S. HRG. 111–459

THE VICTIMS OF CRIME ACT: 25 YEARS OF PROTECTING AND SUPPORTING VICTIMS

HEARING

BEFORE THE

COMMITTEE ON THE JUDICIARY UNITED STATES SENATE

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THE VICTIMS OF CRIME ACT: 25 YEARS OF PROTECTING AND SUPPORTING VICTIMS

TUESDAY, APRIL 28, 2009

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

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

Present: Senators Leahy, Feinstein, Wyden, and Klobuchar.

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

Chairman LEAHY. Good morning, everybody.

This past Sunday marked the start of National Crime Victims' Rights Week. Now, since 1981, here in Washington and in communities across the Nation, people have observed this week with candlelight vigils and public rallies to renew our commitment to crime victims and their families. I think it is important that we do this to recognize the needs of crime victims and their families.

I was talking with Susan Russell and Judy Rex from our State of Vermont about this, and I am reminded, of course, that this is the 25th anniversary, and in some ways, it seems like just yesterday that the Victims of Crime Act was passed. I was one of the supporters of that at the time. It has supported essential services for crime victims and their families. The people in Vermont have heard me tell about how, when I was a prosecutor, there were not any of these programs, and we had to make them up as we went along. I remember my wife and I personally financing a number of the programs and a number of volunteers and others. And now we have grants for direct services to victims, State crime victim compensation programs, emergency shelters, crisis intervention, counseling, and assistance in participating in the criminal justice system—all these, and I should note that these do not cost taxpayers any money. They are funded from a reserve fund created from the fines and penalties paid by Federal criminal offenders.

A lot of us have worked hard over the years to protect the Crime Victims Fund. They serve nearly 4 million crime victims each year, including victims of violent crime, domestic violence, sexual assault, child abuse, elder abuse, and drunk driving. This makes it possible. I think of the number of times we congratulate ourselves that we have prosecuted somebody, and they go off, and we spend a fortune to prosecute the person, and at that time there was nothing to do anything for the victims.

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I was worried that the Crime Victims Fund would be there in good times and bad. Several years ago, I worked to make sure it had a "rainy day" capacity so that we would not have to worry about it running out of money and being left stranded. More recently, an annual cap has been set on the level of funding to be spent from the fund in a given year. I remember when the cap was established, and former President Bush sought to empty the Crime Victims Fund of unexpended funds—funds that we had put in there to have for a rainy day. I joined a bipartisan effort with Senator Crapo of Idaho and others from both political parties to make sure that the money was preserved. There are enough other places we can find money. This was one that was being well used.

So we are working as hard as ever. We are working with Senators from both sides of the aisle. I hope we can raise the cap this coming year to devote more than $700 million to crime victims.

I want to commend Senator Mikulski, who is the Chairwoman of the Commerce, Justice, and Science Appropriations Subcommittee, and Senator Shelby, the Ranking Member, for working with the President to provide $100 million in the economic recovery program for crime victims. I look forward to working with Senator Mikulski, Senator Crapo, and, of course, Senator Feinstein, who has been a tremendous help in all of this, to keep us going.

I look forward to hearing from our witnesses. Two of our witnesses, as I mentioned, come from Vermont. Susan Russell has an incredible story. Her courage and strength is an inspiration to us all. And I should mention she lives just a few miles from where I live in Vermont.

Judy Rex, I have enjoyed over the years calling Judy to say, "Judy, you know that money that was not coming? It is coming." And knowing it is going to be done well, and, of course, Mary Lou Leary, from the National Center for Victims of Crime, is well known to this Committee, as is Steve Derene from the National Association of VOCA Assistance Administrators, and R. Keith Perkins from the very well named Never Again Foundation.

Before we go to the witnesses, Senator Feinstein, did you want to say anything?

STATEMENT OF HON. DIANNE FEINSTEN, A U.S. SENATOR FROM THE STATE OF CALIFORNIA

Senator FEINSTEIN. Thank you very much, Mr. Chairman, and I very much appreciate the good work you have done, and these witnesses present.

In 2004, Senator Kyl and I introduced and subsequently passed the Crime Victims' Rights Act, and that was essentially giving crime victims certain basic rights—the right to be present in the court, the right to know when your attacker has been released, the right to make a statement. But what we found was that the defendants had essentially all the rights, and a crime victim had virtually no rights. And I would just be curious at a later time if in the comments of your witnesses, if they would be willing to comment on how effective they believe this has been, and if they think there still is additional action to be taken.

I was appalled when I learned that a victim, let us say a rape victim, had no right to be notified if her attacker is released from

jail. And theoretically, at least by the law, now this is taken care of.

So my question is: Are these rights, in fact, being carried out? And perhaps if you can, you would address that in your testimony.

Thank you, Mr. Chairman.

Chairman LEAHY. Thank you.

Since 1998, Susan Russell has served as a criminal justice victim services consultant with the Office for Victims of Crime. For the past 7 years, she has worked for the Central Vermont Council on Aging as the Director of Community Service. Central Vermont is the area where I am from. She also chaired Vermont's Sexual Violence Task Force, served as a member of the Vermont Network Against Domestic and Sexual Violence. She has received several awards for her efforts, including the 2005 National Organization for Victim Assistance Edith Surgan Award for outstanding dedication and leadership, and Vermont's 1995 Outstanding Victim Advocacy and Awareness Award.

Ms. Russell, please go ahead. Make sure that is on.

STATEMENT OF SUSAN S. RUSSELL, M.A., WARREN, VERMONT

Ms. RUSSELL. Good day. I would like to thank you, Chairman Leahy, Senator Patrick Leahy, and Ranking Member Senator Specter, for inviting me here today to testify on behalf of victims. Indeed it is quite an honor and privilege to be here today to provide testimony on the Victims of Crime Act. While I have over a decade of experience working within victim services, the most significant experience I bring before you today is as a survivor of violent crime.

Seventeen years ago, a man who resided in the same small rural community as I kidnapped, raped, and nearly killed me. This man slashed two of my car tires and then followed me. It is highly likely that he had been stalking me for some time as several years after my assault, I learned that he had broken into my husband's truck and had stolen identifying information. This man held no regard for life as, after begging and pleading for my life, he fractured my skull in three places with a tire iron, broke several facial bones, and left me to die in a remote wilderness area. I can recall gaining consciousness hours later, cold, shivering, naked, and in intense pain. I recall touching my head and feeling something very sharp and protruding. And as a trained emergency medical technician, I knew that I was in serious trouble and needed help. Somehow, I managed to stumble through the woods a tenth of a mile where there were five teenagers camped. They managed to keep me warm and awake, and two of them hiked 3 miles to the nearest phone.

I was taken to a nearby hospital where they stabilized my injuries and prepared me to be sent to another hospital that specialized in traumatic brain injuries. While in the emergency room of the first hospital, I was met by a detective who gathered information which led to the apprehension of my assailant 4 days later.

Upon arrival at the emergency room of the second hospital, I had a team of nurses and doctors working to prepare me for surgery. During this time my husband was brought in, and he immediately passed out and was escorted out of the emergency room. However, after he recovered, he was met by a rape crisis advocate who pro-

vided him with information and a supportive ear. During my 3-week stay in the hospital, the rape crisis advocate came several times to talk and/or listen. And after I returned home, I was able to call the rape crisis hotline any time day or night. Rape crisis centers which provide a host of victim services such as this one are funded with VOCA funds.

At the time of my assault, I worked as a hiking/canoeing guide. I subsequently lost my job and had no income. It took me many months—really many years—to recuperate physically, and part of my recover hinged on physical therapy—something not covered by my medical insurance. The medical bills alone even with health insurance reached over $30,000. Another VOCA-funded service which I benefited from is the Victims Compensation Program. Vermont's Victim Compensation will allocate $10,000 per victim for things such as medical costs, including physical therapy and counseling. These are two of the services that I so desperately needed and would not have had access to if it were not for VOCA.

Soon after my assault, I was contacted by the State's Attorney Victim Advocate, and we found ourselves having to go through the criminal justice system. Again, due to VOCA funds, we were able to have a victim advocate help us navigate the criminal justice system. I am quite certain I would never have survived the criminal justice system without the information and support provided by the victim advocate. Fortunately for all of us, due to having a way to be involved and informed, a plea agreement was met and the offender was convicted and sentenced to 25 to 35 years.

However, in approximately 5 years, he will be released in Vermont having maxed out his sentence for a total time served of 23 years. He will be released, untreated and unsupervised. His only requirement will be to register with the Vermont Sex Offender Registry.

In closing, I would like to state that had I not received these VOCA funding services, I would not be here today. I would also like to add that these services helped my husband and I remain together as next month we will celebrate our 26th wedding anniversary. There is no doubt in my mind that without VOCA funding services, I would not have been able rebuild my life and recover in a manner that moved me from a victim to a survivor.

Thank you again for inviting me here to share my story.

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

Chairman LEAHY. Thank you. Thank you, Ms. Russell. I knew the story, but I thought it was important that others hear it. It is a very moving one. I also think it is fortunate we have these programs. Certainly I wish there was no need for them. I wish there would never be an experience like you went through. But you know and I know that happens, whether in our State or other States. And I think back to the days of my own experience in law enforcement when we did not have that and how we had to piece these things together and the number of people who must have fallen without the help they needed. So thank you for your bravery in repeating it, and congratulations on 26 years. It seems like so long ago. In our family we will celebrate our 47th this summer.

Judy Rex is the Executive Director of the Vermont Center for Crime Victim Services that administers the Victim Compensation Program, the Victim Assistance Program, and other Federal and State grants for community-based programs serving victims of crime. Previously, she had been the Executive Director of Vermont Protection and Advocacy, the coordinator of the Vermont Victim Assistance Program, a State program serving victims of crime through the Vermont Department of State's Attorney. She served as the coordinator of the Vermont Network Against Domestic Violence and Sexual Assault, a statewide association of 17 private, nonprofit domestic violence and rape crisis program well known to all of us in Vermont.

Please go ahead.

STATEMENT OF JUDITH A. REX, EXECUTIVE DIRECTOR, VERMONT CENTER FOR CRIME VICTIM SERVICES, WATERBURY, VERMONT

Ms. REX. Good morning. I want to thank Chairman Leahy and Ranking Member Specter for giving me this opportunity to speak before the Senate Judiciary Committee. It is an honor for me to appear here today as we celebrate the 25th anniversary of the Victims of Crime Act.

I have worked on behalf of crime victims for over 25 years, and I remember what it was like before the Victims of Crime Act was enacted. In Vermont, there were very few services and supports for crime victims. In the early 1980s, Vermont had four domestic violence shelters and two rape crisis programs. The entire State appropriation for these programs was $50,000 a year, and the State allocation for the domestic violence shelter where I worked was $5,000 per year.

The passage of the Victims of Crime Act in 1984 has had a tremendous impact on how crime victim services have evolved and expanded in this country—and certainly in Vermont. When the Victims of Crime Act passed, then-Governor Kunin earmarked the funding to establish rape crisis programs in every county in Vermont. As a result of the VOCA funding, Vermont was able to establish ten additional programs, ensuring that every victim of sexual assault in Vermont could access a 24-hour hotline and advocacy services.

In 1986, it was the Victims of Crime Act funding that helped Vermont establish its Victim Assistance Program. These prosecutor-based victim advocates ensure that crime victims receive information, notification of court hearings, and a variety of support services throughout the criminal justice process. The program has played a critical role in ensuring that Vermont's crime victims receive restitution for their crime-related losses and, even more importantly, in empowering crime victims to address the court at sentencing to share the impact of the crime on their lives.

In 1990, Vermont finally established its Victims Compensation Program, and it was the Federal VOCA match that convinced the Vermont Legislature to fund this initiative. In 2000, when there was an increase to the VOCA cap, Vermont was able to establish a Victim Services Program within the Department of Corrections that is now fully funded with State funds. These advocates provide

an array of services to crime victims to help prepare them for an offender's release from incarceration. Services for underserved populations were also established at this time. One example is our Deaf Victim Advocacy program, comprised of three deaf victim advocates who provide education and advocacy services to the deaf and hard-of-hearing communities throughout Vermont.

The most recent impact of VOCA was the inclusion of $100 million for crime victims in the American Recovery and Reinvestment Act. In January, I was faced with making cuts of up to 20 percent to victim services programs in Vermont due to declining State revenues. The impact of these cuts would have been significant for those very small domestic violence programs, child advocacy centers, and supervised visitation programs operating in the most rural areas of Vermont. Some of these programs would have closed. But as a result of the Recovery Act funding, I was able to level-fund all direct service programs serving crime victims in the 2010 State budget. This infusion of funding could not have happened at a more critical time, since we all know that crime rates often increase during hard economic times.

Despite all of these accomplishments, there is still much more to be done. In 2003, the Center for Crime Victim Services engaged in a lengthy strategic planning process. A number of gaps in services were identified, including the need for victim advocates in police departments, specialized services for people with disabilities who have been victimized, and services for the elderly—a growing population that is particularly vulnerable to financial fraud and exploitation. However, because Vermont has not seen any significant increase in our VOCA allocation for the past 8 years, little has been accomplished in these areas. In fact, in some years we have seen our allocation reduced, even though the number of crime victims needing services continues to grow.

I know that other States are also struggling with this same dilemma. I would urge this Committee to consider raising the VOCA cap to $705 million in the 2010 Federal budget so that we can begin to address some of these gaps in services. One important lesson we have learned over the last 25 years is that the sooner we are able to respond to a crime victim's trauma, the sooner they are able to recover. As a society, we cannot afford to delay services to crime victims. The cost is too great.

In closing, I want to thank the Judiciary Committee, and I want to especially thank Chairman Leahy, for all of the support you have given us for the last 25 years, and I look forward to another 25 years of progress.

Thank you.

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

Chairman LEAHY. I look forward to 25 years of progress, but not 25 years more here in the Senate.

[Laughter.]

Chairman LEAHY. But thank you very much.

Mary Lou Leary is currently the Executive Director of the National Center for Victims of Crime. She has served there since 2004. She previously served as United States Attorney for the District of Columbia and as Acting Assistant Attorney General for the

Office of Justice Programs. As the leader of the Office of Justice Programs, she oversaw the Department of Justice's Office for Victims of Crime and the Office of Violence Against Women. She also served as Acting Director of Community-Oriented Policing Services at the Department.

As always, Ms. Leary, it is good to see you, and I am delighted to hear you are going to be rejoining the Department. Please go ahead.

STATEMENT OF MARY LOU LEARY, EXECUTIVE DIRECTOR, NATIONAL CENTER FOR VICTIMS OF CRIME, WASHINGTON, D.C.

Ms. LEARY. Thank you. Good morning, Chairman Leahy. Thank you to you and Ranking Member Specter for this opportunity. Good morning, Senator Feinstein. I want to say thank you for holding this hearing during Crime Victims' Rights Week. I think this is just the ideal time for us to be focusing on one of the Nation's most successful programs: the Victims of Crime Act and the Crime Victims Fund that it created.

I am Mary Lou Leary, and as the Senator said, I am Executive Director of the National Center for Victims of Crime. At the National Center for almost 25 years now, we have worked to make sure that victims have the rights, the resources, and the respect that they need to rebuild their lives after a crime.

Steve Derene's written testimony explains all about VOCA and how the fund works, the difference between compensation and assistance, so I will not go into any of those details. But you, Senator Leahy, understand better than just about anybody that VOCA funds are essential to our national response to victims. In fact, the National Center recently surveyed our membership, and more than 98 percent of our nonprofit victim service provider members tell us that VOCA funds are "very important," and you heard that in Judy Rex's testimony this morning. More than 90 percent of the system-based providers—people in law enforcement and prosecutors' offices—say the same thing.

For the past several years, Congress has imposed a cap on the funds disbursed each year, and in recent years, the balance has grown to about $1.9 billion. And the cap has been hovering around $625 million. Last year the cap dropped down to $590 million.

I came before this Committee in January and told you that this reduction of funding, coupled with the economic climate, was devastating to victim service programs. And, again, you heard that from Judy Rex this morning. People were cutting staff hours, laying people off, and programs were reaching fewer victims and, in fact, providing even fewer services to the ones that they could reach. For example, in many places victims were placed on very long waiting lists for services; even child victims of sexual abuse, weeks before they could get into counseling.

When we reported to you in January on this situation, you responded by working to ensure that $100 million for crime victim compensation and assistance would be included in the stimulus package, and we cannot tell you how grateful we are for that. Then, the fiscal year 2009 appropriations package passed in February released $635 million from the VOCA Fund. So this combina-

tion will restore victim funding to the levels it received in 2006, before those reductions.

So the dollars have not reached the front-line service providers yet, but relief is already being felt across the country. So we thank you for that. The relief was much needed and well timed, but I am here to tell you there is still much more to be done.

Compensation assistance, for instance, is helpful, but some states have told us they expect to disburse all their stimulus compensation money within just a few weeks. The restoration of funding for victim services may take more victims off waiting lists for services, but there are so many more victims who are not being reached and who do not even know that help is available.

State and local programs tell us they desperately need money for awareness and outreach so that victims in their communities will know where to turn for help. And then they need money for the services to help them when those victims do come forward.

As you know, the economic crisis is having a terrible impact on victims, increasing victimization, increasing the need for services, and increasing the range of services that are needed. Our Helpline, for instance, is seeing a big spike in calls from victims, and we have seen a big spike in calls from fraud victims. Many victims of fraud have lost absolutely everything, and they are at the end of their rope, no place to turn.

These victims are in desperate need of financial counseling to help them pull together what remaining assets they have, and time is very often of the essence. They have nowhere to turn for this. They also need mental health counseling to overcome the stress and the shame of this kind of victimization, but it is not available.

States could, under regulations, pay for this kind of counseling, but they have been reluctant to expand the pool of eligible victims because there just is not enough money to go around. Too many victims of crime have no services outside the criminal justice system. Too many victims are going unserved.

Congress has the ability to provide the funding that is necessary to bridge this gap. There is $1.9 billion in the VOCA Fund. Additional fines over $2.7 billion have already been announced against corporate defendants, so additional moneys can be released from the VOCA Fund without compromising the long-term stability of that fund.

In 1984, Congress created the VOCA Fund, and it fundamentally changed the way this Nation responds to victims of crime. This funding, as you heard from Susan Russell's testimony, truly helps victims of crime rebuild their lives, and we know that is a slow process.

Congress reaffirmed its commitment to victims earlier this year through the stimulus funding and it restored the appropriations levels. Now we ask you to take the very next step. We urge you to tell victims of crime that you are still committed; you still hear their voices; you recognize their needs; and you will extend them a helping hand by raising the cap on the VOCA Fund.

Thank you.

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

Chairman LEAHY. Thank you, Ms. Leary. And I can assure you I hear their voices, and I think of them. I still have nightmares about some of the things I saw at 3 o'clock in the morning and 4 o'clock in the morning when I would be at some of these crime scenes with the lights from the police cars, blinking lights reflecting off the walls, and some of the most horrific scenes. I do not forget.

The next witness is Keith Perkins. He is the Founding Attorney and Executive Director of the Never Again Foundation Legal Services, provides free legal representation for crime victims in civil lawsuits directly against the criminal perpetrators. He authored the highly acclaimed Arizona crime victims rights programs, received several top awards—the 2007 Arizona Attorney General Distinguished Service Award, the 2007 Foundation for Justice Work, and the Arizona State Bar's Foundation for Legal Services, the 2009 College Honored Alumni Award from Brigham Young University's J. Reuben Clark Law School, in recognition not only for his achievements but dedication to a life of services. That is actually a nice thing to hear, an award for a life of services.

Please go ahead, Mr. Perkins.

STATEMENT OF R. KEITH PERKINS, ESQ., FOUNDING ATTORNEY AND EXECUTIVE DIRECTOR, THE NEVER AGAIN FOUNDATION, CHANDLER, ARIZONA

Mr. PERKINS. Mr. Chairman, Ranking Member Specter, Senator Feinstein, and members of the Committee, my name is Keith Perkins. I am the Founding Attorney and the Executive Director of the Never Again Foundation Legal Services.

How grateful we are for the tremendous amount of good that the Victims of Crime Act has been able to do for so many over the last 25 years.

My testimony to you today will comprise primarily of three parts: the successes that we have been able to have within the spirit of VOCA, challenges that we have had with VOCA, and a suggestion that we bring to you today to improve VOCA.

The purposes of VOCA are vitally important, and they include the help to provide that emotional healing as well as that economic restabilization that victims of crime need after they have been a victim of crime.

The Department of Justice confirms that the cost of crime is staggering. It costs us billions of dollars each year. There are only three parties that can bear that cost: the perpetrators of the crime, the victims of the crime, or somehow it being absorbed by the rest of us in society. The criminal justice system was not designed to send that cost back to the criminal perpetrators. It was only the civil justice system that was designed to take that burden that is being borne by the victims as well as by us in society and shift it back to put it back upon those who have caused the harm, back upon the criminal perpetrators.

However, most crime victims have been unable to gain access to that civil justice system, primarily because it is not a matter of law office economics. For most lawyers, it simply does not make financial sense to just simply represent crime victims in civil actions as long as it is just against the criminal perpetrators.

So, with that in mind and to fill that void, in Arizona for the last 10 years we have provided free, nonprofit legal representation to crime victims in civil lawsuits directly against the criminal perpetrators. The results have been quite dynamic. We have now won over $170 million in judgments—directly against criminals.

Chairman LEAHY. How much?

Mr. PERKINS. $170 million in judgments directly and only against the criminal perpetrators.

Now, what we have found is that many of the crime victims, as well as the public, have been anxious to have the opportunity to finally take that full cost of crime and send it back and place it directly and squarely upon the shoulders of those who have caused it.

Now, we know that all of that is not going to be collectable from the criminals. However, we are very pleased to report that we have actually been able to collect over $2 million of that directly from the criminal perpetrators; 100 percent of that has all gone back to the victims to help provide that economic restabilization.

Now, one of the things that might come as a bit of a surprise is that money is not the primary motivating factor for why the crime victims have requested to have civil remedies. Rather, the No. 1 reason that they requested the civil remedies is to help provide an additional sense of emotional healing that they may not have been able to get in their particular circumstance through the criminal justice system. Examples of that may include an opportunity to regain power and control and the right to make the decisions in the case; an opportunity to fully tell their side of the story; an opportunity to place that economic responsibility for the cost of crime personally and directly upon the perpetrator who caused it.

In other words, the civil justice system can play a very important part of fulfilling the very purposes for which the Victims of Crime Act was enacted.

But now for the problem: VOCA does not support civil actions by crime victims directly. I think, Mr. Chairman, the reason why that was originally put in VOCA was because we wanted to make sure that the sacred money of VOCA could not be used for civil actions against negligent deep pockets of third parties.

However, with that broad prohibition, we have unnecessarily restricted victims of crime from being able to put that financial accountability directly upon the very people that all of us think should be responsible for it in the first place—that is, upon the criminal defendants. And as a result, the victims of crime have only been able to look to secondary sources for that economic restabilization.

So we come today on behalf of a broad base of victim service providers throughout Arizona, and we would like to ask that VOCA—and VAWA as well—allow a very narrow exception that it can help to provide that emotional healing and economic restabilization for crime victims and civil actions directly and only against criminally convicted perpetrators. This will help victims nationwide be able to gain further access to that justice that they desire with the help of nonprofit legal service organizations willing to give it all back to the victims to help them rebuild their lives.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Perkins appears as a submission for the record.]

Chairman LEAHY. Thank you very much.

Steve Derene is Executive Director of the National Association of VOCA Assistance Administrators. Since its creation in 2001, he has represented State agencies and administers State VOCA victim assistance grants. He has served as an expert consultant to the U.S. Justice Department Office for Victims of Crime, formerly the Director of Research and Information for the Wisconsin Department of Justice, worked in the Department's Office of Crime Victim Services, is the 2005 recipient of the National Crime Victims Services Award and the 2006 Congressional Crime Victims Lois Haight Award.

Please go ahead.

STATEMENT OF STEVE DERENE, EXECUTIVE DIRECTOR, NATIONAL ASSOCIATION OF VICTIMS OF CRIME ACT ASSISTANCE ADMINISTRATORS, MADISON, WISCONSIN

Mr. DERENE. Thank you very much, Mr. Chairman and members of the Committee. As has been mentioned, it is appropriate that we are discussing this during the 25th anniversary of the enactment of VOCA, and while much of the focus has been on the funding aspects of VOCA, I would just like to acknowledge the fact that VOCA since its inception has really represented considerably more than just the dollars, just another funding stream. It has been very significant, and I think you have heard some of the reasons why. It really represents a commitment that the Government made to treat victims with fairness and dignity and respect about 25 years ago. So I think it was a catalyst to making much of the improvements throughout the Nation over the last 25 years. And our challenge now, as has been mentioned, is: Where are we, and where are we going to go?

I will just summarize some of what you have heard already in terms of a national perspective. When VOCA was first adopted in 1984, the first year there was $68 million collected, and in 2007, there was over $1 billion. And I think that signifies the resources that are available to help victims of crime.

As has been mentioned, one of the challenges here is how do you release that money to the field to do what it is intended to do, and I would just note that under the language of the statute itself, had there not been a cap, all of that money would already have been out providing services to victims. And I think one of the functions that has been served by a cap—and I think there have been some positive features—and one I think is necessary for people such as Judy, who administers this money, is that it is very helpful to have some predictability, some sustainability of the money going forward. And we know that money is coming in.

But just to put it in perspective a little bit, from 2006 to 2008, as deposits in the fund increased by 53 percent, grants to State victim assistance programs were actually cut by 22 percent. And thanks to your efforts and the efforts of Senators Mikulski and Shelby in 2009, we made some very important inroads into restoring that money back to the level it was in 2006. And what we anticipate the funding will be for State assistance programs in 2009

with the appropriations and the Recovery Act together will get us back to where we were in 2006. So we are sort of back to square one, and when we hear proposals for additional uses of VOCA, one of the basic purposes of VOCA was really to sustain programs, to sustain services to victims. And as we know, there is a great deal of additional needs. There are new types of services. There are new types of victims that we want to respond to: stalking, identity theft, dating violence. There is a whole panoply—human trafficking—that we did not recognize 25 years ago. And so a State's ability to not only sustain programs but to meet these increasing needs in populations really depends on our ability to release the money that is there, that is not taxpayer money, as you know, and that was dedicated both by statute and in the appropriations solely for the use of victims.

And so I would sincerely endorse the suggestion that, at least for 2010, the level of funding of $705 million will sustain that level that we had in 2006, it will get us back to 2006 with inflation, and begin to make some inroads, very modest inroads into the ability to meet the ongoing needs. And so I thank the Committee for all its efforts.

I would just like to respond briefly to Senator Feinstein's question about the CVRA, and I think that was a very significant proposal. We understand that the rights there really pertain to victims in the Federal system, which we are talking about maybe 1 or 2 percent. But it also contains some other features. I know it came from Senator Leahy's contribution to that bill in terms of services, in terms of funding. I know there are studies underway as far as the effectiveness of the rights. But one part of that act which I do think pertains to VOCA as well, there was authorization to fund victim services in the U.S. Attorney's Offices, legal clinics, which are very important in defining and establishing the case law, other compliance programs, notification programs, and there were a variety of services intended to be supported without using VOCA funds, to use other funding streams. And I do not believe any of that money—I believe Congress just reauthorized those provisions, but I do not believe any money has ever been appropriated for those services. And I think those services go toward making the rights effective both at the Federal level and the State level. And I know the appropriations process is apart from that, but to the extent those funding streams are implemented and funded, it will relieve or be in addition to the amounts available for similar types of things under VOCA. So I do know as far as the services and funding parts of that act go, that has not been implemented at all.

Thank you very much.

[The prepared statement of Mr. Derene appears as a submission for the record.]

Chairman LEAHY. Thank you.

Let me start. We have been joined by Senator Klobuchar of Minnesota, who is also a former prosecutor. I will start with you, Ms. Russell. It cannot be easy telling the story of what you went through and having to relive the fact that you nearly died, aside from the horrendous attack, the rape, the tire iron to your skull, and all the rest. I commend your bravery because we have to be reminded periodically that the Victims of Crime Act, these pro-

grams are not just something on paper. There are real people involved.

You talked about the advice and the help you and your husband got. What would you say are the most important parts of help that the two of you got during this time? And were there things that were not done that should be done? I realize that is kind of open-ended, but I am just curious. We rarely have somebody with such firsthand knowledge as yourself before the Committee.

Ms. RUSSELL. I would say that my awareness of my husband being a secondary victim really raised the question to me later on of what kind of services that we could provide family members. We were fortunate that that rape crisis advocate recognized that he was a secondary victim and he needed to have that information. So I look at that.

I also look at the spectrum of all the help that has been given in terms of relieving that stress of some of the financial burden. In my particular case, restitution was not ordered, and so there was no process coming back from that.

I think times have really changed——

Chairman LEAHY. I see Mr. Perkins shaking his head on that one. I thought you might note that.

Go ahead.

Ms. RUSSELL. But this was 17 years ago, and we certainly have seen a lot of improvement in 17 years.

Chairman LEAHY. But you said you had about $30,000 in medical bills alone.

Ms. RUSSELL. Yes.

Chairman LEAHY. The victim compensation cap in Vermont is $10,000, correct?

Ms. RUSSELL. Correct. We were really fortunate that I live in a very, very supportive community, and they held fundraisers for us. I was also able to work with the hospital in reducing some of those costs. One of my concerns back then was that I was told that I should have a CAT scan done every couple of years, and those things are not always covered by medical insurance. So I was worried about that. So, you know, raising the cap per victim might be something that should be looked at.

Chairman LEAHY. Thank you. We will. We will. Did you have expense out of pocket? Well, obviously you did if they had to have a fundraiser, they had fundraisers in the community for you.

Ms. RUSSELL. Yes. I was unable to drive for almost a year, so we always had to find a way to get me to appointments and things like that. So that was an additional thing. Losing my employment was a struggle, but fortunately, we were able to tap into unemployment. But that is another avenue that might be considered, too, because somebody might not be eligible for unemployment.

Chairman LEAHY. Let me ask Ms. Rex, the State cap is there to make sure there is enough money for a victim. If we increase the cap on spending, do you think that there is a possibility the State cap, the $10,000, might be raised? And should it be? Hit the button.

Ms. REX. Yes, I would love to see the State cap raised. I think what could help convince the Vermont Legislature to do something like that would be if the Federal matching dollars were also in-

creased. I think right now the VOCA match is 60 percent. Is that right? So if that were to go up to, let us say, 75 percent, then I think Vermont could do the same.

Chairman LEAHY. You know, one of the things—and we are going to be voting on a bill here in just about an hour on the Senate floor on fraud, mortgage fraud, and other things. We looked at elderly especially being hit with this, their life savings gone, their money they set aside for retirement gone; oftentimes their home, the one area where they have built up equity, gone, by unscrupulous people. Our bill will allow us to go after those people and put them in jail. But in the Victims of Crime Act, is there an emphasis on the elderly?

Ms. REX. Well, I think one of the challenges for us is getting the elderly to report the crime in the first place. Particularly when you are talking about fraud, I think when they realize that they have been taken advantage of, they are often embarrassed. They do not want other people to know about it, and they do not often report it.

But I can tell you, since the center—we now do restitution for the State of Vermont, and so we process all those restitution orders, and it was alarming for me to see the number of elderly people who are the victims of fraud in the State. And the sad thing is we do put those offenders in jail, but we rarely collect money from them. And, fortunately, Vermont does have a restitution fund, and so those victims will at least get $10,000 out of the fund. But these cases usually involved over $100,000, their life savings, which they will never see during their lifetime.

Chairman LEAHY. Does anybody else want to add to that just on the elderly part? Feel free.

Ms. LEARY. Senator Leahy, I would add that our toll-free crime victims helpline receives many, many calls from elderly victims, and many of them actually find us in the Yellow Pages, in the phone book. But we have seen an increasing number of elderly victims of all kinds of financial scams. Just a couple weeks ago, in fact, we had a call from a man who is over 70 who lost everything in a Ponzi scheme. It was not Madoff. It was another case. And there were 50 victims in that case, and none of those victims had expected to get anything back. And so he was dealing with the embarrassment and shame of having, you know, allowed himself to be victimized. That is how he saw it. He had no idea how to stabilize his financial situation, let alone where to turn to get some help with the emotional impact of it.

It is really devastating. You lose your independence and your hope, really, to live out, you know, a good life for the remaining years. It is very sad.

Chairman LEAHY. Thank you. Thank you very much.

I am going to turn to Senator Feinstein. I have to leave just for a few minutes. I have got a call from the Leader, apparently, regarding the bill on the floor.

Senator Feinstein.

Senator FEINSTEIN. [Presiding]. Thank you very much, Mr. Chairman. Thank you for your leadership.

I have been looking at the figures, and what I see is quite startling to me. I see California in a lose-lose-lose position in terms of

money. No State has been cut more than California, from $64 million to $31 million. So California has been cut $30 million over the last 5 years.

My question, Mr. Derene, is: Why?

Mr. DERENE. If you are referring to the victim assistance grants, those are distributed among the States. There is a base amount plus population. And so it is proportionate to the size of the——

Senator FEINSTEIN. Well, nobody has the population that we do. We are at 38 million people now, with a high crime rate.

Mr. DERENE. Correct. And the distribution of the money that is available under the victim assistance grants is distributed proportionately by population, so being the largest State, you are going to see the largest cut in absolute dollars for your State.

Senator FEINSTEIN. Is that the way the formula goes?

Mr. DERENE. Yes, ma'am. There is a base amount that——

Senator FEINSTEIN. That is absolutely unacceptable.

Mr. DERENE. There is a base amount that goes to every State, and then the amount that remains after that is distributed among the States based on population.

Senator FEINSTEIN. So if you gain people, as all of the sunshine States are doing, you lose money.

Mr. DERENE. Proportionately.

Senator FEINSTEIN. There are 13 States that have lost money.

Mr. DERENE. Proportionately, yes, every State is going to lose money when the amount available is cut. And as I said in my testimony, all States experienced across the board a 22-percent cut, but a State like California that has a larger population is going to have proportionately a larger cut in terms of dollars. That is the statute.

Senator FEINSTEIN. Then it seems to me we need to fix the formula so that does not happen. I will do the research and look into what California produces for the program and try to make a determination whether we get our fair share. But to cut the money in half when no other State takes that kind of hit because the State has no way of controlling the people that come to the State, I think, I must tell you, is grossly unfair and unacceptable.

Mr. DERENE. And that is in the statute, so every State is going to be cut, and it is going to be approximately within a similar range. But a larger State, obviously——

Senator FEINSTEIN. But what you just told me is that you are penalized if you gain population. You do not lose when you lose population. Maybe we should take a look at that. But you lose when you gain population. That is reverse of the way most things are figured on a fair basis.

Mr. DERENE. Every State—if the amount available nationally declines, every State is going to lose. Some States will lose proportionately a little bit more than others.

Senator FEINSTEIN. I look at the big States—Texas, New York, Florida, and California. None of those other States have lost. Only California has lost. And something is not right, and it would be my intention to find out what it is. I would like to have you know that.

Mr. DERENE. Excuse me. Are you referring to the victim assistance chart or the compensation chart?

Senator FEINSTEIN. Compensation.

Mr. DERENE. Okay. I am sorry. I am referring to the assistance. Compensation is a different matter. I apologize, because I was responding to a different program.

The compensation grants are based solely on how much the State uses of its State dollars to pay out compensation benefits, so that decline is because the State used fewer State dollars to make compensation benefits, and that is based in the statute. As Judy mentioned, each State gets a percentage. It is 60 percent of what they used State dollars for. And, frankly, over time it may vary because, as States get larger grants, they are going to use less of State money. And if they use less of State money, they will get more in Federal money. And so there is sort of a natural fluctuation.

Senator FEINSTEIN. Where is the chart that says how much Federal money States get? I am reading your materials.

Mr. DERENE. There is a chart there for victim compensation that will show you how much State money each State received for the last several years, and I think you would be accurate in terms of compensation that, if California's VOCA grant went down, it is because the State paid out less. But that year they probably used more Federal money for benefits. That is going to vary from State to State.

Senator FEINSTEIN. So I really need to figure this because if I follow your chart, in grants we have gone from $44.9 million to $40 million, $40.8 million, in 5 years.

Mr. DERENE. If you go back, you will see——

Senator FEINSTEIN. No, 4 years.

Mr. DERENE. If you go back several years, you will see California, I think there was a year where it received over $100 million. And that all depends on how much the State program pays out using State dollars.

Senator FEINSTEIN. So do you add the two together? How do you——

Mr. DERENE. Every year the VOCA grant to a State is based on how much the State paid out the 2 years prior in State money. The State certifies an amount to the Federal Government, and that is the basis for determining how much their VOCA compensation grant will be.

Senator FEINSTEIN. Well, this bears some additional research.

Mr. DERENE. It is not easy. I understand.

Senator FEINSTEIN. I will ask my staff to do it so that I get a clear picture. Thank you very much.

Ms. Russell, I must say, I am one that believes that we are sorely tested in life, and how we measure up to those tests is really the measure of the kind of person we are. And let me just say you have certainly measured up to your test. It is incredible, and it is wonderful to see you smiling and well and here. And so I just want to—I wish this were California wine.

[Laughter.]

Senator FEINSTEIN. But I just want to raise my glass to you and say, you know, much of the best to you.

Ms. RUSSELL. Thank you so much.

Senator FEINSTEIN. You are very welcome.

Senator, would you like to ask some questions?

Senator KLOBUCHAR. Thank you very much, Senator Feinstein. Thank you for your leadership in this area for so many years. And, again, I would echo what Senator Feinstein said, Ms. Russell. Thank you for having the courage to come forward and talk about what happened to you. Many people cannot do that, and that you have been able to do this is so helpful to so many other victims. You are not just speaking for yourself. You are speaking for them.

I wanted to talk a little bit about actually what Ms. Leary had raised, and these are white-collar crimes, because I see that we are seeing an increase in those kinds of crimes, and I have known firsthand the hope that these victims need. And what I always remember when I was county attorney in Hennepin County, Minnesota, managing an office of about 400 people, we had an incredibly active victim witness program, and it was one of—we think it was one of the best in the country, but it was certainly one of the most active. I saw the hope that the program gave not only in individual compensation and helping victims, as they should be helped, but it also helped us with our prosecutions and mentally, because people felt comfortable to come forward. The shame that you alluded to, Ms. Leary, where victims do not want to come forward, they are scared, to have someone there with them every step of the way makes a difference.

But the white-collar area, what I most remember of this is we had—I spoke to one of our victim witness advocates once in a case, and I saw there were deputies outside of our courtroom. And I said, "Oh, that must be that gang case you are doing, huh?" She said, "No. It is that white-collar case." I said, "What?" And she said that there was—I think she was about 85 years old—a widow who was so angry because her husband, he had died, but he had invested his money, all their life savings with someone, and that guy then happened to go and spend all their money. He pretended he was religious, he was using the money to invest in religious things. And he ended up going down to Costa Rica for plastic surgery with all their money. And there were a number of victims in the case, and that 85-year-old woman was so angry and had said some threatening things about the victim, that is why those deputies were outside the door. And I remember that because it just hit to me how these white-collar cases for many good reasons—as you said, people's life savings down the drain—can have the kinds of emotions and difficulties for people, and we have to remember that. And as we look at these increasing white-collar cases, whether it is the Madoff case or any others that are coming through the system, we have to remember that.

I wondered, first of all, Ms. Leary, and then maybe Ms. Rex, you both have raised this issue, if you could talk a little bit about the kinds of programs you would want to see how we could address those kinds of needs of these victims of white-collar crimes.

Ms. LEARY. Thank you. We are very concerned about this, and, you know, currently under the regulations, the Federal regulations, the States have the ability to pay for financial counseling and mental health counseling for victims of financial crime through the compensation programs. But, you know, as I said in my testimony, they are very reluctant to expand that pool of eligible victims. The assistance programs could be developed for these victims, but there

is a tremendous amount of competition for the funds that are available. You can see even some people go "Oooh" when Mr. Perkins testified, because people are nervous about being able to preserve what we have now. And, in fact, there is a huge need. Victims of financial crime need a tremendous amount of guidance.

It is a complex world out there. The crooks are way ahead of law enforcement in terms of their sophistication, and so unraveling the damage that is done to your credit history, to your reputation, there may be warrants out for your arrest be somebody has misused your information, you know, restoring your fiscal stability is only one part of it.

People need those services. They need the mental health counseling. They need some very practical, hand-holding financial advice. They need connections to pro bono or low-cost consumer attorneys. People forget that it often requires litigation to get your life back on track, to ward off those creditors, to restore your financial well-being, get your credit history repaired, get those arrest warrants that are based on false information quashed.

People need legal assistance to do this, and particularly less sophisticated and perhaps older folks are just completely stunned by what confronts them. So they need those services, absolutely.

Senator KLOBUCHAR. Thank you.

Ms. Rex, do you want to add anything?

Ms. REX. I would just say that I do think, as an administrator of a compensation program, you know, that the face of crime changes with the decades. And I think we do need to look at as the pool of elders grows in Vermont and in this country, to look at what is happening to them. And our compensation program does provide the financial counseling, and we will do the mental health counseling. But I think we need to start looking at helping people with their living expenses if they do not have any money to live and making sure they get to stay in their home.

So I think those are some of the challenges we need to look at in the years to come.

Senator KLOBUCHAR. Thank you for appreciating that because, you know, we had one person that could not qualify for student loans because her ID was stolen 4 years before. She did not think much of it. She just got a new one. And then she had racked up 14 prostitution convictions, which, of course, was not her, and she could not get any student aid and was going to have to drop out of college. So there is this whole grouping of services that normal county attorneys or State attorneys' offices are not used to providing. And so we have to find some way to help these victims of identity theft and much more complicated crimes than that.

Thank you.

Chairman LEAHY. [Presiding.] Thank you. Thank you very much, Senator Klobuchar.

Senator Wyden.

Senator WYDEN. Thank you, Mr. Chairman. I want to commend you particularly for standing up for the rights of victims. We have had an excellent panel, and I am sorry that I have missed at least part of this. This is a hectic morning, even by Senate standards.

I strongly support the legislation involved here, the Victims of Crime Act. It is the bedrock of support for victims' services across

the country. And I think a number of you have made some good suggestions with respect to updating the law.

My first question is directed to you, Mr. Derene, because I think you have laid out particularly some of the issues with respect to the cap on payments from the fund that was established in the legislation. As you noted in your testimony, in 2000 Congress put the cap on. It was designed to deal with fluctuations in the deposits into the fund. And I think it would be helpful if you could describe to the Committee what the negative consequences are because there is this cap.

Mr. DERENE. Thank you. I think the problem with the cap is that the formula for distributing the fund according to the statute—and we just went through part of the problem—is kind of complicated. But the bottom line is that the amount available for State assistance programs, many of the ones that we have been talking about here, is sort of at the bottom of the food chain. So unless the cap is set at a sufficient level, the amounts that go for other programs increase, or if the cap is lowered, the amounts available for States decline. And it is a simple matter of the operation of the formula in the statute.

So what we have seen is that while deposits have actually increased, the amount available for State programs has declined. And, in fact, you may have gotten letters from constituents why if the cap is raised, the programs are still getting cut. And part of it is because of that formula.

As a result of those cuts—as I mentioned, between 2006 and 2008, there has been a cut of $87 million, or 22 percent—State programs at the State level try to buffer those cuts. But at some point in time, we pay the piper. The loss of money is seen, and we have just seen that in a recent report by the Office for Victims of Crime where in 2008 the number of victims served by this program nationally was actually reduced by over 336,000 victims.

Senator WYDEN. Why would this be the right time to raise the cap? You know, obviously, when you are talking about this, you are always in a balancing act. You have got to ensure the stability of the fund. All of you are interested in that, and I think at the same time, we understand there are a number of critical services for victims that need to be addressed.

So if someone asked you who was skeptical of this, you know, why should we do it right now, what would be your answer?

Mr. DERENE. Of course, I think it is always the right time to raise the gap. And I would simply point out that under the statute, if there had not been a cap, all of this money that we are talking about, about $2 billion that we are talking about that has been retained in the fund, would already have been out serving victims. And as was mentioned before, you cannot delay services to victims. If a woman needs shelter, she needs shelter now. She does not need it, you know, in 6 months or when the cap is raised. So I always think there is a need

I did a survey of State administrators and simply said, "What is the gap between the amount of funds that you have been asked to award and how much you had available? And nationally that was over $100 million.

Senator WYDEN. How would you prioritize the services that could be offered if the cap was raised?

Mr. DERENE. Well, I think the first—very honestly, I think the first need now is to restore what has been cut. We have had programs that have shut their doors, staffs that have been laid off, so we are really looking at trying to get back to where we were, and I think there is a host of needs there for shelter. The National Network to End Domestic Violence does an annual census, and they reported, I believe, on one day some 9,000 requests for services have been denied because of lack of funding.

So there are immediate needs for counseling, for shelter, for emergency support that I think would be the first priority among States if they were able to get more funds.

Senator WYDEN. I have not meant to ignore the other four very valuable witnesses. Would any of you like to add a comment both with respect to the question of raising the cap and the priorities for services if the cap was raised?

Ms. LEARY. Thank you, Senator. I would like to just add that not only is there a need for additional VOCA funding to release more of those funds, but we need to have steady, predictable increases in funding, because, you know, it is kind of like your family budget. If you know how much you are going to make that year, then you may not like it, but you can decide what to do with it. And it is the same thing with victims' services. You need to have a steady increase, a predictable increase, so that you can ensure the continuity of staff, ensure the continuity of services. Victims can rely on you. They know 6 months from now you will still be doing whatever the service is that they need. And, in addition, victim service providers can focus on their mission, which is serving victims of crime, and not be distracted and totally preoccupied all the time with raising money and worrying about laying your staff off and so on. That predictability is equally important.

Ms. REX. I would echo what Mary Lou just said, but I would also say that one of the things we have been able to do in Vermont is to use the VOCA funds to leverage other funding. So when I get new VOCA funds, I am able to pilot a new program that is serving, you know, some crime victims that are currently not being served. And after a couple years, if I can show good results, it is really valuable for me to bring to the State legislature and say, look, you need to invest in this program, too.

So I think that is another reason why we really need to give States a steady increase each year so that we can do these kind of innovative programs.

Senator WYDEN. I went to school on a basketball scholarship, and they always said you should take one shot to close on. And sometimes it would take me a long, long time to get that shot to wrap up. But I think your comment really summed it up and why Chairman Leahy's hearing is so important.

If you look back at the history of this legislation, when the Victims of Crime Act was passed, there was not a whole lot at the State level. There certainly was not a lot of State initiative in this area, programs and funding and the like. And as a result of this legislation, just as you have suggested, when there is attention at the Federal level, when there is attention on the rights of victims,

it does spread fairly quickly to the State level, and we see interest among nonprofits and service organizations. So there are many reasons why we should bolster this act now as we look back on 25 years particularly of the work you all and others have done at protecting and supporting victims.

But one of the most important is when there is Federal leadership. Just as you suggest, it does spread to the State level, to nonprofits, to organizations outside Washington, D.C. So your point is one to quit on.

Mr. Chairman, thank you. Thank you for your leadership on this issue, and as I have told you before, it is a pleasure to serve on the Senate Judiciary Committee.

Chairman LEAHY. Well, we have got a chance to do things that so many of us agree with, and I know this is an area where you have been a strong supporter, and I appreciate that.

With that, we will stand in recess.

[Whereupon, at 11:19 a.m., the Committee was adjourned.]

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

QUESTIONS AND ANSWERS

May 16, 2009

Hon. Patrick Leahy
Chair, Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

Dear Senator Leahy:

Thank you for conducting the April 28, 2009 hearing on "The Victims of Crime Act: 25 Years of Protecting and Supporting Victims." It was an honor and privilege to be invited to present information on VOCA to the Committee.

Enclosed are my responses to the written questions from Committee members.

We are greatly appreciative of your long-standing support of the Victims of Crime Act and for you efforts on behalf of crime victims.

Sincerely,

Steve Derene
Executive Director

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Questions for Steve Derene from Senator Arlen Specter

1. Mr. Derene, in your testimony, you state that "We are aware of the request made to appropriators that the 2010 VOCA cap be set to a minimum of $705 million. That level of funding would maintain the expected 2009 state assistance grants (2009 appropriations plus the one-time Recovery Act)." **Considering that the stimulus package is meant to be an emergency supplemental, do you think it is appropriate to plan future funding based on it?**

   Response: The amount of the 2010 VOCA cap request was actually determined prior to and independent of the Recovery Act. It was based on a calculation of what the VOCA cap would have to be in order to restore state VOCA assistance grants to the amount of the 2006 grants, plus inflation, and, as I also explained in my testimony, to begin addressing the need for additional victim services.

   While I felt it was necessary for my testimony to acknowledge that state VOCA assistance grants would receive an additional $47.5 million as a result of the Recovery Act, the $705 million VOCA cap request would have been the same even if there had been no additional one-time Recovery Act funding.

   I believe the inclusion of funding for victim services as part of the stimulus bill was based on Congress' justifiable concern that the economic downturn is resulting in an increase in victimization, particularly domestic violence, and a concurrent loss of jobs in the victim service field as a result of the decrease in federal and local funding. A census conducted by the National Network to End Domestic Violence found that on just one day in 2008, there were 8,927 unmet requests for services because of inadequate funding and staffing. Victim service agencies report significant job loss and reductions because of the 22 percent reduction in funding for VOCA victim assistance grants since 2006 and in other public and private funding streams. For example, according to the Pennsylvania Commission on Crime and Delinquency, because of funding cuts, 20 percent of Pennsylvania's victim service programs had waiting lists, 16.5 percent discontinued programs, 22 percent imposed hiring freezes, 31 percent decreased or eliminated staff and 13.7 percent implemented layoffs.

   I would also add that based on my analysis of recent Fund deposits and negotiated settlements in major criminal cases already announced by the Department of Justice, we can be assured that significantly higher caps can be sustained without jeopardizing the Fund's viability.

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2. Mr. Derene, in your testimony, you state that the "problem comes about because according to the statutory formula that allocates each year's VOCA cap, the amount available to support state victim assistance programs depends on how much is left over after all the other VOCA program areas are funded." **Considering this, do you think that Congress should mandate that funding be allocating based on consistent percentages, so that victims of crimes don't always bear the burdens of bad years?**

   Response: I agree that there are other ways to allocate the annual VOCA cap and, indeed, since VOCA was enacted 25 years ago, Congress has made several changes in the allocation formula. One such alternative method was proposed by Sen. Leahy and enacted as part of the USA PATRIOT Act in 2001. However, that provision was repealed in an appropriations bill merely two months after enactment and was never implemented. Changing the allocation method would obviously impact the other VOCA funded program areas, such as state crime victim compensation grants, and should be carefully studied. Another possible approach would be to set in statute a minimum annual cap that assures adequate funding for all VOCA funded program areas without jeopardizing the Crime Victims Fund viability.

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Follow-up Questions of Senator Tom Coburn, M.D.
"The Victims of Crime Act: 25 Years of Protecting and Supporting Victims"
United States Senate Committee on the Judiciary
April 28, 2009

Questions for Mr. Derene

1. The Crime Victims Fund provides financial support to several different programs.

   a. How often are programs added to the permissible uses of the Fund?
      Response: Congress has occasionally authorized additional uses of the Fund. Shortly after VOCA was enacted in 1984, Congress added funding under the Children's Justice Act to improve the investigation and prosecution of child abuse cases. In 1992, Congress designated a portion of the Fund for judicial branch administrative costs to receive and collect fines and restitution, but repealed that funding in 1997. Later on, several appropriations bills added funding for U.S. Attorneys' victim/witness coordinators (2000), FBI victim assistance specialists (2001), and the Federal Victim Notification System (2002). The DOJ/VAWA Reauthorization Act of 2006 authorized up to 3 percent of every OJP grant program, including VOCA, to fund the Office of Audit, Assessment and Management.

   b. Is it true that there are five programs that must be funded before any of the victim compensation and assistance grants are funded? If so, why?
      Response: Yes. The statute sets out the sequence by which annual VOCA funds are allocated, as follows: 1) Children's Justice Act grants; 2) U.S. Attorneys' victim/witness coordinators; 3) FBI victim assistance specialists; 4) Federal Victim Notification System; 5) OVC discretionary grants for nationwide training/technical assistance and services to victims of federal crimes. State compensation and state assistance formula grants are funded after these five programs.

   c. Does the priority of funding detract from the direct needs of victims that are otherwise met through the formula and discretionary grants?
      Response: Yes, unless the annual VOCA cap is set high enough, increases in funding for the other VOCA program areas reduces the amount otherwise available for state VOCA victim assistance formula grants and OVC discretionary grants.

   d. Why are the grants not the funding priority?
      Response: The funding priorities are set by statute. When VOCA was enacted in 1984, only state crime victim compensation and state victim assistance programs (with a portion reserved for assistance to victims of federal crimes) were authorized to be funded out of the Crime Victims Fund. As Congress added other programs, they adjusted the allocation formula by funding the additional programs before state crime victim compensation and state assistance formula grants. As noted, the problem is that, unless the cap is high enough, increases in the other program areas decrease the amount

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available for state assistance grants.

2. Do you feel that a cap on the Fund is necessary to protect it during times when receipts may not be enough to cover program funding?

   Response: Caps were imposed by Congress because of large fluctuations in annual Fund deposits in order to ensure stable funding for future services. In three years of the ten years since caps were imposed, annual deposits were less than the funding level. So, in that sense, the cap has been effective in minimizing the extent to which state assistance grants have fluctuated. However, had a cap not been imposed, the amount retained in and carried over in the Fund would have been used by state victim assistance programs to support services. Furthermore, the "rainy day" balance accumulated in the Fund has been more than enough to guard against the fluctuations Congress was originally concerned sot that he cap could have been set much higher without jeopardizing the stability of the Fund.

   a. Would caps even be necessary if additional programs were not allowed beyond the victim compensation and assistance grants?

      Response: An average of 15 percent of each year's VOCA cap is used to fund programs other than the state compensation and assistance formula grants. Had they not been used for the specified purposes, those funds would have increased the amount available for state assistance grants. (State compensation grants are based on state-funded compensation benefits and have not been affected by the other VOCA programs.) However, since Congress imposed caps to ensure Fund stability, caps would have been imposed regardless of the existence of the additional programs.

   b. I know the cap is set during the appropriations process. Do you feel that the cap is arbitrary each year, or that it effectively protects the fund from running out of needed money?

      Response: I cannot explain the basis that Congress uses to establish each year's cap. It appears that Congress has maintained or increased the cap, except for 2008 when they cap was subject to an across-the-board reduction.

      Prior to 2000, the entire amount deposited in the Fund each year was distributed the next year, in which case the Fund "ran out of money" every year, but was then replenished by deposits. By delaying a portion of the Fund and leaving a balance, the cap does, in a sense, protect the Fund from running out of money.

   c. Can the Fund operate effectively without caps as it did from 1994-2000?

      Response: Yes, state VOCA victim assistance agencies can effectively manage their annual grants with or without caps, in part, because states have up to four years to spend each grant. The ability to manage the grants was ably demonstrated when, without any advance notice, state assistance grants tripled in 1997; when the project period ended, virtually the entire amount of grant funds have been properly obligated and expended. Thus, while the cap may be one way to help "manage" annual funding levels, the Fund can operate effectively without caps. Key factors in assuring effective management of state assistance grants is having growth in and predictability

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of future funding levels.

3. Do you believe that Congress should be able to use the "rainy day" fund as an offset for other federal spending, thus leaving a zero balance in that fund?
   Response: As long as the amounts not made available for victim services remain in the Fund for future victim services, we do not have a position on the use of the "rainy day" balance as an offset for other federal spending.

   a. If Congress does this, would that increase the risk that taxpayer funds would be used to replenish the Fund?
      Response: Annual deposits were less than the cap in three of the ten years since caps were imposed. Had there been no "rainy day" balance, Congress would either have had to reduce funding for victim services in those years or use taxpayer funds to make up the difference.

4. Does the Crime Victims Fund provide financial support for management and administration expenses within the Office of Justice Programs or any other Justice Department division?
   Response: Except for 2008, the Fund is not used for management and administrative expenses within the Office of Justice Programs (including the Office for Victims of Crime) or other DOJ units. In 2008, a total of $34 million was used from the Fund for OJP management and administrative expenses. However, the 2009 Omnibus Appropriations Act created a separate appropriation for those costs and specifically directed that such costs not be deducted from any OJP grant program, including VOCA.

   a. If so, does this reduce the amount of funds available for the victim compensation and assistance grants?
      Response: The use of the Fund in 2008 for OJP management costs reduced the amount available for state VOCA victim assistance grants but not for state crime victim compensation grants.

   b. Does the Fund provide money for the OJP Office of Audit, Assessment and Management (OAAM)? If so, why? How does it benefit crime victims?
      Response: The DOJ/VAWA Reauthorization Act of 2006 authorized up to three percent of all OJP grant programs to be reserved for OAAM. Amounts for this purpose were not taken from the Fund in 2006 or 2007. In 2008, $5.5 million for OAAM was deducted from the allocation for OVC discretionary grants. This reduced the amount available to support national scope training/technical assistance and services to victims of Federal crimes.

5. Does funding for the Anti-terrorism Emergency Reserve program reduce the available funds for other VOCA programs?
   Response: No, funds to replenish the Antiterrorism Emergency Reserve (AER) come from "above the cap," in order to not reduce amounts available for other VOCA victim service programs.

   a. Was this program set up to be a separate "above the cap" portion of the Fund for unanticipated assistance to victims of domestic or international terrorism? If so,

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why is it being funded "under the cap?"

Response: The Antiterrorism Emergency Reserve is not funded "under the cap." The previous Administration proposed funding the AER from under the cap, but Congress rejected that proposal. The original funds to establish the AER were derived from appropriations made in response to the terrorists' attacks on September 11, 2001. Because, by its nature as an "emergency" reserve, it is unknown from year to year how much may be needed to respond to incidents of international or domestic terrorism or mass violence. Had AER replenishments been under the cap, any amount allocated but not obligated would have unnecessarily reduced the amount otherwise available for state assistance grants. This was shown prior to the creation of the AER, when a previous Emergency Reserve (originally established to stabilize state grants, but gradually expanded to respond to terrorism/mass violence incidents), set aside Fund amounts that were not used.

6. Did the Fund receive federal funding via the 2009 Stimulus? If so, why? Isn't this Fund supposed to be self-sustaining and free from federal taxpayer funding?

   Response: $100 million was appropriated in the Recovery Act to be used for the same purposes authorized under VOCA for state crime victim compensation grants, state victim assistance grants and OVC discretionary grants. However, it is my understanding that Recovery Act funds are not being deposited into the Crime Victims Fund and must be treated as a completely separate funding stream.

   I believe the inclusion of funding for victim services as part of the stimulus bill was based on Congress' justifiable concern that the economic downturn is resulting in an increase in victimization, particularly domestic violence and a concurrent loss of jobs in the victim service field as a result of the decrease in federal and local funding. For example, programs are reporting a significant increase in the need for shelter services. A census conducted by the National Network to End Domestic Violence found that on just one day in 2008, there were 8,927 unmet requests for services because of inadequate funding and staffing. Victim service agencies report significant job loss and reductions because of the 22 percent reduction in funding for VOCA victim assistance grants since 2006 and in other public and private sources of funding.

7. Mr. Derene, you indicated in your testimony that you were the author of two of the Attorney General's reports on VOCA in 1988 and 2005. Have there been any subsequent reports since 2005? If not, why not?

   Response: I would like to clarify that I researched and drafted the 1988 Attorney General's Report to Congress on the Victims of Crime Act. The 2005 report I referred to in my testimony was a special study commissioned by the Office for Victims of Crime on the Crime Victims Fund; it was not the biennial Report required by statute. The most recent "*OVC Report to the Nation 2007*" was published by the Office for Victims of Crime in October 2008 and is available online at: http://www.ovc.gov/welcovc/reporttonation2007/welcome.html.

   a. Could you provide more detail as to what was contained in your reports? For instance, did they note how much each grantee or sub-grantee received and how each used VOCA funds? If not, why not?

      Response: The 1988 Report to Congress contained a description and analysis

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of the first two years of VOCA state crime victim compensation grants and the first full year of VOCA victim assistance grants, as well as OVC's use of its discretionary grants. It contains information on the grant amount each state grantee received and aggregate information on victim assistance subgrantees. It does not contain individual information on each of the 1,498 subgrantees funded in FY 1986.

As noted, the 2005 report was not intended to be a comprehensive report on the uses of VOCA and thus did not contain detailed information on grantees or subgrantees. Rather, that report was an analysis of the Crime Victims Fund condition at that time, a projection of the Fund's sustainability, and recommendations to address Fund issues. I must note that, in hindsight, the Fund's future condition is much improved compared to the projections made in 2005.

b. Did you find that any of the grant recipients or other program funding was lost to waste, fraud or abuse? If so, did OVC work to correct those problems or withhold funding from the grantee until the problems were remedied? If not, why not?

Response: Neither of the reports on which I worked was intended to be program or compliance audits. The 1988 Report to Congress was mainly descriptive of the overall uses of VOCA funds, which, at the time, was a very new program. The 2005 report looked primarily at the amount and sources of deposits into the Fund and not an examination of the uses of those funds. Thus, it was not the purpose of either report to look for waste, fraud or abuse, nor was any found.

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VICTIMS OF CRIME HEARING
April 28, 2009

Questions for Ms. Rex from Senator Arlen Specter:

- Ms. Rex you testified that you knew what it was like before we passed VOCA and that, "In the early 80's, Vermont had four domestic violence shelters and two rape crisis programs. The entire state appropriation for these programs was $50,000 and the state allocation for the domestic violence shelter where I worked was $5,000 per year." **How in the world did your domestic violence shelters and rape crisis programs survive on such paltry sums?**

  At that time because there was so little state support, we were able to secure grants from private foundations. I recall funding from the Turrell Fund, the Agnes Lindsey Trust Fund and the Public Welfare Foundation. We only had two paid staff positions so we were heavily dependent on volunteers to help us provide services to abused women and children. It was very challenging!

- Ms. Rex you indicate that in 2000, "when there was an increase to the VOCA cap, Vermont was able to establish a Victim Services Program within the Department of Corrections that is now fully funded with state funds." **I understand from your testimony that the Program no longer relies on federal funding but can you describe what the Victim Services Program within the Department of Corrections actually does? Does it support convicts or their victims?**

  The program does support crime victims. They contact victims prior to the release of an offender from prison and address issues of safety planning. This can involve helping the victim relocate if necessary, installing a security system or getting an order of protection. The Victim Service Specialist works very closely with our Compensation Program which will pay for relocation or a security system. They also hook the victim up with other support services such as support groups or 24-hour hotlines.

  They also provide the victim with as much information as they can on the offender – where s/he will live and/or work, what kind of supervision will the offender have, if any and who to contact if they experience any problems.

  We have found that this is a critical service for victims, especially victims of very violent crimes like Sue Russell, which is why the state was so willing to pick up the cost of this program.

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SUBMISSIONS FOR THE RECORD

April 24, 2009

United States Senate
Committee on the Judiciary
Washington, DC 20510-6275

To the Honorable Chairman Leahy and Members of the Senate Committee on the Judiciary:

The Arizona Coalition Against Domestic Violence (AzCADV) is a statewide, membership organization whose mission is to lead, to advocate, to educate, to collaborate, to end domestic violence in Arizona. We do this by providing training and technical assistance to the network of domestic violence service providers throughout the state, by working to improve the systems response to domestic violence through advocacy, education, and enhanced collaborations, and through public awareness campaigns and efforts that bring light to fact that domestic violence is a public health and safety issue and that promote accountability for perpetrators of abuse.

In Arizona, the Victim of Crime Act and the Violence Against Women Act have enhanced our ability to provide services for victims of domestic violence and enhance accountability for offenders. Accountability has mainly focused on efforts in the criminal justice system, with training and programs through law enforcement, prosecution, probation and the courts as well as victim services. VOCA and VAWA programs have also supported victim advocates, training and technical assistance in the civil legal system, mainly through family court assistance and advocacy and support with orders of protection. Finally, an important component especially of VOCA has been the ability of victims to cover medical and other expenses associated with being a victim of crime through restitution and compensation programs.

The Never Again Foundation believes that a piece of the accountability chain is missing – the availability of victims of domestic violence to pursue justice through the civil legal system. The civil legal system gives victims an opportunity to tell their side of the story in a way that the criminal justice system does not. With judgments made against the perpetrator of the abuse that are bound often by weak sentencing guidelines, victims can feel like justice was not afforded and that abusers receive nothing more than the proverbial slap on the wrist. If the abuser is someone of means, they go back to their lives, never really being impacted or held accountable for the destruction they have caused to a victim.

AzCADV supports the Never Again Foundation and the work they are doing to help survivors of domestic violence hold perpetrators accountable and create real consequences for the abuse perpetrated over time. Furthermore, when abusers are truly held accountable by the court system, a message is sent, and not just to the abuser, but to the community and citizens at large, that domestic violence will not be tolerated and that there are real consequences for committing domestic violence. We feel that there should be opportunities for organizations like the Never Again Foundation to receive support through VAWA and VOCA to help more victims find justice and would appreciate the opportunity to assist in efforts that would make this possible.

Sincerely,

Allie Bones

Allie Bones, MSW
Executive Director

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Testimony of

Steve Derene
Executive Director
National Association of VOCA Assistance Administrators

Before the

Senate Committee on the Judiciary

"The Victims of Crime Act: 25 Years of Protecting and Supporting Victims"

April 28, 2009

Thank you, Mr. Chairman, Ranking Member Specter and members of the Committee. My name is Steve Derene and I am the Executive Director of the National Association of VOCA Assistance Administrators (NAVAA). NAVAA represents the state agencies that receives and administers VOCA victim assistance formula grants in every state and territory and who thus manage the greatest portion of Crime Victims Fund monies every year. Prior to that, I was the VOCA Administrator for the State of Wisconsin and have served at various times as a consultant to the Office for Victims of Crime, including preparation of the first Attorney General's "Report to Congress" on VOCA in 1988 and in 2005, at OVC's request, I prepared a report that examined the condition of the Crime Victims Fund, trends in Fund deposits, and recommendations for addressing future Fund-related issues.[1]

It is fitting to be holding this hearing during National Crime Victims' Rights Week, which is commemorating the 25th anniversary of the enactment of the Victims of Crime Act (VOCA). Thanks to your support, Mr. Chairman, and that of Senators Specter, Kyl and the other Committee members, VOCA is able to provide critical resources that help some 4 million victims of all types of crime every year though more than 4,300 state and local domestic violence shelters, rape crisis centers, child abuse treatment programs, criminal justice based victim advocates, court appointed special advocates, peer support groups, such as Parents of Murdered Children and Mothers Against Drunk Driving.

One of the hallmarks of this landmark legislation has been its widespread bipartisan support. I think it is significant that VOCA's original enactment 25 years ago was spearheaded by the chairs of the Judiciary Committees in both chambers – on the Senate side by Senator Strom Thurmond, and on the House side, by Rep. Peter Rodino. I can't think of two more distinguished people serving in those days who were further apart on the ideological spectrum, but who came together in agreement on the need to recognize our government's basic obligations to crime victims. I think it's also appropriate to note and acknowledge that of the 57 original cosponsors, eleven are still serving in Congress, including Senator Grassley as well as then-Representatives Mikulski and Boxer. Senator Specter made significant contributions to the legislation as it wound its way through Congress. And, of course, another original Senate cosponsor, then-Senator Joseph Biden has gone on to hold another office. The significance of

[1] Derene, Steve. March 2005. *Crime Victims Fund Report: Past, Present, and Future.* Washington, DC

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this broad, bipartisan support of VOCA from its inception until today has been greatly appreciated by everyone in our field and throughout the victim advocacy, criminal justice and allied professions and is, I believe, greatly responsible for its success.

I would also like to take this opportunity to acknowledge the contributions and leadership of those in the Department of Justice, primarily through the Office of Justice Programs and Office for Victims of Crime, who administer this program and who have nurtured what was then a new, emerging field and is today an established, respected profession.

As you know, an essential feature of VOCA was its creation of the Crime Victims Fund as a separate, self-sufficient account dedicated exclusively to provide the financial resources to support crime victim compensation and victim assistance programs. All revenues into the Fund are derived, not from tax dollars, but from fines, special assessments and other penalties paid by Federal criminal offenders. Thus, we would also like to acknowledge the Justice Department's Criminal and Antitrust Divisions and the U.S. Attorney's Offices throughout the nation who, as a byproduct of carrying out their primary mission to ensure that our nation's laws are enforced, generate the revenues that go into the Crime Victims Fund and then back into our communities in the form of vital victim services. Without them, and those in the Financial Litigation Units who are responsible for actually collecting criminal fines (and restitution), there would be no money in the Crime Victims Fund.

Having witnessed the role that VOCA has played over the span of the past 25 years, I can, and will, testify to the importance of the financial resources provided by the Crime Victims Fund. But VOCA has represented more than just another funding stream. VOCA's enactment was a critical catalyst in bringing awareness and support of victim services throughout our nation. In 1984, only 36 or so states had crime victim compensation programs; today every state has one. In 1984, many states provided scant, if any, substantive rights or funding for victim services. Today, there are some 30,000 or more victims' rights laws on the books and a host of state funding mechanisms in addition to VOCA.

VOCA's importance, I believe, is also underscored by the wide range of organizations that have rallied to support VOCA. Primarily in response to the efforts over the past several years to rescind the Crime Victims Fund, more than 40 groups and organizations, mostly victim advocacy and criminal justice organizations, but others as well, such as the National Grange and the U.S. Conference of Catholic Bishops are officially on record supporting VOCA. I believe this is an accurate indication of VOCA's significance.

Indeed, it may be VOCA's success that brings us to the immediate challenge facing VOCA and those providing crime victim services. During its first year, deposits into the Crime Victims Fund totaled $68 million dollars. In 2007, deposits exceeded $1 billion and over the course of the Fund's existence, nearly $10 billion – all from the collections of criminal fines and penalties, rather than taxpayers – has been deposited into the Fund.

Up until 2000, under the statute, VOCA was treated as mandatory spending so that whatever was deposited into the Fund in one year was distributed according to the statutory formula the following year. When Fund deposits began to fluctuate, Congress, in 2000, began delaying "or capping" significant portions of the Fund for the express purpose of ensuring a stable funding

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source to support future victim services and thereby creating a "rainy day" balance that is carried over from year to year. This balance has been needed and used about one-third of the time since then to make up the difference between annual Fund deposits and the funding level set by Congress. In that sense, the cap has achieved its purpose of providing some overall stability. But we should also be clear that had it not been for the cap, under the authorizing statute the amounts retained in the Fund would—and perhaps should—already have been distributed to the field supporting victim assistance services.

However, as the saying goes, the devil is in the details. The overall VOCA cap is used to fund a variety of programs, including services provided by the U.S. Attorneys' Offices, FBI, the Federal Victim Notification System, grants to states to improve the investigation and prosecution of child abuse cases, discretionary grants for training and technical assistance and services to victims of Federal crimes and formula grants for state crime victim compensation and victim assistance programs.

The problem comes about because according to the statutory formula that allocates each year's VOCA cap, the amount available to support state victim assistance programs depends on how much is left over after all the other VOCA program areas are funded. Thus, unless the cap is set high enough, the amount available for state assistance programs is reduced as the amount going to other authorized program areas increase or is used for other purposes not expressly authorized under the statute, such as DOJ administrative costs. And if the cap is actually lowered, as happened in 2008, the impact of that reduction is felt almost entirely by state assistance programs. In other words, state assistance programs are at the bottom of the VOCA food chain.

So, despite the fact that deposits into the Crime Victims Fund have skyrocketed, support for state assistance programs has declined. From 2006 until 2008, as Fund balances grew by about 53 percent—from about the $1.3 billion to $2 billion, grants to state assistance programs were *cut* by 22 percent ($87 million).

State VOCA assistance administrators attempt to responsibly manage these reductions as best they can to minimize the impact on victim services. Here are some state-specific consequences of insufficient funding as reported by state VOCA assistance administrators:

- Because of funding cuts in Pennsylvania, 20 percent of programs have waiting lists; 16.5 percent have discontinued programs; 22 percent imposed hiring freezes; 31 percent have decreased or eliminated staff and 13.7 percent implemented layoffs.
- An Arizona sexual assault counseling service reported a five month waiting period.
- Administrators anticipated having to reduce annual victim assistance subgrants by:
  - 8 percent in Washington State;
  - 26 percent in Kansas;
  - 27 percent in Pennsylvania;
  - 16 percent in Iowa;
  - 11 percent in Oregon; and
  - 17 percent in Wisconsin.
- Continued cuts in Minnesota's VOCA assistance grants meant the loss of the equivalent of five programs, eliminating services in five counties.

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- Since FY 2005, the number of Iowa victim service programs has decreased from 88 to 74.
- Massachusetts expects an across-the-board cut of 27 percent, reducing the number of funded programs from 90 to 65.
- All states fear the loss of dedicated, experienced, and well-trained victim advocates because of the inability to pay a decent wage. The average annual salary for a victim service professional in South Carolina is $18,000-$24,000.
- Oregon cut the number of victim advocate positions funded under its competitive VOCA projects from 18 FTEs to 4 FTEs.
- Wyoming was unable to fund programs, such as Sexual Assault Nurse Examiners, Sexual Assault Response Teams and Child Advocacy Centers, that provide specialized crime victim services.

To put this in some context: From 2006 to 2008, deposits into the Crime Victims Fund totaled $2.5 billion, while at the same time, state assistance grants were cut by 22 percent—from $396 million down to $309 million.

And we have now seen the cumulative impact of these funding cuts: according to the OVC data, the number of crime victims served by VOCA in 2008 declined by more than 336,000 compared to 2007.

It is especially difficult to explain to crime victims who need these often-life saving programs and the advocates who serve them that programs must reduce services, fire staff or close their doors while revenues dedicated solely to support victim services reach historic levels.

Thanks to the leadership you, Mr. Chairman, and Senator Crapo, have shown in advocating for larger VOCA caps, and to the efforts of Senators Mikulski and Shelby on the Appropriations Committee, the 2009 budget took important steps to restore VOCA funding to the 2006 amount. That goal was achieved when again, Mr. Chairman, you, Senators Mikulski and Shelby joined up to secure an additional $100 million in the Recovery Act for VOCA, of which, $47.5 million will be used for state assistance programs. We are very grateful that the 2009 budget together with Recovery Act funds will return state assistance grants back to where they were in 2006, adjusted for inflation.

But, as you have heard and will continue to hear, we need to do more. As a rough indicator of how much more, I surveyed state VOCA administrators to ask them how much more VOCA funds their states need. As a conservative measure, I asked them to tell me the difference between the amount of VOCA funding they had available and the amount of funding requests they received. (This is a minimal amount because many states, in order to support as many programs as possible, instruct programs how much they may request.) On a national basis, the gap between funding requests and funds available is approximately $106 million. But that amount wouldn't even begin to meet all the needs of all victims of all types of crimes.

We are aware of the request made to appropriators that the 2010 VOCA cap be set to a minimum of $705 million. That level of funding would maintain the expected 2009 state assistance grants (2009 appropriations plus the one-time Recovery Act) and provide only one-quarter ($26 million) of the estimated amount needed to fulfill funding requests.

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In light of projected Crime Victim Fund deposits, we believe this is a very modest funding request and one which can be safely expanded upon in the coming years. We know, for instance, that so far in 2009 the Department of Justice has publicly announced agreements in major criminal cases that will bring in an additional $2.1 billion (because extremely large criminal fines are often paid in installments, these deposits into the Fund are likely to be paid in installments spread out over the next five to six years). In other words, there will be more than enough offender-generated revenues going into the Fund over the next several years to permit Congress to ensure a constant increase in the annual VOCA cap without jeopardizing the Crime Victim Fund's solvency or long-term sustainability.

There are two final points I would like to make. First, next to obtaining a funding level necessary to meet crime victims' needs, I think the most important factors, from a state administrator's point of view, are the sustainability and predictability of funding. The fluctuations in annual funding levels have meant that many states try to minimize program reductions by reserving a portion of their funds for use in years when grants decline. VOCA has always had a primary focus on sustaining existing services to crime victims, so that support for new or expanded services becomes even more challenging during period of declining funding. By being able to forecast funding amounts for several upcoming years, state administrators will be better able to plan for the most effective use of these funds to meet the increasing need of crime victims, to identify and reach out to previously underserved victim populations and provide local programs with the needed assurance that they will be able to continue providing these essential services.

Second, as VOCA grants for state crime victim compensation and assistance programs have increased, so has the designated administrative agencies' responsibilities to ensure that these funds are used appropriately, that subgrants are monitored and in compliance with federal and state requirements. During its first ten years, VOCA did not permit states to use its grant for any state administrative costs for grant management or related administrative costs. In 1994, the statute was amended to permit states to retain up to five percent of its formula grants for administrative purposes. In the meantime, OVC also allowed state assistance agencies to retain an additional one percent for training purposes. Unfortunately, as an unintended consequence of the 2006 DOJ Reauthorization Act, the amount available to state assistance agencies for combined administrative and training purposes was actually reduced by one percent—from a previous total of six percent for both administration and training purposes to now only five percent for both. As we look forward to finally restoring and hopefully increasing VOCA assistance grants, we should be mindful of the concomitant increase in the need for additional state administrative and training resources. Most other criminal justice and victim assistance formula grant programs permit administrative agencies to use up to ten percent for administrative purposes and I would strongly recommend that the VOCA statute for formula grants be amended likewise.

Again, I thank the Committee for its deep interest in and long commitment to advancing rights and services for crime victims.

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June 1, 2009

Honorable Patrick Leahy
Honorable Jeff Sessions
United States Senate
Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Leahy and Ranking Member Sessions:

The National Association of VOCA Assistance Administrators represents the 56 state agencies that administer the Victims of Crime Act (VOCA) state victim assistance formula grants. As such, our members are responsible for the management of hundreds of millions of dollars that are dedicated to support direct assistance services to victims of all types of crimes. Each year, state VOCA victim assistance funds provide critical help to some four million crime victims, including victims of domestic violence, sexual assault, child abuse, drunk driving, survivors of homicide victims and all other types of crimes.

Our Association and its members have worked very closely with the Office for Victims of Crimes which is a component of the Office of Justice Programs. In that capacity, NAVAA most heartily supports the confirmation of Laurie Robinson to be Assistant Attorney General for the Office of Justice Programs.

We have been proud to have known and worked with Ms. Robinson since her first tenure in this position. She has more than demonstrated her professional qualifications to once again provide vital Federal leadership and vision for our nation's criminal justice system. She has been especially attuned to the importance of providing support and assistance to crime victims, recognizing not only their critical role in the proper functioning of the criminal justice system, but our government's basic commitment that crime victims should be treated with fairness, dignity and respect. It is especially notable that Ms. Robinson always ensured that issues of importance to crime victims were thoroughly considered throughout the Office of Justice Programs.

We are especially pleased that Ms. Robinson recognizes that the success of OJP depends greatly upon the cooperation and collaboration of all components and interests involved in public safety programs and to establish partnerships with all constituencies at the Federal, State, local and tribal levels. Since returning to OJP, first as part of the transition team and as Acting Assistance Attorney General, Ms. Robinson has continued her practice initiated during her first tenure to actively reach out to and communicate with all OJP stakeholders, including representatives of crime victim organizations. She has convened numerous meetings that are truly "listening" sessions that she uses to solicit input and ideas in the formulation of effective, evidence-based programs and policies.

Of special interest to our Association, Ms. Robinson has been a strong and forceful defender of the Crime Victims Fund which provides the revenues to support VOCA-funded services to crime victims. Her support of the non-taxpayer financed Crime Victims Fund is especially notable in contrast to the attempts in recent years to entirely eliminate the Fund balances and transfer those amounts into the General Treasury, thereby depriving crime victims of the essential resources that Congress, for the past 25 years, dedicated solely for the use of crime victim services.

5702 Old Sauk Road, Madison, WI 53705 · Tel 608-233-2245 · Fax 815-301-8721 · www.navaa.org

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Hon. Patrick Leahy
Hon. Jeff Session
June 1, 2009
Page 2

We are confident that with Attorney General Holder and Laurie Robinson's leadership, we can look forward to working together to continue improving rights and services for crime victims.

We enthusiastically urge the Committee to recommend and the Senate to confirm Ms. Robinson's appointment as Assistant Attorney General for the Office of Justice Programs.

Sincerely,

Steve Derene
Executive Director

www.ArizonaSexualAssaultNetwork.org

24 April 2009

TO WHOM IT MAY CONCERN

Reference: Civil Legislation for Victims of Sexual Assault

Victims of sexual assault and abuse experience the most brutal and intimate form of violence. During this extremely difficult economic period, there are budget cuts happening in all divisions of the state government including: DPS, Department of Health, Department of Corrections, Law Enforcement, and so on. Currently only a small percentage of rapes are prosecuted, leaving the victim without any form of justice or closure.

- The rate of rape and sexual violence increased in the State of Arizona, and nationwide by 25% from 2005 to 2007 and continues to grow exponentially.

- There are no SANEs (Sexual Assault Nurse Examiners) in the two Arizona cities that have the highest rates of rape - Nogales and Flagstaff. During the last round of STOP proposals and grant awards from the Governor's Office/Division of Women, our coalition members tried to acquire funds for these essential services but these grants were not awarded. Instead the majority of the awards went to domestic violence.

- Soon, rape victims in Flagstaff may need to come to Phoenix for an exam, a two and a half hour drive after assaulted during which critical evidence is lost in the time lag.

- AzSAN did a conference in Nogales in November 2008. This border city has no SANEs and few or no rape cases are prosecuted. They have a high incident of sexual violence; they have rape trees where the "coyotes" rape women and hang their underwear on trees like trophies; and they have sex trafficking.

- One in every six women/girls and one in every twenty child will be sexually molested or abused during their lifetime in the United States.

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- Sex crimes are almost entirely prosecuted based on forensic exams and DNA. With crime labs closing all over Arizona, the current backlog to process DNA is a minimum of six months and by 2010 this could be over one year because only crime labs in Phoenix and Tucson will remain open.

The bottom line is that rape cases will not be prosecuted possibly resulting in more sexual assault in Arizona - especially if we become known as a state where the rapists do not end up in prison because there is no proof or evidence available for prosecution of the crime. This may already be true in Flagstaff and is definitely true in Nogales. Our coalition has reported this situation to the Governor's Office, Division for Women for over a year.

It is time we get tough on sexual assault cases in our state. Both the VAWA and the VOCA funds do not cover civil litigation in sexual assault cases, however holding perpetrators financially accountable is by far the best way for the victim to see justice completed and for the offender to understand the seriousness of this crime.

Rape is a felony and punishable by prison terms, GPS tracking, community notification, etc. However all these methods of punishment for this crime is prosecuted between the "people and the felon". The current economic situation in our country is proof that our public funds cannot afford to send to prison or track through the use of GPS all of these offenders.

A perpetrator needs to be accountable directly to the victim of rape or physical abuse, and this can only happen through the civil system. Federal legislation needs to change, and civil legislation should be the means to reach justice.

Thank you,

Elizabeth Houde
President & CEO
Arizona Sexual Assault Network

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Statement of

The Honorable Patrick Leahy

United States Senator
Vermont
April 28, 2009

Statement Of Senator Patrick Leahy (D-Vt.),
Chairman, Senate Committee On The Judiciary,
"The Victims Of Crime Act: 25 Years Of Protecting And Supporting Victims"
April 28, 2009

This past Sunday marked the start of National Crime Victims' Rights Week. Since 1981, here in Washington and in communities across the Nation, people have observed this week with candlelight vigils and public rallies to renew our commitment to crime victims and their families. It is vitally important that we recognize the needs of crime victims and their family members, and work together to promote victims' rights and services.

This year we also celebrate the 25th anniversary of the enactment of the Victims of Crime Act. I was honored to support the passage of the Victims of Crime Act of 1984 (VOCA), which has been the principal means by which the Federal Government has supported essential services for crime victims and their families. The Victims of Crime Act provides grants for direct services to victims, such as state crime victim compensation programs, emergency shelters, crisis intervention, counseling, and assistance in participating in the criminal justice system. All these services and our Federal contribution to state crime victim compensation programs do not cost Federal taxpayers one dime. These services are all funded from a reserve fund created from the
fines and penalties paid by Federal criminal offenders.

A number of us have worked hard over the years to protect the Crime Victims Fund. State victim compensation and assistance programs serve nearly four million crime victims each year, including victims of violent crime, domestic violence, sexual assault, child abuse, elder abuse, and drunk driving. The Crime Victims Fund makes these programs possible and has helped hundreds of thousands of victims of violent crime.

Several years ago, I worked to make sure that the Crime Victims Fund would be there in good times, and in bad. We made sure it had a "rainy day" capacity so that in lean years, victims and their advocates would not have to worry that the Crime Victims Fund would run out of money and they would be left stranded. More recently, an annual cap has been set on the level of funding to be spent from the fund in a given year. When this cap was established, and when President Bush then sought to empty the Crime Victims Fund of unexpended funds, I joined with Senator Crapo and others from both political parties to make sure that the Crime Victims Fund was preserved. These resources are appropriately

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set aside to assist victims of crime and their families. We have had to work hard to protect the Crime Victims Fund, and I have consistently supported raising the spending cap.

This hearing is particularly timely, because now more than ever it is important to protect the Fund and ensure that crime victims and victim service professionals have the resources they need. Crime typically rises during tough economic times. Crisis centers and hotlines are reporting an alarming increase in victimization nationwide. The rising unemployment rate means victims are less likely to have insurance to cover their crime-related expenses. The economic downturn has also resulted in limits on state government funding and significant decreases in private giving. The Crime Victims Fund is more important than ever. Working with Senators on both sides of the aisle, I hope that we are able to raise the cap this coming year in order to devote more than $700 million from the Crime Victims Fund to crime victims across the nation.

I want to commend Senator Mikulski, the Chairwoman of the Commerce, Justice, and Science Appropriations Subcommittee, and Senator Shelby, the Ranking Member, for working with the President to provide $100 million in the economic recovery package for crime victims. That additional funding is sorely needed right now until we can raise the cap for the coming year. I look forward to working with Senator Mikulski, Senator Crapo, and many other interested Senators on this initiative to provide increased funding for crime victims and their families in the years ahead. Again, I emphasize that it does not cost a dime of taxpayer funds but will come exclusively from Federal criminal fines and penalties.

Now is the time honor the spirit of National Crime Victims' Rights Week by raising the cap to support the most vulnerable Americans who need our help today. We should not allow those already victimized by crime to also become victims of our struggling economy.

I look forward to hearing from our witnesses, who bring important perspectives and experience on this subject. Two of our witnesses join us from Vermont. I want to welcome Susan Russell who travelled to Washington from Vermont to share her incredible story. Her courage and strength is an inspiration to us all. Also, Judy Rex, whom I have known for many years, is a leader for crime victims' rights in Vermont. I also want to welcome back to the Committee Mary Lou Leary, from the National Center for Victims of Crime, Steve Derene from the National Association of VOCA Assistance Administrators, and R. Keith Perkins from the Never Again Foundation.

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TESTIMONY OF MARY LOU LEARY
Executive Director, National Center for Victims of Crime

Before the
Committee on the Judiciary
United States Senate

April 28, 2009

"The Victims of Crime Act: 25 Years of Protecting and Supporting Victims"

Good morning, Chairman Leahy, ranking member Specter, and members of the Committee. Thank you for holding this hearing during National Crime Victims' Rights Week to bring focus to one of the nation's most successful programs: the Victims of Crime Act and the Crime Victims Fund it created.

My name is Mary Lou Leary, and I am the executive director of the National Center for Victims of Crime. For over twenty years the National Center has worked to ensure that victims have the rights and resources they need to recover and rebuild their lives after a crime. We help thousands of victims each year through our toll-free National Crime Victim Helpline. We provide advice and technical assistance to policy makers and victim service providers across the country. We work to raise public awareness of the impact of crime on victims and train thousands of professionals at national and regional conferences to help them address victims' needs more effectively.

We would like to thank the Committee for giving us the opportunity to speak to you this morning.

The Victims of Crime Act and VOCA Fund

Twenty-five years ago, Congress passed the Victims of Crime Act. Many members of this Committee were instrumental in its passage: Senator Leahy, Senator Grassley, Senator Specter, and Senator Hatch. This historic Act revolutionized the nation's response to crime victims. One of the principal features of that Act was the creation of a dedicated funding stream that used money from fines on federal criminals to support crime victim compensation and crime victim services nationwide: the Crime Victims Fund, also called the VOCA Fund.

Hundreds of millions of dollars are distributed from the VOCA Fund each year. The bulk of the funds is distributed to the states to support: (a) crime victim compensation programs, which pay many of crime victims' out-of-pocket expenses that directly result from the crime; and (b) crime victim assistance programs. VOCA assistance funding supports more than 4,400 state and local victim programs, including rape crisis centers,

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domestic violence shelters, victim assistants in law enforcement and prosecutor offices, and other direct services for victims of crime.

VOCA assistance dollars fund services that help victims in the immediate aftermath of crime, including accompaniment to hospitals for examination; hotline counseling; emergency food, clothing, shelter, and transportation; replacing or repairing broken locks; filing restraining orders; support groups; and more. VOCA money also funds assistance as victims move through the criminal justice system, including notification of court proceedings, transportation to court, help to complete a victim impact statement, notification about the release or escape of the offender, and assistance in seeking restitution.

Along with funding programs that serve victims, VOCA dollars support crime victim compensation, a critical resource when victims have no insurance, no workman's compensation, and no other assistance to meet out-of-pocket expenses related to the crime. The crime victim compensation program pays medical bills, counseling costs, crime scene cleanup, burial costs, and similar expenses. The VOCA Fund reimburses states for 60 percent of their compensation costs.

VOCA funds are essential to our national response to victims. More than 98 percent of our nonprofit victim service provider members tell us VOCA funds are "very important" and more than 90 percent of our system-based members—those serving in prosecutors' offices and law enforcement agencies—say the same.

Recent Developments

For the past several years, Congress has imposed a cap on the funds disbursed each year, in part to promote a steady and predictable level of funding. In recent years, as the balance has grown to approximately $1.9 billion, the cap has hovered around $625 million, and last year dropped to $590 million. As I reported to you in January, this reduction of funding, coupled with the current economic climate, was devastating to victim service programs. Most programs had already cut everything but staff, and were leaving positions unfilled, reducing staff hours, and even having to lay people off.

Programs were reaching fewer victims and providing fewer services to the victims they could reach. For example, with fewer victim assistants in the prosecutor's office, victims might receive notice about criminal justice proceedings but not help with their victim impact statements. Victims who might have been best served with individual counseling were limited to support groups. In many places victims were put on a long waiting list for counseling.

The National Census of Domestic Violence Services conducted last fall showed that in one day, nearly 9,000 victims were turned away from shelter, counseling, or other crucial services because local programs were unable to serve them. In most cases, this was directly due to lack of adequate staff.

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We reported this to you in January, and you responded by working to ensure that $100 million for crime victim compensation and assistance would be included in the stimulus package. We can't tell you how grateful we are.

In addition, the FY 09 appropriations package passed in February released $635 million from the VOCA Fund. The combination of the stimulus and general appropriation funding will restore victim funding to the levels it received in FY 06, before the recent reductions.

While the dollars haven't yet reached the front line service providers (grants to the states just went out last Friday), the relief is already being felt. That relief comes from eliminating much of the worry and uncertainty that kept victim service providers from concentrating on their missions—helping victims of crime. With the stimulus money, they might not have to cut any more staff this year. With the FY 09 funding, they can begin to restore services.

We thank you for all you've done to bring relief to crime victims.

The Need Continues

That relief was much-needed and well timed. But there is still much to be done.

Compensation assistance was helpful, but some states have told us they expect to disburse all their stimulus compensation money within a few weeks. The restoration of funding for victim services may take more victims off the waiting lists for counseling or shelter, but there are many more victims—adults and children—who are not being reached, who do not know that help is available. We see this every April, when post offices around the country display posters for National Crime Victims' Rights Week that include the number for our National Crime Victim Helpline. Calls always increase while those posters are displayed, from victims who say, "I had no idea who to call."

State and local programs tell us they need more funding for public awareness and outreach, so that victims in their communities know where to turn for help. And then those programs need funding to serve the new victims who come forward.

As we reported to you previously, the economic crisis is having a direct impact on victimization and the need for services. In many parts of the country, crime is up, and the violence involved in those crimes has increased. What's more, our Helpline has seen an increase in calls from fraud victims—people falling prey to "work at home" scams, secret shopper scams, investment scams, mortgage fraud, and construction fraud. Many of the victims who call us have lost almost everything and are at the end of their rope.

We received a call from a 70-year-old victim of a Ponzi scheme. In his case, an arrest had been made. The case involved more than 50 victims. He had no idea where to turn. He'd been completely wiped out financially, and saw no way forward for himself or the other victims. They had no hope of recovering their losses.

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Such victims are in desperate need of financial counseling to help identify their remaining assets and reorganize their finances where they can. Often time is of the essence. But they have nowhere to turn. They also need mental health counseling to overcome the stress and the shame of falling victim to these scams. But it is not available.

States have the ability, under federal regulations, to pay for financial and mental health counseling for victims of financial crime through their compensation programs, but they have been reluctant to expand their pool of eligible victims. Victim assistance programs could be developed for victims of financial crime, but so far there is too much competition for the limited funds available.

Our Helpline is also answering more calls from cyber-crime victims, who have often had their cell phone or email accounts hacked. There is no assistance for these victims. There is plenty of information raising awareness about the problem, but little practical help for victims.

We know that rural victims are suffering. In the past few years, as VOCA dollars declined, satellite offices for rape crisis centers and domestic violence services were closed. Programs that offered transportation to victims, or mobile services, cut those services. Programs need funding to reinstitute those efforts.

And too many victims of crime still have no services outside the criminal justice system, including: victims of assault or stalking where the perpetrator is not an intimate partner; victims of carjacking, murder, robbery, or home invasion; and more. Many victims never even reach the criminal justice system. We know that 49 percent of violent crime and 38 percent of property crime are never reported to the police.[1] And for many of the victims who report the crime, the perpetrator is never arrested or prosecuted.

Congress passed VOCA to address the consequences of victimization. Years of research and practice have demonstrated that money spent on victim assistance is money well spent. We know that without services, victims of crime are far more likely to develop substance abuse problems, suffer from mental illness including depression or posttraumatic stress disorder, become under- or unemployed, and even suffer higher health costs over their lifetime.

So there is a compelling need to release more money from the VOCA Fund.

Not only do we need additional VOCA funding, we need predictable, steady increases in victim funding. Whenever there is a dip in funding, or even when funds remain stagnant for a long period of time, programs lose seasoned staff—those with the knowledge and skills to provide the most effective and efficient services to victims.

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[1] Shannan M. Catalano and Michael Rand, "Criminal Victimization, 2006," (Washington, DC: Bureau of Justice Statistics, 2007), 5 http://www.ojp.usdoj.gov/bjs/pub/pdf/cv06.pdf (accessed April 27, 2009).

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Without predictable funding, victim services are reluctant to begin the targeted outreach to underserved victim populations: teens; immigrant victims; lesbian, gay, bisexual and transgendered (LGBT) victims; victims with disabilities; victims with mental illness; and others. Effective outreach to such groups requires the development of partnerships and the building of trust and awareness. For example, to reach teens, you need a working partnership with schools, the Boys and Girls Clubs, 4-H Clubs, or other youth-serving organizations. These are efforts that will not be undertaken if there is a danger they'll be curtailed after a year.

Predictable funding would also allow victim service providers to focus on their mission. As one of our members told us, "We expend an extraordinary amount of energy getting and keeping funding—energy that would be better placed in serving our communities."

Conclusion

Congress has the ability to provide this funding. As I mentioned, approximately $1.9 billion is currently in the VOCA Fund. Additional criminal fines totaling more than $2.7 billion have already been announced against corporate criminal defendants. Thus, additional moneys can be released from the VOCA Fund without compromising the longterm stability of that Fund.

Congress' creation of the VOCA Fund in 1984 fundamentally changed the way our nation responds to victims of crime. The Fund provides ongoing support for services and compensation programs that help victims rebuild their lives. Congress reaffirmed its commitment to victims earlier this year through the stimulus funding and restored appropriations levels. We urge you to tell victims of crime that you haven't forgotten them. You still hear their voices; you recognize their needs; and you will extend them a helping hand by raising the cap on the VOCA Fund.

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Senate Judiciary Testimony Outline

The Victim of Crime Act: 25 Years of Protecting and Supporting Victims
April 28, 2009

Mr. Chairman, ranking member Specter, and members of the committee: My name is Keith Perkins. I am the Founding Attorney and Executive Director of the Never Again Foundation Legal Services.

How grateful we all are for the tremendous good that the Victim's of Crime Act has done for so many.

My testimony today will comprise of three parts: Successes we have had in fulfilling the primary purposes of VOCA; challenges we have encountered with VOCA; and finally a suggestion to improve VOCA.

The purposes of VOCA are critically important which include: to provide emotional [healing] and "economic restabilization" for crime victims.

The Department of Justice confirms that the cost of crime is staggering – billions of dollars each year. There are only three parties that can bear this cost – 1) the criminals who cause it; 2) the victims of the crime; or 3) the rest of us in society. The criminal justice system is NOT designed to send the cost of crime back to the criminals. Only the civil justice system was designed to shift the cost of crime away from the victims and society, and send the bill back to those who cause the crime – back to the perpetrators.

However, crime victims have had difficulty gaining access civil justice. It is a matter of law firm economics. For most lawyers, it is simply is not financially worthwhile to help victims pursue civil justice against criminals.

To fill this void, during the past ten years in Arizona we have provided free, non profit legal representation to crime victims in civil law suits directly and only against the criminal perpetrators. We do not sue negligent third parties. We only sue the criminals. The results have been dynamic. Both crime victims and the public have been eager to finally have an opportunity to send the full cost of crime back to the criminals. We have now won over $170 million dollars in judgments – directly against criminals.

Of course we know that not all of this will be collectable. But we have actually collected over two million dollars directly from the criminals, 100% of which has been given to the crime victims to provide economic restabilization.

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However, for most crime victims, money is not the primary motivating factor. Rather, they desire to pursue civil remedies to obtain a greater sense of emotional healing that may not have been available in the criminal justice system, such as:

1) Regaining power, control, and decision making authority;
2) A full opportunity to tell their side of the story;
3) To hold the perpetrator personally accountable directly to them;
4) And to receive economic restabilization directly from the criminal

In other words, the civil system is specifically designed to provide healing and economic restabilization for crime victims – which are the primary goals of the Victim's of Crime Act.

Now for the problem: VOCA does not support civil actions by crime victims. I imagine the original intent was to ensure that sacred VOCA money could not be used by trial lawyers to sue negligent deep pockets.

However, in making such a broad prohibition, VOCA has unnecessarily restricted victims from their best opportunity to receive economic restabilization from the very person that all of us believe should be paying for it in the first place – the criminal. The result is that crime victims are left to rely only upon secondary sources, such as the government. This certainly was not the intent of VOCA.

On behalf of many victim service providers throughout Arizona, we ask that you please include within VOCA (and VAWA as well), a specific, narrow exception that would allow crime victims to obtain help to pursue civil remedies directly and only against criminally convicted perpetrators, with the help of non profit legal charities supported by VOCA.

By this single change, VOCA can be improved to increase access for victims of crime ***nationwide*** to a powerful, untapped renewable source of economic restabilization, hope, justice, and healing.

Thank You.

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Testimony of

Judith A. Rex
Executive Director
Vermont Center for Crime Victim Services

Before the

United States Senate Judiciary Committee

"The Victims of Crime Act: 25 Years of Protecting and Supporting Victims"

Tuesday, April 28, 2009

Good Morning. I want to thank Chairman Leahy and Ranking Member Specter for giving me this opportunity to speak before the Senate Judiciary Committee. It is an honor for me to appear here today as we celebrate the 25th anniversary of the Victims of Crime Act.

I have worked on behalf of victims of crime for over 25 years, and I remember what it was like before the Victims of Crime Act was enacted. In Vermont there were very few services and supports for crime victims. In the early 80's, Vermont had four domestic violence shelters and two rape crisis programs. The entire state appropriation for these programs was $50,000 and the state allocation for the domestic violence shelter where I worked was $5,000 per year.

The passage of the Victims of Crime Act in 1984 has had a tremendous impact on how crime victim services have evolved and expanded in this country -- and certainly in Vermont. When the Victims of Crime Act passed, then Governor Kunin earmarked the funding to establish rape crisis programs in every county in Vermont. As a result of the VOCA funding, Vermont was able to establish ten additional programs, ensuring that

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every victim of sexual assault in Vermont could access a 24-hour hotline and advocacy services.

In 1986, it was the Victims of Crime Act funding that helped Vermont established its Victim Assistance Program. These prosecutor-based Victim Advocates ensured that crime victims received information, notification of court hearings, and a variety of support services throughout the criminal justice process. This program has played a critical role in ensuring that Vermont's crime victims receive restitution for their crime-related losses, and, even more importantly, in empowering crime victims to address the court at sentencing to share the impact of the crime on their lives.

In 1990, Vermont finally established its Victims Compensation Program, and it was the federal VOCA match that convinced the Vermont legislature to fund this initiative. In 2000, when there was an increase to the VOCA cap, Vermont was able to establish a Victim Services Program within the Department of Corrections that is now fully funded with state funds. These advocates provide an array of services to crime victims to help prepare them for an offender's release from incarceration. Services for underserved populations were also established at this time. One example is our Deaf Victim Advocacy program, comprised of three Deaf victim advocates who provide education and advocacy services to the Deaf and hard of hearing communities throughout Vermont.

The most recent impact of VOCA was the inclusion of $100 million for crime victims in the American Recovery and Reinvestment Act. In January, I was faced with making cuts of up to 20% to victim services programs in Vermont due to declining state revenues. The impact of these cuts would have been significant for the small domestic violence programs, child advocacy centers, and supervised visitation programs operating in the most rural areas of Vermont. Some of these programs would have closed. But, as a result of the Recovery Act funding, I was able to level-fund all direct service programs serving crime victims in the 2010 state budget. This infusion of funding could not have happened at a more critical time, since we know that crime rates often increase during hard economic times.

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Despite all of these accomplishments, there is still much more to be done. In 2003, the Center for Crime Victim Services engaged in a lengthy strategic planning process. A number of gaps in services were identified, including the need for victim advocates in police departments, specialized services for people with disabilities who are victimized, and services for the elderly, a growing population that is particularly vulnerable to financial fraud and exploitation. However, because Vermont has not seen any significant increase in our VOCA allocation for the past eight years, little has been accomplished in these areas. In fact, in some years we have seen our allocation reduced, even though the number of crime victims needing services continues to grow.

I know that other states are also struggling with this same dilemma. I would urge this Committee to consider raising the VOCA cap to $705 million in the 2010 budget, so that we can begin to address some of these gaps in services. One important lesson we have learned over the last 25 years is that the sooner we are able to respond to a crime victim's trauma with supports and services, the sooner they are able to recover. As a society, we cannot afford to delay services to crime victims. The cost is too great.

In closing, I want to thank the Judiciary Committee, and especially Chairman Leahy, for all of the support you have given the victim service community over the last 25 years. I look forward to another 25 years of progress.

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Arizona Foundation for
LEGAL SERVICES
&EDUCATION

April 24, 2009

R. Keith Perkins, Esq.
Founding Attorney & Executive Director
The Never Again Foundation
PO Box 2483
Chandler, AZ 852244

Dear Mr. Perkins:

Thank you for giving our foundation the opportunity to send a letter of support with your testimony. The Committee on the Judiciary could not have chosen a more qualified person than yourself to speak at a hearing on "The Victims of Crime Act: 25 Years of Protecting and Supporting Victims." Your dedication and expertise in direct representation to victims and education to the public cannot be overstated.

My letter of support can only reinforce what I am certain you will say with greater clarity through years of your direct experience with victims. The sense of justice being restored is one of the strongest benefits for victims when they have access to the civil justice system. Punishment of the abuser only addresses the crimes they are being charged with against the victim. The civil justice system allows domestic violence victims an opportunity for retribution for all the harm/crimes that led to the charges and the lingering injustice that they deal with after the punishment is handed down to their abusers.

If VAWA and VOCA regulations could be modified to allow nonprofit legal service organizations funding for the provision of civil representation to victims of crime against the criminal perpetrators, the victim would no longer be shut out from access to civil justice. Also, the long-term costs often associated with domestic violence victims stabilizing themselves and their children, would be less often reliant on government assistance and placed where the responsibility belongs – on the abuser.

Again, thank you, Keith, for giving testimony and for all the work you continue to do in support of empowering victims and deterring future crimes through education & public awareness.

In service,

Kevin S. Ruegg, Ph.D

Dr. Kevin S. Ruegg
CEO/Executive Director

4201 N. 24th Street, Suite 210 Phoenix, AZ 85016-6288
Phone: 602.340.7356 * www.AZFLSE.org

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The Victims of Crime Act: 25 Years of Protecting and Supporting Victims
United States Senate Judiciary Committee
Tuesday April 28, 2009
Susan S. Russell

Good Day,

I would like to thank Chairman Leahy and Ranking Member Specter for inviting me here today to testify on behalf of victims. Indeed it is quite an honor and privilege to be here today to provide testimony on The Victims of Crime Act. While I have over a decade of experience working within victim services the most significant experience I bring before you today is as a survivor of violent crime.

Seventeen years ago, a man who resided in the same small rural community as I kidnapped, raped and nearly killed me. This man slashed 2 of my car tires and then followed me. It is highly likely that he had been stalking me for some time as several years after my assault, I learned that he had broken into my husband's truck prior to my assault and had stolen identifying information. This man held no regard for life as after begging and pleading for my life he fractured my skull in three places with a tire iron, broke several facial bones and left me to die in a remote wilderness area. I can recall gaining consciousness hours later, cold, shivering, naked and in intense pain. I recall touching my head and feeling something sharp and protruding. As a trained Emergency Medical Technician, I knew that I was in serious trouble and needed help. Somehow, I managed to stumble through the woods a tenth of a mile where there were five teenagers camped. They managed to keep me warm and awake and two of them hiked three miles to the nearest phone.

I was taken to a near-by hospital where they stabilized my injuries and prepared me to be sent to another hospital that specialized in traumatic brain injuries. While in the emergency room of the first hospital, I was met by a young and caring detective who gathered information which led to the apprehension of my assailant four days later.

Upon arrival at the emergency room of the second hospital, I had a team of nurses and doctors working to prepare me for surgery. During this time my husband was brought in, and he immediately passed out and was escorted out of the emergency room. However, after he recovered he was met by a rape crisis advocate who provided

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him with information and a supportive ear. During my three week stay in the hospital, the rape crisis advocate came several times to talk and/or listen. And after I returned home I was able to call the rape crisis hotline any time day or night. Rape crisis centers which provide a host of victim services such as this one are funded with VOCA funds.

At the time of my assault I worked as a hiking/canoeing guide. I subsequently lost my job and had no income. It took me many months – really many years – to recuperate physically, and part of my recover hinged on physical therapy- something not covered by my medical insurance. The medical bills alone even with health insurance reached over $30,000. Another VOCA funded service which I benefited from is the Victims Compensation Program. Vermont's Victim Compensation will allocate $10,000 per victim for things such as medical costs including physical therapy and counseling. These are two of the services I so desperately needed and would not have had access to if it were not for VOCA.

Soon after my assault I was contacted by the State's Attorney Victim Advocate and we found ourselves having to go through the criminal justice system. Again due to VOCA funds we were able to have a victim advocate help us navigate the criminal justice system. I am quite certain I would never have survived the criminal justice system without the information and support provided by the victim advocate. Fortunately for all of us, due to having a way to be involved and informed a plea agreement was met and the offender was convicted and sentenced to 25-35 years. However, in approximately five years he will be released in Vermont having maxed out his sentence for a total time served of 23 years. He will be released, untreated and unsupervised-his only requirement will be to register with the Vermont Sex Offender Registry.

In closing, I would like to state that had I not had these VOCA funding services I would not be here today. I'd also like to add that these services helped my husband and I remain together as next month we will celebrate our 26 wedding anniversary. There is no doubt in my mind that without VOCA funding services I would not have been able rebuild my life and recover in a manner that moved me from a victim to a survivor. Thank you again for inviting me here to share my story.

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