

**THE INCREASED IMPORTANCE OF THE VIOLENCE
AGAINST WOMEN ACT IN A TIME OF ECO-
NOMIC CRISIS**

HEARING

BEFORE THE

COMMITTEE ON THE JUDICIARY

UNITED STATES SENATE

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CONTENTS

STATEMENTS OF COMMITTEE MEMBERS

	Page
Feingold, Hon. Russell D., a U.S. Senator from the State of Wisconsin, prepared statement	48
Leahy, Hon. Patrick J., a U.S. Senator from the State of Vermont	1
prepared statement	61

WITNESSES

Carbon, Susan B., Judge, Director, Office on Violence Against Women, U.S. Department of Justice, Washington, DC	3
Gelles, Richard J., Ph.D., Dean, School of Social Policy & Practice, University of Pennsylvania, Philadelphia, Pennsylvania	20
Ulloa, Lolita, Managing Attorney, victim Services division, Hennepin County Attorney's Office, Minneapolis, Minnesota	18
Watersong, Auburn L., Economic Justice Specialist, Vermont Network Against Domestic and Sexual Violence Montpelier, Vermont	16

QUESTIONS AND ANSWERS

Responses of Susan B. Carbon to questions submitted by Senator Sessions	29
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SUBMISSIONS FOR THE RECORD

Carbon, Susan B., Judge, Director, Office on Violence Against Women, U.S. Department of Justice, Washington, DC, statement	36
Gelles, Richard J., Ph.D., Dean, School of Social Policy & Practice, University of Pennsylvania, Philadelphia, Pennsylvania, statement	49
Sargent Shriver National Center on Policy Project, Wendy Pollack, Director Women's Law and Policy Project, Chicago, statement	63
Ulloa, Lolita, Managing Attorney, Victim Services Division, Hennepin County Attorney's Office, Minneapolis, Minnesota, statement	66
Violence Against Women Act (VAWA), Janice Shaw Crouse, Austin, Texas, statement	73
Watersong, Auburn L., Economic Justice Specialist, Vermont Network Against Domestic and Sexual Violence Montpelier, Vermont, statement	78
Women's Legal Defense and Education Fund, Lisalyn R. Jacobs, Vice President of Government Relations at Legal Momentum, and Maya Raghu, Senior Staff Attorney at Legal Momentum, articles	101

THE INCREASED IMPORTANCE OF THE VIOLENCE AGAINST WOMEN ACT IN A TIME OF ECONOMIC CRISIS

WEDNESDAY, MAY 5, 2010
U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Committee met, pursuant to notice, at 10:09 a.m., in room SD-226, Dirksen Senate Office Building, Hon. Patrick J. Leahy, Chairman of the Committee, presiding.

Present: Senators Leahy, Whitehouse, Klobuchar, Franken, Sessions, and Hatch.

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

Chairman LEAHY. Now that we have settled all the problems of the world, up here are Senator Franken and Senator Klobuchar, Senator Sessions, and Senator Hatch. Glad to have you here, and we will begin soon, of course, with the Director of the Office on Violence Against Women, Susan Carbon, and I thank you for being here.

We all know that the Violence Against Women Act, or VAWA, was a watershed piece of legislation. It was enacted 15 years ago, with the support of many of us on this Committee, and it is just as crucial now as it was 15 years ago. It has provided critical, sometimes life-saving, assistance to countless survivors of domestic and dating violence, sexual assault, and stalking. The legislation shed light on the national problem of violence against women and marked a bipartisan commitment to confront and end domestic and sexual violence. Those of us on this Committee who have been prosecutors know how important it has been.

Now, since that time, we have responded with better laws, social support, and coordinated community responses. I was proud to work on the original VAWA bill. I am pleased with what it has accomplished. Our communities and families are safer today because of the law. And as we begin to reconsider the reauthorization of the law, it is important to note that, for all we have accomplished, there is more to be done. Unfortunately, the problem of domestic and sexual violence persists, and in times of economic crises, the victims become even more vulnerable.

The Violence Against Women Act has transformed our criminal justice system. It has improved legal and law enforcement response to the complex issues of domestic and dating violence.

It cannot be clearer than it is today as our country copes with a troubled economy. The economic pressures of a lost job or home or car can add stress to an already abusive relationship. As victims' needs grow, state budget cuts are resulting in fewer available services, including child care, counseling, transitional housing, and so on.

Unfortunately, these services can sometimes mean the difference literally between life and death for some victims. I advocated for increased funding of VAWA programs in the American Recovery and Reinvestment Act. I was pleased that the Recovery Act included \$50 million for transitional housing assistance.

But I think we have to go further. We have to prioritize our response to the high rates of violence experienced by Native American and immigrant women. We have to think of new and better ways of doing these things.

Senator Murray, a long-time supporter of VAWA, has introduced a bill I am proud to cosponsor to provide victims with unpaid leave for legal and medical appointments, eligibility for unemployment insurance, and protection from employment and insurance discrimination. These policies make good sense, and I know in my own State, the Vermont Network Against Domestic and Sexual Violence is at the forefront of these innovative approaches. They have leveraged private resources with Federal, State, and local financial support, and the Vermont Network does a great deal. It helps survivors with a variety of needs from budgeting to credit repair to employment counseling, and I could go on and on about the way they do help.

So we are going to hear today from Judge Susan Carbon, the Director of the Office on Violence Against Women. Judge Carbon has led efforts to combat domestic violence at the State and national level. I look forward to hearing her perspective.

Judge, after you turn we will hear from Auburn Watersong, an Economic Justice Specialist at the Vermont Network Against Domestic and Sexual Violence, and we are going to hear from Lolita Ulloa of the Victim Services Division at the Hennepin County Attorney's Office. I have a feeling why she was invited. And then we will hear from Richard Gelles, Dean of the School of Social Policy & Practice at the University of Pennsylvania.

I apologize that the pollen in my voice is affecting me. That may be an advantage.

[Laughter.]

Chairman LEAHY. Senator Sessions, I yield to you.

Senator SESSIONS. Thank you, Mr. Chairman. We thank you, Judge, for being with us, and it is good that we look at this program. We need to make sure that it is fulfilling its mission, and you will be, I know, getting into the challenge of that. I just believe from my experience in the Federal Government and working with various different agencies that you need periodic re-evaluations and new excitement and recommitment to the basic mission. So I hope that you can bring that leadership to the effort.

I think that there is much that we know about violence against women, much we know that works in reducing it. There are some things we do not know. I believe strongly that the primary function of our Federal response should be first to make sure that people

throughout the States who carry out so much of this work are fully informed on the practices that are effective and that they, when there are things we do not know, help them find the information because they are constructing their own policies and procedures to deal with the tragedy of violence against women. Police officers and probation officers and others need to be informed on what is the best way to handle these situations. A lot of research has been done, but we still do not know as much as we would like to know.

So I hope that you will take the lead in that in making sure that we properly inform our people throughout the country as to what the best policy should be.

Thank you, and, Mr. Chairman, I look forward to the hearing. I do have some conflicts this morning, and I may not be able to stay with you the whole time, but thank you for conducting the hearing.

Chairman LEAHY. Thank you very much.

Judge Carbon, please go ahead, and, again, thank you for being here.

STATEMENT OF THE HON. SUSAN B. CARBON, DIRECTOR, OFFICE ON VIOLENCE AGAINST WOMEN, U.S. DEPARTMENT OF JUSTICE, WASHINGTON, DC.

Judge CARBON. Thank you very much, Mr. Chairman.

Chairman LEAHY. And I will also tell Judge Davenport in Vermont the nice things you said about her.

[Laughter.]

Judge CARBON. Thank you. She is absolutely wonderful. Good morning, Chairman Leahy and Senator Sessions and members of the Committee. I am privileged and honored to be here this morning, and I thank you for the opportunity to speak with you about the vital role that the Violence Against Women Act has played in our efforts to end violence against women, and especially to highlight the importance of VAWA programs and policies in times of economic stress.

The resources that are authorized by VAWA have never been more important than they are today. As our Nation confronts serious economic challenges, everyone is affected, particularly victims of domestic violence who are so often isolated.

In the best of economic times, a victim worries about finding a job and shelter for her children. During an economic downturn, these obstacles and problems intensify. Indeed, victims may face additional obstacles leaving a dangerous environment.

Organizations that often constitute the lifeline for victims are confronting economic crises of their own, resulting from reduced State and private funding. On one day alone in September of 2008, over 8,900 requests for services went unmet due to a lack of resources. Just a year later, that number had increased to nearly 9,300 unmet requests.

I commend Congress, I commend all of you, for your leadership in recognizing these issues and in providing additional funding through the American Recovery and Reinvestment Act of 2009, which provided OVW with an additional \$225 million to assist victims of domestic violence, dating violence, sexual assault, and stalking. This funding has filled critical gaps in services.

The Violence Against Women Act has made a real difference in people's lives. Since 1995, over \$4 billion have been awarded to States, territories, local governments, tribal governments, and non-profit organizations to develop innovative strategies to respond to violence against women. Of particular note, VAWA brings together people from diverse backgrounds to improve community and systems responses.

In my two decades on the bench, I have seen firsthand how we can better fulfill our own responsibilities if we work in concert with other professions. Effective issuance and enforcement of protection orders, for example, are greatly enhanced when advocates, law enforcement, judges, and prosecutors work together to ensure that our systems are seamless and, indeed, this in turn translates into enhanced safety for victims and their children.

With VAWA funding, communities are forging effective partnerships among Federal, State, territorial, local, and tribal governments and among civil and criminal justice systems and victim advocates. VAWA-funded services reach hundreds of thousands of victims every year. In the first 6 months of last year, 2009, our OVW grantees reported that over 125,000 victims received over one quarter of a million (253,000) services.

The Violence Against Women Act has been instrumental in changing the way our country perceives and addresses violent crimes against women. We are in the middle of a Department-wide commemoration of the passage of the Violence Against Women Act over 15 years ago. The goals of this anniversary campaign are three-fold: to raise public awareness, to build and renew coalitions among public and private sectors, and to end once and for all stalking, sexual assault, domestic violence, and dating violence for men, women, and children all across the country. We view this campaign not only as a vehicle to honor the accomplishments of the past 15 years, but as a platform for continued and expanded call to action.

Although we can be rightfully proud of our accomplishments, we must also recognize that there is much to do. Historically, OVW has focused on intervention, and that is to say, providing services to victims and holding offenders accountable. VAWA has been successful at focusing on intervention after a violent crime has occurred, and clearly the need for services continues.

As a judge, however, I have seen all too often the destructive cycle of violence play out through generations. If we are ever going to break the cycle of violence that plagues communities all across the country, then we need to broaden our focus and incorporate prevention strategies in all that we do.

Congress has consistently demonstrated its commitment to assess what is working and to confront emergent challenges. As we consider the reauthorization of VAWA, we need to think about what steps we can take to prevent violence in the first instance so that we can avoid its serious aftermath.

I cannot stress enough how important it is for Congress to reauthorize VAWA to sustain, strengthen, and enhance our Nation's efforts to end violence against women. I look forward to working with all of you to consider how reauthorization can help us respond to the many challenges that lay ahead.

I want to thank you very much, Mr. Chairman, members of the Committee, for your commitment and for your time this morning, and I welcome the opportunity to address any questions that you might have. Thank you.

[The prepared statement of Judge Carbon appears as a submission for the record.]

Chairman LEAHY. Thank you very much.

Judge, as we reauthorize VAWA, the Violence Against Women Act, we have expanded it beyond just being a criminal justice response. As we have learned more about it, we have added some things to it. We have added ways to address more broadly the needs of victims, to become more comprehensive—I hate to use the term “holistic,” but sort of a holistic approach. Has that worked? Have we had successes doing that kind of expansion?

Judge CARBON. Senator Leahy, we have had enormous progress and success in meeting needs through much of the work that we have done over the past 15 years. I think one of the greatest accomplishments of the Violence Against Women Act in its first instance has been to raise public awareness about the extent and the breadth and the complexity of the problem. We have expanded the services through what we characterize as a coordinated community approach to addressing domestic violence, sexual assault, dating violence, and stalking. And through these efforts to reach out to the public by engaging professions and community leaders in working together, we are able to address not only the criminal justice system but the civil justice system and expand our reach to understand the importance of providing a breadth of services to victims.

We know next to achieving safety that victims need economic stability so that they may have a range of services provided to them. And being able to provide legal assistance, housing, and a breadth of other services is critically important.

We know also that this is an area where our need exceeds our ability to provide all of the services, and we are hopeful to work with Congress as we look at reauthorization to broaden that scope.

Chairman LEAHY. Well, we put extra money in the Recovery Act, we put \$225 million. I had argued strongly for that. We had a number of other leaders in the Senate who did. Has that had a good effect, or should we have done that?

Judge CARBON. You absolutely should have done it, and we are so grateful that you did, and I want to thank all of you for your leadership in doing so.

The Recovery Act funding, the \$225 million, reached victims all across the country. We were hearing, and continue to hear, frankly, that there still remains great unmet need, and the National Victimization Survey has documented that information for us. But through the Recovery Act, we were able to provide further funds through our STOP grants to reach out through coalitions across the country, to fill jobs, to keep shelter services in place, to keep advocates in place, and be able to service the needs of victims both within local communities and in tribal communities as well. This has been extremely important.

Chairman LEAHY. You know, now is the time to look at where the needs might be, where there are some things that we should be looking at if we are going to be reauthorizing. This has always

been a bipartisan effort up here in the reauthorization. Are there needs currently unmet? I am thinking of not only domestic violence, but dating violence, stalking. Some of these things are—one especially on the front page of the papers even today. Do we have to make legislative changes or funding changes? What would you—if you could just write the legislation—and I realize that it is a long way from that—what are some of the things you want to do?

Judge CARBON. We have lots of things we would like to do, and we are going to look forward to working with all of you to develop what that will look like. There are lots of priorities that we have around the unmet needs of victims, and in particular, as I mentioned in my statement, I think we need to not only provide services for victims, but I would like for us to be able to step back a bit to try to prevent violence in its first instance.

So we have lots of priorities that I would classify first around prevention efforts so that we can reach out and stop this cycle of violence. Ultimately, in an ideal world, if we could stop violence, we would not need to worry about the next steps toward intervention. But the intervention services will remain critical, and in particular, as we look at housing assistance and economic stability for victims, that will be important. But our efforts around prevention I think are critically important.

A second area that we will focus on, because it is a priority for the entire Department, are services around sexual assault. We have expanded our realm of domestic violence services in particular for the past 15 years. We believe that issues around sexual assault are also critically important and want to expand that. As you know, in the most recent iteration of VAWA, there were expanded services for sexual assault, and we would like to continue to expand that realm because the needs are so great. So we will be working and hope to work with all of you on expanding those resources.

Chairman LEAHY. Well, the idea of stopping it before it happens is so important. I still see so clearly a victim in the emergency room of our hospital in Burlington, Vermont, when I was a prosecutor, at 3 or 4 o'clock in the morning, and the victim telling me who did it, and then dying. And when we unraveled everything, the warning signs had been there. If there had been any place that person could have turned to for help, it never would have happened.

Senator Sessions.

Senator SESSIONS. Judge, as a State judge, you have a good perspective, and I guess the reality of these issues as a family judge particularly, you have seen it. Do you envision a fundamental alteration in the understanding we have already always had that the State and local jurisdictions should be the primary front-line entities who deal with violence against women?

Judge CARBON. In my experience, Senator Sessions—that you—as a State court judge, a family court judge, the resources provided by the Violence Against Women Act have enabled us on the ground to reach victims and children—

Senator SESSIONS. No, I am just asking you fundamentally. Do you still envision or do you have a different view about the role of the Federal Government as an aider, assister, enabler of State and

local programs? Or do you view that we would move more to a Federal kind of program?

Judge CARBON. I would envision that we would retain our current framework. I think it has been very effective.

Senator SESSIONS. How many jurisdictions throughout our Nation—if you would just hazard an opinion or give me a quick view—how many of these jurisdictions throughout our Nation effectively deal with violence against women—that is, have a protocol, a program, shelter homes, or trained probation officers, judges who understand that all crimes are not the same and have different needs and appropriate responses? Do you have an opinion of how well our State and local jurisdictions are performing?

Judge CARBON. My belief is that they are performing very well. We have done, the office has done a great outreach to judges, prosecutors, advocates, law enforcement, shelter services all around the country.

Having said that, we have turnover all the time, and there is a continuing ongoing need to train and educate people about good practice. One of the things the office has done particularly well is to promote and promulgate best practices for all of the different professions and for the community service providers. That to me is a hallmark of our effort and one which we will continue to do.

Senator SESSIONS. I thank you. That is correct. You may have a good program working in a community, and some of the key players go or leave, and you are back to not effective as you would like to be. And as the Chairman said, properly intervening can be the difference between life and death. There is just no doubt about it. But we need to do that wisely.

Now, there was as proposal a few years ago, in 2008, to consolidate a number of the Violence Against Women Act programs administered by your Department, and a hearing, I think, was held in the House on that. The stated purpose was to reduce the time grantees spent in applying for grants to eliminate earmarks and formulas and allow multiple needs to be addressed based on the needs of the jurisdictions.

I know OJP Director Ms. Laurie Robinson has advocated in the past for more consolidation and more streamlining under the theory that you can get more money quicker directly to the people in need and actually reduce violence by better systems than would otherwise be the case.

Are you open to those kind of reviews? She said she believed in that when she was confirmed. Are you open to those kind of reviews? And will you give it your best ideas how to help that local jurisdiction of which you used to be a part know where to apply, have simpler applications and a quicker response?

Judge CARBON. Thank you, Senator Sessions. Having been a grantee myself and having been at the other end writing grants and administering grants, I can appreciate from the public standpoint how important it is to have a streamlined grant process. So I can bring that perspective to the office.

I can also share with you that we have been looking at whether we should and can consolidate different programs because there is some duplication, if you will, of purpose areas, but we do not want

to lose and not be serving everybody whom Congress has intended that we serve.

So we are looking at that very carefully to see if we can streamline and how that might happen, but it is an issue that we are looking at. We are certainly——

Senator SESSIONS. I think our Members of Congress sometimes are quite proud of some proposal or program that they develop, but I think if you lead you might find there is real success in some of the streamlining and consolidation, and there might be some pushback at various places. And I know you want to respect Congress' view, but I think you should not hesitate as the person on the ground handling these issues to tell us what you think would make the program better. And I think you might find some things are accepted even though maybe you will have objections to others. But I hope you will do that, and thank you for your leadership.

Judge CARBON. Thank you so much, Senator.

Chairman LEAHY. Thank you. We are going to go to Senator Klobuchar, and I am going to put a statement by Senator Feingold in the record. We will, of course, leave the record open for the rest of the day for any other Senators who want to put in statements.

[The prepared statement of Senator Feingold appears as a submission for the record.]

Chairman LEAHY. Senator Klobuchar.

Senator KLOBUCHAR. Thank you very much, Chairman Leahy, for holding this important hearing. Thank you for being here as well.

As we know, our economy is starting to rebound from the devastating job losses and the housing crisis that it has experienced over the past 2 years, and our States have likewise faced crises, budget crises, and we have seen drastic spending cuts across the board almost uniformly beginning with social services such as funding for domestic violence shelters or social work.

This is very important for me. I headed up the county attorney's office. In fact, our next panel will feature someone who is a great leader nationally, Lolita Ulloa, in this area. And so we have been through cycles before, but my concern here is that we do not cut back on some of the services that we need the most for our victims to put themselves back in the job market and really break the cycle not only by prosecuting offenders but by actually making sure that they have a chance to succeed.

And so one of the things, as we talk about this cycle, I noticed in your testimony was this idea of the cycle of children exposed to violence. And I think I have mentioned this to you before, but the idea was that kids that grow up in violent homes are much more likely to commit violence themselves. I remember we had a poster in our office when you walked in that was a picture of a Mom with a Band-Aid on her nose holding a baby, and it said, "Beat your wife, and your kid will go to jail."

So could you talk about the Attorney General's initiative and what role you think your office can play in reducing violence in the future in terms of kids growing up in these homes?

Judge CARBON. Thank you, Senator. You have touched upon one of the most critical areas, in my view, and that is, children exposed to violence. And as you have said, it is an enormous problem for children being exposed to violence in homes because, as a judge, I

have seen the experience of children in court, I have seen the experience of battered mothers bringing their children and trying to access services for them.

We do know and the research shows that if children are exposed to domestic violence or other types of violence in their home, they will, as you say, grow up and suffer in any number of extraordinary ways. Their own development, their own psychological development can be arrested. Their ability to succeed at school can be affected. Their socialization can be affected. Their ability to form the important attachments to loving, caring parents can be affected. And so as they grow up, there is a tendency for them as well to become future victims of domestic violence or themselves as well to become perpetrators even within their own family. So it is an issue that we need to address and one of the reasons why the Attorney General is so committed to making this one of his signature items as Attorney General.

We have recently issued a solicitation that is open, I believe now, until June 1st to invite jurisdictions to apply to become a demonstration site and also for some other grant opportunities to see how we can bring a holistic approach to serving the needs of children, in part to understand better research about how children are affected by domestic violence, what most appropriate services we can put in place for them, and how we can reach within communities to provide the holistic approach that children will need so that we can cut that cycle and stop that from continuing on.

We will be looking at this and making this a departmentwide initiative for us, and we foresee our office working with other components within the Department to focus on the prevention activities around children exposed.

Senator KLOBUCHAR. Thank you very much. Another area you mentioned was homicide prevention, and I think people sometimes are startled by this fact that 45 percent of all female homicide victims in 2007 were killed by a partner. We just saw this recent horrible incident in the college in Virginia.

I know that when you were a judge, you worked with the New Hampshire Domestic Violence Fatality Review Committee—we have a similar one in Hennepin County—which reviewed domestic violence-related deaths. Is that a model you think that other States can follow where you actually do like a hospital would do and look back at what went wrong in a surgery and try to identify the problem spots?

Judge CARBON. Homicide prevention is a critical part of the overall prevention efforts that I foresee us looking at. In my view, having chaired that Committee and worked with other fatality review committees across the country, I can tell you that it is a very illuminating way to look at your systems, where gaps might have been, and then develop policies and protocols for preventing future homicides. It is a great way and a quintessential example of a collaborated, coordinated community response to domestic violence.

The statistics would show us that between this morning and the time that we all go to bed tonight, three more people will die from a domestic homicide. It is an extreme problem, and if this approach that we know works, we would like to see this expanded.

Senator KLOBUCHAR. [Presiding.] Well, thank you very much, and I will put some questions in the record. I am going to turn this over to Senator Hatch about the work that you are doing with the full faith and credit and enforcing protection orders across State lines, which I know is always a frustrating piece for prosecutors of our business.

Judge CARBON. Thank you, Senator.

Senator KLOBUCHAR. Senator Hatch.

Senator HATCH. Thank you, Senator Klobuchar, and thank you, Judge, for being here and for your good work in this area. I remember back when I was Chairman of the Committee and we decided to do the Violence Against Women Act, it was not nearly as popular as it is today, but it is popular because of people like you, and many others, thousands of others across the country who really have done what is right with regard to not just women but young girls and children as well.

As you know, it is a comprehensive legislative package designed to end violence against women, and I am really pleased to work with my colleagues to make sure we get this reauthorized and that this Committee continues its support of these legislative remedies. Again, let me thank you for appearing before us today. You have an important job in my eyes, and I am here to assist you and the Department of Justice.

Although economic crisis does not cause domestic violence, it may increase existing violence in the home. Studies have shown that financial strain and unemployment are correlated to an increase in continuing domestic violence. Now, I have concerns that the current economic crisis and its effect on domestic violence not only impact every one of my fellow Utahans, but also victims of domestic violence across this Nation. The current economic downturn directly impacts victims of domestic violence who are seeking help to rebuild their lives.

Now, is the Department of Justice accumulating data that tracks economic factors as a contributing factor to domestic violence?

Judge CARBON. Thank you, Senator Hatch. We are looking at all of the elements that we can through research and through hearing from our grantees and from our TA providers about the extent to which the unmet needs exist and how we can better frame and provide services to track any trends in the increase, if there is, and what we can do about it to provide better services so that we are ensuring that we are able to meet those needs.

Senator HATCH. My home State of Utah is considered by some a rural State. Rural areas are especially hard hit by the current economic downturn. In some rural communities, rape collection kits are not always subsidized. On some occasions, victims have to pay for their own rape kit.

This is also becoming a growing trend in urban communities as funds for rape kits and DNA testing begin to dry up. I think we are all familiar with the horror stories of rape kits that contain good DNA samples sitting unprocessed in police evidence lockers. Now, these kits will sometimes sit for years while the perpetrators of sexual assaults remain free to target additional women for sexual assault.

Let me just ask you, how is the Department of Justice ensuring that DNA samples and rape kits are being processed and suspects are being identified?

Judge CARBON. Senator Hatch, thank you. This we recognize is an enormous problem. We need to understand the breadth and all the full component of what the issues are concerning why there is such a backlog and what we can do about it. The National Institute for Justice, which is a part of the Department of Justice, is going to be hosting an educational forum next month to look at the issue of the rape kit backlog, why it exists, whether it is from lack of resources for testing, lack of funding, or lack of quality. And we want to try to understand the nature and the breadth so that we can avoid those problems of people continuing to perpetrate sexual assault on women when the rape kits have not been completed.

We also know that it is something which will take good research and good work, and we are anxious to work with everybody together to see what can be done to address that problem.

Senator HATCH. A few years back, I was just appalled that some of these rape kits that had been collected sat idle for over 20 years, and the minute they started going into them, they started finding people and stopping some of the things that were going on. So we need to do a better job there.

Judge CARBON. We could not agree more. Thank you.

Senator HATCH. The need for services for victims of domestic violence is especially acute in rural communities. In certain communities, medical workers are thrust into the situation as the first-line detector of domestic violence.

What training and resources are available to rural law enforcement and rural health care providers to assist them in detecting and reporting domestic violence in these communities?

Judge CARBON. Thank you, Senator. We actually, through the Violence Against Women Act, have a separate funding stream that is dedicated to rural programs to reach out through local communities to address the unique nature of rural violence. Even if parts of the country which may not be designated as rural jurisdictions, there are major rural areas within jurisdictions. So this is a problem that is incumbent upon us to address to make sure that we can provide necessary resources and training through both the rural grant and through our STOP grants, our formula grants, to make sure that we can provide training and technical assistance to the grantees so they will know how best to reach and make sure that we are, in fact, connecting with as many victims as possible.

Senator HATCH. Well, I want to thank you for the work that you are doing. I really appreciate it personally as the father of three daughters and what some people think are countless granddaughters and great-granddaughters.

[Laughter.]

Senator HATCH. We are very concerned about what you are doing. I want to make sure that you have the resources and that you have our backing fully, because the work you are doing is really, really very important, as far as I am concerned, and I am sure everybody on this Committee. So I want to thank you for the work that you are doing.

Judge CARBON. Thank you very much, Senator.

Senator HATCH. Thank you, Madam Chairman. I appreciate it.

Senator KLOBUCHAR. Thank you. And anyone who has seen Senator Hatch's holiday card will know that there are, in fact, a lot of daughters and granddaughters.

Senator Franken.

Senator FRANKEN. Thank you, Madam Chair.

Judge Carbon, thank you also for your work. You cited the numbers from a survey conducted by the National Network to End Domestic Violence. On just 1 day in 2009, over 9,000 requests for services made to domestic violence organizations were unmet because of lack of resources. My wife and I went down to Rochester, Minnesota, and there was a shelter there for women and their children, victims of domestic violence. It essentially was two houses put together. I think they could serve nine women and their children at one time—families. And they had 98-percent capacity or something, and women from the Rochester area could use it, but if they could not get in there, they had to go somewhere else. And sometimes they had to go pretty far away and could not maintain their jobs.

I was wondering what are we doing to address this kind of lack of resource and to make sure that women, especially when we talk about the economic impact of all of this, that they can stay in their community, do their job, you know, keep their jobs, and get these kind of services.

Judge CARBON. Thank you, Senator Franken. You have addressed a couple issues here which are critically important. The first is through our working through your reauthorization of VAWA in 2005, you looked at part of the economic issue through the transitional housing programs and through a new program for a resource center, a national resource center on workplace responses to domestic violence. And through that program, we are working with a number of national technical assistance providers to develop a system so that there are resources for employers so that they will know what good policies and practices are to help employers address victims who may be experiencing domestic violence in their homes but then come to work and are trying to ensure they can retain their jobs and what employers can do to assist them.

We know that in a poor economy if victims lost their jobs, regaining employment will be critically important and difficult to do, and so we want to provide resources necessary for them to ensure that employers understand what their role would be in helping victims to retain their positions.

We are also looking at other areas concerning transitional housing and the services that can be offered through that program. The Recovery Act, as I mentioned before, was very helpful in filling some of this gap in services, so both housing and security in jobs will be critically important.

Senator FRANKEN. In his testimony in the next panel, Dr. Gelles writes, "It is difficult to determine with precise accuracy where monies and resources should be directed in reference to violence against women or family violence in general." I was wondering if you, Judge Carbon, have any ideas where monies and resources could be directed in reference to violence against women and family violence.

Judge CARBON. I think Congress has done an extraordinary job of reaching out and providing services to victims in many different venues. It is critically important that advocacy services continue to be funded, that resources concerning employment security be looked at, that housing assistance be provided. One area in particular that I would like to highlight is the need for legal assistance for victims. We have a legal assistance funding stream, but we know that 70 percent of victims still do not have access to an attorney, even for protection order hearings, let alone the subsequent work regarding custody, other economic support which they are in dire need of.

That is one of the most popular, if you will, grant programs which we have. Regrettably, we can only fund a third of the applications that come in through our requests for legal assistance. So we are looking at ways that we—

Senator FRANKEN. That is an area where we could direct more resources.

Judge CARBON. Absolutely.

Senator FRANKEN. We all know too well that Indian women are victimized more than any other population. In fact, according to Amnesty International, one in three Indian women has reported being raped in her lifetime. When VAWA was reauthorized in 2005, money was set aside to help tribal governments address violence against Indian women.

Have you seen results from these programs? Do they need to be changed? Do they need to be expanded?

Judge CARBON. Thank you, Senator. As you pointed out, on the VAWA 2005 reauthorization, it created a separate title for addressing domestic violence in Indian country, and so we have been following that guidance and have created a new position within our office, the Deputy Director for Tribal Affairs, and we have also worked to ensure that tribes all over the country have access to all of the funding streams which are available through the Violence Against Women Act.

In the past few years, we have distributed \$95 million to tribes across the country, and this is, as you have pointed out, the need for a departmentwide priority. So we are committed to ensuring that we can reach out and provide resources.

In the President's budget, there is an increased request for assistance to tribal communities, and that will continue to be a priority area for us because the need is so great.

Senator FRANKEN. I am very glad to hear that.

Thank you, Madam Chair.

Senator KLOBUCHAR. Senator Whitehouse.

Senator WHITEHOUSE. Thank you, Chairman, and welcome, Judge. Thank you for being here and thank you for your great work.

This has been such an important office for a long time, the Domestic Violence Unit, and my Attorney General's office back in Rhode Island existed because of VAWA support and funding. And I would simply highlight a few of the points that some of my colleagues have already made. The prompt and proper processing of evidence is critical, and particularly when municipal budgets are stressed, trying to make sure that there is adequate funding for

DNA testing and so forth is very, very important, and, frankly, I think a great cost saver in the long run from all the delays. But I would encourage you to work on that, as Senator Hatch suggested, and I am delighted to see in your testimony your emphasis and Attorney General Holder's emphasis on the effect of violence on children who are witness to it. I think that can actually be a valuable tool in getting through to the abusers and in empowering Moms—it usually is—to make the right decision about getting away from abuse and protecting their children.

In that light, I just want to hear your thoughts for a Mom who is in the situation of being subjected to domestic violence—the decision to leave home and seek protection is a really wrenching one. It is personally very difficult. It is painful. And it, unfortunately, is accompanied by enormous logistical hassle and challenges. And if people are already stressed just from their work life and the bad economy and things like that, that early stage where you may have to think about putting your kids in different schools and all the logistics related to that, you have to find your own new place to stay, you have to deal with the old bills so you do not lose your credit, at the same time you may have to pay new bills. You have to deal with lawyers and protective orders, and it all just kind of comes in at once, and it can be overwhelming.

And so I think there is a really important period where women in particular need a great deal of support as they work through that, all those logistics when they make the decision to seek refuge and shelter. And I would encourage you to be as proactive in taking the best models of that around the country and deploying them as you could.

Judge CARBON. Thank you very much. We certainly will do that. That is critically important, and we are very committed to doing that. Thank you.

Senator WHITEHOUSE. Thank you very much.

Chairman LEAHY. [Presiding.] I have no further questions, and we will keep the record open in case others do.

Thank you very much, and I would ask—if you want to add something here, Judge, feel free.

Judge CARBON. Let me just thank you all again for your time. The issues that you have raised this morning are extraordinarily important, and we very much look forward to working with you on the next reauthorization. So thank you again for your time this morning. It is a pleasure to be here.

Chairman LEAHY. Thank you very much. We will set up for the next panel.

Chairman LEAHY. I think we should probably introduce all the witnesses at once. The first one will be Auburn Watersong. She is an economic justice specialist of the Vermont Network Against Domestic and Sexual Violence. She has worked in the field for almost 15 years, is very well respected in the State of Vermont. She lives in Montpelier, Vermont—not totally coincidentally my birthplace. She has worked statewide to develop programming to address the long-term economic needs of victims of domestic and sexual abuse. She has worked with direct service providers to implement a plan for sustained safety that creates opportunities for victims to live lives free of violence, to economic stability and support. She re-

ceived her bachelor's degree from Earlham College. She is currently enrolled at the Episcopal Divinity School in Cambridge, Massachusetts.

Senator KLOBUCHAR, I would turn to you to introduce our next witness.

Senator KLOBUCHAR. Very good. Well, thank you. I am proud to have Lolita Ulloa here on the panel. Lolita has been a managing attorney for the Victim Services Division of the Hennepin County Attorney's Office in the past 9 years. Prior to that, she was the director of the Domestic Abuse Service Center for 7 years, and she now sort of does both jobs, and I was proud to have promoted her onto my management team, and she remains on the management team to this day.

Originally from Ecuador, Ms. Ulloa grew up in Massachusetts and received her law degree from the Suffolk University Law School, and she has just become a national leader on these issues and certainly taught me everything I know about this topic. So I am really honored to have her here, and she cares so much about the victims of domestic violence and really passes that on to the entire office and has made a difference not just in our office but through the county and through the State. So thank you for that, and thank you for being here.

I think she is also maybe a hockey Mom. Is that right?

Ms. ULLOA. There are other hockey Moms.

Chairman LEAHY. Do they play hockey in Minnesota?

Ms. ULLOA. We do play.

Senator KLOBUCHAR. They play a little hockey. We do have the world's second largest hockey puck in Minnesota.

[Laughter.]

Senator KLOBUCHAR. The first largest is in Canada.

Chairman LEAHY. There are so many things going through my mind that I am just going to—so far as these are televised, I will leave well—

Senator KLOBUCHAR. I do not know if Senator Franken maybe wanted to say a few words, too.

Chairman LEAHY. Senator Franken. Another Minnesotan.

Senator FRANKEN. Well, welcome. And I know that Senator Klobuchar, as the attorney for Hennepin County, worked so closely with you and has nothing but the highest praise. And we, of course, have met on a number of occasions, and I admire your work. Thank you for being here today.

Chairman LEAHY. Thank you very much.

The other witness will be Dr. Richard Gelles. He is the dean of the School of Social Policy & Practice at the University of Pennsylvania. He is also the current director for the Center for Research on Youth and Social Policy and co-director of the Field Center for Children's Policy Practice, and Research, widely published on the issue of domestic violence. I recall him working with the Congressional leaders in 1997 on the adoption of the Safe Families Act. He received his undergraduate degree from Bates College and his master's from the University of Rochester and his doctorate from my neighboring State, the University of New Hampshire.

So we will begin with Ms. Watersong. Please go ahead.

**STATEMENT OF AUBURN L. WATERSONG, ECONOMIC JUSTICE
SPECIALIST, VERMONT NETWORK AGAINST DOMESTIC AND
SEXUAL VIOLENCE, MONTPELIER, VERMONT**

Ms. WATERSONG. Thank you, Senator Leahy.

Chairman Leahy and distinguished members of the Committee, thank you for the opportunity to discuss the tremendous importance of the Violence Against Women Act in these challenging economic times.

The Vermont Network is a statewide coalition of 15 domestic and sexual violence programs providing life-saving services to victims and their families. VAWA-funded programs are an essential part of our work in Vermont. These programs are all the more critical in light of the current economic crisis. I am here today to discuss the importance of expanding economic supports in the upcoming VAWA reauthorization.

The survivor stories that I will share with you are true stories of victims whose names have been changed out of respect for their privacy and safety.

Domestic and sexual violence can have a tremendous economic impact on victims, regardless of the state of the global economy. In the current economic crisis, however, the impact is even more dramatic. Although an economic downturn itself does not cause sexual or domestic violence, it can exacerbate the factors that contribute to violence, and it can reduce victims' ability to achieve safety and healing.

Almost 50 percent of sexual assault survivors either lose their jobs or are forced to quit in the aftermath of the crime. When sexual or domestic violence occurs within a context of economic insecurity, getting help and moving forward with life often competes with very real basic life needs, such as putting gas in the car, paying bills, or keeping a roof overhead.

Homelessness in Vermont has increased by 25 percent in the past 2 years. The lack of safe, affordable housing across Vermont and the Nation exacerbates the challenges faced by so many victims seeking safety. Ninety-two percent of homeless mothers reported physical or sexual abuse during their lifetimes. No victim should ever be left to choose between violence and homelessness. This is no choice at all.

We are seeing an unconscionable gap between the desperate need of victims and the resources available to the direct service programs that support them. Not only do individual victims and families suffer, but the economy suffers through higher health care costs, higher costs to the criminal justice system, and more strain on underresourced social service systems.

Abusers intentionally use tactics to limit and control victims' access to finances, transportation, housing, and banking. Victims report abusers interfering with their employment and running up debt to ruin their credit.

Victims in Vermont and across the Nation face enormous economic hurdles. Given the rural nature of our State, lack of transportation and geographic isolation also present huge obstacles for many survivors, especially for those who may live hours away from life-saving services or law enforcement.

Over the past 16 years, VAWA programs have done much to alleviate the immediate pressures that victims face. Since then, we have learned that despite our successes in triage and intervention, long-term sustainable safety depends largely upon economic self-sufficiency.

With the assistance of private funding from the Allstate Foundation in collaboration with the National Network to End Domestic Violence, the Vermont Network has developed innovative collaborations in an effort to support victims and survivors in rebuilding their lives. This past year, we forged a creative partnership with a community credit union, a State agency, and a local community action program in order to develop a matched savings program for domestic violence survivors. This program promotes habitual money management skills development. It provides financial literacy training, credit counseling, and ultimately a 3:1 financial match for participants to use toward expenses such as medical debt, utility bills, car maintenance and repair, and rent.

This matched savings program has proved incredibly promising. It has allowed the coalition to train our member programs who work with survivors on basic financial literacy skills, credit repair and reports, and pre-employment supports. According to our most recent mid-year report, of the 490 victims served by this grant, at least 76 percent have increased their long-term economic security. VAWA reauthorization should include this type of programming to help ensure that victims move toward economic self-sufficiency.

Maria was unemployed when she sought safety at a shelter in Vermont. Despite her master's degree, Maria required the skills and empowering support of the economic advocates and the knowledge of community financial educators to assist her in reaching her economic goals. With help, Maria has developed a detailed business plan and established a base of references and formed promising business contacts.

Jane arrived at a Vermont shelter with her five children. Having just been beaten by her partner, Jane's immediate need was safe shelter, yet the domestic violence shelter was full. With the assistance of an economic advocate, Jane and her children were able to find immediate safety in a motel, but were unable to find affordable housing. Jane returned to her abusive partner, but maintained her connection with advocates who helped her with housing applications, credit repair, and budgeting skills. Through those efforts, I am happy to report that this past weekend Jane and her five children moved into a safe and affordable apartment, and she is working with advocates to improve her credit score and gain her financial independence.

These successes are possible through the support of VAWA funding and important financial commitments of partners like the Allstate Foundation and NNEDV. Through these creative collaborations, Vermont has been able to build critical programs and partnerships to help survivors on the road to economic empowerment.

This model could be replicated nationwide given adequate resources. With this VAWA reauthorization, we have the unique opportunity to further broaden the scope of VAWA programs and protections by providing greater economic supports to victims and survivors. Congress right now has a unique opportunity to help vic-

tims become lifelong survivors by reauthorizing VAWA with strategic improvements which focus specifically on economic resources.

In order to eradicate domestic and sexual violence and stalking, victims need a full range of economic supports behind them. Their safety requires long-term advocacy, accessible financial resources, workplace protection, unemployment compensation, supportive education, microenterprise opportunities, alternative savings programs, credit counseling, and knowledgeable community partners. Every victim deserves a chance at sustainable lifelong safety. This is their chance.

Thank you.

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

Chairman LEAHY. Thank you very much.

Ms. Ulloa, how badly did I mispronounce your name?

Ms. ULLOA. Senator Leahy, it was actually quite good compared to some of the other pronunciations I have had.

[Laughter.]

Chairman LEAHY. I have so much respect for Senator Klobuchar and Senator Franken, and I love going to Minnesota, and I do not want to get the names of any of their constituents wrong, or they will not allow me to come out there.

Ms. ULLOA. We will still let you come out.

Chairman LEAHY. Thank you. Please go ahead.

STATEMENT OF LOLITA ULLOA, MANAGING ATTORNEY, VICTIM SERVICES DIVISION, HENNEPIN COUNTY ATTORNEY'S OFFICE, MINNEAPOLIS, MINNESOTA

Ms. ULLOA. My name is Lolita Ulloa, and as the managing attorney for the Victim Services Division of the county attorney's office, I supervise victim witness services. I also oversee the Domestic Abuse Service Center that was mentioned by Senator Klobuchar. This is a one-stop center for victims of domestic violence.

Although our county makes up approximately one-quarter of Minnesota's population, this office helps victims obtain 50 percent of all of the restraining orders in our State.

I want to thank the members of the Judiciary Committee for inviting me here. I especially want to thank Senator Amy Klobuchar for her continued unwavering support, her work, and her focus on these issues both as a Hennepin County Attorney and now as a Senator.

As County Attorney, Senator Klobuchar always supported victims of domestic violence in her management of DASC, and she strengthened the work of the county attorney's office in the prosecution of domestic violence cases. She clearly understands the unique and tragic issues that face victims of domestic abuse.

DASC was created in 1994 under the current County Attorney Mike Freeman. His vision led to a one-stop service center for victims of domestic violence that has now been replicated nationally—through the Family Justice Centers—as well as internationally. DASC allows victims to access criminal processes, Orders for Protection, advocacy services, plus economic assistance, child protection, and probation staff, along with other services.

DASC's goals were very simple: easy access to services, in a safe, inviting environment, and holding abusers accountable. Collaboration is key to this success.

This collaboration is even more important in times of economic crisis. We know that one of the main reasons women do not leave abusive situations is because they are financially dependent on their abuser. This reality is exacerbated during an economic downturn. Suddenly, women who need to leave abusive homes may face additional struggles because they have lost their jobs, had to sell their cars, or only have health care through their abuser.

I have been a public service lawyer for 25 years. I have been involved with domestic violence issues for the majority of my legal profession. I know how the climate has changed since VAWA was enacted. There was finally Federal recognition that crimes of domestic violence and sexual assault and stalking against women would not be tolerated any longer.

There was a shift in how violence against women is addressed in criminal justice offices and in the community, and for that I am thankful.

Funding criminal justice offices remains, I believe, a critical need, especially when criminal justice offices forge partnerships with community agencies and social service programs. One way that VAWA has impacted the issue of domestic abuse is by offering trainings where States can discuss the varied approaches they use in their prosecution, probation, law enforcement, and advocacy work. Sharing best practices and protocols have resulted in these trainings being models that we have all used in our work.

One particular area is how we treat women who have been strangled. Trainings have been the most valuable in emphasizing culturally competent services to victims from diverse communities. Understanding community-specific hardships, language barriers, religious values, and cultural assimilation plays an important role in effective intervention. This was a huge step that clearly demonstrates that the creators of VAWA understood the many dynamics of domestic violence.

VAWA has done so many good things. I want to take this opportunity to focus on the work that is left to be done. I recently spoke with Liz Richards, who is the director of programming for our Minnesota Coalition for Battered Women, and we discussed the following issues that impact victims who are trying to leave, particularly during economic downturns.

In many States—and even in Minnesota, which has been a leader on domestic violence issues always—child support is not always addressed in an Order for Protection hearing, and they are not consistent. The absence of financial support while the victim is trying to leave her abuser and make plans to care for herself, as you all have mentioned, and her children, is dangerous. Funding should be made available to district courts to work with community agencies in order to provide training and education for lawyers and advocates about the importance of addressing child support issues at the same time that Orders for Protection are issued. We must ensure, at least on an emergency basis, that victims have financial stability. This is critical.

Recently, a woman came to DASC to obtain an Order for Protection because the father of her children had pushed, grabbed, and kicked her. She had a job and was also starting school, and her abuser had been providing child care. There was not a shelter opening. The next day the victims indicated that she wanted to drop the Order for Protection because she did not have any money to pay for child care. The victim had to work to stay in school. The abuser had a long criminal record and was not working. He already had a child support order. Financial independence, simply put, can make the difference in whether a woman stays or leaves.

Another way that financial dependence can manifest itself in domestic violence cases relates to medical care. We have identified some long term issues such as medical complication that can follow the victim for the rest of their life. Collaboration is necessary between emergency medical professionals and also those that provide follow-up services. Ensuring that victims have access to long-term medical care and that different medical providers talk to each other is critical.

Recently, the Minnesota Coalition hosted a “Camp Sheila” for battered women—named for Sheila Wellstone. Battered women were asked how long their divorces had been going on. Most cases were still in progress, even after 7 to 14 years. Usually, there was abuse of the Mom and the kids. The abuser used the court system repeatedly to manipulate and threaten the victim. The threat of losing the custody of their children was ever present. Imagine being forced to co-parent with someone who had beaten and terrorized you. Many of these women have no money for legal representation. This is another focus area.

The huge impact of VAWA will never be fully captured because the success is marked by individual victims who have found a way out, and those voices may never be heard. The cycle has been broken. They are safe and that is the most important part of their lives. It is what we all hope and work toward every day.

Thank you for the invitation.

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

Chairman LEAHY. Thank you very much.

Dr. Gelles.

STATEMENT OF RICHARD J. GELLES, PH.D., DEAN, SCHOOL OF SOCIAL POLICY & PRACTICE, UNIVERSITY OF PENNSYLVANIA, PHILADELPHIA, PENNSYLVANIA

Mr. GELLES. Thank you, Mr. Chairman. Good morning, Mr. Chairman and members of the Committee. I appreciate the opportunity to testify before you this morning on this important and yet complex question of the impact of the current economic downturn on violence against women.

I would add two things to your introduction: one, the caution that researchers are by our very nature contrarian; and then the second addition I do not have to add now, and that was I spent 25 years at the University of Rhode Island.

A year ago, there was a spike in familicides, primarily males who killed their female partners and their children. This happened in the midst of the economic downturn, and our research team de-

cided to see whether this was a “canary in the mine shaft” event that foreshadowed increases in child maltreatment and domestic violence.

The answer to that question, as I say in my testimony, is elusive primarily because Federal data on child maltreatment, homicide, and violence toward women lag by 1 to 2 years. So the most recent data we have now for child maltreatment and violence toward women only cover up to the very beginning of this economic downturn.

Prior to the economic downturn, the rate of intimate partner violence had dropped 50 percent between 1993 and 2005, almost completely uninterrupted by any economic downturns in 1990–91 and 2000–01. There has been a more shallow decrease in homicide of women at the hands of intimate partners. It is important to point out that in the same trend data, a small but significant number of male victims have remained flat, so there has been no impact either of the economy or Government programming or community efforts on a small but significant number of male victims.

The impact of the Violence Against Women Act is likely to have played a role in that 50-percent downturn, and many of the statements made by the witnesses this morning speak to the importance of providing community services and the importance of changing the cultural attitude regarding violence toward women.

I did not put it in my testimony, but the first time I testified before Congress on violence toward women was 1978, and when we got in the elevator, someone who was affiliated with a Congressperson but not a Congressperson said—assuming I was not in the elevator—“If you cannot beat your wife, who can you beat?” One does not hear such a thing in public or in private anymore.

Chairman LEAHY. I tell you, if I ever heard that from somebody on my staff, they would be fired on the spot.

Mr. GELLES. No one said anything, and the elevator was full. Things have changed enormously, and I suspect that that cultural attitude plays an enormous role in support for the Violence Against Women Act and the decrease.

However, the Violence Against Women Act is unique as a piece of Federal legislation in that it is rather narrowly constructed, located primarily in the Justice Department, with a goal of protecting women through a relatively narrow continuum of care. So if it is time to revisit the Violence Against Women Act, I would argue strongly from the point of view of the research community that the Violence Against Women Act should profit from 16 years of research that have gone on since the Act was first enacted and to develop a broader, more evidence-driven bill and funding that could be even more effective than the funding that has been in the initial iterations of the bill for the last 16 years.

Thank you for the opportunity to speak before you this morning. [The prepared statement of Mr. Gelles appears as a submission for the record.]

Chairman LEAHY. Thank you, and I think there have been a lot of changes in attitude since the time of that. But I think we can all agree we still have a long way to go.

I am going to yield to Senator Klobuchar, who has to go to a press conference, and then I will yield to Senator Franken, who has been here patiently all through this, and then I will wrap up. Senator Klobuchar.

Senator KLOBUCHAR. Thank you very much, Mr. Chairman, and I thank all of you.

I just wanted to clarify one thing, and first of all, thank you, Dr. Gelles, for pointing out this cultural shift. But one thing—either of you can answer on the front line, Ms. Watersong or Ms. Ulloa, and that is, in his testimony Dr. Gelles discussed the fact that a broader assessment of VAWA is that not only did VAWA ignore services and resources for male victims of intimate partner violence, but the law is unique in terms of Federal legislation aimed at the problem of violence and abuse in families. So just to point out, do you also serve male victims of domestic violence or do you turn them away?

Ms. WATERSONG. Thank you, Senator. In Vermont, we do serve male victims as well, and in last year alone, we provided more than 300 men with supportive program services, and we safe-housed or sheltered 16 men in Vermont. So, yes, we do serve—

Senator KLOBUCHAR. Has that been changing over the years? Do you think there has been more male victims?

Ms. WATERSONG. I cannot say that I have the statistics on that, but I know that I have been working in this for 15 years, and since the very beginning we have always accepted male victim calls and always worked with them, just as we have with women.

Senator KLOBUCHAR. OK. Ms. Ulloa.

Ms. ULLOA. Thank you, Senator Klobuchar. In our office and in our State, I think we do a very good job and are very proactive in making sure that victimization of anyone is addressed. And in particular, when there is a male that calls our office, we provide the same type of services and full range of services, including advocacy services for those individuals.

I think VAWA has done a great deal of work in ensuring that the programs that are recipients of their money make sure that all of the services that are provided to women and to the children are also provided to male victims.

Senator KLOBUCHAR. Thank you. You mentioned in your testimony, Ms. Ulloa, that as we look at this economic issue—and, again, I think I liked what Ms. Watersong said about how it is not necessarily that an economic downturn creates more domestic violence, but we do not really have those facts right now, but what we have, as Dr. Gelles pointed out, we do know it is harder for them to get back on their feet because there may not be a job or there may not be the resources out there.

You talked specifically about child support orders. How do you think we could do a better job to ensure that women get their child support as soon as possible and integrate that into how we focus on domestic violence?

Ms. ULLOA. Thank you, Senator Klobuchar. I think one of the things that would be critical is supporting the work that VAWA has done previously in trainings in different areas, either the medical or the prosecution. Now I think there is an area where we need some improvement and some enhanced services, and that is, training in the child support area, whether it is the district court staff,

the judges, which we have done a lot of training around with the judges, but also advocacy service to ensure that the protocols and procedures that are in place now are being viewed when you have a domestic violence victim, and that is different, and ensuring that that is a priority when we are setting child support orders, because that financial stability for that woman can allow her to make different choices and different choices for her children.

Senator KLOBUCHAR. One other thing that you raised—and I cared a lot about this when I was in the office of the county attorney—was working on police training. And I know one of the things we learned is that sometimes the police did not know what the lawyers want and the lawyers were not clear with the police, and it created a lot of issues and we tried to work those out by going around to every police department, not just with domestic violence but finding out exactly what the issues were. And I think we saw some improvement, and you raised this issue about police report writing, and you have testified that you have seen the quality of these reports improve recently.

What are some of the problems? How could we address this with training as we look at the reauthorization of VAWA?

Ms. ULLOA. Senator Klobuchar, thank you. I think that we are at a place, at least in Minnesota, where we have some very good and devoted law enforcement partners, and one of the things that we have done with the prosecutor's office and advocacy groups in general is providing some—and strengthen and support our law enforcement partners in ensuring that when they are looking at arriving at the scene of a domestic violence crime, that their documenting that they are—and I mentioned this in my testimony—that they ensure that the parties are separated, that we look at the medical needs, that the children as witnesses are also a focus of their investigation. And I think part of what happens is that we have built on what preliminarily started as good police report writing, and now we have another layer, and that is, ensuring that we have all the witness testimony, we get all the good investigation, we have the capturing of evidence which is critical for the prosecution of the cases.

In addition to that, it is the response of the police officers themselves to the victims at the scene which has changed, and many times for women who are in these situations for a male officer or a female officer, a person of authority to tell them that they do not deserve to be beaten or treated this way can go—is beyond what they expect. And they have mentioned that when the response is that way, and I think that is the part that has changed with all the VAWA funding and the training.

Senator KLOBUCHAR. Thank you very much.

Chairman LEAHY. Thank you.

Senator FRANKEN.

Senator FRANKEN. Thank you, Mr. Chairman. Thank you to all the witnesses.

One of the things that I am interested in is prevention and sort of the cycle of violence. It kind of brings me to divorce proceedings. And any of you can speak to this.

One of the ways that men maintain power over women is repeatedly challenges the terms of divorce, fighting for custody, this sort

of thing. And I am wondering what the prolonging of all that—I heard Judge Carbon talk about cases that have gone on for 12 years or something—what effect that has on the kids.

Ms. ULLOA. Thank you, Senator Franken. Well, our experience has been that what the Mom is going through is reflected many times in what the children are going through. When legal representation in order to advocate for—really the safety of the Mom is the safety of the children in legal proceedings. And when there is a failure of legal representation—and the abuser many times has legal representation—I think the balance of power in the courtroom is completely changed. And I think one of the things that women typically tell us is that they will concede in many areas in the divorce as long as the custody of the children and the parenting time is addressed so that the children are safe.

So you have unequal bargaining at divorces because you do not have legal representation, and such an emotional issue—and not only emotional, but there is a fear. We have many women who do not want to go to a court proceeding because of the fear of seeing their abuser, even though there are sheriff's deputies there and the courtroom is secure. Just the fear alone will stop them. If they had a legal advocate, had legal representation to do much of this work without appearing in the courtroom, this would facilitate their ability to move forward with the divorce.

Senator FRANKEN. So that is one place where you could use resources, probably.

Ms. ULLOA. Absolutely.

Senator FRANKEN. What is the research on this? What percentage of abusers were abused themselves as kids or witnessed abuse of their Mom when they were kids?

Mr. GELLES. I can answer that, but it has to be answered two ways. The answer to that is 100 percent. But that does not tell you as much as what percentage of abused children or what percent of children who witnessed abuse grow up to be abusers. And the answer to that question is about 30 percent. That does not seem like a lot, except that the overall rate of abuse in our country which most people cite is about 3 percent, or 1 in 22. So you have a difference between 3 percent and 30 percent, which is an enormously big difference.

The driving force behind it is partially the abuse, partially the economy. Individuals grow up and who have their needs met really do not carry on that cycle of abuse. And then the third component, which actually speaks to your question about divorce, is the individuals who do not repeat the pattern of violence tend to have stable, long-term relationships with a parent or relative or a counselor. So that you need someone in your life who is there for you in an unrestricted, non-qualified relationship.

Going back to your question about divorce, a divorce that goes on for 12 years, no matter how much violence is in it, robs the children of that stable caregiving, and there is absolutely—divorce proceedings where there are allegations of abuse and counter-allegations, one of the problems besides resources is that is the epicenter of junk science. People are allowed to provide expert testimony about whether someone is abused or someone is not abused or the fictitious parental alienation syndrome. Much of that should be

barred from any courtroom and judges should be making decisions based on what is truly in the best interests of this child so this child does not grow up and be part of the 30 percent and is directed to the 70 percent.

Senator FRANKEN. Thank you. I want to get one last question in. I know I am running out of time. Are there prevention models—I know there is a thing in Minnesota, Code of Healthy Families, where basically pediatricians and obstetrician/gynecologists and social workers identify parents that are at risk while the mother is pregnant and start a voluntary system of, first of all, prenatal care, but then also once the child is born, house visits and those kind of things. And what I have heard is that those programs pay for themselves basically in the reduced amount of child abuse.

Do we have good models of prevention of abuse in the family?

Mr. GELLES. You are speaking about David Olds' Nurse-Family Partnership model, which Congress funded in the stimulus bill and was viewed by the Office of Management and Budget as a cost-neutral program because it saves as much on the back end as it costs on the front end.

Unfortunately—and that is a secondary prevention model. It identifies high-risk individuals and intervenes with them. It is not a broad-based primary prevention model.

In David's research, the unfortunate part of the research was that when there is domestic violence in the home, it mitigates the effect on the children. So we do not yet have—and I would personally say it is one of the shortcomings of VAWA. VAWA did not in its implementation implement a research and demonstration project—

Senator FRANKEN. I think I am actually talking about a different program, one that was adopted in Minnesota.

Mr. GELLES. It is called Healthy Families.

Senator FRANKEN. Well, this is by Dakota County.

Mr. GELLES. It is a version of David's model, although you use—he uses nurse practitioners and Minnesota uses a wider range of professionals and paraprofessionals. But it is essentially the same model that has been tested since 1976. There is no such secondary prevention model tested, evaluated, and effective for domestic violence.

Ms. ULLOA. Senator Franken, I think that any venue where you are bringing inventory services, whether it is medical or criminal justice or advocacy groups, is critical to a woman. In Minnesota, what we do really well is—for instance, I will give you an example. The Hennepin County Medical Center, which is a high-trauma area right in downtown Minneapolis, has an advocate and has social workers who are trained in the work of domestic violence. So when somebody comes into the hospital, either in the emergency room or other areas, there is somebody that they can call, and typically they call and do the crisis work and then call our office to provide an advocate. And many areas and many hospitals have advocates onsite, and I think in the medical area where we see high-trauma coming in right away, right after the assault, that is critical.

The advocacy services are always going to be the spoke of the wheel to provide the right services to let the woman leave the home. So advocacy services in the medical arena is critical.

Senator FRANKEN. Thank you.

Thank you, Mr. Chairman.

Chairman LEAHY. Thank you very much, Senator Franken.

You have all given us so much for thought. I think it is easier to say we all want to do the right thing. The idea is finding out what is the right thing, what works best.

Let me, Ms. Watersong, direct you more to the idea of rural areas, and every State has rural areas, so it is appropriate. But I think of the problems you have in your program and the problems that law enforcement has. Can you speak to that, especially how do survivors in rural areas like Vermont achieve financial independence? What are some of the specialized problems they have?

Ms. WATERSONG. Thank you, Senator Leahy. When I think about the rural challenges for domestic and sexual violence survivors in Vermont, I cannot help but think about one particular case, a woman that I worked with years ago when I worked as a direct services advocate. I will never forget the day that she showed up when I was working at a local program, and she had survived a horrific all-night physical and sexual assault by her partner. The next morning he left her in their home with no phone and no car in the back woods of Vermont. Disoriented and in shock, bruised and bloodied, she walked barefoot for 8 miles on a hot summer road into town to our program seeking respite relief and healing. Within 3 weeks, she was in safe and affordable housing and managing newly accessed resources. She succeeded in leaving that desolate isolation and horrendous violence because she was supported by a responsive criminal justice system. But she stayed safe because that program was able to provide her with the full breadth of economic supports.

Chairman LEAHY. And another question that sort of begs the answer, but if the program was not there—

Ms. WATERSONG. Right, right. What does she face?

Chairman LEAHY [continuing]. She would not have had—

Ms. WATERSONG. Yes, she faces geographic isolation, isolation from her community.

Chairman LEAHY. I also find that in very rural areas, very small towns, we also have a problem where people do not even want to speak about being a victim of abuse.

Ms. WATERSONG. Right.

Chairman LEAHY. You somehow feel you have to keep that hidden. Or am I wrong?

Ms. WATERSONG. That it is private—well, I think VAWA has really helped bring that a long way toward just increasing domestic violence awareness and even one of the examples that Mr. Gelles shared about the elevator, that cultural change that is happening is largely due to all of the great things that VAWA has done up until now. And I think even in rural communities we are seeing that change. We are seeing folks realize that being just a silent bystander is not the best option anymore. But it is still a challenge because they are so far isolated.

Chairman LEAHY. And there are also still some attitudes that have to change. You talked in your written testimony about a victim who had been hospitalized for several days and then had to go

off to court for a day to testify and got fired because of losing work. Is that correct?

Ms. WATERSONG. Right. And we appreciate what VAWA has done to this point to support them. I would encourage looking at VAWA as far as workplace protections go for victims because victims such as the one I discussed in my testimony really need unemployment compensation, they need unpaid sick leave, they need anti-discrimination laws, all of those things to make sure that they can keep their job, they can be assured that they will be able to take care of their own needs, the needs of their children and families, their court needs, all of that and still remain employed.

Chairman LEAHY. And, Ms. Ulloa, I listened to what you talked about, what is available in Hennepin County. I have got to tell you, I wish that had been available, those things had been available when I was State's attorney and we were trying to—we actually cobbled things together. I remember my wife and I actually paying for a motel for somebody to stay to hide out, buying meals for the kids and all. There were just no programs. Now they are a lot better, and thank you for mentioning Sheila Wellstone, one of the all-time saints in my estimation.

Tell me, if you had to put your finger on some of the biggest differences in handling these kind of cases since VAWA passed, what are they?

Ms. ULLOA. Thank you, Senator Leahy. I think one is the response by law enforcement after training. I think also the view that judges take on the bench, whether it is in the civil arena or the criminal arena on how they view domestic violence, that educational component. I think the value of VAWA has been greatly supporting the advocacy work, those programs that pretty much have nothing and do everything for victims, recognizing the expertise, the passion, the need that women have to have holistic services in order to get through the criminal process and the civil process. VAWA has done all of that.

In particular for me, I think one of the most wonderful areas that I am incredibly proud—and we have supported VAWA through this—is the response to culturally specific programs—

Chairman LEAHY. The response to?

Ms. ULLOA. Culturally specific programs—Not every victim stands the same way, and so much of her isolation really depends on where she is from, sometimes her language proficiency, her educational proficiency. VAWA has done an exemplary job of recognizing, defining, allowing services to go specifically to those communities, underserved communities, and I think that has been just incredible.

In my personal experience, from my community, which is one of those underserved communities, a Latino community, it has saved lives.

Chairman LEAHY. I know in our State we have had refugees from other cultures. They come to Vermont, which is kind of an entirely different thing. We are a predominantly white, Anglo-Saxon State, and suddenly you find entirely different cultures and everything else. And we have seen outreach into those communities, and that I think we are becoming more—at least the stories I hear around the country, we are becoming more aware of that. It is sometimes

easier in a large culturally diverse community, but I am glad you raised that point.

Doctor, I am glad you raised the points you did. This has been helpful. Again, I wish I could wave a magic wand and violence against women would end and we could just repeal all these laws because they would be unnecessary and you could all go off and do other things. Unfortunately, that is not a reality. That is not going to be a reality anytime soon. So you have all been very helpful, and I thank you very, very much.

Incidentally, I will keep the record open so after you get your testimony back, if you say, you know, I should have added this or added that point, we will make room for you to do it. Again, I apologize for the voice. Thank you.

Ms. WATERSONG. Thank you, Senator.

Ms. ULLOA. Thank you, Senator.

Mr. GELLES. Thank you.

Chairman LEAHY. We stand in recess.

[Whereupon, at 11:41 a.m., the Committee was adjourned.]

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

QUESTIONS AND ANSWERS



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

September 14, 2010

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

Dear Mr. Chairman:

Enclosed please find responses to questions for the record arising from the appearance of Susan Carbon, Director of the Office on Violence Against Women, before the Committee on May 5, 2010, at a hearing entitled "The Increased Importance of the Violence Against Women Act in a Time of Economic Crisis."

We hope this information is helpful to the Committee. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter. The Office of Management and Budget has advised us that from the perspective of the Administration's program, there is no objection to submission of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Ronald Weich".

Ronald Weich
Assistant Attorney General

Enclosures

cc: The Honorable Jeff Session
Ranking Minority Member

Questions for Director Carbon on “The Increased Importance of the Violence Against Women Act in a Time of Economic Crisis” from Senator Sessions

1. **At the hearing, you testified that it [sic] you would be open to consolidation of some programs using VAWA funds, in order to address inefficiencies and to increase the impact of the limited funds available. You further testified that you were “looking at” consolidating some of these programs.**
 - a. **Which programs and services have you been considering consolidating?**
 - b. **Are there other programs and services you think are redundant and can be merged with others?**
 - c. **How many resources can be saved through consolidation?**
 - d. **How can services for crime victims be improved through this consolidation?**

Response to No. 1:

The Office on Violence Against Women (OVW) is analyzing our grant programs to consider whether consolidation would yield efficiencies for our grantees and for OVW as an administering agency. We also are interested in identifying ways to increase our flexibility to address changes and emerging issues in the field of violence against women. In performing this review, we are weighing whether we can obtain increased efficiency and flexibility without sacrificing important statutory goals, such as reaching underserved populations and encouraging jurisdictions to adopt best practices. We also are considering whether grant programs with very different types of eligible entities (e.g., institutions of higher education, legal service providers) are more effectively administered as free-standing programs.

Over the past ten years, OVW has experienced a substantial growth in funding and responsibilities, while staffing has not kept pace. At this juncture, we therefore are focusing on whether grant consolidation or realignment could improve the way the OVW serves its constituents with its current limited resources. We expect, at a minimum, that some consolidation would reduce administrative burdens (e.g., the need to track funding separately, file multiple reports, and submit multiple applications) on entities that receive grants from multiple OVW grant programs. Likewise, a consolidation of grant programs would decrease certain administrative tasks that OVW performs, permitting us to issue fewer solicitations and conduct fewer peer reviews.

2. **At the hearing, you testified that you were looking at an increase of “unmet needs.”**
 - a. **How are you measuring these “unmet needs”?**

b. Would a consolidation of inefficient programs help satisfy some of these unmet needs?

Response No. 2:

There is little research available that specifically addresses the need for particular services or programs; most research in the violence against women field focuses on the incidence and prevalence of such violence or on the effectiveness of certain interventions. In my testimony, however, I noted three pieces of evidence that suggest increased unmet need: a one-day national census of domestic violence services that showed 9,280 requests for service went unmet;¹ a 19.4% increase in calls to the National Domestic Violence Hotline; and a dramatic rise in requests for service at a shelter in Dane County, Wisconsin.²

In addition to considering such reports from the field, OVW has two other sources of information regarding unmet need. First, we compare the number of applications that our grant programs receive with the number of applications that we are able to fund. Second, we collect and analyze information reported by OVW grantees in their semi-annual and annual progress reports regarding unmet needs. We recognize the limitations of these sources: entities that have the sophistication to seek and, more important, receive federal funding are not necessarily representative of the neediest communities. In particular, those entities that already have OVW funding are, by definition, having many of their funding needs met. Nonetheless, our analysis of this information highlights some important unmet needs.

Two of our most competitive grant programs illustrate that requests for OVW funding far outstrip our resources. Requests for funding from our Transitional Housing Program consistently exceed the funding available each fiscal year:

- In FY 2007, OVW received 215 applications requesting a total of \$70,295,396.87; we were able to fund 51 projects totaling \$12,926,569.
- In FY 2008, with eligibility limited only to continuation applications, OVW received 112 applications requesting a total of \$29,737,665; we were able to fund 58 projects totaling \$14,271,762.
- In FY 2009, OVW received 261 applications requesting a total of \$62,523,995; we were able to fund 58 projects totaling 15,224,608.

¹ The National Network to End Domestic Violence, *Domestic Violence Counts 2009: A 24-Hour Census of Domestic Violence Shelters and Services*, available at <http://www.nnedv.org/resources/census/375-census-2009-report.pdf>.

² Data regarding the Hotline and the Dane County shelter provided to OVW by the U.S. Dept. of Health & Human Services, Administration for Children and Families.

- This past summer, we received an unprecedented 567 applications requesting a total of \$285,371,199 from the Recovery Act Transitional Housing Assistance Program; we were able to fund 91 projects totaling \$42,651,316.

Our Legal Assistance for Victims Program is another of OVW's most competitive grant programs, funding only a fraction of the applications received:

- In FY 2008, OVW received 242 LAV Program applications, requesting a total of \$107,411,096.99; we were able to fund 66 projects totaling \$27,717,281.
- In FY 2009, OVW received 256 LAV applications, requesting a total of \$118,524,068; even after reducing award amounts, we were able to fund only 69 projects totaling \$29,502,980.

Progress report data submitted by OVW grantees that provide direct services to victims/survivors also gives us a picture of unmet needs. The data reveal that the Transitional Housing and Legal Assistance for Victims Programs have the highest percentages of victims seeking services who were not fully served: for the period January to June 2009, Transitional Housing Program grantees reported that they could not fully serve 26.4% of victims requesting grant-funded services; LAV Program grantees reported 18.3%.³ The remaining OVW grant programs that provide direct victim services had the following percentages of victims requesting grant-funded services who were not fully served: STOP Violence Against Indian Women (16.8%),⁴ Tribal Governments (6.0%), Arrest (5.3%), Rural (3.7%), and Campus (1.3%). For calendar year 2007 (the most recent for which clean data is available), our STOP Violence Against Women Formula Program subgrantees reported that they could not fully serve 5.7% of victims seeking services. These numbers demonstrate that even organizations that receive OVW funding cannot fully serve the victims who seek their aid. Moreover, these figures only capture those victims in funded communities who actually request help from our grantees – they do not reflect the thousands of other victims who never even contact these programs for assistance.

As noted in response to question number 1, above, OVW is focusing on whether grant consolidation might improve administrative efficiency and flexibility and our ability to serve our grantee community and victims. It is premature to predict whether program consolidation would enable OVW to address unmet needs. Given the degree to which applications exceed available funding, however, we do not anticipate that administrative efficiencies could bridge the gap between need and available resources.

³ Grantees and subgrantees are asked to report on victims seeking services who (a) received all the services requested that are funded under the particular grant program ("served"); (b) received some, but not all, of the services they requested that are grant-funded ("partially served"); and (c) received none of the services requested that are grant-funded ("not served"). Victims who are not fully served were either partially served or not served.

⁴ The STOP VAIW Program was replaced in FY 2007 with the new Tribal Governments Program. Because some older STOP VAIW-funded projects were still operating during this reporting period, OVW continued to collect separate data from these grantees.

3. **Dr. Gelles suggested the need for the VAWA program to become more evidence-driven, do you agree? If so, what steps will you be taking to make the program more rigorous?**

Response to Number 3:

The Office on Violence Against Women is interested in exploring evidence-based strategies to enhance our nation's response to meeting the needs of victims and holding offenders accountable. Like the Office of Justice Programs, we are committed to building data collection and evaluation into the grants we fund so that we are able to develop more evidence-based programs, synthesize and integrate evidence into practice, and disseminate data to the field about programs that work. For example, we are currently working to develop a Promising Practices manual that will provide data across disciplines on effective programs. We also are working to foster innovation on the local and national levels to find new approaches that can be evaluated. In addition, we coordinate with the National Institute of Justice to identify specific areas where research is needed, review completed publications, and disseminate best practices to the field. Our offices communicate on an ongoing basis to ensure that solicitations for research are informed by the work and needs of our grantees.

4. **Can you tell us how many beds exist in women's shelters in the United States that are receiving VAWA grants? Has that number increased or decreased?**

Response to Number 4:

Most federal funding for shelter beds is administered by the U.S. Department of Health and Human Services' (HHS) **under the Family Violence Prevention Services Act (FVPSA)**; therefore the bulk of emergency shelter for domestic violence victims is not funded by VAWA grants. In FY 2008, HHS FVPSA grantees reported that they provided shelter for 286,570 survivors and their children. Fifty-two percent of States reported on shelter nights provided. They reported providing 4,812,768 shelter nights.

A handful of OVW discretionary programs do support emergency shelter service; in addition, OVW's STOP Formula Program grantees subgrant STOP monies to shelter providers. For these programs, OVW collects information on victims/survivors and their children served and the bed nights spent in shelter. For the January to June 2009 period, Rural Program grantees reported providing emergency shelter to 1,703 victim/survivors and 1,693 family members for a total of 43,980 bed nights. The STOP Violence Against Indian Women program reported providing shelter to 45 victim/survivors and 52 family members for 290 bed nights.⁵ The Tribal

⁵ See note 4, *supra*.

Governments program reported providing shelter to 469 victim/ survivors and 660 family members for 22,299 bed nights. For calendar year 2007, STOP subgrantees reported providing shelter to 21,547 victim/survivors and 20,043 family members for 798,960 bed nights. OVW does not collect data on the actual number of “beds” that it funds through these programs.

- 5. As a former judge, do you agree that long, predicable sentences, including mandatory minimum sentences, for rapists and other sexual offenders help deter violent sex offenses, prevent recidivism, and better protect victims of crime? Why or why not?**

Response to Number 5:

Judges play a key role in ensuring appropriate and proportionate offender accountability. Historically, judicial responses to crimes against women were uneven across jurisdictions and often lax. When crimes against women are not taken seriously, women are less likely to report crimes, their needs go unmet, and offenders are left to perpetuate a destructive cycle of violence. Certainty and predictability in sentencing are critical to promoting trust and confidence in the criminal justice system and meeting the goals of sentencing, including the goals of deterring further criminal conduct and otherwise promoting public safety. In the context of advisory sentencing guidelines – which currently exists in the federal criminal justice system – the Administration supports the judicious and limited use of mandatory minimum sentencing statutes for serious crime.

One of the signature achievements of the Violence Against Women Act has been to educate all relevant partners, including judges, about the breadth, depth, and complexity of domestic violence and sexual assault. As a former judge, I learned first-hand that the most effective way to improve judicial response to violence against women is through intensive judicial education. Education for judges is an essential part of helping meet the needs of victims and ensuring offender accountability. I learned this through my own judicial education and my later experience training judges from around the country about the complexity of domestic and sexual violence. Looking to the future, we must ensure that judicial training keeps current with new developments in the field. Judicial skills must be enhanced to provide a comprehensive and appropriate response to issues such as abuse through technology, elder abuse, victims with disabilities, and victims from underserved communities.

- 6. What studies need [sic] to be done in order to account for the money and resources being allocated on VAWA at a national level?**

Response to Number 6:

In response to a Congressional directive in the Violence Against Women Act of 2000, 42 U.S.C. § 3789p, OVW put in place a comprehensive system to account for grantee activities conducted with VAWA resources. Since 2001, OVW has implemented the VAWA Measuring

Effectiveness Initiative, an intensive effort to improve how we measure and monitor the work of OVW grantees. With the help of the Muskie School of Public Policy at the University of Southern Maine, OVW has developed, revised, and refined computerized progress report forms for our grantees to collect and report information that captures the effectiveness of VAWA funding. In most six-month periods, OVW will receive over 1000 computerized progress reports. OVW staff review each report for completeness, accuracy, and to determine whether the grantee is meeting the goals and objectives of the grant project. Progress reports are then forwarded to the Muskie School for further data cleaning and analysis.

These progress report forms provide OVW with extraordinarily comprehensive and consistent data regarding grantee activities, including services provided to victims. The forms collect both grant program specific activity and uniform information on common activities that occur across several programs. For example, for our Legal Assistance to Victims Program, we receive specific information on legal services so that we can assess whether grantees are providing comprehensive legal services for victims. Across numerous programs, we collect information on victims served, demographics, types of victim services, and certain law enforcement, prosecution, and probation activities. With this data, OVW tracks the use of VAWA grants in communities across America, where VAWA-funded services reach hundreds of thousands of victims every year.



SUBMISSIONS FOR THE RECORD

Department of Justice

STATEMENT FOR THE RECORD OF

SUSAN B. CARBON
DIRECTOR
OFFICE ON VIOLENCE AGAINST WOMEN

BEFORE THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

ENTITLED

"THE INCREASED IMPORTANCE OF THE VIOLENCE AGAINST WOMEN
ACT IN TIMES OF ECONOMIC CRISIS"

PRESENTED

MAY 5, 2010

**Testimony of Susan B. Carbon, Director
Office on Violence Against Women
United States Department of Justice**

**“The Increased Importance of the Violence Against Women Act
in Times of Economic Crisis”
United States Senate Committee on the Judiciary
May 5, 2010**

Introduction

Thank you Chairman Leahy, Senator Sessions, and members of the Committee for the opportunity to speak with you today. My name is Susan Carbon, and I am the Director of the Office on Violence Against Women (OVW) in the Department of Justice. I am here today to discuss the vital role that the Violence Against Women Act (VAWA) has played in the efforts of the Department of Justice and our partners to end violence against women in our nation, and to highlight the importance of VAWA programs and policies in times of economic stress.

This Administration is dedicated to building on the achievements of VAWA and ending violence against women. For the first time the White House has a Senior Advisor on Violence Against Women, Lynn Rosenthal, with whom I am privileged to work closely. I am also honored to work for an Attorney General who is personally committed to these issues.

In September 2009, the Department of Justice launched a year-long campaign to commemorate the 15th anniversary of President Clinton signing VAWA into law. The objective of the campaign is to raise public awareness about issues around violence against women, to build and renew coalitions among Federal, State, local and Tribal law enforcement and victim services communities, and to end stalking, sexual assault, domestic and dating violence for men, women and children across the country. We have enlisted the assistance of our U.S. Attorneys, other federal agencies, diverse ethnic and cultural communities, and celebrities including actors, singers, authors and professional athletes to engage a broad audience. We view this campaign not only as a vehicle to honor the accomplishments of the past 15 years, but as a platform for a continued call to action. I am so pleased to be able to join you today to begin the conversation about how we can take the next steps toward ending the cycle of violence that so often begins with violence against women.

The Violence Against Women Act

In recognition of the severity of the crimes associated with domestic violence, sexual assault, and stalking, Congress first passed the Violence Against Women Act in 1994. The federal law takes a comprehensive approach to violence against women by combining tough new penalties to prosecute offenders with programs to aid the victims of such violence. As a result of Congress's efforts to develop a comprehensive legislative package aimed at eradicating violence against women, we have witnessed a paradigm shift in how the issue of violence against women is addressed in the United States, and countless lives have been positively impacted.

One of the signature achievements of VAWA is the development of the concept of a coordinated community response. In the years since VAWA's enactment, we have witnessed a sea-change in the ways that communities respond to violence against women. VAWA encourages jurisdictions to bring together stakeholders from diverse backgrounds to share information and to use their distinct roles to improve community responses to violence against women. These players include, but are not limited to: victim advocates, police officers, prosecutors, judges, probation and corrections officials, health care professionals, leaders within faith communities, and survivors of violence against women.

With Congressional reauthorizations in both 2000 and 2005, Congress has shown an ongoing willingness to assess what is working and meet emerging challenges. Specifically, the VAWA 2000 reauthorization strengthened the original law by improving protections for battered immigrants, elderly victims, victims with disabilities, and victims of dating violence. In addition, it improved the enforcement of protection orders across state and tribal lines. VAWA 2005 continued to improve upon these laws by providing an increased focus on the access to services for underserved and vulnerable populations, including sexual assault survivors, teen victims, children exposed to violence, and American Indian and Alaska Native women. VAWA 2005 also provided new resources to assist victims of sexual assault and stalking and provided a means for communities to build an effective coordinated community response to these crimes.

The Office on Violence Against Women (OVW) was created, in part, to implement those portions of VAWA and subsequent reauthorizing legislation that fall under the jurisdiction of DOJ. . OVW's mission is to provide national leadership to improve the Nation's response to crimes of domestic violence, stalking, sexual assault, and dating violence. The Office administers financial support and technical assistance to state, local and tribal communities across the country and in our territories that are creating programs, policies, and practices aimed at ending these crimes.

Criminal Prosecutions Under VAWA

In addition to ensuring services for victims and improving the justice system response to violence against women, VAWA and subsequent legislation created new federal interstate domestic violence, stalking and firearms possession crimes, strengthened penalties for repeat sex offenders and repeat domestic abusers, addressed prosecution of violations of protection orders, and required states, tribes, and territories to give full faith and credit to protection orders issued by other states, tribes and territories. VAWA encourages federal prosecutors to work closely with state, local and tribal prosecutors to ensure that batterers, stalkers, and rapists are held accountable for their crimes.

Since the enactment of VAWA, the Justice Department has prosecuted more than 2600 cases under both the criminal interstate provisions and the Gun Control Act provisions that target domestic violence abusers. Often these cases involve the most aggressive and violent abusers who cross state lines to pursue their victims. In addition, strengthening of the cyberstalking laws has allowed the Department of Justice to prosecute cases using the latest technology in a way that would be difficult for the states to pursue.

Grant Programs Authorized by VAWA and Subsequent Legislation

The VAWA grant programs administered by OVW support a broad range of activities designed to serve victims and hold offenders accountable. At present, OVW administers two formula grant programs and 19 discretionary grant programs, all of which were established under VAWA and subsequent legislation. Taken together, these programs address a host of different issues that communities face in responding to violence against women, including: the importance of training police, prosecutors, and court personnel; the unique barriers faced by rural communities; the critical need of victims for legal assistance, transitional housing, and supervised visitation services; the special needs of elderly victims and those with disabilities; and the high rate of violence against American Indian and Alaska Native women.

VAWA grant programs fund States, Territories, local governments, Tribal governments, and nonprofit organizations to help communities across America develop innovative strategies to respond to violence against women. With VAWA funding, communities are forging effective partnerships among Federal, State, local, territorial, and Tribal governments, and between the civil and criminal justice systems and victim advocates, and are providing much-needed services to victims. Since 1995, grants and cooperative agreements totaling over \$4 billion have been awarded to communities across the United States under the VAWA programs. VAWA-funded services reach hundreds of thousands of victims every year. For example, in the six-month reporting period from January to June 2009 alone, OVW grantees reported that:

- More than 125,300 victims were served;
- Over 253,000 services (including shelter, civil legal assistance and crisis intervention) were provided to victims;
- More than 3,400 individuals were arrested for violation of protection orders; and
- 261,622 protection orders were granted in jurisdictions that receive funding from OVW's Grants to Encourage Arrest Policies and Enforcement of Protection Orders Program (Arrest Program).

The resources authorized by VAWA and subsequent legislation have never been more important than they are today. In the best of economic times, a victim worries about finding a job and housing and providing for her children; these problems intensify during a recession. During an economic downturn, a victim of domestic violence faces additional obstacles to leaving her abuser: Shelters and service providers that serve victims have been facing economic crises of their own: State funding cuts and declining charitable donations threaten their ability to survive and serve. As documented in a national census of domestic violence services conducted by the National Network to End Domestic Violence on one day in September, 2008, 8,927 requests for services went unmet due to lack of resources.¹ When the census was re-conducted in September, 2009, that number had risen to 9,280 unmet requests.² The National Domestic Violence Hotline, which was created by VAWA and is administered by the Department of Health and Human

¹ The National Network to End Domestic Violence, *Domestic Violence Counts 2008: A 24-Hour Census of Domestic Violence Shelters and Services*, available at <http://www.nnedv.org/resources/census/232-census2008.pdf>.

² The National Network to End Domestic Violence, *Domestic Violence Counts 2009: A 24-Hour Census of Domestic Violence Shelters and Services*, available at <http://www.nnedv.org/resources/census/375-census-2009-report.pdf>.

Services (HHS), reports that calls to the hotline increased 19.4 % in the 12 months following September 2008. A shelter in Dane County, Wisconsin compared their service numbers for the first quarter of 2008 with the first quarter of 2009 and found a 44% increase in persons sheltered, a 74% increase in crisis response, and an astounding 124% increase in calls to the crisis line requesting information about shelter.³

I commend Congress for recognizing these issues and providing additional funding to VAWA programs through the American Recovery and Reinvestment Act of 2009 (Recovery Act), which provided OVW with \$225 million for grants to combat violence against women and serve victims of domestic violence, dating violence, sexual assault and stalking. We know that this funding has reached its intended recipients and is being used to preserve services, fund new positions, and help victims find safety and economic stability. As of the end of the last fiscal quarter, March 31, 2010, recipients of Recovery Act funds reported funding nearly 1,400 full-time-equivalent (FTE) positions. To take one example, the State of Alabama has reported that STOP Recovery Act funds are supporting 31 FTEs, including court personnel, sheriffs' deputies, victim service officers, intake advocates, prosecutors, court advocates, sexual assault nurse examiners, crisis line coordinators, counselors, and shelter managers.

VAWA Support for Training, Education, and Sharing of Promising Practices

Over the past 15 years, we have learned that truly effective coordinated community responses must be informed by the experiences of survivors and must be broad enough to include a diverse group of community partners that affect the safety of survivors and the accountability of perpetrators. Communities now recognize the specialized needs of victims and the training required to effectively handle all domestic violence and sexual assault cases.

Federal funds awarded under grant programs authorized by VAWA and subsequent legislation have supported vital training and technical assistance to ensure that professionals have the tools to implement an appropriate response to these crimes. During the four-and-one-half year period from January 2005, through June 2009, OVW's discretionary grantees reported training more than 1,161,000 individuals, including 191,330 law enforcement officers, 21,649 prosecutors, and 32,265 court personnel. Similarly, during the four-year period of 2004 through 2007 combined, subgrantees receiving funding awarded by States through OVW's STOP Violence Against Women Formula Grant Program (STOP Program)⁴ reported training about 1,138,000 individuals, including 347,382 law enforcement officers, 25,715 prosecutors, and 37,775 court personnel.

In implementing VAWA, OVW also works closely with national experts to train, educate, and disseminate promising practices to advocates, clinicians, police, prosecutors, judges, health care practitioners, and many other professionals who are on the front lines. The

³ Data provided to OVW by the U.S. Dept. of Health & Human Services, Administration for Children and Families, Family Violence Prevention and Services Program.

⁴ The STOP (Services . Training . Officers . Prosecutors) Violence Against Women Formula Grant Program (STOP Program) was initially authorized under the *Violence Against Women Act of 1994 (VAWA)* and reauthorized and amended by the *Violence Against Women Act of 2000 (VAWA 2000)* and by the *Violence Against Women Act of 2005 (VAWA 2005)*.

following five areas of focus illustrate how OVW uses technical assistance funding to support the coordinated community response envisioned in VAWA.

1. Developing Resources to Support the Issuance and Enforcement of Protection Orders

In recognition of the crucial role that protection orders can play in helping victims to escape violence, VAWA requires states, tribes, and territories to give full faith and credit to protection orders issued by other jurisdictions. Since the passage of VAWA, OVW has undertaken a number of activities to assist jurisdictions and professionals with issuing and enforcing protection orders, including:

- Funding the creation of the National Center for Full Faith and Credit (NCFFC). NCFFC trains law enforcement officers and judges, provides onsite technical assistance to jurisdictions, and tracks State protection order legislation and forms. Since 2005, NCFFC has trained more than 6,700 professionals;
- Funding the National Council of Juvenile and Family Court Judges (NCJFCJ) to develop "A Guide for Effective Issuance & Enforcement of Protection Orders." More than 7,600 copies of the book have been provided to professionals working in the domestic violence field. An updated and extensively revised version of the guide will be released in the near future; and
- Funding the National Center for State Courts to establish "Project Passport" to encourage courts to issue uniform protection orders and thereby enhance nationwide enforcement. Through Project Passport, 33 States and the District of Columbia have adopted uniform coversheets, six States have Passport implementation in progress, and nine other States are exploring the concept. In addition, tribes in 17 States are participating in or implementing Project Passport.

2. Improving Judicial Response to Violence Against Women Through Judicial Institutes

During the 1990s, as law enforcement officials, prosecutors, and other system-based professionals moved to improve their response to domestic violence, the judiciary's response remained relatively stagnant. OVW therefore launched a significant effort to improve the ways courts respond to domestic and sexual violence. Beginning in 1995, OVW has provided support to Legal Momentum, which instituted the National Judicial Education Program (NJEP) to improve the handling of sexual assault cases. Beginning in 1998, and continuing to the present, OVW has worked closely with the NCJFCJ and the Family Violence Prevention Fund (FVPPF) to develop the National Judicial Institute on Domestic Violence (NJIDV).

With VAWA funding, both NJEP and NJIDV have designed highly interactive, effective education programming to enhance judicial skills and challenge judges' attitudes and values

about domestic and sexual violence, victims, and perpetrators. To date, NJIDV alone has trained more than 8,600 judges from all 50 States, Puerto Rico, the District of Columbia, Guam, and the Northern Mariana Islands.

3. Supporting the Work of Victim Advocates

OVW and its grantees rely heavily on engaging victim advocates and using their knowledge and expertise as part of an effective and comprehensive response to violence against women. Our work could not be done without the enormous dedication and lifesaving work of advocates and advocacy organizations. As we have learned more about the need to provide comprehensive services for victims, we have come to recognize that we must strengthen advocates' skills, knowledge and abilities.

To this end, OVW is using VAWA-authorized funds to support a national Advocacy Learning Center (ALC). The goal of the ALC is to strengthen advocacy on behalf of those who are sexually assaulted, battered, stalked, trafficked or prostituted. The ALC teaches advocates how to work more effectively with victims and more strategically with the criminal justice, child protection, and other systems. Participating programs report that the ALC already has changed the way that advocates interact with victims. They tell us that they are working more closely with victims, taking a more comprehensive approach to addressing their needs, staying connected with them after they leave shelter, and using more survivors in their work. Significantly, the programs are shifting from providing only direct services to victims to engaging in a proactive effort with the larger community to end violence against women.

4. Improving the Response of Prosecutors to Sexual and Domestic Violence

OVW also has promoted targeted training for prosecutors to improve their ability to handle both sexual and domestic violence cases. With VAWA-authorized funding, the American Prosecutors Research Institute (APRI), in collaboration with the Pennsylvania Coalition Against Rape and the Battered Women's Justice Project, has developed national institutes to provide intensive training for prosecutors. From 2005 through 2008, APRI trained 780 participants at 15 domestic violence courses and 282 participants at seven sexual violence courses.

Through a new prosecution initiative, AEquitas: The Prosecutors' Resource on Violence Against Women, OVW continues to work with experienced prosecutors to develop, evaluate, and refine prosecution practices that increase victim safety and offender accountability. Since July 2009, the AEquitas staff of experienced former prosecutors has served as presenters/faculty and facilitators at over 36 different State/regional/national training events, training over 4,050 prosecutors and allied professionals.

5. Legal Assistance for Victims

VAWA recognizes that access to legal services enhances safety for victims and their dependent children. Often, legal services are essential for victims to obtain comprehensive protection orders that will provide for care and custody of children, financial support and housing. Without this crucial assistance, victims may not be able to overcome legal and

economic obstacles to achieving safety for themselves and their children. There is also some body of research that indicates that the increased availability of legal services has significantly contributed to a decline in domestic violence in the United States.⁵ Victims of domestic violence, however, often need highly trained attorneys willing to take on lengthy and complex litigation, beyond the protection order hearing and resources for this purpose are woefully inadequate.

Since 1998, OVW has administered the Legal Assistance for Victims (LAV) Program, the primary VAWA-funded vehicle for delivering legal assistance to victims/survivors of sexual assault, domestic violence, dating violence, and stalking. This program has consistently provided services to an average of 39,429 victims during *each* six-month grantee reporting period. Outside of the LAV Program, limited Federal, State, and local resources are available for these cases. In addition to providing legal services, LAV-funded lawyers and non-lawyer staff provide safety planning, support services, and general advocacy to the victims they represent.

The LAV Program has been at the forefront of providing support for immigrant victims, who often face significant obstacles in reporting crimes, accessing services, retaining custody of their children, and obtaining legal status. In a recent reporting period, January 1 through June 30, 2009, LAV grantees reported assisting over 6,000 victims with immigration matters.

VAWA Provisions Addressing Violence Against American Indian and Alaska Native Women

VAWA 2005 included for the first time provisions specifically aimed at ending violence against American Indian and Alaska Native women. Title IX, "The Safety for Indian Women Act," honors the government-to-government relationship between the Federal government and tribal governments and aims to strengthen the capacity of Indian tribes to exercise their sovereign authority to respond to violent crimes against Indian women.

As provided by the statute, in October 2006 the Department appointed a Deputy Director for Tribal Affairs for OVW, who oversees OVW's Tribal Unit, coordinates implementation of Title IX of VAWA 2005, and meets with Tribal leaders nationwide to gain a more intimate understanding of the needs and challenges that tribes face. The Grants to Indian Tribal Governments Program, which consolidated VAWA funding for tribes into a single, flexible program, was launched in Fiscal Year 2007 and has since distributed nearly \$95 million to more than 140 Tribal governments, Tribal consortia and Tribal nonprofit organizations to assist Tribal communities. Pursuant to Title IX, DOJ also instituted annual Tribal consultations to discuss how the Department of Justice can improve its response to violence against Indian women. We are currently planning for our 2010 consultation.

With Recovery Act funds, OVW made 35 awards to Tribal governments and their designees totaling over \$20 million to decrease the number of violent crimes committed against

⁵ L.Dugan, D. S. Nagin, and R. Rosenfeld, *Do Domestic Violence Services Save Lives?* 250 National Institute of Justice Journal 20-25 (2003); A. Farmer & J.Tiefenthaler, *Explaining the Recent Decline in Domestic Violence*, Contemporary Economic Policy 21(2): 158-172 (2002).

Indian women, help Indian tribes use their sovereign authority to respond to crimes of violence against Indian women, and ensure that offenders who commit these crimes are held responsible for their actions. OVW also made 10 Recovery Act awards totaling over \$2.6 million to tribal domestic violence and sexual assault coalitions that provide much needed resources for organizing and supporting efforts to end violence against Indian women and provide technical assistance to member programs.

This February, the Department of Justice announced that its grant-making components, including OVW, had created a new streamlined approach for American Indian and Alaska Native communities to apply for Fiscal Year 2010 funding. Tribal leaders had urged the Department that a single application would significantly improve their ability to apply for, and receive, the critical Federal funding on which so many of their communities depend. The Coordinated Tribal Assistance Solicitation (CTAS) builds on the consolidated approach taken to tribal programs in VAWA 2005 and serves as a single solicitation for existing Tribal government-specific grant programs administered by the Department, including OVW's Grants to Indian Tribal Governments Program and Tribal Sexual Assault Services Program. This coordinated approach will allow the OVW and its sister grant-making components to consider the totality of a Tribal community's overall public safety needs in making award decisions in Fiscal Year 2010.

Priorities for the Office on Violence Against Women

Although we can all be rightly proud of our accomplishments over the past fifteen years we must also recognize that there is much for us to do in the future. Looking forward, the Office will continue our efforts in the areas mentioned above, while bringing a new focus to a number of areas where we know greater effort is needed. I would like to mention two of these priorities today: prevention and sexual assault.

Prevention

A fundamental priority for our work must be to include prevention activities in our efforts to end violence against women. VAWA has been successful at engaging a broad range of partners to work together to intervene *after* violent crimes against women have occurred. We must shift from a historical paradigm that has focused on intervention, treatment, and accountability and address the entire cycle of violence at every stage. As we think about reauthorization of VAWA, we must fully incorporate prevention as an essential strategy to ending violence against women.

Children Exposed to Violence

I am privileged to be part of a Justice Department that is fully committed to this mission. The Attorney General has launched an initiative on Children Exposed to Violence to focus on reducing childhood exposure to violence, increasing knowledge and awareness of its implications by advancing scientific inquiry, and reducing the negative impact through intervening with children and their families early in the cycle.

As a family court judge I have seen too often the cycle of violence played out in families through generations. Children who are victimized or who witness violence in their families or communities suffer in unimaginable ways. Their own development can be tragically arrested and they may find themselves later involved with the court system as delinquents, runaways, or even perpetrators of violence against others. These children are at a higher risk for school failure, substance abuse, repeat victimization and perhaps most tragically, becoming violent adults themselves. Earlier intervention might help them to avoid this fate by ending the victim-turned-perpetrator cycle of violence.

Teen Dating Violence

Fifteen years ago, the framers of VAWA did not contemplate intervention in intimate relationships between teenagers, but much has been learned since from research in this area. Studies indicate that adolescents are experiencing violence in intimate partner relationships at alarmingly high levels. According to the 2007 "Youth Risk Behavior Surveillance" survey conducted by the HHS Centers for Disease Control and Prevention (CDC), approximately 10% of adolescents nationwide reported being hit, slapped, or physically hurt by a boyfriend or girlfriend in the past year.⁶

Congress recognized the need to pay special attention to stemming violence during adolescence through the creation of youth-focused programs within VAWA 2005. These programs include a new focus on prevention work that will help teens distinguish between healthy and unhealthy behaviors in relationships. Our efforts in this area were given a significant boost when the United States Senate, led by Senators Crapo, Lieberman and Whitehouse, introduced a resolution to expand Teen Dating Violence Awareness and Prevention Week to the full month of February. The resolution passed the Senate unanimously in January of this year.

It is imperative that we continue to focus on prevention in adolescence in order to break the cycle of violence that continues into adulthood and future generations. We also need to remember that young people themselves are the cornerstone to defining solutions to this problem.

Homicide Prevention

Another area that calls for a sound prevention strategy is domestic violence homicide. Although the overall rate of female homicide has fallen since 1993, female intimate partner homicide remains a persistent and troubling problem. An estimated 40% of female homicide victims were killed by an intimate partner in 1993; that percentage increased to 45% in 2007. The double tragedy of domestic violence homicide is the realization after the fact, in many cases, that the homicide could have been prevented. Advocates, law enforcement officers, prosecutors,

⁶ Carrie Mulford & Peggy C. Giordano, U.S. Dep't of Justice, National Institute of Justice, *Teen Dating Violence: A Closer Look at Adolescent Romantic Relationships*, October 2008
<http://www.ojp.usdoj.gov/nij/journals/261/teen-dating-violence.htm> (describing results of the CDC's 2007 Youth Risk Behavior **Surveillance survey**).

and the courts must take aggressive steps to plan for a victim's safety when risk factors are present. By the time abuse escalates to homicide, it is likely that someone in the family, the neighborhood, or the perpetrator's or victim's workplace has been aware that something is terribly wrong. Federal agencies, the research community, criminal justice organizations, and advocacy groups must work together to develop innovative responses to prevent domestic violence homicides.

In my own State of New Hampshire, we created a Domestic Violence Fatality Review Committee to encourage systemic changes to help decrease the number of domestic homicides through inter-disciplinary training and community-based prevention education. It is critical that all partners be involved in identifying high risk factors, gaps in system responses and barriers to safety in domestic violence situations.

Bystander Intervention Training

Bystander intervention training is an innovative program to end violence against women. This prevention model empowers and trains potential bystanders about the causes of sexual violence. It builds on research about community members' expressed willingness to get involved in these issues, and helps to minimize negative long-term consequences for survivors by strengthening informal safety nets in their social and community networks. Although we tend to think of sexual assault as a crime usually involving only two people, a 2002 study using data from the National Crime Victimization Survey revealed that sexual assaults are often witnessed by at least one person in the bystander role.

Sexual Assault

Ending sexual violence is a priority for the Department of Justice. This will require creating a culture where victims feel safe reporting the crime, where they will be treated with respect by all those with whom they come into contact (including the medical profession, law enforcement, and the courts), and where judges and juries will eschew out-dated myths about rape and hold offenders accountable for their crimes. Although much of the original focus of VAWA was on domestic violence, the issue of sexual assault deserves the same degree of attention. It is imperative that we work with all responders to ensure that they understand the dynamics of sexual assault and take these crimes seriously.

We also must support advocacy services for victims to help them heal. Many victims never report to law enforcement and may face a long recovery from trauma. In Fiscal Year 2009, OVW made its first awards under the Sexual Assault Services Program (SASP), which was authorized in VAWA 2005 and is the first federal funding stream solely dedicated to providing direct assistance for victims of sexual assault. Overall, the purpose of SASP is to provide intervention, advocacy, accompaniment, support services, and related assistance for adult, youth, and child victims of sexual assault, family and household members of victims, and those collaterally affected by sexual assault. In Fiscal Year 2009, each State and territory received formula funds through the SASP. These States and territories are currently in the process of making subgrant awards to local programs to provide direct services to victims. We

also funded seven culturally specific organizations, one tribal coalition, and 54 State and territorial coalitions with SASP dollars.

Violence Against Women Act Reauthorization

Again, I want to thank you, Chairman Leahy, Senator Sessions and members of the Committee, for the opportunity to testify before you today about the importance of the Violence Against Women Act. As a Nation, we have made great strides. In the past fifteen years, we have changed the way that our communities respond to domestic violence, dating violence, sexual assault and stalking. But, there is still work to do if we are to reach our collective goal of breaking the cycle of violence that plagues families and communities across our country. Looking forward, I cannot stress enough how important it is for Congress to reauthorize VAWA in order to sustain, strengthen, and continue to enhance our Nation's efforts to end violence against women. I look forward to working together with you and your staff members to consider how VAWA reauthorization can help us respond to the challenges ahead.

**Statement of U.S. Senator Russell D. Feingold at the
Senate Judiciary Committee Hearing entitled
“The Increased Importance of the Violence Against Women Act in a Time of
Economic Crisis”
Wednesday, May 5, 2010**

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

I am pleased that President Obama has increased funding for VAWA and other victims service programs in his budget for fiscal year 2011. While I fully recognize that tough decisions need to be made about spending federal dollars in the current economic climate, federal investment in protecting women and children from domestic violence is especially necessary at times like this. It is no secret that domestic violence becomes more pervasive in times of economic distress.

Wisconsin has seen particularly disturbing statistics in recent years. For example, requests for domestic violence-related services in Wisconsin have increased an average of 50% in many communities, and Dane County saw an increase of 200% in requests for shelter in 2010. In 2009 Wisconsin saw the highest rate of domestic violence homicide in the past 10 years—an increase of 30% over 2008 homicide levels. During a single day in Wisconsin in 2009, 1,900 victims were served by domestic violence services. During that same timeframe, 273 people had to be turned away due to lack of funding and staff.

These statistics of victimization are staggering, and a commitment from Congress to continue to support victim assistance programs is essential. I look forward to the testimony of today’s witnesses, which I am confident will prompt new ideas for how Congress can continue to help victims of domestic violence.

Thank you, Mr. Chairman.

Testimony before
United States Senate Committee on the Judiciary
May 5, 2010

Testimony of

Richard J. Gelles, Ph.D.

Dean

Joanne and Raymond Welsh Chair of Child Welfare and Family Violence
School of Social Policy & Practice
University of Pennsylvania

The Economic Downturn and Violence Against Women

Good morning Mr. Chairman and members of the Committee. I appreciate the opportunity to testify before you this morning on the important and yet complex question of the impact of the current economic downturn on violence against women.

My name is Richard J. Gelles. I currently hold the Joanne and Raymond Welsh Chair of Child Welfare and Family Violence and am the Dean of the School of Social Policy & Practice at the University of Pennsylvania. I have, for the last 40 years, conducted research on violence against women, child abuse and neglect, elder abuse, and other forms of family violence. I co-directed two national studies of violence toward women and served as a member of the National Academy of Sciences panel that examined strategies to intervene and prevent family violence.

Because poverty, unemployment, and social stressors are factors strongly related to increased risk of violence against women^{1 2} it is reasonable to assume that a sharp economic downturn, such as the one that began in 2008, would impact the well-being of women, children, and families in the United States. Is violence against women rising as a consequence of the housing crisis, banking crisis, recession, and rising unemployment? At first, this appears to be an easy question to answer. First, as mentioned above, economic adversity is a risk factor for violence against women. Second, research that examined the effectiveness of arresting misdemeanor domestic violence offenders found that male offenders who were unemployed and living in communities with high rates of unemployment were not deterred by arrest and even escalated their violence after an arrest for domestic violence.³

Unfortunately, a definitive answer to the question of whether the economic downturn is increasing violence toward women is elusive. The most reliable trend data on criminal violence and violence victimization are collected by the Federal Bureau of Investigation (FBI) and the Bureau of Justice Statistics (BJS). The FBI collects data on homicide while the BJS collects information of crime victimization using that National Crime Victimization Survey (NCVS). The reporting of FBI and BJS data are lagged by one year, thus the most recent data are for year 2008, the first year of the economic downturn.

¹ Gelles, R.J. and Straus, M.A. (1988). *Intimate Violence*. New York: Simon & Schuster

² Stith, et al., (2004). Risk factor analysis for spouse physical maltreatment: A meta-analytic review. *Journal of Aggression and Violent Behavior*, 10, 65-98.

³ Sherman, L. W., & D. A. Smith (1992). Crime, punishment, and stake in conformity: Legal and informal control of domestic violence. *American Sociological Review*, 57, 680-690.

Changes in Risk Factors

Unemployment

Among the most prominent individual and community-level risk factors for violence against women are unemployment, under-employment, and poverty.^{4 5} Not surprisingly, the national unemployment rate rises during, and for some time after, recessions. Figure 1 presents data from the U.S. Department of Labor that identifies three recessions in the last two decades—1991-1992, 2001-2002, and the current recession that began in 2008. During and after the 1991-1992 recession, the unemployment rate rose from 5.5% in 1990 to 7.5% in 1992. The rate fell back to 5.5% in 1996. Unemployment was at 4% prior to the 2001 recession, rose to 4.5% during the recession, and peaked at 6% in 2004.

Poverty

The U.S. Census Bureau data (See Figure 2), illustrates that the overall rate of poverty rose during recessions and peaked two years after the 1991 recession. The poverty rate rose during the 2001 recession and continued to rise through the recession of 2008.

Past Recessions and Violence Against Women

Fatal Violence

FBI data on fatal violence toward women and men indicate that there was an increase in male-to-female domestic homicide after the 1990-1991 recession, but there was no increase

⁴ Gelles & Straus, 1988

⁵ See, Centers for Disease Control (CDC) and Prevention, National Center for Injury Prevention and Control (2008). *Intimate partner violence: Risk and protective factors*.

during or following the recession of 2000-2001. Of note, female –to-male homicide has declined consistently from 1976 to 2005, and the decline was not interrupted or enhanced during or after economic downturns (Figure 3).

Non-Fatal Violence

Data from the National Crime Victimization Survey only cover the 2000-2001 recession. There was no major change in the rate of domestic violence after the 2000-2001 recession. A more refined examination of NCVS data indicates that in the two years after the 2000-2001 recession there was an increase in the rate of female victimization by intimates among the most violent age group—males 20 to 24 years of age.

Data from Shelters

A recent report from Mary Kay, Inc. presented the results of a 2010 survey of 731 domestic violence shelters across the country⁶. Seventy-three percent of the respondents noted an increase in women with children seeking assistance from abuse, while 77 percent of the respondents stated they experienced an increase in the number of women seeking assistance from abuse. The shelters surveyed reported that of the women seeking services as a result of domestic violence 75 percent primarily attributed their abuse to financial issues,⁵⁴ 54 percent to job loss, and 41 percent to loss of their home or vehicle. Fifty-seven percent of the women reported difficulty finding a job, 27 percent had their wages cut, and 24 percent had lost their job due to the economy. More than half (51%) of the women who sought shelter

⁶ Mary Kay, Inc. (May, 2010). "Mary Kay's Truth About Abuse" Survey. National Findings from Second Survey of Domestic Violence Shelters in the United States. Retrieved May 1, 2010: www.marykay.com/content/company/2010survey.pdf

assistance reported their current abuse was more severe than before 2008. As is common across the non-profit sector, 41 percent of shelters surveyed reported decreasing their services due to the economy.

The 2010 "Mary Kay Truth About Abuse" survey is suggestive of an increase in demand for services provided by shelters and that the increase in demand is related to the economic downturn. However, the results are based on 12 questions asked of respondents from more than 700 shelters. The precise demand for an increase in either numbers or percentages was not reported.

What to Do

Assuming, even with the lack of empirical data, that there is an increase in violence against women, the question is: "What should be done?" Any real or perceived increase in the incidence and/or severity of a social problem is usually met with a call for more resources. (Conversely, any decrease in the incidence of a social problem, such as the decrease in the rate of intimate violence, is never accompanied by the suggestion that less money should be spent or fewer resources should be provided. It is difficult to determine with precise accuracy where monies and resources should be directed in reference to violence against women or family violence in general. Shelters, ~~while,~~ while an important first-line of protection, serve a relatively small percentage of women who experience violence and abuse⁷ and are not the first service choice for the majority of female victims.⁸

⁷ Gelles and Straus, 1988.

⁸ Gelles and Straus, 1988; Bowker, L. (1983). *Beating wife beating*. Lexington, MA: Lexington Books.

With the exception of numerous studies on the effectiveness of arrest as a deterrent to future domestic assault—and these studies do not generally support the theory that arrest deters domestic violence-- and evaluations of batterer intervention programs, there are few quality evaluations studies that indicate which intervention and prevention programs are actually effective.⁹

The Impact of the Violence against Women Act of 1994

There is little disagreement that the Violence against Women Act (VAWA) of 1994 (PL 103-322) was landmark legislation. It constituted the first significant federal recognition of intimate partner violence, established a federal office in the Department of Justice, and allocated federal monies for the protection of female victims of intimate partner violence.

If there was vocal criticism of VAWA it came from men's groups who argued that the legislation ignored the victimization of men at the hands of female intimate partners.

A broader assessment of VAWA is that not only did VAWA ignore services and resources for male victims of intimate partner violence but the law is unique in terms of federal legislation aimed at the problem of violence and abuse in families. No other federal legislation dealing

⁹National Research Council. (1998). *Violence in families: Assessing prevention and treatment programs*. Washington, DC: National Academy Press; Sherman, L. W., Smith, D. A., Schmidt, J.D., & Rogan, D.P. (1992). Crime, punishment, and stake in conformity: Legal and informal control of domestic violence. *American Sociological Review*, 57, 680–690; Gondolf, E. W. (2002). *Batterer intervention systems: Issues, outcomes, and recommendations*. Thousand Oaks, CA: Sage; Babcock, J. C., Green, C. E., & Robie, C. (2004). Does batterers' treatment work? A meta-analytic review of domestic violence treatment. *Clinical Psychology Review*, 23, 1023–1053.

with an aspect of family violence, including child maltreatment, sexual abuse, and elder abuse, singularly focuses on one sex. Even though females are much more likely to be victims of sexual abuse than males, federal legislation on various aspects of sexual abuse does not limit programs, funding, and protection to only females.

The intent and focus of VAWA further limits the scope and impact of the legislation. Overall, funds authorized under VAWA are primarily directed toward the protection of female victims. Funds are authorized to fund local shelters and specific funds were authorized to establish a national domestic violence hotline. Although funding was allocated to encourage arrest of offenders, no specific funding was authorized for treatment programs aimed at offenders, nor were funds authorized for research on effective methods of preventing intimate partner violence. This is concerning considering that current evidence raises serious doubts about the effectiveness of treatment programs for offenders in reducing re-assaults.¹⁰

While VAWA focused on the protective needs and support services for female victims of domestic violence, it overlooked or did not specify a broader continuum of programs and interventions that would include and address the spectrum of types and circumstances of family violence.

Conclusions

Common sense, as well as empirical support, would suggest that economic adversity would increase the incidence and perhaps the severity of intimate partner violence. However,

there is not yet solid empirical evidence that such an increase has or will occur. The last two recessions did not produce spikes in either non-fatal or fatal domestic violence.

Past recessions may not be an accurate guide in predicting the impact of the current economic downturn as the current recession is more severe in terms of job loss and housing crises than the recessions of 1990-1991 or 2000-2001.

It is indeed unfortunate that one predictable consequence of economic downturns is the reduction of public and philanthropic funding for social service agencies and programs. In an ideal scenario, agencies that provide services and protection to those most vulnerable in an economic downturn would not face funding cuts. Finally, if a primary concern, in the current economic downturn, is to revisit VAWA and VAWA authorized funding, this would also be a moment to seriously consider the narrow scope and mandate offered by VAWA. While funding and regulations from VAWA may well protect a portion of victims of intimate partner violence, current funding and programs fail to provide the appropriate spectrum of care for all victims of family violence, and the necessary resources to investigate effective interventions for specific types of violent offenders. Ignoring the need for effective, targeted offender treatment programs can place victims and their children at a heightened risk for further violence and abuse.

Figure 1 - Rates of National Unemployment

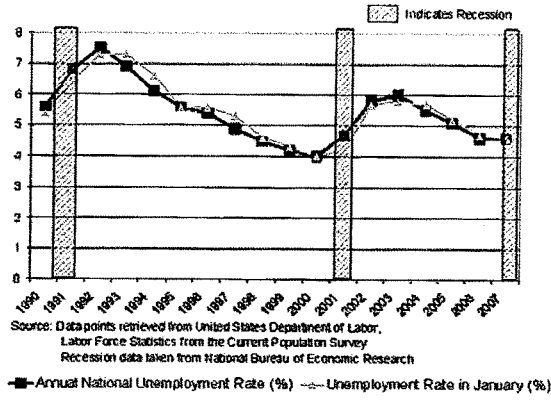


Figure 2 - Rate and Number in Poverty

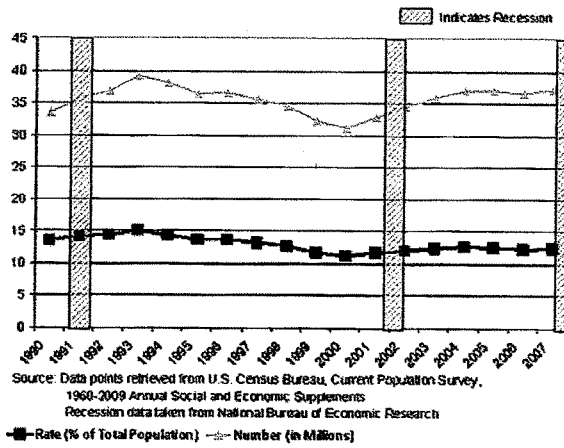


Figure 3: Homicide of Intimates

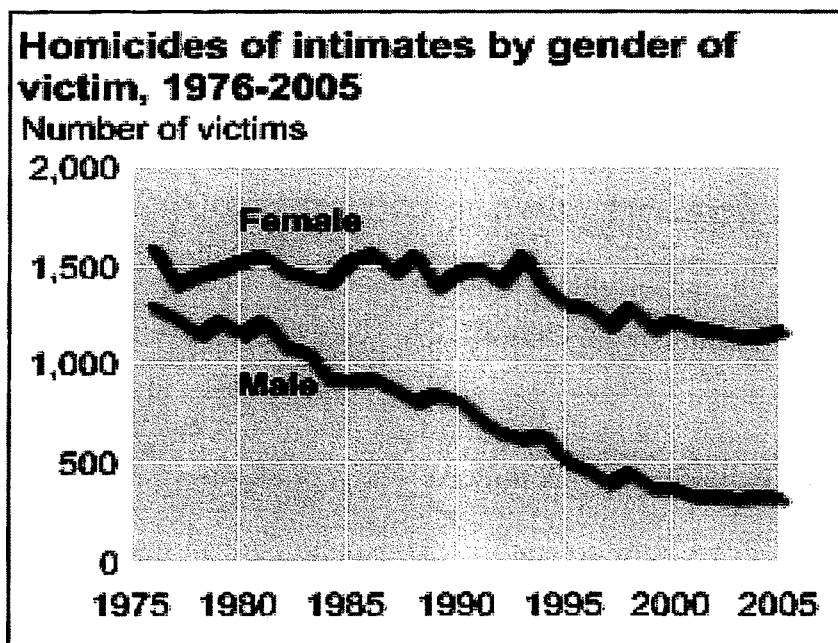


Figure 4

**Nonfatal intimate partner victimization
rate, 1993 - 2005**

Rate per 1,000 persons age 12 or older

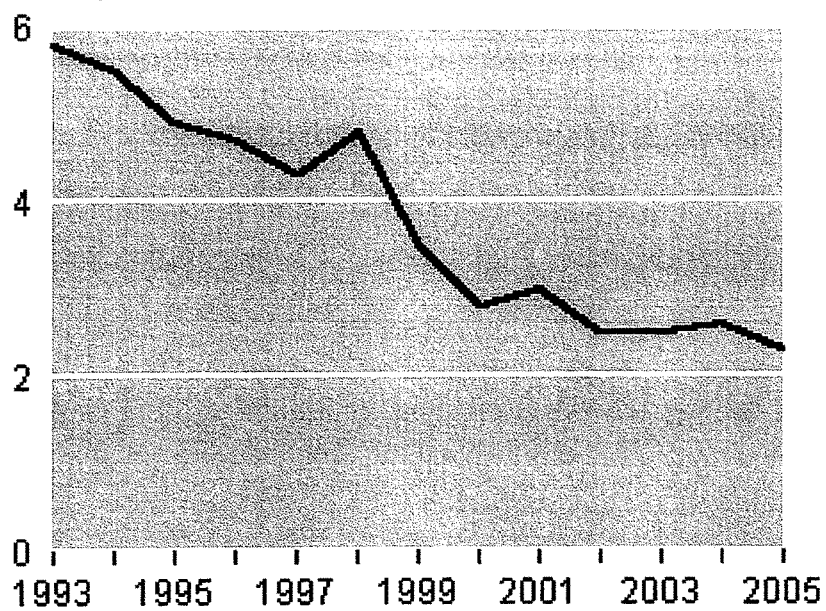
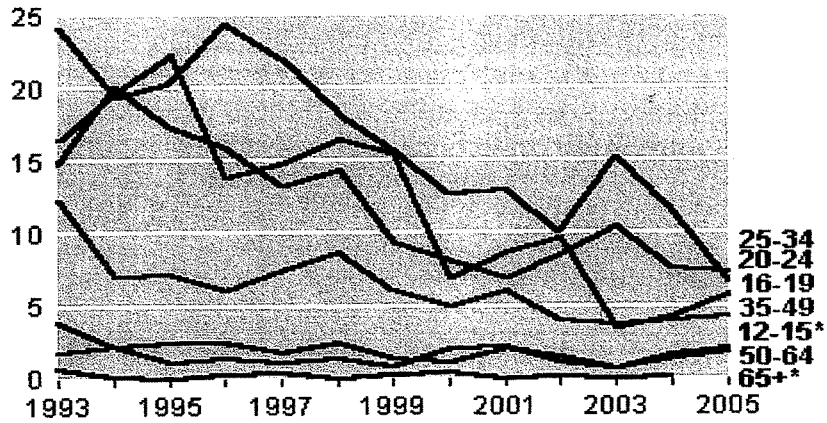


Figure 5

Nonfatal intimate partner victimization rates for females, by age, 1993 - 2005

Rate per 1,000 females in age group



*Based on 10 or fewer sample cases

Statement of

The Honorable Patrick LeahyUnited States Senator
Vermont
May 5, 2010

Statement Of Senator Patrick Leahy (D-Vt.)
Chairman, Senate Committee On The Judiciary,
Hearing On "The Increased Importance Of The Violence Against Women Act
In A Time Of Economic Crisis"
May 5, 2010

The Violence Against Women Act (VAWA) was a watershed piece of legislation that is as crucial now as it has ever been. Since its enactment 15 years ago, VAWA has provided critical, sometimes life-saving, assistance to countless survivors of domestic and dating violence, sexual assault, and stalking. This legislation shed light on the national problem of violence against women, and marked a bipartisan commitment to confront and end domestic and sexual violence.

Since that time, we have responded with better laws, social support, and coordinated community responses. I was proud to work on the original VAWA bill, and am pleased with all it has accomplished. Our communities and families are safer today because of this law. As we begin to consider the reauthorization of this vital law, it is important to note that, for all we have accomplished, there is more work to be done. The problem of domestic and sexual violence persists, and in a time of economic crisis, the victims of this violence are even more vulnerable.

The Violence Against Women Act has transformed our criminal justice system, improving the legal and law enforcement response to the complex issues of domestic and dating violence, sexual assault, and stalking. It has evolved to better address the needs of underserved populations and includes critical new programs focusing on prevention and on the needs of young people.

The importance of VAWA could not be clearer than it is today as our country copes with a troubled economy. The safety net VAWA has provided survivors over the years is now a lifeline for many. The economic pressures of a lost job, home, or car can add stress to an already abusive relationship. The loss of these resources can make it harder for victims to escape a violent situation. And just as victims' needs are growing, state budget cuts are resulting in fewer available services, including emergency shelters, transitional housing, counseling, and childcare.

These services can mean the difference between life and death for some victims. I advocated for increased funding of VAWA programs in the American Recovery and Reinvestment Act. I was pleased that the Recovery Act included \$50 million for the Transitional Housing Assistance Grants program, which has helped people across the country find a safe place to live.

As we look toward reauthorization of VAWA we must go further. We must increase access to support services, especially in rural communities and among older Americans. We must prioritize our response to the high rates of violence experienced by Native American and immigrant women. And we must think of new and innovative ways to improve economic independence for survivors.

Economic insecurity is among the most formidable obstacles for survivors of domestic and sexual violence. Abusers often retain their control through economic dependence, sabotaging a victim's credit history or her ability to work productively. Between 25 and 50 percent of domestic violence victims report that they lost a job at least in part due to their abuse. Similarly, almost 50 percent of sexual assault survivors lose their jobs following a crime. Senator Murray, a longtime supporter of VAWA, has introduced a bill I am proud to cosponsor to provide victims with unpaid leave for legal and medical appointments, eligibility for unemployment insurance, and protection from employment and insurance discrimination based on their history of abuse. These policies make good business sense, and they are the right thing to do. We must take additional steps to ensure the economic independence of victims.

State and local government and community organizations nationwide recognize the power of economic independence for survivors and are implementing innovative programs to help achieve that goal. The Vermont Network Against Domestic and Sexual Violence is at the forefront of this innovative approach. Leveraging private resources with federal, state and local financial support, the Vermont Network is able to help survivors with a variety of needs from budgeting to credit repair to employment counseling.

Today we will hear from Judge Susan Carbon, Director of the Office on Violence Against Women. Judge Carbon has led efforts to combat domestic violence at the state and the national level, and I look forward to hearing her perspective on this vital issue.

We will also hear from Auburn Watersong, an economic justice specialist at the Vermont Network Against Domestic and Sexual Violence who has spearheaded many of the Vermont Network's innovative programs. I am proud to have worked with the Vermont Network and its executive director Karen Tronsgard-Scott for years. Sarah Kenney, also with the Vermont Network, is here in the audience today. We will also hear from Lolita Ulloa of the Victim Services Division at the Hennepin County Attorney's Office, a one-stop service center for victims of domestic violence whose success has now been replicated nationally. Finally, we will hear from Richard Gelles, Dean of the School of Social Policy & Practice at the University of Pennsylvania.

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

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Sargent Shriver National Center on Poverty Law

May 12, 2010

The Honorable Senator Richard J. Durbin
309 Hart Senate Bldg.
Washington, DC 20510

Taking action to end poverty

Dear Senator Durbin,

The Sargent Shriver National Center on Poverty Law (Shriver Center) writes in strong support of the reauthorization of the Violence Against Women Act (VAWA), and particularly in support of adding workplace protections to VAWA to assist survivors of domestic violence, sexual violence, dating violence and stalking in maintaining economic security. Located in Chicago, Illinois, the Shriver Center is a national resource that champions law and policy promoting equal opportunity and support for low-income individuals, families and communities so that they can escape from poverty permanently. Our work includes finding reasonable solutions to issues, such as domestic and sexual violence, that can be barriers to obtaining and maintaining employment.

Workplace protections for survivors are a crucial element in helping them maintain economic security, especially against the backdrop of the recession. Although past reauthorizations of VAWA have created and funded important resources to assist survivors, many survivors remain unable or unwilling to access these services because revealing their status as survivors of violence, or asking for time off or other necessary workplace modifications, could jeopardize their continued employment. Many survivors are too afraid of losing desperately needed jobs to ask for time off to obtain an order of protection, relocate, seek medical treatment, or to take other essential steps to ensure their safety. And when survivors are fired or leave a job due to the violence, they frequently return to their abuser for economic support if they are unable to find another source of income, such as unemployment insurance benefits.

I speak from experience when I say that anti-discrimination and leave provisions are critically important to enabling survivors and their families to safely separate from a dangerous situation. Illinois was the first state to enact such protections in 2003, in the Victims' Economic Security and Safety Act (VESSA). I drafted the language and advocated for the passage of VESSA. I know our law is one of the most comprehensive in the country. At the implementation level, the law has not proven to be overly burdensome to employers. Consequently, its protections were broadened in 2009. Since August, 2003, our state Department of Labor has had 128 complaints filed. The majority (76), have related to discrimination, 29 are for leave, and 11 are a combination of leave and discrimination.

Even our law does not cover every survivor, and not every state is as proactive as Illinois. It is crucial that there be a comprehensive federal response because survivors needs do not vary significantly across state lines and a survivor's ability to keep a job shouldn't depend on where she or he happens to live.

VESSA and eligible employees

VESSA covers full-time and part-time employees who are survivors of domestic or sexual violence, or who have a family or household member who is a survivor of domestic or sexual violence. Covered employees include those who work for the state or any agency of the state; any unit of local government or school district; or a private employer that employs 15 or more employees. However, there are gaps in protection, and I receive many calls from one group that is not protected by our state's law – federal employees who live and work in Illinois.

VESSA and anti-discrimination

VESSA prohibits covered employers from discrimination regarding the conditions or privileges of employment based on an employee's status as a survivor of domestic or sexual violence, or as an employee with a family or household member who is a survivor of domestic or sexual violence, or based on any request for leave or other accommodations. Discrimination is also prohibited if an employee requests or takes leave for any allowable reason under the law; and reasonable accommodations must be made in a timely fashion.

VESSA and unpaid leave

The law also permits eligible employees to take up to 12 workweeks of unpaid, job-guaranteed leave during any 12-month period to deal with domestic violence, sexual violence, dating violence, or stalking. An employee or a member of the employee's family or household may be the violence survivor. The employee may take leave to seek medical attention, legal assistance, and remedies such as an order of protection or civil no-contact order, counseling, safety planning, to relocate, to recover from physical and psychological injuries or for other specified purposes. Under the amended law, an employee who works for a private employer with 50 or more employees remains eligible for up to 12 workweeks of unpaid, job-guaranteed leave. An employee who works for a private employer with between 15 and 49 employees is eligible for up to 8 workweeks of unpaid, job-guaranteed leave during any 12-month period. The amount of leave cannot be reduced during that 12-month period, even if there is a decrease in the number of employees.

Implementation

While employers feared the worst when the bill was being debated, there have been no significant problems since enactment. The law has not proven burdensome to employers or flooded state agencies and courts with lawsuits. To date, the Illinois Department of Labor reports that only 128 complaints have been filed pursuant to the law. The majority (76) are claims of employment discrimination; 29 are complaints related to the leave provision, and 11 complaints involve a combination of leave and employment discrimination. It has been my experience that most cases settle before a formal complaint is ever filed, because many of the reported problems stem from the employers' lack of knowledge about the law rather than resistance. Employers generally agree to comply once they are informed about the law's provisions. While more outreach to and education for both employers and employees would always be helpful, I can confidently state that since its enactment VESSA has been a valuable tool; it has prevented employees from getting fired simply because they were survivors, and it has afforded survivors the opportunity to stay employed and escape violence.

In light of our experience in Illinois, we strongly believe that establishing similar workplace protections for survivors of violence at the federal level is vitally important. Existing federal proposals (see S. 1740, the SAFE Act) would enhance existing state protections by assisting those who are currently not covered by state law. It would also greatly extend efforts to educate all relevant stakeholders - employers, survivors, unions and government agencies - about these important workplace issues.

Thank you for your consideration. If you have any questions or concerns, do not hesitate to contact me at 312-368-3303 or wendypollack@povertylaw.org.

Sincerely,

Wendy Pollack
Director, Women's Law and Policy Project
Sargent Shriver National Center on Poverty Law
50 E. Washington, Suite 500
Chicago, IL 60602

cc: Senator Patrick Leahy

SENATE JUDICIARY COMMITTEE
“The Increased Importance of the Violence Against Women Act
in a Time of Economic Crisis”
May 5, 2010

WRITTEN TESTIMONY OF LOLITA ULLOA
Managing Attorney, Victim Services Division
Hennepin County Attorney’s Office
Minneapolis, Minnesota

INTRODUCTION

My name is Lolita Ulloa, and I am the Managing Attorney for the Victim Services Division, of the Hennepin County Attorney's Office in Minneapolis, Minnesota. I supervise victim services and witness staff. They are advocates and case managers that ensure that we provide support, information, and referrals for witnesses and victims on charged cases. We also work to ensure that victim's rights are being protected. I also oversee the Domestic Abuse Service Center (DASC, or the Center) at the Hennepin County Attorney's Office, which is a one-stop center for victims of domestic violence. Although our county makes up approximately one quarter of Minnesota's population, this office helps victims obtain 50% of all of the restraining orders in our state. Hennepin County is made up of Minneapolis and 47 surrounding suburbs. Our office serves 1.1 million people.

I want to thank the members of the Judiciary Committee for inviting me here. I am truly honored to assist in providing you information as you review the continued and critical importance of the Violence Against Women Act in these difficult economic times. I especially want to thank Senator Amy Klobuchar for her continued unwavering support, work, and focus on these issues both as Hennepin County Attorney and now as a senator. As County Attorney, Senator Klobuchar always supported victims of domestic violence in her management of the Domestic Abuse Service Center, and she strengthened the work of the County Attorney's Office in the prosecution of domestic violence cases. She clearly understands the unique and tragic issues that face victims of domestic abuse. Emphasizing intervention with earlier services is incredibly important to our office.

The Domestic Abuse Service Center was created in 1994 under the current County Attorney Mike Freeman. His vision led to a one-stop service center for victims of domestic violence that has now been replicated nationally – through the Family Justice Centers – as well as internationally. The Center allows victims to access criminal and civil processes, Orders for Protection, advocacy services, economic assistance workers, child protection staff, probation and other services. The goal of the Center is simple: To be a place where victims can access services, in a safe and inviting environment, and hold abusers accountable. County Attorney Mike Freeman's initiative recognized that services to victims must be provided in a collaborative manner.

This collaboration is even more important in times of economic crisis. Those of us who work on domestic violence issues know very well that one of the main reasons women do not leave abusive situations is because they are financially dependent on their abuser. This reality is only exacerbated during an economic downturn. Suddenly, women who need to leave abusive homes may face additional struggles because they have also lost their jobs, because they had to sell their cars, or because they have health care only through their abuser. I look forward to spending the rest of my testimony talking about how the two sides of the Violence Against Women Act (VAWA) – assistance with criminal prosecutions on one hand, and holistic services for victims and their families on the other – can and should work together to comprehensively address the problem of domestic violence.

THE DIFFERENCE VAWA HAS MADE

I have been a public service lawyer for 25 years. I have been involved in providing intervention services in domestic violence for the majority of my legal profession. I know what the climate was *before* VAWA was enacted in 1994, and I know what the climate is now in the 16 years *since* VAWA was enacted. When Congress passed VAWA, there was finally federal recognition that crimes of domestic violence, sexual assault and stalking would not be tolerated any longer. As a result, there has been a shift in how violence against women is addressed in the criminal justice offices, and also in how it is viewed in the community. Funding criminal justice offices remains, I believe, a critical need – especially when criminal justice offices forge partnerships with community battered women's programs and social services. These forced collaborations are absolutely necessary if we all working towards the same goal.

I have seen this in my own personal experience. The Center has received VAWA funding in the past. VAWA strengthened the work of the Center by providing the funding to hire staff from law enforcement, prosecution, corrections and culturally-specific groups to work out of the same office. VAWA funding allowed us to hire sheriff's deputies to increase service of Orders for Protection, which we recognize is one of the first critical steps to intervention in a home with where there is violence. Originally, service of Orders for Protection had been delayed – sometimes for over four days – because of a lack of resources to find and then serve an order on the abuser. This delayed the relief that was sought by the victim. Many times the urgency and fear came as a result of an assault of the victim or her children or both. Decreasing this time to

within 24 hours of the Ex Parte Order being issued was critical to the victim's safety, and we did that. I am happy to say that our sheriff's office continues to make this service a priority and the delay before VAWA is no longer a problem.

VAWA funding allowed us to expand our prosecution team to review Gone on Arrival cases (when the perpetrator has left the scene) for possible charging. Now, a prosecutor reviews those reports, whereas before those reports were generally filed in drawers and nothing more was done to contact the victim or to find the abuser. Additionally, charging at the misdemeanor level allowed us to intervene at one of the most critical points for effective intervention: *before* there is another criminal case. VAWA funding also allowed us to partner with culturally-specific battered women's programs to provide services. It is especially critical for underserved communities to have an advocacy staff that looks like them and speaks their language.

We recently had a woman at the Center who wanted an Order for Protection against her husband. He had beaten her with a belt and belt buckle with her 4-month-old child present. She had terrible bruises all over her body. She dismissed the Order for Protection days later. The husband and wife are originally from an African country, and she felt pressure from her community and her cultural values. Nevertheless, the case has been criminally charged and she will receive advocacy services from an advocate from her country. We expect this will be helpful in understanding the process and hearing the explanation in her own language. This support is critical to the victim's view of how the crime fits outside of her culture, and how the criminal justice system works here.

Another way that VAWA has impacted the issue of domestic abuse is by offering trainings, where the focus was to discuss varied approaches states were using in their prosecution, probation, law enforcement and advocacy work. Sharing best practices and protocols have resulted in these trainings being models that we have all used in our work. One particular area has been legislation specifically related to strangulation, along with medical identification of this injury, documentation by law enforcement of this injury and assault, and a better understanding by victims of what this means and how it can impact their future medical health.

Much emphasis has been placed on the quality of police report writing. Over the years, after VAWA trainings, I have seen police reports that provide better, more detailed information and observations. Interviews of the victim and the abuser and the witnesses

are now routinely performed separately, though this was not always the case. Also, mutual arrests are not commonplace anymore because responding police officers are making assessments about who is the primary aggressor when they are called to the scene of a crime, which is also part of the ongoing message from VAWA trainings.

Training for probation departments results in their use of lethality screening tools as they work with offenders. This is critical in order to protect the victim and the community. In our county, we have a Domestic Violence Court which was created in 2000. This Court uses many of the best practices and protocols that were presented at VAWA trainings that were attended by many judges in our county. Creating a forum where different professionals can learn and have a dialogue about successes and obstacles is necessary to develop practices that can be successful in your own jurisdiction.

One area where I believe trainings were most valuable was the emphasis on providing culturally-competent services to victims from diverse communities. Understanding community-specific hardships, language barriers, religious values, and cultural assimilation plays an important role in effective intervention. Identifying this area as a critical need and an area that is important to services for battered women was a huge step that clearly demonstrates that the creators of VAWA understood the many dynamics of domestic violence.

THE WORK THAT STILL NEEDS TO BE DONE

VAWA provided an opportunity to provide services, good, great services to underserved communities by forging nontraditional partnerships: law enforcement with advocates, child protection with prosecutors. This collaborative approach is working. Agencies working together, triaging cases, and inviting different perspectives and expertise are critical to assisting victims and the criminal justice system as well as the advocacy community.

Although I believe that VAWA has been incredibly successful in impacting the way we work on domestic violence cases nationally, there are some areas that I believe need more emphasis. I recently spoke with Liz Richards, the Director of Programming for the Minnesota Coalition of Battered Women, and we discussed the following issues that continue to impact victims who are trying to leave abusive situations, particularly during economic downturns.

In many states – and even in Minnesota, which has long been a leader on all sorts of domestic violence issues – child support is not addressed in an Order for Protection hearing even though it is supposed to be. The absence of financial support while the victim is trying to leave her abuser and make plans to care for herself and her children is dangerous. I believe funding should be made available to district courts to work with community agencies in order to provide training and education for lawyers and advocates about the importance of addressing child support issues at the same time Orders for Protection are being entered, and to set up related procedures and protocols. We must work to ensure that at least on an emergency basis, we ensure the financial stability that will allow victims to plan for and focus on their safety.

One recent example demonstrates the special needs that domestic violence victims have in relation to child support orders. A woman recently came into the DASC to obtain an Order for Protection because the father of her children had pushed, grabbed and kicked her. We talked to her about going to a shelter because she was being evicted already. She had a job and was also starting school, and her abuser had been providing child care. It turned out that there wasn't a shelter opening. The next day the advocate received a call from the victim indicating that she wanted to drop the Order for Protection because she didn't have any money to pay for child care and needed the abuser to watch the kids. The victim wanted to continue school, and she needed to work to be able to do that. Additionally, she had no telephone, so the advocate could not call her back to talk things over. The abuser has a long criminal record and is not working. He already had a child support order. Financial independence, simply put, can make the difference in whether a woman stays or leaves.

Another way that financial dependence can manifest itself in domestic violence cases relates to medical care. We have identified some long term issues such as medical complications that can follow the victim for the rest of their life. We need to ensure that there is collaboration between the medical professionals who see the victim in an emergency situation and the long-term medical providers who care for the victim outside the emergency room. Generally victims receive good emergency medical treatment, but follow-up services are necessary. Ensuring that victims have access to long-term medical care and that different medical providers talk to each other is critical. Identifying this issue as a community, even when the victim may not, is important for longer term safety and success for that victim. Funding for training in this area would be helpful.

Recently, the Minnesota Battered Women's Coalition hosted a "Camp Sheila" for Battered Women – named for the late Sheila Wellstone, who along with her husband, former Senator Paul Wellstone, was a devoted champion in the fight against domestic violence. At this camp, battered women were asked how long their divorces had been going on. Most replied that they had cases that were still in progress, even 7-14 years after initially filing for divorce. In many of these cases there was abuse of the mother and the kids. The abuser used the court system to manipulate and threaten the victim again and again. The threat of losing the custody of their children was ever-present in their custody cases. Imagine being forced to co-parent with someone who had beaten and terrorized you. In addition, many of these women have no economic resources for legal representation; they have exhausted their finances, and the finances of family and friends. This is another area where additional services and a collaborative approach are necessary – they are all part of ensuring that a woman can actually leave her abuser. I believe that criminal justice centers can and should lead the way in addressing these issues holistically so that all of a victim's needs can be met and she can actually leave her abuser.

VAWA funding has produced excellent, longstanding collaborations which have allowed all partners in the criminal justice system to work together to address the tragedy of domestic violence. The forum that was required by grants – although adversarial – was frequently critical in ensuring that real dialogue occurred and outcomes were evaluated. The work around police enforcement of Orders for Protection, expanded prosecution teams, and the formation of partnerships with community battered women's programs is still in existence today. Additionally, the efforts to ensure that stalking is considered a separate crime, as well as strangulation, have clearly been a success.

The huge impact of VAWA will never be fully captured because the success is marked by individual victims who have found a way out and those voices may never be heard. The cycle has been broken. They are safe and that is the most important part of their lives. It is what we all hope and work towards every day. This has been reached in a great part by the funding opportunities that VAWA has offered many jurisdictions and programs to enhance current services, and create new services for victims.

Thank you for your invitation. I look forward to working with all of you to end violence against women and continuing to implement the promise of VAWA.

WRITTEN STATEMENT
Senate Committee on the Judiciary
Violence Against Women Act (VAWA)
 May 5, 2010
 Janice Shaw Crouse, Ph.D.
 Concerned Women for America

Background:

“Violence Against Women” is a general term used to refer to violent acts committed primarily or exclusively against women; it is a type of violence with the victim’s gender as the primary motive. The 1993 Declaration on the Elimination of Violence Against Women included among the perpetrators, “assailants of either gender, family members and even the ‘State’ itself.”¹

Right away with the “State” identified as a possible offender, it is obvious that “gender” as a concept is inherent in the United Nations’ view of violence against women. This view is further substantiated by the text of the declaration that mentions the “historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of the full advancement of women, and that violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men.”²

A women’s health journal described violence against women as a “system of socially constructed gender relationships that generate an imbalance of power between the sexes in which men are seen as superior. As a result, women — victims of discrimination and social inequality — are dominated by men, who exercise control over their bodies and decisions.”³ Indeed, over the past 15-20 years, the women’s movement has used the issue of violence against women to increase their influence around the world.⁴

When violence against women is viewed in this broad context, the numbers are skewed and the brutality of the actual battering of women is diluted. Violence is also diluted when psychological and verbal violence is thrown into the mix. As awful as these things are, they differ in magnitude from the physical battering that some women endure. Laws against husbands beating wives were enacted in the 1870s. Domestic violence is now called “Intimate Partner Violence,” which includes live-in boyfriends, who are the source of most domestic violence (rather than husbands).⁵ Clearly, women are most likely to be victimized by someone with whom they are intimate. Physical violence is not to be tolerated, and VAWA needs to focus on ending those crimes rather than broaden the definition of violence to the point of meaninglessness. In 2005, 1,181 women were killed by an intimate partner, as compared with 329 men who were similarly murdered.⁶ Violence also occurs within lesbian relationships, mother/daughter, roommate, and other domestic arrangements where more than one woman is housed.⁷

The American Psychiatric Association now includes a new series of relationship disorders that separates out “Marital Conflict Disorder” into two categories: one that includes violence and another without violence. This new categorization recognizes that psychological and verbal abuse differs significantly from the physical battering that ends up in an emergency room and ultimately in a legal case.⁸

Violence Against Women and Human Rights:

The United States Constitution, with its Bill of Rights and Amendments, presents the fundamental freedoms that are the foundation of American liberty; these principles ensure that America remains a “government of laws and not of men.”⁹ Our individual rights are referred to as our “civil rights,” and “these rights are rooted in the 14th Amendment.”

SAVE: Stop Abusive and Violent Environments, an organization located in Rockville, Maryland, presents the historical development of domestic violence laws:

- 1980s — first state-level laws were enacted to permit restraining orders for partner abuse to be issued.
- 1984 — the federal government passed the Family Violence Prevention and Services Act (funding abuse shelters and state domestic violence coalitions)
- 1994 — Violence Against Women Act (expanded state domestic violence laws to about 1,500, encompassing all phases and facets of the law enforcement and criminal justice systems, including 911 calls, civil restraining orders, arrest, prosecution, and judicial education.)¹⁰

SAVE identifies nine fundamental civil liberties that are affected by domestic violence laws, including abuses that affect an estimated 2.2 million persons:

- Restraining orders — biased criminal justice procedures violate the rights of an estimated 1.5 million people.
- Biased criminal justice procedures within the Criminal Justice System violate the rights of an estimated 462,000 people.
- Discriminatory treatment services are estimated to violate the rights of 272,000 people.¹¹

Despite the likelihood that men and women are equally aggressive against their partners, according to SAVE, men are far more likely to be compromised by the laws, especially African-American men. Men receive 85 percent more restraining orders, 77 percent more arrests for domestic violence, and less than one percent of men are put in transitional housing.¹² SAVE believes that more than 25 million Americans have seen their civil rights abridged since 1994 when VAWA went into effect.¹³

Violence Against Women Misinformation:

The misinformation about violence against women is pervasive. In 2005 Congressional testimony, a celebrity witness, Salma Hayek, said, “We cannot tolerate a world in which one in three women is or will be a victim of domestic violence.”¹⁴ There is no indication where or how she came up with that figure. Maryland Senator Ben Cardin repeated that statistic in his February 12, 2010, statement in support of the International Violence Against Women Act¹⁵ and called violence against women “a public health epidemic” that is “a major cause” of women being in poverty. That celebrity mentioned earlier also said, “The Violence Against Women Act has changed the mindset of this country.”¹⁶ Indeed, it has changed mindsets — to believe that the government can eliminate domestic violence with more money and more programs.

In another news release, violence against women was blamed for robbing women of “their right to a dignified existence, which is the most fundamental right guaranteed to all human beings.”¹⁷ Again, those sincere individuals who want to spread the alarm about violence against women dilute their argument by expanding the boundaries of the crime beyond all human reason. There is no “right” to a “dignified existence,” much less a “fundamental right” that is “guaranteed.”

Since the enactment of VAWA, domestic violence has decreased and states have passed more than 600 laws to combat domestic violence crimes. In addition, funding has increased, and there is now a significant government commitment to end violence against women — STOP grants (Services, Training, Officers, Prosecutors) were funded at \$175 million, and more than \$50 million was added for Transitional Housing Assistance Grants.¹⁸

Violence Against Women and the Economic Downturn:

Numerous writers link economic stress with increased abuse (including more violent and more dangerous abuse) and also cite increases in abuse when unemployment is high. These arguments sound very plausible, but the “cause/effect” relationship is almost impossible to document. It reminds me of the brouhaha as a result of the sensational claims about abuse of women increasing on Super Bowl Sunday — which turned out to be untrue, though highly plausible.¹⁹

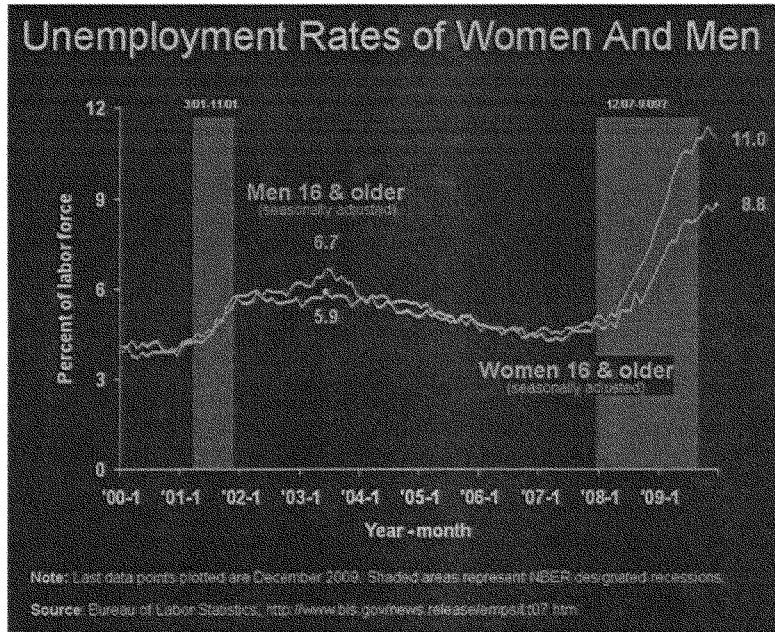
Many well-intentioned writers seeking to bring a problem to the public’s attention have gone overboard in trying to make their point. For instance, in a recent article, the author cited “three-fold” increases in domestic violence related homicides in Massachusetts, 2005-2007. The author claimed that researcher Jaelyn Campbell identified two key factors in the increase: (1) limited access to services for victims and (2) unemployment for batterers.²⁰ As unfortunate as these tragedies are, unemployment could not have been a factor, because during the period in question, the unemployment rate in Massachusetts declined from 4.9 percent in January of 2005 to a low of 4.4 percent by October of 2007.²¹ So unemployment actually declined rather than going up during that time period when homicides increased.

A far more important factor than economics in the increase of violence against women is the growing proportion of young women (even those with children) who are cohabiting. In cohabiting households with children, the batterer is frequently an adult male who is not the biological father of the children. This is a high risk situation that is completely avoidable. If Campbell does not address this risk factor, then her research is incomplete. I noted that one of her publications focused on “power and control” in relationships, which certainly doesn’t point to economics as a primary cause of problems.²² Dr. Jackie Campbell is a noted researcher at Johns Hopkins University who specializes in danger assessment. She was closely involved in developing and testing the following two assessments.

In the “Psychometric Data” assessment of danger in relationships, there is a whole collection of interacting risk factors for potential violence against women.²³ Five items were considered “significant” in the multivariate analysis: (1) Do you have a child that is not his? (2) Is he unemployed? (3) Have you left him during the past year? If you have never lived with him check here ____ (4) Do you currently have another (different) intimate partner? and, (5) Does he follow or spy on you, leave threatening notes, destroy your property, or call when you don’t want him to?²⁴ The Centers for Disease Control reports an annual cost of domestic violence to the nation’s health care system of \$4.1 billion a year.²⁵ With a price tag that high, we need to get the danger assessment right.

In another danger assessment scale, designed for law enforcement officers, there are 11 questions. The victims’ answers indicate the degree of vulnerable for violence she faces. The questions include: Has he threatened to kill you? Do you have a child that is not his? Is he an alcoholic or problem drinker? And, do you think he is capable of killing you?²⁶

It is also important to note that the unemployment rate for men is higher than for women but also that the gap that has opened up between the two is nearly three times as great from this recession as compared with the previous one, i.e., 2.2 percentage points compared with 0.8 percentage points.



Having made all the above arguments, there are those who claim that during an economic crisis there is an increase in calls to hotlines, visits to emergency rooms, and increased use of social services and women's shelters. The question is whether there is a cause/effect relationship involved in those increases or if the underlying personal relationships and household arrangements are what drive the violence.

None of us likes to see anyone abused, and we all recoil at those situations where women and children are battered and assaulted. However, those who really want to help those women cannot continue to "add on" to the list of abuses things that are regrettable and objectionable but not "abusive" in the general use of the term. We must focus on abuse that is observable and quantifiable; we cannot say (as I heard one feminist remark at an international conference) that when a woman is "meant" to write poetry and she doesn't have an "opportunity" to write poetry, *that* is violence against women. Instead, we must recognize those factors that social science research has identified that contribute to domestic violence situations and take the "gender" politics and "politically-correct" agenda out of the public policy solutions that we propose. Further, we must insure that those programs that are funded really do help women, rather than merely increase the federal bureaucracy and impose further barriers between hurting women and those who are eager and qualified to help them.

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**Auburn Watersong, Economic Justice Specialist,
Vermont Network Against Domestic and Sexual Violence
Testimony before the Committee on the Judiciary
United States Senate**

**Testifying on the increased importance of the Violence Against Women Act in a time
of economic crisis**

Wednesday, May 5, 2010

Chairman Leahy, Ranking Member Sessions, and distinguished members of the Committee, thank you for the opportunity to discuss the tremendous importance of the Violence Against Women Act (VAWA) – especially in these harsh economic times. My name is Auburn Watersong. I am the Economic Justice Specialist at the Vermont Network Against Domestic and Sexual Violence. In this capacity, I am responsible for providing the Network and its Member Programs with technical assistance and training in areas that relate to economic abuse and empowerment, entitlement programs and significant economic issues such as housing, transportation, credit status and financial literacy. I also advocate for public policies that recognize the unique needs of survivors seeking financial assistance and economic support and I seek and manage funding that increases the capacity of local programs to meet the growing need for economic advocacy work.

The Vermont Network Against Domestic and Sexual Violence is a statewide coalition of domestic and sexual violence programs. Our 15 member programs are located throughout the state and provide lifesaving services to victims and their families. VAWA funded programs are an essential part of our work in Vermont, and across the country. The programs are all the more critical in light of the current economic crisis. I am here today to discuss the importance of VAWA programs that provide support for victims and

to share some recent Vermont innovations which are providing economic resources to victims. Most importantly, I am here to address this opportunity to expand VAWA in the upcoming reauthorization to focus on providing long-term, sustainable safety for victims and their families.

In response to the terrible crimes of domestic violence, sexual assault, dating violence and stalking Congress authorized the Violence Against Women Act in 1994 through the leadership of the Judiciary Committee and reauthorized it in 2000 and 2005. VAWA created lifesaving legal protections and a broad array of programs to hold perpetrators accountable and keep victims safe. These programs traditionally focused on responding to the immediate needs of victims and strengthening the criminal justice system's response to domestic and sexual violence, dating violence and stalking. VAWA provides funding for emergency response to victims as well as resources and training for law enforcement agencies, prosecutors, judges, and advocates.¹

More recent reauthorizations have extended VAWA to focus on the broader needs of victims beyond immediate safety and the criminal justice response. Expanded VAWA grant programs have focused on the particular needs of rural populations, victims with disabilities, older victims, victims in tribal communities, and the need for culturally specific services, as well as the impact of violence on children. Additionally the newer programs have emphasized the impact of violence on children, the need for housing and housing protections for victims, for improved workplace responses to victims, for an improved healthcare response, for comprehensive prevention programs, and the need to engage men and boys in preventing violence. These and other critically important programs have created a more comprehensive approach to the way our nation prevents and responds to domestic and sexual violence. This broader, more holistic focus takes a proactive approach to providing more sustainable safety for victims of domestic and sexual violence, dating violence and stalking.

Many VAWA programs contribute to the overall economic stability of victims and play a crucial part in victims' long-term safety and self-sufficiency. These programs should be maintained, improved and given sufficient resources to respond to victims' needs. The VAWA reauthorization process also presents an opportunity to build upon the best practices in the field and provide support and economic protections for victims to address their complex economic needs. By reducing the barriers to survivors' economic independence, we provide survivors and their children real opportunities to escape the violence and heal. Our nation should ensure that victims of violence have the support they need to remain economically independent, which ultimately benefits not just survivors and their children, but the economy and the nation as a whole.

The Economic Impacts of Domestic and Sexual Violence

Domestic and sexual violence impact victims from all socio-economic backgrounds, yet there are links between economic factors and domestic and sexual violence. We know that "access to independent economic resources. . . is central to abused women's decision-making and safety planning."²

Two-thirds of people know someone who is or has been a victim of economic abuse.³ Economic abuse is a central part of domestic violence – from controlling the finances to actively working against survivors' efforts to become financially independent. This abuse is not only part of the immediate control over a victim's life but a massive barrier to a victim's ability to flee and eventually develop economic self-sufficiency. If victims do not have the economic ability to flee and rebuild their lives, they are more likely to stay. A lack of financial education, limited access to consumer protections, and no economic opportunities are deterrents for victims hoping to escape abusive relationships or to heal from the trauma of sexual violence.

A quote from an advocate in Idaho demonstrates the complex needs survivors have for both safety and financial security.

“A survivor and her daughters spent last night at a local motel after her abuser beat her. She asked me, ‘What is worse: a beating every week or not having a roof over my children’s head and food in their bellies?’ How do I answer that question?”

We need responses and services that meet both safety and economic needs simultaneously, as without economic security, survivors cannot obtain long-term safety.

Economic Status, Abuse and Violence

While victims at all income levels experience domestic violence, poor victims experience it at higher rates than women with higher household incomes. Poorer victims experience violence at higher rates, in part because they have fewer resources to rely upon to escape.⁴ Domestic violence is more than three times as likely to occur when couples are experiencing high levels of financial strain as when they are experiencing low levels of financial strain.⁵ Victims with household incomes of less than \$7,500 are 7 times as likely as victims with household incomes over \$75,000 to experience domestic violence.⁶ Women whose male partners experienced two or more periods of unemployment over a 5-year study were almost three times as likely to be victims of intimate violence as were women whose partners were in stable jobs.⁷ Poverty and unemployment are also risk factors for the perpetration of sexual violence. Poverty can increase the risk for sexual victimization and compound the barriers victims experience when coming forward to get help.

Employment

Gainful employment is the most significant way that individuals can become economically self-sufficient. Yet almost 50% of sexual assault survivors either lose their jobs or are forced to quit in the aftermath of the crime and between one-quarter and one-half of domestic violence victims report that they have lost a job due, at least in

part, to domestic violence.⁸ In her expansive literature review, Eleanor Lyon's points out that domestic violence perpetrators use a number of tactics to jeopardize their victims' ability to obtain or maintain employment, including threatening or harassing the victim at work, interfering with efforts to get to work or school including violent attacks, keeping victims awake all night, and refusing to provide childcare or transportation.⁹ Perpetrators also often forbid victims from securing employment. The combination of these active sabotaging tactics, and the poor work performance and absenteeism that result from the crisis and trauma of abuse make it difficult for victims to obtain and maintain employment.

Abuser' tactics, however, are not the only barriers survivors face in maintaining employment. Victims of domestic and sexual violence often face employment discrimination. One domestic violence victim in Vermont reached out for help after being fired from her job. She had been battered to the point that she required hospitalization; she returned to work after three days in the hospital and then needed to take one more day off for a court appearance. Upon returning to her job, she learned that she had been fired for her absence.

The following few examples from Legal Momentum hint at the pervasiveness of employment discrimination against victims of domestic and sexual violence.

Angela was a waitress and bartender at a local bar/café in a small town in Wisconsin. Angela applied for and obtained a temporary domestic abuse injunction against an ex-boyfriend who made threats against her while she was six months pregnant with their child. When Angela informed her employer that she would be seeking a permanent injunction, her employer told her to "drop" the matter or she would be fired, because the injunction would allegedly be detrimental to business. Her ex-boyfriend was a friend of the employer and said he and his friends would stop coming to the bar if Angela kept working there.

Angela nevertheless obtained the permanent injunction. Two days later, Angela was fired for obtaining the injunction.

Antoinette, a dishwasher at a restaurant in a small town in Iowa, was dating and living with Donald, a busboy at the same restaurant. One evening during an argument at home, Donald kicked Antoinette. Antoinette called the police, who arrested Donald, and Antoinette was issued a protective order against Donald in short order, which included a stay away provision encompassing the workplace. When Antoinette went to her employer to discuss the protective order, she asked if she and Donald could be scheduled on different shifts. The employer said he would think about it. Two days later, Antoinette was fired. When pressed for an explanation, the employer stated that because of the protective order, he could only keep either Antoinette or Donald, and that he decided to keep Donald because he was the "better" employee.

A survivor "Mary" worked for a California company for fourteen years before being terminated in April 2003. During the last two years of her employment, Mary repeatedly asked her supervisor for thirty days off from work to address her injuries and to make arrangements to leave her husband safely. Even though California law requires that employers permit their employees to take time off to address domestic violence, Mary's requests were denied. Instead, she was put on probation for missing too much work. In March 2003, she was finally granted a ten-day leave. One month later, she was fired. When she asked why, she was told it was because she had been a few days late with completing an internal memorandum and that "if she really cared about her job, she would not have asked for time off."

Another victim of domestic violence, Vasiliki, was fired from her job after she missed two days of work to seek medical attention and meet with a prosecutor

after she was attacked by her boyfriend. She was brutally attacked by her boyfriend just days after beginning a new job in New York City. She quickly told her employers what happened, and informed them that that she would need to miss work to obtain medical attention, and to meet with a prosecutor about the case against her boyfriend. While Vasiliki was meeting with the prosecutor two days later, her employer called to tell her she was being fired. He didn't change his mind, even after the prosecutor told him it was illegal to fire a crime victim for missing work to meet with a prosecutor. New York City is one of only a handful of places in the country that prohibit employment discrimination against victims of domestic violence and require an employer to provide a victim with "reasonable accommodations" to help the victim do her job and stay safe.¹⁰

There are countless stories like this across the nation. Victims of domestic and sexual violence desperately need federal workplace protections. They should never be forced to make the untenable choice between a paycheck and safety for themselves and their children.

Credit and an economic history

Abusers use other controlling tactics that leave victims with limited economic options. Survivors report that abusers accrue large debts, limit victim's access to cash and bank accounts, leave unpaid utility and housing bills and default on shared loans, which can devastate a victim's credit score. In situations where the abuser has the sole control of the finances, victims are susceptible to bankruptcy. It can take years to fix these very real financial problems. Negative credit or lack of credit can greatly impact future opportunities to obtain loans, secure rental housing or even obtain steady employment. Additionally, because many survivors are denied access to family financial matters and bank accounts, they may lack the economic literacy skills to make financial plans and save for the future. These tactics make it very difficult for survivors to accumulate the resources necessary to flee and remain secure.

The impossible escape and the downward spiral

When victims of domestic violence gather the means to flee and victims of sexual violence begin to rebuild their lives after traumatic abuse, they may face significant obstacles in finding sustainable safety. Sexual and domestic violence can create a downward spiral for many victims, resulting in loss of housing, employment, education, and childcare. When sexual or domestic violence occur within a context of economic insecurity, getting help and moving forward with life often competes with very real basic life needs such as putting gas in the car, paying bills, or keeping a roof overhead. Often, victims of violence are faced with the gut-wrenching choice of remaining in a life-threatening situation or becoming homeless or impoverished. Victims of domestic and sexual violence are at great risk for homelessness when they flee from unsafe homes and environments. In fact, 92 percent of homeless mothers reported physical or sexual abuse during their lives and 43 percent reported child sexual abuse. Widespread housing discrimination against victims of domestic and sexual violence compound victim's housing instability. Domestic violence victims frequently are evicted and denied housing because of violence committed against them. This discrimination was well-documented in a comprehensive national survey.¹¹ While lifesaving housing protections were included in VAWA 2005, much work remains to ensure that all victims can remain housed while also accessing the protections of the criminal justice system.

The consequences on victims, their children, society and our economy

Economic security is tied to many other aspects of victims' lives. Use of the criminal justice system, for instance, is a more viable option for victims who have economic security. Domestic violence victims who are dependent upon their abusers for financial stability may be reluctant to engage with the criminal justice system because a custodial sentence for the perpetrator leaves the victim without resources. If victims, however, are able to find economic security and reduce their dependence on batterers, they are more likely to cooperate with prosecution and seek criminal justice remedies.

Additionally, if victims are able to flee the perpetrator and have the economic means to remain away from the perpetrator, they are less likely to experience repeat victimization.

The consequences of the economic impacts of domestic and sexual violence are severe. If victims cannot leave life-threatening situations because they face poverty or homelessness, they will continue to face violence and even death. Their children will continue to be exposed to this violence and the cycle of violence will continue. The costs to society and the economy are tremendous as well: domestic violence costs U.S. employers and estimated \$3 to \$13 billion annually. Annual victim costs for rape are estimated at \$127 billion.¹² Sexual and domestic violence also causes extreme economic impact on employers – through health care claims, lost productivity, and workforce turnover. In order to break the cycle of violence and to free individual victims from abuse, economic advocacy is essential.

How the Current Economic Crisis Exacerbates the Economic Impact of Violence

Domestic and sexual violence can have a tremendous economic impact on victims regardless of the state of the global economy. In the current economic crisis, however, the impact is even more dramatic. Although an economic downturn itself does not cause sexual or domestic violence, it can exacerbate the factors that contribute to violence and reduce victims' ability to achieve safety, healing and long-term stability.

Unfortunately, for victims of domestic violence, in these difficult economies times, barriers to escaping abusive relationships increase and opportunities to attain economic stability and independence decrease. Victims of sexual violence also struggle against steep economic odds as they work to rebuild their lives.

The harsh economic climate has widened the unconscionable gap between desperate need and available resources. In a 2009 survey, domestic violence service providers reported letting go or not replacing almost 2,000 positions because of a lack of funding and cited "not enough funding" as the number one reason they were unable to serve victims on the survey day.¹³ In a recent survey, out of 27 states reporting, 13 states indicated that state domestic violence services funding had been cut. According to the National Center for Victims of Crime, 92% of victim service providers have seen an increased demand in the last year, but 84% reported that cutbacks in funding were directly affecting their work.¹⁴ A 2009 survey of rape crisis centers reported that approximately 25% of rape crisis centers had a waiting list for services. Another survey found that nationwide 3 out of 4 domestic violence shelters have reported an increase in victims seeking assistance from abuse since September 2008.¹⁵ According to the National Domestic Violence Counts 2009 report by the National Network to End Domestic Violence, in just one day in 2009, over 65,000 victims were served by domestic violence programs. On the same day, however, over 9,000 requests for services went unmet because programs lacked the resources to meet the requests.¹⁶ A recent survey of rape crisis centers found that 72% of programs experienced funding losses in the past year, including state, local and federal funding and almost 60% of rape crisis centers have been forced to reduce staff in the past year.¹⁷

The scarce resources have a real impact on the lives of victims. As one Kansas program noted, "Budget cuts to our programs are not just numbers on a spreadsheet, they impact the daily lives of the people we serve. Decreased funding means families are at great risk."¹⁸

Victim advocates in Vermont, like many nationwide, are experiencing a change in their work. Rather than assisting victims in *accessing resources* that will eventually be available, advocates are now working to *help victims do without*. Sadly, they are

starting to consider not when the help will come for victim and survivors, but whether it will come at all. The next VAWA reauthorization can help remedy this dire situation.

Empowering Survivors with Economic Tools: The Vermont Response

Victims of domestic and sexual violence and stalking in Vermont face the same economic hurdles as victims across the country. With cuts to our state budget, rising prices, increased unemployment and dwindling benefits, domestic and sexual violence advocates are working harder to provide assistance to victims in greater need with fewer resources. With unemployment rates that peaked above 20 percent in one rural town last quarter, our state unemployment offices, like so many nationwide, are seeking federal funding to fill in the gaps. Homelessness in Vermont has increased by 25 percent in the past two years. The lack of safe, affordable housing across much of our state exacerbates the challenges faced by so many victims seeking safety. While such challenges weigh heavily on us when children are involved, our domestic and sexual violence shelters also now report an increase in the number of single adults seeking shelter. Public benefit systems for single adults are also struggling with limited resources after state budget cuts. Given the rural nature of our state, lack of transportation and geographic isolation present huge obstacles for many survivors, especially for those who may live hours away from lifesaving services or law enforcement. In today's economy, the cost of gasoline and general car maintenance is also prohibitive for many victims and survivors.

Over the past sixteen years, funding and technical assistance through VAWA has helped Vermont to improve systems' response and create a web of support for victims and survivors. Programs that provide transitional housing, legal help, and specific aid to rural communities have done much to alleviate some of the pressures that victims face. Since VAWA was first enacted, we have been able to build an effective coordinated community response, which began with addressing the most pressing immediate needs

facing victims. Over time, our response has evolved to include our current work that addresses the breadth of economic needs survivors have to achieve long-term safety. However, despite our successes in triage and intervention, there remains a tremendous need for the knowledge, skills and resources that help victims of domestic and sexual violence achieve economic self-sufficiency. Shelter and support are critical, yet so much more remains to be done.

Last week, a pregnant woman with a 3 year old child found safety in a Vermont shelter. She arrived after being assaulted, with only the clothes on her back and two outfits for her child. Economic advocates immediately connected her with financial assistance programs and assisted her with applying for food stamps and TANF benefits. While waiting for her TANF benefits to be approved, and after having been six weeks without income, she was able to secure only \$47 in emergency cash assistance for two weeks while in shelter. With these meager resources she will need to cover the cost of diapers, food, clothing and personal necessities.

The Vermont Network Against Domestic and Sexual Violence (VNADSV) has worked in recent years to develop innovative collaborations in an effort to support victims and survivors of domestic and sexual violence to rebuild their lives despite these circumstances. With the assistance of private funding from The Allstate Foundation in collaboration with the National Network to End Domestic Violence (NNEDV), VNADSV addresses the needs of victims that have been historically neglected by federal funding programs. Having received training and technical assistance from the National Network to End Domestic Violence, the Vermont Network has been able to provide program advocates with the supports and resources they need to empower victims toward economic independence. This past year we forged a creative partnership with Opportunities Credit Union, a community development-focused credit union, the Office of Economic Opportunity, and the Economic Development program at a local Community Action Agency in order to develop a matched savings program for domestic

violence survivors. This program promotes habitual money management skills development, provides financial literacy training, credit counseling and ultimately a 3 to 1 financial match for participants to use toward expenses such as unpaid medical debt, utility bills, automobile maintenance and repair, and rent. This is just one example of how we have been able to bridge some of the gaps on the way toward sustainable safety for survivors. Although this matched savings program is in its infancy, the broad supports funded by Allstate's Economic Empowerment Grant program in Vermont have proved incredibly promising. Included in this grant funding is on-call technical assistance and training provided by the Network and our partners in order to assist advocates in their vital work. This private funding has allowed us to provide advocates with training in basic economic advocacy skills, and pre-employment supports for victims including job readiness skills, resume writing and goal setting. All of Vermont's domestic and sexual violence programs have also received training or technical assistance in utilizing the financial literacy curriculum called "Moving Ahead Through Financial Management" created by Allstate and NNEDV specifically for survivors of economic abuse. Participants enrolled in the matched saving program commit to four sessions of financial literacy training using this curriculum. In the past year alone, 62 victims have received education through one or more components of this curriculum. One Vermont shelter includes portions of the financial curriculum in its regular community support groups and shelter groups. The most relevant and requested information at these groups centers is about economic abuse, how to recognize it, how to recover from it, and how to attempt to avoid it in future relationships.

Through the help of The Allstate Foundation, an innovative collaboration facilitated by funded Economic Advocates has provided numerous Vermont survivors with credit counseling services and used car buying instruction from a local economic development program. In the past 6 months, one Vermont domestic and sexual violence program has seen 4 victims purchase affordable, quality used vehicles based upon this work.

The collaborative relationships formed through this private funding have been so successful that our partners have offered our domestic and sexual violence programs even broader supports. In addition to the matched savings program, the community action agency and the credit union also offer their own educational time, skills and resources to all Vermont victims in our 15 member programs, regardless of enrollment in the matched savings program. According to our most recent mid-year report from our Allstate funded Economic Advocates in our domestic and sexual violence programs, of the 490 victims already served by this private funding this year, 76% have increased their long term economic security by improving financial literacy, gaining employment, repairing credit, or establishing a savings plan. This successful statewide collaboration, funded by dedicated partners such as Allstate and NNEDV, is just one example of how we have been able to bridge some of the gaps on the way toward sustainable safety for survivors. Many of the survivor success stories in Vermont stem from the knowledge, skills and resources provided by advocates focused specifically on the economic needs of victims. Once again, such sustained safety would not be possible without private funding sources to support knowledgeable and skilled economic advocacy.

Vermont has numerous examples of the effects of this important work:

A survivor who fled her abusive partner in another state sought safety for herself and her two children in Vermont. Having no local supports, this family was sheltered for nearly 3 months while she worked with economic advocates to gain her safety and independence. The combination of her strength and perseverance coupled with the skills, resources and creative partnerships available through advocates in the shelter enabled her to locate and secure permanent housing, gain access to financial assistance for housing and food, and enroll her older child in school.

A male victim of sexual assault perpetrated by his male partner sought care from a Vermont shelter. Advocates were able to access economic resources to help this victim with first month's rent and deposits for utilities and furniture.

Another survivor was unemployed when she sought safety at a shelter in Vermont. Despite her Master's degree, this survivor required the skills, knowledge and empowering support of the economic advocates at the domestic violence shelter and community collaborators to assist her in reaching her economic goals. She has developed a business plan, established a base of references for potential clients and formed promising business contacts.

A domestic violence survivor with 5 children sought shelter in Vermont. Unfortunately, at the time shelter was needed, this particular domestic violence shelter was at full capacity. With the assistance of the economic advocate, she and her children were able to find safety in a motel – but the resources provided were only sufficient for a short stay. Unfortunately, due to the lack of affordable housing that could accommodate a family of this size, she returned home to an abusive partner. Despite her return, this survivor maintained her connection with the shelter advocates who were then able to work with her on housing applications, credit repair, and budgeting skills. It is through this continued and sustained support that she was able to locate and secure housing. She moved in two weeks ago. While she has found safe housing, she continues to suffer the effects of economic abuse and is working with the shelter advocates, a local credit union and a neighboring community action agency to improve her credit score and gain financial independence.

Successes like these are seen all over the United States:

In Minnesota, for instance, a survivor who had received economic literacy education remarked that she felt so empowered and excited that she could make a long-term financial plan. Instead of feeling overwhelmed and

"drowning", she now felt she had tools to "start today" with small steps that will lead to big leaps.

In Delaware, a woman who suffered domestic violence was assisted by her economic advocates. They helped her open bank account and she was able to save a reasonable amount of money to aid in her gaining independence from the batterer. Today she has a job and a car that she was able to buy with the matched savings plan. She is now thriving with the assistance she received from the program.

Domestic violence programs in every state are using the curriculum and the economic empowerment tools to educate their staff and working to transform victims' lives. These successes are the result of the strength of victims supported and empowered by creative partnerships, and a handful of dedicated economic advocates who have the breadth of programming, resources and knowledge to support them on their journey.

But these successes are too dependent on private resources in precarious economic times. Through the support of VAWA funding and important financial commitments of partners like The Allstate Foundation and NNEDV, Vermont has been able to build creative relationships which support survivors' development of habitual money management skills, financial literacy, economic independence and ultimately the empowerment that leads to these success stories. Our model of economic advocacy is successful and could be replicated around the country with adequate resources. Economic advocacy for victims must be well supported by stable and long-term funding in order for creative and committed advocates to foster the open, innovative, and survivor-driven programming that ultimately leads to the goal of sustainable safety.

VAWA 2011 Reauthorization Recommendations

With this VAWA reauthorization, we have the unique opportunity to further broaden the scope of VAWA programs and protections by providing greater economic supports to victims and survivors. First, we must increase resources for core, foundational services that both help victims find safety and help victims to create economic stability. Secondly, we must dedicate resources to address specific economic advocacy to ensure that this vital component to long-term safety is addresses. Finally, we must provide legal employment protections for victims to ensure that victims can obtain and keep employment – a vital part of economic stability for victims.

Reauthorizing current VAWA programs with additional resources

Services for survivors of domestic and sexual violence must be able to meet both their immediate safety and crisis needs and contribute to their sustainable safety and security. A recent multi-state study of survivors in domestic violence shelters reveals that after safety, economic-related services and help were some of the most sought after services by victims.

- Safety for myself (86 percent)
- Finding affordable housing (84 percent)
- Job or job training (57 percent)
- Budgeting or handling money (54 percent)
- Education/school for themselves (48 percent)¹⁹

Current VAWA programs, including Transitional Housing, Civil Legal Assistance for Victims (LAV), the STOP, Sexual Assault Services Program (SASP) and the Rural Grant program provide a foundation for victims of domestic and sexual violence and are an essential component to longer-term safety and self-sufficiency.

The Sexual Assault Services Program (SASP), the Services, Training, Officers, and Prosecutors (STOP) program, and the VAWA Rural Grant program provide victim

services funding that helps sustain programs that provide an array of services to victims of domestic and sexual violence. These core, foundational funding streams are vital to helping programs employ knowledgeable staff and provide key services to victims in crisis. By helping victims find safety, these programs lay the foundation for much other VAWA work.

All of these lifesaving and transformative VAWA programs should be maintained in the VAWA reauthorization process and should be given increased funding to meet the increasing demand. We also recommend changes to the STOP Formula Grant Program to direct more funding to victim services in order to provide critically important supports for survivors.

The VAWA *Transitional housing* program provides an essential continuum between emergency shelter and independent living. The majority of victims in transitional housing programs state that without these programs, they would have returned to their abusers. In just one day in 2009, 4,602 adults and 6,910 children were housed in domestic violence transitional housing programs. On that same day, 1,715 requests for transitional housing were denied due to lack of capacity. The average stay at an emergency homeless shelter is 60 days, while the average length of time it takes a homeless family to secure housing is 6-10 months. Due to a lack of interim housing, victims who leave their abusers frequently lack adequate shelter options or must leave a shelter with nowhere to go.

Transitional housing helps meet the ongoing need victims have for safe and affordable housing after they leave emergency shelter and work towards safety, self-sufficiency and finding permanent housing. Clients in transitional housing programs learn or relearn how to manage a household budget and to plan for the future. This is an absolutely crucial step in gaining long-term, sustainable safety.

One Vermont VAWA funded Transitional Housing Program advocate has paired with the Allstate funded economic empowerment partners to provide credit counseling services and used car buying instruction to more than 50 percent of their service users. This beneficial counseling and instruction resulted in one survivor being able to keep her car from repossession. She needed to keep her car in order to drive to work and was counseled in financial negotiation. Since then, she has been able to purchase a newer used car and remain at her place of employment.

ASHA Family Services in Milwaukee, WI is a VAWA-funded transitional housing program with a micro-enterprise component that is transforming the lives of its residents. They lease a fully equipped café, thrift shop and nail/hair salon that the clients in the transitional housing program call their own. These sites are job and career training grounds that provide structured on-the-job training. This innovative program allows survivors to build positive work histories and gain job experience which many of the clients lack.

VAWA 2005 also includes vital protections for victims in public and assisted housing that prohibit discriminatory evictions or housing denials based on an individual's status as a victim. These protections help victims and their children remained housed and allow them to access the criminal justice system without fear of losing their housing. These protections must be strengthened and expanded in the next reauthorization of VAWA to ensure that victims do not face discrimination and can remain housed.

The Civil Legal Assistance to Victims Program (LAV) helps victims obtain vital civil legal remedies including civil protection orders, child support, child custody, and housing and public benefits assistance. LAV is the only federal funding program designed to meet all of these needs. Despite the great need, almost 70% of victims of domestic violence and sexual assault too are without legal representation. The retainers or hourly fees needed to hire private legal representation are beyond the means of most victims of domestic

violence and sexual assault. To obtain these remedies, victims of domestic violence and sexual assault need knowledgeable legal assistance that helps them navigate the civil legal system. Civil legal assistance helps victims with practical matters such as protective orders, custody, and child support and presents victims with real, long-term alternatives to their relationships. The demand for these services is high, and it is one of the most requested grant programs. The Office on Violence Against Women is only able to fund one-third of the almost 300 applications that it receives per year.

In addition to the general legal services that victims need when they begin to rebuild their lives, many victims have complex economic-focused legal issues. LAV-funded lawyers and advocates can attend to these needs. In relation to housing needs, for instance, LAV-funded programs can represent survivors who have been wrongfully evicted under the VAWA and Fair Housing Act eviction defense provisions, advocate for Public Housing Authorities to implement VAWA protections and other housing protections for survivors residing in public and private housing and advocate for survivors who seek Section 8 and public housing. These programs can assist survivors with credit reporting and credit repair issues and can represent survivors in bankruptcy cases. Finally, they can advocate for survivors who have lost their jobs to access unemployment benefits—both by representing survivors in unemployment compensation hearings and by appealing negative outcomes.

Providing Targeted Resources to Address Victims Economic Needs

The Vermont economic justice program uses its general VAWA funding to leverage private and financial supports. It is a highly effective program that should be replicated and made available to communities across the country. In these harsh economic times, it is more important than ever to ensure that victims receive targeted economic advocacy to help them attain self-sufficiency – through financial literacy education, job training, and targeted savings programs. VAWA funding should also support specific

economic advocates at programs to help victims navigate their economic options while they rebuild their lives.

Employment Protections for Victims of Domestic Violence, Sexual Assault and Stalking

There is a need for a set of comprehensive workplace protections to support workers and their families who are confronted by sexual assault, domestic violence, dating violence and stalking. Language included in the pending Security and Financial Empowerment Act (S. 1740), provides a strong blueprint for protections that should be included in this VAWA reauthorization.

Financial assistance, specifically unemployment insurance, for those victims unable to keep their jobs due to violence is a necessity. Unemployment insurance is specifically necessary if the nature of the violence requires that the survivor relocate. Even in Vermont, where we have an unemployment fund created by statute which is available to victims who voluntarily leave employment due to the effects of domestic and sexual violence and stalking, survivors are still vulnerable to unfair termination of employment due to the violence they have experienced. All victims, nationwide, deserve support and protection from discrimination.

Additionally, victims need the protection of an anti-discrimination law so that they are not fired (or not hired) merely because they are victims, because they take leave, or because the employer makes a choice between them and an abusive employee, as when the abuser and the victim work in the same place.

The needs of victims and their families do not vary across state lines, but their access to these significant protections does – as some states have robust protections and others do not. A strong federal law prohibiting discrimination and allowing access to

unemployment insurance is necessary to ensure consistent treatment of victims across our nation.

Conclusion

Over the past sixteen years, VAWA has provided lifesaving services and supports to many thousands of victims of domestic and sexual violence, dating violence and stalking, whether they live in rural or urban areas, whether they are youth or elderly victims, whether they speak English or another language – every victim deserves the chance to escape from violence and to find long-term, sustainable safety. These resources are incredibly important, but are not currently meeting the needs of survivors. Lives quite literally hang in the balance: 52% of all Vermont homicides during the past fourteen years were domestic violence related.²⁰

In order to prevent future tragedies and continue the progress that we have made over the past sixteen years, we must strengthen VAWA so that it can work for all victims of domestic and sexual violence and specifically meet their economic needs. Congress has a unique opportunity to make a difference in the lives of so many by reauthorizing VAWA with key and strategic improvements, with a focus on economic resources. This should include financial and housing assistance for victims, including those who lose their jobs due to violence; workplace protections; and changes to the STOP Formula Grant to provide more services directly to victims; as well as full funding for existing VAWA programs that provide lifesaving services and seek to prevent survivors from losing employment, becoming homeless, or suffering the lifelong effects of trauma and its attendant costs. These adjustments will do so much to support victims of domestic and sexual violence and stalking in seeking sustainable, lifelong safety.

¹ It must be noted that the only dedicated federal funding source for domestic violence shelters and programs is the Family Violence Prevention and Services Act (FVPSA), at the Department of Health and Human Services. FVPSA is a critical aspect of domestic violence programs' operational budgets, which allows them to remain open. VAWA complements FVPSA funding by supporting specific projects, but not the shelter operational costs.

² Lyon, E. (2002). Welfare and Domestic Violence Against Women: Lessons from Research. VAWnet.

³ The Allstate Foundation (2009). Economics Against Abuse, National Poll.

⁴ Lyon, E. (2002). Welfare and Domestic Violence Against Women: Lessons from Research. VAWnet.

⁵ Michael L. Benson & Greer Litton Fox, Department of Justice, NCJ 193434, *Economic Distress, Community Context and Intimate Violence: An Application and Extension of Social Disorganization Theory, Final Report* (2002).

⁶ Rennison, C.M. & Welchans, S. Department of Justice, NCJ 178247, *Intimate Partner Violence 4* (2000).

⁷ Michael L. Benson and Greer Litton Fox. *When Violence Hits Home: How Economics and Neighborhood Play a Role, Research in Brief*. NCJ 205004, September 2004, Research in Brief.

⁸ U.S. General Accounting Office (1998), *Domestic Violence Prevalence and Implications for Employment Among Welfare Recipients 19*; S. Rep. No. 138, 103rd Congress, 2nd Session 54, n. 69 citing E. Ellis, B. Atkeson and K. Calhoun, *An Assessment of the Long Term Reaction to Rape*, 50 J. Abnormal Psychology No. 3, 264 (1981).

⁹ Lyon, E. (2002). Welfare and Domestic Violence Against Women: Lessons from Research. VAWnet.

¹⁰ The employment discrimination stories were provided by Legal Momentum who worked on the legal cases the resulted from these acts of discrimination. For more information visit <http://www.legalmomentum.org/our-work/domestic-violence/court-cases.html>

¹¹ http://www.nlchp.org/content/pubs/NNEDV-NLCHP_Joint_Stories%20February_20072.pdf

¹² Miller, T., Cohen, M., & Wiersema, B. (1996). U.S. Department of Justice, *Victim Cost and Consequences: A New Look*.

¹³ *Domestic Violence Counts 09: A 24-hour census of domestic violence shelters and services across the United States*. The National Network to End Domestic Violence (March 2010).

¹⁴ National Center for Victims of Crime. *Crime and the Economy*. 2009

¹⁵ *Mary Kay's Truth About Abuse*. Mary Kay Inc. (May 12, 2009).

¹⁶ *Domestic Violence Counts 09: A 24-hour census of domestic violence shelters and services across the United States*. The National Network to End Domestic Violence (March 2010).

¹⁷ National Alliance to End Sexual Violence, 2010 Survey of Rape Crisis Centers.

¹⁸ *Domestic Violence Counts 09: A 24-hour census of domestic violence shelters and services across the United States*. The National Network to End Domestic Violence (March 2010).

¹⁹ Lyon, E., Lane, S., & Menard, A. (2009). Meeting Survivors' Needs: A Multi-State Study of Domestic Violence Shelter Experiences. Prepared for the National Institute of Justice by the UConn School of Social Work and the National Resource Center on Domestic Violence.

²⁰ Vermont Domestic Violence Fatality Review Commission: 2010 Report.

ARTICLES

**THE NEED FOR A UNIFORM FEDERAL RESPONSE
TO THE WORKPLACE IMPACT OF
INTERPERSONAL VIOLENCE**

**DRAFT
NOT FOR CIRCULATION**

LISALYN R. JACOBS*
MAYA RAGHU**

I. THE MAGNITUDE OF THE WORKPLACE IMPACT OF IPV
NECESSITATES A UNIFORM FEDERAL RESPONSE 596

A. THE WORKPLACE IMPACT OF IPV 597

B. EMPLOYERS CANNOT AFFORD TO IGNORE IPV 599

II. STATE APPROACHES ADDRESSING THE WORKPLACE IMPACT OF IPV
VARY SIGNIFICANTLY AND HAVE DISPARATE EFFECTS ON
SURVIVORS 600

A. ANTI-DISCRIMINATION PROTECTIONS KEEP THE WORKPLACES
SAFE AND HELP SURVIVORS STAY EMPLOYED 602

1. Survivors Lack Incentives to Share Relevant Information
With Employers 602

2. The Absence of Federal Legislation 604

3. State Approaches Vary Significantly 605

B. PROVIDING TEMPORARY LEAVE TO SURVIVORS ENABLES
EMPLOYERS TO RETAIN EMPLOYEES FACING COLLATERAL
EFFECTS OF VIOLENCE 607

1. Survivors' Need for Leave. 607

2. Existing Options Exclude Many. 608

3. Current Federal Law is Inadequate. 609

C. UNEMPLOYMENT INSURANCE BENEFITS ARE A CRUCIAL SAFETY
NET FOR SURVIVORS WHO LOSE OR LEAVE A JOB DUE TO
VIOLENCE 611

1. The Unemployment Insurance System and IPV 612

2. ARRA's Effect on State Unemployment Insurance Laws
and Survivors 613

3. Significant Gaps in Access Remain 614

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Orig. Op.	OPERATOR:	Session	PROOF:	PE's:	AA's:	COMMENTS	ARTNO:
1st DCT-kmm, 2nd	meezel	6					zsw-0006

INTRODUCTION

In recent years, the nation has paused to marvel at the extent of social justice reforms in the last four to five decades in such divergent areas as equal educational access, voting, and housing rights. Even as we have celebrated these milestones and have seen major overhauls by Congress and/or the federal courts in these areas of the law, in one crucial area, the workplace, law and policy have failed dismally to keep pace with a postindustrial society that is very different from the "men at work, women at home" paradigm of the post-war era. Today, half of America's workers are female, and mothers are the primary breadwinners in 40 percent of American families.¹ Yet as the recently released *The Shriver Report* points out,

Too many of our government policies . . . are still rooted in the fundamental assumption that families rely on a single breadwinner . . . [More recently] government policymakers focused on supporting women's entry into a male-oriented workforce on par with men—a workplace where policies on hours, pay, benefits and leave time were designed around male breadwinners with presumably no family caregiving responsibilities.²

The significant implications of the failure of law and policy to adapt to and address the needs of men and women who are juggling work and family caregiving are extensively chronicled in *The Shriver Report*.³ But one aspect of this issue, the incidence of interpersonal violence ("IPV")⁴ among U.S. workers and the implications of such violence for the workforce, has neither been sufficiently examined nor addressed. According to the Center for Disease Control, some 26.4 percent of women and 15.9 percent of men have experienced

1. Maria Shriver, *A Woman's Nation*, THE SHRIVER REPORT 1, 6 (2009) [hereinafter THE SHRIVER REPORT]. In 2009, the Center for American Progress, a progressive think-tank, collaborated with Maria Shriver to release a compilation of scholarly articles, anecdotal essays, and a national poll all focused on "the emergence of working women as primary breadwinners for millions of families at the same time that their presence on American payrolls grew to comprise fully half the nation's workforce." John D. Podesta, *Preface*, THE SHRIVER REPORT 1, 1. The national poll was funded by the Rockefeller Foundation and conducted by *Time Magazine* and examined attitudes about gender roles in contemporary America. *Id.*

2. Ann O'Leary & Karen Kornbluh, *Workers and Caregivers Need Government Policies That Reflect Today's Realities*, THE SHRIVER REPORT 75, 76-77.

3. *Id.*

4. Several of the studies cited in this article use the term "intimate partner violence" to connote sexual and domestic violence or stalking perpetrated by a current or former intimate partner. Because sexual assault and stalking can and do occur outside the context of intimate or family relationships, we generally use the broader term "interpersonal violence" to encompass all such crimes whether committed by an intimate partner or a stranger except where the definitions in the article being discussed make that inappropriate.

Orig. Op.	OPERATOR:	Session	PROOF:	PE's:	AA's:	COMMENTS	ARTNO:
1st DCT-kmm, 2nd	meadel	6					25w-0006

at least one incident of intimate partner violence during their lifetimes.⁵ And yet in the workplace, where survivors of intimate partner violence are likely to be overrepresented as a consequence of their need for economic security,⁶ policies to address their unique issues have evolved unevenly at best, as have those that recognize other work-life challenges that most families face, including caregiving and the need for flexible work arrangements.⁷

IPV survivors have gone from being relegated to the private realm and having little in the way of services or available supports, to being served by law enforcement and a judiciary that are well acquainted with the dynamics and consequences of their victimization.⁸ However, it is not surprising that the workplace, which has been slow to accommodate the different needs of women, has not developed a consistent approach to responding to the needs of IPV survivors either. The state-level response to the needs of survivors has been equally piecemeal, and largely began prior to the era we live in now where so many workers are employed by national or multi-national corporations. A state-centered approach no longer works as it yields uneven benefits and protections for workers with identical positions within a company whose only distinguishing characteristic is that they work on opposite sides of the country. A federal solution is desperately needed and long overdue.

This article makes the case that recognizing and addressing the needs of all survivors in the workplace is critical both as a business and economic imperative and as a means of strengthening the American workforce. We focus not only on the workplace experience of and response to survivors of domestic violence, but also that of sexual assault and stalking survivors.⁹ Until recently, to the extent federal law and resources considered the experience and needs of IPV survivors,

5. Ctr. for Disease Control and Prevention, *Adverse Health Conditions and Health Risk Behaviors Associated with Intimate Partner Violence*, MORBIDITY AND MORTALITY WEEKLY REPORT, Feb. 8, 2008, <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5705a1.htm> [hereinafter CDC].

6. CAROL A. REEVES & ANNE M. O'LEARY-KELLY, U.S. DEP'T OF JUSTICE, A STUDY OF EFFECTS OF INTIMATE PARTNER VIOLENCE IN THE WORKPLACE 16 (2009) [hereinafter EFFECTS OF INTIMATE PARTNER VIOLENCE].

7. Workplace Flexibility 2010, LAWS AFFECTING FLEXIBILITY (2009), <http://www.law.georgetown.edu/workplaceflexibility2010/law/index.cfm>.

8. Deborah A. Widdis, *Domestic Violence and the Workplace: The Explosion of State Legislation and the Need for a Comprehensive Strategy*, 35 FLA. ST. U.L. REV. 669, 674 (2008) [hereinafter Widdis, *Domestic Violence and the Workplace*].

9. Many of the workplace accommodations discussed here could also reasonably be extended to all crime victims, and that issue certainly deserves assessment as policy makers turn their attention to this issue. A number of states have enacted statutes that address crime victims insofar as court leave is concerned. See *Hearing on the Continued Importance of the Violence Against Women Act Before the S. Judiciary Comm.* at 7, 111th Cong. 1 (2009) (written testimony of Legal Momentum recognizing how a majority of states have "passed laws that permit crime victims time off to attend court proceedings and laws specifically addressing the needs of domestic and sexual violence victims"). This article, however, focuses on the appropriate response to IPV-related workplace issues. Most of the existing literature on workplace issues and survivors of IPV has focused only on survivors of domestic violence for several reasons: (1) there is more data and research to draw from because it was the first aspect of IPV to emerge from the shadows of the private realm; (2) state laws in this area are focused disproportionately on

Orig. Op.	OPERATOR:	Session	PROOF:	PE's:	AA's:	COMMENTS	ARTNO:
1st DCT-kmm, 2nd	meadel	6					zsw-0086

they focused on domestic violence. However, over the last four years, and at the behest of sexual and domestic violence and stalking advocates, the U.S. Congress has shown an increasing recognition of the need to address similarly situated survivors within the same legislation, such as with the Violence Against Women Act ("VAWA") and the Security and Financial Empowerment ("SAFE") Act.¹⁰ Any effort to address the intersection of employment and IPV issues would be limited in its prospects for success if it failed to address the needs of similarly situated survivors.

In Part II, we discuss why a federal response to this issue is required, examining the issue from a business standpoint and arguing that it is not only necessary but also good business practice to address the needs of employee-survivors. Part III turns to an analysis of legal strategies employed by states to address the workplace effects of violence, including anti-discrimination provisions, leave, and unemployment insurance in the instance where an employee needs to relocate. In Part IV, we conclude with a discussion of pending federal legislation that attempts to address these issues in a uniform manner, and other approaches that may warrant further consideration.

I. THE MAGNITUDE OF THE WORKPLACE IMPACT OF IPV NECESSITATES A UNIFORM FEDERAL RESPONSE

As employers grapple with the implications of a workforce that is increasingly female (fully half of the U.S. workforce in 2009),¹¹ they must also recognize that like pregnancy and family caregiving, IPV has an increasing impact on the workforce.¹² According to the comprehensive study of intimate partner violence

domestic violence survivors; and (3) some authors are uncomfortable with discussions about sexual assault and or stalking, and may skip over these issues or inappropriately conflate the three.

10. *E.g.*, Violence Against Women Reauthorization Act of 2005, Pub. L. 109-162, 119 Stat. 2964 (codified as amended at scattered sections of 8 U.S.C., 18 U.S.C., and 42 U.S.C.) [hereinafter VAWA 2005]; Security and Financial Empowerment Act, H.R. Doc. No. 111-739, at 1 (2009); Healthy Families Act, H.R. Doc. No. 111-2460, at 1 (2009); Worker, Homeownership, and Business Assistance Act of 2009, H.R. Doc. No. 111-3548 (2009).

11. THE SHRIVER REPORT, *supra* note 1, at 6.

12. In attempting to quantify the impact of domestic and sexual violence on the workplace, researchers have reached results which are at once significant yet also inconsistent with each other. One study released in 2007 calculated that violence cost the United States \$70 billion annually, with \$64.4 billion in lost productivity and \$5.6 billion spent on medical care. Phaedra Corso, *Medical Costs and Productivity Losses Due to Interpersonal Violence and Self-Directed Violence*, 32 AM. J. PREVENTATIVE MED. 474, 474 (2007). That same study suggested that interpersonal violence costs the U.S. \$33 billion in lost productivity and \$4 billion for medical treatment. *Id.* A CDC study, however, has placed productivity losses and healthcare costs related to domestic violence for employers at approximately \$5.8 billion. CTR. FOR DISEASE CONTROL AND PREVENTION, NAT'L CTR. FOR INJURY PREVENTION & CONTROL, COSTS OF INTIMATE PARTNER VIOLENCE AGAINST WOMEN IN THE UNITED STATES 2 (2003), available at <http://www.cdc.gov/violenceprevention/pdf/IPVBook-a.pdf>. Additionally, the CDC estimates that medical and mental health services related to IPV total nearly \$4.1 billion per year. *Id.* However disparate these figures might be, they are certainly of sufficient magnitude to command employer attention, and presumably action to stem the tremendous projected productivity loss. There are suggestions, however, that the lack of consistency surrounding these estimates might correlate with

Orig. Op.	OPERATOR:	Session	PROOF:	PE's:	AA's:	COMMENTS	ARTNO:
1st DCT-kmm, 2nd	meadel	6					zsw-0005

conducted by the Centers for Disease Control in 2008, 26.4 percent of women and 15.9 percent of men reported at least one lifetime episode of “intimate partner violence,” a category that groups the typically separate categories of domestic violence and sexual assault together.¹³ Women are also at higher risk of being stalked; in one recent study, women were almost three times more likely to be stalked than men.¹⁴ Unfortunately, recent news reports indicate that the incidence of all these forms of violence are increasing as the economy worsens.¹⁵

In this section, we examine the magnitude of the impact of IPV on the workplace, and the implications for the major actors: survivors, perpetrators, and employers. We then explain why employers—and federal policymakers—ignore this issue at their peril.

A. THE WORKPLACE IMPACT OF IPV

In one recent study, researchers combined current and lifetime victimization rates and found that a staggering 29 percent of male workers and 40 percent of female workers reported having been subjected to intimate partner violence at some point in their lives.¹⁶ In interpreting these numbers, they posited that the rates of victimization in the workplace were higher than those in the general population because survivors of violence were overrepresented in the workplace.¹⁷ Survivors who have decided to leave an abusive situation may have a greater need than others to earn their own income and support themselves and their families.¹⁸ Thus, it is reasonable to extrapolate that in a workforce that is 50 percent female with more than one in four of those women reporting at least one episode of intimate partner violence—and with nearly 16 percent of men reporting the same—that such violence would have repercussions and costs for the employers, whether they have survivors, abusers, or both on their payroll.

Other studies have tried to further parse the issue of workplace impact. One recent study suggests that recent survivors of intimate partner violence can have trouble concentrating at work, and that this can have adverse impacts on worker productivity.¹⁹ The same study found that 20 percent of the survey participants

insufficient employer attention to the issue. That is, only in the face of consistent and significant evidence will employers be persuaded to play a role in responding to IPV. Carol Reeves & Anne M. O’Leary-Kelly, *The Effects and Costs of Intimate Partner Violence for Work Organizations*, 22 J. INTERPERSONAL VIOLENCE 327 (2007) (hereinafter *Costs of Intimate Partner Violence*).

13. CDC, *supra* note 5.

14. KATRINA BAUM ET AL., BUREAU OF JUSTICE STATISTICS, U.S. DEP’T OF JUSTICE, STALKING VICTIMIZATION IN THE UNITED STATES 1 (2009), <http://bjs.ojp.usdoj.gov/content/pub/pdf/svus.pdf> (hereinafter BJS).

15. See, e.g., Carrie Weil, *Domestic Violence Increase Tied to Economic Downturn* (WAVE 3 television broadcast Jun. 12, 2009); Mary R. Lauby & Sue Else, *Recession Can Be Deadly For Domestic Abuse Victims*, BOSTON GLOBE, Dec. 25, 2008.

16. EFFECTS OF INTIMATE PARTNER VIOLENCE, *supra* note 6, at 44.

17. *Id.* at 45.

18. *Id.* at 16–17, 45.

19. *Id.* at 6.

Orig. Op.	OPERATOR:	Session	PROOF:	PE's:	AA's:	COMMENTS	ARTNO:
1st DCT-kmm, 2nd	meadel	6					zsw-0006

reported that some type of abuse had occurred at work, and half of the stalking survivors reported being stalked at work.²⁰ Another study found that 74 percent of employed battered women were harassed at work by their partner.²¹ Further, homicide has been found to be one of the top causes of death for women on the job.²²

An often-overlooked aspect of violence and its workplace effects is that of the IPV perpetrator as an employee, and the impact of the perpetrator's behavior on his or her employer's bottom line. Abusers often use their employer's property, including company cars, phones, computers, and sometimes fellow employees, to keep track of their victim's whereabouts. In one recent study, 78 percent of abusers reported that they had used their company's resources in connection with their abusive relationship.²³ Additionally, 48 percent of abusers reported having difficulty concentrating at work and 42 percent reported being late to work.²⁴ To focus only on the productivity of a survivor without considering the impact of IPV on an employed perpetrator is to not fully address the problem from either a security or productivity standpoint. It can also place the employer in a somewhat adversarial position vis-à-vis the survivor when, in fact, the abuser is the underlying cause of the problem.²⁵

Finally, there is the issue of job loss. Two recent studies of partner stalking of survivors found that between 15.2 and 27.6 percent of women reported that they lost a job due, at least in part, to domestic violence.²⁶ Similarly, almost 50 percent of sexual assault survivors lose their jobs or are forced to quit in the aftermath of the assaults.²⁷ A recent Department of Justice study reveals that more than half of the stalking survivors surveyed lost five or more days from work, and 130,000 survivors reported that they had been fired from or asked to leave their jobs because of the stalking.²⁸ Whether statistically or anecdotally, we can see that a

20. *Id.* at 48.

21. Family Violence Prevention Fund, *The Workplace Guide for Employers, Unions and Advocates* (1998).

22. Bureau of Labor Statistics, U.S. Dept. of Labor, *Census of Fatal Occupational Injuries: Table A-7 Fatal occupational injuries by worker characteristics and event or exposure* (2008).

23. ELLEN RIDLEY, MAINE DEPT OF LABOR & FAMILY CRISIS SERVICES, *IMPACT OF DOMESTIC OFFENDERS ON OCCUPATIONAL SAFETY AND HEALTH: A PILOT STUDY 13-14* (2004), available at <http://www.cobar.org/Docs/Maine.DVStudy-FullReport2004.pdf?ID=21106>.

24. *Id.* at 11-12.

25. Widiss, *Domestic Violence and the Workplace*, *supra* note 8, at 681.

26. TK Logan et. al., *Partner Stalking and Implications for Women's Employment*, 22 J. INTERPERSONAL VIOLENCE 268 (2007).

27. U.S. GEN. ACCT. OFFICE, *DOMESTIC VIOLENCE PREVALENCE AND IMPLICATIONS FOR EMPLOYMENT AMONG WELFARE RECIPIENTS* 19 (Nov. 1998); S. Rep. No. 138, 103rd Cong., 2d Sess. 54, n. 69 (citing E. Ellis, B. Atkeson & K. Calhoun, *An Assessment of the Long Term Reaction to Rape*, 50 J. ABNORMAL PSYCHOL. 264 (1981)).

28. BJS, *supra* note 14, at 7 (2009). It should be kept in mind that this figure of 130,000 is not the number of stalking victims nationwide fired due to a stalking, but rather the number of respondents in the study who experienced this result. This study also notes that "[o]f the 79% of stalking victims who had a job during the 12 months preceding the interview, about 1 in 8 lost time from work because of fear for their safety or to pursue activities such as obtaining a restraining order or testifying in court (appendix

Orig. Op.	OPERATOR:	Session	PROOF:	PE's:	AA's:	COMMENTS	ARTNO:
1st DCT-kmm, 2nd	meadel	6					zsw-0006

significant number of survivors are losing their jobs when they are fired for reasons that stem from their victimization.²⁹ While termination may seem a viable solution to some employers, it brings with it substantial costs, including the payment of severance, unemployment insurance, lost productivity while a replacement is sought, hiring and training costs for that replacement, and bad publicity.³⁰

B. EMPLOYERS CANNOT AFFORD TO IGNORE IPV

Whether businesses address IPV as a security issue, a worker productivity issue, or something else, addressing it is good business practice. According to findings included by the House of Representatives in the currently pending SAFE Act, 94 percent of corporate security and safety directors at companies nationwide ranked domestic violence as a high security concern.³¹ Forty-nine percent of senior executives recently surveyed said domestic violence has a harmful effect on their company's productivity.³² Forty-seven percent said domestic violence negatively affects attendance, and 44 percent said domestic violence increases health care costs.³³ Seventy-eight percent of human resources professionals consider partner violence a workplace issue.³⁴ Yet this concern does not seem to translate consistently to implementing programs and policies to assist survivors of IPV in the workplace, or in some instances, publicizing the fact that employers already have such policies. More than 70 percent of U.S. workplaces have no formal programs or policies that address workplace violence, let alone domestic violence. In fact, only 4 percent of employers provided training on domestic violence.³⁵ Although a significant number of employers have for years demonstrated leadership in the implementation of workplace policies and programs related to domestic and sexual violence,³⁶ recent surveys of both CEOs and employees suggest that there are a number of barriers that have prevented other employers from engaging around the issues of IPV at least until now. In a recent survey, 43 percent of CEOs surveyed said that domestic violence

table 8). Seven percent of victims lost time from work for activities such as changing a phone number, moving, or fixing or replacing damaged property. For 1 in 7 of these victims, a day or less was lost from work. More than half of victims lost 5 or more days from work." *Id.*

29. See, e.g., *Domestic Violence: Hearing on H.R. 3171 and S.R. 3185 Before the Senate Comm. on Health, Education, Labor and Pensions Subcomm. on Employment and Workplace Safety*, 110th Cong. 1-3 (2007) (statement of Kathy Rodgers, President, Legal Momentum describing how a survivor of interpersonal violence was fired after needing a day off to go to court).

30. See generally *Costs of Intimate Partner Violence*, *supra* note 12.

31. Security and Financial Empowerment Act, H.R. 739, 111th Cong. § 2.12 (2009).

32. *Id.* § 2.10.

33. *Id.*

34. *Id.* § 2.11.

35. *Id.*

36. Liz Claiborne, Bank One, Enterprise Rent-A-Car, Kaiser Permanente, Target Corporation, State Farm Insurance Companies, and Verizon Wireless are all partners in the Corporate Alliance to End Partner Violence. For a complete list of this group's members, see <http://caepv.org/about/members.php>.

Orig. Op.	OPERATOR:	Session	PROOF:	PE's:	AA's:	COMMENTS	ARTNO:
1st DCT-kmm, 2nd	meadej	6					zsw-0006

impacted the bottom line.³⁷ However, in that same survey, only 13 percent of employers felt that employers should play a major role in addressing domestic violence issues.³⁸ By contrast, 84 percent of surveyed employees felt that business should be part of the response to addressing domestic violence.³⁹ The seeming "disconnect" here can be explained by the fact that very few individuals in the workplace, whether corporate security officers, the co-worker of the IPV survivor, or the survivor him/herself, have the opportunity or the courage to raise this issue with the CEO. Thus, many CEOs may feel that IPV is a workplace problem, but do not see it as one that occurs in *their* workplace.

While peer-to-peer efforts are invaluable, it is unlikely that all employers will ever sign on, and this is not satisfactory as either an economic or public health matter.⁴⁰ But an increasingly female workforce, combined with the need to increase productivity given the economic downturn, might provide an opening for businesses to revisit their views on the issue of IPV and its workplace effects. And as employers attempt to create a comprehensive, pro-active response, they continue to be confronted by a variety of state laws addressing the workplace impact of IPV. Most employers may be unaware that the state(s) in which they conduct business specifically prohibit employment discrimination against survivors, or provide survivors with access to leave. As the following section demonstrates, a comprehensive federal solution would simplify matters for employers as they would not continue to be confronted by the disparate approaches of the various states in which they do business. Without a comprehensive federal approach, employers will continue to grapple with myriad state laws providing anti-discrimination protection, leave, and access to unemployment insurance; with serious implications for business operations and the bottom line should they fail to keep up with the disparate approach of each state.

II. STATE APPROACHES ADDRESSING THE WORKPLACE IMPACT OF IPV VARY SIGNIFICANTLY AND HAVE DISPARATE EFFECTS ON SURVIVORS

In the absence of a federal mandate, states have been left to their own devices as they grapple with the growing impact of IPV on the workplace. Some states have tried repeatedly to pass legislation to provide workplace protections for survivors but have failed.⁴¹ Any survey of states that do have laws addressing

37. CORPORATE ALLIANCE TO END PARTNER VIOLENCE, 2007 CEO AND EMPLOYEE SURVEY 7 (2007), available at <http://www.caepv.org/getinfo/docdetails.php?docID=549&catID=7>.

38. *Id.* at 10.

39. *Id.*

40. See generally CTR. FOR DISEASE CONTROL AND PREVENTION, UNDERSTANDING INTIMATE PARTNER VIOLENCE FACT SHEET (2009) (asserting that intimate partner violence is a public health problem because "[t]he medical care, mental health services, and lost productivity (e.g., time away from work) cost of intimate partner violence was an estimated \$5.8 billion in 1995. Updated to 2003 dollars, that's more than \$8.3 billion.").

41. Examples include, *inter alia*, Illinois (H.B. 3428, 93d Gen. Assemb. (Ill. 2003)), Kentucky (H.C.R. 16 & B.R. 233, 2004 Reg. Sess. (Ky. 2004)), Massachusetts (S.B. 2338 (redrafted as S.B. 2684),

Orig. Op.	OPERATOR:	Session	PROOF:	PE's:	AA's:	COMMENTS	ARTNO:
1st DCT-kmm, 2nd	meadel	6					zsh-0006

anti-discrimination provisions, leave, and unemployment insurance eligibility for IPV survivors reveals that no two states provide identical coverage.⁴² This situation has only been complicated by recent attempts at the federal level to convince states with existing protections to move voluntarily towards some uniform standard—with predictably awkward results. Fn42

As we demonstrate in Part III.A. (anti-discrimination laws), Part III.B. (employment leave), and Part III.C. (unemployment insurance benefits), this state-centric and incremental approach has yielded a crazy quilt of laws that frequently subjects virtually identically situated people working for the same employer whether in contiguous states, or opposite sides of the country, to wildly disparate outcomes. This is not because the needs of states or their citizens are so disparate, but rather because federal employment and labor policies have failed to keep pace with the increasingly national and seamless way in which modern businesses operate.⁴³ Such results are the antithesis of sound public policy making and bring with them inconsistent and often dangerous outcomes for victims. Fn43

The economic downturn has significantly complicated and exacerbated this situation, and brought with it an increase in calls to the national domestic violence hotline and an increased demand for IPV-related services. In light of these trends and the daily application of primarily state-based workplace protections and policies to individuals whose employers have operations nationwide,

184th Reg. Sess. (Mass. 2006)), New York (A.B. 2596, 227th Leg. Sess. (N.Y. 2005)), and Pennsylvania (190th Gen. Assem., Reg. Sess. (Pa. 2007)).

42. Widiss, *Domestic Violence and the Workplace*, *supra* note 8, at 671.

43. See, e.g., Abby Ellin, *Agony of Domestic Violence at the Office*, N.Y. TIMES, Mar. 1, 2000, at G1 (“Maine and Dade County in Florida enacted legislation last year to provide unpaid leave for domestic violence victims. Ten states, including California, Connecticut, New York and New Jersey, recently passed legislation making survivors eligible for unemployment insurance if they lose their jobs. Mark Green, New York City’s public advocate, says he plans to introduce a bill soon to broaden the rights of city employees in the event of domestic violence.”); Kathie Klarreich, *Targeting Domestic Abuse—At Work*, CHRISTIAN SCIENCE MONITOR, Oct. 24, 2003, at 11 (“[M]ore than 40 states and locales have enacted laws designed to create protections for victims of domestic violence. Maine pioneered the movement in 1991 by changing its unemployment codes to include domestic violence. California was the first state to allow employers to seek restraining orders against employees’ abusers in 1994, followed by Georgia, Arizona, Arkansas, Nevada, Rhode Island, Colorado, Indiana, and Tennessee. Recent legislation allows victims to collect unemployment benefits if they have to quit or are fired because of domestic violence. Other new laws allow employers to take out restraining orders to bar angry intruders from the workplace, prohibit employers from taking adverse actions against workers who need time off to deal with violence, and require employers to grant victims paid or unpaid leave. Many states prohibit insurers from discriminating against domestic violence victims.”); Edward H. Trent & Richard N. Margulies, *Employment Protections For Victims Of Domestic Violence And Sexual Assault*, METROPOLITAN CORPORATE COUNSEL, Nov. 2007, at 11 (“Currently ten states (California, Colorado, Florida, Hawaii, Illinois, Kansas, Maine, North Carolina, Oregon, Rhode Island) provide victims of domestic violence and sexual assault with protected leave to address the numerous issues that often face victims of such crimes. At the core of this legislation, leave is generally granted to victims of domestic violence or their families to obtain a restraining order or injunction against violence, meet with prosecuting attorneys, attend court hearings, find alternate housing, such as at a women’s shelter or at another location, seek medical care or mental health counseling, or other victim’s services.”).

Orig. Op.	OPERATOR:	Session	PROOF:	PE's:	AA's:	COMMENTS	ARTNO:
1st DCT-kmm, 2nd	meadel	6					zsw-0606

federal policymakers must enact a comprehensive set of long-overdue updates to workplace policy regarding IPV.

A. ANTI-DISCRIMINATION PROTECTIONS KEEP THE WORKPLACES SAFE AND HELP SURVIVORS STAY EMPLOYED

One of the most important factors in successfully addressing the workplace impact of IPV is the creation of a culture where employees can reveal information about the IPV to co-workers or supervisors without the threat of being fired. Survivors cannot—and will not—seek time off to go to court, alert the employer about a potential safety threat or explain poor performance if they think they will lose their jobs as a consequence of disclosing the violence to their employer. Employers will remain ignorant about safety threats to the workplace, or will have to spend time and money finding a replacement for a formerly high-performing employee. Co-workers may become resentful of an employee who is late or absent with increasing frequency without understanding that the underlying reason is not laziness. However, employers and employees have no incentive to share this crucial information and avoid misunderstandings as long as IPV survivors must choose between staying employed or staying safe. In this section, we explain why federal legislation specifically prohibiting employment discrimination against IPV survivors is critical to creating a supportive workplace. We first examine the myths and stereotypes that keep survivors from disclosing violence to an employer, and that drive many employers to fire or penalize employees for the violence against them. We then discuss why existing federal anti-discrimination laws are an imperfect solution that inadequately addresses this problem, and finally, we examine varying state approaches to the issue.

1. Survivors Lack Incentives to Share Relevant Information With Employers

Survivors of IPV often fear that telling their employers about the violence will jeopardize their employment. Unfortunately, this concern is quite reasonable, as our clients know all too well. Take the case of Angela, a waitress and bartender at a local bar/café in a small town in Wisconsin. Angela applied for and obtained a temporary domestic abuse injunction against an ex-boyfriend who made threats against her while she was six months pregnant with their child. When Angela informed her employer that she would be seeking a permanent injunction, her employer told her to “drop” the matter or she would be fired, because the injunction would allegedly be detrimental to business. Angela nevertheless obtained the permanent injunction. Two days later, Angela was fired because she obtained the injunction.⁴⁴

Fn44

Often, survivors trying to keep their jobs while dealing with domestic violence are penalized for an abuser’s actions. For example, Legal Momentum represented

44. *Thoma v. LJ’s Bad Penny Bar & Café*, ERD Case No. CR200600641 (Wisconsin Labor and Industry Review Commission).

Orig. Op.	OPERATOR:	Session	PROOF:	PE's:	AA's:	COMMENTS	ARTNO:
1st DCT-kmm, 2nd	meadel	6					zsw-0006

Antoinette (“Toni”), a dishwasher at a restaurant in a small town in Iowa, who was dating and living with Donald, a busboy at the same restaurant. One evening during an argument at home, Donald kicked Toni in the leg. Toni called the police, who arrested Donald, and Toni was issued a protective order against Donald in short order, which included a stay away provision encompassing the workplace. When Toni went to her employer to discuss the protective order, she asked if she and Donald could be scheduled on different shifts. The employer said he would think about it. Two days later, Toni was fired. When pressed for an explanation, the employer stated that because of the protective order, he could only keep either Toni or Donald, and that he decided to keep Donald because he was the “better” employee.⁴⁵

Fn45

Employment is crucial to a survivor being able to separate from an abusive situation. With a job and source of income separate from an abuser, a survivor can find a safe place to live and pay for alternative child care arrangements, new forms of transportation, medical costs, and legal bills. But in these days of economic uncertainty, many survivors are too afraid of losing desperately needed jobs to pursue legal remedies, seek medical treatment, or take other essential steps to secure their safety. As the experiences of Angela and Toni demonstrate, when an employee discloses the violence or asks for assistance in dealing with it, a common response from employers is to fire them.

In some cases, survivors of violence lose their jobs because of absences or related job performance problems. But survivors also lose their jobs because of stereotypes about or fear of survivors, because they need workplace accommodations or changes an employer deems costly, or because an abusive partner disrupts the workplace. Supervisors or human resources personnel may subscribe to common stereotypes regarding domestic violence survivors and abusers. For instance, survivors are often blamed for the violence against them, or for failing to control an abuser’s behavior, and suffer the consequences of discipline or termination. Employers may not realize that there are other steps that they can take against the abuser—such as reporting harassment to the police or, in states that authorize it, seeking a workplace restraining order⁴⁶—to address harassing or disruptive conduct, rather than firing the survivor of the violence. Likewise, employers may mistakenly believe that firing a survivor is the only way to ensure that the violence does not spill over into the workplace.

Fn46

Some businesses have proactively developed programs addressing domestic violence, which demonstrate that other mechanisms—such as changing an employee’s work shift, registering a protective order, alerting security, or transferring an employee—are effective means of addressing any potential threat to

45. Complaint at 5-11, Greer v. Beck’s Pub & Grille, Civ. No. C03-2070LRR (N.D. Iowa Jan. 4, 2006).

46. For summaries of state laws that allow employers to obtain workplace restraining orders, see Legal Momentum, *State Law Guide: Workplace Restraining Orders*, available at <http://www.legalmomentum.org/assets/pdfs/workplace-restraining-orders.pdf>.

Orig. Op.	OPERATOR:	Session	PROOF:	PE's:	AA's:	COMMENTS	ARTNO:
1st DCT-kmm, 2nd	meadel	6					z5w-0006

the workplace. But employers cannot take safety precautions if they do not know what is going on, either because employees are afraid of job implications if they come forward, or because they do not know how to disclose or to whom. It is in the employer's interest to have as much information as possible about a potentially disruptive situation, so that it can take steps to avoid such a situation, instead of having to respond to an actual incident. Moreover, many survivors do not work for such sympathetic or proactive employers. The stigma of IPV is still strong, and stereotypes about survivors persist. The most effective way to ensure that survivors feel comfortable telling their employers about their situation without fear of jeopardizing their employment is to enact legislation that makes clear that survivors cannot be fired simply because they are survivors, and that they will not be penalized for disclosing violence. In addition to maintaining employment and safety, such legislation has the added bonus of proscribing and penalizing actions based on persistent gender stereotypes. As other commentators have noted, employers have no incentive to desist from intentional or other types of gender discrimination unless they might be sanctioned for the discrimination.⁴⁷

Ft47

2. The Absence of Federal Legislation

Federal legislation does not yet address the specific circumstance of employment discrimination against survivors of domestic violence, sexual assault, or stalking. In the absence of a specific federal response, some survivors have been able to successfully challenge discriminatory actions under federal and state civil rights laws, or tort-based claims that their termination was in violation of public policy. And while some jurisdictions around the country have enacted different forms of anti-discrimination legislation designed to help survivors obtain or maintain employment, many have not, leaving survivors without legal recourse. In the face of losing a job if she discloses the violence, a survivor may opt to remain with the abuser in order to ensure her family will continue to have shelter and food. This situation is costly to all and begins a cycle of job seeking and job loss anew. A federal response would stem this cycle and provide greater workforce stability while decreasing reliance on safety net programs.

In the absence of a specific federal prohibition on employment discrimination against IPV survivors, some survivors have sought relief by claiming they were subjected to sex discrimination, in violation of Title VII of the Civil Rights Act of 1964 ("Title VII"), or state or local civil rights laws. These claims have been pursued under theories that evolved through traditional cases brought under Title VII, and given a twist for the IPV context.⁴⁸ For example, the Equal Employment Opportunity Commission recently brought suit under Title VII for

Ft48

47. See Nina W. Tart, *Employment and Economic Security For Victims of Domestic Abuse*, 16 S. CAL. REV. L. & SOC. JUST. 371 (2007).

48. For a detailed discussion of the application of Title VII to the context of the workplace and domestic violence, see Wendy R. Weiser & Deborah A. Widiss, *Employment Protection for Domestic Violence Victims*, CLEARINGHOUSE REV. J. POVERTY L. & POL'Y (2004).

Orig. Op.	OPERATOR:	Session	PROOF:	PE's:	AA's:	COMMENTS	ARTNO:
1st DCT-kmm, 2nd	meadel	6					zsw-0006

sexual harassment against an employer who fired a female employee because she obtained an order of protection against her abusive ex-boyfriend, who was also her co-worker.⁴⁹

Fns9

However, these theories have met with varying degrees of success, depending on the judge's willingness to accept the novel twist on traditional sex discrimination theories of liability, the ability of the plaintiff to present persuasive and authoritative expert testimony that deconstructs stereotypes about survivors and abusers, and the ability to present national and local statistics about the extent of domestic violence and the population that obtains orders of protection. Other survivors have challenged discriminatory employment actions as violations of public policy, and this approach has been more successful.⁵⁰

Fns50

3. State Approaches Vary Significantly

Due to the imperfect protections afforded by existing law, in the last several years many jurisdictions around the country have realized that a more effective means of promoting the employment security of survivors is to specifically prohibit employment discrimination against them. New York City was the first jurisdiction to address the issue in 2001 by adding actual or perceived survivors of domestic violence, sexual assault, and stalking to the list of protected classes in its human rights law, and prohibits employers from taking action against survivor-employees because of the acts of the perpetrator—a significant effort to protect survivors from being punished for the harassing or threatening acts of their abusers.⁵¹ Only three states have enacted anti-discrimination protections: Illinois in 2003,⁵² and New York⁵³ and Oregon⁵⁴ in 2009. Two states, Rhode Island and Connecticut,⁵⁵ specifically prohibit firing survivors because they have obtained protective orders. And as discussed in Part III.B., several states have protected survivors from being fired for taking time off from work to address the violence against them.

Fns1

Fns2,Fns3,Fns4

Fns5

49. EEOC v. Cascade Foods, Inc., No. CV-09-1157-AC (D. Ore. filed Oct. 5, 2009).

50. See, e.g., *Apessos v. Memorial Press Group*, No. 01-1474-A, 2002 Mass. Super. LEXIS 404 (Mass. Super. Ct. Sept. 30, 2002); *Imes v. City of Asheville*, 606 S.E.2d 117 (N.C. 2004); *Greer v. Beck's Pub & Grille, et al.*, Civ. No. C03-2070LRR (N.D. Iowa Jan. 4, 2006).

51. N.Y., N.Y., ADMIN. CODE § 8-107.1 (2009). Westchester County, New York followed suit with a virtually identical law soon after. WESTCHESTER CTY., N.Y., CODE §§ 700.02 & 700.03 (2009).

52. The Victims' Economic Security and Safety Act, 820 Ill. Comp. Stat. 180 (2010), among other things, includes anti-discrimination protections for actual and perceived survivors of violence or employees with immediate family members who are survivors, and protects survivors from employment discrimination based on acts of their abusers.

53. New York added survivors of domestic violence (not sexual assault or stalking) to the list of protected classes in its human rights law. N.Y. EXEC. L. § 296(1)(a) (2009).

54. Oregon's law prohibits employment discrimination against survivors of domestic violence, sexual assault or stalking because of the employee's status as a survivor, and prohibits an employer from refusing to make reasonable safety accommodations requested by such an employee. OR. REV. STAT. § 659A.885 (2010). Laws requiring employers to make reasonable accommodations, including granting leave, are discussed in section IV.

55. CONN. GEN. STAT. § 54-85b (2008); R.I. GEN. LAWS § 12-28-10 (2010).

Orig. Op.	OPERATOR:	Session	PROOF:	PE's:	AA's:	COMMENTS	ARTNO:
1st DCT-kmm, 2nd	meadel	6					zsw-0006

The existence of this handful of anti-discrimination protections has no doubt assisted many survivors in keeping their jobs, which is crucial to being able to establish financial independence from an abuser. However, the relative paucity of these statutes, along with wide variations in the groups protected, the size of the employer covered, the documentation requirements, and the different enforcement mechanisms, create the unfortunate situation where a survivor's protections depend upon where she happens to live or work. For example, a survivor who works for a large drugstore chain in New York City is entitled to far more protections than a survivor working for the same company a few train stops away in Long Island in New York State. The employee in Long Island is only entitled to anti-discrimination protection if she is an actual survivor of domestic violence. If she is instead a survivor of sexual assault or stalking, or her abuser is harassing her at the workplace and her employer is concerned, she is out of luck. And when survivors do try to use existing laws to challenge discriminatory employment practices, they are subject to widely varying enforcement procedures and available relief.⁵⁶

Fn56

The need for federal anti-discrimination protection for IPV survivors has never been greater. The handful of jurisdictions that have enacted protections vary in the extent and conditions of coverage. The economic downturn has forced employers to reduce the number of employees on payroll, creating a situation where employers who must lay off or terminate employees may target survivors of violence, especially those experiencing harassment or unwanted visits in the workplace. Although privacy laws and good employment practices make clear that survivors should never be required to disclose personal experiences such as domestic violence or sexual assault, survivors who wish to disclose—or whose abuse is made obvious by physical markers such as bruises or by harassment—should be able to make such disclosures secure in the knowledge that criminal acts against them will not cost them their employment. Anti-discrimination protections are necessary to ensure that survivors can talk about their situation with employers without jeopardizing their jobs. Like other anti-discrimination protections, such provisions would not limit the ability of employers to terminate survivors for legitimate performance problems. What they would do is ensure that employers and survivors can work together to jointly assess any security risk and take appropriate precautions—and ensure that survivors are not forced to choose between keeping a job and keeping safe.⁵⁷

Fn57

56. In New York State, New York City, and Westchester County, a plaintiff can either file an administrative complaint or file a lawsuit in state court, but the statutes of limitations vary between the state and local entities. In Illinois, a survivor must file an administrative complaint within three years to challenge a discriminatory act, 820 ILL. COMP. STAT. 180/35 (2010), while in Oregon, a survivor can file an administrative complaint within one year of the act, or has the right to bring suit against the employer within one year of the act for reinstatement, back pay, and damages. See OR. REV. STAT. §§ 659A.870, .875, .885 (2009).

57. A recent study conducted by Liz Claiborne, the Corporate Alliance to End Partner Violence, and Safe Horizon found that many surveyed CEOs said that they would increase their commitment to

Orig. Op.	OPERATOR:	Session	PROOF:	PE's:	AA's:	COMMENTS	ARTNO:
1st DCT-kmm, 2nd	meadet	6					zsw-0006

B. PROVIDING TEMPORARY LEAVE TO SURVIVORS ENABLES EMPLOYERS TO RETAIN EMPLOYEES FACING COLLATERAL EFFECTS OF VIOLENCE

“I would not have been there that day, had I had the option of taking leave,” Yvette Cade told us as we worked on her testimony before a Senate Health Education and Labor Subcommittee a year and a half after her husband walked into her workplace, doused her with gasoline, and set her on fire.⁵⁸ While at the extreme end of the continuum, Cade’s experience highlights the choice that survivors of IPV make every day when they lack access to job-protected leave. Although she had made her employers aware of her situation, Cade did not feel like they took the matter seriously. So faced with a need to go to court to get her protection order reinstated, but no leave, she went to work. Her tragedy highlights the need for job-protected leave for survivors, which we examine below. We then demonstrate why existing state and federal laws providing employment leave—to be used for varied though limited purposes—are inadequate to address the specific needs of IPV survivors.

1. Survivors’ Need for Leave

Survivors need job-protected leave in order to address the violence in their lives. This not only prevents them from having to choose between their safety and their jobs, but also provides employers with a higher degree of predictability as it affords workers greater ability to schedule time off when they needed to attend to such needs. Survivors lacking leave take unexcused absences from work, and some have productivity problems.⁵⁹ Presumably some lose their jobs for these reasons. As with unemployment insurance and anti-discrimination protections, the availability of job-protected leave—including when the need for leave is court-related—is uneven at best.⁶⁰ Even in the thirty-two states that provide crime victims time off to attend court proceedings, some laws are only triggered if the survivor is subpoenaed or involved in a criminal proceeding.⁶¹ In general,

domestic violence related programs in the workplace if their employees indicated to them that such programs were necessary. CORPORATE ALLIANCE TO END PARTNER VIOLENCE, 2007 CEO AND EMPLOYMENT SURVEY (2007), available at <http://www.caepv.org/getinfo/docdetail.php?docID=549&catID=7>. It is clear, however, that in order for employees to feel comfortable providing information to their employers about their abusive relationships, employees would need to feel secure that such disclosures would be protected.

58. See generally *Hearing: Too Much, Too Long? Domestic Violence in the Workplace Before the Subcomm. on Employment and Workplace Safety of the S. Comm. on Health, Education, Labor, and Pensions*, 109th Cong. (2007) (statement of Yvette Cade) (noting that “to the extent that victims need a small amount of time off to work with an advocate to ensure their safety, to change their locks, and/or get a protection order, they should be able to take that needed time, and to know that their jobs are secure and will be waiting for them”).

59. See Jennifer Swanberg & TK Logan, *Domestic Violence and Employment: A Qualitative Study*, 10 J. OCCUPATIONAL HEALTH PSYCHOL. 3, 9, 11 (2005).

60. See *Domestic Violence: Hearing on H.R. 3171 and S.R. 3185*, supra note 29.

61. See Legal Momentum, *State Law Guide: Employment Rights for Victims of Domestic or Sexual Violence*, available at <http://www.legalmomentum.org/assets/pdfs/employment-rights.pdf>.

Orig. Op.	OPERATOR:	Session	PROOF:	PE's:	AA's:	COMMENTS	ARTNO:
1st DCT-kmm, 2nd	meadel	6					zsw-0006

crime victim leave laws overlook significant reasons for which a survivor might need leave, including safety planning, securing housing, or seeking a protection order, usually issued by a civil rather than a criminal court. Also unaddressed are the needs of survivors in the remaining eighteen states, and in general the significant number of workers who lack adequate leave options.

2. Existing Options Exclude Many

Thirty-nine percent of the private industry workforce lacks paid sick leave.⁶² Generally, the percentage of workers lacking paid leave rises as wages decrease; thus low wage workers, who have the least resources to help them separate from an abusive situation, and who may statistically be at greater risk of IPV, are least likely to have access to such leave.⁶³ Even workers fortunate enough to have paid sick leave are not always allowed to use it for the purposes outlined above. Without access to leave that specifically addresses their needs, survivors will be forced to jeopardize their employment by missing work to obtain protection orders, or they will choose to forego these protections for fear of losing their jobs.

Currently, eleven states and the District of Columbia provide survivors of domestic violence (some states also include sexual assault survivors) access to unpaid leave to attend to IPV-related needs, including attending court and seeking medical treatment.⁶⁴ Generally, the laws permit a survivor who has paid leave to use that in lieu of the unpaid leave specified by the statute. The District of Columbia's paid leave law allows IPV survivors or their immediate family

62. Brian Tumulty, *Swine Flu Highlights Paid Sick Leave Issue*, GANNETT, Oct. 8, 2009, available at <http://www.wgrz.com/news/health/story.aspx?storyid=70878&catid=8>.

63. See *Domestic Violence: Hearing on H.R. 3171 and S.R. 3185*, supra note 29, at note 30; *Hearing on the Continued Importance of the Violence Against Women Act*, supra note 9, at note 17; U.S. Department of Labor, Bureau of Labor Statistics, Economic News Release (2009), available at <http://www.bls.gov/news.release/osh2.t06.htm>.

64. California: CAL. LAB. CODE §§ 230 & 230.1 (West 2009) (applies to an employee who is the victim of domestic violence or sexual assault); Colorado: COLO. REV. STAT. § 24-34-402.7 (2009) (applies to employees who have been the victim of domestic violence, stalking, or sexual assault); Florida: FLA. STAT. § 741.31 (2010) (applies to employees who have been the victim of domestic violence or sexual assault); Hawaii: HAW. REV. STAT. § 378-72 (2009) (applies to an employee or the employee's minor child who is the victim of domestic violence or sexual assault); Illinois: 820 ILL. COMP. STAT. 180/29(a), (f) (2009) (applies to employee or member of employee's family who has been the victim of domestic violence or sexual assault); Kansas: KAN. STAT. ANN. §§ 44-1131 & -1132 (2008) (applies to an employee who has been the victim of domestic violence or sexual assault); Maine: ME. REV. STAT. ANN. tit. 26 § 850 (2009) (applies to employee or member of employee's family who has been the victim of domestic violence, stalking, or sexual assault); New Mexico: N.M. STAT. ANN. § 50-4A-2 & -3 (West 2009) (applies to an employee who is the victim of domestic violence); North Carolina: N.C. GEN. STAT. § 50B-5.5 & § 95-270(a) (2009) (applies to an employee who is the victim of domestic violence); Oregon: OR. REV. STAT. 659A.270-285 (2009) (applies to an employee or dependent of the employee who is the victim of domestic violence, stalking, or sexual assault); Washington: WASH. REV. CODE § 49.76.030 (2009) (applies to employee or member of employee's family who has been the victim of domestic violence, stalking, or sexual abuse); District of Columbia: D.C. CODE §§ 32-131.01 (2009), 32-131.02 (2009) (applies to employee or member of employee's family who has been the victim of domestic violence, stalking, or sexual abuse). Note: some states place restrictions on applicability based on the size of the business or the length of time that the employee has been working for the employer.

Orig. Op.	OPERATOR:	Session	PROOF:	PE's:	AA's:	COMMENTS	ARTNO:
1st DCT-kmm, 2nd	meadel	6					zsw-0006

members to take leave to address similar needs.⁶⁵ Finally, New York and North
 Carolina allow survivors time off to obtain civil protection orders but not for
 other purposes.⁶⁶ All of these laws were drafted to ensure that employers are
 provided with appropriate documentation to substantiate the need for the leave.
 Additionally, given that most survivors will be using unpaid leave, the likelihood
 for abuse is low given their need to maintain their economic independence.

3. Current Federal Law is Inadequate

A comprehensive federal approach is needed to ensure the safety of all
 survivors. Although some survivors may experience violence of such magnitude
 that their healthcare needs trigger the Family and Medical Leave Act ("FMLA"),
 that statute applies only to employers of fifty or more and employees with
 "serious health conditions," and thus leaves a significant number of IPV sur-
 vivors without recourse to its protections.⁶⁷ Survivors who work for employers of
 forty-nine or less do not qualify for FMLA leave, nor do those whose conditions,
 while significant enough to necessitate time off (e.g. a black eye or bruised ribs),
 are not serious enough within the meaning of the FMLA. The FMLA also fails to
 address survivors' need for leave to attend to many non-medical imperatives,
 including obtaining a protective order, attending court or securing new housing.
 Finally, leave under the FMLA is unpaid,⁶⁸ a luxury few workers can afford.

Currently pending before the U.S. Congress are no less than ten different bills
 relating to various types of leave.⁶⁹ Among these are three bills that focus

65. D.C. CODE §§ 32-131.01, 32-131.02 (2009).
 66. N.Y. PENAL LAW § 215.14 (McKinney 2009); N.C. GEN. STAT. § 50B-5.5 (2009).
 67. See Robin Runge, *Double Jeopardy: Victims of Domestic Violence Face Twice the Abuse*,
<http://www.abanet.org/irr/hu/spring98/sp98runge.html> (last visited Mar. 22, 2010) (noting how "the
 FMLA does not address the needs of many domestic violence victims who are trying to keep their jobs.
 The FMLA does not provide for job-protected leave to attend a civil protection order hearing or to make
 other arrangements to leave a batterer. It does not prohibit an employer from firing a victim of domestic
 violence because of her status as a victim.".)
 68. See Deborah J. Anthony, *The Hidden Harms of the Family and Medical Leave Act: Gender-
 Neutral Versus Gender-Equal*, 16 AM. U.J. GENDER SOC. POL'Y & L. 459, 475 (2008) (explaining that
 "FMLA leave is unpaid. Only 34% of all those taking leave received any pay. Of those who were entitled
 to take leave but did not, the top reason stated was the unpaid nature of the leave; about 60% of those not
 taking leave stated that they could not afford to be unpaid for that length of time. Naomi Gerstel and
 Katherine McGonagle place the number of respondents citing financial reasons at 64%, while the
 National Partnership of Women and Families states that it is 78%.")
 69. Federal Employees Paid Parental Leave Act of 2009, H.R. 626, 111th Cong. (2009), S. 354, 111th
 Cong. (2009); Security and Financial Empowerment Act, H.R. 739, 111th Cong. (2009), S. 1740, 111th
 Cong. (2009) [hereinafter "SAFE Act"]; Family and Medical Leave Enhancement Act of 2009, H.R. 824,
 111th Cong. (2009); Family Leave Insurance Act of 2009, H.R. 1723, 111th Cong. (2009); Domestic
 Violence Leave Act, H.R. 2515, 111th Cong. (2009); Paid Vacation Act of 2009, H.R. 2564, 111th Cong.
 (2009); Military Family Leave Act of 2009, H.R. 3257, 111th Cong. (2009), S. 1441, 111th Cong. (2009);
 Troops' Soft Landing, Employment, and Rural Transportation Act, H.R. 3358, 111th Cong. (2009);
 National Guard and Reserve Soft Landing Reintegration Act, S. 1426, 111th Cong. (2009); Emergency
 Influenza Containment Act, H.R. 3991, 111th Cong. (2009). Including leave for survivors was also
 considered in the most recent reauthorization of the Violence Against Women Act in 2005, but was not
 included in the bill that finally passed. Proposed Violence Against Women Reauthorization Act of 2005.

Orig. Op.	OPERATOR:	Session	PROOF:	PE's:	AA's:	COMMENTS	ARTNO:
1st DCT-kmm, 2nd	meadel	6					ZSW-0006

exclusively or in part on the needs of survivors. The first of these, the Domestic Violence Leave Act, H.R. 2515, would amend the FMLA to address the additional needs described above, including leave for IPV survivors who need to seek counseling, and would allow survivors who possess paid leave to use it in lieu of the unpaid leave provided by the FMLA.⁷⁰ While these improvements would be welcome, a significant number of survivors would remain unaddressed—for instance, those who work for smaller employers, fail to meet the length of service requirement, or might not be able to afford unpaid leave, yet do not have other types of paid leave to rely on. Fn70

Under the second proposal, The Healthy Families Act, H.R. 2460 (“HFA”), employers of fifteen or more employees would be required to provide employees with a maximum of seven paid sick days on an annual basis; survivors would be able to use the leave for various IPV-related purposes.⁷¹ Employers would also be barred from discriminating against employees who used the leave. The HFA represents a significant improvement over the FMLA both because it covers significantly more employees, provides paid leave, and protects those who need to use the leave from being sanctioned. However, while survivors could not be discriminated against for using leave, the HFA would not bar an employer from firing them on the basis of their survivor status, a significant drawback. Fn71

Finally, the SAFE Act applies to employers with fifteen or more employees and would provide up to thirty days of unpaid leave to survivors needing time off to attend court, deal with injuries, or engage in safety planning for themselves or affected immediate family members.⁷² While it provides more days of leave to survivors, the leave is unpaid. This drawback makes it less likely, perhaps, that employees would use it under any but the most exigent circumstances, which, conversely, could make employers slightly less wary of SAFE. SAFE also bars discrimination against survivors, provides for access to unemployment insurance should an employee need to leave a job because of violence, and prohibits insurance discrimination against survivors. Thus, although SAFE has gaps and problems, it is undoubtedly the most comprehensive of the federal proposals addressing the needs of survivors.⁷³ Fn72
Fn73

H.R. 2876, 109th Cong. §§ 41701-05 (2005). *But cf.* VAWA 2005, *supra* note 10. It should also be noted that during 2009, several laws were enacted that expanded the leave provided by the FMLA. *See, e.g.*, Airline Flight Crew Technical Corrections Act, 29 U.S.C. §§ 2611(2), 2612(a) (2010) (expanding the scope of the FMLA to include airline flight crews); National Defense Authorization Act for Fiscal Year 2010, Pub. L. No. 111-84, 123 Stat. 2190 (2009) (enabling a service member to take military caregiver leave under FMLA).

70. *See* Domestic Violence Leave Act, H.R. 2515, 111th Cong. (2009).

71. *See* Healthy Families Act, H.R. 2460, 111th Cong. (2009).

72. Security and Financial Empowerment Act, S. 1749, 111th Cong. (2009); Security and Financial Empowerment Act, H.R. 739, 111th Cong. (2009).

73. For a more detailed discussion about the need for employment leave for IPV survivors, *see* Widiss, *Domestic Violence and the Workplace*, *supra* note 8, at 699–705 (providing thorough background on the issue of leave); Marcy L. Karin, *Changing Federal Statutory Proposals to Address Domestic Violence at Work: Creating a Societal Response by Making Businesses a Part of the Solution*, 74 *BROOK. L. REV.* 371, 392–93

Orig. Op.	OPERATOR:	Session	PROOF:	PE's:	AA's:	COMMENTS	ARTNO:
1st DCT-kmm, 2nd	meadel	6					zsw-0006

C. UNEMPLOYMENT INSURANCE BENEFITS ARE A CRUCIAL SAFETY NET FOR SURVIVORS WHO LOSE OR LEAVE A JOB DUE TO VIOLENCE

Sometimes employees make the difficult decision to leave their jobs to protect themselves or family members that are being abused, or to avoid on-the-job harassment and stalking. Other times, survivors are fired or constructively discharged from employment because of issues related to the violence, such as absenteeism, the need for time off, performance problems, or on-the-job harassment or stalking. For such survivors, another source of financial support is crucial to supporting efforts to separate from a violent situation.

One of the most common sources of replacement income for those losing jobs is the unemployment insurance system. Unfortunately for IPV survivors, the reasons they often lose or leave jobs sometimes bar them from receiving unemployment insurance benefits. As we discuss below, many states have made efforts over the years to address these obstacles and extend access to unemployment insurance benefits to victims of domestic violence, sexual assault, and/or stalking. Recently, the American Recovery and Reinvestment Act ("ARRA")⁷⁴ effected a rapid and massive change in state unemployment insurance laws, in part by providing federal incentive funding to states in exchange for providing access to unemployment insurance benefits to individuals who left a job because of domestic violence against themselves or an immediate family member.⁷⁵ We

(2009) (exploring the ineffectiveness of leave as a means of combating the cause of domestic violence and as a solution to its problems in the workplace); Sandra S. Park, *Working Towards Freedom From Abuse: Recognizing A "Public Policy" Exception To Employment-At-Will for Domestic Violence Victims*, 59 N.Y.U. ANN. SURV. AM. L. 121, 124-29 (2003) (recognizing leave as a possible resource for employee survivors but also a potential cause of termination); Jessie Bode Brown, *The Costs of Domestic Violence in the Employment Arena: A Call For Legal Reform And Community-Based Education Initiatives*, 16 VA. J. SOC. POL'Y & L. 1, 36-37 (2008) (discussing the status of paid and unpaid leave in the United States); Ralph Henry, *Twentieth Anniversary Celebration: Domestic Violence and the Failures of Welfare Reform: The Role for Work Leave Legislation*, 20 WIS. WOMEN'S L.J. 67, 83-99 (2005) (discussing leave in the context of economic security for survivors of domestic violence); Jill C. Robertson, *Addressing Domestic Violence in the Workplace: An Employer's Responsibility*, 16 LAW & INEQ. 633, 656-60 (1998) (analyzing the benefits of leave to both domestic violence survivors and their employers); Sarah M. Buel, *Family Violence and the Health Care System: Recommendations for More Effective Interventions*, 35 HOUS. L. REV. 109, 132-34 (1998) (recommending the model of leave adopted by Polaroid).

74. American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (2009) [hereinafter ARRA 2009].

75. See generally Matt Kelley, *\$3.1B Set Aside for Jobless Not Used; Some States Say Costs Outweigh Benefits*, USA TODAY, Aug. 31, 2009, at 1A (explaining how "[s]tates can get a third of the money by relaxing their rules on the length of employment needed to qualify for jobless benefits. They can get the rest by providing two of four kinds of unemployment benefits: Extra money for the worker's dependents, for part-time workers, for those in training programs or for those who quit because of 'compelling family circumstances'—such as fleeing domestic violence or caring for a sick relative."). See, e.g., Eleanor Sobel & Tony Hill, *Florida Needs to Get Its Unemployment Compensation Benefits Right!*, SUN-SENTINEL, May 1, 2009, http://weblogs.sun-sentinel.com/news/opinion/thelant/blog/2009/05/florida_needs_to_get_its_unemp.html (urging state politicians to "tap into" the ARRA in order to "expand Florida's unemployment eligibility by criteria to provide for people who leave work due to domestic violence, illness or disability. If Florida makes these changes, the Federal government will provide an additional \$444 million to Florida's unemployment compensation trust fund."); Kevin Diaz, *Feds Giving \$130 Million to Aid State's Unemployed*, STAR TRIB. May 7, 2009, at 5B (describing how "[t]he money,

Orig. Op.	OPERATOR:	Session	PROOF:	PE's:	AA's:	COMMENTS	ARTNO:
1st DCT-kmm, 2nd	meadel	6					zsw-0006

examine the changes wrought by ARRA on state legislation providing survivors with access to unemployment insurance benefits. Although some states enacted laws newly providing survivors access to benefits, ARRA also had the unintended consequence of causing states to change existing protections, instituting new language and procedures that have created obstacles to obtaining benefits for some survivors.

1. The Unemployment Insurance System and IPV

The unemployment insurance system was created more than seventy years ago to provide temporary financial assistance to people who become unemployed through no fault of their own. Unemployment insurance is both a federal and state system, with federal law creating a number of standards for administration, policy, and coverage, and each state establishing standards for eligibility and calculation of benefits, among other issues. Funding for a state's system includes payroll taxes paid by employers to the state fund based on the wages paid to their employees, and is now supplemented by badly needed federal funding: many state unemployment insurance funds were depleted as a result of the high number of unemployment insurance claims that began to rise with the economic downturn in 2007. Since the start of the recession in December 2007, the number of unemployed persons has risen by 8.2 million, and the unemployment rate has grown by 5.3 percentage points, to 10.2 percent.⁷⁶

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In most states, the general rule is that individuals are ineligible for unemployment benefits if they leave work voluntarily without "good cause" or if they are discharged for "misconduct." These provisions can bar survivors who left or lost their jobs because of the violence from receiving benefits. In fact, in some states, individuals who voluntarily quit a job to relocate with a spouse can receive benefits, but those who are forced to flee an abusive spouse cannot. For this reason, in recent years there has been a dramatic growth in state laws that explicitly allow survivors to be eligible for benefits if they left or were fired from their jobs for reasons relating to domestic violence (and in some cases, sexual assault and stalking as well).

This important safety net for IPV survivors was expanded as a result of the federal stimulus legislation. ARRA⁷⁷ included several unemployment insurance modernization provisions that grant states additional unemployment insurance funding if they extend eligibility for benefits to workers who were not previously covered by state laws, such as those who leave their jobs for "compelling family reasons," including domestic violence. ARRA provided a timely incentive for

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which is available immediately, will help the state meet unemployment insurance obligations estimated at more than \$1.5 billion this year, state officials said. Minnesota and six other states, including South Dakota, have qualified for the additional federal aid under a program that requires states to help unemployed workers who entered the workforce recently, work part time, or have lost their jobs due to 'compelling family reasons,' such as domestic violence.").

76. U.S. Department of Labor, Bureau of Labor Statistics, *The Employment Situation—October 2009* (Nov. 6, 2009), <http://www.bls.gov/news.release/pdf/empisit.pdf>.

77. ARRA 2009, *supra* note 74.

Orig. Op.	OPERATOR:	Session	PROOF:	PE's:	AA's:	COMMENTS	ARTNO:
1st DCT-kmm, 2nd	meadel	6					ZSW-0006

states to make changes to their unemployment insurance systems, in the form of necessary infusions of federal funding, because many state unemployment insurance funds were depleted as a result of the high number of unemployment insurance claims that began to rise with the economic downturn in 2008.

2. ARRA's Effect on State Unemployment Insurance Laws and Survivors

The incentive provisions in ARRA to extend eligibility for benefits to survivors of domestic violence were an important and necessary step to enhancing the economic security of vulnerable women and children. States receive funding if they adopt the following language, in form or substance:

An individual shall not be disqualified from regular unemployment compensation for separating from employment if that separation is for any compelling family reason. For purposes of this subparagraph, the term "compelling family reason" means the following:

Domestic violence, verified by such reasonable and confidential documentation as the State law may require, which causes the individual reasonably to believe that such individual's continued employment would jeopardize the safety of the individual or of any member of the individual's immediate family (as defined by the Secretary of Labor).⁷⁸

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Initially, ARRA only provided incentives for extending eligibility to survivors of domestic violence, but not sexual assault or stalking. However, subsequent federal legislation enacted in November 2009 extended incentives for states to provide access to survivors of sexual assault.⁷⁹ Prior to ARRA's enactment, twenty-nine states and the District of Columbia had laws extending access to unemployment insurance benefits to survivors. As of October 2009, thirteen states that already had laws providing eligibility to survivors amended their laws to varying degrees to conform to ARRA's language.⁸⁰ Three states—Arkansas,

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78. ARRA 2009, *supra* note 74. The federal Department of Labor subsequently issued a program letter to state workforce agencies regarding implementation of the unemployment insurance provisions of ARRA. The Department of Labor advised that the term "immediate family" must, at a minimum, include spouses, parents and minor children under the age of eighteen. U.S. Department of Labor, Employment and Training Administration Advisory System, Unemployment Insurance Program Letter No. 14-09, Attachment III, at III-12 (Feb. 25, 2009) [hereinafter DOL Program Letter], available at <http://wdr.doleta.gov/directives/attach/UIPL/UIPL14-09.pdf>.

79. In November 2009, the president signed the Worker, Homeownership, and Business Assistance Act of 2009, Pub. L. No. 111-92, 123 Stat. 2984 (2009), which provides funding incentives to states that extend access to unemployment insurance to victims of sexual assault.

80. Colorado: S.B. 09-247, 1st Reg. Sess. (Colo. 2009) amending COLO. REV. STAT. ANN. § 8-73-108(4)(r) (West 2009); Connecticut: H. B. 6175, Conn. Gen. Assemb. Jan. Sess. (Conn. 2009), amending CONN. GEN. STAT. § 31-236(a)(2)(A)(iv) (West 2010); Delaware: H.B. 170, 145th Gen. Assemb. 1st Reg. Sess. (Del. 2009), amending 19 DEL. CODE § 3314(1) (West 2010); Illinois: S.B. 1350, 96th Gen. Assemb., 1st Reg. Sess. (Ill. 2009), amending 820 ILL. COMP. STAT. 405/601 (West 2010); Maine:

Orig. Op.	OPERATOR:	Session	PROOF:	PE's:	AA's:	COMMENTS	ARTNO:
1st DCT-kmm, 2nd	meadel	6					ZSW-0006

Hawaii, and Missouri—enacted entirely new provisions as a result of ARRA.⁸¹ Now thirty-three jurisdictions have laws extending access to unemployment insurance benefits to survivors.⁸² Twenty-four of the thirty-three jurisdictions now extend access to unemployment insurance to survivors of domestic violence only.⁸³ Hawaii extends eligibility to survivors of domestic and sexual violence.⁸⁴ Two states (Texas and Washington) extend eligibility to survivors of stalking in addition to survivors of domestic violence.⁸⁵ Six states (Indiana, Montana, New Mexico, North Carolina, Oregon, and Vermont) extend eligibility to survivors of sexual violence and stalking in addition to survivors of domestic violence.⁸⁶

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3. Significant Gaps in Access Remain

Although the extension of eligibility for benefits is a victory for survivors and their dependent families, many survivors are unable to avail themselves of this

S. Prop. 541, 124th Leg., 1st Reg. Sess. (Ma. 2009), amending 26 ME. REV. STAT. ANN. §§ 1193(1)(A)(4), 1043(23)(B)(3) (West 2010); Massachusetts: S.B. 2061, 2009 Mass. Legis. Serv., 1st Ann. Sess. (Mass. 2009), amending MASS. GEN. LAWS ANN. ch. 151A, §§ 1, 14, 25, 30 (West 2010); Minnesota: S.F. 1197, 87th Leg., 1st Reg. Sess. (Minn. 2009), amending MINN. STAT. §§ 268.095(1)(9), (6)(c) (West 2010); New Hampshire: S.B. 144, 161st Leg., 1st Sess. Gen. Ct. (N.H. 2009), amending N.H. REV. STAT. ANN. § 282-A:32(I)(a)(3) (2009); New York: A.B. 8273, 232nd Leg. Sess. (N.Y. 2009), amending N.Y. LAB. LAW § 593(1)(a) (McKinney 2010); North Carolina: H.B. 877, 2009 Gen. Assemb., Reg. Sess. (N.C. 2009), amending N.C. GEN. STAT. § 96-14(1f) (2009); Oregon: H.B. 2203, 75th Leg. Assemb. (Or. 2009), amending OR. REV. STAT. § 657.176(12) (2007); Washington: S.B. 5963, 61st Leg., Reg. Sess. (Wash. 2009), amending WASH. REV. CODE §§ 50.20.050, 50.20.100, 50.20.240, 50.29.020 (2010); Wisconsin: A.B. 255, 99th Leg., Reg. Sess. (Wis. 2009), amending Wis. STAT. § 108.04(7)(s) (West 2009).

81. 2009 Ark. Laws Acts 802 (West) (codified at ARK. CODE ANN. § 11-10-513(b) (West 2010)); 2009 Haw. Laws Act 171 (codified at HAW. REV. STAT. § 383 (2009)); 2009 Mo. Legis. Serv. H.B. 1075 (West) (codified at MO. ANN. STAT. § 288.501(2)(c) (West 2010)).

82. See Legal Momentum, *State Law Guide: Unemployment Insurance Benefits* (Sept. 2009), available at <http://www.legalmomentum.org/assets/pdfs/unemployment-insurance.pdf>.

83. Arkansas (2009 Ark. Laws Acts 802 (West) (codified at ARK. CODE ANN. § 11-10-513(b) (West 2010)); Arizona (ARIZ. REV. STAT. ANN. § 23-771 (2010)); California (CAL. UNEMP. INS. CODE §§ 1030, 1032, 1256 (West 2010)); Colorado (COLO. REV. STAT. ANN. § 8-73-108(4)(i)(I) (West 2010)); Connecticut (CONN. GEN. STAT. ANN. § 31-236(a)(2)(A)(iv) (West 2010)); Delaware (DEL. CODE ANN. tit. 19, § 3314(1) (West 2010)); District of Columbia (D.C. CODE §§ 51-131 to -136 (2010)); Illinois (820 ILL. COMP. STAT. ANN. 405/601 (West 2010)); Kansas (KAN. STAT. ANN. § 44-706(a)(12) (2010)); Louisiana (LA. REV. STAT. ANN. § 23:1770-1775 (2010)); Maine (ME. REV. STAT. ANN. tit. 26, §§ 1193(1)(A)(4), 1043(23)(B)(3) (2010)); Massachusetts (MASS. GEN. LAWS ANN. ch. 151A, §§ 1, 14, 25, 30 (West 2010)); Minnesota (MINN. STAT. §§ 268.095(1)(9), 268.095(6)(c) (West 2010)); Missouri (2009 Mo. Legis. Serv. H.B. 1075 (West) (codified at MO. ANN. STAT. § 288.501(2)(c) (West 2010)); Nebraska (NEB. REV. STAT. ANN. § 48-628.01(1) (West 2010)); New Hampshire (N.H. REV. STAT. ANN. § 282-A:32(I)(a)(3)) (2009); New Jersey (N.J. STAT. ANN. § 43:21-5(i) (West 2010)); New York (N.Y. LAB. LAW § 593(1) (McKinney 2010)); Oklahoma (OKLA. STAT. tit. 40, § 2-210 (2010)); Rhode Island (R.I. GEN. LAWS § 28-44-17.1 (West 2009)); South Carolina (S.C. CODE ANN. §§ 41-35-125, -130 (2009)); South Dakota (S.D. CODIFIED LAWS § 61-6-13.1(6) (2009)); Wisconsin (Wis. STAT. ANN. § 108.04(7)(s) (West 2010)); Wyoming (WYO. STAT. ANN. § 27-3-311 (West 2010)).

84. 2009 Haw. Laws Act 171 (codified at HAW. REV. STAT. § 383 (2009)).

85. TEX. LAB. CODE §§ 204.022(a)(11), 207.046(a)(2) (Vernon 2009); WASH. REV. CODE §§ 50.20.050, 50.20.100, 50.20.240, 50.29.020 (West 2010).

86. IND. CODE ANN. §§ 5-26.5-2-2, 22-4-15-1(1)(c)(8), -1(1)(e), -2(e) (West 2010); MONT. CODE ANN. § 39-51-2111 (2009); N.M. STAT. ANN. § 51-1-7(A)(1)(b) (West 2010); N.C. GEN. STAT. ANN. § 96-14(1f) (West 2010); OR. REV. STAT. § 657.176(12) (West 2010); VT. STAT. ANN. tit. 21, §§ 1251 (West 2009).

Orig. Op.	OPERATOR:	Session	PROOF:	PE's:	AA's:	COMMENTS	ARTNO:
1st DCT-kmm, 2nd	meadel	8					zsw-0006

important source of income. For instance, many survivors live or work in a state that fails explicitly to provide access to survivors. Eighteen states⁸⁷ still have no provision making survivors of domestic violence eligible for unemployment insurance benefits if they leave a job, a huge gap in a crucial safety net that can have cruel disparate effects. For example, a survivor who lives and works in Pennsylvania for a large national bank and who leaves a job because she is being harassed at work by her abuser may be denied unemployment insurance benefits because Pennsylvania has no special provisions for survivors. But a survivor a few miles away in New York who works for the same bank would be eligible for unemployment insurance benefits if she left a job for the same reason. Fm87

Even where states do explicitly provide access to benefits, laws vary as to whether the claimant or their family member must have been subject to or feared domestic violence, sexual assault, or stalking. As discussed above, only six states provide eligibility for benefits to survivors who separate from employment for domestic violence, sexual assault, or stalking; the vast majority of states only address domestic violence. Moreover, ARRA did not supplant state eligibility requirements for unemployment insurance benefits. Those states that adopted ARRA's language wholesale have different meanings of "reasonable and confidential documentation,"⁸⁸ and while some state laws explicitly describe the forms of acceptable documentation, others do not.⁸⁹ This creates significant obstacles to survivors filing claims for and obtaining unemployment insurance. Fm88
Fm89

87. Alabama, Alaska, Florida, Georgia, Idaho, Iowa, Kentucky, Maryland, Michigan, Mississippi, Nevada, North Dakota, Ohio, Pennsylvania, Tennessee, Utah, Virginia, and West Virginia.

88. The DOL Program Letter advises that one instance of documentation that adequately verifies the claimant's belief is sufficient, and that to require multiple forms of documentation would defeat the purpose of the provision in ARRA. Forms of acceptable documentation include: an active or recently issued protective or other order; a police record documenting recent domestic violence; a statement concerning recent domestic violence from a qualified professional from whom the survivor has sought assistance such as a counselor, shelter workers, member of the clergy, attorney, or health worker. See DOL Program Letter, *supra* note 78, at III-11.

89. For instance, Colorado, which amended an existing domestic violence provision in its unemployment insurance law to conform to ARRA, explicitly lists acceptable forms of documentation of the violence to include an active or recently issued protective order or other order documenting the violence; a police record; or a statement from a professional from whom the survivor sought assistance, such as a counselor, shelter workers, clergymember, attorney, or health worker. COLO. REV. STAT. ANN. § 8-73-108(4)(j)(I) (West 2010). Hawaii, which enacted a new law in light of ARRA, requires documentation in the form of a notarized written statement of the survivor attesting to the violence and how continued employment creates an unreasonable risk of further violence; a signed written statement from a survivor services organization, attorney, advocate, medical or other professional; or a police or court record. 2009 Haw. Laws Act 171 (2009) (codified at HAW. REV. STAT. § 383 (2009)). Texas, which did not amend its previously existing unemployment insurance law regarding domestic violence and stalking, requires documentation in the form of an active or recently issued protective order; a police record; or a physician's statement or other medical documentation that describes the violence against the employee, that identifies the employee as the patient, and that relates to the history, diagnosis, treatment, or prognosis of the employee. TEX. LAB. CODE ANN. § 207.046(a)(2) (Vernon 2009). New York, in contrast, had an unemployment insurance law regarding domestic violence prior to ARRA, changed the language of its law to conform to ARRA, but does not specify the forms of acceptable documentation in its statute. N.Y. LAB. L. § 593(1) (McKinney 2010).

Orig. Op.	OPERATOR:	Session	PROOF:	PE's:	AA's:	COMMENTS	ARTNO:
1st DCT-kmm, 2nd	meadel	6					zsw-0006

Furthermore, in many of the states that amended or replaced prior domestic violence-unemployment insurance provisions with language that conforms to ARRA, problems have arisen related to awareness of eligibility among survivors and advocates; implementation within state agencies; and agencies' processing of claims of survivors of domestic or sexual violence or stalking.

While federal attempts to extend eligibility to domestic violence survivors such as ARRA should be applauded, incentive funding provides an incomplete solution to an issue affecting workers in all fifty states. For this reason, a comprehensive federal solution to this issue is necessary. Proposed legislation offers the possibility of such a solution. The SAFE Act would extend eligibility for unemployment insurance benefits to all survivors of domestic violence, sexual assault, or stalking who leave a job because of the violence directed against them or an immediate family member.⁹⁰ This would be a crucial improvement because survivors would be eligible for benefits regardless of where they live or work, and the likelihood of a survivor having to remain with an abusive partner and be unable to relocate would be significantly lessened. Fn90

CONCLUSIONS AND RECOMMENDATIONS

In 2004, the National Institute of Occupational Safety and Health succinctly articulated the issue of responding to the workplace needs of IPV survivors: "A company should strive to create a culture of support for victims . . . [including]: assurances [that] no penalties exist for coming forward, [and that] safety and security protocols will be implemented."⁹¹ Many employers could and have voluntarily coalesced around this basic and sound approach, but the challenge is how to meet this goal more uniformly and comprehensively. With the recent passage of the Troubled Asset Relief Program and ARRA, Congress has demonstrated that it is appropriate to respond to the exigent circumstances wrought by the economic downturn—and not only to the needs of banks and auto giants, but to the needs of IPV survivors as well.⁹² Fn91

The next stage of federal response should include a comprehensive set of improvements to federal labor policy, taking into account not only the need to jumpstart the economy, but also the changed landscape of the labor force over the last several decades. Among the many issues to be addressed are productivity and workplace flexibility (including work/family balance) for all workers, but with special attention to the needs of a particularly vulnerable group of workers: IPV survivors. The Obama Administration's recent announcement of support for "the Healthy Families Act and other proposals that advance workplace flexibility and Fn92

90. Security and Financial Empowerment Act, S. 1740, 111th Cong. (2009); Security and Financial Empowerment Act, H.R. 739, 111th Cong. (2009).

91. NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH, WORKPLACE VIOLENCE PREVENTION STRATEGIES AND RESEARCH NEEDS 18 (2004), <http://www.cdc.gov/niosh/docs/2006-144/pdfs/2006-144.pdf>.

92. See ARRA 2009, *supra* note 74.

Orig. Op.	OPERATOR:	Session	PROOF:	PE's:	AA's:	COMMENTS	ARTNO:
1st DCT-kmm, 2nd	meadel	6					zsw-0006

protect the income and security of workers”⁹³ signals an openness to moving in this direction. Fn93

However, Congress must tread carefully as it considers the survivor-related components of any such proposals. In order for legislative proposals concerning employment discrimination protection, leave, and access to unemployment insurance to be effective and far-reaching, they should be enacted together. Employment leave is of limited value without the job protection afforded by the anti-discrimination provisions, and unemployment insurance should be available to survivors regardless of where they work or reside.⁹⁴ Moreover, employers should be engaged in the discussion, both by other employers who have experience in implementing the kinds of policies required by the SAFE legislation, and by policymakers to determine if pending legislation should accommodate existing good practices.⁹⁵ For instance, policymakers may find that employers would be more amenable to anti-discrimination, leave, or unemployment protections for survivors if, in return, employers had the ability to obtain a workplace order of protection to keep an abusive partner or stalker away from the workplace.⁹⁶ Whether these protections for IPV survivors are enacted as part of the SAFE Act, a larger proposal such as the reauthorization of VAWA, or a labor policy modernization effort, is a contextual question and may vary significantly depending on a host of relevant factors including but not limited to the state of the economy and the movement and timing of compatible pieces of legislation. Fn94
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The time is ripe for comprehensive federal action to recognize the changing nature and needs of America’s twenty-first century workforce. The country’s worst economic recession since the Great Depression has presented Congress with a timely opportunity to ensure the economic security of all workers, especially some of our most vulnerable citizens.

93. *The Cost of Being Sick: H1N1 and Paid Sick Days: Hearing Before the S. Subcomm. on Children and Families Comm. on Health, Education, Labor and Pensions*, 111th Cong. (2009) (testimony of Seth Harris, Deputy Sec’y of Labor).

94. Recognizing this reality, Illinois has enacted all three provisions. See *Victims’ Economic Security and Safety Act*, *supra* note 52.

95. See, e.g., *Healthy Families Act*, *supra* note 71, at §§ 11–12 (noting that the Act does not infringe upon any prior employer obligations vis-à-vis paid leave and encouraging the adoption and retention of more generous leave policies).

96. Some states already afford employers the ability to seek these orders of protection. See, e.g., *Legal Momentum, State Law Guide: Workplace Restraining Orders* (Dec. 2009), <http://www.legalmomentum.org/assets/pdfs/workplace-restraining-orders.pdf>. See also Marcy L. Karin, *Changing Federal Statutory Proposals to Address Domestic Violence at Work: Creating a Societal Response by Making Businesses a Part of the Solution*, 74 *BROOK. L. REV.* 377, 392–93 (2009).

Orig. Op.	OPERATOR:	Session	PROOF:	PE's:	AA's:	COMMENTS	ARTNO:
1st DCT-kmm, 2nd	meadel	6					ZSW-0006

