncomfortable talking to each other about the most serious aspects of dating abuse.

> **Teens** are uncomfortable talking to their parents, especially **Dad**, about abuse issues.

Comfort level talking to parents if boyfriend/girlfriend did the following:	Uncomfortable talking to MOM			Uncomfortable talking to DAD		
	TOTAL	SONS	DAUGHTERS	**TOTAL**	SONS	DAUGHTERS
Pressured you in to having sex or oral sex	**71%**	67%	**74%**	**75%**	61%	**86%**
Shared or threatened to share private or embarrassing pictures or videos of you	**62%**	55%	**68%**	**70%**	57%	**81%**
Hit, slapped, punched, choked, or kicked you	**50%**	46%	**53%**	**60%**	50%	**68%**

> **At least a quarter** of all parents are uncomfortable talking about the most serious aspects of dating abuse with their teens.

> **Dads** are particularly uncomfortable talking to their **daughters**.

> **In combination with the high level of discomfort expressed by teens, parents' discomfort virtually ensures these conversations won't happen.**

Comfort level talking to teen if his/her boyfriend/girlfriend did the following:	Uncomfortable talking to SON	Uncomfortable talking to DAUGHTER	
	Both Parents	**Both Parents**	DAD
Pressured him/her into having sex or oral sex	27%	33%	**38%**
Shared or threatened to share private or embarrassing pictures or videos of him/her	24%	29%	**35%**
Hit, slapped, punched, choked, or kicked him/her	24%	28%	**36%**

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FAMILY VIOLENCE PREVENTION FUND

VIII. Dads appear to be much more in touch with the reality of teen dating abuse than Moms; however, Dads and teens aren't talking.

> **46%** of Dads (compared to **29%** of Moms) are aware of the dating abuse taking place in their teen's relationship.

» However, only **13% of teens** say they have had a dating abuse conversation with **Dad.**

> Not surprisingly, dating abuse is an especially uncomfortable topic of discussion between Dads and Daughters.

Comfort level talking to parent/teen if boyfriend/girlfriend did the following:	**Uncomfortable talking to DAD**			**Uncomfortable talking to DAUGHTER**		
	TOTAL	MALES	**FEMALES**	TOTAL	**DAD**	MOM
Pressured into having sex or oral sex	75%	61%	**86%**	33%	**38%**	28%
Shared or threatened to share private or embarrassing pictures or videos	70%	57%	**81%**	29%	**35%**	24%
Hit, slapped, punched, choked, or kicked	60%	50%	**68%**	28%	**36%**	21%

> **Nearly half of Dads** (43%) are unaware of any resources to help them have a conversation with their teen about dating abuse.

IX. Majority of teens who have been taught about teen dating violence and abuse say it has helped them.

> Only **25%** of teens say they've taken a course on relationships and dating at school, **but**

» Fully three-fourths of those teens who have taken such a course at school **(75%)** say they learned about the signs of an abusive relationship in this course and now feel confident that they would be able to judge whether a relationship is abusive.

» **2 out of 3 (65%)** found this class helpful in learning about appropriate dating and relationship behavior .

liz claiborne inc

FAMILY VIOLENCE
PREVENTION FUND

X. Most parents claim their child's school does not provide education on dating abuse, and most are at a loss for where to get help.

> Although **84%** of parents say schools ***should*** provide dating and relationship education, only **30%** of parents say their child's school in fact **provides such education**.

> **37%** of parents are unaware of any resources to help them have a conversation with their teen about dating abuse.

FAMILY VIOLENCE
PREVENTION FUND

*Abusive Behaviors Key: specific behaviors included in each category above

Controlling behaviors:

- Want to know who you are with all the time
- Want to know where you are at all the time
- Pressure you to do things you didn't want to do
- Try to tell you what to do a lot
- Try to prevent you from spending time with your family or friends
- Tell you how to dress all the time
- Threaten to spread rumors if you didn't do what he/she wanted

Use of technology includes:

- Call or text you to check up on you (find out where you are, what you're doing, who you're with) between midnight and 5:00am
- Call your cell phone to check up on you (find out where you are, what you're doing, who you're with) 20 or more times per hour
- Text you to check up on you (find out where you are, what you're doing, who you're with) more than 40 times per hour
- Share or threaten to share private or embarrassing pictures or videos of you

Verbal abuse includes:

- Repeatedly abuse you verbally so that you've been made to feel bad about yourself (like being told you are stupid, worthless, ugly, etc.)
- Threaten you or make you think that he or she would get violent or hurt himself/herself if you were to break up
- Threaten to hurt (hit, slap, choke, punch, kick) you when angry

Sexual abuse includes

- Pressure you to perform oral sex
- Pressure you into having sex

Physical abuse includes:

- Hit, slap, push, punch, kick or choke you
- Physically hurt you, like bruise from a punch
- Make you fear for your safety

Statement of Senator Tom Coburn, M.D.

"The Continued Importance of the Violence Against Women Act"
United States Senate, Committee on the Judiciary
June 10, 2009

Mr. Chairman, thank you for holding this hearing on the Violence Against Women Act (VAWA). I believe there are several aspects of the most recent reauthorization in 2005 that are vital to protecting women from many forms of violence. However, I believe that two primary aspects of VAWA will be detrimentally altered by legislation recently passed by the Senate Judiciary Committee, S. 327, the Improving Assistance to Domestic and Sexual Violence Victims Act of 2009. I am concerned that the provisions relating to the matching requirements for two grant programs and the changes made to language I inserted into the 2005 VAWA reauthorization legislation relating to HIV testing of sexual assault offenders will have adverse effects on victims and the programs established to treat them.

Grant Programs

First, the grant programs under VAWA and the Omnibus Crime Control and Safe Streets Act are aimed at assisting states, Indian tribes, and victim service providers to effectively reach out to victims and provide vital services to help them recover from all types of abuse. The only way these grantees can ensure fiscal vitality in the future is to reduce their dependence on federal funding. This can be accomplished by requiring the grantee to match the federal portion of the grant 50-50. However, the current bill does not require any matching by grantees under the VAWA grants in Section 103, and only requires 25% matching under the Omnibus Crime Control and Safe Streets Act grants in Section 104.

No doubt these grantees want future funding to be consistent. With our federal debt at $11.3 trillion and skyrocketing by the day, coupled with Congress' inability to control and reduce federal spending on lower priorities, grantees should be very concerned about availability of future federal funding. Requiring grantees to match federal funds in these grants will ensure more fiscal stability for them in the future.

In addition, grantees, especially states, can afford their matching portion, but the federal government cannot. For example, states typically have surplus budgets. In 2007, states had a surplus of $65.9 billion[1] and in fiscal year 2008, those balances totaled $50.8 billion.[2] Based on fiscal year 2009 enacted budgets, states still maintain a budget surplus of $48 billion.[3] Yet, the federal deficit has grown by $593 million[4] just in the 4 months since President Obama took office, creating our largest federal budget deficit of $11.3 trillion.[5] Clearly, the federal government's fiscal strength is questionable at best.

Thus, when a grantee can contribute a higher percentage of the total funding, it will likely be

[1] The Fiscal Survey of States, National Association of State Budget Officers, December 2008, p. viii.
[2] *Id.*
[3] *Id.*
[4] CBO Estimate of the President's budget, tables 1-2, 1-3, and 1-4.
[5] National Debt Counter, *available at* www.coburn.senate.gov.

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more secure financially by relying less on the federal government. Also, as a grantee invests additional funds into its services, it is more likely to remain truly committed to developing new and innovative strategies to help victims of crime. The easiest way to ensure this occurs is to require the federal government to provide no more than 50% of the grant amount. Matching is common in many pieces of legislation, and a 50-50 match was recently incorporated into the Second Chance Act and the PRO-IP Act of 2008.

Second, Section 103 grants do not require a match from Indian tribes, territories and victim service providers and also allows the attorney general to waive the matching for other grantees if he determines there is a financial need. As a result, almost no grantees will be required to contribute matching funds. On the other hand, Section 104 grants require a 25% match by all grantees except Indian tribes. It is imperative that all grantees be required to participate equally in these grants in order to create fiscal stability and continuity.

In Section 103, unlike the underlying statute which at least required the entity to petition the attorney general for such a waiver, this bill would allow the attorney general to determine, on his own, which grantee can receive a waiver. The bill provides no standards on which to base this waiver decision other than "financial need." However, "financial need" is not defined anywhere in the legislation. No entity should be exempt from a matching requirement. Without metrics and specific criteria on which to base his decision, the attorney general will be left to decide which grantees deserve an exception from the matching requirement based entirely on his own personal understanding of what constitutes financial need. We should not leave grantees wondering whether they can receive an exception by failing to provide them with standards they can understand.

HIV Testing of Sexual Assault Offenders

In 2005, the Violence Against Women Act of 2005 passed with an important provision intended to protect women who have already been victimized once by sexual assault from being assaulted again by either AIDS or the legal system which may deny them potentially life-saving information. This provision encouraged states to implement laws that provide victims of sexual assault and rape the ability to know if the person indicted for the attack is infected with HIV. It required the Attorney General to withhold 5% of the funding under that section to a state or local government that does not implement such laws. The defendant must undergo testing no later than 48 hours after the date on which the information or indictment is presented, and as soon thereafter as is practicable, the results of the test must be made available to the victim.

These provisions are desperately needed to address a real, grievous injustice that victims of sexual assault are facing in many states.

In the summer of 1996, a 7-year-old girl was brutally raped by a 57-year-old deranged man who later told police he was infected with HIV. The little girl and her five-year-old brother had been lured to a secluded, abandoned building in the East New York section of Brooklyn. The man raped and sodomized the girl. Her brother, meanwhile, was beaten, tied up, and forced to witness his sister's rape. After the man's arrest, the defendant refused to be tested for the AIDS virus by the Brooklyn District Attorney's office. His refusal to take the test was permitted under

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state law.

In the spring of 2002, Ramell Rodgers repeatedly raped "Jane," a female New York cab drive at gunpoint. The New York Daily News reported at the time that "Rodgers is in jail awaiting trial, while 'Jane' spends her days vomiting from drugs she takes to stave off sexually transmitted diseases she may have contracted in the attack. Officials say DNA evidence links Rodgers to the March 31 assault. According to sources close to the case, he has even admitted guilt. But he is not required to be tested for diseases until he is formally convicted."

'Jane' is determined to change the law to protect others who have been victimized by rape and sexual assault. Disguised in a scarf, wig and sunglasses, she spoke at a New York State Federation of Taxi Drivers press conference: "As a precaution, I have to take four different medicines [to help protect against HIV, chlamydia, herpes and other STDs], and I was told that, unless this guy volunteers for the test, I had to wait until he was convicted." She added: "If you are assaulted, you should have the right to know whether or not this person has infected you with anything."

One November evening in 2002, Doris Stewart, who was then 64, was awakened from her sleep when she heard a knock at her front door. When she went to the door, a man forced his way inside, then raped, sodomized and robbed her. Stewart's assault was just the beginning of her emotional distress. She harbors fears that her assailant may have HIV, but she has no way of knowing with certainty because Alabama is another of the few states that do not require testing of rape suspects for HIV. Stewart, who was advised by rape counselors to wait about two months before being tested, lived with fear of the unknown for months because it can take at least three to six months for HIV to be detected after infection. "Everybody I talk to thinks it's so unfair that there's no law in Alabama," said Stewart who has attempted to change the state law to protect future rape victims.

There are countless stories of other women and children who have been victims of rape and sexual assault who have been denied access to this potentially life-saving information. *In some circumstances, rape defendants have even used HIV status information as a plea bargaining tool to reduce their sentences.*

Senator Leahy's bill, S. 327, Improving Assistance to Domestic and Sexual Violence Victims Act of 2009, strikes the 2005 VAWA language and restructures the HIV testing requirements to allegedly "shift the focus of the...provision to the needs of the victim, instead of focusing on the alleged perpetrator."[6] The result of the bill's changes could not be further from that goal. I agree that victims of sexual assault and rape should be the focus of HIV testing requirements. In 2005, many states had no laws that required testing of rape suspects for HIV, and VAWA changed that. This bill, however, would hamper the ability of victims to receive immediate treatment, which is vital to fight off HIV.

The bill restructures the HIV testing requirements to allow a state or local government to be eligible for full funding if it **EITHER** 1) certifies it has a law or regulation that requires the state or local government to provide HIV testing of the victim at the request of the victim **OR** 2)

[6] Summary of changes to S. 327, circulated Wednesday, May 6, 2009, at 4.

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certifies it has a law or regulation that requires that state or local government to administer an HIV test to an offender at the request of the victim.

This language has two major problems. First, some would claim that the bill really is not eliminating the original language since the bill still allows a state to meet the bill's provisions by requiring HIV testing of the offender. Although it is true that such testing is still an option, the bill allows a state to fulfill its requirements for full grant funding by EITHER testing the victim OR the offender. It is likely true that states will choose to test the victim because it is easier or because the ACLU threatens that it is somehow a violation of the offender's rights; however, this fails to accomplish the goal of protecting victims from contracting HIV/AIDS. Second, even if a state chooses to meet the requirements of the bill by testing the offender, the time period allowed for compliance effectively eliminates what was required in the 2005 Reauthorization Act, which would have mandated compliance by 2007, and provides an extension to non-complying states by 4 years (2011).

As a physician, I believe it is vitally important that those who have been raped do not also become victims of HIV/AIDS, and that requires timely medical attention, including prompt testing of the defendant. Treatment with AIDS drugs in the immediate aftermath, usually within 72 hours, of exposure can significantly reduce the chance of infection. However, because of the toxicity and long-term side effects, these drugs should not be administered for long periods without knowing if HIV exposure has occurred.

Victims cannot rely solely on testing themselves because it can take weeks, sometimes months, before HIV antibodies can be detected. Therefore, testing the assailant is the **only** timely manner in which to determine if someone has been exposed to HIV. Furthermore, rapid tests are now available that can diagnose HIV infection within 20 minutes with more than 99% accuracy.

The American Medical Association supports this policy because "early knowledge that a defendant is HIV infected would allow the victim to gain access to the ever growing arsenal of new HIV treatment options. In addition, knowing that the defendant was HIV infected would help the victim avoid contact which might put others at risk of infection." Furthermore, the violent nature of the forced sexual contact actually increases the chances of transmission.

While the HIV infection rate among sexual assault victims has not been studied, in 2005, the National Rape Crisis Center estimated the rate is higher than the general population because the violent nature of the forced sexual contact increases the chances of transmission.

It is clear that testing the offender rather than the victim has incredible benefits to the victim. I realize that some believe testing only the offender is somehow not in the best interest of the victim, or that somehow, as the ACLU claimed in 2005, "forced HIV testing, even of those *convicted* of a crime, infringes on constitutional rights and can only be justified by a compelling governmental interest. No such interest is present in the case of a rapist and his victim because the result of a rapist's HIV test, even if accurate, will not indicate whether the rape victim has been infected." Also in 2005, the National Center for Victims of Crime (NCVC) opposed this provision claiming that "mandatory testing of sex offenders may not be in the best interest of the victim/survivor."

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However, the medical facts are quite obvious why knowledge of HIV exposure is vital to victims of sexual assault, and it is astonishing that anyone would argue otherwise. Exactly whose rights are being protected by denying a victim of sexual assault the right to know if she has been exposed to the deadly AIDS virus when she was raped? If sufficient evidence exists to arrest and jail a rape suspect, the victim should have the right to request that the suspect be tested for HIV.

Finally, the claim that testing of indicted rapists is unconstitutional is also unfounded. Numerous court decisions, in fact, have concluded otherwise.

In 1997, the New Jersey Supreme Court unanimously upheld the constitutionality of two state laws that require sex offenders to undergo HIV testing. The ruling followed the case of three boys who forcibly sodomized a mentally-retarded 10-year-old girl. At the request of the girl's guardian, HIV testing was ordered for each of the defendants. The boys' public defender opposed such testing. The court ruled that the victim's need to know outweighed the defendants' rights to privacy and confidentiality.

In December 1995, a Florida appeals court upheld the constitutionality of a state law allowing judges to order defendants charged with rape to submit to HIV testing. Duane Fosman was arrested and charged with armed sexual battery. At the request of the accuser, a Broward County trial judge ordered Fosman to be tested for HIV antibodies. Under the Florida law, a crime victim can ask a judge to order HIV testing of a defendant who has been charged with any one of 12 offenses, including sexual battery. The test results are disclosed only to the victim, the defendant and public health authorities. Fosman argued that the testing and taking of his blood amounted to an unreasonable search that violated the Fourth Amendment of the U.S. Constitution. He also said the action violated Article I, Section 23, of the Florida Constitution, which guarantees a person's right to be free from governmental intrusion in his private life. In addition, he asserted that the law is unconstitutional because it doesn't give him an opportunity to rebut the presumption of probable cause. A three-judge panel of the Court of Appeal, Fourth District, said Fosman's situation was analogous to blood and urine testing for drug or alcohol use. In 1989, the U.S. Supreme Court in Skinner v. Railway Labor Executive's Association ruled it was constitutionally permissible to test railroad workers who were involved in serious train crashes. In a companion case, National Treasury Employees Union v. Von Raab, the high court allowed mandatory drug testing, without probable cause, of customs employees. Under the same rationale, the Illinois Supreme Court upheld a law which required HIV testing of persons convicted of prostitution, and a California appeals court affirmed a law requiring HIV testing of defendants charged with biting or transferring blood to a police officer. In each of the cases, the "special needs" of the public outweighed the individual's demand that probable cause be established, the Florida court said. "Even if the petitioner had a reasonable expectation of privacy, society's interest in preventing members of the public from being exposed to HIV would be a sufficient compelling state interest to justify the infringement of that right," the court said. It found the law to be "the least intrusive means" to deal with HIV transmission because blood tests are routine and disclosure of test results are limited.

It is my hope that those states that do not allow victims of sexual assault the right to know the HIV status of their attacker will update their laws and begin protecting the rights of the victims rather than the perpetrators.

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Senators Specter and Biden were instrumental in including the HIV testing provision in VAWA in 2005. In addition, such testing provisions were also recently accepted unanimously in February 2008 in the Indian Health Care bill, and were in the Ryan White CARE Act for emergency responders and firefighters from 1994 until 2006, when they were removed. However, in May 2009, the Homeland Security and Government Affairs Committee re-adopted the Ryan White language. This language would allow firefighters and emergency responders who are exposed to infectious diseases, including HIV, when treating someone to have that person tested for infectious diseases within 48 hours. If we believe it is important for firefighters to be able to request a person whom they were actually helping be tested, is it not even more important and obvious that it would be in a sexual assault victim's best interest to be given timely information after having been forcibly exposed to the bodily fluids of someone potentially infected with a life-threatening disease like HIV?

In the end, this is about victims. It is about their right to make the choice whether to have their assailant tested. The original language was intentionally drafted narrowly to ensure the indicted offender is only tested at the request of the victim. If sufficient evidence exists to arrest and jail a rape suspect, the victim should have the right to request that suspect be tested for HIV. Testing the victim immediately is too early for HIV to manifest itself in the victim, and waiting until the offender is convicted is too late for life-saving treatment if the victim is, in fact, infected.

As a result, I will continue to support the HIV testing of an offender at the request of the victim as outlined in the 2005 VAWA so that victims remain the focus of sexually transmitted disease testing and can receive the treatment they desperately need and deserve in a timely manner.

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SENATE COMMITTEE HEARING
ON THE VIOLENCE AGAINST WOMEN ACT

Wednesday, June 10, 2009

TESTIMONY OF MICHELLE DE LA CALLE

Mr. Chairman and members of the committee, thank you for inviting me to submit written testimony for today's hearing on the Violence Against Women Act. I appreciate your time and consideration of this important issue. I would also like to thank the Rape, Abuse, and Incest National Network (RAINN) for their continued support and proactive response to issues regarding victims of sexual crimes.

Allow me to briefly explain my background and reason for interest in the Violence Against Women Act. I am a daughter, sister, aunt, wife, and mother. I am the woman that this act is meant to protect. I have been a nurse for 15 years and work as Assistant Nurse Manager in the Emergency Department at Valley Medical Center, the county hospital of Santa Clara, California. I have also worked as a Sexual Assault Response Team (SART) nurse for the last 5 years; as such, I respond to and collect evidence from victims who report sexual assault.

I was sexually assaulted on July 20th and 21st of 1991, less than a week before my 18th birthday. The man who assaulted me had arrived in San Jose, California just a few months prior to my assault, after fleeing Oregon to avoid incarceration for probationary concerns. His previous conviction of burglary included a sexual act, ejaculating on the clothing of a 16-year-old girl that he once "dated." Adding to my misfortune was the inability of the courts to keep him incarcerated or in the recommended treatment for his crime and his continued disregard for the law.

One probationary report of my assailant, Jerry Lunsford, is dated June 28, 1991. The report recommended that "Lunsford's probation be revoked and he be sentenced to the Department of Corrections. Upon parole, it is recommended that Lunsford be prohibited from having contact with minors without permission of P.O. [Parole Officer]; that he participate and complete an anger management program, substance abuse treatment program, and a Sex Offender Treatment Program. Additionally, it is recommended that Lunsford participate and cooperate with periodic polygraph tests under terms and conditions set by the Parole Board." His location at that time was unknown.

I met Jerry Lunsford at a small house party when he arrived with a friend of a friend. He was new to the area and did not know many people. As the party was winding down, the hostess went to bed and most of the guests left. I was there to close up the house as I was going to stay the night. He declined a ride offered by all the other guests and when he was the only guest left, he told me he did not know how to get back to his home. I tried to find a map on his behalf, taking us to the car in the garage to look in the glove box. This is when he tried to kiss me. When I pushed him away, he tried again. I pushed him away again and he took me down and strangled me to unconsciousness as I tried to fight him off.

I woke happy to be alive and confused as to what was going on. I don't recall all of the next events, and know that I was again strangled to unconsciousness. When I woke again, I was being pulled out of the car, without my pants on, and hit my head on the cement floor.

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This is when I stopped struggling, knowing that my life was at stake. He raped me multiple times and forced oral copulation twice. I recall feeling heavy in my head and feeling the blood on my face. I could not open my right eye. All I knew is that I wanted to live.

When he ejaculated in my mouth, I thought to myself, 'do not throw up,' you need to keep the evidence. You need to keep it down. I was just 17 years old when this 1991 assault took place. I didn't even know what DNA was, yet I instinctively knew somehow that his semen would provide evidence later and needed to be kept. I tried to bargain with him, but was not successful. I told him to leave and said I wouldn't call anyone. He took me outside to where he said his gun was located. I never saw a gun, and still don't know if he ever had one. He let me get some ice for my swelling eye and took me to a schoolyard where he raped me again.

After some time and bargaining, he let me go to seek medical assistance for my eye. I left the park, climbed a fence and eventually flagged down some assistance from a stranger who was parking their car nearby. I was taken by ambulance to the hospital Emergency Department, where I now work, and had a sexual assault forensic exam performed by the program of nurse examiners (a program of which I am now a part). The rape kit that was completed on me found his DNA on the oral swabs.

The police could not find him that day, or the next. Eventually he was found and arrested in Washington State, the place to which he had fled to be with his mother. He was brought back to Santa Clara County, where he told investigators that he had consensual sex with me and hit me with his left hand when I asked him to stay the night. After some months, he agreed to a plea bargain, stating that he wanted to avoid facing a trial and the potential of a 48-year sentence.

The first plea agreement would have required Lunsford to be incarcerated for eight years; I was devastated and spoke at the hearing. How could eight years be enough? Five counts rape, two counts oral copulation, kidnap with intent to rape and grievous bodily harm—and only an eight-year sentence? A mere eight years, after DNA evidence had been collected, proving the criminal act had occurred, and photographs existed to document the bodily harm? It did not make sense to me.

My hearing statement, combined with the circumstances of his previous crime (showing sexual intent) were considered, and the deal was revoked. We were now in the preliminary stages of trial. Prior to the commencement of a full jury trial, he accepted another plea bargain. I again spoke at the hearing, expressing my disapproval of the bargain offered. This time, the bargain was accepted. In this case, the charges—five counts of rape, two counts of oral copulation, kidnap with intent to rape, and grievous bodily harm—were reduced to one count of rape and one count of oral copulation. My assailant ultimately received a sentence of 22 years.

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After serving approximately 13 years of this sentence, he was released. Despite my attempts to be notified prior to his release, I did not become aware of his release until approximately one year later. I found his identifying information on the Megan's Law website, which indicated that he had registered a location just three blocks away from my home as his residential address. There are not words to describe the visceral reaction I had to this notification. To say that I wept or sobbed does not do justice to the sensation I experienced. I had not felt this violated since the time of the assault.

I called his parole officer, who, after some hours, returned my telephone call to advise me that my assailant had been incarcerated again for failure to register as a sex offender. I met with him to discuss my concerns as well as to obtain more information about my assailant's current situation. I learned that Jerry Lunsford had again disregarded the law, this time by moving from the location identified on the Megan's Law website without notifying the authorities of his new residential address. He was facing a third strike for failure to register. He was now facing a sentence of 25 years to life.

I worked with the deputy district attorney assigned to his case and spoke at the Romero hearing, at which time the defense moved to strike the prior convictions of my assailant. To me, what this meant was that they wanted to strike the offenses against me, against my body and my life. I spoke about the terrible impact that the assailant's release had had on me as well as my family. I voiced my dissatisfaction regarding the short sentence he had received, and insisted that he should be held to the conditions of his release. I explained how knowing where he lives is important to me, the survivor of his sexual assault; it will help me to feel safe from him. Even though the perpetrator of a crime so personal, so intimate, is free, I need to know that he is abiding by the rules of his release. After this one-day hearing, Jerry Lunsford was sentenced to 25 years. I was happy, relieved; I felt vindicated, finally.

Just a few months later, that changed. I was advised that there would be a re-consideration hearing to review the case and determine if a 25-year sentence amounted to cruel and unusual punishment for the crime of failing to register. Lunsford's mother spoke at this hearing, pleading his case. She discussed how he was abusing drugs and opined that the drug use was the cause of his actions. His new wife, too, spoke on his behalf, testifying to his responsibility after being released. At this hearing, the judge noted that the crimes against me, if they had been committed now, would have produced a much longer sentence. However, he also commented that he was sentencing for the failure to register, not for the initial crimes. At the hearing, the sentence was reduced from 25 years to just seven years.

In three years or less from now, I will again have to depend on the system that failed to notify me of Lunsford's 2004 release to again notify me of his future release. I can ask that he not live within 35 miles of my home or place of work and hope that he complies. The process of checking the Megan's Law website for changes in Lunsford's location will become a new monthly or weekly routine for me, each time

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eliciting memories of the assault and reminding me of how the system failed me in the past. Assuming that my assailant complies with the sex offender reporting law after his release, I can only hope that the police will promptly update the Megan's Law website each time that Lunsford reports any changes in the information he is required to provide to police.

I don't know how it will be for me, living in the same county as my assailant. Working in the county hospital, when I know that my assailant may come there seeking medical care will present an even greater challenge for me. When getting paged as a SART Nurse, I also will be wondering if the patient I next see is Lunsford's latest victim. These are aspects of my life I am willing to deal with and work on to keep my personal integrity, work ethic, and sanity. If more strict sentencing laws had been in place years ago, I would not be in the situation I am in now. Imight instead continued to live as I have for the past 15 years with the peace of mind and security of knowing that Jerry Lunsford is not my neighbor and is not free to assault again. I do not know Jerry Lunsford as a friend, a husband, a brother, or a son, but as a violent and brutal sex offender. There is no doubt in my mind that he can, and likely will, re-offend upon his release.

The following are areas in need of further work to protect and serve survivors of violent sexual crimes:

- **IDENTIFYING RAPISTS EARLY IN THEIR CRIMINAL CAREERS AND TAKING THEM OFF THE STREETS IS AN IMPORTANT RAPE PREVENTION TOOL.**

  If a crime is sexually motivated (as was true in the Jerry Lunsford case in Oregon), then sentencing should reflect that a sex crime occurred; and the offenders in such cases should undergo a risk assessment that takes into account their propensity to commit further sexual crimes. Many rapists strike multiple times before they are caught; so identifying offenders early and intervening before they can commit even more violent crimes will promote public safety.

- **FOR SOME RAPE SURVIVORS, THE NOTIFICATION PROCESS IS MUCH MORE COMPLICATED THAN IS REASONABLE.**

  The victim notification process at the time of the offender's release needs to be consistently clear and easy to follow. In my case, I had to make multiple telephone inquiries before I finally received accurate information regarding my assailant's release and could offer feedback as to the conditions of his release. These telephone calls are difficult for a survivor to make, as each call elicits additional memories of the assault.

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- **SEX OFFENDER REPORTING AND NOTIFICATION LAWS PROMOTE PUBLIC SAFETY.**

  A sex offender registry exists for the community (so that we can check it and take reasonable precautions to protect ourselves and our children), and it also helps the police in their efforts to identify and track convicted offenders on their beats. Unfortunately, some offenders go "missing" from the system, by failing to register as a sex offender with the police or by failing to update their information as required by law. Failure to register as a sex offender should be considered a significant crime, as it exemplifies the perpetrator's disregard for the conditions of his or her release.

- **VICTIMS' FEEDBACK SHOULD BE SOUGHT AT VARIOUS STAGES IN THE CRIMINAL JUSTICE PROCESS.**

  Survivors of sexual assault should be encouraged and allowed, if they are willing to do so, to provide feedback at plea bargains, parole hearings and any other subsequent hearings.

- **RAPE CASES SHOULD BE AGGRESSIVELY PROSECUTED, ESPECIALLY WHEN DNA AND OTHER EVIDENCE LINK A SUSPECT TO THE CRIME.**

  Rape is the second most violent crime (second only to murder, the most violent crime), according to the Federal Bureau of Investigation, yet it is the least likely of all violent crimes to be reported by its victims. According to the U.S. Department of Justice, which conducts an annual crime survey of the nation's households, only about 40 percent of rape victims report the crime to police.

  With this in mind, plea bargains should not be the favored outcome in cases in which DNA evidence confirms the victim's testimony and/or history. This is especially true when other evidence supports the accusation of sexual assault. Plea bargains are a necessary tool in prosecution, of course, but they do not always reflect the true seriousness of the crime, especially from the victim's perspective. Again, in my case, there were originally five counts of rape, two counts of oral copulation, kidnap with intent to rape, and grievous bodily harm; these charges were reduced to just one count of rape and one count of forced oral copulation under the plea bargain.

- **LOW RATES OF RAPE REPORTING, PROSECUTION, AND CONVICTION MERIT CLOSER ATTENTION.**

  As noted above, rape is one of the least reported violent crimes. Even if the victim reports the crime, a minority of rape cases will ever make it to trial.

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> An astonishing number of cases are dismissed before charges are formally filed.
>
> As noted by RAINN, few rapists actually spend any significant time in jail: "[i]n America today, rape is a crime that is often without consequence—for the rapist, that is... Only about half of reported rapes ever lead to an arrest. If an arrest is made, there's about an 80% chance the suspect will be prosecuted, but a smaller percentage of these cases (perhaps 60%) will result in a felony conviction. And even then—in those rare cases when the system worked, when a rape leads all the way to a felony conviction—the convicted felon is not sentenced to prison in the majority of cases...." Juror bias may also be a factor in low conviction rates; in my opinion, there are many public myths and misconceptions about precisely what conduct meets the legal definition of "rape." This denial of justice to victims is a crime in itself. We need further investigation and research to determine the causes, and the true effect on victims, of under-reporting and to understand how a rape survivor may experience re-victimization in the criminal justice system.

My statements here today are made as the victim of Jerry Lunsford—with the conviction that he should still be imprisoned for the crimes he committed against me and the State of California in 1991—and in my capacity as an experienced SART nurse. I hope that my story will have an impact and will result in positive changes to federal laws such as the Violence Against Women Act.

To conclude, I would like to express my gratitude to the members of the Committee for considering my written testimony regarding this very important issue. As the United States Senate debates proposed changes to the Violence Against Women Act, I urge you to keep in mind not just my personal experience and anguish, but the potential devastation of others who, like me, may experience the life shattering effects of rape at the hands of repeat sex offenders who might have been identified earlier in their criminal careers and incarcerated under stricter sentencing laws.

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Statement of U.S. Senator Russell D. Feingold at the Senate Judiciary Committee Hearing entitled "The Continued Importance of the Violence Against Women Act" Wednesday, June 10, 2009

Thank you, Mr. Chairman, for calling this important hearing. I am a longtime supporter of the Violence Against Women Act and have worked for years to ensure that its programs are fully funded. VAWA initiatives play a critically important role in combating domestic and sexual violence but, as today's testimony will point out, there is still much work to be done. Despite the enactment of this important law in 1994 and its reauthorization in 2000 and 2005, violence against women remains pervasive in our country.

I am pleased that Congress provided additional funding for VAWA and other victims services programs earlier this year. It is estimated that my state of Wisconsin will receive more than $2.5 million in grants to improve responses to violent crimes against women and assist victims of domestic violence, dating violence, sexual assault, and stalking who are in need of transitional housing, short-term housing assistance, and related support services.

It is no secret that in times of economic distress, domestic violence becomes more pervasive. Because of that fact, while I fully recognize that tough decisions need to be made about spending federal dollars, I am pleased that this Congress decided to put its support behind VAWA initiatives. A commitment from Congress to continue to support this program is essential. The statistics of victimization, many of which will be presented here today, are staggering. I look forward to the testimony of today's witnesses, which I am confident will shine more light on this important issue, and prompt new ideas for how Congress can continue to help victims of domestic violence.

Thank you, Mr. Chairman.

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U.S. SENATE COMMITTEE ON THE JUDICIARY

HEARING ON THE VIOLENCE AGAINST WOMEN ACT

June 10, 2009

TESTIMONY OF ELIINA NICOLE KEITELMAN

Mr. Chairman and members of the Committee, thank you for inviting me to submit written testimony for today's hearing on the Violence Against Women Act (VAWA). I appreciate your time and consideration of this important issue. I would also like to thank the Rape, Abuse & Incest National Network (RAINN) for their continued support.

Allow me to briefly explain my background and reason for interest in VAWA. My name is Eliina Nicole Keitelman and I am a 23-year-old college student studying psychology to become a licensed Marriage and Family Therapist. When I was 14 years old I was raped by an online predator who was later prosecuted and convicted of soliciting a minor over the Internet. He was 40 years old. He was sentenced to just 24 months in federal prison, 3 years probation and had to file as a sex offender for one year. My family and I were originally told that he would have to file as a sex offender for life, which gave us a slight feeling of safety and reassurance. However, during sentencing, the defense found a loophole and his lifetime sentence turned into one year of sex offender registration. Today, he is out of prison, his one year of mandatory registration is over, and he is free to victimize again.

I had a well-rounded upbringing; being their only child, my parents gave me every opportunity to be successful. I took swimming lessons, dance lessons, piano and tap classes. I was involved in Girl Scouts; I did horseback riding and roller-skating. My parents worked hard to ensure that I might have a carefree childhood and perceive only the good in the world. They were overprotective, not wanting anything bad to ever happen to me. As I was nearing the end of my freshman year of high school in Pittsburg, CA, I was a responsible 14-year-old and had earned the trust of my parents. When the opportunity arose to take summer classes at Los Medanos College (LMC), the local community college, my parents supported my decision to get a head start on my college education. They had no idea that by granting permission for me to take a college class on my own, their worst fears would come true, and they could no longer protect me from the harsh world.

Since the school year had ended, I no longer saw my friends every day, and I started using AOL Instant Messenger more often. I had been given a computer as a Christmas present; because I was always occupying the family computer and my parents decided it was time for me to have my own. Sometimes I would stay up later than my parents chatting with my friends online; I never talked to strangers – just my friends.

One night, in the very beginning of July, I was instant messaging one of my friends online when a stranger instant messaged me. This had never happened to me before, and I was not sure how to respond. Because my curiosity got the best of me, I responded to this stranger's message, and we talked every night for a week. Looking back now I can see that I was targeted, he was a 40-year-old man, on the Internet looking for a young teen to victimize. By July 9th, he knew pretty much everything about me, what I looked like, what high school I attended, where I was taking college classes. He even knew my daily routine at my new college campus. I began to trust Rocky because I could not see him or hear his voice. I felt protected by the computer screen that was in front of me, like it was a shield – protecting and blocking any harm from coming near me. I felt as if I could tell him anything, because I thought I was just as faceless and nameless to him as he was to me. Half the time it did not even feel like the conversations we had were real because they were spoken through written, not verbal words. He was very reassuring and told

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me he just wanted to be friends. He truly gained my trust. I told him several times that "I was only 14" and his response was that age was just a number. He said that because we were just friends, age did not make a difference, and that it did not matter that I was fourteen: "he was 27 (but looked 23)."

The day of July 10, 2000 started like a normal day. I had studied and was ready for the midterm exam at LMC. After the exam, I decided to take a walk before starting my homework in the lab. I got my daily cup of coffee and walked halfway around the lake to sit down on a bench facing campus. As I was sitting, a man passed by me, stared at me and then walked away. I ignored it. As I was walking back to go to lab, I glanced to my left and saw a man motioning for me to come over to the black car he was standing next to. I looked away and kept walking. Soon after he drove up to me in the car and rolled his window down and said, "Get in, we can go somewhere." By now I had figured out that it was Rocky by the description he had given me online. He even had the car that he had described. Even though I knew it was him, I did not feel comfortable getting into the car; so I pointed to the left of his car and replied, "Park over there, and we can walk around the lake." He finally parked after a second attempt to get me in the car. After he got out of his car we walked awkwardly around the lake. We briefly spoke about the blistering hot weather and discussed biology. We had to stop a few times in the shade because the heat was so unbearable. He then said he had air-conditioning in his car and that we could sit and talk in there. I agreed after he had gained my trust by being really nice and by not making me feel nervous or threatened in any way.

Once in his car, we talked for a couple of minutes, and he told me how beautiful my hair was. He gently held a lock of my hair and inhaled its scent, and then in one quick motion he was on top of me on the passenger seat and had pushed the seat all the way down. In no time he overpowered me and was pressing his weight upon my body so I could not move. He pulled up my skirt and I yelled for him to stop. When I tried to fight back he cupped his hands on the sides of my head and pressed it hard onto the seat. With his arms pressed down over my own I was motionless, overpowered. I tried pressing up, but I was trapped as if I were lifeless. As he continued, I yelled out "NO!" He acknowledged it and then ignored it. I felt as if I was suffocating; yet there was nothing I could do. After he raped me, he drove me to the front of the school and kissed me on the cheek, gave me a hug and told me to e-mail him and then let me go as if nothing had happened.

I was in a state of shock and disbelief; I did not even comprehend what had just happened until a few minutes later. I immediately called one of my friends from the payphone. She told me to call my dad so that he could come pick me up. I did, without telling him anything about what had happened. The next morning, I went to see the teacher in the lab because I wanted to drop the class. When she saw me she knew that I was definitely upset about something, so she led me into the staff lounge so that we could talk in private. I asked her when the last day was to drop the class and she asked me what was wrong, because she knew I was doing well in class. After I told her what happened, she said something that I never wanted to hear; she had to tell the police what happened to me.

A few hours later I found myself at the hospital, waiting for a "rape kit," or sexual assault forensic exam, to be performed on me. I was 14 and had never even been to a gynecologist.

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They took my clothes and photographed my body as evidence; I went through an awful internal and external examination. I was then told that I could possibly have gotten an STD, HIV or pregnant from Rocky. I was given shots and a handful of pills to consume, as well as a blood test, which I subsequently passed out from. They gave me a pair of sweats to wear home, without underwear.

By the end of the week my attacker was arrested and released on bail as the federal investigation was going on. The judicial process took three years. During those years I felt like I was being victimized over and over again. I suffered from Post Traumatic Stress Disorder, and instead of spending my teen years having fun and learning about life, I spent those years seeing psychologists and psychiatrists for therapy and medications. I was also in group therapy, individual therapy and family therapy. I had a mental health appointment almost every day of the week. I suffered from panic attacks, anxiety, insomnia, nightmares, depression, flashbacks and paranoia. I did not want to leave home, and instead of my sophomore year of high school being exciting and fun and spent hanging out with friends, I was dealing with doctor appointments, medications, and side effects from those medications, going to the attorney's office, court dates, depositions and trials. It was endless.

Right when I was supposed to be learning about myself as a person, I was assaulted, I lost myself for so long, and I was uprooted. My parents subsequently became even more protective, and I myself was afraid to go anywhere. I no longer fit in with my peers, although most people had no idea what I was going through, when I tried to interact or make new friends their actions all seemed so childish compared to what I was going through. My early teen years were spent getting tested and retested for HIV and pregnancy. It was completely humiliating for me to be a child of 14 and 15 going to see the doctor to be tested for HIV and then worrying for days that I could have been infected with HIV by my attacker. When I asked if it would be easier for him to be tested, I was informed that he could not be touched, while I was being poked, prodded and humiliated over and over again.

I was sitting alone in a small room outside of the federal courtroom. I was eager to testify after waiting every day for the past three years. My attorney then came into the room and announced, *"It's time."* As I stood up I could feel my heart pounding in my chest, I had never felt anything that intense before.

To go through this horrifying experience as a young teen was the worst thing that has ever happened to me. Throughout the process I was reassured over and over again that my suffering would be saving another victim, that by testifying and going through this process, it would stop my attacker from victimizing again. After the sex offender registration fell through, and he received such a short sentence (only 24 months) for the rape, I find myself asking why I went through all of that heartache and additional trauma.

Even almost 9 years later I find myself still dealing with the aftermath of sexual assault. This man is now out of jail, free to victimize all he wants, and I am still in weekly therapy. If he was still in jail or even registered as a sex offender, then he could be held accountable for his previous actions. I was not the first young woman he victimized and am most certainly not to be the last. Another teen also testified at the trial, her testimony indicating that my assailant

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contacted her online in a similar fashion and when he met her he attempted to rape her. His computer records showed that he was trying to meet another young teen around the same time he met me; and the FBI found that he had been in contact with a thousand other minors throughout the United States. Why are we so lenient on sexual predators? My attacker only had to serve 24 months in prison and be registered as a sex offender for just one year. I am a prisoner for the rest of my life, scarred by his victimization. Why does he get to live life free to victimize another?

The U.S. Department of Justice's National Crime Victimization Survey -- the country's largest and most reliable crime study – indicates that there were 248,300 sexual assaults in 2007 (a number which does not even include assaults against victims under the age of 12). According to RAINN, that is the equivalent of one sexual assault every two minutes. (By the time you have finished reading my testimony, at least one more American will have experienced a sexual assault.) If the penalties for violence against women and sex offender reporting requirements were tougher, this rate of sexual assault may be lowered. In my view, right now these perpetrators know they can beat the system, that it is a flawed system that will only give them a slap on the wrist.

To conclude, I would like to express my gratitude to the members of this committee for considering my testimony. As Congress considers changes to the Violence Against Women Act, I urge you to remember my story. If harsher sentences for sex offenders could save one victim, it would be worth it.

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United States Senate
Committee on the Judiciary

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Statement of

The Honorable Patrick Leahy

United States Senator
Vermont
June 10, 2009

Statement Of Senator Patrick Leahy (D-Vt.)
Chairman, Senate Committee On The Judiciary,
"The Continued Importance Of The Violence Against Women Act"
June 10, 2009

Since 1994, the Violence Against Women Act (VAWA) has been the centerpiece of the Federal Government's commitment to combating domestic violence and other violent crimes against women. Its passage and reauthorization were a signal achievement in support of the rights of women in America. This landmark law filled a void in Federal law that had left too many victims of domestic and sexual violence without the help they needed. I have been proud to work with then-Senator Biden and Senator Hatch in achieving this progress.

I look forward to working with members of this Committee, the Obama-Biden administration, and experts in the field to ensure that this law remains a vital resource for prosecutors, law enforcement agencies, victim service providers, and, most importantly, the women and families who are threatened with violence and abuse.

Today we welcome an extraordinary panel of witnesses from around the country who bring important perspectives and personal experience on these subjects. With us is Catherine Pierce, Acting Director of the Office on Violence Against Women at the Justice Department. I also want to welcome Karen Tronsgard-Scott, whom I have known for many years, and who is a leader for ending domestic and sexual violence in Vermont. Three witnesses will be sharing their personal stories with the Committee, demonstrating the how victims of violence and their families can recover from these crimes with the right support and services. One has gone on to become a successful actor, one has helped pass a Rhode Island state law requiring teen-dating violence education in public schools, and one has become a passionate advocate for victims in California.

I saw the devastating effects of domestic and sexual violence early in my career as the Vermont State's Attorney for Chittenden County. Violence and abuse reach into the homes of people from all walks of life every day, regardless of gender, race, culture, age, class or sexuality. Domestic violence is a crime, and it is always wrong, whether the abuser is a family member, a current or past spouse, boyfriend, or girlfriend, an acquaintance or a stranger.

Since I was a prosecutor, our Nation has made remarkable progress in recognizing that domestic violence, sexual assault, stalking, and dating violence are crimes, and in providing legal remedies, social support and coordinated community responses. Since enactment of VAWA, the rates of non-fatal and fatal domestic violence have declined, more victims have felt confident to come forward to report these crimes and to seek help, and states have passed more than 600 laws to combat these crimes. Despite this progress, however, our country still has a long way to go. Millions of women, men, children, and families continue to be traumatized by abuse. We know that one in four American women and one in seven men are victims of domestic violence. One in six women and one in 33 men are victims of sexual assault, and 1.4 million individuals are stalked each year.

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Programs to assist victims of domestic and sexual violence, and to prevent these crimes, are particularly important during difficult economic times when these types of crime often increase and funding sources for these essential programs dry up. Crisis centers and hotlines are reporting an alarming increase in victimization nationwide. A 2008 census by the National Network to End Domestic Violence found that in just one day, more than 60,500 adults and children were served by local domestic violence programs. Yet due to a lack of resources, almost 9000 requests for services went unmet.

Numbers like these are why I advocated for increased funding in the American Recovery and Reinvestment Act for important VAWA programs, which are necessary to address the rise in crime and which will have an immediate economic impact. The STOP (Services, Training, Officers, Prosecutors) Formula Grant program is one of the most comprehensive and effective means of reducing domestic and sexual violence. The inclusion of $175 million for STOP grants in the Recovery Act will provide resources to law enforcement agencies, prosecutors, the courts, and victim advocacy groups to improve victim safety and to hold offenders accountable for their crimes against women. The economic recovery plan also included $50 million for the Transitional Housing Assistance Grants program, which I authored to provide safe havens and related services to victims fleeing from domestic and dating violence, sexual assault and stalking. I proposed this program in 2003 to enable victims to bridge the gap between leaving violence in their homes and becoming self sufficient. In the midst of a mortgage and housing crisis, transitional housing is especially important because long-term housing options are becoming increasingly scarce.

In addition to working for more adequate funding, I am committed to continuing to work to improve the Act and bolster its effectiveness. Earlier this year, working with those who are most familiar with these matters, I introduced the Improving Assistance to Domestic and Sexual Violence Victims Act of 2009, S.327, to make needed improvements to the Violence Against Women Act. The bill makes corrections and improvements so that this law, a law that has helped so many, can continue to serve as a powerful tool to combat violence perpetrated against women and families. We were able to pass this bill through this Committee in early May, and I am working to try to get the Senate to consider and pass it without further delay. It will bolster privacy protections for victims of domestic violence and offer greater help in rural and tribal areas. I hope those who are holding up this legislation will reconsider their objections and join with us to move this legislation through the Congress and to the President for his signature.

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Written Testimony of Legal Momentum

Submitted to the Senate Judiciary Committee

Hearing: The Continued Importance of the Violence Against Women Act

Irasema Garza
President

Leslye Orloff
Vice-President, Immigrant Women's Program

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June 24, 2009

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LEGAL MOMENTUM IS A LEADER IN PROMOTING SECURITY FOR VICTIMS OF DOMESTIC AND SEXUAL VIOLENCE

Founded in 1970, Legal Momentum is the nation's oldest legal advocacy organization dedicated to ensuring economic and personal security for all women and children. Legal Momentum's commitment to assisting victims of domestic violence, dating violence, sexual assault and stalking secure independence stems from our longstanding dedication to two related goals – ending violence against women and eliminating barriers that deny women economic and other opportunities.

Legal Momentum helped craft and generate support for the Violence Against Women Act (VAWA) of 1994, and its reauthorizations in 2000 and 2005. We are a nationally recognized provider of technical assistance and training for judges, law enforcement and court personnel on issues relating to sexual assault, as well comprehensive materials and trainings for lawyers and advocates nationwide on legal protections, social services, and economic justice for immigrant women. We also provide legal representation to survivors trying to maintain employment, and training and technical assistance to legislators, employers, advocates and survivors of domestic and sexual violence on the needs of and supports for victims of such violence in the workplace. Only by keeping victim advocates, health professionals, employers, law enforcement, prosecutors, judges and court personnel fully educated about these issues can we promote a fair and effective court process, and help victims maintain the economic stability so vital to themselves and their families.

Legal Momentum created and currently chairs the National Task Force to End Sexual and Domestic Violence, the umbrella entity under which national, state, and local organizations representing hundreds of thousands of survivors, advocates, and professionals join together to work for VAWA reauthorization. We also chair the Economic Justice and Immigration subcommittees of the Task Force, which specifically work to ensure that victims of domestic and sexual violence have the supports they need to separate effectively from an abuser or recover from a sexual assault. We are pleased to submit testimony focusing on two priority issues for us: (1) the workplace effects of violence; and (2) violence against immigrant women and their families.

I. THE WORKPLACE EFFECTS OF DOMESTIC AND SEXUAL VIOLENCE

A. Dimensions of the Problem

Since its enactment in 1994, VAWA has dramatically improved the response of the police and the criminal and civil justice systems to victims of domestic and sexual violence and the availability of

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shelters, counseling, and other essential services for them. But far too many working women and men who are victims of domestic and sexual violence remain unable to access these services simply because revealing their status as victims of violence, or asking for time off or other necessary workplace modifications, could place their jobs in jeopardy. Many victims are too afraid of losing desperately-needed jobs to pursue legal remedies, seek medical treatment, or to take other essential steps to secure their safety, and all too often are reduced to choosing between their safety and their jobs. And when victims are fired or leave a job due to the violence, they frequently return to their abuser for economic support if they are unable to find another source of income, such as unemployment insurance benefits.

Moreover, victims are often unable to take the time off they need to attend a court hearing, obtain medical treatment or otherwise take steps to ensure their well-being either because they have no access to employment leave, or available leave is unpaid. Forty-eight percent of Americans working for the private sector have no paid leave.[1] Thus, taking a single day off from work to go to court to get a protective order can mean that a victim will lose her job – and with it the economic security she needs to separate from her abuser. Additionally, between 56 and 88 percent of abused women experienced harassment by their partner while working.[2] This harassment, whether in person, by telephone or via email, has the intended effect of not only threatening the victim, but disrupting the workplace and frightening employers and co-workers.

The combination of necessary absences related to the violence, and harassment or discrimination at work, means many victims lose their jobs. Employers' concern for the safety of their employees and the continued productivity of the workplace often leads them to fire victims. Two recent studies of partner stalking of victims found that between 15.2 and 27.6 percent of women reported that they lost a job due, at least in part, to domestic violence.[3] Similarly, almost 50% of sexual assault survivors lose their jobs or are forced to quit in the aftermath of the assaults.[4]

Recognizing the need to support survivors of sexual and domestic violence who are seeking to establish or maintain their financial independence, state legislatures and advocates for survivors have worked to enact legislation to ensure that victims are free from employment discrimination, can have access to job-protected leave, or if they have to leave a job because of violence, unemployment insurance. Some states have enacted statutes that protect victims of crime who need time off to attend court proceedings, while others have statutes that specifically provide leave to survivors of domestic violence. Many states have laws that explicitly provide unemployment insurance to domestic violence victims in certain circumstances; some of these laws also explicitly provide benefits to victims of sexual assault or stalking.

The experience of states that have enacted these laws demonstrates that these provisions reasonably protect employers' interests and will help make workplaces safer. As Maine Labor

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Commissioner Fortman discussed in her testimony before the Senate Health Education and Labor Subcommittee in April 2007, implementation of Maine's domestic violence workplace protections were not onerous for employers.[5] Reports from states such as California and Illinois, which have enacted comparable legislation, likewise confirm that implementation has worked well for both employers and employees.[6] Federal legislation is necessary, however, to ensure that all workers have these essential protections.

B. The Need For Federal Involvement

The need for a comprehensive federal approach to support the economic security of victims of sexual and domestic violence has never been greater. The economic downturn has been accompanied by a significant rise in the incidence of domestic violence.[7] Survivors will need to maintain their employment so that they can support themselves and their families if they make the decision to separate from the abuser, and in some instances, they will need access to unemployment insurance if they need to leave their current employment or leave town altogether.

States are very actively trying to support survivors of domestic violence who want to achieve or maintain financial independence. But the existing state laws have created an uneven patchwork of protection, where a victim's access to the economic security she needs to separate from an abuser depends on the state in which she happens to live.[8] For the true potential of these statutes to be realized, comprehensive federal legislation is needed to ensure all survivors of sexual and domestic violence receive at least basic economic protections regardless of where they reside. Congress should look to proven models in the states to craft legislation addressing these issues.

Congress began the process of addressing this vital issue as a federal matter during reauthorization of VAWA. The 2005 VAWA reauthorization bill introduced in the Senate, S.1197, made up to ten days of job-protected leave available to all eligible employees. Another VAWA 2005 reauthorization bill, HR. 3171, contained several strong provisions to promote the economic security of victims, including the right to take up to 30 days off to address the effects of the violence and anti-discrimination protections for victims. A third, HR. 2876, would have permitted individuals who already had paid leave to use it for purposes related to domestic or sexual violence. Although the leave and anti-discrimination protections were not included in the final bill, Congress took an important step forward by authorizing appropriations to create a workplace resource center to assist employers in learning how to support their employees who are victims of domestic violence.

Other federal agencies, focusing on the domestic violence that spills over into violence in the workplace, have also made addressing the issue a priority. The Centers for Disease Control (CDC),

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particularly its National Institute on Occupational Safety and Health (NIOSH) unit which is charged with enforcement of workplace safety rules, and the Occupational Safety and Health Agency each recognize domestic violence and its workplace effects as a significant risk to workplace safety.[9] These are welcome steps forward, but they are not enough. Congress should continue its commitment to supporting the workplace needs of victims of sexual and domestic violence by building on the successful experience of states and businesses that have made protecting the economic security of victims and the safety of businesses a priority.

C. Anti-Discrimination Protections Are Necessary to Help Victims Stay Employed and to Keep the Workplace Safe

Victims of domestic violence, dating violence, sexual assault, and stalking are often afraid that telling their employers about the violence will jeopardize their employment. Unfortunately, this fear is quite reasonable, as our clients know all too well. For example, we represent Angela, a waitress and bartender at a local bar/café in a small town in Wisconsin. In April 2005, when she was six months pregnant, Angela's ex-boyfriend made threats against her. Angela applied for and obtained a temporary domestic abuse injunction against her ex-boyfriend based on the threats. When Angela informed her employer that she would be seeking a permanent injunction, her employer told her to "drop" the matter or she would be fired, because the injunction would allegedly be detrimental to business. Angela nevertheless obtained the permanent injunction on May 2, 2005. Two days later, Angela was fired by her employer because she obtained the injunction. Angela's employer forced her to make an unconscionable choice between her personal safety and her job.[10]

The experiences of our clients and of others who call us are typical. As noted above, between 15.2 and 27.6 percent of victims of domestic violence, and almost 50% of sexual assault survivors lose their jobs as a result of the violence.[11] In some cases, this is because of absences or job performance problems. But as demonstrated by our clients' stories, victims also lose their jobs *simply* because they are victims or because an abusive partner disrupts the workplace. Supervisors or human resources personnel may subscribe to common stereotypes regarding domestic violence, which blame victims for the violence against them. Employers may not realize that there are other steps that they can take against the abuser – such as reporting harassment to the police or, in states that authorize it, seeking a workplace restraining order – to address harassing or disruptive conduct, rather than firing the victim of the violence. Likewise, employers may mistakenly believe that firing a victim is the only way to ensure that the violence does not spill over into the workplace.

Some businesses have proactively developed programs addressing domestic violence. These

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programs demonstrate that other mechanisms – such as changing an employee's work shift, registering a protective order, alerting security, or transferring an employee – are effective means of addressing any potential threat to the workplace. But employers cannot take safety precautions if they do not know what is going on,[12] and many victims do not work for such sympathetic or proactive employers. Though some individuals are able to obtain relief under civil rights laws or tort-based claims that firing a victim violates public policy, most are left with no assistance or legal recourse.

The best way to ensure that victims feel comfortable telling their employers about their situation is to enact legislation that makes clear that victims cannot be fired simply because of their status as victims. Illinois, New York City, and Westchester County, New York have addressed this issue by enacting anti-discrimination protections that include domestic and sexual violence victims as protected classes under their human rights laws.[13] Rhode Island and Connecticut specifically prohibit firing victims because they have obtained protective orders.[14] Congress has also dealt effectively with a similar problem in the housing context by enacting provisions in the 2005 reauthorization of VAWA that make clear that victims cannot be denied access to or evicted from public housing or terminated from housing assistance based on incidents of violence against them.[15] Although privacy laws and good employment practices make clear that victims should never be *required* to disclose personal experiences such as domestic violence or sexual assault, victims who wish to disclose – or whose victimization is made obvious by physical markers such as bruises or harassment by the abuser at work – should know that the criminal acts against them will not cost them their employment. Anti-discrimination protections are necessary to ensure that victims can talk about their situation with employers without jeopardizing their jobs. Like other anti-discrimination protections, such provisions would not limit the ability of employers to terminate victims for legitimate performance problems. What they would do is ensure that employers and victims can work together to jointly assess any security risk and take appropriate precautions. These protections also ensure that victims feel comfortable asking for time off or other modifications they may need at work to remain productive while addressing the violence.

D. Victims Cannot Obtain Essential Services When They Risk Losing Their Jobs

The Violence Against Women Act and other legislation that Congress has passed have made an enormous difference for victims by creating emergency shelter services and improving the response of the criminal and civil justice systems to domestic and sexual violence. However, too many victims are afraid to access those services because they are worried that if they miss work, they will lose their jobs. For example, "Penny," in St. Claire, MO, called us to ask for advice. She had been fired after 18 years working as a shipping clerk because had missed work to go to court for a restraining order and get

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treatment for injuries; although she had provided her employer paperwork from the doctor and the court, she hadn't been able to provide her employer with the 24-hours advance notice required under her employment policy to use vacation days. She was fired for excessive absences, and unfortunately, there was no law to protect her.

Forty-eight percent of the American private sector workforce has *no* paid sick leave.[16] Low-wage workers, who tend to be at greater risk for domestic and sexual violence, are even less likely to have paid time off: one study found that 79% of low-wage workers have no paid sick leave.[17] Additionally, as Penny's experience makes clear, even employees who do have sick days or vacation days may not be able to use them to cover the range of needs associated with addressing domestic or sexual violence. Thus, without legislative protection, a victim of domestic violence who misses work to testify at a criminal prosecution, to obtain a civil protective order or to take other steps to address the violence typically knows that her absence could cause her to lose her job. Therefore many victims, knowing their safety depends on an independent income stream even more than other safety-enhancing measures such as a protective order, forego services rather than risk their employment.

Responding to this reality, more than half of the states have passed laws that permit crime victims time off to attend court proceedings and laws specifically addressing the needs of domestic and sexual violence victims.[18] These laws obviously can be a great help to some victims of domestic or sexual violence – but they are not sufficient. Many of the laws only apply if the victim is subpoenaed to appear. They do not address the specific needs of victims of these particular crimes to take a range of other steps, such as finding safe housing, in addition to attending court proceedings related to the crime. In fact, since generally a victim can seek a protective order only in *civil* court (a criminal protective order may sometimes be issued in conjunction with a criminal prosecution, but a victim does not determine whether a given case is prosecuted), crime victim leave laws do not even ensure that a victim may take time off from work to get a protective order. And of course, they offer no protection at all to individuals who live in the twenty-eight states that do not have any kind of crime victim leave law.

As of June 2009, California, Colorado, the District of Columbia, Florida, Hawaii, Illinois, Kansas, Maine, New Mexico, Oregon and Washington provide an affirmative right to victims of domestic violence (and in some of these states, sexual assault) to take leave to go to court, seek medical treatment, obtain counseling, or take other steps to address the effects of such violence.[19] In particular, the District of Columbia provides employees with *paid* sick leave which also may be used by an employee for a variety of purposes when the employee or the employee's family member is the victim of domestic violence, sexual assault or stalking.[20] New York and North Carolina provide victims time off to seek civil protective orders but do not address the need of victims to take other steps related to the violence.[21]

These state laws can provide workable models for federal legislation providing victims time off

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from work. The laws have ensured that victims can take necessary steps to address the violence, while appropriately protecting business interests by specifying appropriate forms of certification that victims can use to demonstrate their eligibility for these protections. In most state laws, the leave is unpaid, although victims may use available paid leave it its place. This likewise helps ensure that the provisions are not abused. Survivors who have only unpaid leave need the income to maintain their economic independence, and those who have paid leave tend to safeguard it for crisis situations.

Importantly, the protections provided under the federal Family and Medical Leave Act (FMLA) are not adequate to meet the many of the needs of survivors of domestic or sexual violence. Of course, victims of domestic or sexual violence will in certain circumstances be able to take time off to address medical conditions under the FMLA. However, many of the typical injuries caused by domestic or sexual violence – such as a badly-swollen eye from a punch in the face or a sprained ankle from a push down the stairs – may not qualify as "serious health conditions" under the FMLA but could nevertheless require that an individual miss a day of work. Additionally, many victims work for employers who are too small to be required to provide FMLA leave, and many workers may be unable to afford to take the unpaid leave offered by the FMLA.

Federal legislation that simply permitted individuals who have otherwise available leave to use it for purposes related to domestic or sexual violence would also be grossly inadequate. A provision that only permits individuals to use existing leave does *nothing* for the victims who are most vulnerable, low-wage workers who lack any paid time off at all. It is these workers for whom the loss of employment is most likely to result in the unconscionable choice of returning to an abuser or becoming homeless. To make a real difference for victims of domestic and sexual violence whose jobs are in jeopardy, any contemplated federal legislation must include provisions that guarantee that *all* eligible employees have the time off they need to take essential steps to secure their safety, not only those employees who are lucky enough to have otherwise available time off.

E. Unemployment Insurance Benefits Help Victims Without Raising Costs For Businesses

Sometimes employees make the difficult decision to leave their jobs to protect themselves or family members that are being victimized, or to avoid on-the-job harassment and stalking. In most states, the general rule is that individuals are ineligible for unemployment benefits if they leave work voluntarily without "good cause" or if they are discharged for "misconduct" such as absenteeism.[22] Such provisions can bar victims who left or lost their jobs because of the violence from receiving benefits. (In fact, in some states, individuals who voluntarily quit a job to relocate with a spouse can receive benefits, but

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those who are forced to flee an abusive spouse cannot). In recent years, however, there has been a dramatic growth in state laws explicitly making victims eligible for benefits if they left or were fired from their jobs for reasons relating to domestic violence.[23] In 1996, Maine was the first state to amend its unemployment insurance law to acknowledge the effects that domestic violence may have on employment.[24] Subsequently, 29 states and the District of Columbia amended their unemployment insurance laws to address domestic violence (and in some cases, sexual assault and stalking as well).

However, a dramatic change in this area was effected by the enactment of the American Recovery and Reinvestment Act of 2009 (ARRA), Pub. L. No. 111-5 in early 2009. ARRA contains unemployment insurance modernization provisions that grant states additional unemployment insurance funding if they extend eligibility for benefits to workers who leave their jobs for "compelling family reasons," including domestic violence.[25] Several states quickly enacted laws, amended their laws or introduced bills to do so. As of June 2009, 30 states and the District of Columbia had unemployment insurance provisions concerning domestic violence.[26] While we applaud federal attempts to extend eligibility to domestic violence victims, ARRA incentive funding provides an incomplete solution to an issue affecting workers in all 50 states. In their rush to obtain the incentive funding, many states that already had laws extending eligibility to victims of domestic violence imported the ARRA language wholesale, with the consequence of making their eligibility law *more* restrictive, either by imposing more requirements on claimants or narrowing the circumstances under which domestic violence victims could qualify for benefits. For this reason, we urge Congress to consider a comprehensive federal solution to this issue, such as that offered by the Security and Financial Empowerment Act, H.R. 739, sponsored by Representative Roybal-Allard, which would extend eligibility for unemployment insurance benefits to all victims of domestic violence, sexual assault or stalking who leave a job because of the violence.

F. Insurance Discrimination Against Victims are Further Barriers to Economic Security

Unfortunately, many victims of violence are forced to bear the monetary costs of the violence against them when they are denied insurance coverage for medical and counseling costs and property damage. Insurance companies often discriminate against victims in life, health, disability, homeowners and auto insurance matters, characterizing domestic violence as a risk factor or the victim's "lifestyle choice" or property damage as an intentional act outside the scope of coverage. Consequently, as of 2003, 41 states had adopted some form of legislation prohibiting insurance discrimination against victims of domestic violence.[27] However the level and kind of protection varies greater among these states, demonstrating the urgent need for uniform federal protections.

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II. IMMIGRANT VICTIMS OF VIOLENCE

The Immigrant Women Program (IWP) of Legal Momentum strives to protect and expand the rights and options of immigrant women and their children.[28] As national policy advocates, IWP staff drafted many of the immigration provisions of VAWA, the Trafficking Victims Protection Act (TVPA) and their subsequent reauthorizations. These laws form the cornerstone of immigration protections for victims of crime. IWP co-chairs the National Network to End Violence Against Immigrant Women, a national public policy voice for 3000 members across the United States, including attorneys, advocates, community members and survivors of violence against immigrant women. IWP is also funded by the Office of Violence Against Women of the Department of Justice as a national technical assistance provider to those providing services to immigrant victims of domestic violence, sexual assault, stalking, dating violence, and human trafficking. In this capacity, we regularly interact with individual immigrant victims and their advocates and work in coalition to conduct national advocacy on their behalf. Our technical assistance and training also build the foundation of our advocacy benefiting immigrant women and children. We look forward to continuing to work with the members of the U.S. Senate Judiciary Committee on the development of the immigration provisions of the upcoming VAWA reauthorization.

A. History of VAWA For Immigrant Victims

By 2005 over 20,000 immigrant victims of violence against women had benefited from the immigration protections of VAWA.[29] Countless numbers of additional battered immigrants have received accurate information, supportive guidance, and advocacy assistance due to VAWA as well. Through the passage of these provisions, Congress recognized that United States immigration laws created additional barriers for immigrant women seeking safety and protection.[30] A batterer's threats of deportation often deterred an immigrant victim from taking action to protect herself and her children such as filing for a civil protection order or seeking the protection of the criminal justice system.[31] As a result, many immigrant women lived trapped and isolated in violent homes, often resulting in the enhanced lethality of violence toward battered immigrants.[32]

VAWA 1994 contained several provisions designed to address the inherent dependency of domestic violence victims upon their batterers fostered by the immigration law.[33] VAWA 1994 offered immigration protection to immigrant spouses, abused immigrant children and also extended immigration protection to the immigrant parents of child abuse victims when the abuser was a U.S. Citizen or a lawful permanent resident spouse or parent.[34] The provisions also created relief from deportation for battered immigrants in deportation proceedings, known as VAWA suspension of deportation.[35] Congress, in

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enacting these provisions, intended to provide battered immigrant women and children with a way to obtain lawful immigration status without their abuser's cooperation or knowledge.[36] Although VAWA 1994 helped significant numbers of battered immigrants in many ways, the legislative protections for battered immigrants remained incomplete. Immigration and welfare reform laws passed subsequent to VAWA 1994 created impediments or barred access to VAWA protection for many immigrant victims of violence.[37] In addition, many immigrant domestic violence victims, whose abusers were not their spouses or were not U.S. Citizens or lawful permanent residents, remained trapped in violent relationships.[38] Further, VAWA 1994 offered no immigration relief for immigrant victims of non-marital sexual assault, human trafficking, or other crimes.

The bipartisan effort that led to the passage of VAWA 2000 included important expansions in protections for immigrant victims of domestic violence, sexual assault, trafficking, and related crimes.[39] VAWA 2000 offered crucial protections needed to enable immigrant victims of crime to help law enforcement in the detection, investigation, and prosecution of perpetrators without fear of removal by creating the U-visa.[40] Advocates and law enforcement had long recognized the harmful results of immigration related abuse and its chilling effect on the willingness of undocumented who may otherwise report these crimes to authorities.[41] Even when crimes were reported, undocumented victims often hesitated to overtly cooperate with law enforcement in the investigation or prosecution for fear of being reported to immigration authorities by the perpetrator or his/her allies.

The U-visa enabled undocumented victims of crime to come forward and cooperate with law enforcement in the detection, investigation and prosecution of criminal activity by allowing these victims an avenue to obtain legal status. Though the U-visa offers protection for many victims of crime, due to the delay in implementing regulations, U-visas were not issued until 2007. Many immigrant victims whose crimes are not enumerated as U-visa qualifying crimes (such as child abuse and stalking) remain unable to safely cooperate with law enforcement.

Along with VAWA 2000, Congress also passed the Trafficking Victims Protection Act of 2000 (TVPA).[42] The TVPA made human trafficking a federal crime and created the T-visa, which parallels the U-visa, allowing human trafficking victims to remain in the United States if they cooperate with law enforcement.[43] The TVPA also created a host of related protections including access to refugee benefits as well as funding for critical services needed to support trafficking victims.

VAWA 1994 and 2000 made considerable progress in assisting immigrant victims of domestic violence, sexual assault, trafficking, and related crimes. However, as these new laws were implemented advocates, police, and prosecutors across the country continued to identify victims who remained at risk without any access to immigration relief. VAWA 2005 eliminated some of these obstacles. Congress again demonstrated that ending violence against women requires immigrant victims to access immigration

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relief and a wide range of supportive services. VAWA 2005 strengthened confidentiality provisions, expanded the definition of VAWA self-petitioner, and enhanced the ability of immigrant victims to access immigration courts, legal services and work authorization.[44]

B. The Reauthorization of VAWA Must Protect All Immigrant Victims

While VAWA and its subsequent reauthorizations made substantial progress in assisting victims and reducing violence against immigrant women, gaps in implementation and emerging issues still require further legislative reform. Procedural impediments that cause lengthy delays of over one year in case processing leave victims subject to ongoing harm from abusers and in most cases, unable to work and support their children.

VAWA self-petitioning must also be extended to all categories of immigrant victims. Currently, many immigrant victims remain vulnerable to removal because they are ineligible for protection under VAWA. For example, K-visa holders who do not marry their abusive fiancés and battered dependent visa holders are ineligible to self-petition.

Though Congress enacted U-visa provisions to provide an immigration safety net for victims of specific crimes, the statute should be expanded to allow U-visa eligibility for victims of crimes such as victims of child molestation, stalking, and immigration notario fraud. U-visa applicants who are adversely impacted by DHS' seven-year delay in issuing regulations should be allowed to recapture the seven years of visa numbers lost since the U-visa provision was enacted in VAWA 2000. Currently, lack of training, implementing policies, or protocols prevent many U-visa eligible crime victims from obtaining the law enforcement certification required for U-visa eligibility. U-visa applicants, like T-visa applicants, should be able to prove cooperation with law enforcement using the *any credible evidence* standard which applies in all aspects of U-visa cases, rather than solely through the certifications of law enforcement.[45]

C. VAWA Must Protect All Immigrant Victims from Detention and Removal

Over the past few years, there has been a dramatic increase in immigration enforcement initiatives. Advocates working with immigrant victims have found that such enforcement activities often involve immigrant victims of domestic violence, sexual assault, stalking, dating violence and trafficking. Many practitioners working with battered immigrant victims report that local law enforcement agents enforcing federal immigration law have no knowledge about VAWA, T and U-visa protections. VAWA 2011 should ensure that all victims having contact with law enforcement whether in the context of reports

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by perpetrators, raids or local law enforcement activities, are screened to determine if they are victims of crime. In addition, DHS personnel conducting all enforcement activities, including raids, should be trained on identifying immigrant crime victims and connecting such victims to non-governmental organizations to meet their legal and social service needs. VAWA 2011 should also address the chilling effect increased enforcement, and initiatives such as 287(g), have had on victims' willingness and ability to report violence or abuse to law enforcement.

VAWA 2011 should establish a presumption that immigrant victims of domestic violence, sexual assault, dating violence, stalking, and trafficking should not be detained, as detention exacerbates past trauma related to victimization[46] In the event that an immigrant victim is detained, VAWA 2011 should ensure the victim's ability to participate in child custody litigation and in civil and criminal court proceedings. Immigrant victims with United States citizen children should not be removed from the United States, and immigration judges should be able to consider the best interest of the children in removal proceedings involving the immigrant victim parents of United States citizen children. This is particularly necessary given that an estimated 73% of children of undocumented immigrants, who may be subject to removal, are US citizens.[47]

D. VAWA Confidentiality Provisions Should Be Extended

Congress created VAWA confidentiality provisions as an additional protection against batterers, traffickers, and crime perpetrators using the immigration system as a tool of abuse against their victims.[48] However, batterers, traffickers, and perpetrators of sexual assault and other violent crimes continue to provide information to DHS in an attempt to have their victims deported. Perpetrators have also used information provided by DHS to locate and harm their victims as well as undermine their victims' immigration cases. Without strengthening confidentiality rules, victims of domestic violence, sexual assault and trafficking seeking immigration relief will continue to be put in precarious or life-threatening situations.

Currently VAWA confidentiality provisions allow law enforcement to corroborate a victim's immigration status even if the crime perpetrator is the primary informant of the victim's lack of status.[49] Given increased enforcement at federal and local levels, this corroboration exception essentially allows perpetrators to use the government as a tool in ongoing abuse and control. DHS also refers cases to the Department of Justice (DOJ) to prosecute immigration fraud as a criminal act and the confidentiality protections do not clearly extend to adverse determinations made in a criminal court. VAWA confidentiality should extend to DOJ prosecutions and should cover the full and expansive range of adverse actions that government officials initiate against victims based on tips from an abuser or the abuser's associates. VAWA confidentiality protections should also be expanded to prevent discovery and

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disclosure of DHS files or the existence of confidentiality-protected files in family, civil or administrative proceedings involving the immigrant victim.

E. Immigrant Victims Should Be Able to Access the Public Benefits Safety Net

VAWA 2005 made progress in providing economic stability and security for trafficking victims, immigrant victims and their children. VAWA 2005 guaranteed access to legal services for immigrant victims by authorizing a Legal Services Corporation-funded program to represent immigrant victims; granted T-visa victims qualified immigrant status for the purposes of public benefits; and provided employment authorization for abused spouses of certain professional work visa holders and victims with approved VAWA self-petitions.[50] However, many lawfully present immigrant victims of domestic violence, sexual assault, trafficking, and other violent crimes do not have access to safety-net benefits that would considerably increase their chances of survival and recovery. Access to public benefits provides an important bridge toward economic security for victims severing dependence upon abusive spouses, employers and traffickers.

Although some VAWA self-petitioners are allowed to access federal public and means-tested benefits, those who entered the United States after August 22, 1996 have to wait five years before they can access federal means-tested public benefits.[51] This group of VAWA self-petitioners, as well as U-visa victims, are cut off from many important parts of the public benefits safety net that are means-tested including Medicaid, State Children's Health Insurance Program (SCHIP), Temporary Assistance for Needy Families (TANF), Social Security Income (SSI), and food stamps. Other victims who are legally present and have filed valid VAWA immigration cases are not eligible for these important benefits. These restrictions severely impede an immigrant victim's ability to escape the violence, gain independence, and recover physically and emotionally from the abuse.

Further, immigrant victims who lack English-language skills, educational degrees, and employment are particularly vulnerable to being economically, socially and culturally dependent on their abusers. Restrictions on safety-net benefits also adversely affect immigrant victims' children. Many young noncitizen children are ineligible for federal means-tested public benefit programs like TANF, food stamps, housing assistance, and non-emergency Medicaid. Without adequate access to healthcare, food, clothing, and shelter, children needlessly continue to suffer the devastating effects of violence. Increasing access to safety net benefits would provide immigrant victims and their children with the financial, medical, and social resources necessary to escape abuse and lead productive lives.

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CONCLUSION

In the 15 years since its passage, VAWA has made a world of difference for victims of domestic violence, dating violence, sexual assault and stalking by opening up the court system, ensuring access to supportive services, and providing immigration relief. However, too many victims of violence continue to fear the cost of accessing services to their jobs and for immigrants, the ability to remain in the U.S. Additionally, there is a desperate need for economic security provisions that would provide job-protected leave, bar discrimination and make unemployment insurance, available to victims who must leave their jobs because of the violence. Victims cannot be forced to choose between their economic independence and their physical safety – both are essential if they, and we as a society, are to move forward in our efforts to end domestic and sexual violence.

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[1] Vicky Lovell, Institute for Women's Policy Research, *Women and Paid Sick Days: Crucial for Family Well-Being,* 2007

[2] TK Logan, et. al., *Partner Stalking and Implications for Women's Employment,* J. INTERPERSONAL VIOLENCE 275 (2007).

[3] Glass, N. *Community Partnered Response to Intimate Partner Violence.* Funding provided by NIH/NINR. 9/04-5/09. TK Logan, et. al., *Partner Stalking and Implications for Women's Employment,* J. INTERPERSONAL VIOLENCE 275 (2007).

[4] S. Rep. No. 138, 103rd Cong., 2d Sess. 54, n. 69 (citing E. Ellis, B. Atkeson and K. Calhoun, *An Assessment of the Long Term Reaction to Rape*, 50 J. Abnormal Psychology 264 (1981). Domestic violence also affects perpetrators' ability to work. A recent study found that 57 percent of abusers reported having difficulty concentrating at work and 51.8 percent reported being late to work, or missing it entirely. Seventy-eight percent reported using their own company's resources in connection with the abusive relationship. Glass, N. *Community Partnered Response to Intimate Partner Violence*. Funding provided by NIH/NINR. 9/04-5/09.

[5] Testimony of Laura A. Fortman, Commissioner, Maine Department of Labor. Senate Subcommittee of Employment and Workplace Safety, Committee on Health, Education, Labor and Pensions. April 17, 2007.

[6] Letter from Elizabeth Kristen, Legal Aid Society-Employment Law Center to Senators Arlen Specter, Joseph Biden, and Orrin Hatch (June 21, 2005) (on file with Legal Momentum); Letter from Wendy Pollock, Sargent Shriver National Center on Poverty Law to Senators Arlen Specter, Joseph Biden, and Orrin Hatch (June 21, 2005) (on file with Legal Momentum).

[7] During the third quarter of 2008, the National Domestic Violence Hotline documented a 21% increase in calls from the previous year. A six week study from November 2008 to December 2008 revealed that of those callers surveyed, 64%believed that the abuse had increased within the past year. National Domestic Violence Hotline. "Increased Financial Stress Affects Domestic Violence Victims." Austin, TX. 29 January 2009. http://www.ndvh.org/2009/01/increased-financial-stress-affects-domestic-violence-victims-2/

[8] For further discussion regarding the need for a comprehensive and consistent federal approach, see section E. on unemployment insurance.

[9] Centers for Disease Control and Prevention, National Institute for Occupational Safety and Health, *Workplace Violence Prevent Strategies and Research Needs: Report from the Conference Partnering in Workplace Violence Prevention Nov. 2004*, 4-5 (2006). The vast majority (85%) of workplace homicides result from criminal activity such as robberies where the perpetrator has no legitimate relationship with the business or its employees. Domestic violence is estimated to cause about 5% of all workplace homicides. *Id.*

[10] *Thoma v. L.J.'s Bad Penny Bar and Grill*, No. CR200600641 (Wisc. Dep't of Workforce Development) (filed February 21, 2006).

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[11] TK Logan, et. al., *Partner Stalking and Implications for Women's Employment,* J. INTERPERSONAL VIOLENCE 275 (2007). Glass, N. *Community Partnered Response to Intimate Partner Violence.* Funding provided by NIH/NINR. 9/04-5/09. U.S. Gen. Acct. Office, *Domestic Violence Prevalence and Implications for Employment Among Welfare Recipients* 19 (Nov. 1998); S. Rep. No. 138, 103rd Cong., 2d Sess. 54, n. 69 (citing E. Ellis, B. Atkeson and K. Calhoun, *An Assessment of the Long Term Reaction to Rape*, 50 J. Abnormal Psychology 264 (1981)).

[12] For more information regarding the successes of employers to support employees who are victims of domestic and sexual violence, *see* www.caepv.org.

[13] 820 Ill. Comp. Stat. 180/1-180/45; N.Y.C. Admin. Code § 8-107.1; Westchester City Code §§ 700.02, 700.03.

[14] Conn. Gen. Stat. § 54-85b; R.I. Gen. Laws § 12-28-10.

[15] 42 U.S.C. §§ 1437d(c)(3); 1437f(c)(9); 1437f(d)(1);1437f(o); 1437d(l)(5).

[16] Bureau of Labor Statistics, *Employee Benefits Survey: Most Requested Statistics, Benefits* (2004), *available at* http://data.bls.gov/cgi-bin/surveymost?eb. (Showing 41% of workers in private industry in 2004 had no available paid sick leave).

[17] Vicky Lovell, Institute for Women's Policy Research, *Women and Paid Sick Days: Crucial for Family Well-Being,* 2007.

[18]Thirty-three states (AL, AK, AZ, AR, CO, CT, DE, FL, GA, HI, IN, IA, MD, MA, MI, MN, MS, MO, MT, ND, NH, NY, NV, OH, PA, RI, SC, TN, UT, VT, VI, VA, WI, WY) and the Virgin Islands have laws specifically permitting an employee who is a victim of a crime to take time off from work attend court, at least under certain circumstances. Ala. Code § 15-23-81; Alaska Stat. § 12.61-017; Ariz. Rev. Stat. Ann. § 13-4439 and Ariz. Rev. Stat. § 8-420 (2004); Ark. Code Ann. § 16-90-1105; Colo. Rev. Stat. § 24-4.1-303(8); Conn. Gen. Stat. § 54-85b; Del. Code. Ann. Tit. 11 § 9409; Fla. Stat. § 92.57; Ga. Code Ann. § 34-1-3; Haw. Rev. Stat. § 621.10.5; Ind. Code § 35-44-3-11.1; Iowa Code § 915.23; Md. Code. Ann. Crim. Proc. § 11-102; Mass Gen. Laws ch. 258B, §§ 3(l), 268-14(b); Mich. Comp. Laws Ann. § 780.790; Minn. Stat. Ann § 611A.036; Miss. Code. Ann. § 99-43-45; Mo. Rev. Stat. § 595.209(1)(14); Mont. Code Ann. § 46-24-205(3); N.D. Cent. Code § 27-09.1-17; N.H. Rev. Stat. Ann. § 275:62; N.Y. Penal Law § 215.14; Nev. Rev. Stat. § 50.070; Ohio Rev. Code Ann. § 2930.18; 18 Pa. Code. § 4957; R.I. Gen. Laws § 12-28-10; S.C. Code Ann. § 16-3-1550; Tenn. Code Ann. §4-4-122; Utah Code § 78-11-26; Va. Code Ann. § 18.2-465.1; Vt. Stat. Ann. tit 13, § 5313; 34 V.I. Code Ann. § 203 (e); Wis. Stat. § 103.87; Wyo. Stat. Ann. § 1-40-209(a).

[19] Cal. Lab. Code §§ 230 & 230.1; Colo. Rev. Stat. § 24-34-402.7; D.C. Code §§ 32-131.01, 32-131.02; Fla. Stat. § 741.313; Haw. Rev. Stat. § 378-72; 820 Ill. Comp. Stat. 180/1-180/45; Kan. Stat. Ann. §§ 44-1131, -1132; Me. Rev. Stat. Ann. tit. 26, § 850; N.M. S.B. 68; Or. Rev. Stat. §§ 659A.270-.285;Wash. Rev. Code. §§ 7.69.303, 49.76.

[20] D.C. Code §§ 32-131.01, 32-131.02. Pending federal legislation, the Healthy Families Act (H.R. 2460), similarly would allow an employee to use the paid sick leave provided by the Act for an absence resulting from domestic violence, sexual assault or stalking if the time is used to help the employee or a relative to seek medical attention, obtain victim services, relocate or take legal action. Section 5(b)(4). We support such innovative legislative solutions that attempt to reconcile employment and family responsibilities faced by virtually all workers.

[21] N.Y. Penal L. § 215.14; N.C. Gen. Stat. §§ 50-B-5.5, 95-270a.

[22] For a good overview of the history of legislation in this area, see Rebecca Smith, Richard W. McHugh, and Robin R. Runge, *Unemployment Insurance and Domestic Violence: Learning from Our Experiences*, 1 Seattle J. Soc. Just. 503 (2002).

[23] *Id.*

[24] Me. Rev. Stat. Ann. tit. 26, § 1043(23)(B)(3) (providing "misconduct" may not solely be founded on actions taken by an employee that were necessary to protect the employee or an immediate family member from domestic violence if the employee made all reasonable efforts to preserve the employment).

[25] Division B, Title II, Sec. 2003.

[26] For a list of the states, and those that enacted new laws or amended previous laws in response to ARRA, *see* NATIONAL EMPLOYMENT LAW PROJECT, FEDERAL STIMULUS FUNDING PRODUCES UNPRECEDENTED WAVE OF STATE UNEMPLOYMENT INSURANCE REFORMS, Table 1 (June 16, 2009).

[27] *See* PENNSYLVANIA COALITION AGAINST DOMESTIC VIOLENCE AND THE WOMEN'S LAW PROJECT, INSURANCE DISCRIMINATION AGAINST VICTIMS OF DOMESTIC VIOLENCE (2002).

[28] Many thanks to Sonal Raja, J.D. Expected 2011.

[29] Deborah H. Morgan, Access Denied: Barriers to Remedies Under the Violence Against Women Act For Limited English Proficient Battered Immigrant Women, 54 AMER. UNIV. L. REV. 485, 486 (2005).

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[30] *See* H.R. REP. NO. 103-711, at 112-66 (1994) (recognizing the need to address the prevalence of violence against women and including protection for immigrants in Title IV, Subtitle G).
[33] Mary Ann Dutton et al., *Use and Outcomes of Protection Orders by Battered Immigrant Women*, NOVEMBER 10, 2006 (Final report submitted to the National Institutes of Justice).
[32] Mary Anne Dutton, Leslye E. Orloff, and Giselle Aguilar Hass, *Symposium Briefing Papers: Characteristics of Help Seeking Behaviors , Resources and Service Needs of Battered Immigrant Latinas: Legal and Policy Implications*, 7 GEO. J. POVERTY LAW & POL'Y 24,(2000).
[33] *See* Violent Crime Control and Law Enforcement Act, Pub. L. No. 103-322, 108 Stat. 1902, Title IV (1994) [hereinafter VAWA I] (codified in scattered sections of 8 U.S.C.and 204 I.N.A.).
[34] *See id.* at Subtitle G (amending procedures in Section 204 of the Immigration and Naturalization Act ("I.N.A.") for credible evidence waivers, self-petitioning, and suspension of deportation for battered immigrant spouses and children).
[35] *See id.* § 40,703 (detailing relief for battered immigrant spouses and children in deportation proceedings before an immigration judge).
[36] Morgan at 490.
37 Michelle J. Anderson, *A License to Abuse: The Impact of Conditional Status on Female Immigrants*, 102 YALE L.J. 1401, 1420-21 (1993) at 1405 (listing the Immigration Marriage Fraud Amendments as authorizing the INS to increase the scrutiny of the immigrant nuptial ties).
38 *See id.* (pointing out that what Congress had intended as a tool to increase scrutiny "inadvertently increased abuser's coercive power over conditional resident spouses").
[39] Section 1513 of the Victims of Trafficking and Violence Protection Act of 2000 (VTVPA). Victims of Trafficking and Violence Protection Act of 2000, Pub. L. 106-386, 114 Stat. *See also See* 146 CONG. REC. S10,192 (daily ed. Oct. 11, 2000) (statement of joint managers) (noting inadvertent immigration barriers that allow abusers to wield power over women's immigration status and thus hinder women's safety and ability to leave);
40 *See generally* INA § 101(a)(15)(U), 8 U.S.C. § 1101(a)(15)(U). *See also* Victims of Trafficking and Violence Protection Act of 2000, Pub. L. 106-386, §1513, 114 Stat. 1464 (2000) and particularly Section 1513(a) which sets out Congressional findings and purpose that constitute the legislative history of VAWA's U-visa protections.
[41] Nawal Ammar, Leslye Orloff, Mary Ann Dutton, and Giselle Hass, "Calls to Police and Police Response: A Case Study of Latina Immigrant Women in the USA." International Journal of Police Science and Management, Vol. 7, No. 4, 2005, pp 230-244 (2005).
[42] The two acts combined comprise the Victims of Trafficking and Violence Protection Act of 2000 (VTVPA). Victims of Trafficking and Violence Protection Act of 2000, Pub. L. 106-386, 114 Stat. 1464 (2000).
[43] Trafficking Victims Protection Reauthorization Act of 2000, 22 U.S.C.§7104 (2000), *amended by* Trafficking Victims Protection Reauthorization Act of 2003, 22 U.S.C. §7101 (2003), *amended by* Violence Against Women Act of 2005, 42 U.S.C. §13701 (2005), *amended by* Trafficking Victims Protection Reauthorization Act of 2006, 22 U.S.C. §7101 (2006), *amended by* Trafficking Victims Protection Reauthorization Act of 2008, 22 U.S.C. § 7101 (2008). The most recent reauthorization, Trafficking Victims Protection Reauthorization Act 2008, included amendments to both T Visa and U Visa provisions.
[44] For a discussion of the legislative history of VAWA confidentiality protections see, H.R. Rep. No.109-233, at 114-126 (2005)
[45] INA § 214(p)(4), 8 USC § 1184(p)(4).
[46] *See* Lutheran Immigration and Refugee Services, *Alternatives to Detention in the U.S. Immigration System: Recommendations of reforms necessary to improve U.S. compliance with constitutional and international standards of procedural and substantive due process, Briefing Materials Submitted to the Inter-American Human Rights Commission*, (Jul. 7, 2008) *at* http://idc.rfbf.com.au/lirs-briefing-paper-on-alternatives-to-detention.
[47] Jeffrey S. Passel & D'Vera Cohn, *A Portrait of Undocumented Immigrants in the United States* ii (Pew Hispanic Center Apr. 14, 2009), *available at* http://pewhispanic.org/files/reports/107.pdf.
[48] Illegal Immigration Reform and Immigrant Responsibility Act of 1996 § 384, 8 U.S.C. § 1229 (1996).
[49] *See id.* § 384 at (a)(2).
[50] *See generally* Violence Against Women Act of 2005, 42 U.S.C. §13701 (2005).
[51] *See* Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, 110 Stat. 2105 (codified in scattered sections of 42 U.S.C.); Illegal Immigration Reform and Immigration Responsibility Act of 1996, (codified as 8 U.S.C. § 1101 et. seq.).

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Stalking resource center

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Tel. (202) 467-8700
E-mail: src@ncvc.org

stalking fact sheet

THE NATIONAL CENTER FOR Victims of Crime

Crime victims can call:
1-800-FYI-CALL
M-F 8:30 AM–8:30 PM

WHAT IS STALKING?

While legal definitions of stalking vary from one jurisdiction to another, a good working definition of stalking is *a course of conduct directed at a specific person that would cause a reasonable person to feel fear.*

STALKING IN AMERICA

- 1,006,970 women and 370,990 men are stalked annually in the U.S.
- 1 in 12 women and 1 in 45 men will be stalked in their lifetime.
- 77% of female victims and 64% of male victims know their stalker.
- 87% of stalkers are men.
- 59% of female victims and 30% of male victims are stalked by an intimate partner.
- 81% of women stalked by a current or former intimate partner are also physically assaulted by that partner.
- 31% of women stalked by a current or former intimate partner are also sexually assaulted by that partner.
- 73% of intimate partner stalkers verbally threatened victims with physical violence, and almost 46% of victims experienced one or more violent incidents by the stalker.
- The average duration of stalking is 1.8 years.
- If stalking involves intimate partners, the average duration of stalking increases to 2.2 years.
- 28% of female victims and 10% of male victims obtained a protective order. 69% of female victims and 81% of male victims had the protection order violated.

[Tjaden & Thoennes. (1998). "Stalking in America," NIJ.]

IMPACT OF STALKING ON VICTIMS

- 56% of women stalked took some type of self-protective measure, often as drastic as relocating (11%). [Tjaden & Thoennes. (1998). "Stalking in America," NIJ]
- 26% of stalking victims lost time from work as a result of their victimization, and 7% never returned to work. [Tjaden & Thoennes.]
- 30% of female victims and 20% of male victims sought psychological counseling. [Tjaden & Thoennes.]
- The prevalence of anxiety, insomnia, social dysfunction, and severe depression is much higher among stalking victims than the general population, especially if the stalking involves being followed or having one's property destroyed. [Blauuw et. al. (2002). "The Toll of Stalking," *Journal of Interpersonal Violence*]

RECON STUDY OF STALKERS

- 2/3 of stalkers pursue their victims at least once per week, many daily, using more than one method.
- 78% of stalkers use more than one means of approach.
- Weapons are used to harm or threaten victims in 1 out of 5 cases.
- Almost 1/3 of stalkers have stalked before.
- Intimate partner stalkers frequently approach their targets, and their behaviors escalate quickly.

[Mohandie et al. "The RECON Typology of Stalking: Reliability and Validity Based upon a Large Sample of North American Stalkers." (In Press, *Journal of Forensic Sciences 2006*).]

STALKING AND INTIMATE PARTNER FEMICIDE*

- 76% of intimate partner femicide (murder) victims had been stalked by their intimate partner.
- 67% had been physically abused by their intimate partner.
- 89% of femicide victims who had been physically abused had also been stalked in the 12 months before the murder.
- 79% of abused femicide victims reported stalking during the same period that they reported abuse.
- 54% of femicide victims reported stalking to police before they were killed by their stalkers.

**The murder of a woman.*

[McFarlane et al. (1999). "Stalking and Intimate Partner Femicide," *Homicide Studies*].

STALKING ON CAMPUS

- 13% of college women were stalked during one six- to nine-month period.
- 80% of campus stalking victims knew their stalkers.
- 3 in 10 college women reported being injured emotionally or psychologically from being stalked.

[Fisher, Cullen, and Turner. (2000). "The Sexual Victimization of College Women," NIJ/BJS.]

THE STALKING RESOURCE CENTER

The Stalking Resource Center is a program of the National Center for Victims of Crime. Our dual mission is to raise national awareness of stalking and to encourage the development and implementation of multidisciplinary responses to stalking in local communities across the country.

We can provide you with:

- Training and Technical Assistance
- Protocol Development
- Resources
- Help in collaborating with other agencies and systems in your community

Contact us at: 202-467-8700 or *src@ncvc.org*.

STATE LAWS[1]

- Stalking is a crime under the laws of all 50 states, the District of Columbia, and the Federal Government.
- 15 states classify stalking as a felony upon the first offense.
- 34 states classify stalking as a felony upon the second offense and/or when the crime involves aggravating factors.[2]
- Aggravating factors may include: possession of a deadly weapon; violation of a court order or condition of probation/parole; victim under 16; same victim as prior occasions.

[1] Last updated October 2005.
[2] In Maryland, stalking is always a misdemeanor.

For a compilation of state, tribal and Federal laws visit: www.ncvc.org/src

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Written Testimony of Co-Chairs
Karen Artichoker and Juana Majel

National Congress of American Indians
Task Force on Violence Against Women

Senate Judiciary Committee Hearing:
The Continued Importance of the Violence Against Women Act

June 24, 2009

The National Congress of American Indians (NCAI) Task Force on Violence Against Women was formed in 2003 and represents a national movement of tribal organizations dedicated to the mission of enhancing the safety of American Indian and Alaska Native women. The NCAI Task Force works collaboratively with the National Task Force to End Sexual and Domestic Violence and other national organizations addressing implementation of the Violence Against Women Act (VAWA). The NCAI Task Force supports the various testimony submitted by these organizations and will focus on issues specific to American Indian tribes and women. The following recommendations have been made to the United States Department of Justice and the Obama administration.

The USDOJ estimates that 1 of 3 Indian women will be raped, that 6 of 10 will be physically assaulted and that Indian women are stalked at more than double the rate of any other population of women in the United States. This violence threatens the lives of Native women and the future of American Indian Tribes and Alaska Native Villages. Ending this historic pattern of violence requires that the institutional barriers that deny access to justice and related services for Native women are eliminated. No area of need is more pressing or compelling than the plight of American Indian women fleeing physical and sexual violence.

Congress, led by the tremendous efforts of Vice President Joseph Biden, set forth essential steps to address the systemic barriers denying access to justice in such cases through the enactment of the Safety for Indian Women Title contained within the VAWA of 2005. Dedicated tribal leaders, advocates and justice personnel are prepared to implement these amendments to federal code and programs established under this Title. Unfortunately since passage of this landmark legislation in 2005, implementation of key provisions has been stymied and federal departments charged with the responsibility of implementation have minimized the need for immediate action. The demonstrated lack of will on the part of federal departments is not only demoralizing, but life threatening to the women the statute was intended to protect.

A systemic change is needed to prevent violence in the lives of Native women. A complex set of social factors including federal-tribal jurisdictional issues, inadequate tribal resources and justice personnel, and poverty have resulted in the current level of danger that exist in the lives of American Indian women as a population. Perpetrators of domestic and sexual violence commit such violence because of the belief that no social consequences exist for their violent behavior. This perception stems from the reality that crimes of domestic and sexual violence are rarely prosecuted, and if prosecution occurs any sentence is so minimal that it is inconsequential to the life of the perpetrator. As one mother stated after the violent murder of her daughter, "The system is broken. It did not protect my daughter during her life and I fear it will fail her daughters, my grand daughters in their lives."

Federal Indian law, including treaties, supreme court cases, and federal code, places a unique legal responsibility upon the United States to assist Indian tribes in creating safe and stable communities and for the safety of Indian women. We have

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identified critical issues and recommendations to assist with the prevention and prosecution of violence against Indian women. We respectfully request that the Judiciary Committee request a report of activities to implement the amendments to federal code under the VAWA and also a plan of action from the Department of Justice for implementation of these provisions. We recommend that such implementation plans provide for collaboration with Indian tribes and increased coordination between federal agencies charged with the handling of domestic and sexual violence cases.

Given the urgent need to address the current epidemic level of violence committed against Native women we respectfully request that the Committee call for a joint hearing with the Senate Committee on Indian Affairs on the issue of violence against Native women. Reauthorization of VAWA is essential to the lives of American Indian and Alaska Native women. The outstanding concerns regarding implementation of VAWA and our recommendations are organized into the following three categories:

I. Failed or inadequate implementation of amendments to federal code enacted under the Violence Against Women Act of 2005;
II. Systemic barriers to the safety of Indian women that require immediate action by federal departments; and,
III. Issues addressing the epidemic levels of sexual violence committed against Indian women.

I. Implementation of the Safety of Indian Women contained in the Violence Against Women Act of 2005.

The provisions contained in the Safety for Indian Women Title require action by the Departments of Health and Human Services, Justice, and Interior. Since passage of VAWA, these departments have failed to fully implement critical provisions of the Safety for Indian Women Title. The following is a section-by-section analysis of the most urgent issues – all of which need immediate action.

a) **Annual Consultation**: Section 903 directs the Attorney General and Secretary of Health and Human Services to each conduct annual consultations with Indian tribal governments concerning the federal administration of tribal funds and programs established under the Violence Against Women Acts of 1994 and 2000. It requires the Attorney General, during such consultations, to solicit recommendations from Indian tribes concerning: (1) the administration of tribal funds and programs; (2) the enhancement of the safety of Indian women, including the protection from domestic violence, dating violence, sexual assault, and stalking; and (3) the strengthening of federal response to such violent crimes.

The successful implementation of VAWA within tribal communities requires consultation and coordination between the respective federal departments and Indian tribes. Annual consultations were held in 2006, 2007, and 2008. Unfortunately, the USDOJ has not fulfilled the requirement of this statute. Specifically; the Attorney

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General has not attended, has failed to require attendance of USDOJ leadership, and, has delegated this requirement to the Office on Violence Against Women. USDOJ leadership includes key players such as the Attorneys General from districts containing significant numbers of Indian tribes, Attorney General's Native American Issues Sub-Committee, Federal Bureau of Investigation, and others. The USDOJ has not responded to the majority of concerns and recommendations made during the 2006, 2007 and 2008 consultations; and, in 2007 and 2008 the USDOJ scheduled consultations / meetings with Indian tribes that created a conflict with the attendance of some tribal leaders of the VAWA consultation.

We do commend specific components of the Department, the Office on Violence Against Women and the National Institute of Justice, for recognizing the importance of the annual consultation and their on-going commitment to the successful implementation of this section of VAWA.

Recommendation: The Attorney General immediately begin coordination with Indian tribes to schedule and establish the agenda for the 2009 consultation.

b) **Access to Federal Databases**: Section 905(a) amends the federal code to require the Attorney General to permit Indian law enforcement agencies, in cases of domestic violence, dating violence, sexual assault, and stalking, to enter information into, and obtain information from, federal criminal information databases. For decades Indian tribes have been denied access to life-saving information contained in the national sex offender and order of protection registries. Indian women enter and leave tribal jurisdictions continuously and a woman's life may depend on her order of protection being given full faith and credit by another jurisdiction. Currently, many tribal orders of protection and information regarding convicted sex offenders are not listed on the national registries.

While the majority of Indian tribes lack access those having concurrent criminal jurisdiction with states (under Public 53-280 or similar federal law) experience additional barriers in that some states do not recognize tribal law enforcement authority. Submission of life-saving information from these tribal jurisdictions is blocked and endangers the lives of tribal women, law enforcement officers and members of tribal communities.

The federal amendment to permit Indian law enforcement agencies access to enter and obtain information from the federal crime data systems was a tremendous step forward in creating safety for Indian women. Unfortunately, this lifesaving amendment to federal law has not changed in reality. Tribal law enforcement still cannot access the national system without permission of the state in which the tribe is located. Many state governments refuse Indian tribes access to their state system. As a result, tribal law enforcement officers cannot access criminal information on suspects which places the lives of officers and women at risk. In addition, some state governments, in conflict with federal law, do not allow tribal court orders of protection to be entered into their state

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registry. The amendment to the federal code was intended to remedy the barrier of Indian tribes accessing critical criminal justice information required to manage crime and protect women. The ability for Indian tribes to access the national registry would enable tribes to protect their communities from transient habitual perpetrators that prey on Indian women.

Recommendation: The Attorney General direct the National Criminal Information Center to coordinate with all federally recognized Indian tribes to implement Section 905(a).

c) **Domestic Assault by an Habitual Offender**. Section 909 amends the federal criminal code to impose enhanced criminal penalties upon repeat offenders who: (1) commit a domestic assault within the special maritime and territorial jurisdiction of the United States or Indian country; and (2) has a final conviction on at least two separate prior occasions in federal, state, or tribal court for offenses that would be, if subject to federal jurisdiction, an assault, sexual abuse, or a serious violent felony against a spouse or intimate partner, or a domestic violence offense.

Domestic violence is a pattern of violence that escalates over time in severity and frequency. To prevent future violence and end the pattern, perpetrators must be held accountable immediately. Due to the combined factors of the sentencing limitation placed on Indian tribes, not more than one year per offense, and the lack of prosecution of misdemeanor domestic violence cases by the United States Attorneys General and states sharing concurrent jurisdiction with Indian tribes, this section was enacted to permit federal prosecution of misdemeanor domestic violence crimes. Unfortunately, since passage of the statute in 2005 it has been used only twice.

Recommendation: The Attorney General mandate training on this statute for appropriate personnel handling cases of domestic and sexual violence and provide a report during the 2009 annual consultation of the number of cases prosecuted under Section 909.

II. Outstanding Issues Not Addressed by the Violence Against Women Act

The issues outlined below are not new and they were raised during the 2006, 2007 and 2008 consultation between the USDOJ and tribal leadership. These and other issues and recommendations are proposed in the Tribal Law and Order Act of 2009 (S. 797) authored by Senator Bryon Dorgan, Chairman of the Senate Committee on Indian Affairs. We provide the following issues and recommendations to inform the Committee of on-going gaps in the response of the criminal justice systems to domestic and sexual violence committed against American Indian women.

1) **Declination Reports**: USDOJ personnel, law enforcement and US Attorneys, should be required to submit declination reports to tribal justice officials to coordinate the prosecution of crimes on the reservation, and in Indian Country. The USDOJ should be

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required to maintain records of such declination and make them available to Congress on an annual basis. Often times when a woman reports a sexual assault, months or years may pass without her being informed of the status of the case. Women often fear retaliation by the perpetrator for reporting sexual assault or domestic violence. The failure to notify the victim that the U.S. Attorney has declined to prosecute the case creates barriers to the safety of women. The woman, unaware that the US Attorney declined the case, may not take the appropriate steps to protect herself from future violence. In addition, tribal justice personnel, also uninformed of the status of the case, may not take appropriate steps to charge the perpetrator in tribal court. Given the public myth that sexual assault and domestic violence cases are not serious crimes, transparency in the statistical reporting of prosecutorial and declination rates for such crimes should be mandated. For all the same reasons noted above states that share concurrent jurisdiction with Indian tribes should also be mandated to report the same information to Congress.

Recommendation: The Attorney General request United States Attorneys General and states to issue declination reports to tribal justice officials and victims of domestic and sexual violence. Further, during the annual consultation the Attorney General should provide an annual report of declinations and prosecution rates for cases of domestic and sexual assault cases committed against Indian women.

2) State Accountability: Tribes within Public Law 53-280 or similar jurisdictions should be able to call on the United States to maintain federal concurrent jurisdiction and assist tribal governments in the prosecution of major crimes where the states have the authority.

In 1953, during the termination era, Congress enacted laws that transferred federal criminal justice authority to particular state governments. The Department of Interior, as a policy interpretation, denied access to Indian tribes located within those states to federal funds to develop their respective tribal justice systems. Unfortunately, the state governments generally do not adequately respond to crimes of sexual assault and domestic violence within tribal communities. On a daily basis perpetrators of crimes of sexual and domestic violence are not held accountable for their crimes due to such jurisdictional barriers.

As a result, when a woman is raped within an Indian tribe located within such states sharing concurrent criminal jurisdiction, no tribal criminal justice agency may be available to assist her or hold the rapist accountable. This gaping hole in the federal-state-tribal justice systems often results in an injustice in the lives of women and permits perpetrators to continue committing horrific violence against the same or a different woman.

Recommendation: The Attorney General work in coordination with Indian tribes to address the unique jurisdictional barriers created by federal law and increase the accountability of state governments to coordinate with Indian tribes to enhance the safety of Indian women living within tribal jurisdiction; in particular an increased

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awareness of the authority of federally recognized Indian tribes to maintain tribal law enforcement agencies and tribal courts to issue orders of protection.

3) **Sentencing Authority of Tribal Courts**: It is essential that the sentencing authority of tribal courts be increased beyond the current one year for any single offense. Between 2004 and 2007, the United States declined to prosecute 62% of Indian country criminal cases referred to federal prosecutors, including 75% of child and adult sex crimes. One the greatest barriers to the safety of Indian women is that in cases declined by the United States a perpetrator of rape, if prosecuted by the Indian tribe, only can receive a maximum of one year per offense. In every other jurisdiction in the United States rape is considered a felony offense with an average sentence of four years. It is also essential that federal law be enacted permitting Indian tribes to request the transfer of prisoners to the nearest appropriate federal facility at the expense of the United States. This would allow tribal courts to appropriately sentence perpetrators without the restraint of not having a facility or the budget to contract for bed space for prisoners convicted of domestic and sexual violence.

Recommendation: The Attorney General coordinate and support the efforts of Indian tribes to address the current inadequate sentencing authority of tribal courts in cases of sexual assault, domestic violence, dating violence and stalking.

4) **Prisoner Release and Reentry**: The USDOJ should be mandated to notify tribal justice officials when a sex offender is released from federal custody into Indian country. Every state and territory is required to provide notification when a sex offender is released and enters a community. Currently many Indian women receive no notification of the release of their convicted rapist from federal prison. This realization comes only at the moment when they see the offender in their grocery store, on their front porches, or when picking up their children at the school gate. It is a horrifying and frightening realization. The USDOJ should also be required to register sex offenders with the appropriate law enforcement agency including tribal registries.

Recommendation: The Attorney General direct the Bureau of Prisons to notify tribal justice officials and victims of sexual assault, domestic violence, dating violence and stalking of the release of such an offender.

5) **Mandate of Specialized Training in Domestic and Sexual Violence for Federal Prosecutors and Law Enforcement Personnel**:
The Office on Violence Against Women has for the last thirteen years asserted the importance of specialized training for criminal justice personnel; yet, it has not applied this same standard to federal prosecutors and law enforcement personnel. Law enforcement personnel within departments such as the Federal Bureau of Investigation and the Bureau of Indian Affairs should be mandated to attend a minimum number of hours of training to enhance their expertise and skills in the handling of such

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investigations. Federal prosecutors should also be mandated to receive specialized training to enhance the prosecution of crimes of domestic and sexual violence. Lastly, resources and training should be provided to Indian law enforcement agencies to properly interview victims of domestic and sexual violence and to collect, preserve, and present evidence to federal and tribal prosecutors to increase the conviction rate for domestic and sexual violence offenses.

Recommendation: The Attorney General direct the appropriate departments to implement training in the handling and prosecution of sexual assault, domestic violence, dating violence and stalking cases committed against Indian women.

6) Complex Federal Jurisdictional Barriers Preventing the Safety of Native Women.

The current rates of sexual and domestic violence have been linked to jurisdictional gaps that allow perpetrators to face little or most often no criminal consequence for their crimes. Federal law, United States Supreme Court cases, Executive Orders, and Treaties with Indian Nations comprise what is known as Federal Indian law that has resulted in a body of complex jurisdictional laws that often operate as barriers to safety.

One example of the concrete impact of current federal law upon the lives of Native women is the unique and difficult issues in Oklahoma Indian Country plaguing the 37 federally-recognized tribal governments in the state. Federal Indian policies of the past forced American Indians into Indian Territory prior to Oklahoma statehood. Under pressure from expansion of non-Indians into the west, the Federal government opened up Indian Reservations for white settlement through passage of several allotment acts around the time of Oklahoma statehood. Oklahoma tribes today are left with a checker-boarded pattern of Indian lands commingled with non-Indian lands. Tribal courts have no criminal jurisdiction over non-Indians, and according to recent studies, the vast majority of offenders in Native-victim domestic violence cases are non-Indian. State courts do not have jurisdiction to prosecute non-Indians for crimes committed against Indians in Indian Country. Only the federal court system has jurisdiction to prosecute these perpetrators who commit crimes of domestic violence against Indian women on Indian land. Most often cited as a lack of resources, the United States Attorneys Offices in Oklahoma frequently decline to prosecute these offenses.

Recommendation: It is of critical importance that the respective federal agencies coordinate with Indian Nations as governments to address these jurisdictional gaps and increase the safety of Native women.

III. Need to Address the Epidemic Level of Sexual Assault

Sexual violence committed against Native women is more than double that of any other population of women and the resources to respond to such violence are far less. On the Pine Ridge Reservation of the Oglala Sioux Tribe, the number of rapes for just one weekend can average 44 cases. At present, reporting has virtually stopped, reflecting the lack of federal response and prosecution.

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Further, in Alaska, sexual assault is rampant and the current criminal justice system is unresponsive, thus failing Native women and Alaska Native Villages. Anchorage is ranked No. 1 in the nation per capita on the sexual assault of Alaska Native women. In the rural Alaska Native Villages advocates for women report that 100% of the women at some point in time have been a victim of sexual violence.

The systemic response of the federal departments to sexual violence against Indian women is a failure and immediate corrective action is necessary. The tribal/federal and tribal/state response must be enhanced from the immediate response to the crime by first responders, including law enforcement and healthcare personnel, to post sentencing probation and reintegration of sexual offenders into tribal communities. No other crime better illuminates the disparate treatment between Native and non-Native women victimized by violence. In particular, the responses and availability of the Indian Healthcare Services providers to victims of sexual assault must be improved. The provision of the forensic sexual assault medical exams is insufficient and the refusal of personnel to testify in such cases due to understaffing is unacceptable. Further, the lack of rape crisis services and post-crisis services only increases the risk to Native women. The need for services does not end with the rape examination but only just begin. Current services for women victimized by rape are minimal or non-existent. The starting point for such reforms is the enhancement of community-based services available within tribal communities to assist Indian women and the authority of Indian tribes to hold perpetrators accountable.

Recommendations: The respective federal departments coordinate to address the above concerns with Indian tribes. The Secretary direct Indian Health Service personnel to develop, in coordination with Indian tribes, a protocol for sexual assault medical forensic examinations and cooperate in the prosecution of sexual assault cases by agreeing to testify in such cases.

IV. Summary

We deeply appreciate and thank the Members of the Senate Judiciary Committee for supporting the Violence Against Women Act and our testimony. The recommendations above complement the other recommendations submitted by national advocacy organizations for the safety of women. We respectfully urge you to consider these recommendations with attention and care. The complex set of legal and social issues that mire efforts to address violence against Native women are of the utmost importance and indicate the need for a reauthorized and strengthened Violence Against Women Act. Together we can reverse the current pattern of violence and the institutionalized barriers discussed that prevent safety in the lives of Indian women. Change has come to America and we cannot go back; we must continue our journey until the day that Native women are held sacred once again and live free from violence within their homes and communities.

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Sponsored By:
Rhode Island Attorney General Patrick Lynch
Nebraska Attorney General Jon Bruning

Adopted

Summer Meeting
June 17-19, 2008
Providence, Rhode Island

RESOLUTION

IN SUPPORT OF TEEN DATING VIOLENCE EDUCATION

WHEREAS Teen dating violence is a pattern of controlling and abusive behavior of one person over another within a romantic relationship including verbal, emotional, physical, sexual and financial abuse; and,

WHEREAS Lack of dating experience allows teens to be more vulnerable to dating violence where they are less likely to recognize the abuse; and,

WHEREAS Teen dating violence has become a prevalent problem in high schools, junior high schools and middle schools throughout our country, with one in three teens experiencing some kind of abuse in their romantic relationships; and,

WHEREAS Girls and women between the ages of 16 and 24 experience the highest rate of intimate partner violence and of the young murdered each year between the ages of 15 to 19 thirty percent are killed by their boyfriend or husband; and,

WHEREAS Recent studies have shown that teen dating violence is starting at an early age with 11 to 14 year olds able to identify aspects of teen dating abuse in their social lives; and,

WHEREAS Early sexual experiences can be a precursor to dating violence and abuse among older teens and can perpetuate a culture of acceptance of this type of behavior; and,

WHEREAS Abuse and violence in intimate partner relationships not only causes great individual pain, but also breaks down families, communities and society at large; and,

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WHERAS Education is the best mechanism to stop teen dating violence and is crucial to create a culture of intolerance for teen dating abuse:

NOW THEREFORE BE IT RESOLVERD THAT THE NATIONAL ASSOCIATION OF ATTORNEYS GENERAL:

1. Endorses the Lindsay Ann Burke Act (Rhode Island 2007 Public Laws, Chapters 287 and 490), which provides that each public school district implement a curriculum and policy on teen dating violence and abuse.

2. Encourages states to:

a. Work with local school districts to devise and implement teen dating violence education policies;

b. Recommend that these policies include a mission statement emphasizing that dating violence is unacceptable and will not be tolerated as well as the establishment of procedures, guidelines and discipline procedures to respond to incidents taking place at school or on school grounds;

c. Urge school districts to incorporate dating violence education into health education curriculums in middle and or high school;

National Policy Committee on Crime, Justice, Terrorism, & Substance Abuse
National Policy Committee on Education & Training

Joint Resolution In Support of Teen Dating Violence Education

(Passed November 2008)

WHEREAS, Teen dating violence is a pattern of controlling and abusive behavior of one person over another within a romantic relationship including verbal, emotional, physical, sexual and financial abuse; and,

WHEREAS, Lack of dating experience allows teens to be more vulnerable to dating violence where they are less likely to recognize the abuse; and,

WHEREAS, Teen dating violence has become a prevalent problem in high schools, junior high schools and middle schools throughout our country, with one in three teens experiencing some kind of abuse in their romantic relationships; and,

WHEREAS, Girls and women between the ages of 16 and 24 experience the highest rate of intimate partner violence and of the young murdered each year between the ages of 15 to 19 thirty percent are killed by their boyfriend or husband; and,

WHEREAS, Recent studies have shown that teen dating violence is starting at an early age with 11 to 14 year olds able to identify aspects of teen dating abuse in their social lives; and,

WHEREAS, Early sexual experiences can be a precursor to dating violence and abuse among older teens and can perpetuate a culture of acceptance of this type of behavior; and,

WHEREAS, Abuse and violence in intimate partner relationships not only causes great individual pain, but also breaks down families, communities and society at large; and,

WHEREAS, Education is the best mechanism to stop teen dating violence and is crucial to create a culture of intolerance for teen dating abuse;

NOW THEREFORE BE IT RESOLVED, NFWL's National Policy Committees on Crime, Justice, Terrorism, & Substance Abuse and Education & Training encourage every state to adopt legislation that provides that each public school district implement a policy against teen dating violence and abuse and incorporate dating violence education into health education curriculum in middle and high schools.

BE IT FURTHER RESOLVED, These Committees recommend that these school policies include a mission statement emphasizing that dating violence is unacceptable and will not be tolerated as well as the establishment of procedures, guidelines and disciplinary actions to respond to incidents taking place at school or on school grounds.

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Department of Justice

STATEMENT OF

CATHERINE PIERCE
ACTING DIRECTOR
OFFICE ON VIOLENCE AGAINST WOMEN
UNITED STATES DEPARTMENT OF JUSTICE

BEFORE THE

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

HEARING ENTITLED

"THE CONTINUED IMPORTANCE OF THE VIOLENCE AGAINST WOMEN ACT"

PRESENTED

JUNE 10, 2009

Introduction

Thank you, Chairman Leahy, Senator Sessions, and members of the Committee, for the opportunity to speak with you today. My name is Catherine Pierce, and I am the Acting Director of the Department of Justice's Office on Violence Against Women (OVW). I am here today to discuss both the great strides forward that we have made in the fifteen years since the Violence Against Women Act (VAWA) was enacted and the many challenges that still lie ahead of us in our efforts to combat violence against women.

Support for Community Efforts to End Violence Against Women

The Office on Violence Against Women (OVW) administers financial support and technical assistance to communities across the country that are creating programs, policies, and practices aimed at ending domestic violence, dating violence, sexual assault and stalking. Our mission is to provide national leadership to improve the Nation's response to these crimes through the implementation of the Violence Against Women Act of 1994, the Violence Against Women Act of 2000, and the Violence Against Women Act of 2005. OVW pursues this mission by supporting community efforts, enhancing education and training, disseminating promising practices, launching special initiatives, and leading the Nation's efforts to end violence against women.

OVW's grant programs fund a broad spectrum of activities designed to serve victims and hold offenders accountable. At present, OVW administers two formula grant programs and 17 discretionary grant programs, all of which were established under VAWA and subsequent legislation. These grant programs fund States, local governments, tribal governments, and nonprofit organizations to help communities across America develop innovative strategies to respond to violence against women. With our funding, communities are forging effective partnerships among Federal, State, local and tribal governments, and between the criminal justice system and victim advocates, and are providing much-needed services to victims. Taken together, these programs address a host of different issues that communities face in responding to violence against women, including: the importance of training police, prosecutors, and court personnel; the unique barriers faced by rural communities; the critical need of victims for legal assistance, transitional housing, and supervised visitation services; the special needs of elderly victims and those with disabilities; and the high rate of violence against women in Indian country.

Since 1995, OVW has made grant awards and cooperative agreements totaling over $3.5 billion to communities across the United States.

Every day, VAWA funding makes a difference in how communities across America help victims and hold offenders accountable. For example, in the six-month reporting period from January to June 2008 alone, OVW discretionary program grantees reported that:

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- Nearly 115,500 victims were served;
- More than 228,000 services (including shelter, civil legal assistance and crisis intervention) were provided to victims;
- More than 3,500 individuals were arrested for violation of protection orders; and
- 261,622 protection orders were granted in jurisdictions that receive funding from OVW's Grants to Encourage Arrest Policies and Enforcement of Protection Orders Program (Arrest Program).

In addition, subgrantees receiving funding awarded by States through OVW's STOP Violence Against Women Formula Grant Program (STOP Program) reported that, in calendar year 2007:

- More than 505,000 victims were served;
- Over 1,201,000 services were provided to victims; and
- More than 4,700 individuals were arrested for violations of protection orders.

These funds not only help the victims who receive services; they are used by OVW grantees to change the way that our criminal justice system responds to domestic violence, dating violence, sexual assault, and stalking. Again, the raw numbers show the far reach of VAWA funding:

- During the three-and-a-half year period from January 2005, through June 2008, OVW's grantees reported training nearly 875,000 individuals, including 142,339 law enforcement officers, 15,380 prosecutors, and 24,159 court personnel.
- During the four-year period of 2004 through 2007 combined, STOP subgrantees reported training about 1,138,000 individuals, including 347,382 law enforcement officers, 25,715 prosecutors, and 37,775 court personnel.

The National Domestic Violence Hotline

We cannot discuss the victims who have been helped with VAWA funds without recognizing the work of the National Domestic Violence Hotline, which was created with funding first authorized by VAWA in 1994 and is administered by the Department of Health and Human Services (HHS). Today, the trained advocates who staff this toll-free hotline answer an average of 21,000 calls a month from victims and their friends and families nationwide. These advocates not only provide immediate crisis counseling but can connect victims with service providers in their local communities.

The Coordinated Community Response

One of the signature achievements of OVW's grant programs is the re-envisioning of the concept of a coordinated community response. When OVW implemented its first VAWA programs, our vision for a successful coordinated community response focused on improving the criminal justice response. We encouraged grantees to bring together law enforcement officers, prosecutors, and non-profit, non-

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governmental victim advocates to share their experience and use their distinct roles to improve a community-defined response to violence against women. We now recognize that truly effective coordinated community responses must be informed by the experiences of survivors and must be broad enough to include a diverse group of community partners that affect the safety of survivors and the accountability of perpetrators. Community partners should include health care providers, cultural groups, and neighborhood organizations, as well as the criminal and civil justice systems and housing and homeless organizations. This expanded view recognizes that many victims do not report to law enforcement or do not choose to pursue a criminal justice-based response.

In the years since VAWA's enactment, we have witnessed a sea-change in the way that communities respond to violence against women. Communities recognize the specialized needs of victims and the training required to effectively handle domestic violence and sexual assault cases. As a result, dedicated units of law enforcement officers and prosecutors have grown far more common – often with the support of VAWA funds. We have also witnessed and supported the growth of dedicated dockets and courts. Further, we have worked to ensure that communities have opportunities to test innovative practices.

Expanding Nationwide Training, Education, and Promising Practices Regarding Violence Against Women

Training and technical assistance ensure that professionals have the tools to respond effectively to these crimes. We must continue to support high quality education and training on an ongoing basis, given the high rate of turnover and burn out in this work. OVW works closely with national experts to train, educate, and disseminate promising practices to advocates, clinicians, police, prosecutors, judges, health care practitioners, and many other professionals who are on the front lines. The following six areas of focus illustrate how OVW uses technical assistance funding to support the work of the field.

1. Developing Resources to Support the Issuance and Enforcement of Protection Orders

Protection orders play a crucial role in affording a safety umbrella to victims escaping violence. Since the passage of VAWA, OVW has undertaken a number of activities to assist jurisdictions and professionals with issuing and enforcing protection orders. Of particular note, in 1997, the National Center for Full Faith and Credit (NCFCC) was created with OVW funding to respond to the mandate in VAWA that States and tribes enforce protection orders issued by other jurisdictions. NCFCC trains law enforcement officers and judges, provides onsite technical assistance to jurisdictions, and tracks State protection order legislation and forms. Since 2005, NCFCC has trained more than 5,300 professionals. To further support jurisdictions, in 2005, with funding from OVW, the National Council of Juvenile and Family Court Judges (NCJFCJ) issued "A Guide for Effective Issuance & Enforcement of Protection Orders." This publication,

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known as the Burgundy Book, was developed to give communities and professionals the tools and strategies to strengthen the effectiveness of protection orders. More than 7,600 copies of the book have been provided to professionals working in the domestic violence field. Finally, the National Center for State Courts, with OVW funding, established "Project Passport" to encourage courts to issue uniform protection orders and thereby enhance nationwide enforcement. Through Project Passport, six of eight regions nationally have held meetings to promote the adoption of uniform protection order coversheets; 32 States and the District of Columbia have adopted such coversheets.

2. Improving Judicial Response to Violence Against Women Through Judicial Institutes

During the 1990s, as law enforcement officials, prosecutors, and other system-based professionals moved to improve their response to domestic violence, the judiciary's response remained relatively stagnant. OVW therefore launched a significant effort to improve the ways courts respond to domestic and sexual violence. Beginning in 1995, OVW has provided support to Legal Momentum, which instituted the National Judicial Education Program (NJEP) to improve the handling of sexual assault cases in courts nationwide by providing training and training materials for judges, prosecutors, and multidisciplinary audiences. Beginning in 1998, and continuing to the present, OVW has worked closely with the NCJFCJ and the Family Violence Prevention Fund (FVPF) to develop the National Judicial Institute on Domestic Violence (NJIDV).

With OVW funding, both NJEP and NJIDV have designed highly interactive, effective education programming to enhance judicial skills and challenge judges' attitudes and values about domestic and sexual violence, victims, and perpetrators. To date, NJIDV alone has trained more than 7,500 judges from all 50 States, Puerto Rico and the District of Columbia.

3. Improving the Response of Prosecutors to Sexual and Domestic Violence

OVW also has promoted targeted training for prosecutors to improve their ability to handle both sexual and domestic violence cases. With OVW funding, the American Prosecutors Research Institute (APRI), in collaboration with the Pennsylvania Coalition Against Rape and the Battered Women's Justice Project, has developed national institutes to provide intensive training for prosecutors. From 2005 through 2008, APRI trained 780 participants at 15 domestic violence courses and 282 participants at seven sexual violence courses.

4. Supporting the Work of Victim Advocates

OVW and its grantees rely heavily on engaging victim advocates and using their knowledge and expertise as part of a coordinated community response to violence against women. Our work could not be done without the enormous dedication and lifesaving work of victim advocates and advocacy organizations. As we have learned more about the need to provide more comprehensive services for victims (including safety planning),

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we must strengthen advocates' skills, knowledge and abilities so that they are well prepared to continue their important work. Therefore, OVW is working to strengthen advocacy throughout the country. In Fiscal Year 2006, OVW awarded a two-year planning grant to develop an Advocacy Learning Center for OVW grantees. The project has brought together advocates who work with victims of domestic violence, sexual violence, stalking, trafficking, and sexual exploitation, victims with disabilities and those abused in later life, and advocates working in criminal, civil, family, and tribal courts to design a two-year course for victim advocacy programs.

5. Improving the Response of Criminal Justice Professionals and Health Care Practitioners to Sexual Assault Victims

Since the passage of VAWA 2000, OVW has undertaken a coordinated series of projects to encourage communities to provide medical forensic examinations to sexual assault victims that will address victim concerns, minimize trauma, promote healing and increase the likelihood of successful prosecutions. First, in September, 2004, the Attorney General released *A National Protocol for Sexual Assault Medical Forensic Examinations (Adults/Adolescents)* (the SAFE Protocol), which provides detailed guidelines for criminal justice and health care practitioners in responding to the immediate needs of sexual assault victims. OVW developed the Protocol after extensive consultation with national, State, tribal, and local experts in the field. OVW is currently reviewing the Protocol in its entirety and considering how to update it to reflect developments in law and practice since its issuance. Second, as a companion to the SAFE Protocol, in 2006 OVW issued national training standards for sexual assault forensic examiners. These standards include recommendations on training objectives and topics to help communities establish or enhance training programs for forensic examiners. Third, OVW funds the SAFE Technical Assistance Project, an ongoing collaboration with the International Association of Forensic Nurses that provides training and technical assistance to support communities implementing the SAFE Protocol. Finally, in October 2007, OVW, in partnership with the National Institute of Justice, released a virtual practicum based on the SAFE Protocol. This interactive program provides expert instruction for healthcare professionals who may treat sexual assault patients and be called to testify about that care.

6. Developing National Elder Abuse Training Curricula

Older individuals who are victims of domestic violence, sexual assault, and/or stalking face additional challenges in accessing services. Appropriate interventions may be compromised by misconceptions that older persons are not victims, and age may increase the isolation of these victims and their dependence on abusers. To respond to the great need for training in this area, OVW has worked with the National Clearinghouse on Abuse in Later Life and national organizations with expertise in training criminal justice professionals to create four, targeted curricula that focus on elder abuse: a law enforcement curriculum, law enforcement "training of trainers" component, prosecutors curriculum, and judges curriculum.

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Launching Demonstration Projects and Special Initiatives

OVW has launched a number of demonstration projects and special initiatives that test promising practices, address areas of special need, and build capacity in communities. We also have worked with our Federal partners to widen our understanding of the prevalence and nature of violence against women. Our groundbreaking projects – new and old – include:

1. Judicial Oversight Demonstration Initiative

In 1999, the Judicial Oversight Demonstration (JOD) Initiative, which was jointly funded and managed by OVW and the National Institute of Justice, tested the idea that a coordinated community response to domestic violence that ensures a focused judicial response and a systematic criminal justice response can improve victim safety and service provision, as well as increase offender accountability. Having completed the initiative in 2004, several promising practices from the JOD Initiative have emerged, including enhancing safety and accountability during the pretrial phase and after conviction, reducing language and cultural barriers to effective interventions, solving problems by working together and overcoming longstanding habits and institutional barriers. Most important, the Initiative determined that frequent judicial oversight of domestic violence offenders reduced the degree and frequency of violence experienced by victims.

2. Stalking Victimization in the United States Special Report

In January of this year, the Department's Bureau of Justice Statistics released the *Stalking Victimization in the United States Special Report*. The Supplemental Victimization Survey (SVS) to the National Crime Victimization Survey (NCVS) was specifically developed, with funding from OVW, to provide national-level data on the crime of stalking. The SVS represents the largest study of stalking conducted to date and incorporated elements in Federal and State laws to construct a definition of stalking.

This report confirms what the field has long known: stalking is pervasive, women are at higher risk of being stalked, and there is a dangerous intersection between stalking and more violent crimes. Key findings of the report include:

- During the 12-month period covered by the SVS, an estimated 3.4 million persons age 18 or older were victims of stalking.
- Females experienced 20 stalking victimizations per 1,000 females age 18 or older.
- The rate of stalking victimizations for males was approximately 7 per 1,000 males age 18 or older.
- Persons age 18 to 19 and 20 to 24 experienced the highest rates of stalking victimization.
- One in 7 victims reported they moved as a result of the stalking.
- Approximately 60 percent do not report victimization to the police.

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OVW will use the *Special Report* to guide its development of future grant solicitations, trainings, and technical assistance as we work with our grantees and partners in responding to this crime.

3. Teen Dating Violence Projects

As the Nation's understanding of domestic violence, sexual assault and stalking has increased, so too has our awareness that these forms of violence affect all age groups and that violence within relationships often begins during adolescence. OVW has made raising awareness and understanding of teen dating violence a priority. At the same time, we realize that many organizations that have traditionally – and successfully – served victims of domestic violence have little experience addressing the unique needs of teen dating violence victims. Therefore, we have undertaken a three-pronged strategy to reach teen dating violence victims, encourage them to seek help, and build the capacity of our grantees to serve them. First, in 2007, OVW made an award to the National Teen Dating Abuse Helpline to help make vital resources accessible to help teens experiencing dating violence and to offer tips on preventing abusive relationships. From February of that year until October, 2008, the Helpline reported receiving 18,736 calls and online contacts. Second, in 2007, OVW joined with the FVPF, the Ad Council and R/GA, an interactive agency, to develop a teen dating violence awareness campaign/initiative. The campaign, launched in January of this year, focuses on the use of technology as a means of reaching 13-16 year olds and addresses "digital infractions" that can be forms of abusive and controlling behavior. Third, in 2007, OVW funded Break the Cycle to provide training and technical assistance to our STOP Program subgrantees so that they have the resources and knowledge needed to serve teen victims of violence.

4. Outreach to the Deaf Community

In an effort to address violence against Deaf victims, OVW and the Vera Institute of Justice convened two focus groups with Deaf leaders, Deaf advocates and allies in 2006 and 2007. Participants agreed that culturally Deaf organizations are best able to serve Deaf victims, but that few such organizations exist, and many of those are struggling to meet the demand for services. As a result, OVW created a special initiative to establish new culturally Deaf organizations and Deaf programs within established domestic violence and/or sexual assault programs. OVW awarded a two-year cooperative agreement to the Abused Deaf Women's Advocacy Services in Seattle, WA to provide intensive training and technical assistance to 28 cities that are interested in establishing culturally Deaf organizations or Deaf programs within an established domestic violence and/or sexual assault program. We anticipate that 28 culturally Deaf organizations and programs will be established through this special initiative.

5. Military-Civilian Coordinated Community Response Demonstration Project

In domestic violence cases involving military personnel and their families, a lack of coordination between civilian and military service providers and law enforcement may affect the quality of services that victims receive and whether perpetrators are held

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accountable. OVW has funded the Battered Women's Justice Project to enhance collaboration between civilian and military agencies at two demonstration locations, Jacksonville, FL, and Fort Campbell, KY. Our goal for this ongoing project is to produce a model for military-civilian cooperation that other communities can replicate. During calendar year 2008, the project has trained more than 300 people, including military and civilian advocates, military and civilian law enforcement officers, Judge Advocates General, civilian attorneys, and military staff and commanders.

While we are rightly proud of our accomplishments over the past fifteen years, we recognize that there is much for us to do in the future. Looking forward, the Office will focus on a number of areas where we know that greater effort is needed. We also plan to enhance our partnership with the National Institute of Justice to ensure that research informs practice and that practice informs research.

Building on Our Response to Violence Against Indian Women

OVW has long focused on the enhancing the capacity of Tribal governments to respond to violence against Indian women. In VAWA 2005, Congress directed OVW to take new steps to address the critical problem of violence against women in Indian country. Since then, OVW has responded to this Congressional mandate with a series of initiatives and internal structural reforms. First, the Department appointed a Deputy Director for Tribal Affairs for OVW, who oversees a staff of four grant program specialists, coordinates implementation of Title IX of VAWA 2005, and meets with tribal leaders nationwide to gain a more intimate understanding of the needs and challenges that tribes face. Together, the Tribal Deputy and her staff have successfully developed and implemented the Grants to Indian Tribal Governments Program, which, in its first two years of operation, distributed nearly $62 million to more than 140 tribal governments, tribal consortia and tribal nonprofit organizations to assist tribal communities. In total, the Office has awarded more than $86 million to grant projects in Indian country, which currently reach approximately 325 of the Nation's 562 Indian Tribes. In the coming months, with the award of Recovery Act and Fiscal Year 2009 funding, we expect to broaden further our efforts in Indian Country.

We know that we must work in partnership with both Indian women and Tribal governments to find solutions. OVW has fostered the growth of nonprofit, tribal domestic violence and sexual assault coalitions to empower Indian women to take a more active role in leading the movement to end violence against Indian women. At Congress's direction, OVW has established a Federal advisory committee to provide advice and recommendations to the National Institute of Justice (NIJ) as NIJ conducts a program of research about the nature and dynamics of violence against Indian women. We look forward to the third Task Force meeting later this month on June 29 and 30. Also pursuant to Title IX, we have instituted annual tribal consultations to discuss how the Department of Justice can improve its response to violence against Indian women; to date, we have conducted three of these consultations attended by leaders from nearly 100 tribes, and we are currently planning our fourth for this fall. Finally, in September 2008,

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we hosted a focus group with Federal officials and tribal advocates, leaders, and experts to discuss developing a national tribal sexual offender and protection order registry.

OVW also is working to ensure the victims of sexual assault in Indian Country have access to forensic exams. We currently are adapting the *National Protocol for Sexual Assault Medical Forensic Examinations* to specifically address the needs of tribal communities. We hope to have a draft of the Tribal SAFE Protocol completed by late 2009. In addition, OVW is supporting a technical assistance project that will train lay advocates and paraprofessionals on collecting basic forensic evidence where SANE nurses do not exist for American Indian and Alaska Native victims.

Enhancing Sexual Assault Services

OVW and others have emphasized the importance of providing sexual assault forensic exams and processing physical evidence recovery kits (i.e., rape kits). Although such efforts are absolutely important, equally important services like advocacy services have received little attention or funding. Given that the overwhelming majority of sexual assault victims never make a report to law enforcement and may face a long recovery from trauma, these services are critical.

We are pleased to report that this year, for the first time, OVW will make awards under the Sexual Assault Services Program (SASP). Authorized in VAWA 2005, this program is the first Federal funding stream solely dedicated to the provision of direct intervention and related assistance for victims of sexual assault. SASP encompasses five different funding streams for States and territories, tribes, State sexual assault coalitions, tribal coalitions, and culturally specific organizations. Overall, the purpose of SASP is to provide intervention, advocacy, accompaniment, support services, and related assistance for adult, youth, and child victims of sexual assault, family and household members of victims, and those collaterally affected by the sexual assault.

Across the Nation, domestic violence programs (often called "dual" programs) provide the majority of sexual assault services. There are few stand-alone programs solely dedicated to the provision of sexual assault services. This is particularly true in rural areas of our country. While sexual assault certainly occurs within intimate relationships, sexual assault victims also include children, adults molested as children, and men and women assaulted by strangers and non-strangers, including friends, neighbors, co-workers, and casual acquaintances. A service provider must be prepared to meet the needs of all victims. Far too many dual programs, however, lack this preparation. To address this problem, OVW will soon announce a new Demonstration Project to increase the capacity of dual sexual assault/domestic violence programs to address and serve sexual violence survivors, increase access to underserved survivors and develop models of services that prioritize the needs of the survivors beyond immediate crisis responses and evaluate the effectiveness of the newly enhanced services.

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Including Children and Youth

Adults are not the only ones affected by domestic violence; researchers estimate that between 10 percent and 20 percent of American children are exposed to adult domestic violence every year. A wide range of studies indicates that, on average, children who experience domestic violence exhibit higher levels of behavioral, social, and emotional problems than children who have not witnessed such violence.

Historically, OVW has primarily focused on holding offenders accountable and providing services to victims. VAWA 2005, however, created three new programs that will broaden of efforts to include children and youth who also suffer from the effects of domestic violence, dating violence, sexual assault and stalking. As part of its Federal interagency collaboration, OVW is developing these programs in consultation with HHS.

First, OVW is developing the Children and Youth Exposed to Violence Grant Program, created by VAWA 2005, and plans to release a solicitation later this year. This program will fund projects that seek to mitigate the effects of domestic violence, dating violence, sexual assault, and stalking on children and youth exposed to such violence and reduce the risk of future victimization or perpetration. It will also support projects that provide services for children, including direct counseling, advocacy, or mentoring.

Second, OVW is developing the new Services to Advocate and Respond to Youth Program. This grant program will fund projects that design and implement programs and services using established domestic violence, dating violence, sexual assault, and stalking intervention models to respond to the needs of youth who are victims of domestic violence, dating violence, sexual assault, or stalking. OVW will release a solicitation by the end of 2009.

Third, OVW is developing the Engaging Men and Youth Program, which will support local projects to prevent crimes of violence against women with the goal of developing mutually respectful, nonviolent relationships. This new program creates a unique opportunity for OVW to support projects that encourage children and youth to pursue nonviolent relationships and reduce their risk of becoming victims or perpetrators of domestic violence, dating violence, sexual assault, or stalking. We plan to release a solicitation for this program in 2010.

The complicated issue of child custody presents another challenge involving the intersection of children and domestic violence. Battered women losing custody of their children is a serious and growing problem. In August of 2008, OVW convened a Roundtable Discussion on Custody and Domestic Violence with experts and practitioners to inform OVW about how battered women are losing custody of their children to either the perpetrators (through Family Court) or to the State (through Child Protective Services). As a result of the Roundtable Discussion, OVW will be supporting a variety of projects: training for attorneys and judges; increased access to legal representation for victims of domestic violence; training for custody evaluators; the development of easily accessible resources and tools that will assist judges and others in making informed decisions around custody; and increased public awareness about how children are being

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placed in the custody of batterers and how that is affecting those children. OVW will also increase collaboration with HHSto assist in developing better domestic violence practices for the child protection system.

Supporting Community- Defined Solutions

OVW feels strongly that the best response to violence against women – the response most likely to empower victims and hold offenders accountable – is a response that is driven and defined by the community served. Research indicates that survivors are more inclined to seek services from organizations that are familiar with their culture, language and background. Culturally specific community-based organizations are more likely to understand the obstacles that victims from their communities face when attempting to access services. These organizations also are better equipped to engage their communities. Whether they serve persons of communities of color, the lesbian/gay/bisexual/transgender community, or the Deaf community, these organizations play a vital role in providing services that are relevant to their communities.

The Grants to Enhance Culturally and Linguistically Specific Services for Victims of Domestic Violence, Dating Violence, Sexual Assault and Stalking Program, authorized by VAWA 2005, creates a unique opportunity for targeted community-based organizations to address the critical needs of domestic violence, dating violence, sexual assault and stalking victims. OVW knows there is tremendous interest in this funding: in response to our Fiscal Year 2009 solicitation, we received 213 applications – far more than we could possibly fund. A significant number of these applications was received from organizations serving Latino communities. If funded, these organizations would serve Latina victims in their own language and with a deep understanding of the cultural and legal barriers they face when reporting crimes. We plan to make our first awards under this program in the fall.

Addressing Domestic Violence Homicide

OVW recognizes the need to focus future efforts on the prevention of domestic violence homicide. Research has identified several risk factors associated with increased danger for women in violent relationships. These include an abuser's threats to kill or harm her, himself, or their children; unemployment; forced sex; and the presence of a gun. Advocates, law enforcement officers, prosecutors, and the courts must take aggressive steps to plan for a victim's safety when any combination of risk factors is present. By the time abuse escalates to homicide, we know that someone in the family, the neighborhood, or the perpetrator's or victim's workplace is aware that something is terribly wrong. OVW will continue to partner with other Federal agencies, the research community, criminal justice organizations, and advocacy groups to develop innovative responses with the hope and intention of preventing future domestic violence homicides.

Research indicates that a victim of domestic violence is more likely to suffer a fatal injury if a firearm is present in her home. For that reason, OVW has recently focused our efforts on the federal firearms provisions that prohibit firearms possession by

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persons subject to qualified restraining orders and convicted of misdemeanor crimes of domestic violence. For example, in July 2008, we conducted a Washington Metropolitan Summit with Federal, State and local officials to discuss, among other things, effective tools to successfully prosecute domestic violence offenders and to forfeit those firearms involved in domestic violence offenses. In September 2006, we brought together Federal, State, Tribal, and local teams for a National Summit on Firearms and Domestic Violence. At the Summit, the teams were charged with developing strategies to ensure the implementation of the firearms prohibitions. One of the remaining challenges highlighted at the Summit is the issue of the safe storage and proper return of firearms to persons whose protection orders have expired. We will continue to examine these important issues in the future.

On a final note, I want to personally thank the Senate Judiciary Committee's staff for working with the Department on S. 327, the "Improving Assistance to Domestic and Sexual Violence Victims Act of 2009". We appreciate revisions to the Arrest Program's HIV testing requirement that will enable more jurisdictions full access to Arrest funding and help sexual assault victims receive free HIV testing and prophylaxis. We also welcome provisions that ensure that grantee jurisdictions cannot impose certain fees on victims of dating violence.

We look forward to enjoying the same level of cooperation with you and your staff when work begins on the next reauthorization of VAWA.

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[redacted]
Fishkill, NY 12425

Mr. Chairman, Ranking Member Sessions and Members of the Committee, thank you for giving me the opportunity to comment on the latest proposed changes to the Violence Against Women Act, specifically pertaining to crime victims and privacy rights. As a sexual assault survivor, I am very concerned about the recent proposed language in Senator Leahy's bill, S. 327 Improving Assistance to Domestic and Sexual Violence Victims Act of 2009, that would prevent a rape victim from learning the HIV status of an indicted rape suspect immediately. Only allowing the victim to test her or himself is a dangerous health option, given the time period for window of infection. The HIV status of an accused rapist provides necessary medical information that allows a victim or a child victim's parents and/or legal guardians to make appropriate life saving decisions. Despite the tremendous improvements on providing a supportive environment to a traumatized crime victim with counseling and timely information, the most important piece of data would not be made available to recovering victims. It would be a travesty to conceal knowledge of whether or not there has also been exposure to a tragic disease.

Sexual assault victims have their dignity and confidence taken away by these cowardly acts, so we must protect the rights of crime victims and consider their privacy and health priorities. Hiding medical information sets the clock back on the Crime Victims Rights Movement. I am extremely concerned that given the difficulty of rape victims testifying in court publicly, denying victims the HIV status of their assailants will pressure them to allow plea bargains without much protest and force District Attorneys to do the same. The information concerning the HIV status of an accused rapist can be used to reduce sentencing during plea bargaining and has been used as a tool in the past.

I urge you to consider if your wife, your daughter or your sister had to wait to find out if they were exposed to HIV after an assault, how frustrated and angry you would feel about the criminal justice system. I give you my word that many rape survivors are too uncomfortable to be public about their experiences, given the stigmas and unfortunate humiliation experienced after an assault. How rape victims feel about what they went through, how difficult it is to worry about exposure to disease and possibly being pregnant after such a horrific ordeal cannot be described in a public hearing. Rape victims who are already pregnant need quick and accurate information regarding any exposure to diseases especially to also ensure the safety and health of the fetus. Testing the victim for HIV does not provide accurate information until a much later time period because of the time it takes for infection. Denying this data to victims is an outrage and is unacceptable. Half of all rapes remain unreported. Is it any wonder why, given that the privacy rights of rapists continue to be more sacred than the rights of rape victims?

Given the backlog of DNA testing of convicted murderers and rapists across the nation that exists because of privacy concerns, I wonder why we make it so hard for law enforcement to do their jobs and forget about the crime victims waiting and wondering. We have worked so hard to help crime victims. Special interest groups overly concerned about privacy will destroy all that effort with meaningless protections like this HIV provision in S. 327. The proposed changes that would allow testing of victims only and disregard testing rape assailants do not meet the common sense test. The Supreme Court ruled that

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dumping your garbage at the end of your driveway leaves you with no legal standing for privacy. Shouldn't it be the same for leaving evidence behind in a crime scene? It makes no sense that a crime victim should not be entitled to learn what health hazards she or he has been exposed to and then to worry that bargaining with defense attorneys is their only medical option.

Thank you very much for the opportunity to express how rape survivors feel about this issue as the hard work on behalf of crime victims continues to be addressed so diligently in the Congress and the US Senate.

Sincerely,

Deidre Raver
Co-Founder, Women Against Violence

STATEMENT OF CHARLES E. SCHUMER
"THE CONTINUED IMPORTANCE
OF THE VIOLENCE AGAINST WOMEN ACT"
US SENATE COMMITTEE ON THE JUDICIARY
JUNE 10, 2009

I thank Chairman Leahy for holding this important hearing on the Violence Against Women Act (VAWA). I would also like to thank today's witnesses – for their testimony and their tireless efforts to end violence against women.

This hearing is critical because, despite our advances in combating violence against women, there continues to be unacceptably high levels of gender-motivated violence in the United States. However, it also provides us an opportunity to assess the progress that we've made. In 1994, when I introduced VAWA to the House of Representatives, hundreds of thousands of women and girls over the age of 12 had been falling victim to violent crimes each year. In fact, of the 1.4 million hospital emergency department admissions in 1994, about one-quarter were treatments for injuries sustained in assaults by intimate partners or family members.

The 1994 law was successful in encouraging women to come forward and seek help. Thousands of women broke out of the vicious cycle of violence and were empowered to seek help from local hotlines, shelters and police officials.

In 2000, when we reauthorized VAWA, we not only reauthorized successful existing programs, but also added new, dynamic initiatives to provide transitional housing as well as relief for immigrant women who were victims of violence.

Finally, in 2005, when VAWA was again up for reauthorization, I fought for key changes that have made VAWA stronger and more helpful to law enforcement and victims, including measures that brought much-needed funding to rural areas and underserved populations.

As we begin discussion for VAWA's approaching reauthorization, we must confront the new threats of violence facing our mothers, our daughters and our sisters. Indeed, as we continue to combat domestic violence, sexual assault, dating violence and stalking, we must also address the more recent manifestations of these problems such as human sex trafficking of immigrant women, cyberstalking and other forms of online sexual predation.

Today, I recommit myself to working with the Chairman to enhance VAWA to combat these emerging challenges facing women.

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Karen Tronsgard-Scott, Director, Vermont Network Against Domestic and Sexual Violence
Testimony before the Committee on the Judiciary
United States Senate

Testifying in regards to the importance of the Violence Against Women Act

Introduction
Chairman Leahy, Ranking Member Sessions, and distinguished members of the Committee, thank you for the opportunity to discuss the success of the Violence Against Women Act (VAWA) and the importance of reauthorizing in 2011. The Vermont Network Against Domestic and Sexual Violence is a statewide coalition of domestic and sexual violence programs. Our 15 member programs are located throughout the state and provide lifesaving services to victims and their families. VAWA funded programs are a critical part of our work in Vermont, and across the country. I am here today to discuss the success of VAWA programs, and the need to sustain and strengthen VAWA with its upcoming reauthorization in 2011.

In response to the terrible crimes of domestic violence, sexual assault, dating violence and stalking, through the leadership of the Judiciary Committee, Congress authorized the Violence Against Women Act in 1994 and reauthorized it in 2000 and 2005. The Committee has provided needed leadership in strengthening services and protections for victims of domestic and sexual violence, and with each reauthorization has worked to enhance the grant programs to reach all victims and their families. These programs, administered by the Departments of Justice and Health and Human Services, have changed federal, tribal, state and local responses to domestic violence, sexual assault, dating violence and stalking.

Incidence, Prevalence and Severity of Domestic and Sexual Violence
The crime of domestic violence is pervasive and life-threatening. In total, one in four women will experience domestic violence in her lifetime.[1] One in six women and one in 33 men have experienced an attempted or completed rape.[2] In 2007 in Vermont there were over 1,200 victims of sexual violence. Of course the most heinous of these crimes is murder. In 2005 alone, 1,181 women were murdered by an intimate partner in the United States[3] and approximately 1/3 of all female murder victims are killed by an intimate partner.[4] In just one week in 2007 in **Vermont** there were 7 domestic violence related homicides and an additional three domestic violence related suicides.

Additionally, the cycle of intergenerational violence is perpetuated as children witness violence. Approximately 15.5 million children are exposed to domestic violence every year.[5] In **Vermont** alone in 2008 there were 8,184 children and youth exposed to domestic violence in their homes. We know that children who are exposed to domestic violence are more likely to exhibit behavioral and physical health problems including depression, anxiety, and violence towards peers.[6] They are also more likely to attempt suicide, abuse drugs and alcohol, run away from home, engage in teenage prostitution, and perpetrate sexual assault.[7] One study found that men exposed to physical abuse, sexual abuse and adult domestic violence as children were almost 4 times more likely than other men to have perpetrated domestic violence as adults.[8]

In addition to the terrible cost domestic and sexual violence have on the lives of individual victims and their families, these crimes cost taxpayers and communities. In fact, the cost of intimate partner violence exceeds $5.8 billion each year, $4.1 billion of which is for direct medical and mental health care services.[9]

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Despite this grim reality, we know that when a coordinated response to victims is developed, and immediate, essential services are available, victims can escape from life-threatening violence and begin to rebuild their shattered lives. VAWA creates and supports comprehensive, cost-effective responses to these insidious crimes. **In addition to saving and rebuilding lives, VAWA saved taxpayers $14.8 billion in net averted social costs in its first six years alone.**[10] VAWA was not only the right thing to do; it was also fiscally sound legislation.

Successes of VAWA funded programs

VAWA has unquestionably improved the national response to domestic violence. Since VAWA passed in 1994, states have passed more than 660 laws to combat domestic violence, sexual assault and stalking. More victims report domestic violence to the police: there has been a 27% increase in reporting rates by women and a 37% increase in reporting rates by men nationwide.[11] The rate of non-fatal intimate partner violence against women has decreased by 63%.[12] **Remarkably, the number of individuals killed by an intimate partner has decreased by 24% for women and 48% for men.**[13]

Prior to VAWA, most police officers were not adequately trained to handle incidents of domestic and sexual violence and would routinely fail to make arrests or collect appropriate evidence.[14] Through the **STOP Grants** program, VAWA has helped to change this unfortunate reality. STOP (Services, Training, Officers, Prosecutors) grants are intended to assist state, local, and tribal governments "to develop and strengthen effective law enforcement and prosecution strategies to combat violent crimes against women, and to develop and strengthen victim services in cases involving violent crimes against women."[15] According to a study performed by The Urban Institute, STOP Grants have ensured that "victims are safer, better supported by their communities, and treated more uniformly and sensitively by first-response workers."[16]

Housing

In addition to shelter and advocacy, victims of domestic violence need transitional housing in order to ensure a safe and stable future for themselves and their children. Many of these programs are funded by VAWA's **Transitional Housing Grants**. The need is great. In just one day in 2008, over 10,000 adults and children were housed in domestic violence transitional housing programs across the country, over half of whom were children.[17] On that same day, over 1,500 requests for transitional housing nationwide were denied due to lack of capacity.[18] In 2007, Vermont programs experienced a **27% increase** in bednights at shelters, safehomes and hotels/motels, even as the number of survivors served remained constant. This astounding increase is a direct result of longer waiting lists for subsidized housing and limited affordable housing supply.

Legal Assistance

Another crucial VAWA program is **Civil Legal Assistance for Victims (LAV)**. Research indicates that the practical nature of legal services gives victims long-term alternatives to their abusive relationships.[19] Most victims need civil legal remedies such as civil protection orders, child custody, and child support assistance. To obtain these remedies, victims of domestic violence need knowledgeable legal assistance to help them navigate the civil legal system. The hourly fees required to hire private legal representation are beyond the means of most victims, and as a result nearly 70% of victims are without legal representation.[20] After receiving VAWA funds, **Vermont Legal Aid (VLA)** saw a 231% increase in victims served from 1996 to 2003. VLA now serves close to 100% of women who are unrepresented in protection order cases where the offender is represented by counsel.[21]

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Another important program is VAWA's **Grants to Encourage Arrest and Enforce Protection Orders,** which offers jurisdictions the funding needed to establish programs and policies that favor arrest and prosecution of domestic violence. Training for law enforcement officers about the dynamics of domestic violence cases improves officers' interactions with victims and enhances victims' participation with justice system efforts to address violence against women.[22] Of grant recipients, 82% funded domestic violence training—most related to training of law enforcement officers[23], and approximately two-thirds created or enhanced either specialized law enforcement or prosecution units.[24] The data shows that these grants are working. One example of the success of this program comes from **Queens, New York**, where the Office of the Borough President uses grant money to fund a unit comprised of additional prosecutors and support staff to prosecute misdemeanor domestic violence cases, and victims' advocates to provide services to victims. They have seen an increase in domestic violence convictions of 100%, and provide counseling to approximately 1000 victims.[25]

Rural Communities

VAWA **Rural Grants** allow jurisdictions to develop and implement programs that address the specific barriers faced by victims in rural areas, including gaps in 911 emergency systems and underfunded law enforcement programs, a lack of public transportation, child care, and social and legal services. Large geographic areas and difficult weather conditions increase the challenges victims face in accessing services, especially when in many areas of the country the nearest emergency shelter or crisis center can be more than 100 miles away. During each 6-month period between January 2004 and June 2005, Rural program grantees nationwide served more than 20,000 domestic violence victims and 7,000 child victims. Women Helping Battered Women in **Burlington, Vermont**, used rural funding to increase the number of women served 138% from 1993 to 2003. They also saw a 222% increase in the number of women represented.[26]

Sexual Assault

For the first time in FY '08, the **Sexual Assault Victim Services Program (SASP)** was funded and will begin to meet the extreme need of victims of sexual assault. This formula grant will allow states, tribes and territories to provide much needed direct services to victims and training and technical assistance to various organizations including law enforcement, courts and social services. Rape crisis centers supported by SASP funding provide medical, legal, and psychological support to victims of rape and sexual assault, but often lack the resources needed to fully meet victims' needs.

The Future of VAWA

Due to the overwhelming success of VAWA funded programs, more and more victims are coming forward for help each year. For example, VAWA-trained police now give out domestic violence hotline numbers, which in turn encourages more victims to look for services. **This rising demand for services, without a concurrent increase in funding, means that many desperate victims are turned away from life-saving services.** In just one day nearly 9,000 requests for services went unmet across the country due to a lack of resources.[27] Services for sexual assault victims are even more scarce and underfunded: with only 1,315 rape crisis centers nationwide, women, children and men are on waiting lists to receive treatment and therapy after a sexual assault.

With the upcoming VAWA reauthorization in 2011, Congress has an opportunity to strengthen the current successful grant programs and include programs to better ensure that victims and their families are safe. The need for transitional housing remains dire, and these programs need to be expanded to provide stable housing for victims in need. An additional focus for the VAWA 2011 reauthorization should be focusing on

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broader economic justice issues, including economic literacy programs and job training programs for survivors striving to rebuild their lives.

Conclusion

The Violence Against Women Act is working. Service providers, law enforcement officers, prosecutors, judges, and others in the continuum of services are coordinating their efforts to ensure that victims and their families are independent and safe. But the job is not done. In order to continue the progress that we've accomplished over the past ten years, we must strengthen VAWA so that it can work for all victims of domestic violence, whether they live in rural or urban areas, whether they are children or elderly victims, whether they speak English or another language—every victim deserves the chance to escape from violence. Congress has a unique opportunity to make a difference in the lives of so many by reauthorizing the Violence Against Women Act with key and strategic improvements.

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TESTIMONY OF GABRIELLE UNION

SENATE JUDICIARY COMMITTEE

THE CONTINUED IMPORTANCE OF THE VIOLENCE AGAINST WOMEN ACT

JUNE 10, 2009

Chairman Leahy, Ranking Member Sessions and Distinguished Members of this Committee:

Thank you for the opportunity to address you today on the critical topic of sexual assault and the Violence Against Women Act. I am speaking to you today in a very personal way. I am speaking to you as a survivor of sexual violence, and this is my story.

I was born in Omaha and my parents raised me and my two sisters outside of San Francisco. I grew up in a very loving and stable family. Being raped was *not* supposed to happen to someone like me!

I was 19 years old working in a shoe store during my summer break from the University of Nebraska. It was the late shift, and I was cleaning up with another co-worker near closing time. All of a sudden, a man came in wielding a gun and demanded money. We did not fight back, and we immediately gave him the money. Then he declared, "I want you to go to the storage room," and that's when I knew he was either going to shoot me or rape me.

He then forced me out of the storage room and proceeded to rape me at gun point. I just went blank and had an out–of-body experience. As he was raping me, I felt as though I was floating over myself, thinking, "This isn't happening," and "I'm perfect, I'm a good person, I'm a good student." At some point, he put the gun down and he calmly asked me to hand it to him. Instead I grabbed the gun and spun around and did

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the best I could to hurt him, but we ended up fighting instead. He was almost twice my size, but it was a pretty fair fight for a while because I knew it was either him or me. I kept trying to shoot the gun, but the trigger was jammed. It felt like a war. Finally, he grabbed for the gun at the same second he punched me in the face, and I let go. But, instead of shooting me, he asked me how to get out, and he left. He robbed another store and raped another girl before he turned himself in. He ended up making a plea bargain and was sentenced to 33 years in prison.

After that I just couldn't go back to the University of Nebraska. Instead, I enrolled at UCLA to study Sociology. To help get over the trauma of the assault, I immediately turned to a rape crisis center for support. It was there that I met my rape crisis counselor, and it was truly because of her that I was able to cope with this horrific experience and begin to move on. In addition, I participated in a rape survivor group which was also critical to my recovery. The support of my counselor and the support of my friends who had also been victimized gave me my life back. In one fleeting moment, that man had taken my dignity and self esteem, but the support and services I received at the rape crisis center gave me my life back!

And this is my story. And this is why I speak out across the country. I want to help increase awareness about the impact of sexual assault and to help raise money to support rape crisis centers around the country. I also speak to girls in college about what happened to me, and my goal is to never hear anyone say "me too" after I tell them I was raped. I will use my voice to speak out against rape for as long as it's needed.

Rape victims are not strangers. They are your mothers, sisters, daughters and your friends. Justice shouldn't be for a select few but for all. Sexual violence is a

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complex and traumatic experience for both the victim as well as their support system – family members, friends, and colleagues.

The incidence rates of sexual assault in the country are just astounding. According to a 2007 fact sheet from the Centers for Disease Control and Prevention (CDC), 1 in 6 women and 1 in 33 men reported experiencing an attempted or completed rape at some time in their lives. An estimated 20% to 25% of college women in the United States experience attempted or completed rape during their college career. Among high school students surveyed nationwide, about 11% of females reported having been forced to have sex. According to the CDC, these numbers actually underestimate the problem. Many cases are not reported because victims are afraid to tell the police, friends, or family about the abuse. Victims also think that their stories of abuse will not be believed and that police cannot help them.

It is important that we speak out about the hidden suffering of victims of sexual violence and shed light on the dramatic effects that sexual violence has on our communities. Though we have made great strides, victim blaming remains a powerful force that keeps victims from coming forward and keeps many cases of sexual violence from being brought to a jury.

Some victims may be reticent to come forward to seek help and speak out about the violence that has happened to them, but the struggles they encounter in their lives afterward reveal the impacts of hidden trauma such as depression, post traumatic stress disorder, suicide, substance abuse problems and homelessness. Others, like me, have come to a place where they can speak about the terrible crime that has happened to them and have been able to heal.

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The current economic downturn our nation is facing increases the traumatic stress experienced by survivors of sexual violence. Losing one's job or home, or even both, can overwhelm normal coping mechanisms, which are already stretched to capacity by experiencing rape- or sexual abuse-related traumatic stress. During times of increased stress, survivors are more likely to seek services proactively to improve coping, or because the increased stress has so deteriorated the quality of their lives that they feel backed into a corner and 'have to' seek help.

Rape crisis services play a critical role in mitigating the trauma of sexual violence and helping survivors with the possible severe consequences on their well-being and stability. Around the country, however, rape crisis services are woefully underfunded at the state and federal levels.

The funding through the new Sexual Assault Services Program (SASP), which was authorized in the Violence Against Women Act of 2005, provides the first dedicated federal funding stream to local advocacy and direct service providers that are specifically designed to meet the individual needs of each survivor. The President's budget includes $12 million the Sexual Assault Services Program. These funds must be shared among States, Territories and Tribes, which will then determine their own mechanisms to disseminate the funding to the 1,315 rape crisis centers in the U.S. and the Territories and to the 20 rape crisis centers that operate upon tribal lands trying to serve victims from more than 550 Indian tribes. This certainly is not a lot of money to spread around for the great demand for services we know exists.

As we well know, currently, most States are experiencing drastic budget short falls that include cuts to sexual assault services such as hotlines, crisis intervention and

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assistance to get through the criminal justice system. Each victim of sexual assault has suffered terrible trauma. We must ensure that each victim is also offered an opportunity to heal.

As we look toward the reauthorization of the Violence Against Women Act, it is imperative that we stay focused on the needs of sexual assault victims in rural areas, underserved communities, communities of color and tribal areas for whom there remains a dirth of adequate supportive options.

While tremendous gains have been made over the last 15 years through the services of the Violence Against Women Act, I want to express my concern that these benefits have not reached across all communities to all women.

To that end, we must acknowledge the reality that some women have a greater vulnerability to violence and significant barriers to accessing services. Women of Color remain at a distinct disadvantage because of the lack of appropriate and relevant services, as well as resources, within their communities to address domestic violence and sexual assault.

Recognizing this great need, Congress made a historic shift by intentionally including language to focus on Communities of Color as part of the reauthorization of the Violence Against Women Act of 2005. The "Culturally and Linguistically Specific" language was intended to specifically address the needs of Communities of Color. This language provides Communities of Color resources to create interventions and preventions that are relevant, responsive and culturally appropriate for their communities.

Further, we must recognize that resources and services for victims in the US Territories, who are primarily Communities of Color, receive adequate services. Guam, American Samoa, US Virgin Islands and Northern Marina are far away from similar

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resources found on the mainland US, but victims of domestic violence and sexual assault feel the same pain and deserve access to the same level of services.

I am also concerned about the extremely high rates of sexual assault committed against American Indian women. It is estimated by the Department of Justice that 1 of 3 Native women will be raped in their lifetime. At the same time, the lack of prosecution of sex crimes committed against Native women is a growing public concern. In fact, the *Denver Post* did a series of articles on injustice in Indian Country in late 2007 and reported that the Department of Justice declined to prosecute 76.5% of adult rapes between 2004 and 2007.

Each of the over 550 federally recognized Indian tribes confront complicated jurisdictional barriers to protect Native women from perpetrators of rape. A graphic example of this lack of response by tribes are the statistics recently released by the Navajo Nation that reported the most frequent violent crime committed on the reservation in 2008 was rape. An average of 6 rapes occurred every week within the Navajo Nation in 2008. Yet of the 300 rape cases reported in 2008 only 25 of the cases resulted in an arrest at the end of the year. This pattern of violence is repeated across this country on tribal reservations and Alaska Native Villages.

The federal government can and must act to increase its assistance to Indian tribes and Native women. It must address the public myth that the rape of American Indian women is not a serious crime that will not be prosecuted.

Victims of sexual assault also need access to legal assistance to ensure their rights are upheld. Law enforcement and the courts must build capacity to hold offenders of all

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types of sexual violence accountable. Victims of acquaintance sexual assault are especially unlikely to receive their day in court and see the offender brought to justice.

No one likes to talk or think about the crime of sexual assault, and as a result, this crime is kept in the dark and its victims often forgotten. We're asking you, as you begin your work on the reauthorization of the Violence Against Women Act, to keep victims like myself, and the millions of others like me across the country, in the forefront of your mind.

Thank you for the opportunity to submit written testimony.

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STATEMENT OF SALLY WOLFGANG WELLS
BEFORE THE UNITED STATES SENATE JUDICIARY COMMITTEE
JUNE 10, 2009

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE:

THANK YOU VERY MUCH FOR ALLOWING ME THE OPPORTUNITY TO PRESENT THE VIEWS OF THE MARICOPA COUNTY ATTORNEY'S OFFICE CONCERNING THE CONTINUED IMPORTANCE OF THE VIOLENCE AGAINST WOMEN ACT, AND MORE SPECIFICALLY, ABOUT THE VALUE OF MANDATORY MINIMUM SENTENCING FOR SEXUAL ASSAULT AS WELL AS PROMPT DNA AND HIV TESTING IN CASES OF SEXUAL ASSAULT AND ABUSE.

THE MARICOPA COUNTY ATTORNEY'S OFFICE, LOCATED IN PHOENIX, ARIZONA, EMPLOYS MORE THAN 350 PROSECUTORS WHO PROSECUTE MORE THAN 40,000 FELONIES EACH YEAR. AS A 23-YEAR VETERAN OF THE OFFICE AND AS THE CHIEF ASSISTANT, I HAVE PROSECUTED DOMESTIC VIOLENCE AND SEXUAL CRIMES AND CURRENTLY OVERSEE THE SPECIALIZED BUREAUS THAT FOCUS ON THOSE CRIMES.

SEXUAL VIOLENCE CAUSES LASTING TRAUMA TO VICTIMS BEYOND OUTWARD PHYSICAL INJURY. IN MANY CASES, THESE CRIMES GO UNREPORTED DUE TO THE FEAR AND TRAUMA ASSOCIATED WITH SEXUAL VIOLENCE – FEAR OF RETALIATION FROM THE OFFENDER AND FEAR OF PUBLIC SCRUTINY. IN OUR EXPERIENCE, IT IS NOT UNCOMMON FOR A SEXUAL OFFENDER WHO IS FINALLY CAUGHT TO ADMIT TO OTHER SEXUAL ASSAULTS THAT WERE NEVER REPORTED. IN A 2004 STATEWIDE STUDY IN ARIZONA, IT WAS ESTIMATED THAT ONLY16% OF ALL SEXUAL ASSAULTS EVER CAME TO THE ATTENTION OF LAW ENFORCEMENT.

WITH RESPECT TO THE FEAR OF PUBLIC SCRUTINY, THE VALUE OF EDUCATION CANNOT BE UNDERESTIMATED. THE DISSEMINATION OF ACCURATE INFORMATION ABOUT SEXUAL OFFENDERS AND THEIR VICTIMS IS ESSENTIAL TO CHANGE PUBLIC ATTITUDES TOWARD THESE CRIMES SO THAT VICTIMS DO NOT SUFFER EMBARASSMENT OR HUMILIATION WHEN THEY REPORT SEXUAL ABUSE. ONE MESSAGE THAT SHOULD BE CLEAR IN ANY STATUTORY SCHEME AND THAT SHOULD BE PART OF ANY EDUCATIONAL EFFORT IS THAT SEXUAL VIOLENCE IS ONE OF THE MOST SERIOUS OF CRIMES. THE PUNISHMENT ASSOCIATED WITH SEXUAL VIOLENCE SHOULD BE COMMENSURATE WITH THE DAMAGE IT INFLICTS. A MANDATORY MINIMUM SENTENCE OF INCARCERATION SENDS THAT MESSAGE.

WITH RESPECT TO THE FEAR OF RETALIATION, VICTIMS SUFFERING THE PHYSICAL AND EMOTIONAL TRAUMA OF SEXUAL ABUSE AND ASSAULT NEED TO KNOW THEY ARE SAFE FROM THE PERSON WHO HURT THEM. THEY NEED A TIME TO HEAL. FOR AT LEAST SOME PERIOD OF TIME. VICTIMS NEED TO KNOW THAT THE

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OFFENDER CANNOT RETURN TO INFLICT MORE PAIN OR PUNISH THEM FOR REPORTING THE CRIME TO AUTHORITIES. A MANDATORY MINIMUM SENTENCE OF INCARCERATION SENDS THAT MESSAGE.

ARIZONA'S STATUTORY SCHEME SENDS THAT MESSAGE. SEXUAL ASSAULT IS A CLASS 2 FELONY, THE STATE'S SECOND HIGHEST CLASS FELONY. A PERSON CONVICTED OF SEXUAL ASSAULT IS NOT ELIGIBLE FOR PROBATION AND IS EXPOSED TO A PRESUMPTIVE SENTENCE OF 7 YEARS IN PRISON. IF MITIGATING FACTORS EXIST, THE SENTENCE MAY BE REDUCED TO A MINIMUM OF 5.25 YEARS. IF AGGRAVATING FACTORS EXIST, THE SENTENCE MAYBE INCREASED TO A MAXIMUM OF 14 YEARS. IN EVERY CASE, A VICTIM MAY EXPECT THE OFFENDER TO BE IN PRISON FOR AT LEAST 5 YEARS. THAT 5-YEAR WINDOW OF SAFETY NOT ONLY ENCOURAGES REPORTING AND PARTICIPATION IN COURT PROCEEDINGS, IT ALSO GIVES THE VICTIM TIME TO HEAL WITHOUT FEAR OF RETALIATION.

IN 2005, ARIZONA MOVED AWAY FROM CLASSIFYING SEXUAL ASSAULT OF A SPOUSE AS A LESSER CRIME THAN SEXUAL ASSAULT. AS PART OF THE DEBATE ABOUT THAT CHANGE, I WAS ASKED BY OUR LEGISLATURE TO PROVIDE INFORMATION ABOUT THE EFFECT SUCH A CHANGE MIGHT HAVE ON REPORTING. SOME LEGISLATORS WERE CONCERNED THAT THE HIGHER PENALTIES MIGHT DISCOURAGE REPORTING. IN LOOKING AT THE PAST REPORTED CASES, THE CRIME OF SEXUAL ASSAULT OF A SPOUSE WAS OFTEN ACCOMPANIED BY REPORTS OF CRIMES THAT WERE HIGHER CLASS FELONIES – KIDNAPING, A CLASS 2 FELONY AND AGGRAVATED ASSAULT, A CLASS 3 FELONY. THE BELIEF THAT A

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LOWER PENALTY WOULD ENCOURAGE REPORTING FOR SEXUAL ASSAULT OF A SPOUSE (OR THAT A HIGHER PENALTY WOULD DISCOURAGE REPORTING) WAS NOT SUPPORTED BY THE EVIDENCE.

ANOTHER IMPORTANT COMPONENT IN DEALING WITH THE CRIMES OF SEXUAL ASSAULT AND SEXUAL ABUSE IS BIOLOGICAL TESTING. ALONG WITH THE NEED TO KNOW THAT THEY ARE SAFE FROM RETALIATION FROM THE OFFENDERS, VICTIMS NEED TO KNOW THAT THEY ARE SAFE FROM ANY DISEASES THAT OFFENDERS MAY HAVE TRANSMITTED. THERE ARE SEVERAL ARGUMENTS FOR EARLY BIOLOGICAL TESTING OF SUSPECTS. ALTHOUGH I AM NOT A MEDICAL EXPERT, PROSECUTORS GENERALLY ACCEPT THAT IF A VICTIM REPORTS SIGNIFICANT EXPOSURE DURING A SEXUAL ASSAULT WITHIN 72 HOURS OF THE ASSAULT, DOCTORS CAN PRESCRIBE A 28-DA7 REGIMEN OF DRUGS TO HELP PREVENT THE CONTRACTION OF HIV. THE SOONER THIS REGIMEN IS BEGUN, THE MORE EFFECTIVE IT IS.

THE MEDICATION TO PREVENT HIV INFECTION IS EXPENSIVE, AND IT MAY CAUSE SERIOUS SIDE EFFECTS. VICTIMS WHO DO NOT KNOW WHETHER THE ATTACKER HAD HIV ARE FORCED TO CHOOSE BETWEEN THE RISK OF HIV INFECTION AND THE RISK OF SIDE EFFECTS LIKE LIVER ENLARGEMENT OR BONE MARROW SUPPRESSION. INFORMATION FROM PROMPT OFFENDER TESTING WOULD ALLEVIATE THE UNCERTAINTY IN MAKING THIS CHOICE. INFORMATION THAT THE OFFENDER DID NOT HAVE HIV WOULD ALLOW THE VICTIM TO FEEL SAFE AND BEGIN TO HEAL.

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IN ADDITION TO BIOLOGICAL TESTING TO ENSURE THE SAFETY OF THE VICTIM, ANOTHER KIND OF TESTING PLAYS A VITAL ROLE IN SEXUAL VIOLENCE INVESTIGATION AND PROSECUTION. DNA TESTING OF SUSPECTS ENSURES THAT SUSPECTS ARE IDENTIFIED AS EARLY AS POSSIBLE. AS I MENTIONED PREVIOUSLY, MANY SEXUAL ASSAULTS BY THE SAME SUSPECT GO UNREPORTED. OTHERS ARE REPORTED BUT THE SUSPECTS ARE UNKNOWN. SEXUAL OFFENSES ARE OFTEN REPETITIVE CRIMES. THE ABILITY TO LINK CRIMES TO SPECIFIC INDIVIDUALS AND TO SPECIFIC GEOGRAPHIC AREAS HELPS LAW ENFORCEMENT TO PUT AN END TO SERIAL OFFENSES SOONER.

SEXUAL OFFENDERS ARE OFTEN LINKED TO OTHER TYPES OF CRIMES LIKE BURGLARY, CRIMINAL TRESPASS, OR OTHER LESSER FELONIES. DNA EVIDENCE IS IMPORTANT TO CREATE AN ACCURATE CRIMINAL HISTORY FOR SUSPECTS. IT ALSO ELIMINATES SUSPECTS SO THAT LAW ENFORCEMENT RESOURCES ARE NOT WASTED.

DNA SAMPLING AND TESTING ALSO BRINGS RELIEF TO VICTIMS WHO HAVE LIVED FOR YEARS WITHOUT KNOWING THE IDENTITY OF THEIR ATTACKERS OR WHETHER THEIR ATTACKERS COULD RETURN. LEARNING THAT THE SUSPECT IS INCARCERATED FOR OTHER CRIMES IN ANOTHER JURISDICTION MAY PROVIDE SOME RELIEF FOR THAT KIND OF UNCERTAINTY.

VICTIMS OF SEXUAL VIOLENCE NEED TO BE SAFE, AND OUR NATION'S LEGISLATION NEEDS TO WORK TO PROTECT THEM.

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