

**FULFILLING OUR COMMITMENT TO SUPPORT
VICTIMS OF CRIME**

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FULFILLING OUR COMMITMENT TO SUPPORT VICTIMS OF CRIME

WEDNESDAY, APRIL 13, 2011

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

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

Present: Senators Leahy, Whitehouse, Klobuchar, Franken, Blumenthal, and Grassley.

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

Chairman LEAHY. Good morning. I apologize. Things with the budget and all have been a little bit mixed up on schedules, and Senator Grassley and I have been going in three different directions trying to get things scheduled all at once. But I appreciate the people who are here.

We had one other witness from Vermont, but she has a family emergency, and she will not be here.

But this week is the 30th annual National Crime Victims' Rights Week. I was here in the Senate for the first one, and I thought how overdue it was 30 years ago to begin, and fortunately we have kept it going. We recognize the losses suffered by crime victims and their families, and we acknowledge the hard work being done to help people rebuild their lives after tragedy hits. It would be a cruel irony if this were the week the Crime Victims Fund was gutted, as was suggested in some news accounts yesterday. No one should be contemplating raiding this vital resource for crime victims for some shortsighted, short-term advantage.

I know the needs. I have seen the needs. I saw it as a prosecutor, and I have seen it as a Senator.

For nearly three decades, the Crime Victims Fund has played a central role in providing help to crime victims. We created the fund in the Victims of Crime Act of 1984. It has been the primary way that the Federal Government supports crime victims and their families. It funds State victim assistance and compensation programs that serve nearly 4 million crime victims each year. These services are priceless to the people they support, but they cost taxpayers nothing. It is supported by fines and penalties paid by Federal criminal offenders, not by taxpayer dollars.

I have always thought the irony is if we have a victim of a serious crime and we catch the person, we can spend hundreds of thou-

sands of dollars—sometimes it is very necessary—to prosecute the person who did it, to lock them up, to keep them there. And the victim is told, “You are on your own.” Something is upside down in a case like that. It is almost like they are victimized twice.

After the tragedy, if you will recall, in Oklahoma City, I worked with this Committee and the Appropriations Committee to ensure that there would be funds available to help victims of mass violence and also to provide a “rainy day” reserve. We did this because nobody can predict with certainty in advance. We certainly could not predict something like Oklahoma City. So instead of distributing all of the funds collected the previous year, we have a trust fund with deposits retained so that in leaner years crime victims and their advocates are not left stranded without resources.

More recently, when some, including former President Bush, sought to go into that trust fund and take the reserves, I worked hard and I got Senators from both parties to work with me to protect the fund and ensure that the reserves were preserved for their intended purpose, and only one: helping crime victims. I remain committed to maintaining that reserve. I also want to make sure increased funds are there. No less than Social Security and other trusts that the American people have established, the Crime Victims Fund represents our commitment to crime victims. It should be respected and honored. It cannot be used just as some kind of a convenient piggybank.

So it is fitting that this Committee today considers what the Federal Government has been doing to support those whose lives have been affected by crime and what more we can do to renew this vital commitment. These efforts have never been more important than they are today. Difficult economic times have stretched our State and local services, including victim services, to the breaking point. That is in virtually every State in this country. Families, made more vulnerable by financial stress, struggle more than ever to overcome the emotional, financial, and physical damage caused by crime, and they need help.

The theme of this year’s Crime Victims’ Rights Week, “Reshaping the Future, Honoring the Past,” is appropriate. Let us take stock of what we have accomplished in these past three decades and determine what is needed ahead. As a country, we have made great strides in three decades in addressing the needs of crime victims, but we also know we can do more.

Crime changes. Our responses have to adapt in turn. You have complicated financial offenses on the rise in the form of identity theft and mortgage fraud. Nobody really thought 30 years of the problems of identity theft. We did not have the Internet, we did not have all these other things. Victims of these crimes have unique needs. The elderly, who make up an increasing population in many of our communities, are being targeted with greater frequency. They often require specialized services to recover from abuse and exploitation. There is a greater need for legal services to help crime victims with housing and medical needs, immigration, and the financial consequences of crime. Transitional housing services are more essential than ever for crime victims in difficult times.

Also, as the criminal justice community becomes increasingly and appropriately focused on evidence-based practices grounded in sci-

entific research, it is becoming ever clearer how much more data we need about crime victims—who they are, how they are victimized, what needs they have, and what services help. I think it is this kind of comprehensive research that is going to make it a lot easier with what resources they do have for States to tailor their needs.

I know our witnesses have been thinking about these issues, and I look forward to learning from their experience. I am sorry, as I said, that Amy Farr, who serves as Victim Advocate in Vermont's Attorney General's Office, has a family emergency and could not be here, so she will submit her written testimony.

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

Chairman LEAHY. I also want to thank Robert Paolini. He is Chairman of the Board of the Vermont Center for Crime Victims Services, for attending this hearing.

Just on a personal note, Bob, you help us in Vermont all the time, and you make me extraordinarily proud of what you do. You have always been there.

So, with that, Senator Grassley.

**STATEMENT OF HON. CHUCK GRASSLEY, A U.S. SENATOR
FROM THE STATE OF IOWA**

Senator GRASSLEY. I think you and I agree on this subject, so I do not know whether I need to speak or not. But I have not said it, and every Senator wants to say it himself, right? I also want to notify you that I have got the 10:30 time reserved on the floor of the Senate, so I will be absent a little while.

Thank you for this hearing. Thank you to the witnesses as well. Crime victims deserve better than they have been getting. Crime victims receive compensation and assistance, as we know, from this Crime Victims Fund. It is not dependent on tax revenue. It is funded for the purpose of helping crime victims, and it comes from fines and penalties paid by those convicted.

For more than a decade now, there has been a cap on the amount of funds that each year can be distributed to victims. The Chairman and I recently wrote a letter to the Budget Committee in which we asked that the cap of the next fiscal year be raised more than 30 percent from current levels. That is a much larger increase than is proposed by the administration. The cap illustrates the problems with so many Federal grant programs. Programs get created. Sometimes they duplicate existing programs. They do not get fully funded. So the effectiveness of the program is often not as strong as it could be.

We should be cautious about creating new programs, Mr. Chairman, for victims until we raise the VOCA cap to funding existing programs the way they ought to be funded. The failure to adequately raise the cap means that the number of victims who receive assistance under the existing program has fallen in recent years. It is not right. Nor is it right to talk about new programs until existing ones and the victims who benefit from them receive the adequate support, especially support that does not derive from taxpayer dollars.

The administration is following a different path, however. They have not proposed raising the cap by nearly enough. It is this sort of gamesmanship with the VOCA funds that has let crime victims down. Capping the fund has limited the resources that are provided to victim services and the organizations thereof throughout the country. Instead, the fund has built up an unobligated balance of over \$6 billion. The limited disbursement has led to the creation of additional grant programs to provide service to victims. These grants break the formula of the VOCA fund by using taxpayer dollars to fund victim programs instead of the fines placed in the VOCA fund from convicted criminals.

Another consequence of this cap is highlighted in the forthcoming continuing resolution that was recently negotiated by the President and the Congress. Unfortunately, the proposal includes a number of budget gimmicks that are more sleight of hand than funding cuts. One of those gimmicks impacts the VOCA fund. In the legislation, nearly \$5 billion in unobligated balances held in this fund is rescinded to the general treasury, so all the money that we have been supposedly holding onto for victims has now gone to pay for spending in other programs that have not been cut. This is the wrong policy. If we are serious about cuts, we should cut spending, not simply writing that spending off with non-taxpayer dollars from this fund.

I have concerns with the President's budget for fiscal year 2012 and the way it deals with crime victims. The President has proposed zeroing out an important existing program, the Federal Victim Notification Program. This program notifies victims when the perpetrator who offended against them will be released from incarceration. Congress passed a list of victims' rights, which includes the right to be notified of the release of criminal offenders who harm them. Apparently, the fiscal year 2012 budget does not recognize this basic victim right.

Until just last week, the administration was willing to spend hundreds of millions of dollars to try terrorists in downtown Manhattan, but opposed spending \$7 million to notify crime victims that the person who harmed them would be released.

It is against this backdrop of tough budget decisions that we must address the issue of the VOCA cap along with duplication, overlap, and fraud in grant programs. While I strongly support pushing more VOCA money out to the victims and victim support groups, which is the money from the people convicted of a crime, I believe we need to take a hard look at other grant programs. I think we need a comprehensive review of grant programs to review where savings can be achieved.

I would note the testimony of Mary Lou Leary from the Department of Justice supports my calls for a review. She states in her written testimony, "We need rigorous evaluations of victim service programs to learn what works and what does not work."

So I agree, especially in light of the fact that in the last 10 years the Inspector General has found serious problems with many of the individual grantees funded by the Department of Justice. In fact, in the last 10 years, the Inspector General has reviewed 19 grants involving funding for victim programs. Of those 19, the Inspector

General found 15 that contained unallowable costs, unsupported documentation, and other problems.

One stunning example: This report examined the Legal Assistance for Victims Grant Program administered by the Community Legal Aid Society in Delaware. The Inspector General found that the grantee was in material noncompliance with grant requirements. Further, because of the deficiencies, the Inspector General questioned over \$829,000, which accounted for 93 percent of the grant.

So here we are. Given the dire fiscal situation the Federal Government faces, it is more important than ever to ensure that Federal dollars are spent in an efficient way. As we study how to provide victims of crime receive the help they deserve, we need to examine both the source of funding as well as how the grantee utilized those funds.

Thank you, Mr. Chairman.

Chairman LEAHY. Thank you very much, Senator Grassley.

We will begin with Mary Lou Leary, who is no stranger to this Committee. She is the Principal Deputy Assistant Attorney General for the Office of Justice Programs at the Department of Justice. She has held that position since September 2009. Prior to rejoining the Department in May of 2009, she served as executive director of the National Center for Victims of Crime, and we talked to her in that time, too, and she has also previously held a number of positions within the Department of Justice, serving as United States Attorney for the District of Columbia. We have one other former United States Attorney on this Committee with Senator Whitehouse. She was Acting Director of the Office of Community-Oriented Policing Services, Deputy Associate Attorney General. She earned her bachelor's at Syracuse University, a master's at Ohio State, and her law degree at Northeastern University School of Law.

Ms. Leary, always good to have you here. Go ahead, please.

STATEMENT OF MARY LOU LEARY, PRINCIPAL DEPUTY ASSISTANT ATTORNEY GENERAL, OFFICE OF JUSTICE PROGRAMS, U.S. DEPARTMENT OF JUSTICE, WASHINGTON, D.C.

Ms. LEARY. It is a pleasure, Senator Leahy.

Chairman Leahy and distinguished members of this Committee, thank you so much for inviting me here today, and I am pleased to talk about what we do in order to fulfill our obligations to victims of crime.

The Department of Justice's Office of Justice Programs has a broad mission, but it includes providing resources and leadership to support key services for crime victims.

My own personal commitment goes well beyond the Office of Justice Programs. As the Senator just said, I am a former United States Attorney in the District of Columbia and a local prosecutor in Massachusetts. So I have been working with victims pretty much my entire career, and I am very proud to have served as the director of the National Center for Victims of Crime, a national nonprofit here in Washington.

As you know, this is National Crime Victims' Rights Week, and just last week the Attorney General at a special ceremony honored

men and women from across this country who have devoted their lives to serving victims of crime. Several of the people who were honored actually were victims themselves and had used that experience to help others. The stories that they told remind us that crime victims must never be forgotten. Justice for victims is justice for all.

I do not think there is any better example of that kind of commitment than what we have seen in Arizona, in the wake of the shootings there. I am proud to be on the same panel with Kent Burbank, who has done so much to help Pima County, and the State of Arizona, recover.

This is the 30th anniversary of the first National Crime Victims' Rights Week, as the Senator said. During this Reagan Centennial year, we should really honor that part of his legacy, which is lesser known than other aspects of his administration. Thirty years ago victims were almost entirely. They had no rights; they had very little support.

So in 1982, President Reagan commissioned the Task Force on Victims of Crime. They held hearings across this Nation, and actually several of my colleagues at the U.S. Attorney's Office in D.C. staffed that commission. Their findings led to the establishment of the Office for Victims of Crime in 1983. And then in 1984, the VOCA statute was passed into law. That created the Crime Victims Fund, which Senator Leahy has described for us. And since then, more than \$8 billion from the Crime Victims Fund has been distributed to States and to communities.

So what does that mean? In human terms, it means 2 million victims have received compensation, and more than 67 million victims have received counseling, courtroom advocacy, temporary housing, and other services. Funds also have been used to aid other victims of terrorism and to train thousands of victim service providers.

Every year 87 percent of the Crime Victims Fund allocations go directly to the States, and, believe me, those funds are sorely needed in these budget times.

Last night, thinking about the hearing, I was re-reading the 1982 task force report. Ironically, it cited that very same fact 30 years ago. They said, "These are tough budget times. States are having to cut back, and victim service providers are suffering." So here we are. Deja-vu all over again.

We would like to assume, of course, that all victims will be taken care of, but that is simply not the case, especially for elderly victims, victims of financial fraud, human trafficking, crimes against gay, lesbian, bisexual, and transgendered people. And, in fact, just like 30 years ago today, 51 percent of violent crimes still go unreported. It is the exact same statistic.

Crime victimization itself is also changing with the advent of technology. It actually makes the criminals more anonymous, and the victims are sometimes harder to identify. Because victimization is changing, victim services must also change, and that is the goal of Vision 21. It is a marvelous initiative of the Office for Victims of Crime at the Department of Justice. They are undertaking a comprehensive analysis of crime victim services, who are the vic-

tims, what do they need, how can we serve them better, how can we serve them smarter.

Several themes have emerged from that. One of the most powerful is the need for wrap-around services for victims of crime. Victims need legal services; they need civil legal assistance. They need legal assistance in the criminal justice system and all kinds of support mechanisms.

Another major theme of Vision 21 is technology. How can we use technology to better serve victims? And how can we better understand the technology that is used in victimization?

The Vision 21 recommendations will be fleshed out in a full report, and I cannot wait to share that report with this Committee.

Please be assured that the Department of Justice will not waver in its dedication to serving victims of crime, and we welcome any suggestions from you all about how our efforts can be improved.

Thank you so much.

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

Chairman LEAHY. Thank you. And it is interesting. I remember my conversations with President Reagan during this time of his interest in this area, and that was extremely helpful to get the bipartisan support we needed for the legislation.

Kent Burbank is the director of the Victim Services Division of the Pima County Attorney's Office in Tucson. He has held that position since 2007.

I was surprised by this number. You and your staff serve nearly 8,000 crime victims a year. Of course, the one that everybody in America saw was at the January 8 shooting of Congresswoman Gabrielle Giffords and 18 others.

Mr. Burbank and his office coordinated dozens of staff and volunteer victim advocates who supported the victims and their families at the crime scene. In recognition of his work in response to that horrible tragedy and other good work, he received the 2011 Arizona Attorney General's Distinguished Service Award. He has worked for more than two decades in local social and human services. He has a master's degree in social service administration from the University of Chicago.

We hope you can continue to help crime victims out there, Mr. Burbank. Everybody here, and I am sure you especially, hopes you will never have another situation like the one you had in January. Please go ahead, sir.

STATEMENT OF KENT BURBANK, DIRECTOR, VICTIM SERVICES DIVISION, PIMA COUNTY ATTORNEY'S OFFICE, TUCSON, ARIZONA

Mr. BURBANK. Thank you. Well, good morning, Mr. Chairman and honorable Senators. My name is Kent Burbank, and I am the director of the Victim Services Division of the Pima County Attorney's Office in Tucson, Arizona.

On January 8, 2011, indeed our close-knit community was shaken by the tragic and senseless shooting that took place at Representative Giffords' "Congress on the Corner" event. The havoc created by one man's horrific act left 6 people dead, 13 injured, over 100 witnesses in shock and panic, and a community stunned.

Victim advocates from our office were among the first responders. Within minutes, we had several advocates on-scene, and within an hour, we had 35 advocates deployed across Tucson, including at the four hospitals that were receiving the wounded.

I was at the crime scene along with Pima County Attorney Barbara LaWall for most of the day coordinating communication and overseeing our advocacy efforts. Throughout the day and night, our victim advocates worked with literally hundreds of victims, witnesses, and their family members, providing them with crisis intervention services and emotional support. On more than one occasion our advocates had to deliver the difficult news to family members that their loved one had been killed.

Angela Robinson is the daughter of two of the January 8th shooting victims. Angela's mother was gravely wounded in the shooting, and her father was killed. Angela described how incredibly difficult the day was for her and her family. She told how her sister and brother-in-law "raced to the Safeway, ran through the carnage, frantically looking for Mom and Dad, while Mom kept talking to my sister on her cell phone and Dad lay dying on her lap."

Angela recounted how her son met them minutes later at the hospital to "find his grandmother covered in blood, five gunshot holes in her legs." Angela said to me, "Victim Services was beside them. Victim Services provided the trauma counselor to guide my precious loved ones not only through grief and loss but extreme violent trauma."

This is a testament to the critical importance of having highly trained, experienced, and professional victim advocates in our communities. With over 35 years of experience, ours was one of the first programs of its kind in the Nation. Over the years our advocates have been called out to work with victims of natural disasters and terrorism, including the Oklahoma City bombings and 9/11. Currently under the leadership of Pima County Attorney Barbara LaWall, our Victim Service Division has a staff of 28 employees and more than 120 volunteers that allow us to do this work.

The Pima County Attorney's Office has been very fortunate to have just received an Antiterrorism and Emergency Assistance grant through the Victim of Crimes Act, otherwise known as VOCA, to help us meet the ongoing needs of the January 8th tragedy victims over the next several years as the cases move through the courts. Without these VOCA funds, our resources would have been strained to meet the needs.

But the downturn in the economy has put a tremendous strain on our partner service organizations in the community. Nationally, most of the newly founded legal clinics for victims are in crisis. Since 2004, when Congress passed the Justice for All Act, which enumerated the rights for Federal crime victims and included funding for the enforcement of these rights, 11 clinics have opened across the country. But despite their successes, virtually all these clinics will be closed by the end of the year without further action by Congress to support their work.

In Arizona, the recession has meant a significant decrease in State and local funding for victim services and for victims. There has been a 42-percent reduction in State funds for domestic violence services and shelter since 2008. Tucson's primary domestic vi-

olence service agency, Emerge! Center Against Domestic Abuse, lost 24 percent of its State funding for shelter services over the past couple years. Sarah Jones, the executive director of Emerge! said to me, "Our shelter beds are full, our phone lines are ringing day and night, and we are turning away on average 10 to 12 women a week."

Cuts in private and public health care coverage have made it difficult for victims to get medications they need for conditions like depression and anxiety that are a direct result of their victimization. Foreclosures and cuts in housing assistance have forced domestic violence victims to return to their abusers or sleep in their cars.

During these troubling economic times, communities depend on victim compensation and victim assistance funds provided by VOCA and also by the Violence Against Women Act, VAWA. This is precisely the time when the Federal Government should be increasing funding to victims and victim service organizations by raising the VOCA cap. VOCA funds come entirely from fines and fees and other assessments on criminals, not tax dollars. So increasing this fund cap would immediately result in more funds flowing to the victims who most need them.

It is not only the compassionate and right thing to do, but it also makes financial sense. If these funds do not come from criminal activity, they will most likely come from local communities and State governments, who will pay them in the form of higher unemployment claims, Medicare and Medicaid costs, and community mental health services.

In Arizona, we are fortunate to benefit from some of the most robust victims' rights statutes in the Nation. These rights make a real difference in the lives of victims, affording them a measure of fairness, dignity, and respect in a system that is often confusing and overwhelming. And these rights co-exist harmoniously with the rights of the accused within the criminal justice system.

Victims' rights statutes are an advance over the days in which victims were left uninformed about proceedings, excluded from hearings and courtrooms, and denied the ability to confer with prosecutors. But more work needs to be done because we know that these rights and protections are incomplete and inconsistent across the Nation.

So it is crucial that we finish the work begun by President Reagan's Task Force on Victims of Crime. We should carry out its recommendation for a Federal constitutional amendment recognizing victims' rights and providing uniform protection for all Americans.

I want to end with the words of Susie Hileman, one of the victims of the January 8th shooting, who said, "I could not have managed to sit in the arraignment without Victim Services. You anticipated my fears and my tears, and you had people surrounding me. You answered my questions and told me the truth. You are my touchstone in an otherwise unwieldy and overwhelming process. I could not have done it without you."

Thank you.

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

Chairman LEAHY. Thank you very much, Mr. Burbank.

Meg Garvin is currently the executive director of the National Crime Victim Law Institute and clinical professor of law at the Lewis & Clark Law School. She also co-chairs the Oregon Attorney General's Crime Victims' Rights Task Force, serves on the Legislative and Public Policy Committee of the Oregon Attorney General's Sexual Assault Task Force, served as co-chair of the American Bar Association's Criminal Justice Section Victims Committee, was a board member of the National Organization of Victim Assistance, undergraduate at University of Puget Sound, master's in communications studies from the University of Iowa—I will have to remind Senator Grassley—and her law degree from the University of Minnesota Law School. And I do not have to remind Senator Klobuchar or Senator Franken. We are surrounded by people from Minnesota here today.

[Laughter.]

Chairman LEAHY. Go ahead, Ms. Garvin.

**STATEMENT OF MARGARET GARVIN, EXECUTIVE DIRECTOR,
NATIONAL CRIME VICTIM LAW INSTITUTE, AND CLINICAL
PROFESSOR OF LAW, LEWIS & CLARK LAW SCHOOL, PORT-
LAND, OREGON**

Ms. GARVIN. Thank you. It is a good way to be surrounded.

Mr. Chairman and distinguished members, thank you so much for having me here today. It is quite an honor to be here during the 30th National Crime Victims' Rights Week.

I want to spend some time talking about the theme of this year's Crime Victims' Rights Week, which is, "Reshaping the Future, Honoring the Past." And the reason I want to spend some time on that theme is because we have made commitments to victims in this country, and our history shows what those are, and our history also shows us how we can fulfill those commitments to crime victims.

The history of victims in this country going back more than 30 years, if we go back to the founding, shows that victims were an integral part of our criminal justice system from the start. And yet sometime over the years at some point they became mere witnesses to cases and pieces of evidence in those cases, and that was shown quite dramatically in the 1970s and early 1980s when literally victims were asked to sit outside courtroom doors, peek through cracks in the door to try and see what was happening. We know that Vince and Roberta Roper, whose daughter was kidnapped, raped, and murdered, were literally told to sit outside during the trial of the offender in that case. And that was happening in nearly every case. It was happening in homicide cases, sexual assault cases, domestic violence cases. It was happening throughout the 1970s and 1980s; victims were mere pieces of evidence in a case. They were not treated with humanity and dignity.

To remedy that imbalance, fortunately, a lot of laws have been passed. They have been passed in every State. More than 30 States—33 actually have passed State constitutional amendments. Every State has passed a statutory scheme or system to afford victims rights. But what is interesting is when you look nationally, the rights vary greatly. So quite literally, we have what I call, when I do my more informal trainings, the "Judge Judy/Judge Joe

effect.” Depending on which judge you are in front of, you get different rights if you are a crime victim in this country. And it can happen within a State, it can happen across State borders, and it certainly happens if you are in a State system versus the Federal system. You are treated differently.

Fortunately, efforts at the Federal level have passed statutes that have allowed for some similarity of treatment, some fairness to happen for crime victims regardless of what system they are in. The key piece of that legislation was the Federal Crime Victims’ Rights Act of 2004. That Act provides eight specific rights to crime victims to allow them participatory status in the system, and most importantly, it allows them independent standing, which means that the rights are actually owned by the victim. They get to assert them when they want. They get to say what they want when they need to say it.

The very first Federal circuit court that analyzed the Federal Crime Victims’ Rights Act was *Kenna v. District Court*, and that happened in the Ninth Circuit. That court said of the CVRA that the CVRA was changing the modern criminal justice system’s assumption—the assumption that crime victims should behave like good Victorian children: seen but not heard. So what we have is a Federal law that is allowing us to have victims not only seen but heard in the system.

Notably, the CVRA contains not just rights but also authorizes funding for appropriations for legal services to make sure those rights have meaning. Having legal services to protect rights is critical. As the U.S. Supreme Court has even said, “The right to be heard would be, in many cases, of little avail if it did not comprehend the right to be heard by counsel. Even the intelligent and educated layman has small and sometimes no skill in the science of law.” Having a lawyer sitting next to you makes a difference in court proceedings.

Now, the U.S. Supreme Court was saying that in 1932 about defendants’ rights, but it has no less meaning or weight when you think about victims’ rights. In the case I referenced just a minute ago in my testimony, *Kenna v. District Court*, Mr. Kenna was trying to exercise his right to be heard. The only way his right to be heard was allowed in that case was because he had pro bono counsel sitting next to him and he took an appeal to the Ninth Circuit Court of Appeals.

Where did that pro bono counsel come from? It came from a national network of victims’ attorneys that NCVLI launched in 2004. What started as five clinics in 2004 is now 11 clinics operating across the country. Since its launch that network has represented more than 4,000 victims, filed 2,300 pleadings, and supplied more than 100,000 hours of attorney times to victims in this country.

Sadly, as Mr. Burbank has already said, this network is in jeopardy. All 11 clinics will shut this year. There will be no legal services for enforcement of victims’ rights at the end of the year if funding continues as it is. The impact of these closures is going to be significant.

As of March 31st, NCVLI’s clinical network had 235 open criminal cases in this country. The impact of those numbers is a little more meaningful if you actually look at the people who are being

served. One of the victims being served is in the Tucson shooting case. Our Arizona clinic is representing one of the victims in that case, seeking justice and making sure that that victim can exercise his rights when he needs to and in the manner in which he wants to.

Another clinic is representing a victim in the case of *United States v. Keifer*. In that case, it is a complex fraud case, and the victim was not even notified of proceedings because those proceedings had been under seal. So the victim did not know if they were a victim, were not a victim, whether restitution was going to be ordered or not until a pro bono attorney stood next to them and fought for the right for restitution and to be heard at sentencing. Fortunately, they succeeded, but now the defendant has filed a habeas action and is challenging restitution again.

In 1984, with the passage of VOCA, Congress made a promise to victims, a promise that funds would be available and services would be available. In 2004, Congress made another promise to victims, that they would have rights in the criminal justice system and would not be mere interlopers on the system anymore. Vision 21 is a wonderful project that the Office for Victims of Crime is using to envision the future of victims' services, and NCVLI is fully committed to that effort, as we too are committed to envisioning a better future. But notably, as has already been said, one of the key findings coming out of Vision 21 is that victims must have access to competent and independent lawyers to protect their rights. Thus, even when looking anew or afresh at victim services, the answer coming back is the very one that Congress articulated in 2004: fund legal services for victims of crime.

This promise can be kept. It can be kept because while there is a cap set on VOCA, that cap can be raised. It seems indisputable that there are sufficient funds in VOCA to fund legal services for victims and to have services that are necessary across the country. I urge Congress to look critically at the promises that have already been made to victims in this country and to re-commit to upholding those promises, including legal services for victims.

Thank you.

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

Chairman LEAHY. Well, thank you, and I thank all the panel. I read your statements earlier, and those whole statements are in the record. But I hope people are listening, and I am glad that many are, because as Senator Grassley pointed out it is something he and I both agree on, this is not a partisan issue. You do not ask whether a crime victim is a Republican or a Democrat or an Independent. They are a victim.

Again, we have several former prosecutors on this panel, Senator Klobuchar and I and, of course, Senator Whitehouse who was here earlier. And we all know how we can bring down all kinds of efforts, and should, to go after the perpetrator of the crime. But too often it is too easy to forget the victim.

Now, Mr. Burbank, as you know, the whole country's heart goes out to your community and the people whose lives were changed forever. Those who survived, their lives have changed forever from January 8th. And something like that is overwhelming, and it can

quickly deplete victim services funds to help the communities be able to provide ongoing services when you have something extraordinary like this happen. I worked after the Oklahoma City bombing to create the Antiterrorism and Emergency Assistance Program. I worked with Senators on both sides of the aisle, and we got it done. It sets aside funds from the Crime Victims Fund to be used in an emergency situation, like the tragedy in Tucson.

Now, I understand Pima County recently received \$1.7 million for that emergency fund. Is that right?

Mr. BURBANK. That is correct.

Chairman LEAHY. What is that going to do?

Mr. BURBANK. Well, it is going to help us enormously. As you were mentioning, these types of situations can very quickly overwhelm the services that are available because already we are operating on a very stretched budget, and so to have suddenly this magnitude of victims in our community that are needing additional services means that we need to be able to ramp up, and ramp up very quickly. And so having this grant that we have just received from the Antiterrorism and Emergency Assistance funds that were set aside in VOCA has been and will be incredibly beneficial over the upcoming years, and that is the benefit of this. These will provide funds over the next 3 to 4 years as these cases move through the court system.

Chairman LEAHY. You know, it was interesting. When I put that money in, fought to put that money in, I prayed that it would never be necessary to use it. We all did. We never could have anticipated something that happened there, but we have also had other horrific situations in other parts of the country.

I do not want to put words in your mouth, and just because I helped create the fund, but would you suggest we keep that fund?

Mr. BURBANK. Absolutely. Of course.

[Laughter.]

Mr. BURBANK. And you do not need to put words in my mouth.

Chairman LEAHY. It would have been a heck of a hearing if you had said—

Mr. BURBANK. If I had said no, that would be terrible, wouldn't it? I mean, obviously, it is an incredibly important piece. Being able to access funds very quickly in an emergency situation makes all the world of a difference. And we are most grateful for your wisdom and foresight in being able to create this fund to begin with, and then the work with the Office of Justice Programs and OVC, to be able to access those funds very quickly through a special process, so thank you.

Chairman LEAHY. Thank you.

Ms. Leary, you talked about seeing changes in crime victimization and there are perhaps some gaps in crime victim services. What are some of these changes? And what are the kind of gaps that it might create?

Ms. LEARY. Well, I am sure you remember from your days as a prosecutor, as I do, that I almost felt like the criminals were way ahead of law enforcement all the time on technology and everything else, and that is continuing. We are seeing criminals becoming increasingly anonymous, victims harder to identify because of things like financial fraud, all the myriad of schemes that you read

about in the financial news every single day, and sometimes we do not even recognize these crimes because people do not understand the instruments that are being used.

There are all kinds of technology being used to stalk individuals, and it goes way beyond the Internet, although that certainly has proliferated all kinds of cyber crime. Child exploitation on the Internet is absolutely appalling, very widespread.

A friend of mine who is the Inspector General for the New York City School System told me that he used to really worry about teachers having access to kids, teachers who should not have been in the classroom in the first place. And now, he said, it is almost impossible to deal with that because these folks are having contact with the kids online, and you cannot really monitor that.

So there are all kinds of technological challenges that we are just beginning to recognize. And, of course, the flip side of that is how can we use technology to our own advantage as law enforcement and particularly as victim service providers. You want to talk to a 15-year-old victim. They are unlikely to chat with you on the phone. You have got to be able to do the texting and the tweeting and all kinds of chatting with kids online. We need to be able to use smart phones and cell phones and webinars and, you know, just all kinds of things that, frankly, I cannot even imagine sitting here right now, but I am sure that within the next 5 years there will be—

Chairman LEAHY. It will be changed that much more. I mean, Skype, the fact that you can sit there—

Ms. LEARY. Absolutely. Look at telemedicine. Same thing.

Chairman LEAHY. Grandparents love it. Everybody else does. You know, Professor Garvin talked about the Crime Victims' Rights Act, how that helped legitimize crime victims' rights since it was passed in 2004, one of the reasons we are trying to strengthen the Justice for All Reauthorization Act.

I have to go to a different hearing. I am going to recognize Senator Franken before I do, but Senator Klobuchar who has done this quite often, I appreciate her being willing to take the gavel. Thank you. Just be sure to give it back.

[Laughter.]

Senator FRANKEN. Thank you, Mr. Chairman.

Ms. Leary, I want to start with you today. Thank you. I have been hearing such tremendous things about the work that you have been doing in your department to help States and local agencies. The Minnesota Office of Justice Programs has raved about your office, how great of a partner it has been on victim services. They said you have really just gone out of your way to reach out to Minnesota to see how you can help, and you have been incredibly flexible and supportive, so I want to say thank you.

Ms. LEARY. Thank you, sir.

Senator FRANKEN. Minnesota has long been a leader in innovative domestic violence programs, and the city of St. Paul recently came up with a blueprint for domestic violence intervention strategies that really should be a model for how criminal justice agencies can work together.

I was excited to see that you are also making sure that programs are relying on evidence-based decisionmaking that guarantees that

every dollar we spend is being used to fund programs that are proven to work.

Can you tell me more about what the Department is doing to promote evidence-based decisionmaking and ensure that other States have access to the kind of innovative programs and strategies being designed in places like St. Paul?

Ms. LEARY. Certainly, and Minnesota does have a long and rich history of serving victims of crime. I know that Senator Wellstone was significantly involved in that.

In terms of the evidence-based approach and disseminating that kind of information, I am particularly pleased—this is a big priority at the Department of Justice overall and throughout the Office of Justice Programs, but I am particularly pleased to see that we are moving in that direction in victim services as well. You know, it started out as a movement. It is kind of grass-roots advocates, volunteers, and it is all about passion and compassion for victims. And it has evolved, is much more of a professional field. We will never lose the passion. We will never lose the compassion. But it has been much more professionalized as well. And like the rest of the criminal justice system, victim services has got to work smarter. We have to base what we do on what we know from research and from statistics.

So I think the most significant thing that we are doing right now is an exercise called Vision 21, which the Office for Victims of Crime has convened, and it is a comprehensive effort to look at victim services to see who are the victims, what are we doing to serve them, where are the gaps in that service, what are the emerging challenges, the new types of victimization, new types of victims and so on, and how can we build the capacity of victim service providers across the country to serve these victims.

Obviously, if this is going to be evidence based, the key is we have got to do more research. We have to collect better data.

We have the National Crime Victimization Survey, which is a wonderful tool, but it is not adequate for the task. There are certain types of crime where that kind of survey does not really get at the nuances. And there are all kinds of other statistics that need to be gathered.

For instance, we need to be doing a lot more research and data collection in Indian country. You certainly know from your experience in your State that the violent crime and the domestic violence and sexual assault crime rates in Indian country are absolutely unacceptable. We would never put up with that in any other community in this country. And we do not even really know the half of it because it is unreported, because we have not done enough. That is the kind of thing that we need to do, so that when you plot the strategy for victim services going forward, you have a solid base of knowledge. You have your data. You have your research on what works with victims. You have your research on the characteristics of victims, the needs both now and in the future. And then you can tailor your programs, and you can apply your dollars wisely.

Senator FRANKEN. Well, thank you. I just have a few seconds left, but I agree with you on Indian country, and in the Indian Affairs Committee I have tried to address that and increase data collection on crime in Indian country.

Madam Chair, can I ask one more?

Senator KLOBUCHAR [presiding]. Oh, please do.

Senator FRANKEN. OK. Thank you.

Mr. Burbank, I, like most Americans was horrified by what happened in Tucson, but I have to say the services you and your team of staff and volunteers were able to provide to the families and friends and witnesses of this horrible tragedy was just amazing.

You mentioned in your testimony that crime victim compensation funds are frequently a last resort for States, and when the States run out of Federal dollars, victims often pay the price.

Last Congress, I introduced legislation to ensure that survivors of sexual assault are never charged for the cost of their rape kit exam. I find it appalling that States sometimes bill victims or force them to apply for insurance coverage before seeking reimbursement.

As someone who works on the ground with victims of sexual assault, do you think the practice of billing sexual assault victims for their medical exams makes victims more reluctant to report their crimes?

Mr. BURBANK. Well, I certainly agree with you that charging victims for things like medical forensic exams is simply unconscionable. We should not be shifting those burdens onto victims. I am not sure whether or not that would be a deterrent to a victim coming forward, but I do know that it certainly can be a hardship for victims, but also there is an emotional burden that comes with that. Having to pay for a medical forensic exam after you have been raped or sexually assaulted is very, very difficult for victims and feels like an additional victimization oftentimes.

Senator FRANKEN. Thank you very much.

Thank you, Madam Chair.

Senator KLOBUCHAR. Thank you.

Senator Whitehouse, are you ready?

Senator WHITEHOUSE. Thank you, Madam Chair. I want to thank the panel very much for being here, for their testimony, and for their service, particularly those who have been prosecutors, U.S. Attorneys and so forth. Thank you, Ms. Leary.

I just wanted to get your reactions to the news that has come out about the extent to which the cuts that have recently been agreed to have focused on victims of crime in the Department of Justice budget and what your advice is to all of us to try to prevent that damage from having too much impact on the victims that, frankly, are prototypical innocent victims of this, and there is no reason that they should be bearing the cost here. But it looks like they will be.

So have you had the chance yet to analyze how deep those cuts will go and to what extent they may affect programs and grants that support what you are doing right now?

Ms. LEARY. You are looking at me, Senator Whitehouse, so I—

Senator WHITEHOUSE. I will go right down the line, but I will start with you.

Ms. LEARY. Thank you. We have not had a chance to do a full analysis. I, too, read the article in the Washington Post saying that almost \$5 billion has been cut from the fund. But, in fact, we later learned to our relief that that is actually not the case, that, rather,

it is an accounting issue. So we were very relieved to hear and that, in fact, the amount of funding in the Crime Victims Fund will remain the same for this coming year, so that the Office for Victims of Crime will have that same amount of money to work their programs.

Senator WHITEHOUSE. As was expected.

Ms. LEARY. But there are other cuts, you know, in other parts of the Department of Justice that may have an impact. We have not had a chance to analyze yet. You know, there is a percentage cut across the board. So it really depends on how that plays out.

For instance, there are programs in the Bureau of Justice Assistance that augment the work of the Office of Victims of Crime in things like training law enforcement, and we all know that a victim's first encounter with law enforcement—that is often the first person that a victim might encounter, and research really shows that that can have a significant impact on how that victim moves forward, whether that victim is able to move forward toward recovery.

So we have not had a chance to analyze all that yet, but there may be some impact.

Senator WHITEHOUSE. Just so you know, I have heard the same thing that you have, that the reduction from \$6 billion to \$1 billion is an accounting adjustment and would not have immediate effects in the actual expenditures that are available to the victims of crime group in the Department of Justice. And I hope that is true, but when you see big money moving around like that, it is hard to imagine that it could actually have as little effect. You would think that would have disappeared already somehow if it was purely an accounting trick. So I am watching carefully to see that.

Mr. Burbank.

Mr. BURBANK. Well, I am glad that it is being watched very carefully. As I was mentioning in my testimony, the downturn in the economy, the economic recession, has had tremendous impacts on the local and State levels. In Arizona, at least two organizations that served victims have closed their doors, including a family advocacy center serving a rural area in our State. Other agencies across the board pretty much have had to cut services to victims because of decreases in State and local income coming in for victims of services.

So the concern here is that these agencies depend on Federal monies at this moment to keep their doors open. VOCA funding and VAWA funding is incredibly important for these victim services organizations. And if that money should go away or be reduced in any way, we would see further cuts in already damaged victim services. The safety net is beginning to crumble at the local level in many cases.

Senator WHITEHOUSE. Ms. Garvin.

Ms. GARVIN. Just quickly, my understanding is that it is an offset also, but even if it is an offset and it is an accounting thing, I would appreciate it if a close eye was kept on it, because even as an offset and an accounting maneuver, then rhetorically we have less money in the fund, which means people are not going to be as comfortable raising the cap and giving money to victim services.

So even if the exact amount is going to come back out to the field as came out in prior years, that is not enough for the field, and we are seeing the ramifications of that right now. So we have to keep a close eye on it. But also the Victims Fund is victims' money, and that is where it should be going.

Senator WHITEHOUSE. Thank you all very much for what you do and for your testimony.

Thank you, Madam Chair.

Senator KLOBUCHAR. Thank you.

Senator Grassley, you are up.

Senator GRASSLEY. I explained to the Chairman that I was on the Senate floor. I am sorry I did not hear the testimony. I have read it.

Ms. Garvin, can you tell me about the effect that the cap on the Crime Victims Fund has had on the victims to whom you provide services?

Ms. GARVIN. The services that NCVLI provides are funded through two streams. The Federal Crime Victims' Rights Act has an authorization for appropriations in it, and some money has come directly through appropriations to fund some of our work, although that has not happened since 2008. Then other funds have come through grant programs, including VOCA, through the Office for Victims of Crime. And the cap, I would say what is happening to our services and services nationally is that there is not enough money making its way out to the field.

We know that victims have more needs than are being funded. We know that the legal clinics that we oversee are going to shut down this year and that victims, including victims in the Tucson shooting, will not have an attorney with them. As of July of this year, actually, that clinic will not have funding to continue and to provide representation. So the cap is putting restrictions on the services that are available.

Senator GRASSLEY. I want your judgment of whether or not you think it makes sense for us to create new crime victim programs before the existing programs that are now being shortchanged are fully funded.

Ms. GARVIN. Well, as has been spoken about this morning already, those programs that are providing good services and have been tested and are evidence based, they should continue being funded. Our program has been tested. We have been evaluated. Other programs around the country have been also. Those should be funded first because that is a promise we already made to victims. Looking forward and creating new programs is a visionary thing to do, but not at the sacrifice of the promises we have already made to crime victims.

Senator GRASSLEY. Ms. Leary, the administration proposes only a small increase in the cap from the Crime Victims Fund, and it would zero out the Federal Victim Notification System, which I said in my statement notifies crime victims when an individual who committed that crime is released. Further, it would reduce by one-third the budget for the National Crime Victimization Survey.

Do you support these cuts that the administration has proposed to Victim Notification and to the National Crime Victimization Survey?

Ms. LEARY. Well, Senator Grassley, one of the things that the Department is thinking about is the impact of the Vision 21 initiative, which is ongoing now, which is taking a comprehensive look at what we need to better serve victims going forward from here. And in the past, there have been piecemeal looks, and you look at one piece of the system, and you try to improve things there. Then you look at another piece, and you try to improve things there. But it does not work unless you look at the whole and you look at all of the kinds of programs that are needed and make decisions based on that. And that is exactly what we are doing. And I think out of that process will come a different way of looking at victim services, proposals to fund all of those things that work, that fit into that comprehensive view, and to use the funds in the ways that are most appropriate for what we know victims need.

I totally agree we need to avoid duplication of services. I think we need to help victim service providers learn more about how to base what they do on evidence. We need to help them learn how to increase their own capacity to serve victims in a smarter, more efficient way.

Senator GRASSLEY. I cannot find fault with your survey and studying things and being evidence based and all that, but it seems to me that by doing to these two programs what they are doing, they have already made a declaration that those programs are not serving. So you would think that they would wait until—you and they would wait until the study is over before you reached a conclusion that to me puts low priority on supporting crime victims as evidenced by these proposed cuts.

I will go on to ask you this question, and it will be my last one. Despite the cuts that I mentioned, the administration proposes \$135 million more be spent on victims of violence against women. You have also called for continuation of a new hate crime victim discretionary grant program that the Justice Department created with stimulus funding.

Given the shortfalls in funding for crime victims that has been made clear today, do you believe that certain types of victims should take priority over others? And that is what I sense from the priority given to these programs. And I do not see anything wrong with those programs, but it just seemed to me that you have a greater priority.

Ms. LEARY. What we know, Senator Grassley, is that, in fact, right now, a good percentage of the VOCA funds go to victims of violence against women because, unfortunately, that is one of the enduring challenges of the victim services field. There are so many overwhelming unmet needs. You heard Mr. Burbank talk about the shelter in Tucson having to turn away 12 women a week. The beds are full. The phones are ringing off the hook.

We know the National Network to End Domestic Violence does a snapshot every year, and they survey all of the shelters and the crisis service providers. And the last snapshot they took, in that 1 day these organizations had served 70,000 victims, women and children for the most part. But they had to turn almost 10,000 away on a single day.

So it is just that we already know that that is such a pervasive form of victimization with needs, unmet needs that are almost—

they are difficult to comprehend, really, because it is just so significant. We still need to do a lot more in that arena, and it crosses all age lines, race lines, socioeconomic lines.

Senator GRASSLEY. Thank you very much.

Thank you, Madam Chair.

Senator KLOBUCHAR. Thank you.

Senator Blumenthal.

Senator BLUMENTHAL. Thank you, Madam Chairman.

I have a question regarding longer-term services. Many of the victim advocates or victim services focus on short-term needs, as you know, and very rightly and deservedly so. My office has been working with a group called Voices of September 11th, which does work on mental health screening and counseling and other kinds of casework, and that group provides services in those areas, and I wonder if you could talk about the strategy of your respective efforts in terms of dealing with the longer-range services that can be provided to crime victims.

Mr. BURBANK. Well, you know, speaking for the Pima County Attorney's Office, you are absolutely right. We recognize not only the short term but the long term. The short term is met through our on-scene crisis intervention work, so when we actually go out at the request of law enforcement to work with those victims, as we did on the January 8th shootings at the Safeway where this occurred and in the hospitals. But then we follow those victims, providing them with supports throughout the entire criminal justice system. And a big piece of what we are doing is not only the criminal justice system advocacy, but as you mentioned, they have lots of other needs. And making time to make sure that those advocates are well versed in what community resources are available, getting them connected with victim compensation funds that can help fund some of those, mental health as well as other health needs for these victims, is crucial.

In this case, because of the nature that it is both a Federal case as well as a State case, these victims most likely will be in the criminal justice system for at least 5 years, and potentially much longer than that, as we know, for example, with the Oklahoma City bombings. And we also know that after cases conclude, many of those wounds still are there for these victims, and they have needs that go on for years and years and years. And so it is a very important part, and I am glad that you are focusing time and energy to look at the ongoing and long-term needs of victims, so thank you for that.

Ms. GARVIN. I would like to echo that, that I appreciate the focus on it. I know in our work so far in Vision 21, one of the things that we have noted that is coming from the field is that long-term care for victims is critical. And some of the cases that our lawyers are working on demonstrate this. There is an Oregon case, a habeas case going on right now where a woman was stabbed 18 years ago, and the habeas proceeding was just filed, and she was ordered to go to deposition 18 years after her stabbing. And so we needed to have a lawyer there for her in that moment, not just in the original prosecution.

So the ongoing care is critical as well as continuity of care. Making sure the same programs that she or he as a victim have devel-

oped a relationship with are there when they need services 5, 10, 15, even 20 years later is critical.

Senator BLUMENTHAL. Ms. Leary.

Ms. LEARY. Yes, Senator, thank you for that question. I am familiar with the September 11th organizations through my work at the National Center for Victims of Crime, and I know that Joye Frost, who is the Acting Director of the Office for Victims of Crime, is very familiar with that organization. They represent the significance of those kinds of needs, those long-term needs. And as Meg said, there is a lot of focus on that through the Vision 21 initiative.

I would like to add that we need more research into this arena as well so that we have a much better understanding of the impact of crime over the long term. What are the mental health issues that can arise? What are the emotional kinds of issues? What kind of an impact does your victimization, you as an individual, what kind of an impact does that have on your family, on your loved ones, over the long term? It is hugely significant. And many victims, including the September 11th victims, have spoken to us about the pain of people treating them as if they should just have gotten over it by now. That is just not the case. And, unfortunately, our society still is rather insensitive about that.

Senator BLUMENTHAL. My time has expired, but I just want to commend you and thank you for the great work that you are doing, and particularly as we celebrate this month, thank you very much for all you are doing.

Ms. LEARY. Thank you.

Mr. BURBANK. Thank you.

Ms. GARVIN. Thank you.

Senator KLOBUCHAR. Thank you very much, and I want to thank all of you for being here on this important day. It is the 30th anniversary of the first National Crime Victims' Rights Week. We have come a long way despite the challenges that we are facing now. I know in my own office that I used to head up, the Hennepin County Attorney's Office, and I met my counterpart in the county attorney's office there. We certainly were a leader in these areas, including our Domestic Rights Center where we really had a one-stop shop, and still do, under County Attorney Mike Freeman for victims of domestic assault where not only are there prosecutors and police but also the shelters and others are there to help them with their needs. And I have been a big believer in this. We did surveys in our office and found that while obviously the results were important, cases and convictions were important, just as important, and sometimes more important, to the victims was how they were treated in the system. And so many times it was victim advocates that were their interface because the prosecutors would be off doing cases.

So beyond the things that I think people think about in terms of help and counseling and services, just having people there with them through the process so that they felt it was fair, even if a case had to be dismissed because there was not enough evidence, or even if a plea had to be taken that was not exactly what they wanted in the first place, having a victim rights advocate there gave them faith in the system and made for such better cases so that victims and witnesses felt comfortable about going forward

and did not back out at the last minute from testifying, because they had someone there for them. So I just want to thank all of you for all the good work that you are doing.

I have questions, first of all, Ms. Leary, about the Vision 21 process, and I was thinking, as we talked about the funding and some of the cuts, that we are concerned about and will continue to advocate for the funding, that it be there.

You mentioned in your testimony that one area that Vision 21 is likely to tackle is improving data collection and research on victimization issues, and I think data can help not only with finding the most effective programs so we are making sure that the money is going where it should, but also to support the work that is being done.

Could you talk about that data collection aspect of Vision 21?

Ms. LEARY. Yes. The Vision 21 groups have, I think, really focused in on the need for research and data collection because there is an awful lot about victimization, and particularly among underserved victim populations, that we do not know. You know, underreporting of crime is a huge problem, so we have to figure out how do you get at that.

And, you know, it is really interesting. Thirty years ago, the underreporting was exactly the same statistic as today. I found that quite astounding.

So we know that it is unlikely to change dramatically going forward, so we have got to find ways to collect our data without relying strictly on reported crime or convictions and so on. And that is one of the things that the National Crime Victimization Survey attempts to do. But, you know, the survey has been in existence for quite some time. I know that Jim Lynch, who heads up the Bureau of Justice Statistics, is actually looking at a redesign of the survey and has been working on that, because we have to kind of come into the 21st century and figure out better ways of getting folks to respond to the questions about victimization. And we need to find ways to collect data from populations that have traditionally just been either left out or have withdrawn. The Native American population is a good example. Young African-American males. We know very little about that type of victimization other than what you read, you know, in the Metro section of the Washington Post, the sort of sensational crimes that get covered. But we do not know that much about the process of victimization and the needs of those victims and so on. That is another group.

We know almost nothing about victims who are in institutional settings, and that is where you are going to find your victims of elder abuse of all kinds. You are going to find your victims who have mental health issues or developmental challenges. We do not really know anything about that group. And particularly when you think about the elderly, those 85 and above are the fastest growing segment of this population. We cannot afford not to know about that.

Senator KLOBUCHAR. Yes. I also took note when you talked about the technology and the changing nature of crime. I actually have a bill with Kay Bailey Hutchison about updating our stalkers legislation and the cyber legislation that is on the books that is very outdated to reflect cases like we had in the last year with the

newswoman who was undressing and someone filmed her and then put it out on the Internet. It was actually hard for the U.S. Attorney's Office to put a case together in that case. And they did, but it could be made a lot easier if we updated our laws in election surveillance.

Along those lines, you said that Vision 21 would address how the latest technology could be leveraged to transform how we reach and serve victims.

Ms. LEARY. That is right.

Senator KLOBUCHAR. Could you talk about that?

Ms. LEARY. One of the huge gaps that has been identified by Vision 21 is in the capacity of victim service providers. Their technology is so unsophisticated because they barely have money to pay their staff to keep them around to help the victims. They do not have the funding for their general operations or to improve technology, to figure out how can we reach out to victims, for instance, in a rural area, which I am sure there are plenty of those in Minnesota. How do we connect to those victims who are far away? How do we connect to those victims with our language barriers and cultural barriers that technology could actually facilitate bridging those gaps? Translation services and things of that nature.

How can we use technology to meet victims where they are at, not just geographically but culturally, and in terms of the technology that those victims use. If you read those Pew studies, you will find that certain segments of the population are much more likely to use a particular type of technology than others.

For instance, in Chicago, the Hispanic community there is much more likely to be using the cell phone than a computer, which I learned from Pew when I was working on a project with the Chicago Police Department out there and trying to figure out how you could engage the community. You cannot just rely on those, you know, beat meetings every 2 weeks. How are you going to reach out? Well, you need to find the kind of technology that they relate to that they actually use.

Senator KLOBUCHAR. Very good.

Mr. Burbank, you described the crime scene on January 8th and that horrible day when so many people were senselessly gunned down. I think people sometimes think this is just like magic, the victims people there. Could you tell us about the kind of training that goes into building a victims advocacy division?

Mr. BURBANK. Absolutely. You are right, it just does not magically appear. It takes a lot of work to put this together. We are fortunate, as I mentioned, to have 35 years of experience doing this. And what it looks like is we actually send our volunteers through almost the identical training that we use for our staff paid positions because we rely on those volunteers to do the exact same work as a staff person. They have to be ready out in the field to respond to any type of crime at any time, day or night.

So we send them through 36 hours of basic crisis intervention training, that is actually available to anyone in the metro area of Tucson to partake in if they want. And then on top of that, they go through an advanced course that is about 30 hours of advance training. And then they do essentially on-the-job training.

So it is a very long process. We ask for at least a year commitment from folks, and we ask for 20 hours a week from—excuse me, 20 hours a month from our volunteers. Twenty hours a week would be a lot, wouldn't it?

[Laughter.]

Senator KLOBUCHAR. Yes. So I think one of the things people think, well, you know, obviously with budget crunches we can use more volunteers and we should use more volunteers. I think it is a good idea we have interns in our office. When I was the only Senator for 8 months, we had to use a lot of interns because we could not add any staff to the budget. But I think what people do not understand, you still need training and you still need people to oversee the volunteers.

Mr. BURBANK. Absolutely. It cannot all be done with volunteers. We make an amazing use of volunteers in our program, and we are very proud of that. But the reality is we have to have staff overseeing those volunteers, training those volunteers. It is an enormous commitment of time and energy in order to maintain this volunteer pool to be able to provide these services.

Senator KLOBUCHAR. OK. Thank you.

Ms. Garvin, do you want to answer that question as well about how volunteers are critical to the National Crime Victim Law Institute's work and how we could utilize volunteers and how they still have to be supervised and trained?

Ms. GARVIN. Absolutely. As I mentioned in my testimony, NCVLI has 11 clinics operating around the country, but we have been trying to complement that by growing a national pro bono pool of attorneys and advocates, and we put them through training. The name of that is the National Alliance of Victims' Rights Attorneys, and we have almost 1,000 members right now.

But what is critical is we can have an attorney anywhere in the country, but often they have not had the training on what victims' rights are. Any of the lawyers in the room know, and as I know you know from law school, the words "victim" and "victims' right" does not yet show up in the law school curriculum, even today. And so training lawyers how to represent victims is a pretty intensive process.

So we are working on it. We are working nationally to try to have lawyers around the country know how to do it, know how to do it without re-victimizing victims. But it takes intensive work, and we need to keep at it.

Senator KLOBUCHAR. And is the model that we had in our office in Hennepin County the norm? And we had—I do not know if it was 20 people or 30 who were non-lawyers for the most part—a few were lawyers—who were basically the victims' contacts. And it did not mean the prosecutors were not working with the victims. They were. But it actually saved a lot of their time so they could actually do the cases.

Now, these were all felony-level cases, so we were able to do it that way. And to me it saved money in the long term because the prosecutors could focus on the cases and keeping up with their casework, and the victims' rights advocates handled a number of victims for teams of attorneys.

Ms. GARVIN. So that model within a prosecutor's office is a great model. It allows the prosecutor to do the prosecution. It allows the victim advocate within a system to help navigate for the victims. But the complementary model is to also have community-based legal advocacy and advocates out there that can liaison with the prosecutor's office and independently protect victims' rights. And it saves money all around to have all of those because of the long-term care aspects that have been talked about. If we give victims wrap-around services in the criminal justice system, good prosecution, good prosecution-based victim advocates, and community-based legal services and advocacy, we help reduce the trauma that they experience going through the system.

Senator KLOBUCHAR. We did kind of a common—I mean, the domestic victims had their own people with the Domestic Service Center, and then we had the property team which actually was community based. They handled things by area, and so they had people that dealt with it that way. Then the rest were in specialty areas of types of crime. But I just found it to be incredibly helpful. It was more than just holding hands. I mean, it was actually helping to get the cases running and make sure the victims were there on time.

I still remember talking to one of our victim advocates, and she had a white-collar case, and it was a case where—it was a widow, and her husband had been ripped off by some guy that went and took all their money and went to Costa Rica and got a facelift. And I remember saying to her, “Well, at least you are not dealing with the murder case they got down the hall.” And she goes, “Are you kidding?” This woman had basically threatened to kill the perpetrator in the facelift case. And it reminded me that for victims of crime every case is important and that people need someone by their side to calm them down and also to make sure the criminal justice system is fair.

Anyway, I want to thank you. What law firm did you work with in Minnesota?

Ms. GARVIN. Maslon Edelman.

Senator KLOBUCHAR. See, you cannot lie because you are on the record.

Ms. GARVIN. I know.

[Laughter.]

Ms. GARVIN. A great law firm.

Senator KLOBUCHAR. This is how I get my little curious things I have. I just ask them on the record so that it will be there forever. But I have a lot of friends there.

Anyway, I want to thank all of you. As you can see, we have a lot of work to do. I think you see a Committee that is devoted to victims' rights here. Certainly Chairman Leahy is, and a lot of former prosecutors on our Committee that understand how this works and how important it is, and we will continue to advocate for you as we deal not only with the budget but with the VAWA reauthorization and other bills that we have going forward.

So thank you so much. So much of the work you do is in the trenches. People never know the hard decisions that victims' rights advocates have to make and the wrenching stories that they have to hear, and then they have got to go home and, you know, be with

their families and smile and pretend everything was OK during the day when it really was not. So I just want to thank you for the work that you are doing in the justice system and the help that you give people.

So, with that, we are going to keep the record open—oh, I lost Chairman Leahy's gavel. Hold on.

[Laughter.]

Senator KLOBUCHAR. All right. We will keep the record open for further testimony or anything people want to put on the record from the Committee, and thank you.

With that, the hearing is adjourned.

[Whereupon, at 11:30 a.m., the Committee was adjourned.]

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

QUESTIONS AND ANSWERS

Senator Jon Kyl

UNITED STATES SENATE COMMITTEE ON THE JUDICIARY

Fulfilling Our Commitment to Support Victims of Crime

13 April 2011

Questions for Kent Burbank of the Pima County Attorney's Office

- 1. In your testimony you stated that "Nationally, most of the newly founded legal clinics for victims are in crisis. Since 2004, when Congress passed the Crime Victims' Rights Act, which enumerated rights for victims of federal crimes and included funding for the enforcement of these new rights, 11 legal clinics opened across the country. Despite their successes, virtually all of the clinics will be closed by the end of this year without further action by Congress to support their work. This is a tragic loss for victims." Please expand on your view of the importance of the continuation of NCVLI and its clinics, including Arizona Voice for Crime Victims.**

Pima County Attorney's Office Response:

Since its founding in 1997, the National Crime Victim Law Institute has been instrumental in helping advance the rights of victims of crime. With strong bipartisan support, the Institute has enjoyed many successes and advances, most notably through its 2003 demonstration project in conjunction with the Department of Justice, Office for Victims of Crime (OVC). Through this demonstration project and with funding from the Crime Victims Rights Act (as part of the Justice for All Act of 2004), the Institute helped establish around the country a number of pro-bono legal clinics to advocate on behalf of crime victims' rights. This work was made possible because of the vision and leadership of Senator Kyl along with Senator Feinstein.

Since 2003, eleven pro-bono legal clinics opened in Arizona, California, Colorado, Idaho, Maryland, New Jersey, New York, Oregon, South Carolina, Utah, and Washington D.C. Unfortunately, the clinic in California has already been forced to close its doors and the other ten will likely do so by the end of the year. These clinics provide invaluable support to victims by helping to defend and enforce victims' rights statutes at the state and federal levels and by helping establish case law that clarifies and upholds these rights within the criminal justice system. Without a set of constitutional rights guaranteed

under the U.S. Constitution, victims are left with a patchwork of protection that vary across states. Not only do these rights vary greatly, but also the enforcement of these laws differs across jurisdictions. Often victims must rely solely on overworked and overburden prosecutorial offices to defend their rights before reluctant or skeptical judges. While many prosecutors and prosecutorial agencies defend these rights vigorously, others fall short, and there is no mechanism to guarantee full and equal protection for all victims. Consequently, there is a critical need for independent, nonprofit pro-bono legal clinics to ensure that victims' rights guaranteed in state constitutions and statutes are upheld and enforced uniformly and fairly.

Arizona Voice for Crime Victims (AVCV) is the only agency of its kind in Arizona that provides crime victims with free legal services and ancillary social services. AVCV has a proven record of providing prosecutors the referral point they need to aid victims in asserting their rights in the criminal justice system. AVCV has successfully litigated cases on behalf of victims through the state and federal courts and in the process has been able to establish case law that has helped victims and prosecutors.

Steve Twist, President of the AVCV Board of Directors and one of the leading national advocates for victims' rights, says that "without additional funding hundreds of victims and the criminal justice system in general will go without this very valuable assistance. We have seen how having a victims rights' attorney can advance the cause of justice for all victims. It is our strong request that funding for AVCV and all the legal clinics be continued." We join Mr. Twist in imploring the U.S. Congress to act swiftly to provide the much needed funding before it is too late.

- 2. Your resources are stretched thin. In your testimony, you comment that "This is precisely the time when the federal government should be increasing funding to victims and victim service organizations by raising the VOCA cap. VOCA funds come entirely from fines, fees and other assessments on criminals, not from tax dollars. Increasing this cap would immediately result in more funds flowing to victim service organizations and victims throughout the nation. This is not only the compassionate and right thing to do, but it also makes financial sense. If funds from criminal activity are not allocated to these victims' needs, state and local communities will likely pay the costs through higher unemployment claims, Medicare or Medicaid costs, and community mental health services." If the VOCA cap were raised, how would it help you deal with the aftermath of the Tucson tragedies and the rest of the work that you have to do?**

Pima County Attorney's Office Response:

Raising the VOCA cap would increase the federal allocation of VOCA funds to each state, including Arizona. In Arizona, these funds are then distributed through a competitive process administered by the Arizona Department of Public Safety (DPS). Historically, these funds have been fairly evenly distributed across the state based on local community needs and demands for services. The funds help both governmental as well as non-profit victim service agencies.

The Pima County Attorney's Office was fortunate to receive an Anti-Terrorism and Emergency Assistance grant, from special VOCA set aside funding, that will allow us to meet the needs of the January 8th shooting victims. Thus, fortunately, many of these victims' needs will be met even if the VOCA cap is not raised. However, raising the VOCA cap would help these January 8th shooting victims in other ways. For example, in addition to the services offered by advocates in our office, there is a nonprofit organization, Homicide Survivors, that provides invaluable peer support to homicide victims through support groups and other types of services. Homicide Survivors, like many small nonprofit victim-service agencies, struggles to maintain adequate staff support during these difficult economic times. Meeting the needs of January 8th homicide victims and their families has put an additional strain on its limited resources. Thus, raising the VOCA cap would likely increase the amount of funds that are available to aid the efforts of Homicide Survivors, ensuring that the January 8th shooting victims get the support that they need.

In the current fiscal year, the Pima County Attorney's Office receives about \$125,000 in regular VOCA funding and an additional \$40,000 in American Recovery and Reinvestment Act (ARRA) VOCA funding. The ARRA VOCA funding, which we received in 2009, enabled us to prevent laying off an advocate during the downturn in the economy and thus was critical to our ability to continue to provide the necessary level of victim services. However, the ARRA VOCA funding ends in September of this year. Other Arizona agencies also received ARRA VOCA funds to help maintain their victim services during the recession. Unfortunately, the economic prospects of most agencies have not improved dramatically as the economy remains stagnant. Raising the VOCA cap would help ensure that the County Attorney's Office and other agencies would be able to prevent layoffs and continue to provide these critically needed services to victims.

The Pima County Attorney's Office relies on our community partner agencies to help meet victims' needs. For example, when we work with domestic violence victims, either on-scene at the request of law enforcement or in the courts, we often encounter victims who need shelter. To assist these victims, we depend on our local domestic violence agency, but because it has had to lay off staff and reduce its beds, it is often unable to

assist us. This means that we must struggle to find some way to keep these victims safe. When victims' basic needs go unmet, it is difficult or impossible for them to actively participate in the criminal justice process. Without victim participation, our ability to hold defendants accountable is endangered, which ultimately is a threat to public safety; it puts our entire society at greater risk and danger.

The current needs of crime victims far outstrip the present ability of local governmental and nonprofit agencies to adequately meet them. Thus, we beseech Congress to act quickly to raise the VOCA cap to help alleviate this crisis until the economic recovery fully takes hold across the nation.

Answers to Senator Jon Kyl Questions
Submitted by Meg Garvin, MA, JD following
United States Senate Committee on the Judiciary
April 13, 2011 Hearing on
Fulfilling Our Commitment to Support Victims of Crime

1. What are the goals of NVCLI and its clinics? How are those goals being met? What independent analysis has there been of their performance?

In 2004, with funding from the Office for Victims of Crime, the National Crime Victim Law Institute (NCVLI) launched its Network of Victims' Rights Enforcement Clinics. The goal of NCVLI and its Network was (and is) to help ensure that the rights afforded to crime victims by law (whether those rights be in the federal Crime Victims' Rights Act (CVRA), 18 U.S.C. § 3771, or the myriad of state constitutional and statutory provisions) will be meaningful rights. This need for this effort was well articulated by Senator Feinstein, one of your co-sponsors of the CVRA, who noted, "the scales of justice are out of balance – while criminal defendants have an array of rights under the law, crime victims have few meaningful rights. In case after case we found victims, and their families, were ignored, cast aside, and treated as non-participants in a critical event in their lives". 150 CONG. REC. S4262 (April 22, 2004) (statement of Senator Feinstein). To achieve this goal NCVLI designed the Network to provide free, expert legal and support services to crime victims as they asserted their rights and sought enforcement of those rights in the criminal cases involving their offender. The idea of providing legal assistance to ensure meaningful rights was not a novel one. As I noted in my prior testimony, the United States Supreme Court has recognized the important role attorneys play when it comes to protecting individual rights. *See Powell v. State*, 287 U.S. 45, 68-69 (1932) ("The right to be heard would be, in many cases, of little avail if it did not comprehend the right to be heard by counsel. Even the intelligent and educated layman has small and sometimes no skill in the science of law . . . He is unfamiliar with the rules of evidence . . . He lacks both the skill and knowledge adequately to prepare his defense, even though he have [sic] a perfect one. He requires the guiding hand of counsel at every step in the proceedings.")

Since 2004, NCVLI has successfully launched and overseen 12 pro bono victims' rights clinics.¹ Since its launch, this Network has provided legal representation to more than 4,000 victims; filed more than 2,300 pleadings in courts on behalf of those victims; and supplied more than 100,000 hours of attorney time on behalf of crime victims. When looking at a snapshot of just the 12 months of calendar year 2010 more than 1,000 victims were directly represented by free attorneys (representation that included more than 20,000 hours of attorney time and more than 8,000 hours of pro bono attorney and law student time, and which resulted in more than 500

¹ The Network began with 5 Clinics in 2004, grew to 8 in 2005, and grew to 12 in 2009. In 2009-2010 the Clinics in operation were located in AZ, CA, CO, DC, ID, MD, NJ, NM, NY, OR, SC, & UT. In part because funding has been precarious, the California Clinic decided to close in August 2010. Today the remaining 11 Clinics are operating in the Network.

pleadings being filed to protect rights). To complement this direct service component of the Network, since 2004, NCVLI has provided intensive technical assistance in the form of in-depth legal research and writing in more than 500 victims' rights matters, trained more than 7,300 people on rights enforcement, and filed more than 50 amicus curiae briefs to help the courts of the country understand victims' rights. In addition, NCVLI has worked to build pro bono support for victims through its National Alliance of Victims' Rights Attorneys (NAVRA), which is a membership alliance of more than 918 attorneys, advocates, and students who work to protect victims' rights.

The legal work of NCVLI and its Network has had tremendous impact, which has been noted by this country's courts and by independent analysis of the Network itself. As one federal appellate court said (only after one of NCVLI's Clinics, Arizona Voice for Crime Victims, litigated on behalf of the victim), the CVRA is changing the modern criminal justice system's assumption "that crime victims should behave like good Victorian children—seen but not heard," and with these rights and their enforcement, victims are to be "full participants in the criminal justice system." *Kenna v. U.S. Dist. Court*, 435 F.3d 1011, 1013 (9th Cir. 2006). In the August 29, 2009, National Institute of Justice report, *Finally Getting Victims Their Due: A Process Evaluation of the NCVLI Victims' Rights Clinics Executive Summary*, an independent analysis of NCVLI's Network stated "the state clinics are on the road to fulfilling the intentions of their architects and funders. All of the Clinics have pushed the envelope of victims' rights in their state courts. Some have won significant victories in gaining standing for victims and expanding the definition of particular rights. Others are enjoined in the battle. But all have raised awareness of victims' rights with prosecutors, judges, defense attorneys, and police officials." In short, NCVLI and its Network of legal Clinics are achieving the goal of making victims' rights meaningful through provision of free legal and support services for victims.

2. Why are the clinics closing? What will be the consequence?

As was noted in testimony, all 11 Clinics in NCVLI's Network are slated to close this calendar year. The consequences of these closures are significant for crime victims nationwide. As of March 31, 2011, NCVLI's Clinical Network had 235 open criminal cases in which lawyers are providing legal services to victims and NCVLI is helping on nearly 50 additional cases nationwide. With Clinic closures the victims in these cases will be without legal counsel, which means they will be left without independent champions of their rights. Further, because the threat of closure is imminent, even as I write this, most Clinics are unable to take any additional cases due to legal ethics which would preclude them from starting representation that they will not be able to continue. Together what all of this means is that despite the promise of the CVRA to make rights meaningful, victims in this country will once again have their rights left to the discretion of others and will be at risk of being "ignored, cast aside, and treated as non-participants in a critical event in their lives". One example out of the 235 open cases – is the case of *U.S. v. Loughner* in which Jared Loughner is charged with shooting at dozens of individuals in Tucson, Arizona at a grocery store parking lot during a political meet and greet for Representative Gabrielle Giffords. Six people were killed and 13 physically injured. The defendant has been indicted on 49 charges including murder, attempted murder, and willful injury. Arizona Voice for Crime Victims, one of NCVLI's legal Clinics, is representing of one

of the victims in the case who was shot and injured during this attack. Because of threatened closure of the Clinic, this victim will be without counsel. Other victims, including victims of interstate stalking, domestic violence, child-sexual assault, homicide, and fraud, are all similarly facing the reality of being without counsel.

Put most simply - the “why” of the closures is lack of funding. In 2004, when the CVRA was first passed it authorized funding for “the support of organizations that provide legal counsel and support services for victims in criminal cases for the enforcement of crime victims’ rights.” Initially, the authorization was for \$7,000,000 for the first year of the CVRA and \$11,000,000 for each of four years thereafter. Upon the re-authorization of the CVRA, this category of authorized funding was established at \$11 million for each fiscal year 2010-2013. Not once has the full amount of funding authorized been appropriated, and in fact only three times has an appropriation issued. The last federal appropriation to support the Network came in 2008. In that year, the Senate Appropriations CJS Subcommittee Report, regarding funding for Title I of the Justice for All Act (Pub. L. No. 108-405) provided “The Committee recommends \$5,000,000 to the National Crime Victim Law Institute for its administration and operation and for its clinic organizations that provide legal counsel and support services for victims in criminal cases for the enforcement of crime victims’ rights and other services”; the final House Rules Committee Explanatory Statement for funding of Title I of the Justice for All Act (Pub. L. No. 108-405) included \$4,465,000 for the National Crime Victim Law Institute. All told only \$7,822,611 in appropriated funds have reached NCVLI to protect victims’ rights in the last almost 7 years since passage of the CVRA.²

Notably, NCVLI has not relied solely on appropriations to try to keep the Network operational. We actively pursue (and have received) federal grant funding through the Office for Victims of Crime (OVC), the Office on Violence Against Women (OVW), the Bureau of Justice Assistance (BJA), as well as private funding streams, and we have succeeded in securing funding from OVC for the Network. 42 U.S.C.A. § 10603(c)(A), part of VOCA, authorizes the Director of OVC to fund grants “for demonstration projects, program evaluation, compliance efforts, and training and technical assistance services to eligible crime victim assistance programs.” Funding from OVC over the years has been, in part, through this funding stream, but a narrow interpretation of the scope of the term “compliance” as not including victims’ rights legal work may be impeding future grant funding for the Network. Each Clinic has also sought state VOCA dollars to support its efforts but these funding streams have been modest at best. Further, efforts to secure private foundation support for the Network by NCVLI have not proven fruitful, in part because the idea of victims having attorneys is still relatively novel and in part because the economic downturn has caused significant decreases in private giving, which in turn makes funding of “new” ideas challenging.

² This funding total stands in stark contrast to funding for protection of other individual’s rights. The American Bar Association has noted that for just FY 2011: “The federal judiciary’s FY 2011 proposed budget included a request for \$1.082 billion for indigent defense services.” See http://www.americanbar.org/advocacy/governmental_legislative_work/priorities_policy/criminal_justice_system_improvements_protection_of_rights/indigent_defense_services.html.

In short, it is because there is not a dedicated funding stream for the rights enforcement efforts of the Network that the Clinics are slated to close and victims will be without representation once again.

3. **In your testimony, you stated that “since the passage of the CVRA only approximately \$10 million has issued to fund the promise made to crime victims that they would no longer be viewed as interlopers in the system but would instead be participants with enforceable rights. Perhaps most importantly, as of today, no funding is slated to continue this effort.” Please discuss the need to increase the VOCA cap.**

Since 1984, the Victims of Crime Act fund (VOCA), which is not financed by taxpayer dollars but instead by fines, forfeitures, and other penalties paid by federal criminal offenders, has supported victim services. By statute, VOCA is dedicated solely to supporting victim services. The balance in the Fund continues to grow each year, yet release of funds to the field has not kept pace with victim need, nor with the evolution of services (such as legal rights enforcement services) to support victims. As noted above, a few of the Clinics in the Network have secured funding for legal services for victims but that funding has been minimal, in part because this seemingly “new” service is not prioritized when other services that have existed for years are also in dire funding situations. With the increased need for funding, and the ample balance in the Fund, now is the time to raise the cap on the Crime Victims Fund and release additional money for the purpose for which it was collected – victim services. There are more than sufficient dollars in the fund to release more to ensure victims have adequate services, including legal services for rights enforcement. Without an increase in the VOCA cap insufficient funding will make it out to the field in general and the funding for victims’ rights work will be essentially nonexistent. The true result of this will be that the gains made to make victims’ rights meaningful through the enforcement efforts of the Network over the last nearly seven years will be lost and the promise to crime victims by the CVRA will be broken.

**Questions for the Record for
Mary Lou Leary
Principal Deputy Assistant Attorney General
Office of Justice Programs**

**Committee on the Judiciary
United States Senate**

**“Fulfilling our Commitment to Support Victims of Crime”
April 13, 2011**

Questions from Senator Charles Grassley, Ranking Minority Member

1. Does the Vision 21 Initiative currently include a comprehensive review of OJP’s policy and procedures in administering the grant programs? If not, why not? Will you add such a review to the Vision 21 Initiative? If not, why not?

Answer: *Vision 21: Transforming Victim Services* is a programmatic, strategic planning effort of the Office for Victims of Crime (OVC) within the Office of Justice Programs (OJP). The goal is to examine the current status of the victim services field, assess existing efforts to address enduring and emerging challenges, support targeted efforts to continue promising practices, and determine the most efficient and effective approach to funding victim services in the future. The effort involves an extensive review of current literature and the convening of stakeholder forums to elicit information from the field. A final report will provide a strategy for victim services in the next decade. As an OVC strategic planning effort, Vision 21 does not address issues related to OJP’s administration of grants.

However, proper grants management is one of OJP’s highest priorities. In Fiscal Year (FY) 2011, OJP awarded more than \$2.1 billion over 3,500 grants nationwide. OJP has a responsibility to ensure the grant process is transparent and fair and that we manage the grants system in a manner that avoids waste, fraud, and abuse. OJP continually reviews procedures and internal controls to find ways to improve grants management.

In the past few years, OJP has made progress in effective grants management. OJP’s efforts have been highlighted in the DOJ’s Office of the Inspector General’s (OIG) recent “*Semiannual Report to Congress: October 1, 2010 – March 31, 2011*” as well as its March 2011 report entitled, “*Audit of The Office of Justice Programs’ Monitoring and Oversight of Recovery Act and Non-Recovery Act Grants.*” These reports describe many of the significant improvements in OJP’s monitoring and oversight of grants, stating that “Since the establishment of OAAM [the Office of Audit, Assessment, and Management], OJP has made a significant commitment to improving the monitoring and oversight of grants.” These reports also acknowledge the collaborative relationship that has developed between OJP and the OIG in addressing grant management challenges. OJP’s

improvements have also recently been highlighted in a National Aeronautical and Space Administration (NASA) OIG audit on NASA's grants administration and management. In addition, during an oversight hearing on the Department of Housing and Urban Development, the House Committee on Financial Services pointed to OJP as a model for accountability, transparency, and project management on the Correctional Facilities in Tribal Lands program.

OJP is also an active participant in the Grant Challenges Workgroup, convened by the Deputy Associate Attorney General in January 2010, to develop consistent grants management practices and procedures across DOJ's primary grant making components (this includes OJP, the Office on Violence Against Women (OVW) and the Office of Community Oriented Policing Services (COPS Office)). The policies and procedures developed by that group apply to all OJP, OVW, and COPS Office grants, including cooperative agreements funded through Vision 21. One effort undertaken by the workgroup has been the development of policies and procedures on managing high risk grantees, ensuring that all DOJ grant making entities are consistent in their management of high risk grantees. Grantees identified as high risk are subject to increased monitoring and oversight.

2. Over the past ten years, only 19 victim-assistance grant recipients have been audited by the DOJ IG's office. Of those 19 recipients, the IG's office questioned costs with 15 of the recipients, a loss totaling over \$8.2 million. Does the Vision 21 Initiative include identifying weaknesses in the administration of grants that grantees and sub-grantees have used to misuse or misappropriate grant funds? If not, why not? Will you add such a review?

Answer: Vision 21 is a strategic planning effort and does not address grants administration. However, OJP has undertaken the following efforts to ensure that grantees and sub-grantees do not misuse or misappropriate grant funds:

- In FY 2009, OJP implemented its high risk grantee designation program, which served as a model for the DOJ-wide high-risk program established in FY 2011.
- OJP bureaus and program offices and its Office of the Chief Financial Officer (OCFO) are using tools to systematically assess risk associated with grants and grantees to prioritize monitoring activities.
- OJP has consistently exceeded its statutory requirement to conduct comprehensive monitoring of not less than 10% of total award dollars. In FY 2011, OJP monitored more than twice the award amount required by law.
- In FY 2011, OJP, the COPS Office and OVW developed a DOJ-coordinated monitoring plan to allow for maximum joint site visits, which enhances

monitoring effectiveness; achieves cost efficiencies; and reduces burden on grantees.

Since FY 2009, more than 600 OJP employees have participated in training on detecting and preventing grant fraud. In December 2011, OJP launched an on-line financial management-training tool for all DOJ grantees and grant management staff.

3. Does the Vision 21 Initiative include identifying practices and procedures which would allow OJP to more quickly identify those grantees which are underperforming from the stated goals the grantee used to obtain the funding? If not, will you add such a review of OJP internal procedures?

Answer: Grant administration and oversight is outside the purview of the Vision 21 effort.

OJP's grant monitoring and oversight is an integrated process of programmatic, financial, and administrative management that occurs throughout the grant lifecycle from the award through the closeout of the grant. There are at least three layers of oversight conducted at OJP - by the awarding agency, the OCFO, and OAAM. OJP's grant monitoring and oversight is an integrated process of programmatic, financial, and administrative management that occurs throughout the grant lifecycle from the award through the closeout of the grant. OJP has consistently exceeded its statutory requirement to conduct comprehensive monitoring of not less than 10% of total award dollars, as set forth in Public Law 109-162, "The Violence Against Women and Department of Justice Reauthorization Act of 2005."

Programmatic monitoring of the content and substance of grant programs is accomplished by conducting desk reviews and on-site visits and engaging in substantive grantee interaction. Each year, OJP bureaus and program offices assess risk and performance factors associated with their grant programs to determine which grants are most in need of on-site monitoring and plan on-site visit activities accordingly. Throughout the year, OJP grant managers conduct on-site monitoring visits to assess grantee performance and compliance with programmatic and Federal grant administration requirements. In addition to on-site monitoring, OJP grant managers conduct annual desk reviews of active awards.

In addition to programmatic monitoring, OCFO conducts financial monitoring of OJP awards and grants issued by the COPS Office and OVW. The objectives of these financial monitoring reviews are to ensure grantee compliance with financial guidelines and general accounting practices, and to ensure proper fiscal management of grant expenditures.

4. Once the Initiative identifies those practices which best serve victims, will the Initiative also include a comparison of fiscal performance of those grantees which provide best practices? This would permit OJP to learn and then share those methods which would allow grantees to maximize the assistance they are able to provide. Additionally, this would also permit OJP to be able to more closely tailor grant amounts to match the victims serve, thereby reducing the opportunity for waste. If not, will you add such a study?

Answer: The majority of VOCA funding is awarded to the states through formula grants and is not administered or directly monitored by OVC at the direct service provider level. OVC monitors the states' administration of this funding. OVC does administer a small amount of discretionary funding that addresses gaps identified in training, technical assistance, and demonstration projects in the overall victims' field. Among other goals, Vision 21 aims to obtain greater input from stakeholders in the field concerning gaps and priorities. If Vision 21 eventually includes recommendations regarding broad grant administration policy, the Department of Justice would work closely with Congress before making such changes.

Question from Senator Jon Kyl

5. How much do clinics receive from the Crime Victims' Fund? Why don't clinics receive more?

Answer: Currently, nine victim legal clinics receive funding from the Crime Victims Fund (CVF) under the Victims of Crime Act through a discretionary grant to the National Crime Victim Law Institute (NCVLI) from the Office for Victims of Crime (OVC). In Fiscal Year (FY) 2010, OVC competitively awarded a cooperative agreement in the amount of \$800,000 to NCVLI under the *Enforcing Victims' Rights: Direct Representation Through Legal Clinics* solicitation. Of this award amount, \$600,000 supports nine clinics. (These clinics, as well as two others, also receive funding under a FY 2009 Byrne Recovery Act grant).

In June 2010, OVC issued policy guidance to state VOCA administrators clarifying that VOCA victim assistance formula funding can support legal clinics as long as the clinics have a victim focus and the services offered relate to the victimization (and do not include civil restitution efforts or divorce). Currently, it appears that only three of the clinic organizations receive VOCA funding from the state to support the legal clinic's work. They are: Arizona Voice for Crime Victims; the DWI Resource Center (New Mexico Victims' Rights Project); and the Utah Crime Victims Legal Clinic. In 2010, these organizations received amounts up to \$119,520 from their respective states to support their victim legal clinics. NCVLI reports that it costs approximately \$250,000 to operate a legal clinic for one year. This is, however, the funding required for a fairly lean operation – not one that is able to serve all the victims in the jurisdiction who are in need of legal services. State VOCA administrators report that they largely are unable to support new projects of any kind, including legal clinics, due to severe state budget

shortfalls. They indicate that states are cutting back on their state funds to support crime victims and relying even more heavily on VOCA and VAWA funding.

It is interesting to note that the New Jersey Crime Victims' Law Center received a grant under the Recovery Act for its legal clinic work. When provided with an additional stream of funding in FY 2009, the New Jersey VOCA agency provided funding in the amount of \$50,141 to support the New Jersey clinic.

Under VOCA, OVC's discretionary funding is directed to two purpose areas: (1) services and support for federal crime victims, including American Indian and Alaska Native victims; and (2) national-scope training, technical assistance, and demonstration projects. In 2002, OVC awarded NCVLI a VOCA discretionary grant for a multiyear clinic demonstration project to develop models for providing direct legal services to crime victims in criminal proceedings. At the conclusion of the NCVLI, or any other demonstration project, it is highly problematic for OVC to continue funding direct, operational services as are provided by the clinics. To do so would raise a question as to why OVC is not funding other national organizations to provide or support direct assistance for non-federal victims. In the case of the legal clinics it also would raise the question of why OVC would fund local services more appropriately supported through state formula funding. NCVLI and the legal clinic network are not national in scope – the legal clinics exist in only 11 states. To truly be national in scope, there would have to be a legal clinic in all 50 states and establishment of a legal clinic in every state would require significant resources. OVC currently is exploring how to competitively provide national-scope training and technical assistance for all types of pro bono legal assistance to crime victims.

The Department of Justice recognizes that, unlike in 1984 when VOCA was enacted, there are critical victim needs that national organizations can more effectively address. This could apply to NCVLI's efforts as well as other national efforts.

In 2004, the Crime Victims' Rights Act (CVRA) authorized funding to support legal counsel and support services, provided by legal clinics, for victims in criminal cases (see 42 U.S.C § 10603d). To date, the only funding appropriated for direct legal representation under this CVRA provision has been congressionally-directed (non-VOCA) funding to NCVLI in FY 2006 and FY 2008.

SUBMISSIONS FOR THE RECORD

Testimony of Kent Burbank
Director, Victim Services Division
Pima County Attorney's Office
Tucson, Arizona

Before the Committee on the Judiciary
United States Senate

On "Fulfilling Our Commitment to Support Victims of Crime"

April 13, 2011 at 10 am

Good morning, Mr. Chairman and honorable Senators. My name is Kent Burbank. I am the Director of the Victim Services Division of the Pima County Attorney's Office in Tucson, Arizona.

Thank you for giving me the opportunity to speak to you today during National Victims' Rights Week about the importance of fulfilling our nation's commitment to adequately support victims of crime. Thirty years ago, in April 1981, President Reagan proclaimed the first National Victims' Rights Week, so it is apt that this year's theme is "Honoring the Past, Reshaping the Future." It is important that we reflect both on the accomplishments of those who struggled to make today's reforms a reality, and also on the work ahead of us to ensure that their legacy and their vision is fulfilled.

First, I would like to tell you more about the Victim Services Division ("Victim Services" or "The Division") of the Pima County Attorney's Office ("PCAO"). Victim Services responds to the needs of crime victims, witnesses, and their families by providing on-scene crisis intervention services as well as advocacy throughout the criminal justice process. In addition, Victim Services administers crime victim compensation. The Division has been providing outstanding and innovative services to crime victims since 1975. It was one of the first programs of its kind in the nation to assist victims and witnesses at the scene of the crime and it pioneered many of the intervention techniques now used worldwide. The Pima County Attorney's Office was also one of the first in the nation to see the need for dedicated advocacy services for victims throughout the criminal justice process.

When this program was created in the mid-1970s, there were few if any services for crime victims. Crime victims were treated the same as other witnesses. There were no on-scene crisis intervention services and few specialized community resources for these victims. In the criminal justice system, victims were afforded none of the basic rights we now take for granted, such as the right to be present in the courtroom for the duration of the trial and the right to confer with prosecution before a plea is offered. PCAO Victim Services broke new ground and helped pave the way for a series of decades-long improvements that have culminated in Arizona being one of the leaders in the nation in promoting and defending victims' rights and legal, financial and social assistance to crime victims.

Today, under the leadership of Pima County Attorney Barbara LaWall, the Division has **28 staff and more than 120 volunteers** who ensure that victims continue to receive the highest level of services possible. The Division has three main areas of work:

On-scene crisis intervention. At the request of law enforcement, we respond directly to the scene of the crime to work with the victim immediately, providing crisis intervention services. Staff and volunteer advocates provide this advocacy 24 hours a day, every day of the year. Our highly trained advocates are skilled at providing crisis intervention services to victims who have just experienced one of the most devastating and traumatic events in their lives and who are at their most vulnerable. Whether the crime is a homicide, sexual assault, domestic violence, or burglary, our goal is to address these victims' most pressing needs, help them begin to access their own coping skills, plan for their ongoing safety, connect them to community resources that they may need in the days and weeks to come, and put them on the road to recovery.

Criminal justice system and court advocacy. All victims in felony cases and many misdemeanor cases are assigned a specific advocate in our office who will walk side-by-side with them throughout the criminal justice process from the moment of arraignment through sentencing and even appeals. The criminal justice system is often overwhelming to victims and makes victims feel as if they have entered a foreign land where the customs and language are unknown and unfamiliar. Victim advocates are the critical guides who help victims navigate this new territory. The job of these advocates is to help meet the social, financial and legal needs of the victims. Advocates provide crime victims with emotional support, inform them about their victims' rights, connect them with community services, assist them in applying for crime victim compensation and restitution, ensure that the prosecutor is aware of any concerns or issues they may have, and accompany the victims to hearings, trial, and sentencing of the defendant.

Crime Victim Compensation. In Arizona, the crime victim fund is decentralized and administered at the county level by each county attorney's office. Thus, our Division is responsible for ensuring that crime victims in Pima County have knowledge about and access to these funds to assist them on their road to recovery. Our staff administers and oversees the funds, while award decisions are made by a community board made up of local volunteers. This program provides limited financial support to victims of crime. It is a fund of last resort after other sources have been exhausted and covers certain expenses such as medical costs, counseling, loss of wages, funeral expenses and crime scene clean-up.

Our programs serve victims from any type of crime, such as homicide, sexual assault, assault, domestic violence, stalking, child abuse, robbery, theft, burglary, home invasion, DUI, etc. On-scene, we also serve some non-crime victims in crisis, including survivors of expected deaths and suicides. In 2010, the Victim Services Division served 7,967 crime victims as well as 1,129 other community members in crisis, providing them with more than 37,000 services, such as crisis intervention, emotional support, criminal justice system information, court accompaniment, assistance with orders of protection, and information about victim compensation and restitution.

As the population of Pima County has grown to approximately one million residents and has expanded farther from the center of Tucson, the need for Victim Services has continued to

increase and change. The ability to reach victims who live on the outskirts of Tucson or in the rural communities became increasingly difficult. Additionally, the municipal courts and prosecutors' offices in the smaller outlying municipalities, such as Oro Valley, Marana and Sahuarita, were unable to afford to provide victim advocacy. In response, through a federal grant administered under the Violence Against Women Act ("VAWA"), the Pima County Attorney's Office developed a rural victim services program, opening three satellite offices to better serve the needs of victims in these outlying communities. We have employees in each of these communities who have developed their own pools of dedicated local volunteers to provide advocacy services to victims both on-scene and in the courts.

As a leader in the development of crisis intervention services to victims, our advocates also have significant experience in responding to large scale incidents of terrorism and mass casualties. Our Victim Services staff and volunteers have been called out to work with victims of natural disasters including hurricanes in Florida, and victims of terrorism including the Oklahoma City bombings and the September 11th attacks.

The Pima County Attorney's Office also leverages the skills of community volunteers. Since its inception, the Victim Services Division has trained community members to serve as crisis and court advocates. All staff and volunteer advocates go through extensive training in crisis intervention and criminal justice advocacy. These volunteers enable us to maintain 24-hour coverage in Tucson and surrounding communities. In 2010, the Victim Services Division trained and utilized 158 community volunteers to provide crisis and advocacy services to crime victims throughout Pima County. These volunteers donated approximately 33,000 hours last calendar year or an average of 200 hours per volunteer – at a value of approximately \$600,000 in donated services.

In addition to the donated volunteer labor, the Division's work is supported by County general funds as well as federal and state grants, including both direct and state pass-through funds allocated under the Victims of Crime Act ("VOCA") as well as VAWA. Without these funds, the services we offer would be drastically curtailed or even eliminated. The Pima County Attorney's Office has absorbed more than 10% in budget cuts over the past several years due to the downturn in the economy and a resulting reduction in the local tax base. Pima County Attorney Barbara LaWall has always prioritized Victim Services and has done everything in her ability to protect its resources and minimize the impact of any cuts. However, it likely will be impossible for her office to absorb any additional cuts without making reductions in critical personnel and services.

On January 8, 2011, the nation watched in horror as news of the shooting of Representative Gabrielle Giffords at her "Congress on the Corner" event unfolded. The havoc created by one man's senseless shootings left six people dead, 13 injured, over 100 witnesses in shock, and a community stunned.

Within less than one hour of the shootings, more than 35 Victim Services staff and volunteers were deployed to the crime scene and four hospitals where they worked with the victims, witnesses, and family members. A Victim Services volunteer advocate, Suzy Burros, had been at the shopping center when the shootings occurred and was able to immediately begin ministering to some of the

victims and survivors. She contacted an on-call staff advocate, who immediately dispatched staff and volunteer crisis advocates to the scene. In less than 30 minutes, a command center along with a team of advocates was established at the Safeway complex. As this team relayed to me the names of the victims who were being transported to four hospitals in Tucson, I deployed additional staff and volunteer advocates to those locations, and within minutes, a second command center was set up at University Medical Center.

I was at the crime scene along with Pima County Attorney Barbara LaWall for most of the day coordinating communication among the various agencies and ensuring that their advocates did what they were trained to do. Providing a rapid response to mass casualty events, such as this shooting, requires the ability to quickly deploy a large number trained personnel and then closely coordinate their efforts across the various deployment sites. Working as one team, with an established command structure and leaders, communication among the five sites was coordinated in an efficient manner to ensure that everyone knew exactly what was happening around town at all times, including as some victims later were transferred from outlying hospitals to University Medical Center.

The actions of the first Victim Services volunteer on-scene, Suzy Burros, were reported by the *New York Times*, in an article, *Following the Sirens, Ready to Help*, published on January 16, 2011. In part, the article said:

Ms. Burros followed a sheriff's car that day into the parking lot of Safeway, the same grocery store where she has shopped for 17 years. . . . As she stepped out of her car, someone said that lots of people had been shot. She was shaking as she rushed over. . . . Ms. Burros spent about an hour with a woman who had seen several of her friends who worked for Ms. Giffords get shot. The woman was shaking uncontrollably and screaming in grief. For Ms. Burros, this was not just another job — she lives only four blocks away. 'This was so close to home that I was having a hard time,' she said. 'But I wanted to help other people.' . . . 'I was there for people that were traumatized, and these were people that I knew,' Ms. Burros said. 'I just felt like I was there for somebody.'

At the scene, advocates provided crisis intervention service to victims, witnesses, and Safeway employees, while those who responded to the hospitals offered emotional support and resources to family, friends, and associates of the shooting victims. At times, they were called upon to deliver exceedingly difficult death notifications to the families of the murdered victims. Volunteer advocates also responded to Representative Giffords' office to work with community members affected by the tragic events.

Angela K. Robinson is the daughter of two of the January 8th shooting victims. Her mother, Mavy Stoddard, was shot but survived, while her father, Dorwan Stoddard, was shot and killed. Angela described how incredibly difficult the day of the shooting was for her and her family. She told how her sister raced to the scene of the shooting while talking on the phone with her Mom who was cradling her Dad as he lay dying on her lap. She detailed how difficult it was for her son, who arrived at the hospital a few minutes later to meet them, only to find his grandmother covered in blood, having been shot five times. Angela told me that "Victim [Services] provided

the trauma counselor to guide my precious loved ones not only thru grief and loss, but extreme violent trauma! Without this service, the wounds to all the countless victims of this vicious crime would be wading through anger and pain. Victim [Services] has allowed and supported us survivors in Tucson, and the Nation, to be able to pursue only good out of this degrading, senseless, selfish crime.”

In the days immediately following the shootings, a team of Victim Services volunteers called more than 120 witnesses to follow up with them. Pima County Attorney Barbara LaWall and several staff advocates, along with the FBI and the Pima County Sheriff's Department met with victims' families at their homes. The Victim Compensation unit of the Victim Services Division sent applications to all victims and witnesses and will process all applications submitted. Since then, our victim advocates have been working hand-in-hand with advocates from the FBI and the U.S. Attorney's Office, providing ongoing assistance to the victims with a myriad of needs. We will continue to work with survivors and next of kin of shooting victims as the long court process unfolds.

One of the shooting victim survivors, Suzi Hileman, who accompanied 9-year old Christina Green who was killed at the Congress on Your Corner event, said “I could not have managed to sit in the arraignment without Victim Services. You protected us in subtle but meaningful ways. You anticipated my fears and my tears and you had people surrounding me, meeting me, cosseting me and handing me tissues the second I needed them. You answered my questions and told me the truth.... You are my touchstone in an otherwise unwieldy and overwhelming process. I couldn't have done it without you.”

The Pima County Attorney's Office is fortunate to have received an Antiterrorism and Emergency Assistance Program grant that will provide us with the necessary funds to adequately meet all of the needs of the January 8 tragedy victims over the next several years as the federal and state cases move through the courts. Without these special VOCA funds, our resources would have been strained to meet the needs.

County Attorney Barbara LaWall led the community to coordinate all the victim funds that were set up in the first days after the tragedy into a single fund operated by a community board. Her leadership was lauded by the *Arizona Daily Star* in an editorial on February 17, 2011, which stated, “Barbara LaWall led the effort to provide a safe, centralized and transparent way for donors to contribute.” While we are grateful for the outpouring of support from the local and national community because the victim needs in this case are so great, we are also aware that not all crimes receive this level of national attention; thus, VOCA crime victim assistance funds are vital to ensuring that all victims who struggle to pay medical and counseling bills due to their victimization receive the financial support they need.

The economic downturn and recession that we have experienced over the past few years has had a dramatic impact on victims and victim services in Arizona and across the nation. State and local governments have been particularly hard hit because of declining tax revenues.

At the national level, we know that the economic recession and reductions in funding have created a crisis for most, if not all, of the newly founded legal clinics for victims. Since 2004,

when Congress passed the Crime Victims' Rights Act, which enumerated rights for victims of federal crime and included funding for the enforcement of these new rights, 11 legal clinics opened across the country. In their few years of operation, these clinics have shown great success in promoting and defending victims' rights. Unfortunately, according to Steve Twist, a fellow Arizonan and one of the pioneers in the victims' rights field, virtually all of the clinics will be closed by the end of this year without further action by Congress to support their work. This would be a tragic loss for victims and a huge step backward in the movement to secure victims' rights for all.

In Arizona, income tax declines have hit the state hard, while sales and property tax decreases have taken a significant toll on city and county governments. This has resulted in a significant decrease in state and local funding for victim services. The most significant cuts have come from the state appropriations to the Arizona Department of Economic Security for victim services, which declined from \$7.9 million in fiscal year 2008 to \$4.6 million in fiscal year 2010. This nearly \$3.3 million cut (-42%) in funds has had a horrific impact on domestic violence services and shelters throughout the state. Thus, now more than ever, continued or increased federal funding for victim services and victim funds is vitally important.

Over the past year, victim service agencies in Arizona have closed their doors because of the economic downturn and insufficient funding to maintain their services. One of the agencies that went under was the Gila Family Advocacy Center (GFAC) that served the largely rural Gila County in the central part of Arizona. The GFAC was established in 2007 with a grant from the Governor's Office for Children, Youth and Families after two years of planning. GFAC was still in its infancy stage when the recession hit. Reductions in revenue, including the loss of critical domestic violence funding from the Arizona Department of Economic Security, resulted in the closure of GFAC in April 2010.

Throughout the state, other victim service organizations have suffered significant budget cuts that erode and threaten their ability to effectively assist victims. Many governmental agencies, such as municipal police departments and prosecutors' offices, have had to weather large budget reductions. Often, these agencies do not have a large number of victim advocates to begin with, so the loss of even one position can have a significant impact. For example, due to the downturn in the economy, the Phoenix Prosecutor's Office lost two caseworker positions since 2009. One of the positions handled a caseload of 980 victims a month, which subsequently had to be transferred to another caseworker, resulting in the number of victim contacts inevitably being reduced by half. The other position was responsible for providing services to victims at initial appearances, within 12 hours of a suspect's arrest. These early victim services were critical to ensuring victim safety and ongoing engagement with the prosecution, which ultimately leads to higher conviction rates and perpetrator accountability. The loss of this position weakens these services and increases the workload of an already overburdened staff.

In Tucson, the economic recession has placed tremendous stress on an already overburdened victim services community. The Pima County Attorney's Office works in close partnership with other victim service agencies in the community to ensure that victims' needs are met. Our partner agencies have experienced significantly-increased victim needs, while their services have been reduced due to funding cuts.

Tucson has one primary domestic violence agency that serves the entire metropolitan area of nearly one million people. Emerge! Center Against Domestic Abuse was the result of a merger of two smaller domestic violence shelters. Since 2009, Emerge! has lost 24% of its funding for shelter services from the Arizona Department of Economic Security. More cuts are likely under the newly passed state budget for fiscal year 2012. In total, Emerge! has suffered a reduction of over \$850,000 in its overall operating budget, which for the current fiscal year is \$4.2 million. As a result, it has had to eliminate 14 shelter beds (10%) and lay off 18 staff members, including four managers. It anticipates losing an additional three or four staff members this year. Concurrent with these reductions, Emerge! has seen an increase in demand for its services. The community's needs have simply outstripped its ability to meet the demand due to the lack of funding. As a result, victims in need of a safe place to stay and critical advocacy services are falling through the cracks. These enormous reductions in state support have made the federal VOCA funds that Emerge! receives (\$234,614) all the more critical. These VOCA funds pay for 4.14 full-time equivalent ("FTE") Case Coordinators, 1.34 FTE Child and Family Case Coordinators, and 0.68 FTE Volunteer Manager.

Sarah Jones, Executive Director of Emerge! Center Against Domestic Abuse, said "It is known that domestic violence increases threefold during times of economic crisis. Given the state of our economy, our shelter beds are full, our phone lines are ringing day and night, and we're turning away an average of 10-12 women a week. Without continued funding from all levels, we are fearful we won't be able to meet the safety needs of our most vulnerable community members."

The Pima County Attorney's Office also works closely with the Southern Arizona Center Against Sexual Assault (SACASA), which among other services, operates a 24 hour bilingual crisis hotline and hospital response for forensic exams for recent sexual assault victims. SACASA's \$1.46 million annual budget is made up of about 65% federal dollars, most of which come from VOCA and VAWA funds. SACASA has seen significant decreases in support from Pima County and the City of Tucson, which has impacted its ability to provide services. Montserrat Caballero, SACASA's Director, said "Federal cuts to victim services would be devastating to the agency. Programs would have to close and staff have their hours reduced or be let go. The needs of victims would go unmet."

Ms. Caballero summarizes the bleak situation by saying, "It cannot be overstated how much the economic downturn impacted victims of crime. State and local revenues have dwindled and many local resources are gone. Police departments are understaffed and unable to respond to the crime of sexual assault as a priority unless imminent danger is apparent." She goes on to note that cuts to the state's Medicaid program have negatively impacted the ability of some survivors to get the medications they need for conditions, such as depression and anxiety, that are a direct outcome from their victimization. Housing foreclosures and cuts to shelter and transitional housing resources have forced many sexual assault survivors to sleep in cars or couch-hop to find a place to sleep. Sometimes survivors are re-assaulted because of unsafe housing conditions.

Federal victim compensation and assistance funds are critical to ensuring that victims across our nation receive the support and assistance they need to recover from the trauma they have

suffered due to no fault of their own. President Reagan and members of Congress recognized this when they created VOCA in 1984. In April 1982, just before the 2nd Annual National Victims Rights Week, President Reagan said that "the plight of the innocent citizen victimized by lawlessness deserves immediate national attention.... Too often their pleas for justice have gone unheeded and their wounds – personal, emotional and financial – have gone unattended."

In Arizona in 2010, \$1.3 million in VOCA victim assistance funds supported 16 governmental victim service agencies, including the Pima County Attorney's Office, as well as 31 nonprofit victim service organizations. Collectively, these agencies served a total of 83,007 victims in 2010 providing them with over 869,090 services, including crisis intervention, shelter, counseling, criminal justice support, and court advocacy. Additionally, the Crime Victim Compensation Program provided direct financial support to 41,663 crime victims to help offset some of their medical expenses, mental health counseling, loss of income, and funeral costs in 2010. The Crime Victim Compensation Program's total 2010 budget of \$3.7 million was comprised of \$2.4 million in state funds and \$1.3 million in federal VOCA funds.

Federal funding is also vital to ensure that the crime victim services field remains strong and promotes the development and adoption of uniform best practices across the nation to ensure that all victims receive the highest level of services and that communities are fully prepared to handle any mass casualty or large scale incident that may occur. Of course, this is precisely the work that is being undertaken by the Justice Department, Office of Justice Programs' Office for Victims of Crime's Vision 21 Initiative. The Vision 21 Initiative is designed to help transform Victim Services for the 21st Century by analyzing the role of the crime victim field, building the field's capacity to serve crime victims, and addressing both the enduring and emerging challenges that face the field.

Moreover, at the local level, during these troubling economic times, communities need to be able to count on the continued support of federal victim compensation and victim assistance funds provided through VOCA and VAWA. As indicated earlier, crime victims are suffering greater needs and placing greater demands on already overburdened victim service agencies that have no choice but to scale back their programs and services due to funding cuts. Any reductions in federal support will cripple these organizations and likely result in many programs closing their doors, leaving victims with nowhere to turn. In fact, this is precisely the time when the federal government should be increasing funding to victims and victim service organizations.

The simplest and easiest way to do so is by increasing the VOCA cap. VOCA funds come entirely from fines, fees and other assessments on federal criminals and, thus, are not a burden on taxpaying citizens or a drain on tax revenues. Each year, the VOCA cap is set below the actual revenues that are generated from these federal crimes. Increasing this cap would immediately result in more funds flowing to victim service organizations and victims throughout the nation. This is the right, fair, and compassionate thing to do during these difficult and trying economic times. It also makes financial sense. If these funds from criminal activity do not go to support these pressing victim needs, state and local communities will likely end up paying for the costs in other indirect ways, such as higher unemployment claims, Medicare or Medicaid enrollments, community mental health services, etc. Rather than shift the burden onto other strained systems

and resources that rely on taxpayer funding, it would make sense to use the funds paid for by criminals to meet these unmet needs.

In Arizona we are fortunate to benefit from one of the most robust sets of Victims' Rights statutes in the nation. Enshrined in our Arizona Constitution in 1990 by the will of the voters, Arizona rights and protection for victims of crime have been further defined and expanded in subsequent years. Fortunately, many states have followed suit and we now have a patchwork of different laws and protections for victims across the nation. While this is certainly an advance over the days in which victims were left uninformed about proceedings, excluded from hearings and courtrooms, re-victimized by being subjected to interviews by their perpetrators, and denied the ability to confer with prosecution regarding critical case decisions, there is still much work to be done. For, even in a state like Arizona with strong protections, we often fail to fulfill all of our constitutional promises to victims, such as the promise of a speedy trial. At the federal level, while patchwork protections are in place, they are just that: incomplete and inconsistent coverage for victims across the nation. From one state and jurisdiction to another, the rights afforded to victims shift with the changing political winds. This leaves victims exposed and vulnerable.

It is crucial that we finish the work that President Reagan started when he identified these gaps in rights and services and created his President's Task Force on Victims of Crime in 1982. One of the Task Force's recommendations was the adoption of a federal constitutional amendment for victims' rights. Over the past couple of decades since state victims' rights statutes have been enacted, we have learned valuable and important lessons. We know that these rights make a real difference in the lives of victims and afford them a measure of fairness, dignity and respect in a system that is often confusing and overwhelming and that is not necessarily in concord with their needs and concerns. We also know that these rights do not interfere or trample on the rights of the accused as they were so often forecast to do. Both the rights of victims and the rights of defendants can successfully co-exist harmoniously within the American criminal justice system. Thus, it is imperative that our nation reprioritize the passage of a federal constitutional amendment so that all victims across our nation receive the same set of rights and are uniformly treated with dignity, fairness and respect.

We owe the victims of the January 8th shooting, and all victims across the nation, our promise and commitment of the highest levels of support possible and a uniform set of victims' rights and protections.



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STATEMENT
OF
AMY FARR
VICTIM ADVOCATE
VERMONT ATTORNEY GENERAL'S OFFICE

PRESENTED TO THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

ENTITLED

"FULFILLING OUR COMMITMENT TO SUPPORT VICTIMS OF CRIME"

Chairman Leahy, Ranking Member Grassley, and distinguished Members of the Committee, thank you for the opportunity to speak on behalf of victims and victim service providers in Vermont. It is truly an honor to provide testimony during National Crime Victims' Rights Week. My name is Amy Farr, Victim Advocate in the Vermont Attorney General's Office. I have been working with underserved populations and crime victims for over 15 years. I am very proud of the work that I do, and I am privileged to work with so many amazing people, including Victims, their families, and my colleagues in the criminal justice system and beyond.

This year, as we think about "Reshaping the Future" and "Honoring the Past," it seems fitting that we focus our attention on underserved victim populations, particularly the elderly and disabled. I would like to specifically address the devastating impact that financial crimes have on victims in Vermont. Financial crime is an umbrella term that can include fraud, identity theft, embezzlement, false pretenses, home improvement fraud, and just about any type of illegal scheme or swindle that one can think of. While the victims of these crimes can be anyone, sadly it is often the elderly or disabled that are targeted.

In the Vermont Attorney General's Office, we have prosecuted many cases that have occurred within nursing homes or other care facilities. These sanctuaries for people most in need can also be very attractive to perpetrators who may have ready access to personal information including social security numbers, credit cards, jewelry and other personal items and information. Delayed reporting, whether due to embarrassment, shame or simply not knowing a crime has occurred, can be a tremendous hindrance to a police investigation.

Many of the victims that we see in these situations already struggle with a sense of helplessness and vulnerability. When they become victimized, these pre-existing feelings are intensified. This feeling of victimization extends to family members and caregivers who, while coping with the difficulty of having a loved one in a care facility are also dealing with the guilt of having not been there to protect them. They may also be faced with having to undo the legal mess that has been created. It is the family member, guardian or other loved one that will be left picking up the pieces, with the bank, the credit card company or the police as an investigation tries to uncover what has happened.

At the Vermont Attorney General's Office we have prosecuted a wide variety of criminals that have preyed upon our elderly and disabled citizens. We have prosecuted a woman who stole another's identity to obtain narcotics and health care. We have prosecuted many cases where time sheets were fraudulently submitted, and non-providers received payment for services never rendered. We have seen people try to repair the roof of their house, and after giving a deposit for the work and materials, they are left with a hole in the roof and no funds to contract with an honest person to complete the repair.

Regardless of the legal or technical definition, these are examples of theft, plain and simple. These thefts are not only stealing from the overburdened government funded medical programs, but more importantly, from those that need the services most.

In today's economic climate, the impact of financial crimes is even more devastating. Victims of these crimes can wind up with their credit destroyed and or their

bank accounts wiped out. Caregivers, family members, advocates and law enforcement spend time and energy trying to identify the offender and undo the damage. Sometimes a perpetrator is identified, but often times, no one is held responsible. Once an offender is identified and charged court advocates will work with victims and families to help navigate the lengthy and complex criminal justice process in conjunction with navigating the road to restore credit and financial loss.

As we look at ways to endure new challenges, we have to recognize that the impact of financial crimes is great, on both the populations of victims and systems. In Vermont there are advocates, like myself (funded by VOCA dollars) who can help victims and families navigate the systems that may lead to becoming financially whole. In Vermont we have the Restitution Unit that is housed out of the Vermont Center for Crime Victim Services. This program is designed to restore financial loss to victims of crimes that are reported, investigated, and prosecuted to conviction.

What happens to those who are either physically or mentally unable to report these crimes? What happens when someone reports the crime, but no suspect is identified? As we think about "Reshaping the Future" we need to be vigilant in our approach to look at the true impact of all crimes, and we need to re-prioritize how to protect our most vulnerable populations from being financially exploited. When these victims are identified, we need to help them become whole in a more expeditious and less complicated process.

After many decades of improving services to victims, it is imperative that we keep making strides in the right direction. Criminals are using technology and other fraudulent methods to become savvier with their means of victimization. As criminals expand their

methods, we too, must expand our horizon and attention to victims of ALL crimes. With the support of VOCA funds, underserved populations and victims of financial crimes can and should be included in our vision to provide the most comprehensive victim services available.

STATEMENT
OF
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EXECUTIVE DIRECTOR,
NATIONAL CRIME VICTIM LAW INSTITUTE
AND
CLINICAL PROFESSOR OF LAW,
LEWIS & CLARK LAW SCHOOL, PORTLAND, OREGON
BEFORE
THE
SENATE JUDICIARY COMMITTEE
HEARING ON
THE COMMITMENT TO SUPPORT VICTIMS OF CRIME
ON APRIL 13, 2011
WASHINGTON, D.C.

Mr. Chairman and Distinguished Members:

I am pleased and honored to be here today during this 30th National Crime Victims' Rights Week to discuss ways that Congress, and each of us, can fulfill our commitment to supporting victims of crime.

The theme of this year's Crime Victims' Rights Week is "*Reshaping the Future, Honoring the Past.*" In keeping with this theme, I want to spend just a little time describing how we got to be where we are regarding victims within our criminal justice system because that history not only identifies the commitments that we have made to crime victims in this country, but it also sets forth the very path that we can and must take to fulfill those commitments. To this end, in Part I of my testimony I will provide a brief history of victims in this country's criminal justice system. In Part II, I will talk about two key pieces of legislation – the Victims of Crime Act (VOCA) and the Crime Victims' Rights Act (CVRA), which, when taken together, articulate both our promise and our obligation to victims in this country. In Parts III and IV, I will talk about key steps we have already taken to fulfill these promises and commitments to victims, specifically, the creation of a national network of rights enforcement clinics, and the progress of these efforts. In Parts V and VI, I will discuss the funding of these efforts and identify just a few specific harms that victims will suffer if support for these existing services is not continued, which is a looming reality. Finally, I will conclude by urging Congress to raise

the cap on VOCA or identify and commit to other concrete funding mechanisms to ensure adequate funding the existing legal and social services that are necessary to protect the rights we have put into law for victims – the rights which articulate the very promise we have made to them – that they will be treated with fairness and with respect for their dignity and privacy.

Before I start, however, I would like to tell you a bit about my nonprofit, the National Crime Victim Law Institute (NCVLI). NCVLI was first conceived in 1997 by law professor Doug Beloof to be a national resource for crime victim lawyers and victims to support the assertion and enforcement of victims' rights in criminal and civil processes. Our mission is to actively promote balance and fairness in the justice system through crime victim centered legal advocacy, education, and resource sharing. In 2002, NCVLI entered into a 5-year cooperative agreement with the United States Department of Justice, Office for Victims of Crime (OVC), to launch the State & Federal Clinics and System Demonstration Project, the central component of which was to launch and oversee a network of pro bono legal clinics to work in state and federal criminal justice systems to ensure protection of victims' rights. I joined NCVLI in 2003 and shortly thereafter we launched the clinical network with five clinics. Today, NCVLI has seven attorneys and six others on staff providing support to a network of 11 pro bono legal clinics as well as victims' rights advocates and attorneys nationwide and is the only national agency seeking to secure enforcement of victims' rights.

I. History of Victims in Criminal Justice.

The American criminal justice system began as one in which crime victims controlled the investigation and prosecution of the crimes against them.¹ The United States Supreme Court has acknowledged this foundation.² The rationale for this victim-centered approach to criminal justice was recognition that the harm that crime inflicts is a harm inflicted primarily against individuals.³ Gradually, however, crime came to be recognized as harming *both* the individual *and* the state.⁴ Eventually, this balanced approach of recognizing harm to the individual *and* to the state shifted again, and led to what essentially became a victim-exclusion model by the 1970s. In this system crime victims had no formal legal status beyond that of witness to a crime or piece of evidence in a case against an accused. At one point during this shift, the United States Supreme Court observed in *dicta* that “in American jurisprudence at least, a private citizen lacks a judicially cognizable interest in the prosecution or non-prosecution of another.”⁵ Further

¹ See Juan Cardenas, *The Crime Victim in the Prosecutorial Process*, 9 Harv. J. L. & Pub. Pol'y 357, 359, 366-68 (1986); Angela J. Davis, *ARBITRARY JUSTICE: THE POWER OF THE AMERICAN PROSECUTOR* 9 (2007); Douglas E. Beloof and Paul G. Cassell, *The Crime Victim's Right to Attend the Trial: The Reascendant National Consensus*, 9 Lewis & Clark L. Rev. 481, 484-87 (2005).

² See, e.g., *Steele Co. v. Citizens for a Better Environment*, 523 U.S. 83, 127-28 (1998) (Stevens, J., concurring) (“[I]n England, in the American Colonies, and in the United States, private persons regularly prosecuted criminal cases.”); *United States v. Marion*, 404 U.S. 307, 329 n.2 (1971) (Douglas, J., concurring) (noting private prosecution history and quoting 1 J. Stephen, *History of the Criminal Law of England* 493 (1883)).

³ See Cardenas, *supra* note 1, at 359-60.

⁴ See, e.g., 4 William Blackstone, *Commentaries* *5 (“In all cases the crime includes an injury: every public offense is also a private wrong, and somewhat more; it affects the individual, and it likewise affects the community.”); Cesare Beccaria, *ON CRIMES AND PUNISHMENTS* (Richard Bellamy ed., Richard Davies trans., 1995) (“Here then, is the foundation of the sovereign's right to punish crimes: the necessity of defending the repository of the public well-being from the usurpations of individuals”).

⁵ *Linda R.S. v. Richard D.*, 410 U.S. 614, 619 (1973).

evidence of the shift was found in the 1975 adoption of the federal rules of evidence, specifically Rule 615, which allowed exclusion of victims/witnesses upon motion of either the prosecution or defense.⁶

Just one example of the impact that this shift had on victims was that victims like Roberta and Vince Roper whose daughter was kidnapped, raped, and murdered, were told that they had to sit outside the trial. Quite literally victims nationwide were forced to peck through a crack in the courtroom door and strain to hear about the last days and hours of a loved one's life. They were forced to sit outside while "justice" was done inside. As President Ronald Reagan's Task Force on Victims of Crime concluded, somewhere along the way, the American criminal justice system became "appallingly out of balance," "serv[ing] lawyers and judges and defendants, [while] treating the victim with institutionalized disinterest."⁷ To remedy the imbalance, the 1982 Final Report of the Task Force set forth 68 recommendations, including a proposal to amend the Sixth Amendment to provide that "victims, in every criminal prosecution shall have the right to be present and to be heard at all critical stages of judicial proceedings."

Fortunately, more than 30 states have amended their constitutions and every state has passed victims' rights statutes to correct the system. These provisions vary greatly in the number of rights afforded, the stage of criminal investigation and prosecution at which rights attach, and the enforceability of the rights by victims. The result is that while there are a myriad of rights in this country for crime victims, each crime victim is still treated differently depending upon where he or she is victimized. Efforts at the federal level have successfully included significant statutory reform that aims to ensure that victims are afforded fair treatment no matter in which federal jurisdiction a crime occurs. It is in large part because these federal statutes exist and articulate a clear promise to crime victims that we are having this hearing today.

II. Two Key Statutory Provisions that, when Taken Together, Articulate a Promise of Meaningful Rights for Crime Victims.

First, the Victims of Crime Act (VOCA). As the Committee is well-aware, VOCA was enacted in 1984 as a fund dedicated to providing financial assistance to support a variety of services and activities to assist victims of crime. VOCA is funded by fees and fines paid by convicted federal criminals. Most of the funds are distributed to states who use those funds to provide financial support to local direct victim service providers and to compensation programs, although a portion of the Fund is also used for discretionary grants for national-scope training and technical assistance, demonstration projects and services for victims of Federal crimes – among these demonstration projects is one that my organization the National Crime Victim Law Institute initiated in 2002 to determine the viability of protecting victims' rights through legal and social services for crime victims. There is a cap set on the fund which limits the amount of the fund that can be disbursed each year. Over the years, the VOCA cap has increased but so have needs, services, and the costs of services. The reality is that the increases in the cap have

⁶ Rule 615, as initially drafted allowed for exclusion of crime victims from the courtroom unless their "presence is . . . essential to the presentation of a party's cause[.]" thereafter, a majority of states adopted rules that were similar or identical to Federal Rule 615. Beloof and Cassell, *supra* note 1, at 498, 502. In practice, these rules of evidence "effectively exile[d] most crime victims from the courtroom." *Id.* at 502.

⁷ 1982 President's Task Force on Victims of Crime, Final Report vi (1982).

not kept pace with the needs of the field and many proposals have resulted in “increases” in the cap which have in fact reduced the amount of funds otherwise available to existing critical services. It is my understanding that today the fund has nearly \$6 billion in the fund. An amount that would easily withstand a raise in the cap in the coming year to respond to victim need.

Second, on October 30, 2004, the *Scott Campbell, Stephanie Roper, Wendy Preston, Louarna Gillis, and Nila Lynn Crime Victims’ Rights Act* (CVRA) was signed into law as Title I of the Justice for All Act (Pub. L. No. 108-405), and was subsequently codified at 18 U.S.C. § 3771. In April 2004, at the time the CVRA was being debated, one of the law’s co-sponsors noted that the CVRA was proposed “because the scales of justice are out of balance – while criminal defendants have an array of rights under the law, crime victims have few meaningful rights. In case after case we found victims, and their families, were ignored, cast aside, and treated as non-participants in a critical event in their lives”.⁸ Thus, despite the myriad of laws passed nationally over the years the CVRA was enacted to fix the dysfunction of the system that continued – rights being afforded on paper but rarely enforced in court. To achieve this end the CVRA provides victims of federal offenses with eight rights and also explicit standing for individual victims to assert rights in trial courts and to seek rapid and mandatory appellate review if a trial court denies a right. The first federal circuit court to analyze the law noted that the rights afforded by the CVRA operate to change the modern criminal justice system’s assumption “that crime victims should behave like good Victorian children—seen but not heard,” and that instead, with these rights, victims are to be “full participants in the criminal justice system.”⁹

Notably, however, the promise of the CVRA would fail if the rights (even with articulated standing) were again mere words on paper. In the American legal system there are three ways that rights can be asserted and enforcement sought: a person can act *pro se* (meaning self-representation); a government attorney may (if there is no conflict and there is standing) act on behalf of a person; or an attorney representing the person (in this case a crime victim) may assert the rights. History reveals that only the last option has real potential to protect individual rights because no one in the system (defense attorney, prosecution, judge) has the sole job of protecting the victim’s rights and because most non-lawyers are not skilled enough in the law to effectively protect their own rights. As the Supreme Court has said,

The right to be heard would be, in many cases, of little avail if it did not comprehend the right to be heard by counsel. Even the intelligent and educated layman has small and sometimes no skill in the science of law He is unfamiliar with the rules of evidence He lacks both the skill and knowledge adequately to prepare his defense, even though he have [sic] a perfect one. He requires the guiding hand of counsel at every step in the proceedings.

Powell v. State, 287 U.S. 45, 68-69 (1932). While said in the context of criminal defendants’ rights, the Supreme Court’s assessment is no less true for crime victims.

⁸ 150 CONG. REC. S4262 (April 22, 2004) (statement of Senator Feinstein).

⁹ *Kenna v. U.S. Dist. Court*, 435 F.3d 1011, 1013 (9th Cir. 2006).

Fortunately, the CVRA did not make a hollow promise; instead it authorized appropriations to ensure that victims of crime could access legal services to help them effectively assert the rights. Specifically, the CVRA authorized funding for “the support of organizations that provide legal counsel and support services for victims in criminal cases for the enforcement of crime victims’ rights” for fiscal years 2005-2009, and, upon its re-authorization in 2008, for fiscal years 2010-2013. As I will discuss later in this testimony, however, despite the clear promise of the CVRA in terms of rights and authorized funding, there has not been a single year since its passage that the CVRA has been fully funded.

III. The National Rights Enforcement Network.

As I noted earlier, in 2004, NCVLI officially launched its network of victims’ rights enforcement clinics. These clinics provide free legal services to victims of crime as they assert and seek enforcement of their rights. What started as five clinics is now a network of eleven partner clinics operating in Arizona, Colorado, Idaho, Maryland, New Jersey, New Mexico, New York, Oregon, South Carolina, Utah, and Washington, D.C.¹⁰ These clinics serve victims state courts and in the federal courts of the Second, Third, Fourth, Ninth, and Tenth Federal Circuits. Since its launch, NCVLI’s Network has provided legal representation to more than 4,000 victims; filed more than 2,300 pleadings in courts on behalf of those victims and more than 50 amicus curiae briefs; and supplied more than 100,000 hours of attorney time on behalf of crime victims. When looking at a snapshot of just the 12 months of 2010 more than 1,000 victims have been represented nationwide; representation that included more than 20,000 hours of attorney time and more than 8,000 hours of pro bono attorney and law student time, and which resulted in more than 500 pleadings being filed on behalf of crime victims.

IV. A “Report Card” on Affording Victims’ Rights.

The success of NCVLI’s Network was noted in the August 29, 2009, National Institute of Justice report *Finally Getting Victims Their Due: A Process Evaluation of the NCVLI Victims’ Rights Clinics Executive Summary*, which stated “the state clinics are on the road to fulfilling the intentions of their architects and funders. All of the clinics have pushed the envelope of victims’ rights in their state courts. Some have won significant victories in gaining standing for victims and expanding the definition of particular rights. Others are enjoined in the battle. But all have raised awareness of victims’ rights with prosecutors, judges, defense attorneys, and police officials.”

Section 104(b) of the Justice for All Act directed the GAO to “conduct a study that evaluates the effect and efficacy of the implementation of the amendments made by this title on the treatment of crime victims in the Federal system.” In December 2008, the GAO issued a study entitled, “Crime Victims’ Rights Act: Increasing Awareness, Modifying the Complaint

¹⁰ The initial effort was funded by demonstration project funding from the Office for Victims of Crime. The effort to provide legal services started with 5 clinics in 2004, grew to 8 in 2005, and then to 12 in 2009. In 2009-2010 the clinics in operation were located in AZ, CA, CO, DC, ID, MD, NJ, NM, NY, OR, SC, & UT. Funding has been precarious, however, and this precarious nature was part of what led to the shutdown of the California Clinic in August 2010.

Process, and Enhancing Compliance Monitoring Will Improve Implementation of the Act” (Study). In the Study the GAO reviewed 1) efforts made to implement the CVRA, 2) existence and efficacy of mechanisms in place to ensure adherence to the CVRA, 3) methods that the Department of Justice uses to monitor performance regarding the provision of CVRA rights, and 4) key issues that have arisen in the interpretation of the CVRA by federal courts. The results of the Study included recognition that 1) both the Department of Justice and the federal judiciary had made efforts to implement the CVRA; 2) mechanisms had been created to create adherence to the CVRA, including creation of complaint process; 3) the Department of Justice had identified objectives to uphold the rights of crime victims; and 4) a number of legal interpretations were percolating in the courts. The Study noted that “[p]erceptions are mixed regarding the effect and efficacy of the implementation of the CVRA, based on factors such as awareness of CVRA rights, victim satisfaction, participation, and treatment, as well as regarding potential conflicts of the law with defendants’ interests.” The Report then recommended that the Department of Justice: 1) increase victim awareness of the existence rights and remedies; 2) improve the complaint process; 3) identify performance measures; 4) standardize the reporting of compliance; and 5) include performance measures regarding victims’ rights compliance for Department of Justice employees. The GAO Study did not, however, ask and how the CVRA’s goal of ensuring assertion and enforcement of victims’ rights through legal services had progressed. Anecdotally, however, we know that over the years when authorized funding has been appropriated and legal services for victims through the National Crime Victim Law Institute have been funded victims have had access to free lawyers who have helped protect their rights in courts nationwide. Protections that have included keeping private and privileged records of human trafficking victims out of the public’s eye, securing restitution for victims of crimes ranging from fraud to trafficking, and ensuring victims can choose how to exercise their rights to be present and heard.

V. Funding to Support Victims’ Rights.

As noted earlier in this testimony, the CVRA authorized funding for “the support of organizations that provide legal counsel and support services for victims in criminal cases for the enforcement of crime victims’ rights.” Initially, the authorization was for \$7,000,000 for the first year of the CVRA and \$11,000,000 for each of four years thereafter. Upon the re-authorization of the CVRA this category of authorized funding was established at \$11 million for each fiscal year 2010-2013. During the discussion of re-authorization, Congressman Conyers stated “the measure before us reauthorizes funding the National Crime Victims [sic] Law Institute, which supports critical crime victims’ legal assistance programs that help crime victims enforce their legal rights in a number of vital respects.” 154 CONG. REC. H10653 (Oct. 2, 2008) (statement of Rep. Conyers). Similarly, Congressman Cannon stated, “Many crime victim organizations around the country such as the National Crime Victim Law Institute work tirelessly every day to ensure that the interests and needs of crime victims are represented throughout the trial process. . . . [Re-authorization] ensures that the valuable work of the institute will continue and that crime victims will be given justice by the courts and made whole again by their offenders.” 154 CONG. REC. H10653 (Oct. 2, 2008) (statement of Rep. Cannon).

Despite these significant authorizations of funding, only a small percentage of such funding has in fact been appropriated for legal services. All told only \$7,822,611 in appropriated

funds have reached NCVLI, with the last appropriated funding for the clinical network occurring during the '08 appropriations process -- specifically, \$4,248,155 was received and for services starting October 1, 2008. All told, including these appropriated funds and funds secured by NCVLI through grant applications to federal funding agencies, some of which were funded through VOCA, NCVLI and the clinical network have received approximately \$15 million since 2002 to provide legal services to crime victims to protect their rights across the entire country; notably, nearly \$5 million of this amount was part of a Demonstration Project funded by the Office for Victims of Crime to protect victims' rights in state courts and predates the passage of the CVRA in 2004. This means that since passage of the CVRA only approximately \$10 million has issued to fund the promise made to crime victims that they would no longer be viewed as interlopers in the system but would instead be participants with enforceable rights. Perhaps most importantly, as of today, no funding is slated to continue this effort.

VI. What will be lost without funding for these existing services?

As of March 31, 2011, NCVLI's Clinical Network has 235 open criminal cases in which lawyers are providing legal services to victims and NCVLI is helping on nearly 50 additional cases nationwide. A snapshot of a few of these cases reveals why funding these existing services is so critical.

- **U.S. v. Loughner** – Arizona District Court, Tucson. Jared Loughner is charged with shooting at dozens of individuals in Tucson, AZ at a grocery store parking lot during a political meet and greet for Representative Gabrielle Giffords. Six people were killed and 13 physically injured. The Defendant has been indicted on 49 various charges including murder, attempted murder, and willful injury. NCVLI's Arizona Clinic has undertaken representation of one of the victims who was shot and injured during this attack. Among the many victims' rights that are anticipated to be at issue in the case are the victims' rights to be present, to a speedy disposition, and to be heard. Without legal representation, this victim will not have an independent say in how his rights are exercised.
- **U.S. v. Ahmed Muhammed Dhakane** – Western District of Texas. NCVLI's Arizona Clinic is representing a minor human trafficking victim from Somalia. Defendant has pled guilty and sentencing is currently scheduled for April 28, 2011, however the sentencing has already been continued twice and may be continued again. It is anticipated that the minor victims will be called to testify at sentencing and will need legal assistance and accompaniment at sentencing due to fear of the defendant; further determination of restitution for the victim may be an issue that will require representation.
- **Carter v. Turley** – District of Utah Central Division. NCVLI's Maryland and Utah Clinics are jointly helping the son of a murder victim in a federal habeas corpus action in which almost a decade of delays has occurred. With the delays, the victim in this case must repeatedly assert his right to the proceedings free from unreasonable delay through motions and legal memoranda, which he certainly could not do on his own and yet which are the very pleadings that the federal court has now agreed with.
- **U.S. v. Keifer** – Southern District of Ohio. NCVLI's Maryland Clinic is representing a victim in a complex fraud case. When this matter initially went to trial the represented

victim was not officially listed as a victim and the court records were sealed. The result was that the victim could not find out anything that was happening in the case, including when sentencing and restitution would be determined. The Clinic successfully fought up to the appellate court on behalf of the victim who was eventually heard and restitution was ordered. In the victim's own words – "In May of 2008, my life was turned upside down at the arrest of a con artist . . . I had lost my livelihood, health insurance benefits for my sons and me, my transportation, my coffeehouse, and somebody who I trusted and believed to be a best friend in my life. . . . I did not know where to turn. . . . With [the Clinic's] continued legal expertise and representation, following motions and appeals and many trips . . . to Columbus, OH due to defense requested continuances, I was recognized as a victim of crime and was able to be present and to be heard by the court in the proceedings and sentencing of [Defendant] for his crimes. The representation that [the Clinic] provided on my behalf, which included a major victory in having sealed records opened for our awareness, was remarkable. I was able to present an impact statement at the sentencing, and the victory of ordered restitution to me was yet another euphoria." The case is not over, however. Defendant has filed a collateral attack against his plea and sentence under 18 U.S.C. § 2255, and is again challenging whether the victim is entitled to restitution. Ongoing representation by the Clinic is critical.

- ***U.S. v. Shrader*** – Southern District of West Virginia. This case is an interstate stalking case and NCVLI's Maryland Clinic is representing DS, and her husband RS. The Clinic's representation began when Defendant had the District Court issue a subpoena to the victim's counselor for all records relating to the victims' emotional or psychological treatment. The Clinic was able to protect the records and Defendant was subsequently convicted and sentenced to nearly 20 years in prison. The Defendant has, however, noted an appeal and therefore ongoing representation is necessary. Notably, for its efforts in this matter, the Clinic was awarded the U.S. Department of Justice United States Attorney Southern District of West Virginia Public Service Award for "invaluable service and assistance to victims and witnesses of crime."

Conclusion

During this 30th National Crime Victims' Rights Week we must look at the past to determine what promises we have made and what we have done to keep those promises; look at the future and determine what we need to do to fulfill our promises and improve upon how we achieve those; and to envision a better future for crime victims and for the country. *Vision 21: Transforming Victim Services*, is the current effort of the Office for Victims of Crime to envision the future of victim services. As explained by OVC, the "initiative will involve a comprehensive analysis of the current state of the crime victims field in the United States and development of a report of recommendations (including a blueprint for a demonstration project to implement those recommendations) for OVC and the broader crime victims field." NCVLI is actively involved in this effort as we too are committed to envisioning a better future. Notably, one of the key findings coming out of the initial twelve month projects is that victims must have access to competent and independent legal services to aid them with their rights. Thus, even when taking a "new" look at victim services the answer coming back is the one Congress itself first articulated in 2004 – fund victims' rights enforcement. If our promise to victims is to be met, the Congress must continue to fund legal services for crime victims. Notably, without funding every

one of the legal clinics I've discussed today will close by the end of the year. There are at least two paths to this funding. The Congress could raise the cap on VOCA funds and direct that a portion of the increase go to this purpose. With the significant amount of money currently in the fund and anticipated recoveries in years ahead, this path is easily achievable. Alternatively, the Congress could establish a mechanism to use False Claims Act funds for this purpose, as was originally articulated in the CVRA. Either option would be a fulfillment of the promise made to victims, and would ensure that we continue to move out of the victim-exclusion model of the last century in which victims were treated as pieces of evidence and into a system in which individual victims and their voice is valued. I urge Congress to look critically at the promises already made to the victims of this country and to re-commit to upholding those before it moves on to new promises.

Senator Jon Kyl

UNITED STATES SENATE COMMITTEE ON THE JUDICIARY

Fulfilling Our Commitment to Support Victims of Crime

13 April 2011

Introduction

This year marks the 30th National Crime Victims' Rights Week; President Ronald Reagan proclaimed the first in 1981. President Reagan started the nation on an agenda of reforms designed to bring fairness and balance to the justice system. In 1981, no states had comprehensive laws for victims' rights; indeed, as Ms. Leary points out in her testimony, "Thirty years ago crime victims were generally overlooked by the criminal justice system. They had no rights and little support. Victim assistance programs were few and far between." Now, all states, the federal system, and the District of Columbia have such laws.

Crime Victims' Rights Week

This year's theme for National Crime Victims' Rights Week is "Honoring the Past; Reshaping the Future." It is fitting at this hearing to honor those victims who have given their voice to teach us all about the plight of victims in our justice system and to push badly needed reforms.

The Crime Victims' Rights Act and Funding for Clinics

Congress' hallmark achievement in this history of reform is the 2004 passage of the Crime Victims' Rights Act (18 U.S.C. § 3771). The CVRA was intended to establish rights for victims of federal crimes (less than 3 percent of total U.S. crime).

If we are serious about crime victims' rights, we must ensure that the clinics receive adequate funding. Resources for the National Crime Victim Law Institute and its network of clinics were authorized twice (P.L. 108-405, P.L. 110-431). Although funding for NCVLI was not appropriated at the levels authorized, NCVLI has achieved good with the limited funds it received.

Reports that have studied NCVLI and its clinics have praised how effective this work has been in helping to help victims by enforcing the rights now enshrined in law. For example: As noted in the August 29, 2009, National Institute of Justice report *Finally Getting Victims Their Due: A Process Evaluation of the NCVLI Victims' Rights Clinics Executive Summary*, "the state

clinics are on the road to fulfilling the intentions of their architects and funders. All of the clinics have pushed the envelope of victims' rights in their state courts. Some have won significant victories in gaining standing for victims and expanding the definition of particular rights. Others are enjoined in the battle. But all have raised awareness of victims' rights with prosecutors, judges, defense attorneys, and police officials."

The clinics will close unless they receive funds. One source is the Victims of Crime Act. Indeed, it is the intent of the Congress that "compliance programs" referred to in 42 USC 10603c be construed broadly to include all efforts to seek enforcement of the rights of crime victims, including those by national groups pursuant to 42 USC 10603d.

We have more than enough resources in the Crime Victims Fund established by VOCA to fund the clinics with money that comes not from taxpayers but from criminals.

Conclusion

As Meg Garvin has noted, the CVRA has the capacity to convert the criminal justice system into a place where victims are no longer treated as interlopers but instead are protected and their voices valued. NCVLI and its clinical network are playing a vital role in fulfilling this promise. Victims depend upon their services, which without the immediate direction of this funding will cease in the coming months. We cannot fail this country's victims by failing to fund the very services upon which victims have come to rely. If we are serious about reshaping the future, we will not let these clinics close.

**Statement Of Senator Patrick Leahy (D-Vt.),
Chairman, Senate Committee On The Judiciary,
Hearing On “Fulfilling Our Commitment To Support Victims Of Crime”
April 13, 2011**

This week, we celebrate the 30th annual National Crime Victims’ Rights Week. It is a time to recognize the losses suffered by crime victims and their families, and to acknowledge the hard work being done to help people rebuild their lives after tragedy hits. It would be cruel irony if this were the week the Crime Victims Fund was gutted, as was suggested in news accounts yesterday. No one should be contemplating raiding this vital resource for crime victims for some shortsighted, short-term advantage.

For nearly three decades, the Crime Victims Fund has played a central role in providing help to crime victims. We created the Fund in the Victims of Crime Act of 1984, and it has been the primary way that the Federal Government supports crime victims and their families. It funds state victim assistance and compensation programs that serve nearly four million crime victims each year. These services are priceless to the people they support, but they cost taxpayers nothing. The Crime Victims Fund is supported by fines and penalties paid by Federal criminal offenders, not by taxpayer dollars.

After the tragedy in Oklahoma City, I worked to ensure that there would be funds available to help victims of mass violence and to establish a “rainy day” reserve. Instead of distributing all of the funds collected the previous year, we have constructed a trust fund with deposits retained so that in leaner years, crime victims and their advocates are not left stranded without resources.

More recently, when some, including President Bush, sought to violate the crime victims’ trust fund and steal the reserves, I worked hard, with Senators from both political parties, to protect the Fund and ensure that its reserves were preserved for their intended purpose, for helping crime victims. I remain committed to maintaining that reserve, while also ensuring that sufficient funds are released each year to meet increasing needs. No less than Social Security and other trusts that the American people have established, the Crime Victims Fund represents our commitment to crime victims. It should be respected and honored, not pillaged or treated as if it were no more than a convenient piggybank.

It is fitting that this Committee today considers what the Federal Government has been doing to support those whose lives have been affected by crime, and what more we can do to renew this vital commitment. These efforts have never been more important than they are today. Difficult economic times have stretched state and local services, including victim services, to the breaking point. Families, made more vulnerable by financial stress, struggle more than ever to overcome the emotional, financial, and physical damage caused by crime, and they need help.

The theme of this year’s Crime Victims’ Rights Week, “Reshaping the Future, Honoring the Past,” is appropriate. It is time to take stock of what we have accomplished in the past three decades, and determine what additional work lies ahead. As a country, we have made great strides in addressing the needs of crime victims, but we can do more.

Crime is changing, and our responses must adapt in turn. Complicated financial offenses are on the rise in the form of identity theft and mortgage fraud, and victims of these crimes have unique needs. The elderly, who make up an increasing population in many of our communities, are being targeted with greater frequency and often require specialized services to recover from abuse and exploitation. There is a greater need for legal services to help crime victims with housing and medical needs, immigration, and the financial consequences of crime. Transitional housing services are more essential than ever for crime victims in difficult financial times.

Also, as the criminal justice community becomes increasingly and appropriately focused on evidence-based practices grounded in scientific research, it is becoming ever clearer how much more data we need about crime victims – who they are, how they are victimized, what needs they have, and what services help. Comprehensive research will help states provide better services.

I know our witnesses have been thinking about these issues, and I look forward to learning from their experience. I am sorry that a family emergency has prevented Amy Farr, who serves as Victim Advocate in Vermont's Attorney General's Office, from testifying in person today. I look forward to her submitting written testimony. I also thank Robert Paolini, who is Chairman of the Board of the Vermont Center for Crime Victims Services, for attending today's hearing.

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Department of Justice

STATEMENT

OF

MARY LOU LEARY
PRINCIPAL DEPUTY ASSISTANT ATTORNEY GENERAL
OFFICE OF JUSTICE PROGRAMS

BEFORE THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

ENTITLED

“FULFILLING OUR COMMITMENT TO SUPPORT VICTIMS OF CRIME”

PRESENTED ON

APRIL 13, 2011

**Testimony of
Mary Lou Leary
Principal Deputy Assistant Attorney General
Office of Justice Programs
U.S. Department Of Justice**

**Before the
Committee on the Judiciary
United States Senate**

**Regarding
“Fulfilling Our Commitment to Support Victims of Crime”
April 13, 2011**

Chairman Leahy, Ranking Member Grassley, and distinguished Members of the Committee, thank you for the opportunity to discuss new strategies and emerging challenges in serving crime victims. My name is Mary Lou Leary, the Principal Deputy Assistant Attorney General for the Department’s Office of Justice Programs (OJP). Our mission includes providing resources and leadership to support key services for crime victims.

My commitment to helping crime victims goes well beyond my work at OJP, both my current service and my time as OJP’s Acting Assistant Attorney General from 1999 to 2001. It was a staple of my work as a United States Attorney, Deputy United States Attorney, and as a local prosecutor. I am also very proud to have served for four years as the Executive Director of the National Center for Victims of Crime (NCVC).

It is very fitting that the Committee has convened the hearing now. As the Committee is aware, this is National Crime Victims’ Rights Week. As part of the Department’s National Crime Victims’ Rights Week activities, the Attorney General honored men and women from across the nation who devoted their lives to serving crime victims. Some of those honored were

victims themselves and used that experience to help others. Their stories remind us that crime victims must never be forgotten, and that justice for victims is justice for us all.

There's no better example of this commitment than what we have seen in Arizona, and I am proud to be on the same panel with Kent Burbank, who has done so much to help Pima County, and the state, recover.

This year also marks the 30th anniversary of the first National Crime Victims' Rights Week, proclaimed by President Reagan in 1981. During this Reagan Centennial year, we should honor this lesser known but critical part of his legacy: helping crime victims. Thirty years ago crime victims were generally overlooked by the criminal justice system. They had no rights and little support. Victim assistance programs were few and far between. Those programs were usually run solely by volunteers, as victim assistance did not exist as a profession.

President Reagan did so much more than proclaim National Crime Victims' Rights Week. In 1982, he established the Task Force on Victims of Crime, which made 68 recommendations to improve treatment of crime victims. In 1983, the Department of Justice's Office for Victims of Crime was created. Then, in 1984, President Reagan signed into law the Victims of Crime Act (VOCA). As the Committee is aware, VOCA created the Crime Victims Fund, an innovative method to use fines and penalties collected from federal criminals to fund victim services and compensation.

Since VOCA's enactment, more than \$8 billion from the Crime Victims Fund has been distributed to states and communities to support victim assistance and compensation programs. In human terms, this means more than two million victims received direct compensation and more than 67 million victims received counseling, courtroom advocacy, temporary housing, and a host of other services. Funds also have been used to aid victims of terrorism, raise awareness

of victims' rights, support victims in Indian country, and train thousands of victim service providers and criminal justice and allied professionals. Not a penny of that money has come from taxpayers.

Perhaps it is at the local level where we can best understand VOCA's impact. In Vermont, Deaf Vermonters Advocacy Services (DVAS) staff worked with a victim of financial exploitation. The offender tried to avoid paying the money back. DVAS found a pro bono attorney, educated him about deaf culture, and taught him how to work with his deaf client effectively. Thankfully, the victim was able to get much of her money returned.

In Alabama, VOCA funds enabled the Southeast Alabama Child Advocacy Center to conduct over 360 forensic interviews for children with allegations of sexual abuse. The Center is a child friendly facility where forensic interviews, therapy, multidisciplinary team review, and support services are available to victims. While the Center originally served Henry and Houston Counties, its services expanded to include Dale and Geneva Counties.

VOCA funding in Alabama also supports the Montgomery Area Family Violence Program's Family Sunshine Center, which assists victims of domestic violence and sexual assault. Recently the Center helped an 84-year-old man who had been physically, emotionally, verbally, financially and sexually abused by his wife, 40 years his junior. With the Center's support, the victim testified against his abuser in court, resulting in a conviction. The Center provided the victim with counseling, advocacy, and other forms of support, and now is helping him to rebuild his life.

There are so many other examples. A VOCA-funded Sexual Assault Nurse Examiner (SANE) Program in South Carolina has assisted 98 sexual assault victims in a one-year period, including 63 victims under the age of 18. A legal aid program based in Arizona assists nearly

4,000 low income victims a year in portions of Arizona, Utah and New Mexico, including members of seven Native American Tribes. A domestic violence program in New York City launched a Workforce Initiative that teaches victims skills needed to gain meaningful employment.

Despite these achievements, we must also recognize the steep challenges that lie ahead. The economy has taken a toll on state and local victim assistance programs, many of which struggle to stay afloat. Many victim assistance providers are not paid professional-level salaries, which means the field struggles to recruit and retain highly qualified individuals. Victim compensation programs are stretched thin by increasing demand. Every year approximately 87 percent of the Crime Victims Fund allocations go directly to the states, and in these difficult times those resources are sorely needed.

In addition to the economic realities, there are still far too many victims that never get the help they need. This is particularly true for crimes such as financial fraud, human trafficking, child abuse, and domestic violence.

For example, according to the National Network to End Domestic Violence, in one 24-hour period, programs provided advocacy, support, and shelter for 43,650 adults and 26,998 children across the United States. In addition to providing in-person assistance, victim advocates at domestic violence programs answered 22,292 hotline calls and provided 1,240 community education sessions and trainings for more than 30,000 individuals. That's impressive, but in that same 24-hour period, despite helping more than 70,000 people, domestic violence programs were unable to meet 9,541 requests for services, largely due to a lack of resources.

So while we all like to assume victims will be taken care of, many of them simply aren't. Most crimes are still unreported to law enforcement due to such factors as a victim wanting to

protect the offender or fear of reprisal or adverse social consequences. Many victims have their cases dropped due to an unwillingness to testify, lack of evidence or other reasons.

Even more challenging, crime victimization itself is changing. Computer technology has made criminals more anonymous and victims harder to find. With crimes such as cyberstalking, human trafficking, identity theft, and other types of financial fraud the perpetrator can be in another state, country or continent than the victim.

OJP Co-Chairs the Victims' Rights Committee of the interdepartmental Financial Fraud Enforcement Task Force, which President Obama established in November 2009. The Committee has developed and delivered presentations on financial fraud at many victims' service conferences. In addition, it has worked with U.S. Attorneys on improving victim restitution and helped to develop the *StopFraud.gov* Web site.

Because victimization is changing, victim services must also change. Victim service professionals nationwide are already exploring ways the field can evolve. OVC has demonstrated federal leadership by launching the Vision 21 Initiative, the goal of which is to expand the vision and impact of the crime victim services field. Vision 21 is a collaborative effort engaging crime victims and representatives from federal, national, state, local, and tribal organizations and agencies.

Through OVC's Vision 21 initiative, five organizations (the National Crime Victim Law Institute; the National Center for Victims of Crime; the Vera Institute of Justice; the Office for Victims of Crime Training and Technical Assistance Center; and the Medical University of South Carolina) are collectively undertaking a comprehensive analysis of the current framework of the crime victims field in the United States. Each organization has convened a two-day forum of 30 – 40 stakeholders. Through these forums, a literature review, and other information

gathering such as interviews, surveys, and online feedback, these organizations will issue reports on the following four issue areas:

- The role of the crime victims field
- Building capacity
- Enduring challenges
- Emerging challenges

The final report, to be released next year, will be a synthesis of the four issue areas, setting forth a comprehensive set of recommendations for the field. While it's too early to address exactly the conclusions to be featured in the report, we have received preliminary feedback from the Vision 21 literature reviews and forums. This feedback provides a valuable window into the best ways forward in victim services.

One of their recommendations is likely to be improved data collection and research on victimization issues. Data collection challenges include improved statistics on crimes such as child abuse, drunk driving, human trafficking, or homicide. We also need reliable information on victims living in institutional settings such as psychiatric facilities, long-term care facilities and group homes.

Research challenges include a better understanding of underserved victim populations, including Native Americans, African-American males, and gay, lesbian, bisexual and transgendered individuals. We also need rigorous evaluations of victim service programs to learn what works and what doesn't. This reflects a priority of OJP's Assistant Attorney General, Laurie Robinson, who has launched OJP's Evidence Integration Initiative, or E2I, an effort to ensure that research is translated into practice, and that evidence is used to guide decision-making.

The Vision 21 feedback also emphasizes the need for more flexibility for victim service providers at the federal, state, tribal, and local level. Improved flexibility would allow for more cost-effective assistance. It would also entail strengthening confidentiality so that providers could help the victims while also keeping them safe from further harm.

Another emerging need spotlighted by Vision 21 is comprehensive, or “wrap-around” legal assistance for victims. This includes both reasonable legal assistance during criminal proceedings, and civil legal assistance, such as family, custody and dependency, tribal, employment, administrative and immigration matters. Assistance on immigration matters is particularly needed for human trafficking victims and for battered immigrant women. In addition, many victims of financial fraud experience severe and egregious consequences as a direct result of their victimization. Unfortunately, there are currently little to no legal services available for fraud victims.

Vision 21 is addressing a key challenge, how the latest technology could be leveraged to transform how we reach and serve victims. Suggested possibilities are: expanded use of smart phone technology, cell phone applications with services overseas, expanded use of text messaging and alerts to immigrant victims of human trafficking (who often have cell phones but not computers); enhanced use of Webinars, podcasts, and other mechanisms for conveying information; use of social media such as Facebook, Twitter, YouTube; and improving the use of technology for operational management in victim services.

As I noted previously, the overarching goal of Vision 21 is to expand the vision and reach of the crime victim services field. Victim service professionals and others in the field should not be limited to reacting at the point of victimization. They need to be engaged in all public safety efforts, beginning with prevention and continuing through the corrections system and beyond.

This means having a real stake in discussions about issues such as prevention efforts, grassroots interventions, indigent defense, restorative justice and reentry.

The Vision 21 recommendations will be fleshed out in the final report, which the Department will share with this Committee as soon as it is available. In the meantime, we are moving ahead and addressing emerging areas of crime victimization. Last year OVC clarified that the VOCA guidelines allow funds to be used for legal aid to victims, provided the aid is directly related to their victimization.

Please be assured the Department of Justice, OJP, and OVC will not waver in their dedication to improving the lives of crime victims, and we would welcome any discussion of how our efforts can be improved. This concludes my statement, Mr. Chairman. Thank you for the opportunity to testify today and I would be glad to answer any questions you or the Committee may have.