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CRIME VICTIMS FUND RESCISSION: REAL SAVINGS OR BUDGET GIMMICK?

HEARING

BEFORE THE

FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, AND INTERNATIONAL SECURITY SUBCOMMITTEE

OF THE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS UNITED STATES SENATE

ONE HUNDRED NINTH CONGRESS

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CRIME VICTIMS FUND RESCISSION: REAL SAVINGS OR BUDGET GIMMICK?

WEDNESDAY, MARCH 8, 2006

U.S. SENATE,
SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT,
GOVERNMENT INFORMATION, AND INTERNATIONAL SECURITY,
OF THE COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS,
Washington, DC.

The Subcommittee met, pursuant to notice, at 2:30 p.m., in room SD–342, Dirksen Senate Office Building, Hon. Tom Coburn, Chairman of the Subcommittee, presiding.

Present: Senator Coburn.

OPENING STATEMENT OF SENATOR COBURN

Senator COBURN. Our hearing will come to order. Thank you to all of those in attendance.

President Ronald Reagan, during the first years of his presidency, initiated, with cooperation of Congress, a new Federal program called the Crime Victims Fund. The Crime Victims Fund operates by the novel idea of making criminals pay for the system that they create.

In the spirit of justice through restitution, fines, fees, and forfeitures paid by criminals are used for direct services and compensations to victims. And unlike almost every other government program, the Crime Victims Fund is self-funding, meaning we don't have to ask taxpayers to pay for it.

At the beginning of each fiscal year, Congress sets a cap on how much money can be spent from the fund. During the fiscal year, criminal fines, fees, and forfeitures are deposited into the fund. If the deposits are more than the congressionally mandated capped amount allowed for spending, then the overflow is set aside as "rainy day" money.

At the end of the year, when money is distributed to the States for victim services and compensation grants, the rainy day money from previous windfall years makes up the remainder, up to the capped amount.

Like last year, this year's budget proposal is treating the rainy day money in the Crime Victims Fund as a "surplus" because it remains in the fund throughout the year before being used to make up for shortfalls in deposits at the end of the year pursuant to the Crime Victims Act.

OMB is not only proposing to raid the Crime Victims Fund of the rainy day money, but also to take out—in advance—what is ex-

pected to be deposited all year. The proposal would take this money—the rainy day fund, plus an advance on what will be deposited in 2007—call it surplus and dump it into the General Fund of the Treasury.

That means that when it is time to disburse money to the States at the end of the year, the fund will be empty. What will happen then? Do we really think that the program is simply going to be terminated? Not when congressional, law enforcement, and State government support for this program is so strong.

Now, I don't have any problem with the Administration's making good faith efforts to shrink government, identify programs that are inefficient, failing, or duplicative, make the case that these programs should be permanently terminated. I think that is a legitimate debate.

However, that case is not being made here with this program. They are not trying to terminate the program. They are trying to take away the money that funds the program.

When OMB makes its case, I am the first one to support them and have done so through the many hearings of this Subcommittee. We held a hearing last year about a program on the terminations list—the Advance Technology Program at the Department of Commerce—where the case for termination was powerfully made, and I was the first one to agree with OMB's decision.

In this case, I would not agree with terminating this program. It is, after all, the ideal type of program that we want. The people who create the problems addressed by the program are the same ones who pay for it. But I would still welcome the debate, if OMB were willing to make a good faith effort to shrinkgovernment and had proposed to terminate the program.

What is happening instead is OMB's proposal simply steals the money from the program's operating budget for next year but has no plans for how to pay for the program for the next year. Effectively, the argument about the program's survival gets punted to the next fiscal year, when the fund is empty because of the budget proposal for this year.

Some would argue that we are in such a budget crisis this year that extreme temporary measures are warranted. It is not as if we have suddenly and unexpectedly been stuck with unforeseen expenses, and we have to temporarily violate the authorizing statute to access any cash we can.

Despite Congress' tendency to call winter an emergency, requiring supplemental LIHEAP funding, or calling a 4-year-old war "emergency spending"—our budget liabilities are well-known and have been ripening for decades. That is decades to prepare for Medicare and Social Security shortfalls, decades to tighten our belts and stave off unnecessary earmarks, decades to fix our $38 billion-a-year improper payments for which we are having a hearing tomorrow.

So it is not some temporary crisis that would justify morphing a program that pays for itself into another deck on the Titanic of growing discretionary spending burden. That debt burden will rob our children and grandchildren of their future quality of life when we could have had a program that paid for itself if we exercised a little bit of restraint and honesty now.

If anyone is serious about finding savings at the Department of Justice, I have some suggestions. Since 2000, the Department of Justice has spent close to $200 million on meetings and travel and has had anywhere between $2.6 million and $260 million in unspent money parked at the Department each year.

There is also the possibility of payment errors. The Department claims that it has assessed all of its programs and found no risk of any significant payment errors. I find that extremely hard to believe. Unfortunately, an independent auditor found several programs that were never even assessed properly.

We will be investigating improper payments in greater detail at a hearing I will chair tomorrow. The point is, even the most cursory digging yields areas where money is being wasted, and that is before engaging in a single policy debate about the merits of programs at the Department.

I may have read this budget proposal wrong. Maybe the Administration isn't proposing to raid what it knows is an artificial surplus. If so, I hope this hearing will provide some answers to the following questions:

What does the Administration plan to do with the Crime Victims Fund at the end of 2007 when the fund is emptied? Raiding the account and paying for the program using some mechanism other than a self-funding system would be violating existing statutes. Does the Administration plan on submitting new authorizing language that would allow this and future raids into the Fund?

Given the failure of this plan in last year's budget proposal, why is the Administration submitting the rescission for a second year in a row? Is there a sincere proposal, or is this a budget gimmick to create the appearance of savings? And why would the Administration go after a self-funded program that has inherent fiscal discipline instead of tackling conference spending, unobligated funds, improper payments, or other management issues?

I want to thank our witnesses for being here today. Our first panel, we are pleased to have with us former Attorney General Ed Meese, who is currently the Ronald Reagan Distinguished Fellow in Public Policy at the Heritage Foundation.

On our second panel, we will have the Hon. Paul Corts, who is serving as the Current Assistant Attorney General for Administration at the Department of Justice.

On our third panel, we have Steve Derene, Executive Director of the National Association for VOCA Assistance Administrators, and Marsha Kimble, an Oklahoman and one of the many victims of the Oklahoma City bombing and founder of the support and advocacy group, "Families and Survivors United."

Thank you all for your time and preparation. Attorney General Meese, thank you for being here and please continue with your statement.

TESTIMONY OF THE HON. ED MEESE, RONALD REAGAN DISTINGUISHED FELLOW IN PUBLIC POLICY, CHAIRMAN OF THE CENTER FOR LEGAL AND JUDICIAL STUDIES, THE HERITAGE FOUNDATION

Mr. MEESE. Thank you, Mr. Chairman.

As you mentioned, I am Ed Meese, formerly an attorney general during the period from 1985 to 1988 and currently at the Heritage Foundation, where I also serve as chairman of its Center for Legal and Judicial Studies.

I am, like the Chairman, a strong supporter of fiscal responsibility and budget reduction. However, I am also very much in favor of the continuation of the integrity of the Crime Victims Fund.

For over 30 years, I have been involved in the victims movement, in one way or another. In the 1970s, I was in California government and then as Director of the Center for Criminal Justice Policy and Management at the University of San Diego. It was during that time that we began efforts to recognize crime victims in that State.

During President Reagan's time in office, he had a victims task force and, as you point out, Mr. Chairman, initiated the legislation that led to the Victims of Crime Act and the Crime Victims Fund.

Up until the 1970s and the 1980s, the crime victim, the people who suffered the most as a result of criminal activity, were the forgotten parties as far as crime was concerned. We had all kind of laws relating to arrest, prosecution, conviction, and ultimately sentencing of criminals, and we had a lot of laws protecting those accused of crime. But the victim was essentially forgotten. And that is why the Victims of Crime Act as a Federal act was so important.

As you pointed out, it had the unique feature of letting the criminals pay for the costs that are involved in the Act and in the Crime Victims Fund. This meant that there would be funds available, and one of the things that was the result of this legislation was that the funds were used for a variety of purposes, all of which had to do with crime victims.

It included funds for the investigation of child abuse crimes. It had the creation, of course, of the Office of Victims of Crime in the Department of Justice. It involved—and this is one I was particularly interested in—the funding of victim/witness counselors, victim/witness assistants in the U.S. attorneys offices.

One of the things I was privileged to do during my time in office was to make sure that every U.S. attorneys office had at least one of these victim/witness assistants in the office to help with the crime victim.

Crime victims often are confused by the system. They often become resentful when they don't know what is going on in what they regard as their case. They are often not able even to find, with continuances and that sort of thing, the time when they are supposed to be in court.

The victim/witness coordinators has changed all of that and made it a much better situation. Likewise, in the field divisions of the FBI, victim assistance personnel have been a very salutary means of assisting at the early stages of investigation when often these victims are most frightened, most uncertain of their role.

So the purposes of the fund, I think no one, to my knowledge, has ever argued that the purposes of the fund and the uses to which it has been put has not been appropriate and that the funds have not been well spent. Congress did two things in order to make sure that there were funds on a continuing basis.

They did put caps on the annual allocations of the funds. And second, they did provide in very strong language that the Fund should be perpetual and that it should be a continuing Fund, that it should, indeed, carry over from one fiscal year to the next.

The language in the various legislative history pertaining to the Fund from its start has always provided very clearly that the sums deposited in the Fund shall remain in the Fund and be available for expenditure without fiscal year limitation. And that in any one year that funds would be carried over to the next.

I think it is clear from the statute and the legislative history, as well as the procedures that the fund has followed since its inception, that any attempt to remove monies from the fund and use them for unrelated purposes in the general budget would be a perversion of the original concept of the fund and would violate its integrity.

As a practical matter, all of the funds that are needed are, in fact, necessary in order to perpetuate and make sure that adequate funds are there. Over the course of the past 7 years, in 3 of those years, the monies coming into the fund were not equal to the amount that had been provided as caps by the Congress. And therefore, the funds from previous years were necessary in order to, as you pointed out in your Crime Victims Fund "rainy day" fund chart there, fill the bucket full for those years in which the receipts did not equal the amount that had been provided or allocated by the Congress.

I think it is clear, as a practical matter, that the assurance that those funds will be there on a continuing basis is necessary for the programs not only in the Federal Government, but in the States to continue. I think it is important as a country, and as a national government, that we continue the commitment we have made to the victims of crime. I think it is important to preserve the integrity of the fund, particularly since it is not derived from taxpayer funds, but from the criminals.

And I would hate to see this as a precedent of taking a designated fund derived from a specific source and then co-mingling that and turning that into a place in which funds are siphoned off in order to support the general budget.

That is essentially, Mr. Chairman, what I believe we did with Social Security, and now we have the mess that we have at the present time. I would hate to see the Crime Victims Fund, although much smaller in amount, have the same fate as happened in the Social Security fund.

So, as a result, for these reasons, I urge the Subcommittee and the Congress to reject any proposal to siphon off monies from the Crime Victims Fund or to allow them to be used for other purposes than victim assistance.

This innovation to make criminals pay for the necessary assistance to crime victims is an important symbol of the fairness of our criminal justice system. To tamper with the traditional practice in handling these monies would be a serious injury to the concept that underlies the Crime Victims Fund as a means of providing the resources necessary for the many services included in the Victims of Crime Act.

That is my statement, Mr. Chairman. I have copies of that available for your fellow Members of the Committee, and I would be happy to answer any questions you might have.

Senator COBURN. Thank you.

I just want to say at the outset, I know it is not the Administration's position to do away with this program, and that is not what we are trying to say here today. What we are trying to say that this is a great program that is working, that is self-funded, that the taxpayers aren't having to fund, but, in fact, the criminals are funding.

And the integrity of that program has worked beautifully since its inception. It has made tremendous impact in multiple people's lives, and I am the first one to lessen our spending and to hold us more accountable.

We have had about 30 hearings in this Subcommittee since April of last year, and it is all based on accountability, transparency, and results. This one gets results. There is transparency to it. And so, the implication is to find out why this decision by OMB was made in terms of taking this money and to answer the questions.

I want to applaud you for your work on this when you worked for President Reagan. Can you give me a little bit of the philosophy behind the decision to set this up? And were there any other programs that were set up similarly?

Mr. MEESE. President Reagan commissioned several task forces during the time that he was in office, many of them having to do with the Department of Justice. But the crime victims task force was one of those. And the task force went around the country looking at the situation and looking to see what might be done, recognizing that most work with victims is done at the local level, as is most of the criminal justice process handled at the State and local level.

But it was felt at the time that there was a role for the Federal Government, particularly in terms of the victims of crimes that were violations of Federal law, as well as to provide a catalyst for the States in developing their own victims compensation system. And that is really what the Federal formula grants to the States actually turn out to do.

As a result, the philosophy was basically not to let the crime victim be the forgotten person, but to make sure that there were necessary services. They ranged all the way from putting crime victims in touch with insurance agencies, in touch with other people who could alleviate the particular loss or the particular physical condition or whatever else might have been the consequences of the crime that had been committed against them.

It also had to do with, as I mentioned in my comments, having people who could guide them through the process, who could explain to them what was happening, who could, in some cases, make them understand what it would appear to a crime victim the interminable delays in justice being effected through the court system, and to interpret what it meant for them to come to court and to testify.

Sometimes it involved providing such simple things as child care so that a mother who had been a crime victim could appear in a

court room or appear as part of the investigation, give a statement to the police.

So it ran from fairly mundane activity that was very important to the crime victim all the way to very major things that were important in terms of assisting prosecutors, assisting the police in having victims and witnesses available so that they could testify.

So it has been a very important thing, and I think that the fund has been used in a way and the Office of Victims of Crime has operated in a way that fully carried out President Reagan's idea of what ought to happen and the idea of the Justice Department at the time that this was inaugurated.

Senator COBURN. Is there any thought in your mind, as you look at the legislative intent and legislative history, that a surplus in this fund is not obligated to go for this fund?

Mr. MEESE. I think just the opposite, Mr. Chairman. I don't even like to use the word "surplus," quite frankly, because I use the term "unexpended funds" because, actually, it was not intended to have a surplus, but rather to have those funds available for future use.

And so, I think as the chart that has just been put up here shows, it is very clear in each of the years—2000, 2002, 2005—when this matter was considered by the Congress, the legislative history is very clear that it was intended that these monies would remain in the fund so that they would not be siphoned off for some other purpose.

Senator COBURN. You will probably receive a couple of other questions from us. If you wouldn't mind answering those, I would appreciate it. I thank you for your testimony and also for your service to our country.

Mr. MEESE. Thank you very much. I will be happy to answer any questions the Subcommittee might have. Thank you.

Senator COBURN. Our next witness is the Hon. Dr. Paul Corts. He was sworn in as Assistant Attorney General for Administration on November 18, 2002.

Prior to entering government service, Dr. Corts had a long and distinguished career in higher education. He served as the president of Palm Beach Atlantic University for 11½ years. He also served as president of Wingate University in North Carolina. And he has held administrative and teaching positions at Oklahoma Baptist University and Western Kentucky University.

Dr. Corts, thank you for appearing before us. Your written testimony will be made a part of the record, and you are recognized.

TESTIMONY OF THE HON. PAUL CORTS,[1] ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION, U.S. DEPARTMENT OF JUSTICE

Mr. CORTS. Thank you very much, Mr. Chairman.

I appreciate this opportunity to appear before you today to discuss the proposed rescission of Crime Victims Fund balances and the outlook for the fund in the near future. With me today is the department's Deputy Assistant Attorney General/Controller, Lee Lofthus.

[1] The prepared statement of Mr. Corts appears in the Appendix on page 24.

The Crime Victims Fund is a major funding source for victim services across the Nation, and the Department is fully committed to that, as you have indicated. We are also deeply committed to sound and responsible budgeting.

To briefly provide a budget context for the Crime Victims Fund balance rescission proposal, let me say that the fiscal year 2007 President's budget requests $20.8 billion in direct discretionary funds for the Department of Justice, including over $1 billion in enhancements that are designed to help us protect Americans from terrorism and crime.

I am pleased that our budget contains these resource enhancements, and yet I am acutely aware that we are a Nation at war, and we are facing significant demands on our resources. Accordingly, the Department's budget also contains offsets.

By "offsets," I mean that we are proposing to help cover a portion of our fiscal year 2007 budget requirements through funds we can save or recoup in other areas. These offsets reduce the demand the Department makes on the appropriators, the Treasury, and ultimately the taxpayers for new dollars.

Where certain programs have accumulated significant balances over the years, our offsets include rescissions of such prior year balances, including the rescission proposed of $1.255 billion from the Crime Victims Fund. The Crime Victims Fund was established by the Victims of Crime Act in 1984. This fund provides resources for a wide variety of victim services across the Nation.

Rather than being financed with tax revenues, the fund draws on the payments of offenders convicted of Federal crimes. In plain terms, receipts deposited from convicted offenders are used to support victim programs authorized by the Victims of Crime Act.

Now, in recent years, the Congress has proposed and authorized a cap in the amount that can be spent from the Crime Victims Fund for victims programs. Most recently, the cap has been at $625 million, and it has been there for several years.

Balances or deposits in excess of the cap roll over from year to year. Significant rollover balances have existed in the fund since the year 2000, creating what can be characterized as a perpetual float in this account, and it is now in excess of a billion dollars.

This float is not required to fund the enacted level of victims programs, nor is it money that could be made available, as you have indicated, for any other appropriations use. The President's budget proposes, therefore, to rescind these unused funds.

The perpetual float in the fund results in two consequences. First, the excess balances are precluded from being available for other programs that could benefit the Nation. Second, the balances have been used for temporary budget score-keeping schemes that mask true discretionary budget needs.

Accordingly, the President's fiscal year 2007 budget proposes to rescind and permanently cancel the excess balance in the Crime Victims Fund, returning the funds to the general fund of the Treasury. So, in plain terms, a future $19 billion budget would be presented as a $19 billion budget. Thus, the rationale for rescinding the balance of the fund is that it is a more straightforward approach to budgeting.

Assuming the rescission of the fund balance is enacted, crime victim services in fiscal year 2007 and beyond will continue to be funded from criminal fines and penalties. We anticipate the receipts can be maintained at a level sufficient to support the currently enacted victim program levels as capped by Congress.

So, in closing, we are committed to ensuring the solvency of the Crime Victims Fund and adequate funding for the victims programs. This proposal does not drain the fund of its victim assistance resources. We are also committed to transparent budgeting and wise use of available resources.

Mr. Chairman, this concludes my prepared statement, and we would be pleased to answer any questions that you or other Members might have. And with your permission, Mr. Chairman, I would like to ask that Lee Lofthus join me here at the table for the question period.

Senator COBURN. That is fine. She is more than welcome to.

Mr. CORTS. Thank you.

Senator COBURN. So your testimony says that the excess money will be rescinded, and that money will actually be spent on something outside the statutory requirements of the Victims of Crime Act?

Mr. CORTS. If Congress chooses to adopt the President's budget, that would take that money and return it to the General Fund of the Treasury.

Senator COBURN. So, in essence, it will be money that criminals have paid for victims of crime that will not be spent on victims of crime?

Mr. CORTS. Yes, sir. It would be collected money that would go to the General Fund of the Treasury.

Senator COBURN. OK. On page 714 of the appendix of the President's 2007 budget shows that the Administration's own estimates that 2006 and 2007 deposits will fall short of the cap. Where are we going to get the money to get the levels up to the cap?

Mr. CORTS. Well, we start with sufficient money. So we start with $625 million, which is the cap.

Senator COBURN. That is for this year.

Mr. CORTS. So, in this year, if you start the year with $625 million, which is the amount that you are capped to spend, then everything that you collect this year is in excess of that, and it becomes the new cushion or the new rainy day fund because it will be there to fund in 2007.

Senator COBURN. But your own estimates state that you expect that to be less than $625 million this year, which would be the cap for 2007. So where will the difference be made up?

Mr. CORTS. Right. And those estimates are estimates that are made at the time that the budget was being put together, and they stay fluid. And I think our estimates at this time would be that we will achieve, based on collections thus far, that we will achieve the $625 million.

Senator COBURN. So what happens if you are wrong? What happens if $400 million, like in what year was it—2003—we had $400 million come into the fund? What happens if only $400 million comes into the fund next year?

Mr. CORTS. Then we would, in essence, have a $400 million rainy day fund as we begin 2007.

Senator COBURN. OK. You would have $400 million fund. So, in 2008, if you are less, if you are $400 million again?

Mr. CORTS. Then we——

Senator COBURN. You are out of money?

Mr. CORTS. Then we would be down to starting the year at an even, and Congress would have plenty of time to adjust that in that time period. So the point is that you do have a rainy day fund, and there is a contingency available.

Senator COBURN. Is there any proposal in the Administration's rescission that if, in fact, there is a shortfall in 2007–2008 that the money comes back to the fund?

Mr. CORTS. No. Not that I am aware of are there any proposals of that.

Senator COBURN. So if, in fact, we are wrong and the fund ends up short 3 years in a row and you end up not being able to fund 1 year, there is nothing in this proposal that would say that the $1.2 billion that you took from the Victims of Crime Act fund will be repaid to bring them up to the level of the cap to apply for the very services that the fund was set up for in the first place?

Mr. CORTS. This is a 1-year, one-time, relates to the 2007 current budget situation.

Senator COBURN. Oh, I understand that. But it is also taking $1.2 billion of money that is supposed to be directed for the victims of crime and saying we are not going to spend it on the victims of crime. We are going to use it to run other parts of the Federal Government.

Mr. CORTS. As I explained, the——

Senator COBURN. I am not trying to give you a hard time personally. I know you are up here defending a budgetary decision you didn't make. OK?

Mr. CORTS. Right.

Senator COBURN. And I want the record to make that clear. You did not make that. But there is a certainty that there will be no money left in the fund at the end of 2008?

Mr. CORTS. No, there is not that certainty. All of our projections are that, again, if you start the year with a $625 million surplus, and you are collecting all of that year, we currently estimate we will collect at least $625 million. So we believe that we will be starting the year with another $625 million rainy day fund when you start in 2008. And all of our projections are that we are going to be able to maintain that.

Now, as you say, if we fall a little bit short, we do have that amount of cushion. And I want to be sure that is understood because I hear people speaking as though there is no cushion. There is a cushion, the $625 million——

Senator COBURN. I understand we are starting with a certain amount of money. We are going to spend it out. We are going to collect money that year. What I don't understand is what the Administration's position is if you are wrong and we end up with a shortfall at the end of 2008, and we don't come up to $625 million. What do we do then?

Mr. CORTS. Well, if you look at the historical collections, that would be highly unusual that you could drain it in 2 years. There isn't anything historically to show that you would drain it in 2 years.

Senator COBURN. OK. But I would tell you for 2001, 2002, 2003, 2004, 2005, we had less than we had in the year 2000. So we have 5 years of history of less income than we had in terms of the peak.

And nobody has given an analysis and there is not one in the budget documents to explain the analysis that would give you the confidence. As a matter of fact, it's the opposite. When this was submitted, you thought it would come in less.

And so, I have two comments. First, I don't believe you can run this program without a big cushion because I think statutorily we are obligated to make sure these funds are out there for the victims of crime.

Second, what else in DOJ's budget is now revised in terms of estimates other than this, so that when we look at the rest of DOJ's budget—which is not this Subcommittee's prerogative—but when we look at the rest of it, are there other areas where you have changed budget assessments and background on the budget?

Mr. CORTS. Well, the budget is made a good deal in advance of the actual time, and certainly these issues are things that just are dynamic, and they are changing. So, yes, we monitor those things. There are a number of those that we would be monitoring.

Senator COBURN. On your budget document that is submitted, the balance at the end of the year in 2007 is zero. Your own budget documents say that there will be zero in this fund at the end of the year of 2007.

Mr. CORTS. That zero probably would have been better represented as a "dash." That is an unknown. And unfortunately, a zero was used to indicate an unknown instead of a dash, which probably would have been the more appropriate way to have identified that. And I am sorry. I apologize for that.

Senator COBURN. But, in fact, based on the numbers, based on what is in it to begin with, what is estimated by your collections, what is estimated to be paid out, what is estimated to be taken out, you all show a zero balance?

Mr. CORTS. Again, I apologize for that. It would have been better described as a dash. It was intended to represent an unknown because we know we are going to start with $625 million, which is the cap, and we know we are going to replenish it.

Our current estimates are that we will replenish it with at least $625 million. We have got a cap of spending, $625 million. So we will actually start—we know this now. We didn't know it at the time that the budget was submitted.

Senator COBURN. OK. All right.

Mr. CORTS. So I issue that as a clarification because I agree with you, if I were looking at that and I didn't know the underlying information, you come to that conclusion. And it is not the right conclusion, and I apologize. It really would have been better to have had a note there that indicated this is an unknown number.

Senator COBURN. Well, could I ask you to do this? Resubmit those numbers to this Subcommittee so we can see what the real numbers are. Because when you add the adds and subtract the

subtracts, you end up with zero. Whether it is a dash or not, it is still nothing there.

Mr. CORTS. Partly because you started with a zero, and you don't start with a zero, you actually start with the $625 million.

Senator COBURN. That is right. And so, if you would please refer us a corrected budget sheet on that?

Mr. CORTS. We will do that. Mr. Chairman, I would also like to point out another thing that has us believing that the collections will actually go up.

Not only current indications of what we are collecting so far, but we have actually added about 28 positions, I believe, were funded to the U.S. attorneys this year, with a little over $2 million for additional assistance with trying to collect these funds. So we are optimistic that we are going to see the collections continue to increase.

Senator COBURN. Well, first of all, I hope you are. We want that. We want this type of program—philosophically, the way to run a government program is the people that caused the problem ought to be paying for it. And this is an ideal program that I don't want to see go away because it matches compassion with conservative fiscal policy.

And the thing that worries me about this is that we have billions of dollars everywhere else in the Administration that is truly wasteful, and this is a program that isn't. And we are taking $1.255 billion out of it and saying we are not going to spend it.

And so, let me ask you one other question. If, in fact, you are really good at collecting a whole lot more money and you are back up to the $800 million to a billion dollars in collections, 2 years from now, are you all going to come and rescind more?

Mr. CORTS. Well, it is very possible that the rainy day fund or the excess will continue to increase, and it will have an opportunity to build up again. This increase occurred very largely, as your own chart indicates, in the year of 1999 with an unusually large spike up in collections.

Otherwise, if you look at that, it has pretty well evened itself out and really what I think was the basis on which the cap number was determined. And the cap was used for a very good budgeting concept of kind of leveling this out so that victim services could have an anticipated amount that they could kind of know would be there.

And that is what we are saying we want to continue. And we agree on that. We want very much to continue that, and we believe that the budget, the way we have proposed it, does that.

It simply takes these excess funds that essentially are sitting there and, as I said in my testimony, are not available for use and are not being used in a time when the country has significant financial needs because of a whole series of crises and circumstances that we are confronted today, it is using it.

Senator COBURN. I preach that song all the time. The question I ask is what is actually happening to the money? Where is the money? Where is the excess money?

Mr. CORTS. The money would be in the Treasury.

Senator COBURN. OK. So the money is in the Treasury.

Mr. CORTS. But not able to be used.

Senator COBURN. Well, it is reducing the borrowings of the Federal Government. So it is being used. Every trust fund out there, every fund out there is being used right now. And it is already being calculated.

So this is really a double gain because they are recognizing assets in the Treasury, and they are also not borrowing additional money because they got the assets in the Treasury. And then you are getting a rescission off of it. So my first background is that I was an accountant, and I can measure numbers.

Well, listen, my whole point is that there is a statutory problem with what you all are doing. I am not sure legally you can rescind that money.

The other question that hadn't been raised is should this fund be increased, the cap? Are we adequately meeting the needs of victims today with the cap set at where it is? And I think that is a legitimate question that should be raised. Do you have any comments on that?

Mr. CORTS. I don't with respect to that. I didn't come prepared to speak to that.

Senator COBURN. Well, I will have a couple of other questions for you and your staff if you would not mind answering.

I want the record to note that you are defending a decision you did not make and that you have done a good job in doing so and that you will, in fact, submit a revised budget sheet showing what is actually going to happen to this money and your revised projections on what you think the collections are going to be.

And if you will do that, I would be more than satisfied with that proposal.

Mr. CORTS. Yes, sir. Thank you, Mr. Chairman.

Senator COBURN. And I will, for the record, note that I am going to work hard to make sure this money is not rescinded or the statutes changed that allows it.

Mr. CORTS. Thank you.

Senator COBURN. Thank you very much.

Our next witnesses are Steve Derene, Executive Director of the National Association for VOCA Assistance Administrators. Since 2001, Mr. Derene has been representing State agencies that administer State VOCA victim assistance grants by serving at the National Association for VOCA Assistance Administrators.

Throughout his career, Mr. Derene has served as Director of Research and Information for the Wisconsin Department of Justice, director of the Wisconsin Victims/Witness Assistance Program, and the Wisconsin VOCA Assistance Administrator. He is the 2005 recipient of the National Crime Victim Services Award.

Also it gives me great pleasure to present to you Marsha Kimble. She became a victim advocate after the murder of her daughter, Frankie Merrell, in the Oklahoma City bombing. In October 1995, Ms. Kimble founded Families and Survivors United, a support and advocacy group, and authored a book of 81 first-person accounts of survivors and families of those who lost their lives in the Oklahoma City bombing, entitled "Forever Changed."

I welcome you both. Your complete testimony will be made a part of the record, and you are recognized first, Mr. Derene.

TESTIMONY OF STEVE DERENE,[1] EXECUTIVE DIRECTOR OF THE NATIONAL ASSOCIATION FOR VOCA ASSISTANCE ADMINISTRATORS

Mr. DERENE. Thank you very much, Mr. Chairman.

As you said, I represent the State agencies that administer the VOCA formula grants, which really is the largest slice of the Crime Victims Fund uses. Those funds go to support some 4,400 community-based and public agencies that provide direct services to victims of crime. About 4 million victims every year receive services directly through this program.

One of the things that I would like to express on behalf of a very broad coalition of not only victim advocate organizations, but criminal justice organizations, public officials, is our appreciation for holding this hearing and for Congress's steadfast support. Ever since VOCA was enacted in 1984, there has been a real bipartisan, almost universal support for VOCA.

And although it has changed, this really has been the first time that, as General Meese said, the integrity of the fund itself, the basic concept, the philosophy has really been challenged. And I think that is one reason that for the first time there is such a broad-based coalition that has formed to save the fund.

Because VOCA really represents more than the dollars. And I know we are here to talk about budgets and funding. But I think what happened in 1984 was that the enactment of VOCA, while it is an important source of funding, really represented a commitment and an understanding that Congress and the Administration has universally adopted since then.

And I think it was that threat to not only the dollars, but to the commitment. Victims are not people who ask to be victims. They are brought in to cooperate with law enforcement, to provide social services. They incur many emotional and financial costs. And this was really a statement that the Federal Government made that we understand and will do what we can to support victims of crime.

So I think the reaction that I have seen, and it is unanimous—I mean it goes from all of the victim advocacy groups, criminal justice agencies, all attorneys general, 56 attorneys general oppose the rescission. The U.S. Catholic Conference, the National Grange have all rallied around saving the fund. Not because they necessarily get dollars, but because they understand the significance.

So I think that really is at the heart of the issue here. And one reason that it is at the heart of the issue, frankly—I was listening to the exchange, and I have lived with VOCA and the Crime Victims Fund. I have done studies of it. I am familiar with the numbers, and I got lost.

I mean, when you were talking about what is there, when I look at the chart you have here, and I see zero dollars, and you do the calculation. As you said, you are the accountant, I am not. No way can you avoid the fact that at the end of 2007, the fund will be empty.

And I will go back to October 12, 1984, when President Reagan signed the act into law. That fund was empty. And the Department of Justice had to wait a year. They didn't know how much would

[1] The prepared statement of Mr. Derene appears in the Appendix on page 28.

be in the fund. So they had to wait one full year to find out how much would be in the fund because that is the only way they knew how to allocate the money in the fund.

And so, ever since then, and I think this is where some of the confusion arises, the money collected in one year was obligated the following year. And that has been happening ever since.

And so, when you take out their estimate of $1.255 billion, that not only represents the rainy day fund, the sums that have accumulated because Congress delayed the obligations, but the amount that will be collected in 2007. And you add those numbers together, and you end up with zero.

So the question becomes not what happens in 2007. What we are left wondering is what happens in 2008? Because you start out the year, and if you understand the formula, you have to have a known sum certain at the beginning of the fiscal year in order to make grants. You can't wait for it to dribble in. You can't allocate. Five percent of zero is zero.

And so, our problem is we have never heard a response to where does the money come in 2008, and the $625 million that I heard is not a buffer that will be available at the beginning of 2008—2008 will be zero, and there will be no money. So that is the disconnect. That is where some of the numbers get jumbled up and the years get jumbled up.

But the reality is, as you well showed here, the amount available at the end of 2007 or at the beginning of 2008 will be zero. And even if you wait for that money to accumulate, that is an entire year that money will not be available to support important services.

I also heard discussion about this being some kind of a budget gimmick, and that to me sounds like an argument between the Congress and how they score and the Administration and transparency in those numbers. And that may be correct. It may not be correct. I don't know.

But what I do know is taking that money out of the Fund and putting it into the General Fund of the Treasury penalizes victims for that difference of opinion among accountants. And if it weren't for the cap, all that money by law would already have been out there, would be used, would be serving victims. And given the nature of victimization, victim services delayed is victim services denied.

But the field has pretty much gone along with the concept of stabilizing funding over time. We have looked at the fluctuations. It is a way of managing it. It is a way of providing some stability.

And so, the threat, the reason that many people felt threatened when this was first proposed was for the very reason that we are seeing today, that somebody would come around and say, "Oh, look at all of that money. Let us take it away."

And that is what is happening. And that was money that Congress has repeatedly pledged would be used for victim services.

Senator COBURN. That is what is proposed to be happening.

Mr. DERENE. That is what proposed to be, yes. But it is that proposal which really not only is scary should it succeed, but it is having profound effect now as it is being proposed.

I see among the members of my association, they get scared. And so, when they try to manage the money for the best ability to provide services, they have been holding back money in fear that this will disappear, or they are not giving grants to the extent that they would.

And there was an article I saw this morning—I am from Madison, Wisconsin—in the local paper about the rape crisis center there fearful of this very proposal and worried about what they are going to do, how much staff they would have to cut should this happen.

So people in the field hear this, and they are trying to anticipate what is going to happen. And so, even the threat has profound effects on the ability and the stability of services.

And if we were to make a suggestion as to how to solve the problems, how to solve this excess that I hear about, excess which Congress has used 50 percent of the time, excess that the Administration says they will need in the next 2 fiscal years—to me, that is not being unused. That is using it for the purpose that Congress put the money aside for. But if that is an issue, then my answer is don't take it away from victims. Do what the statute says. Give it to victims. You don't need a cap.

The cap does not appropriate money. The cap delays the ability to obligate that money. If there was no cap, as I said, that money would be out there. So if this is a problem, if there is some kind of accounting issue here, give the money back to victims. That is where Congress said it should go. Thank you.

Senator COBURN. Ms. Kimble.

TESTIMONY OF MARSHA KIMBLE,[1] VICTIM OF THE OKLAHOMA CITY BOMBING, VICTIM ADVOCATE, AND FOUNDER OF FAMILIES AND SURVIVORS UNITED

Ms. KIMBLE. Mr. Chairman, my name is Marsha Kimble. I lost my daughter, Frankie Merrell, in the Oklahoma City bombing.

I would like to share with you today my personal experience associated with the bombing and how VOCA assisted the families of Oklahoma City. Finally, I would like to discuss how VOCA funding is vital in serving 4.2 million crime victims each year.

On April 18, 1995, the day before the Oklahoma City bombing, I was not familiar with the criminal justice system. I had no comprehension of the consequences of having a daughter murdered or a 2-year-old granddaughter crying for her mother who never returned. I did not know the psychological impact that such a crime would have on my family or how it still impacts my life almost 11 years later.

I did not know about the victim services or where people that had been impacted by crime turned for help. That was not my life. On April 19, 1995, I was confronted with the fragility of life and the realization that everything can change in a split second.

My daughter, Frankie Merrell, worked for the Federal Employees Credit Union, located on the third floor of the Alfred P. Murrah Building in downtown Oklahoma City. I was at home, approxi-

[1] The prepared statement of Ms. Kimble appears in the Appendix on page 38.

mately 10 miles from where my daughter worked, taking care of my granddaughter.

At 9:02 a.m., there was an explosion that shook my home approximately 10 miles away from where my daughter worked. Little did I know, from that moment on, how much my life would change. The families were sent to a family assistance center in the First Christian Church in downtown Oklahoma City, and I am just going to tell you about two experiences that I had.

I had been over at St. Anthony's Hospital, and they had posted pages upon the wall, listing victims' names and where they had been taken for treatment. I kept searching for my daughter's name, calling all hospitals trying to find her. We were told to go over to the First Christian Church, and there would be counselors there for us.

When I walked into the First Christian Church, what I found were about eight tables lying end to end. Sitting behind the tables were funeral directors with badges on. I wasn't prepared. This wasn't an airplane disaster. I still had hope. Since that time, there have been training programs for funeral directors to teach how to treat victims with dignity and respect.

It took 5 days to be notified about my daughter. The world that I knew no longer existed. Our family was broken, and we were in deep despair. The feeling of powerless and hopelessness was overwhelming.

Weeks later, I was made aware of victim services. Families, survivors, and rescue workers were in desperate need of help. The Office for Victims of Crime stepped in and started covering bombing-related expenses, which included identifying victims, providing us with referral information for medical expenses, psychological counseling, and compensation for lost wages incurred due to the bombing.

Oklahoma victims used $114,679 in State VOCA funds, plus $98,948 in State VOCA compensation funds. These funds came from fines and fees imposed upon Federal criminal offenders. They were not derived from taxpayers dollars.

The trials for Tim McVeigh and Terry Nichols were moved to Denver, Colorado. For most victims and family members, this meant another economic hardship, which most could not afford. The Office of Victims of Crime funded initiatives to help us. More than $1.7 million VOCA was used to provide victim services and support throughout the two Federal trials in Colorado.

These funds provided us with information about the status of the criminal investigation, the prosecution of the criminal case against the suspects, and facilitated victim participation in the criminal case through trial attendance, and prepared victims to present impact statements during sentencing. Families and survivors were also provided a safe haven near the Federal courthouse in Denver, and we were offered mental health and spiritual counseling during that time.

$280,000 in VOCA funds enabled some victims' families and survivors to go to Denver one week during the trial. It was a lottery system. Not everyone got to go. It wasn't perfect, but it was the only assistance that we had.

After my personal experience with loss, I was compelled to become a victim advocate. The stigma around victimization has the same effect, no matter what class you are in. The trauma faced by victims is the same for the served victims and under served. I benefitted from VOCA as well as any other sector of the population.

In Oklahoma, a large part of VOCA funds went to train judges and prosecutors on how to treat victims with dignity and respect. These funds are used to fund case managers and victim advocate positions in State attorneys offices. When properly trained, these personnel are available for victims as they go through the criminal justice process.

No person, regardless of life choices or situation, should experience harmful or limited victim services. Each victim should be provided with the opportunity to access services based on their individual needs. Victims should not be further traumatized by a system that is neither prepared nor open to the needs due to the lack of funding.

There is seldom dialogue regarding the impact crimes have on the lives of victims or of surviving family members impacted by crime. Too often those who survive are thought of as a separate and less critical element of the crime and are left to deal with long-lasting impacts without proper assistance.

We live by laws in this country so that, ideally, no one will ever have to know what it is like to be a victim of crime. Crimes such as were committed against my family are intolerable in any society that calls itself not only free, but civilized. For Congress to consider reducing money used to help victims is not an option. This critical fund is a life line to many who might not otherwise survive.

Opinions may be colored by religion, parental values, or popular opinion. For me, finding the solution is a process. Not a simple learning process, but a searching of one's soul. It is a journey.

In closing, I would like to pose a couple of questions. How often are you obligated to make decisions associated with issues that you have never experienced firsthand? Is it easy to express your views? Are there times when the responses to these issues aren't clear? I ask, with this money, whom do we serve? Thank you.

Senator COBURN. Thank you for your testimony. I know that was difficult for you. I appreciate you making the trip here and giving your testimony.

I want to correct—Congress is not considering this. This is OMB that is considering this. And that is why we are having this hearing is to put a stop to it.

Most of my questions you both answered in your testimony, so it is making it difficult. We have talked about perhaps everything else. What about increasing or raising the cap? What is your comments on that, Mr. Derene?

Mr. DERENE. I think that it is an appropriate step to consider at this time. I think the cap has served a purpose. I am perhaps in the minority in that because I think as a State administrator, I saw that as a way of managing the funding level, as Congress intended, with the caveat that the money stay in the fund for future victim services.

I think the threat of this rescission itself causes us to think is that a problem? I think there are significant unmet needs. We

know that there are many unmet needs, additional victim populations, additional types of services.

And I know that one of the reasons these are formula grants is that each State has different dynamics, different needs. And I think by allowing the States a greater amount of money, and I would suggest a greater amount of time, you can accomplish both the congressional intend to stabilize the funding and to allow States to meet their own needs.

I think an increase of the cap as a one-time step up to a billion dollars would help meet the needs and would yet leave enough in the fund to help buffer some of the fluctuations form year to year.

Senator COBURN. You are saying raise it up one year?

Mr. DERENE. I would say one year, and that would enable enough money to remain in the fund. It would sort of draw down the attractiveness of this rescission. It would also allow the States to address the needs that they have in their States and yet would be consistent with the Congress' desire to have a stable level of funding.

Senator COBURN. Ms. Kimble, let us assume that I will win this battle, which I intend to. Assuming that the funding remains the same, does it matter to you that the source of this money comes from criminals? What is the importance of restitution?

Ms. KIMBLE. I think it is extremely important to victims that criminals pay for their acts. I think it is extremely important to victims that their funding comes from the fines imposed upon them. It is critical.

Senator COBURN. It is part of the healing process, isn't it?

Ms. KIMBLE. It absolutely is.

Senator COBURN. Yes.

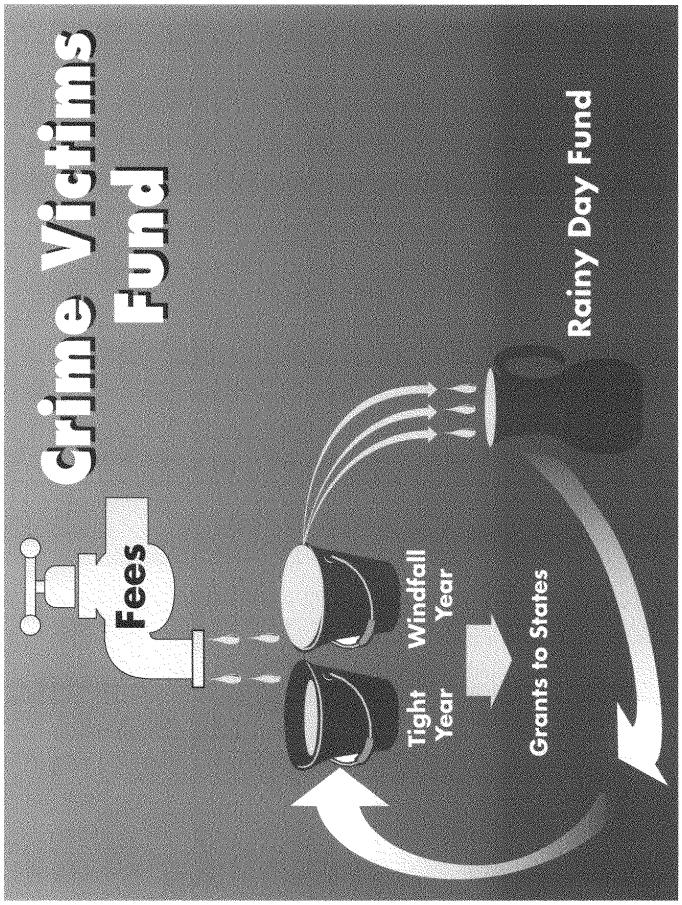
Well, I want to thank each of you for being here, as well as our other witnesses. We heard answers from the Department of Justice today. We are going to get the answers back. We will see what the revised column looks like, and then we will work with that. And we will carry this information to the Budget Committee and also the Appropriations Committee and let them look at it, and then we will work real hard to make sure that this is maintained.

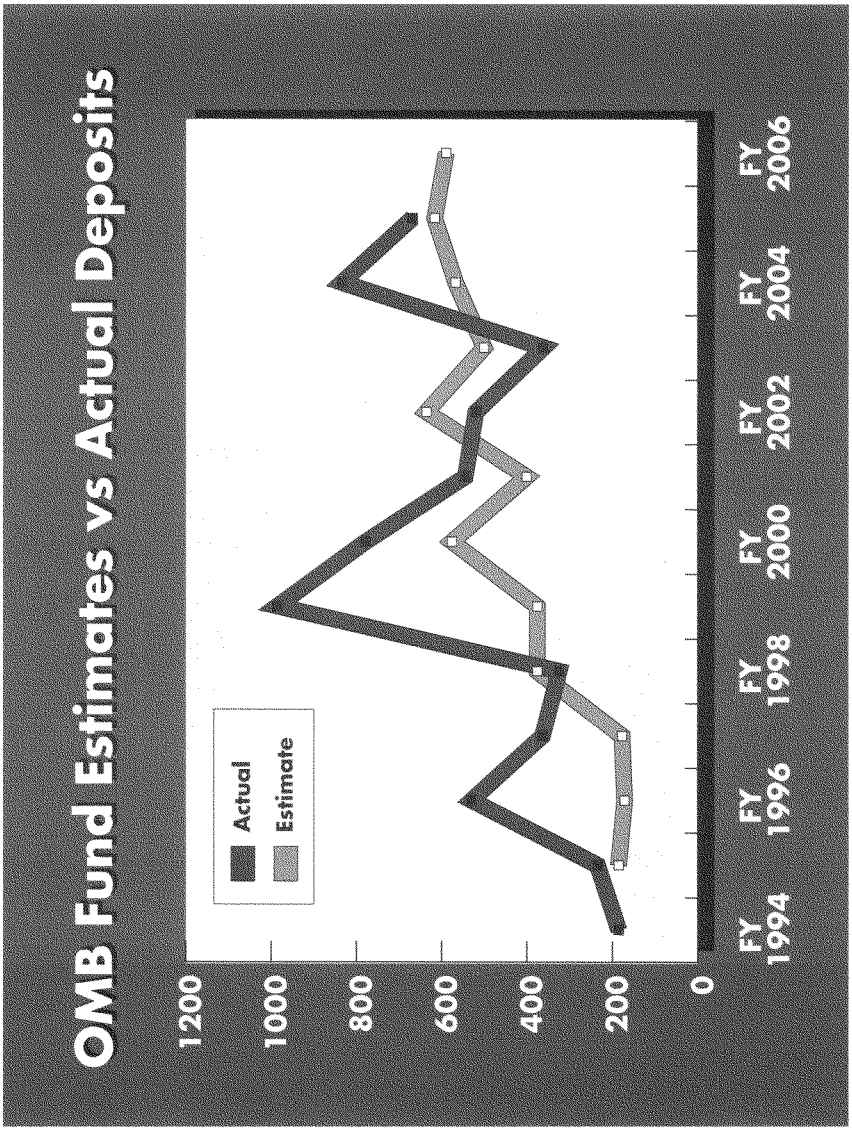
You may each receive some additional questions from the Committee, as we want to round out and make sure we have as complete a package as we can. I want to thank you for your testimony, and God bless each of you.

The hearing is adjourned.

[Whereupon, at 3:30 p.m., the Subcommittee was adjourned.]

APPENDIX


Crime Victims Fund
Fees
Tight Year
Windfall Year
Grants to States
Rainy Day Fund


OMB Fund Estimates vs Actual Deposits
Actual
Estimate
1200
1000
800
600
400
200
0
FY 1994
FY 1996
FY 1998
FY 2000
FY 2002
FY 2004
FY 2006

Crime Victims Fund 2000-2005
($ in millions)

Year	Amounts Collected in Previous Fiscal Year	Congress Cap on the Fund	Net Effect on Rainy Day Fund	Rainy Day Fund Totals
2000	985	$500	+$485	485
2001	777	537.5	+239.5	785
2002	544	550	-6	792
2003	519	600	-81	719
2004	361	621	-260	422
2005	833	620	+213	630

Source: U.S. Department of Justice, Office of Justice Programs, Office of Communications.

STATEMENT OF
PAUL R. CORTS
ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION
DEPARTMENT OF JUSTICE
BEFORE THE
SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, AND
INTERNATIONAL SECURITY
COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
UNITED STATES SENATE
MARCH 8, 2006

Mr. Chairman and Members of the Subcommittee:

I appreciate the opportunity to appear before you today to discuss the planned rescission of balances in the Crime Victims Fund and the outlook for the Fund in the near future. Joining me today is the Department's Deputy Assistant Attorney General/Controller, Lee Lofthus, who is responsible for our budget and financial management operations.

The Crime Victims Fund is a major funding source for victim services across the Nation, and the Department is fully committed to supporting vital victims programs. We are also deeply committed to sound and responsible budgeting. For that reason, in my statement this afternoon I plan to explain the proposed rescission of Crime Victims Fund balances in the context of the Department's Fiscal Year (FY) 2007 President's budget request.

FY 2007 Budget Request

The FY 2007 President's Budget requests $20.8 billion in direct discretionary funds for the Department of Justice, including over $1 billion in enhancements designed to protect the American people. Our budget request includes increases of $286 million to support the Department's number one priority: preventing terrorism and protecting national security. We are also requesting an additional $235 million to combat illegal drugs and secure our borders. In addition, our budget request includes additional funding for Project Safe Neighborhoods, which targets violent gun crime and gangs, fighting child exploitation, and detaining and incarcerating federal prisoners.

I am pleased that our budget contains these resource enhancements, yet I am acutely aware that we are a Nation at war, and we are facing significant demands upon our resources. As such, the President has asked all non-defense agencies to prioritize spending to ensure the highest priorities of the Nation are funded. If we are to protect American citizens from harm, while at the same time maintaining fiscal discipline over spending, we want to make full and appropriate use of available resources.

Proposed Offsets

The Department's budget contains a total of $3.7 billion in recommended offsets. By "offsets" I mean that we are proposing to help cover a portion of our FY 2007 budget requirements through funds we can save or recoup in other areas. These offsets reduce the demand the Department makes on the appropriators, the Treasury, and ultimately the taxpayers for "new" dollars. In some cases, our offsets include proposals to redirect funds from lower priority programs towards higher priority programs. In another instance we have a new fee proposal to offset the cost of administering federal explosives laws. Finally, where certain programs have accumulated significant balances over the years, our budget offsets include rescissions of such prior year balances, including the rescission of $1.255 billion from the Crime Victims Fund.

The Crime Victims Fund

Let me turn now to a discussion of the Crime Victims Fund and the proposed rescission of the excess balance. Please let me restate that we fully recognize the importance of the Crime Victims Fund and the critical role it plays in our system of justice and in the lives of our citizens. We are pleased that the Fund continues to support vital crime victims programs. We are committed to ensuring that sufficient resources from the Fund will continue to be available for these purposes.

The Crime Victims Fund was established by the Victims of Crime Act in 1984. The fund provides resources for a wide variety of victim services across the Nation. The fund is managed as a separate account in the U.S. Treasury, with deposits coming from criminal fines; forfeited appearance bonds; bail bonds; special forfeitures of the collateral profits of crime proceeds retained in an escrow account for more than five years; and special assessments collected by the United States Attorneys Offices, Federal courts, and the Federal Bureau of Prisons; as well as from gifts and bequests. The Fund is used to pay for victim assistance services and direct compensation to individual crime victims, as well as certain other related items such as victim coordinator positions in U.S. Attorneys Offices, victim specialists in FBI field offices, and training and technical assistance for victim service providers. The fund draws on the payments of offenders convicted of federal crimes; it is not funded through tax revenues.

In plain terms, receipts deposited from convicted offenders are used to support victim programs authorized by Victims of Crime Act. However, in recent years, the Congress has capped the amount that can be spent from the Crime Victims Fund for victim programs. Deposits in excess of the caps remain in the Fund unused. The President's Budget proposes to rescind these unused funds.

By way of background, in the years since it was created, the Fund has undergone several changes. During the first eight years of its existence, a cap was placed on how much could be deposited into the Fund. In 1993 the cap was lifted. In FY 2000, the Congress enacted an obligational cap for the Crime Victims Fund. Each year since then, the President's budget has included, and the Congress has enacted, obligation caps for the Fund. Under this arrangement, the amount of funding available for victim programs is determined in the annual appropriations

process. For FY 2007, the proposed obligation cap is $625 million, which is the same as the cap enacted in FY 2006. Without this obligation cap, the formula under which most funds are spent would result in dramatic fluctuations in mandatory spending over the prior year.

The cap enables Congress to determine the appropriate level of expenditures required to maintain viable victims programs. Excess balances above the cap remain in the Fund and "rollover" from year to year. Significant rollover balances have existed in the fund since 2000, creating what can be characterized as a "perpetual float" in the account now in excess of $1 billion. This float is not required to fund the enacted level of victims programs, nor is it money that can be made available for other appropriations use.

The Crime Victims Fund Rescission Proposal

The perpetual float in the Fund results in two consequences. First, the excess balances are precluded from being available for appropriation for other programs that could benefit the Nation. Second, the balances have become fodder for temporary budget scorekeeping schemes that mask our true discretionary budget needs. Accordingly, the President's FY 2007 budget proposes to rescind and permanently cancel the excess balance in the Crime Victims Fund, returning the funds to the general fund of the Treasury.

Both the prior and current administrations have used the excess Crime Victims Fund balances as a mean of achieving a scorekeeping credit when the budget is presented to Congress. In fact, Congress itself has used the fund balance for scorekeeping benefit. The scorekeeping offset basically allows, for example, a $19 billion budget submission to be characterized as a request for $18 billion, as the $1 billion difference would be attributed as an offset to the $1 billion Crime Victims Fund balance. Meanwhile, the $1 billion floating balance remains in the Fund, to be made available again the next fiscal year for the same offset exercise.

The recurring use of the excess balance as a scorekeeping adjustment is something we propose to end. The President's budget proposes an FY 2007 permanent rescission of $1.255 billion, with the rescinded funds to be deposited to the general fund of the Treasury as noted earlier. As a result, the balance will not be available for any future scorekeeping offset, and, in plain terms, a $19 billion budget would be presented as a $19 billion budget (under this example). Thus, the rationale for rescinding the balance of the Crime Victims Fund is that it is a more straightforward approach to budgeting.

Assuming the rescission of the Fund balance were enacted, crime victim services in FY 2007 and beyond would continue to be funded from criminal fines and penalties receipts deposited into the Crime Victims Fund. The Administration is committed to maintaining the programs that fund crime victim compensation and services, programs that are mostly administered by the States. While receipts can fluctuate significantly from year to year, we note that receipts totaled $668 million in FY 2005 and $834 million in FY 2004. We anticipate that receipts can be maintained at a level sufficient to support the currently enacted victim program levels.

Conclusion

In closing, I want to stress that I stand behind the priorities in this budget, which focus on national security, violent crime reduction, protecting our children, and supporting communities and victims of crime.

I also want to emphasize that we recognize the importance of the Crime Victims Fund as an integral part of our victim services efforts. The proposed rescission is a budgetary action that will not negatively affect programs for the victims of crime. We are committed to ensuring the solvency of the Fund and adequate funding for victims programs. We are also committed to transparent budgeting and wise use of available resources. We believe the rescission proposal combines fiscal responsibility with continued support for our communities and victims programs.

Mr. Chairman, this concludes my prepared statement. We would be pleased to answer any questions you or the other subcommittee members may have.

Testimony on

"Crime Victims Fund and the FY2007 Budget"

Before the
Senate Subcommittee on Federal Financial Management,
Government Information and International Security
U.S. Senate Committee on Homeland Security and Governmental Affairs

Presented by
Steve Derene
Executive Director
National Association of VOCA Assistance Administrators

March 8, 2006

Mr. Chairman and members of the Subcommittee:

Thank you very much for this opportunity to present the subcommittee with information about the Victims of Crime Act (VOCA) and the implications of the FY 2007 Budget on the Crime Victims Fund.

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. Last year, with OVC support, 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]

VOCA is the only federal victims' funding program intended to support services for victims of *all* types of crimes, including domestic violence, child abuse and sexual assault. VOCA funds provide critical financial support for more than 4,400 victim assistance agencies that serve some 3.8 million crime victims.[2] For many programs—such as those that assist victims of drunken driving, survivors of homicide victims, and law enforcement-based victim services—VOCA may be the *only* source of federal support without which they may have to close their doors. VOCA grants supplementing state crime victim compensation benefits are often the last resort for innocent victims of violent crime who face huge medical and funeral bills and other expenses caused directly by the crime.

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[1] Derene, Steve. March 2005. *Crime Victims Fund Report: Past, Present, and Future*. Washington, DC
[2] Office for Victims of Crime, *2003 Victim Assistance Grant Program Nationwide Performance Report State Performance Report Summary*. Accessed on Feb. 23, 2006 at http://www.ovc.gov/fund/vocanpr_va03.html.

One of the most important findings contained in the first "Report to Congress" was that VOCA's significance to the crime victims' field went *beyond the provision of funding*. The fact that the federal government was taking the lead in supporting crime victim services was a critical catalyst in greatly improving and expanding rights and services for all crime victims throughout our nation. VOCA was and remains an important and enduring symbol of the federal government's understanding of and commitment to crime victims. It is perhaps the threat to the pledge the federal government made to victims 22 years ago that causes the field to feel so betrayed by the attempted rescission of the Crime Victims Fund. It is the first threat that goes to the integrity of the Fund; the Fund that is the very heart of VOCA.

It was on October 12, 1984 that President Reagan signed into law the Victims of Crime Act creating the Crime Victims Fund. Following the recommendations of the President's Task Force on Victims of Crime, the revenue for the Fund comes from the collection of fines, forfeitures, special assessments and other penalties paid by persons convicted of federal criminal offenses. In its *Final Report,* the Task Force stated,

> Not only is it appropriate that these monies collected as a result of criminal activity be used to help victims, but this method of funding also ensures a program that is both administratively efficient and self-sufficient, requiring no funding from tax revenues.[3]

The new law called for the Department of Justice to make grants to state compensation and victim assistance programs (originally, the only two Fund-supported programs); the amount available for these grants to be determined by the total amount deposited into the Fund. According to the original statute, each year fifty percent of the total deposited into the Fund was available for state crime victim compensation grants (with each state entitled to a grant of 35 percent of amounts awarded the preceding fiscal year other than for property damage). Fifty percent of total deposited into the Fund plus any amounts not used for crime victim compensation grants (because of the 35 percent limitation) was available for state victim assistance grants (of which the Attorney General could use five percent for services to victims of Federal crimes.)[4]

On the day it was created, the Fund, as you would expect, was empty. And so the Department needed to wait during the rest of fiscal year 1985 while the Fund accumulated deposits from the collection of criminal fines and penalty assessments. It was only after the "money was in the bank" and that the total amount actually deposited into the Fund was known that the Department could calculate the amount available for VOCA grants. And so there had to be a year's delay—until fiscal year 1986—when the Department could award the first VOCA formula grants.

This pattern continued for every year since: the amounts deposited into the Fund during one fiscal year are available for grants in the subsequent year. Until FY 2000, the *entire* amount of the previous year's deposits was distributed according to the VOCA authorizing statute. Over the years, Congress added more program areas (i.e., Children's Justice Act, United States Attorney's

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[3] President's Task Force on Victims of Crime, December 1982. *Final Report,* Washington, D.C. 44.
[4] Pub. L. 98-473. Section 1402(d) (2).

victim witness coordinators, F.B.I. victim assistance specialists, the federal Victim Notification System, OVC discretionary grants and the Antiterrorism Emergency Reserve) funded under VOCA so that today there are eight distinct programs areas dependent upon the annual Fund deposits. With each new program added to the Crime Victims Fund, the formula for determining each year's allocation has became increasingly complex.

In 1994, Congress authorized an emergency reserve of up to $20 million in the Fund to supplement state grants in years when Fund deposits declined.[5] This was the first "rainy day" reserve to protect state formula grants against fluctuations in Fund deposits.

Beginning in 1996, annual Fund deposits began to significantly fluctuate. In 1996, one case alone, Daiwa Bank Ltd. of Japan, a financial fraud case, resulted in the collection of a $340 million criminal fine. That one fine was more than the total amount deposited in any single previous year. Congress increased the Fund's emergency "rainy day" reserve to $50 million and expanded its use to provide assistance to victims of terrorism and mass violence.[6]

We then began to see a recurring pattern in which deposits would decline and then one (or a few) very large corporate criminal cases would generate a huge jump in deposits into the Fund to be followed by a few years of declining deposits. The largest ever single criminal fine of $500 million was paid by F. Hoffmann-La Roche as part of a multi-defendant international vitamin price fixing cartel case contributing to total deposits in 1999 of $985 million. Congress took note of these fluctuations in the Fund and delayed all but $500 million of the previous year's Fund deposits from being obligated during the fiscal year 2000. This was the first time Congress, through the appropriations process, delayed or "capped" the total amount that could be obligated from Fund deposits. In so doing, Congress clearly stated, "The conferees have taken this action to protect against wide fluctuations in receipts into the Fund, and to ensure that a stable level of funding will remain available for these programs in future years."[7] As a result, $485 million was carried over in the Fund balance for use in future years.

Up until that time, the Fund was treated strictly according to the authorizing statute; it had never before been subject to the annual congressional appropriations process. In effect, VOCA was transmuted from a historically direct spending program into a discretionary one.

This change caused considerable consternation in the crime victims' assistance field. Many felt this move would ultimately result in a "raid" should the balance in the Fund become too large. Others believed that the Fund would be diverted to other uses. Congress reaffirmed its commitment by amending the statute to reiterate that all unobligated amounts would remain in the Fund to support future victim services, *without fiscal year limitation.*[8] In light of the

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[5] Pub. L. 103-322.
[6] Pub. L. 104-132.
[7] Conference Report 106-479.
[8] VOCA was amended in 2000 to expressly provide that "...all sums deposited in the Fund in any fiscal year that are not made available for obligation by Congress in the subsequent fiscal year shall remain in the Fund for obligation in future fiscal years, without fiscal year limitation." Pub. L. 106-386.

repeated attempts to rescind the Fund balance, it appears that these apprehensions may have been well-founded.

Congress continued capping the annual Fund obligations while repeatedly stating its intent was to maintain stable funding for future victim services.[9] The imposition of the caps resulted in the accumulation of a Fund balance that is carried over from year to year. This balance is drawn upon in those years when the previous year's deposits are less than the annual cap on Fund obligations.[10] Thus, the "rainy day" Fund balance has been needed and used to make up the difference between deposits and the cap in three years since caps were imposed in FY 2000.

Fiscal Year	Previous Year Deposits	Cap on Obligations
2000	985,185,354	$500,000,000
2001	776,954,858	537,500,000
2002	**544,437,015**	**550,000,000**
2003	**519,466,480**	**600,000,000**
2004	**361,341,967**	**621,312,498***
2005	833,695,013	620,000,000*
2006	668,268,054	625,000,000

* Includes rescissions and carryovers

According to the Administration's FY 2007 budget request, Fund deposits are projected to be *less than* the caps for FY 2006 and 2007, proving again that the "rainy day" reserve is essential to maintaining stable funding for VOCA programs.

The Administration's budget request would transfer to the General Treasury an estimated $1.255 billion. An analysis of the FY 2007 budget data shows that this figure is derived by adding the projected Fund balance at the beginning of FY 2007 to the Fund deposits projected to be made *during* FY 2007 and subtracting the requested FY 2007 VOCA cap of $625 million.

Fund balance, start of year FY 2007	$1,291,000,000
Receipts; fines, penalties and forfeitures	589,000,000
Total Balances and collections	1,880,000,000
Total new obligations	-625,000,000

[9] See, for example, Conference Report 107-278, "The conferees have taken this action to protect against wide fluctuations in receipts into the Fund, and to ensure that a stable level of funding will remain available for these programs in future years. House Report 108-576, "[The cap] is continued to ensure a stable source of funds will remain available for the program, despite inconsistent levels of criminal fines deposited annually into the fund." House Report 109-118, "The cap is continued to ensure a stable source of funds will remain available for the program, despite inconsistent levels of criminal fines deposited annually into the fund. Requested language rescinding the remaining balances in the Crime Victims Fund is not included."

[10] Having increased the original emergency reserve to $100 million, Congress recognized the similar "rainy day" functions of the emergency reserve and the Fund balance, and, as part of the USA Patriot Act, removed the "rainy day" function from the emergency reserve and renamed it the "Antiterrorism Emergency Reserve." Pub. L. 107-56.

Rescission	-1,255,000,000
Unobligated balance carried forward, end of year	0

So, for the first time ever, the deposits collected during a fiscal year would no longer be available for VOCA grants the following fiscal year. If adopted, the VOCA budget recommended by the Administration will take us back 22 years to October 12, 1984 *when there was a zero balance in the Fund* at the beginning of a fiscal year.

In order to realize the impact a zero balance will have on VOCA grants, it is necessary to understand how the VOCA statute says the Fund is to be allocated among the eight program areas each year. According to the law, these amounts are calculated in the following order:

- Up to $20 million is available first for Children's Justice Act grants to improve the investigation and prosecution of child abuse cases. Seventy percent of this amount is transferred to the Department of Health and Human Services for formula grants to state and fifteen percent is retained by the Office for Victims of Crime for grants to Indian tribes.
- Beginning in FY 2000, Congress began setting aside a portion of the Crime Victims Fund for certain federal victim assistance activities. These are taken out of the Fund after the Children's Justice Act grants are determined:
    - In FY 2000, Congress directed that "such sums as may be necessary" shall be available to improve victim assistance services in United States Attorneys Offices. This allocation supports 170 full-time equivalent victim/witness coordinator positions and has ranged between ranged between $14 million to $22 million annually.
    - In FY 2001, Congress added VOCA support for 112 full time equivalent F.B.I. victim assistance specialist positions. The annual amount for this purpose has been between $2 million to over $10 million a year.
    - In FY 2002, another federal program, the Victim Notification System was added. This program receives approximately $5 million a year.
- Once these amounts are allocated, the remaining amount is made available for the following program areas:
    - The Office for Victims of Crime receives five percent of the remaining amount for discretionary grants for training and technical assistance and services to victims of federal crimes.
    - Forty-seven and a half percent of the remaining amount is available for formula grants to state crime victim compensation programs. Each state grant is limited to 60 percent of its state-funded benefits.
    - Forty-seven and a half percent of the remaining amount plus any amount available for state crime victim compensation program grants but not used because of the 60 percent limitation is available for formula grants to states for direct victim assistance services. Each state receives a base amount of $500,000 ($200,000 for Guam, American Samoa and Northern Mariana Islands) and the remainder distribution based upon population.

- The eighth program area is the replenishment of the Antiterrorism Emergency Reserve (AER). This is a separate reserve of up to $50 million available for compensation and assistance programs for victims of terrorism or mass violence. According to the statute, up to five percent of the Fund balance (after the other seven program areas are distributed) may be used to replenish this reserve. According to the statute, the amounts from the Fund balance used to replenish the AER are *in addition to* the annual cap on Fund obligations, unless Congress specifically states otherwise. The Antiterrorism Emergency Reserve has been used to help victims in the Oklahoma City bombing, U.S. Embassy bombings in East Africa, the U.S.S. Cole bombing, and, of course, the September 11th terrorist attacks. It is also used to fund the International Terrorism Victim Expense Reimbursement Program.

Because of this sequential allocation formula, there must be a known, sum certain at the beginning of each fiscal year for the Department of Justice to administer VOCA grants in accordance with the statute. What is equally important to understand about this rather complicated, cascading formula is actually quite simple: *if there is no money in the Fund at the beginning of FY 2008, there will be no money to distribute to support victim services.*

How much, for example, would be available under the statutory formula for OVC discretionary grants? Well, five percent of zero equals zero. The forty-seven and a half percent available for state crime victim compensation grants would equal zero. The forty-seven and a half percent available for state victim assistance formula grants would equal zero. And, with a zero balance left in the Fund, there will be no money available to replenish the Antiterrorism Emergency Reserve.

If the rescission is approved, the Fund will be as empty on October 1, 2007 as it was on October 12, 1984. Unlike every year since the Fund's first year, the previous year's deposits would disappear and would no longer be available—as promised by Congress—to support VOCA programs. The only two alternatives, it seems to me, would be to:

1. Leave crime victim assistance programs without any VOCA funds for the entire year while the Fund was being replenished with deposits during FY 2008; or
2. Maintain support for crime victim assistance programs by replacing the money paid into the Fund by criminals with money paid into the General Treasury by taxpayers.

Neither of these alternatives seems to be reasonable, practicable or—as a matter of longstanding policy—fair to crime victims or to the general taxpaying public.

According to last year's news reports, the Administration offered the following explanations for proposing the rescission:

- The Administration is not eliminating the Crime Victims Fund. While the Crime Victims Fund would statutorily still exist, it would be an empty Fund at the beginning of Fiscal Year 2008, thus rendering it virtually nonexistent to support critical crime

victim compensation, victim assistance services, Federal employees who serve crime victims in the Federal criminal justice system and replenishment of emergency funding in the event of a terrorist or mass violence incident.

- The Administration refers to the amounts to be taken out of the Fund as "surplus," "unneeded," and "excess." This is *false* for several reasons. First, if Congress had not put a cap on the annual amounts the $1.255 billion the Administration is seeking to transfer to the General Treasury would already have already been distributed and used for vital victim services. Second, there is an ongoing need to maintain these services while striving to meet the considerable unmet needs of unserved and underserved crime victims. Third, the amounts retained in the Fund have, in fact, been needed and used in three of the years since caps were imposed in 2000, as noted above, the Administration's itself relies upon the Fund balance to make up the shortfall between deposits and obligations in both FY 2006 and FY 2007.
- The rainy day balance is just a "budget gimmick" to make the federal deficit look smaller and diverting it would "improve accountability in the budget process." A squabble among government accountants is no excuse to deprive crime victims of funds set aside to provide them with critical services. If the Administration or Congress wishes to eliminate the Fund balance, it should only be done by removing the cap entirely and distributing *all* the money in the Fund to support crime victim services as mandated by the VOCA statute.
- Because Congress failed to use these funds, they ought to go back to taxpayers. This attitude is contemptuous of Congress' intent to ensure stable funding for victim services, hides the fact that these funds are and will continue to be used and blatantly ignores the fact that these funds come *not from taxpayers*, but from criminals convicted of federal crimes and who are thereby held accountable for their offenses.

One thing is certainly clear: the threat posed by the rescission has brought together an unprecedented coalition of crime victims and survivors, victim service providers, national victim advocacy organizations, criminal and juvenile justice professionals and public officials at all levels and of both political parties. These groups and other organizations understand the importance of the Crime Victims Fund and their members rely upon the infrastructure built by and dependent upon the Fund to continue providing services to their constituents. The following is a partial list of the groups that have banded together to protect the Crime Victims Fund:

Victim Advocacy Organizations
American Society of Victimology
Justice Solutions, Inc.
Mothers Against Drunk Driving (MADD)
National Alliance to End Sexual Alliance
National Association of Crime Victim Compensation Boards (NACVCB)
National Association of VOCA Assistance Administrators (NAVAA)
National Center for Victims of Crime (NCVC)
National Children's Alliance
National Coalition Against Domestic Violence (NCADV)
National Coalition of Victims in Action (NCVIA)

National Crime Victim Research and Treatment Center
National Network to End Domestic Violence (NNEDV)
National Organization for Victim Assistance (NOVA)
National Organization of Parents of Murdered Children (POMC)
Pennsylvania Coalition Against Rape (PCAR)
Renee Olubunmi Rondeau Peace Foundation, Inc.
Safe Now Project
Security on Campus, Inc.
Victims' Assistance Legal Organization (VALOR)

Criminal Justice and Allied Organizations
American Bar Association Criminal Justice Section
American Correctional Association (ACA)
American Probation and Parole Association (APPA)
Associations of State Correctional Administrators (ASCA)
Attorneys General from all 50 States, District of Columbia, Puerto Rico, American Samoa, Northern Mariana Islands
Balanced and Restorative Justice (BARJ)
Council of State Governments (CSG)
International Association of Reentry
The Justice Project
National District Attorneys' Association (NDAA)
National Grange
National Judicial College
National Sheriffs' Association
U.S. Conference of Catholic Bishops

As I noted earlier, the Administration's proposal to remove the Fund balance represents a major and dramatic break from the historic, bipartisan support VOCA has received from every Congress and previous Administration. The potential loss of these funds would be devastating to the hundreds of thousands of crime victims and survivors who receive compensation benefits to help them recoup some of their otherwise unreimbursed medical costs, lost wages, funeral expenses and other costs arising from the crime and to the millions of victims who receive counseling, advocacy, assistance in participating in the criminal justice system and the host of other services provided by VOCA funded programs.

Indeed, we are seeing that the mere threat or possibility of the rescission has had an adverse impact. Several state VOCA assistance administrators report that they have been delaying or holding back a portion of their VOCA grant or other victim funding programs as a "safety net" in the event future grants become unavailable because of the rescission. One state indicated that it is seeing a lot of staff turnover and burnout due to the stress caused by the possibility of losing funding. The money targeted for rescission otherwise would and should today be supporting needed victim services. For many programs, including those serving survivors of homicide victims, drunk driving and other underserved populations, VOCA is their *only* source of federal funding and a loss or significant reduction of their VOCA subgrant means going out of business.

Because of the nature of crime victimization, it is no cliché to say that "Victim services delayed are victim services denied."

There are two other budget items that may also adversely affect funding for VOCA victim assistance programs that I would like to bring to the committee's attention.

1. As mentioned previously, the statute specifies that amounts in the Antiterrorism Emergency Reserve "shall not be subject to any limitation on obligations from amounts deposited to or available in the Fund" unless Congress explicitly states otherwise and that replenishment of the AER shall come from amounts in the Fund balance *after* the statutory amounts for the other VOCA funded programs are distributed.[11] In other words, the VOCA statute requires the AER to be treated as being "above the cap." However, it is unclear whether the Administration's recommended FY 2007 VOCA cap of $625 million includes the Antiterrorism Emergency Reserve. If, despite the clear meaning of the VOCA statute, the proposed cap is meant to include the AER, then the actual effective cap could be as low as $575 million which could result in a substantial reduction, perhaps as much as 15 percent, in state VOCA victim assistance formula grants. Although only minimal amounts have been obligated from the AER during the past few years, it is anticipated that AER obligations will increase significantly as OVC fully implements the International Victims Terrorism Expense Reimbursement Program. It would therefore be very helpful to clarify that, consistent with congressional intent, that the Antiterrorism Emergency Reserve is to be "above the cap" so as not to penalize state victim assistance formula grants.

2. The recently enacted VAWA/DOJ Reauthorization Act[12] created two new offices within the Office of Justice Programs (OJP), the Office of Audit, Assessment and Management and the Community Capacity Development Office. Each of these new offices is authorized to reserve up to three percent of OJP grant programs. While it is uncertain how the functions of these new offices will benefit crime victims or victim assistance programs, it is pretty certain that funding for these offices will reduce the amount available for state VOCA victim assistance grants. If these new offices were to take the full six percent authorized for these new offices, the amount available for state VOCA formula grants would be cut by as much as $30 million.

Whenever Congress authorizes additional programs to receive a portion of the Crime Victims Fund, it reduces the amount otherwise available for state victim assistance grants. This happened in FY 2000 when Congress added support for U.S. Attorney's victim/witness coordinators, in FY 2001 when it did the same for F.B.I. victim assistance specialists and in FY 2002 when it added Fund support for the federal Victim Notification System. Because state victim assistance grants are calculated last, they must absorb these additional Fund costs. And, as happened twice, unless the annual cap is increased sufficiently to offset these additional costs, real cuts in state assistance grants

[11] 42 U.S.C. 10601(d)(5)
[12] Pub. L. 109-233

I hope that Congress will be mindful of the potential impact the costs associated with the Antiterrorism Emergency Reserve and the new OJP offices may have on state assistance grants when establishing the cap on total FY 2007 Crime Victims Fund obligations.

Thank you for the opportunity to shares my views with the Subcommittee.

Steve Derene
Executive Director
National Association of VOCA Assistance Administrators

Testimony on

"Crime Victims Fund and the FY2007 Budget"

Before the
Senate Subcommittee on Federal Financial Management,
Government Information and International Security
U.S. Senate Committee on Homeland Security and Governmental Affairs

Presented by
Marsha (Kight) Kimble
Victim Advocate

March 8, 2006

Mr. Chairman and members of the Subcommittee:

On April 18, 1995, the day before the Oklahoma City bombing, I was not familiar with the criminal justice system. I had no comprehension of the consequences of having a daughter murdered, or a two-year-old granddaughter crying for her mother who would never return. I did not know the psychological impact such a crime would have on my family… or how it still impacts my life almost eleven years later. I did not know about victim services or where people who had been impacted by crime turned for help. That was not my life.

On April 19, 1995, I was confronted with the fragility of life and the realization that everything can change in a split second. My daughter, Frankie Merrell, worked for the Federal Employees Credit Union, located on the third floor of the Alfred P. Murrah Building in downtown Oklahoma City. I was at home approximately ten miles from where my daughter worked taking care of my granddaughter, Morgan. At 9:02 am an explosion shook my home. Little did I know from that moment on how much my life would change. Five days later my family was notified of Frankie's death. The world we knew no longer existed. Our family was broken and in deep despair. The feeling of powerlessness and hopelessness was daunting.

Visions of Frankie's childhood are vivid and clear, like photographs in my mind. I can still see her taking her first steps and speaking her first words. Holidays, birthdays and school days form an endless stream of memories that are now both bitter and sweet. I remember her wedding day like it was yesterday. Frankie got married at home. Sometimes I still see her standing in front of the fireplace. She was so beautiful, radiant, and happy. The day Frankie got married she and I sat on her bed…the two of us reminiscing about her childhood. We laughed and cried. The day her daughter, Morgan, was born was the happiest day of her life, an unforgettable day that I was privileged to share with my daughter. I will never forget looking into her eyes and seeing my little girl become a mother. Watching Frankie hold her child brought back such fond memories of

the day Frankie was born. Life passes so quickly. Frankie was a wonderful mother. Pictures of Morgan adorned her window at the credit union. How tragic for Morgan to have lost the kind of care that so few children are given. How unbearable to bury a child.

Weeks later I was made aware of victim services. Families, survivors and rescue workers were in desperate need of help. The Office for Victims of Crime stepped in and started covering bomb-related expenses which included identifying victims, providing us with referral information for medical expenses, psychological counseling, and compensation for lost wages incurred due to the bombing. Oklahoma citizens used $114,679 in state Victims of Crime Act (VOCA) funds, plus $98,948 in state VOCA compensation funds. Theses funds came from fines and fees imposed on Federal criminal offenders. They were not derived from taxpayers' dollars.

The trials for Tim McVeigh and Terry Nichols were moved to Denver, Colorado. For most victims and family members, this meant another economic hardship which most could not afford. The Office of Victims of Crime funded initiatives to help us. More than $1.7 million was used to provide victim services and support throughout the two federal trials in Colorado. These funds provided us with information about the status of the criminal investigation and prosecution of the criminal case against the suspects; facilitated victim participation in the criminal case through trial attendance; and prepared victims to present impact statements during sentencing. Families and survivors were also provided a safe haven in a church near the Federal Court House in Denver and offered mental health and spiritual counseling during the trials. The funds enabled some victim's families and survivors of the Oklahoma City bombing to attend one week of the trial. Lodging and transportation were paid. Selection was based on a lottery system. It wasn't perfect, but it was the only assistance we received.

I was employed as a consultant in the District of Columbia's Mayor's office during 2003-2004 to help create the Office of Victim Services in the Office of the Deputy Mayor for Public Safety and Justice. Subsequently, I started meeting with other groups of victims unrelated to the Oklahoma City bombing and found that many victim groups were in desperate need of services. In my quest for information about services for victims, I learned that many groups received minimal services, and programs were not adequately funded. For example, there was a lack of emergency shelters and transitional bed space for victims of domestic violence. There were barriers to access help, such as language, age disabilities, sexual orientation, religion, mental health status and cultural diversity. There are thousands of victims in communities such as Wards 7 and 8 here in the Nation's Capitol who are underserved.

The stigma around victimization has the same effect no matter in what "class" one falls. The trauma faced by crime victims is the same for "served" victims and underserved. I benefited from VOCA funds as would any other sector of the population.

A large part of VOCA funds go to train judges and prosecutors on how to treat victims with dignity, compassion and respect. These funds are used to fund case managers and

victim advocates positions in states' attorney's offices. When properly trained, these personnel are available for victims as they go through the criminal justice system.

The impact of crime cannot be erased, and the painful aftermath of victimization cannot be avoided. A response that does not further traumatize a victim is possible, and in fact, should be expected. While the impact of crime will never be forgotten, providing a response that is well coordinated, effective and supportive will help alleviate the additional trauma that so many victims experience.

No person, regardless of life choices or situations, should experience harmful or limited victim services. Each victim should be provided with the opportunity to access services based on their individual needs. Victims should not be further traumatized by a system that is neither prepared nor open to their needs due to lack of funding. There is seldom dialogue regarding the impact crimes have on the lives of the victim or surviving family members impacted by crime. Too often those who survive are thought of as a separate and less critical element of the crime and are left to deal with the long-lasting impact without proper assistance.

We live by laws in this country so that, ideally, no one will ever have to know what it's like to be a victim of crime. Crimes such as that which were committed against my family are intolerable in any society that calls itself not only free but civilized. For Congress to consider reducing money used to help victims is not an option. This critical fund is a lifeline to many who otherwise would not survive.

Opinions may be colored by religion, parental values or popular opinion. For me, finding a solution is a process; not a simple learning process, but a searching of the soul, a journey.

In closing I would like to pose a couple of questions: How often are you obligated to make decisions associated with issues that you have never experienced first hand? Is it easy to express your views? Are there times when the responses to these issues aren't clear? Whom do you serve?

Respectfully,

Marsha Kimble

March 8, 2006

Hearing before
The Subcommittee on Federal Financial Management,
Government Information, and International Security
Committee on Homeland Security and Governmental Affairs
United States Senate

Concerning
The Crime Victims Fund and the Fiscal Year 2007 Budget

Responses of Paul Corts
Assistant Attorney General for Administration
Department of Justice

QUESTIONS SUBMITTED BY CHAIRMAN COBURN

QUESTION: During the question and answer part of your testimony, you mentioned that some numbers in the President's 2007 Budget documents concerning the Crime Victims Fund needed to be updated. It would benefit my subcommittee a great deal to receive an update that more accurately portrays the President's plan for rescinding the Crime Victims Fund.

ANSWER: The 2007 Budget was submitted before any significant collections for the Crime Victims Fund were realized. As of the end of March 2006, the Fund's receipts total $425 million. Although it is difficult to project receipts for the fiscal year based on mid-year receipts, it is possible the Fund could end FY 2006 with a higher balance than anticipated in the FY 2007 Budget.

QUESTION: When I made the point that the Crime Victims Fund would be empty at the end of 2007 leaving nothing for 2008 disbursements, you replied that the Fund would not be empty but would have a $625 million balance. According to the information on page 714 in the Appendix to the President's 2007 Budget, the tables clearly show on line 24.40 that the "unobligated balance, carried forward, end of year" 2007 is zero. The Budget does refer to a $625 million amount, but it is the amount to be disbursed during 2007 and not the remaining balance available for 2008.

We know that the deposits into the Crime Victims Fund for one year are used to make disbursements the following year and that grant amounts must be calculated and awarded at the beginning of each fiscal year. The Administration's proposal plans to drain the fund in 2007, and my original question remains unanswered. I would like to know what the Administration plans to do when the Fund has been emptied, and it is time to award grants at the beginning of 2008. If the Administration desires to see the Crime Victims Fund

continue to operate, which I believe it does, then it is incumbent upon you to explain the source of funding for this program once it has been drained of all its resources.

ANSWER: The Administration's proposal is intended to preserve $625 million in spending for crime victims programs while ending the budget gimmick that allows $1.3 billion in balances to roll forward each year to be used as an offset for other spending. We certainly are willing to have some flexibility in working with the Congress to meet both of these objectives.

QUESTION: The Victims of Crime Act and legislative reports from Congress are explicit in their instructions for how the Crime Victims Fund is to operate. In order to make the proposed rescission, the law would either be broken or completely re-written. How is the Administration planning to resolve this problem? Is the President asking Congress to break its own laws, or does the President have a plan to introduce new authorizing language that would enable this and future raids into the Crime Victims Fund?

ANSWER: As normal business practice, the Office of Justice Programs uses receipts from the Crime Victims Fund in one year to fund program activities in the following year. It is the intent of the Administration to operate the fund as in previous years, as practicable. However, the authorizing legislation for the Crime Victims Fund does not require the Office of Justice Programs to make grants in this manner, and there is nothing to preclude it from making grants with funds that are collected in the same fiscal year the grants are made. Therefore, the rescission proposal does not contradict existing law and is like a rescission proposed to a regular discretionary grant program. Such rescissions are proposed throughout the budget to eliminate estimated accumulated balances in various federal programs.

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