

2146

LEGISLATION TO HELP CRIME VICTIMS

HEARINGS
BEFORE THE
SUBCOMMITTEE ON CRIMINAL JUSTICE
OF THE
COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

NINETY-EIGHTH CONGRESS

SECOND SESSION

ON

H.R. 2661, H.R. 2978, H.R. 3498, and H.R. 5124
LEGISLATION TO HELP CRIME VICTIMS

RY 2, 7, MARCH 15, 22, APRIL 2, AND AUGUST 2, 1984

Serial No. 161



ited for the use of the Committee on the Judiciary

98643

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LEGISLATION TO HELP CRIME VICTIMS

THURSDAY, FEBRUARY 2, 1984

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIMINAL JUSTICE,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The subcommittee met at 2:45 p.m., in room 2237, Rayburn House Office Building, Hon. John Conyers, Jr. (chairman of the subcommittee) presiding.

Present: Representatives Conyers, Edwards, Seiberling, Boucher, and McCollum.

Staff present: Thomas W. Hutchison, counsel, and Raymond V. Smietanka, associate counsel.

Mr. CONYERS. The Subcommittee on Criminal Justice will come to order. This subcommittee begins a series of hearings on H.R. 3498 and related bills to help crime victims. We plan several hearings in which we will receive testimony from a broad range of witnesses who will give their perspective on how the Federal Government can and should help crime victims.

There are three bills before us now: H.R. 3498, sponsored by Chairman Rodino, who will be our leadoff witness, and some 50 other Members of Congress; H.R. 2661, sponsored by Mr. Russo of Illinois; and H.R. 2978, sponsored by Mr. Fish of New York. These bills are premised on the belief that the Federal Government can and should do something.

[A copy of H.R. 3498 follows:]

98TH CONGRESS
1ST SESSION

H. R. 3498

To provide assistance to victims of crime, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 30, 1983

Mr. RODINO (for himself and Mr. BERMAN) introduced the following bill; which was referred to the Committee on the Judiciary

OCTOBER 28, 1983

Additional sponsors: Mr. MITCHELL, Mr. GLICKMAN, Mr. FRANK, Mr. FEIGHAN, Mr. BIAGGI, Mr. FORSYTHE, Mr. WHITEHURST, Mr. STARK, Mr. GOODLING, Mr. SOLARZ, Mr. BARNES, Mr. DIXON, Mr. LELAND, Mr. DYMALLY, Mr. ANDREWS of Texas, Mr. SMITH of Florida, Mr. BOUCHER, Mr. BROWN of California, Mr. HOWARD, Mr. STOKES, Mr. RANGEL, Mr. LEHMAN of Florida, Mr. EDGAR, Mr. LaFALCE, Mr. WAXMAN, Mr. FAZIO, Mr. ECKART, Mrs. BOXER, Mr. TOWNS, Mr. SEIBERLING, Mr. MINISH, Mr. OTTINGER, Mr. OBERSTAR, Mr. SIMON, Ms. MIKULSKI, Mr. VENTO, Ms. FERRARO, Mr. GRAY, Mr. RATCHFORD, Mr. FOGLIETTA, Mr. MARTINEZ, Mr. EVANS of Illinois, Mr. McNULTY, Mr. OWENS, Mr. TALLON, Mr. TORRICELLI, Mr. WISE, Mr. FASCELL, Mr. GREEN, Mr. DYSON, Mr. YATES, Mr. DE LUGO, Mr. MATSUI, Mr. LEVINE of California, and Mr. RICHARDSON

A BILL

To provide assistance to victims of crime, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Victims of Crime Act of
4 1983".

TITLE I—CRIME VICTIM COMPENSATION

GRANTS

3 SEC. 101. The Attorney General may make grants to
4 eligible State victim compensation programs—

5 (1) of up to 50 per centum of the covered costs of
6 compensating victims of compensable crimes; and

7 (2) of 100 per centum of such covered costs of
8 compensating victims of crimes within such State
9 which would be compensable crimes but for the fact
10 that such crimes are subject to exclusive Federal
11 jurisdiction.

ELIGIBILITY OF STATE VICTIM COMPENSATION PROGRAMS

13 SEC. 102. A State program for victim compensation is
14 eligible for the purposes of this title if—

15 (1) such program offers compensation for—

16 (A) medical expenses (including mental
17 health counseling and care, prosthetic devices,
18 dental services, and services rendered in accord-
19 ance with any method of healing recognized by
20 the law of such State) and loss of wages, attribut-
21 able to an injury resulting from a compensable
22 crime; and

23 (B) funeral expenses attributable to a death
24 resulting from a compensable crime;

1 (2) such program promotes victim cooperation
2 with the reasonable requests of law enforcement
3 authorities;

4 (3) such program is able to diminish compensation
5 to the extent of the contributory misconduct of the
6 victim or recipient;

7 (4) the State is subrogated to any claim that a re-
8 cipient of compensation has against a perpetrator of
9 the crime for which compensation is granted, to the
10 extent of such compensation;

11 (5) such program does not, in the availability of
12 compensation, discriminate against nonresidents as to
13 crimes occurring within such State; and

14 (6) such program provides compensation to vic-
15 tims of crimes within such State which would be com-
16 pensable crimes but for the fact that such crimes are
17 subject to exclusive Federal jurisdiction.

18 DEFINITIONS

19 SEC. 103. As used in this title—

20 (1) the term "covered costs" means the amounts
21 awarded as compensation, but does not include any
22 amount awarded—

23 (A) for pain and suffering;

24 (B) for property loss; or

25 (C) that is double recovery for loss;

1 (2) the term "State" includes the District of Co-
2 lumbia, the Commonwealth of Puerto Rico, and any
3 other territory or possession of the United States; and

4 (3) the term "compensable crime" means any
5 crime that the State designates as covered by such
6 State's crime victim compensation program.

7 TITLE II—CRIME VICTIM ASSISTANCE

8 GRANTS

9 SEC. 201. (a) The Attorney General may make grants
10 to the chief executive of each State for the financial support
11 of qualified crime victim assistance programs. In carrying out
12 this section, the chief executive shall attempt to promote the
13 providing of services described in section 202(2) to the larg-
14 est possible number of crime victims and their families.

15 (b) The Attorney General shall divide among the States
16 equally three-fourths of the first \$7,200,000 available for
17 grants to States under subsection (a) for any fiscal year. The
18 Attorney General shall then divide among the States in pro-
19 portion to their respective populations any remaining sums so
20 available.

21 QUALIFICATIONS OF CRIME VICTIM ASSISTANCE

22 PROGRAMS

23 SEC. 202. For the purposes of this title, a program is a
24 qualified crime victim assistance program if the program—

25 (1) is—

- 1 (A) a nonprofit private organization;
- 2 (B) a program of a State or local govern-
- 3 ment; or
- 4 (C) a combination of such organizations or
- 5 governments or both;
- 6 that is established exclusively to provide services di-
- 7 rectly to crime victims generally or to any specific cat-
- 8 egory of crime victims and the families of crime
- 9 victims;
- 10 (2) provides to crime victims and their families
- 11 crisis intervention services, available on a twenty-four-
- 12 hour-a-day basis without regard to the financial status
- 13 of the recipient, mental health counseling, and informa-
- 14 tion about and referrals for medical and mental health
- 15 treatment, victim assistance and compensation, and the
- 16 investigation and prosecution of crime;
- 17 (3) promotes within the community served coordi-
- 18 nated public and private efforts to aid crime victims
- 19 and their families;
- 20 (4) utilizes volunteers in performing services for
- 21 which grants may be made under this title; and
- 22 (5) demonstrates independent support by receiving
- 23 financial support from sources other than grants under
- 24 this title.

DEFINITIONS

1 SEC. 203. As used in this title—

- 2 (1) the term "State" includes the District of Co-
- 3 lumbia, the Commonwealth of Puerto Rico, and any
- 4 other territory or possession of the United States; and
- 5 (2) the term "crisis intervention services" means
- 6 counseling to provide emotional support to victims in
- 7 crises arising from the occurrence of crime.

TITLE III—CRIME VICTIMS FUND

SOURCES OF REVENUE

10 SEC. 301. (a) There is created in the Treasury the

11 Crime Victims Fund (hereinafter in this title referred to as

12 the "Fund").

13 (b) The Fund shall consist of—

- 14 (1) all fines collected in Federal criminal cases;
- 15 (2) the proceeds of all forfeitures in Federal crimi-
- 16 nal cases;
- 17 (3) the taxes which are—
- 18 (A) imposed by section 4181 of the Internal
- 19 Revenue Code of 1954 on pistols and revolvers;
- 20 and
- 21 (B) received in the Treasury; and
- 22 (4) the assessments under section 3013 of title 18
- 23 of the United States Code which are collected from de-
- 24 fendants convicted of Federal offenses.
- 25

1 “(ii) six months, \$150,000; and
 2 “(iii) thirty days, \$75,000; and
 3 “(C) in any other case, \$50,000.
 4 “(b) If the offense is one through which the defendant
 5 derived pecuniary gain or one resulting in serious bodily
 6 injury or death or loss, damage or destruction of property,
 7 the authorized fine is not more than twice the gross gain
 8 derived or twice the gross loss caused, if this amount would
 9 be greater than the fine authorized under subparagraph (A)
 10 or (B) of this paragraph.
 11 “(c) The court, in determining whether to impose a fine
 12 upon a person convicted of an offense against the United
 13 States, and the amount of such a fine, shall consider, in addi-
 14 tion to other relevant factors, the defendant’s income (regard-
 15 less of source), earning capacity, and financial resources; the
 16 nature of the burden that payment of the fine will impose
 17 upon the defendant, any person who is legally or financially
 18 dependent upon the defendant, or any other person or gov-
 19 ernment that would be responsible for the welfare of any
 20 person legally or financially dependent upon the defendant;
 21 any pecuniary gain derived by the defendant as a result of the
 22 offense; any pecuniary loss inflicted upon others as a result of
 23 the offense; and the need to deprive the defendant of illegally
 24 obtained gains from the offense.”.

1 (b) The table of sections at the beginning of chapter 229
 2 of title 18 of the United States Code is amended by adding at
 3 the end the following new item:

“3621. Alternate fine levels.”.

4 SPECIAL COURT ASSESSMENT AMENDMENT

5 SEC. 402. (a) Chapter 201 of title 18 of the United
 6 States Code is amended by adding at the end the following:

7 “§ 3013. Special assessment on convicted persons

8 “(a) The court shall assess on any person convicted of
 9 an offense against the United States—

10 “(1) the amount of \$50 in the case of a felony;
 11 and

12 “(2) the amount of \$25 in the case of a misde-
 13 meanor.

14 “(b) Such amount so assessed may be collected in the
 15 manner in which fines are collected in criminal cases.”.

16 (b) The table of sections for chapter 201 of title 18 of
 17 the United States Code is amended by adding at the end the
 18 following:

“3013. Special assessment on convicted persons.”.

19 TITLE V—EFFECTIVE DATES

20 SEC. 501. This Act shall take effect on October 1,
 21 1983, and grants may be made under this Act with respect to
 22 the fiscal year ending on September 30, 1984, and succeed-
 23 ing fiscal years.

Mr. CONYERS. The bills call for Federal funds to go to crime victim compensation and crime victim assistance programs. The crime victim compensation programs, which are administered by State agencies, help victims financially by reimbursing them for out-of-pocket expenses for hospital and medical services and for lost wages.

The crime victim assistance programs provide victims a range of social services, such as crisis intervention and mental health counseling. Some of these programs are operated by State agencies, some are operated by private nonprofit organizations.

This subcommittee will carefully examine these bills. I should add that the administration will shortly have its own proposal to present to the subcommittee.

I must add that some of the suggestions to help crime victims go to some extremes, such as abolishing the exclusionary rule, overturning legal safeguards against Government overreaching, and making the penal system more harsh with mandatory and longer prison terms. These are proposals that I think ought to be carefully weeded out as we move toward crafting legislation.

We must make sure that the legislation will really address the financial, emotional, and medical needs of the victim, and not become a vehicle to make the criminal justice system more harsh than it already is.

Before bringing on the chairman of the Judiciary Committee, I might add that there are three basic approaches that Federal legislation in this area can take. The first would be to establish a Federal program for all crime victims which would, in effect, supersede State programs. The second would be to establish a Federal program to compensate victims of Federal crimes. The third approach is to establish a program of financial assistance to the States and this, it seems to me, is the approach which most of my colleagues appear to have taken.

And so, with that backdrop, I would like to welcome our first witness in these hearings, the chairman of the Judiciary Committee, the Honorable Peter W. Rodino of New Jersey, whose concern about this matter dates back about a decade, and maybe even longer. We welcome you, Mr. Chairman, to the Criminal Justice Subcommittee.

We'll incorporate your prepared testimony and invite you to proceed in your own way.

**TESTIMONY OF HON. PETER W. RODINO, JR., A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF NEW JERSEY**

Mr. RODINO. Thank you very much, Mr. Chairman, members of the subcommittee. I'm very pleased that the subcommittee, under your chairmanship, has decided to hold hearings on this matter, which I believe is one of great importance. I have long urged legislation on this subject.

It has been about 12 years since then Senator Mansfield and I introduced a victims of crime compensation bill. It was a great idea, we thought, then. It's a great idea now.

And, Mr. Chairman, with your permission I'd ask unanimous consent to incorporate my prepared statement in the record and then to merely make some comments.

Mr. CONYERS. Without objection, so ordered.

Mr. RODINO. Mr. Chairman, some years ago I was moved to do something in this area when, on television, I saw a young man who unfortunately was hospitalized because he'd been the victim of a beating after he'd gone to the assistance of a young lady. This young man was black. The young lady was white.

This man, notwithstanding the fact that the assailants were present, went to her assistance because she was being mercilessly beaten. I remember that he was pretty well banged up.

And the question arose in my mind: What do we do for a person like this? Because it did develop during the course of the interview that he'd been in the hospital for some length of time.

He had accumulated a lot of hospital and medical expenses. He was going to be incapacitated, unable to continue any work, for some time.

There was no one to do anything for him, and frankly the appeal over the television was for some assistance. I remember I sent him something as a result; but I thought that was the wrong thing to do, to send charity.

This person was a person who had done something which we all applauded, but there was no formal way to help him, despite the fact that he incurred bills for medical expenses, was physically injured, and incapacitated from work.

There was no one to give him any kind of assistance; and I decided, then and there, that we were going to do something.

I read the law and I read that way far back there was a maxim in the law that if an individual acted in a manner such as this, the State would then recognize and try in some way, not to reward, but to compensate. And so I remember at that time we worked on the idea and developed this legislation along with then Senator Mansfield.

But, very frankly, while it sounded great, the big cry at that time was: Why should the Federal Government step in? Why should it do this for an individual who has willingly gone in to assist someone? There ought to be some other way to assist him. Let him go on welfare.

Well, I hardly think that's what we ought to be doing with people who we want to employ. We do provide welfare assistance in other areas. I think this is not the type of situation where we ought to do this.

In any event at that time, too, there were programs that were being developed in the various States. The States began to provide crime victim compensation programs; and my State of New Jersey was one of the first to develop this. I thought that, in concert with the States, we would develop a program whereby the Federal Government would share in the burden.

While crime is the primary responsibility of the State, nonetheless crime has become a national problem and a national responsibility. So I thought that there ought to be at least some provision whereby the Federal Government would recognize this responsibility even as it does in many other instances; and, ironically enough,

you know and I know that the Federal Government does assist even criminals who are defendants.

We assure that their rights are protected. We assure that if they are incarcerated the conditions meet minimal constitutional standards.

The Federal Government also assumes responsibility in assuring that Federal crimes are prosecuted. I believe that this bill would do much, first of all, to insure that an innocent victim of crime is compensated for the injuries that he suffers—the medical expenses that are incurred in order to do something to put him back in shape, hospital bills, lost wages.

And I think that what it does, too, Mr. Chairman, is to assure the public and the innocent victim that the Government does not ignore the innocent victim of crime.

Well, we went on with bills of this sort providing some kind of compensation and appropriating out of Federal money certain sums which would be provided to those States that had these programs.

What we have in my bill, Mr. Chairman, is two phases. There is a crime victim compensation phase, which reimburses States that pay compensation to victims of crime. That reimbursement comes out of a victim of crime compensation fund.

Then we have a victim-of-crime assistance phase and that also is financed by the crime victims' fund. That fund would consist of all fines collected in Federal criminal cases, the proceeds of all forfeitures in Federal criminal cases, the taxes that are imposed by section 4181 of the Internal Revenue Code on pistols and revolvers, and money received in the Treasury as penalty assessments under section 3013 of title 18 of the United States Code, which are collected from defendants convicted of Federal offenses.

Thus, we don't look to any appropriations.

And I think that this fund would be the basis of a program which would actually help to fight crime because it would aid the victim which would bring the victim into the system. He would no longer be alienated and would have the opportunity to be assisted with crisis intervention counseling if he has problems because of the crime.

I think that this proposal is a very modest one, modest in the sense that it looks to help victims of crime in those States that presently have victims of crime compensation programs.

There are presently 38 States, together with the Virgin Islands and the District of Columbia, that I think would benefit from this particular program. Unless the State meets the criteria in the legislation it would not be able to participate.

I think all in all, Mr. Chairman, what we have neutralized is the argument that helping victims is so costly that the Federal Government would have to appropriate great sums of money.

I think the bill is well fashioned. I believe that it's high time that we adopted it.

I know that there are other bills before your subcommittee. I know that there may be some question as to the percentages that are allotted either way. That is something that I leave to the subcommittee's deliberations and to its judgment.

But I believe that this approach is practical. As you said a while ago, at this present time I can say, too, that this administration probably is in a position to support this approach because the President's task force report recommended a Federal program.

With that, Mr. Chairman, I conclude my remarks. I would only say that I believe that this legislation is long overdue.

I believe that it will help those States that now are about ready to give up because their funds have given out and they see no interest on the part of the Federal Government.

I think it behooves us, Mr. Chairman, to take the lead in this direction.

Mr. CONYERS. Well, I want to thank you, Chairman Rodino. This is a new approach and I think it's the result of those years that you've spent getting close to success.

What you've done—just to make sure we get the basic outline of this measure—is that you've created two programs, the crime victim compensation portion and the crime victim assistance portion. Up to 80 percent of the fund would be used for victim compensation grants, and the remainder for the victim assistance grants.

In your view, how do you think this is going to help victims and move us to a new level of support? What part of this legislation should we give most attention to?

Mr. RODINO. The compensation portion is designed to compensate the victim who, as I described in that one particular case, would never have recovered anything, who probably becomes, unfortunately, a drain on society because he or she can't go back to work.

The legislation reimburses the States for 50 percent of what they spend on victim compensation.

The other portion, crime victim assistance, aids programs in efforts to get the victim to cooperate and to help the victims at that time when some of them are traumatized, some of them are unwilling to come forward, and some of them are frankly afraid.

Mr. CONYERS. Would these counseling program's hot lines come under the crime victim assistance portion of the legislation?

Mr. RODINO. That's right. That's correct.

Mr. CONYERS. I noticed that you weight the funding four times as much for victim compensation. Can you give me the theory that you used?

Mr. RODINO. Well, only because I believe that there is a need in that area in view of the fact that there are 38 States right now that have these programs. And if we are going to at least provide a modest sum then we ought to consider the fact that people are not rich and people do lose time, people do accumulate medical expenses; and we've got to make this, I think, the more substantial part.

But insofar as I'm concerned, while I have said up to 80 percent, that figure is not in concrete; and if there were in the judgment of the subcommittee a need for a larger percentage for victim assistance part, then we could make it even larger.

Mr. CONYERS. You do not feel we should limit this to Federal crime victims.

Mr. RODINO. That's correct. The reason why we shouldn't limit it to Federal crime victims is because if we did that frankly we would just be using money in very, very few cases.

As a matter of fact, we had the Congressional Budget Office check this out some years ago, and it found that if we just limited it to Federal crime you would have about 53 cases in the first year and I think if you projected it for a couple of years, it would have been about 93 cases. So you'd have very few beneficiaries if the program were limited only to Federal crimes.

I feel that, as I said before, while crime is primarily a State responsibility, nonetheless I would like, just as we have done in other areas, to assist the States to do whatever we can in the effort to reduce crime.

We would want to recognize that there is a Federal responsibility and we should assume that.

Mr. CONYERS. Well, the funding mechanism is perhaps the newest idea of all in your legislation, and what you're claiming, as I understand it, is that first of all the use of some of those funds is not inconsistent with the purpose of the fund.

Mr. RODINO. Absolutely not. There is money that would go into the fund that right now has been doing, very frankly, nothing as I see it except just to accumulate.

And I think that since it's in the area of crime, let's do something to assist the person who is a victim of crime.

Mr. CONYERS. Well, I think this gets us off the ground and we are going to study this very carefully, and probably there will be many variations on the theme. But I appreciate the way that you've put this forward. I think it does reflect more than a decade's experience in this area.

We are glad you are our first witness.

I'd like to now yield to the gentleman from Ohio, Mr. Seiberling.

Mr. SEIBERLING. Well, thank you, Mr. Chairman.

I think that this is a very necessary and desirable piece of legislation and I'm cosponsor of it. I do have a couple of questions, Mr. Chairman.

I noticed that there is no authorization. I gather this would be in effect the kind of an entitlement program that would go through the appropriations process?

Mr. RODINO. I don't know about entitlement. One would have to wait until one was victimized.

Mr. SEIBERLING. I mean, the States would get the money without waiting for appropriations.

Mr. RODINO. Those States, however, would have to qualify under the criteria set out in the bill.

Mr. SEIBERLING. This doesn't have to be appropriated each year. Otherwise we wouldn't have a program?

Mr. RODINO. Oh, no.

Mr. SEIBERLING. Second, in the criteria for qualifying the program there is nothing to provide for or require some sort of protective measures to make sure that people don't use this program fraudulently; and I know we've discussed that in the past, but I think it would be helpful for the record if the chairman could give us his thoughts on that.

Mr. RODINO. Well, I believe that the experience with the existing compensation programs is that there has been a very insignificant number of cases of fraud.

The fraud element is something that, very frankly, while one could conceive of it, nonetheless it doesn't exist.

Mr. SEIBERLING. Well, earlier versions that I recall and in having a hearing, as I recall, had the courts approve each such award. Am I correct in that, or am I thinking of something else?

Mr. RODINO. No; I don't think so. You see, the States set up the programs.

Remember, it's all a matter of record. A person is victimized. He seeks compensation and one of the requirements is that he cooperate with law enforcement. He does those things that are necessary, incurs a lot of bills. Those bills have to be on record.

I don't see any opportunity for fraud, really, to occur although it's not entirely out of the question.

Mr. SEIBERLING. I'm just thinking about the kind of opposition that will be mounted for this so it might be desirable to require in the provisions for qualifying the program that there be a provision for an independent audit by a State auditor or some equivalent authority just to satisfy people that this isn't going to be some kind of opening up of the door to a gravy train.

Mr. RODINO. I certainly don't see any objection to assuring that the Congress gets reports on how these moneys are expended in the various States.

Mr. SEIBERLING. Yes; I think most States have an auditing procedure anyway. Somehow or other it strikes me that it would strengthen the bill if we had something in it to that effect.

Mr. RODINO. It's fine with me.

Mr. SEIBERLING. I agree completely with the chairman. I think this is an extremely important bill and the cost is not going to be great, and will be paid for out of the provisions of the bill with respect to fines. I suspect that the total amount of money spent in 1 year wouldn't even pay for one fighter plane.

Mr. RODINO. Well, as a matter of fact, I might say that if we had had such a program in fiscal year 1981 the fund would have received about \$65 million in revenues. A study conducted for the National Institute of Justice suggests that victim compensation programs paid about \$50 million to crime victims in 1981.

If you can consider that we're only going to allocate 50 percent of that, it would mean \$25 million in victim compensation grants or about 38 percent of the fund that would have been existing at that time.

Mr. SEIBERLING. Thank you.

Mr. CONYERS. Mr. Boucher of Virginia.

Mr. BOUCHER. Thank you.

I would also like to join with the others in commending Chairman Rodino for bringing this very worthwhile measure before us. I'm pleased to be a cosponsor of the legislation and will look forward to working with the subcommittee to obtain its approval.

I have a prepared statement, Mr. Chairman, which I would like to submit for the record.

Mr. CONYERS. All right. Without objection, so ordered.

[The complete statement follows:]

STATEMENT OF VIRGINIA CONGRESSMAN RICK BOUCHER

Chairman Conyers and Chairman Rodino: I am pleased that we are beginning today a series of hearings on H.R. 3498, the Victims of Crime Act. I strongly support enactment of a federal victims of crime program, and I commend you, Chairman Rodino, for your personal efforts to advance this needed legislation.

Prior to my election to Congress, I served for seven years in the Senate of Virginia. As a member of the Virginia Senate, I sponsored and secured passage of legislation imposing a \$2 surcharge on marriage license fees to be used to fund local crisis centers assisting victims of crime and of domestic violence. Since the enactment of the Virginia Victims of Crime program, I have visited a number of crisis centers and talked with prosecutors and counselors, and the unanimous view is that existing state programs, though effective, are underfunded and there is an urgent need for federal assistance such as that provided in H.R. 3498.

The legislation before us today is based largely on the recommendations of the President's Commission on Victims of Crime. The Commission did an excellent job in documenting the scope of problems facing crime victims and witnesses and the need for a national assistance program. The Commission has done its job, and now it is time for Congress to act.

Although there may be some debate during this series of hearings on the specific funding mechanism that should be used for a victims of crime program, I want to make clear my support for the establishment of the program funded at the levels envisioned in H.R. 3498.

Mr. BOUCHER. Chairman Rodino, I just have one question. A number of the victims assistance advocates and counselors have suggested that 20 percent of the total fund, as applied for their benefit, is perhaps inadequate and they could very readily spend a larger share.

I'm wondering if the breakdown of 80 percent for victims' compensation programs versus 20 percent for vital advocacy programs was one of the recommendations of the President's task force, or whether you have some other basis for making that decision.

Mr. RODINO. Well, very frankly that may have entered my mind; but that doesn't necessarily have to be the breakdown. I think that 80 percent, in my judgment, is the cap and I thought that if we got it within that area it would be all right, especially given the figures that I've just mentioned.

Whether or not we might increase the victim assistance program portion is something that I leave to the judgment of the subcommittee after you've heard some others and received more data.

I think the important thing is to get something on the books and get a fair division of those funds, and make sure that they're allocated in a manner that's going to be useful.

Mr. BOUCHER. Thank you, sir. Thank you, Mr. Chairman.

I yield back the balance of my time.

Mr. CONYERS. Mr. McCollum.

Mr. MCCOLLUM. Thank you very much. It's indeed a distinguished gentleman who's out there visiting with us today. I don't think we have that privilege very often, to question you from this end, Mr. Chairman; but I'll be very careful about that.

I'll tell you, in all seriousness, though, the type of legislation you're promoting as far as compensating victims I think is something that everybody should be supportive of. I know that I've long been concerned about restitution to victims.

The only controversy I can see looking at that legislation would deal with the source of funding and some of the details about that which I don't know enough about, all of the debate, to bring up

with you today. But there is one point I'd like to make and one question I'd like to ask.

This weekend I had the privilege of being out in the Milwaukee area with our good friend and colleague from that area, Mr. Kastenmeier. We were talking with the Chief Justice on the favorite subject these days, which of course, happens to be prison industries.

I know it's a long way off in some States and in some areas, but I would hope that whatever other sources there may be that, in time, in the not too distant future that the development of more prison industry opportunities and the use, as in the model examples our committee passed out, can provide a source of victim compensation restitution in that area.

I think that would be an ideal source for it. I know the chairman must feel the same way about that.

I do have one question. The one source that concerns me a little bit more than anything else—and I just am curious what you intend to happen to the programs now funded by it—part of the sources for it is the tax on pistols and revolvers.

My understanding is that money is going to safety and a number of other things. What do you envision happening to those programs now being supported by the tax? Do you think general revenue ought to fund them, or do you think they're not needed?

I'm referring to the programs. I don't know all the details. I know some of them are considered to be quite beneficial by those that are currently using the funds.

Mr. RODINO. Well, I do believe that maybe general revenue ought to fund those other programs. I do think that there is enough though, frankly, because we're using four sources over here to build up this fund; and I think that an allocation of that particular source of revenue would certainly not hurt what it does otherwise.

All we would be looking for, as a matter of fact, going back to what I found to be the actual amount of money paid out in compensation, was about \$50 million paid out last year; and when you consider, if you take 50 percent of it being by this kind of program, it would be only \$25 million.

And yet when you know that the revenue is continuing to increase even in the other sources it may be that you get a little bit here and there, and you build it up and we don't have to prejudice those particular programs.

Mr. MCCOLLUM. That program would impact that greatly, is what you're saying?

Mr. RODINO. That's it.

Mr. MCCOLLUM. I look forward to the full hearings on this and to the development of any discussion. I assume it would be over that because I can't imagine debating the concepts.

We all feel very strongly about it on both sides of the aisle.

Thank you, Mr. Chairman.

Mr. RODINO. Thank you.

Mr. CONYERS. Mr. Chairman, it seems we've come a long way on this. There was a time when there was a resistance to Federal participation in this kind of program.

I'm hopeful that this subcommittee will be able to move with some dispatch. We do have several hearings planned. We know

that you'll be watching our progress and we hope to bring this matter to the full committee at the earliest possible moment.

Mr. RODINO. Well, let me conclude by saying this. I've saved this for last.

In the State of the Union Message the President—although it may have been only two lines—stated that we should not forget the victims of crime.

Mr. CONYERS. Thank you. We will keep those words ringing in our ears now that you've repeated them. Thank you.

Mr. RODINO. Thank you very much.

[The prepared statement of Representative Rodino follows:]

STATEMENT

OF

HONORABLE PETER W. RODINO, JR.
CHAIRMAN, HOUSE COMMITTEE ON THE JUDICIARY

ON

LEGISLATION TO HELP CRIME VICTIMS
H.R. 3498

BEFORE THE
SUBCOMMITTEE ON CRIMINAL JUSTICE

THURSDAY, FEBRUARY 2, 1984

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE, I APPRECIATE THE OPPORTUNITY TO TESTIFY BEFORE YOU IN SUPPORT OF H.R. 3498, THE "VICTIMS OF CRIME ACT OF 1983" THAT SOME 50 OF OUR COLLEAGUES AND I HAVE INTRODUCED. I HOPE THE SUBCOMMITTEE WILL MARK UP THE LEGISLATION AND BRING TO THE FULL COMMITTEE AT AN EARLY DATE.

THE PUBLIC IS ALWAYS CONCERNED ABOUT CRIME, AND UNDOUBTEDLY THE BEST THING WE COULD DO TO ALLAY THAT CONCERN WOULD BE TO ENACT AND IMPLEMENT LEGISLATION THAT WOULD ERADICATE THE CONDITIONS THAT CAUSE CRIME. UNTIL THAT OCCURS, HOWEVER, WE ARE CONFRONTED BY THE FACT THAT EACH YEAR THOUSANDS OF PEOPLE BECOME VICTIMS OF VIOLENT CRIME AND HAVE THEIR LIVES CHANGED FOREVER. SOME OF THOSE VICTIMS ARE CRIPPLED, PHYSICALLY OR FINANCIALLY, FOR THE REST OF THEIR LIVES. SOME OF THEM BEAR PSYCHOLOGICAL SCARS FOR A LIFETIME. THEIR FAMILIES ALSO SUFFER. THE FINANCIAL PRICE OFTEN PAID BY FAMILIES OF VICTIMS OF VIOLENT CRIME IS ECONOMIC HARDSHIP CAUSED BY THE HOSPITALIZATION OR INCAPACITATION OF THE FAMILY BREADWINNER.

FOR A LONG TIME THE NEEDS OF THE INNOCENT VICTIMS OF CRIME WERE NEGLECTED. INDEED, IT HAS OFTEN BEEN POINTED OUT THAT THE CRIMINAL JUSTICE SYSTEM, BECAUSE OF ITS INSENSITIVITY AND INDIFFERENCE TOWARDS VICTIMS, ACTUALLY MADE MATTERS WORSE AND VICTIMIZED THE VICTIM AGAIN. VICTIMS WERE LEFT ALONE TO SHOULDER THE FINANCIAL BURDENS RESULTING FROM THEIR VICTIMIZATION.

THINGS STARTED TO CHANGE SOME 15 YEARS AGO WHEN THE FIRST STATE CRIME VICTIM COMPENSATION PROGRAMS WERE ESTABLISHED. THESE PROGRAMS WERE SET UP TO HELP CRIME VICTIMS WITH THE EXPENSES THEY

INCURRED AS THE RESULT OF A PHYSICAL INJURY CAUSED BY THE CRIME. TODAY, SOME 38 STATES, PLUS THE DISTRICT OF COLUMBIA AND THE VIRGIN ISLANDS, HAVE SUCH PROGRAMS.

THESE COMPENSATION PROGRAMS REIMBURSE CRIME VICTIMS FOR EXPENSES THAT THEY INCUR AS THE RESULT OF A PHYSICAL INJURY CAUSED BY A CRIME. THESE PROGRAMS ARE LIMITED AND ADDRESS THEMSELVES EXCLUSIVELY TO THE ECONOMIC LOSS SUSTAINED BY VICTIMS. WHILE NO TWO PROGRAMS ARE IDENTICAL, THERE ARE SOME COMMON THEMES: FIRST, THE INDIVIDUAL MUST HAVE SUFFERED PERSONAL INJURY AS THE RESULT OF A CRIME. SECOND, THE INDIVIDUAL MUST BE AN "INNOCENT" VICTIM -- THAT IS, NEITHER A PARTICIPANT IN, NOR A PROVOKER OF, THE CRIME. THIRD, A VICTIM WILL BE COMPENSATED ONLY FOR THOSE EXPENSES THAT ARE NOT REIMBURSEABLE FROM OTHER SOURCES (SUCH AS INSURANCE). FOURTH, AN INDIVIDUAL MAY NOT RECOVER FOR STOLEN PROPERTY, SUCH AS AN AUTOMOBILE. FIFTH, A VICTIM MUST HAVE PROMPTLY REPORTED THE CRIME TO THE POLICE AND MUST COOPERATE WITH LAW ENFORCEMENT AGENCIES IN THE APPREHENSION AND PROSECUTION OF THE OFFENDER.

EVEN MORE RECENT THAN THE VICTIM COMPENSATION PROGRAMS ARE PROGRAMS DESIGNED TO MEET OTHER NEEDS OF VICTIMS. THESE PROGRAMS -- SUCH AS RAPE CRISIS CENTERS OR DOMESTIC VIOLENCE SHELTERS -- PROVIDE A VARIETY OF SERVICES TO VICTIMS. THESE SERVICES INCLUDE PROVIDING PERSONNEL WHO WILL GO TO A CRIME SCENE TO MAKE CRISIS COUNSELLING AVAILABLE TO THE VICTIM, OPERATING TELEPHONE "HOTLINES" THAT ENABLE VICTIMS TO CALL IN

AND SPEAK TO TRAINED COUNSELLORS, AND REFERRING VICTIMS TO APPROPRIATE SOCIAL SERVICE AND VICTIM COMPENSATION PROGRAMS.

NEARLY ALL OF THE PROGRESS THAT HAS BEEN MADE HAS BEEN AT THE STATE LEVEL. CONGRESSIONAL EFFORTS TO ENACT CRIME VICTIM COMPENSATION LEGISLATION, WHICH HAVE BEEN UNDERWAY FOR SOME 10 YEARS, HAVE BEEN UNSUCCESSFUL. I AM PLEASED TO REPORT THAT LAST CONGRESS WE ENACTED THE VICTIM AND WITNESS PROTECTION ACT OF 1982. THAT LEGISLATION STRENGTHENED FEDERAL LAWS PROTECTING VICTIMS AND WITNESSES FROM INTIMIDATION AND RETALIATION; REQUIRED FEDERAL COURTS TO CONSIDER THE IMPACT OF THE OFFENSE UPON THE VICTIM WHEN DETERMINING SENTENCE; AND MADE RESTITUTION A SEPARATE CRIMINAL PUNISHMENT THAT FEDERAL COURTS COULD IMPOSE IN ADDITION TO OR IN LIEU OF ANY OTHER PUNISHMENT.

THE FEDERAL GOVERNMENT CAN AND SHOULD DO MORE TO HELP CRIME VICTIMS. THIS IS NOT JUST MY OPINION AND THE OPINION OF THE COSPONSORS OF MY BILL. THE PRESIDENT, IN HIS STATE OF THE UNION, STRESSED THE IMPORTANCE OF HELPING VICTIMS BY NOTING THAT "PROTECTING VICTIMS IS JUST AS IMPORTANT AS SAFEGUARDING THE RIGHTS OF DEFENDANTS." HIS COMMENT UNDERScoreD THE FINDINGS OF THE TASK FORCE ON VICTIMS OF CRIME THAT HE APPOINTED IN APRIL 1982 AND WHOSE FINAL REPORT WAS ISSUED IN DECEMBER 1982.

AS I INDICATED EARLIER, SOME 50 OF OUR COLLEAGUES HAVE JOINED ME IN INTRODUCING H.R. 3498, A BILL THAT WILL ENABLE THE FEDERAL GOVERNMENT TO DO MORE TO HELP CRIME VICTIMS. THE BILL IS IN PART SIMILAR TO LEGISLATION THAT I HAVE INTRODUCED IN PREVIOUS CONGRESSES, BUT IT ALSO INCORPORATES MANY OF THE

RECOMMENDATIONS OF THE PRESIDENT'S TASK FORCE ON VICTIMS OF CRIME.

IN BRIEF, THE BILL ESTABLISHES A CRIME VICTIMS FUND TO BE USED TO PROVIDE FINANCIAL AID TO STATE CRIME VICTIM COMPENSATION PROGRAMS AND TO CRIME VICTIM ASSISTANCE PROGRAMS. EIGHTY PERCENT OF THE CRIME VICTIMS FUND WILL BE USED TO ASSIST STATE CRIME VICTIM COMPENSATION PROGRAMS, AND 20 PERCENT WILL BE USED TO AID CRIME VICTIM ASSISTANCE PROGRAMS. A STATE CRIME VICTIM COMPENSATION PROGRAM WILL BE ELIGIBLE FOR ASSISTANCE IF THE FOLLOWING 6 CRITERIA ARE MET:

- (1) THE PROGRAM OFFERS COMPENSATION TO VICTIMS FOR PERSONAL INJURIES CAUSED BY CRIMINAL ACTS AND TO SURVIVING DEPENDENTS OF PERSONS WHOSE DEATHS WERE CAUSED BY CRIMINAL ACTS;
- (2) THE PROGRAM PROMOTES VICTIM COOPERATION WITH THE REASONABLE REQUESTS OF LAW ENFORCEMENT AUTHORITIES;
- (3) THE PROGRAM IS ABLE TO REDUCE AWARDS TO CLAIMANTS FOR THEIR CONTRIBUTORY MISCONDUCT;
- (4) THE STATE IS SUBROGATED, TO THE EXTENT OF ANY COMPENSATION PAID, TO ANY CLAIM THAT THE CLAIMANT HAS AGAINST THE WRONGDOER;
- (5) THE PROGRAM DOES NOT DISCRIMINATE AGAINST NONRESIDENTS; AND;
- (6) THE PROGRAM COMPENSATES VICTIMS OF CRIMES OCCURRING WITHIN THE STATE THAT WOULD BE CRIMES COVERED BY THE PROGRAM BUT FOR THE FACT THAT THE CRIMES FALL WITHIN THE EXCLUSIVE FEDERAL JURISDICTION.

EACH PROGRAM THAT QUALIFIES IS ELIGIBLE FOR A GRANT OF UP TO 50 PERCENT OF THE COMPENSATION PAID TO VICTIMS OF STATE CRIMES. EACH QUALIFIED PROGRAM WILL RECEIVE THE SAME PERCENTAGE. IN ADDITION, THE PROGRAM WILL RECEIVE A GRANT FOR 100 PERCENT OF THE COMPENSATION PAID TO VICTIMS OF CRIMES THAT FALL WITHIN EXCLUSIVE FEDERAL JURISDICTION.

IN ADDITION TO ASSISTING STATE CRIME VICTIM COMPENSATION PROGRAMS, THE LEGISLATION WILL PROVIDE FINANCIAL AID TO CRIME VICTIM ASSISTANCE PROGRAMS. EACH STATE WILL RECEIVE A GRANT, WHICH THE GOVERNOR OF THE STATE IS RESPONSIBLE FOR DISTRIBUTING TO VICTIM ASSISTANCE PROGRAMS WITHIN THE STATE. THE AMOUNT OF THE GRANT A STATE GETS IS DETERMINED BY A FORMULA THAT TAKES POPULATION INTO ACCOUNT BUT THAT ALSO ENSURES THAT THE LESS POPULOUS STATES WILL RECEIVE ADEQUATE FUNDS. EACH STATE WILL GET A PRO-RATA SHARE OF THREE-QUARTERS OF THE FIRST \$7,200,000 AVAILABLE. THE REMAINING ONE-QUARTER AND ANY OTHER MONEY AVAILABLE WILL BE DISTRIBUTED ON THE BASIS OF POPULATION.

HOW THE STATE'S GRANT IS DISTRIBUTED IS WITHIN THE DISCRETION OF THE GOVERNOR. HOWEVER, TO RECEIVE FINANCIAL AID UNDER THE LEGISLATION, A CRIME VICTIM ASSISTANCE PROGRAM MUST MEET THESE 5 CRITERIA:

FIRST, THE PROGRAM MUST BE ESTABLISHED EXCLUSIVELY TO PROVIDE SERVICES DIRECTLY TO CRIME VICTIMS GENERALLY OR TO ANY SPECIFIC CATEGORY OF CRIME VICTIMS AND MUST BE A NONPROFIT PRIVATE ORGANIZATION, A PROGRAM OF A STATE OR LOCAL GOVERNMENT, OR A COMBINATION OF SUCH ORGANIZATIONS OR GOVERNMENTS OR BOTH.

SECOND, THE PROGRAM MUST PROVIDE CRISIS INTERVENTION SERVICES ON A 24 HOUR A DAY BASIS WITHOUT REGARD TO THE FINANCIAL STATUS OF THE VICTIM; MENTAL HEALTH COUNSELING; AND INFORMATION ABOUT THE REFERRALS FOR (1) MEDICAL AND MENTAL HEALTH TREATMENT, (2) VICTIM ASSISTANCE AND COMPENSATION, AND (3) THE INVESTIGATION AND PROSECUTION OF CRIME. THIRD, THE PROGRAM MUST PROMOTE COORDINATED COMMUNITY EFFORTS TO AID CRIME VICTIMS AND THEIR FAMILIES. FOURTH, THE PROGRAM MUST UTILIZE VOLUNTEERS IN PERFORMING SERVICES FOR WHICH IT GETS A GRANT. FIFTH, THE PROGRAM MUST DEMONSTRATE INDEPENDENT SUPPORT BY RECEIVING FINANCIAL SUPPORT FROM SOURCES OTHER THAN A VICTIM ASSISTANCE GRANT.

A WIDE RANGE OF SERVICES ARE PROVIDED TO CRIME VICTIMS, BY VARIOUS VICTIM ASSISTANCE PROGRAMS AROUND THE COUNTRY, AND THE MONEY IN THE FUND WILL NOT BE SUFFICIENT TO PROVIDE SUPPORT FOR ALL OF THEM. H.R. 3498 PLACES A PRIORITY UPON IMPORTANT SOCIAL SERVICES, LIKE CRISIS INTERVENTION AND MENTAL HEALTH COUNSELING, WHICH, UNFORTUNATELY, TEND TO BE OTHERWISE FUNDED INADEQUATELY OR NOT AT ALL.

THE OTHER SERVICES, LIKE KEEPING VICTIMS APPRISED OF THE PROGRESS OF THE CASE OR CONSULTING WITH THEM TO FACILITATE THE SETTING OF CONVENIENT HEARING DATES, ARE, OF COURSE, OF VALUE TO VICTIMS. THESE CASE-MANAGEMENT TYPE OF SERVICES WERE ADDRESSED BY THE CONGRESS LAST CONGRESS WHEN IT ENACTED THE VICTIM AND WITNESS PROTECTION ACT OF 1982. PURSUANT TO

THAT ACT, THE ATTORNEY GENERAL HAS ISSUED GUIDELINES THAT, IF COMPLIED WITH, WILL ENSURE THAT FEDERAL VICTIMS (AND WITNESSES) WILL BE TREATED WITH GREATER COURTESY AND CONSIDERATION BY FEDERAL LAW ENFORCEMENT AGENCIES AND FEDERAL PROSECUTORS. THE AVAILABLE EVIDENCE INDICATES THAT SUCH TREATMENT WILL IMPROVE THE EFFICIENCY AND EFFECTIVENESS OF THE CRIMINAL JUSTICE SYSTEM. THEREFORE, I THINK THAT THOSE SERVICES ARE MORE PROPERLY FUNDED OUT OF THE OPERATING BUDGETS OF LAW ENFORCEMENT AGENCIES, PROSECUTORS OFFICES, AND THE COURTS. BECAUSE THE EVIDENCE INDICATES THAT SUCH SERVICES ARE COST EFFECTIVE, THERE SHOULD BE A STRONG IMPETUS TO PROVIDE SUCH SERVICES WITHOUT THE SUPPORT OF MONEY FROM THE CRIME VICTIMS FUND.

THE CRIME VICTIMS FUND DOES NOT DEPEND UPON APPROPRIATED MONEY. IT WILL DERIVE REVENUES FROM 4 SOURCES: (1) ALL FINES COLLECTED IN FEDERAL CRIMINAL CASES, (2) THE PROCEEDS OF ALL FORFEITURES IN FEDERAL CRIMINAL CASES, (3) TAXES COLLECTED ON PISTOLS AND REVOLVERS UNDER § 4181 OF THE INTERNAL REVENUE CODE OF 1954, AND (4) PENALTY ASSESSMENTS COLLECTED FROM DEFENDANTS CONVICTED OF FEDERAL CRIMES. THE PENALTY ASSESSMENT IS NEW TO FEDERAL LAW. I WOULD ALSO POINT OUT THAT THE BILL SHARPLY INCREASES FINE LEVELS AND REQUIRES THAT COURTS CONSIDER ABILITY TO PAY WHEN IMPOSING A FINE. THIS SHOULD INCREASE THE REVENUES COMING INTO THE FUND AND WILL ENABLE FEDERAL COURTS TO IMPOSE MORE MEANINGFUL FINES UPON CORPORATE, WHITE-COLLAR AND OTHER FINANCIALLY WELL-OFF DEFENDANTS.

MR. CHAIRMAN, IN PREVIOUS YEARS IT HAS BEEN ARGUED THAT HELPING STATE AND LOCAL PROGRAMS TO ASSIST INNOCENT CRIME VICTIMS IS NOT A PROPER FEDERAL FUNCTION. THOSE WHO SUGGEST THIS DO NOT ARGUE THAT IT IS UNCONSTITUTIONAL TO SPEND FEDERAL FUNDS FOR THIS PURPOSE, FOR THERE IS NO CREDIBLE BASIS FOR SUCH AN ARGUMENT. INSTEAD, IT HAS BEEN ARGUED THAT, AS A MATTER OF POLICY, EXPENDITURES FOR CRIMINAL JUSTICE PURPOSES SHOULD BE A MATTER OF PURELY STATE CONCERN SINCE LAW ENFORCEMENT IS PRIMARILY A STATE MATTER.

THE PROBLEM WITH THAT ARGUMENT IS THAT THE FEDERAL GOVERNMENT HAS FOR SOME TIME BEEN MAKING EXPENDITURES TO ASSIST STATES AND COMMUNITIES IN THE FIELD OF LAW ENFORCEMENT AND CRIMINAL JUSTICE. THE FEDERAL GOVERNMENT HAS SPENT LARGE SUMS OF MONEY TO HELP STATES CATCH CRIMINALS, TRY THEM, AND INCARCERATE THEM WHEN CONVICTED. IF THE FEDERAL GOVERNMENT CAN DO THAT, SURELY IT CAN SPEND SOME MONEY TO HELP ASSIST THE VICTIMS OF THOSE CRIMES. THIS WAS THE CONCLUSION OF THE PRESIDENT'S TASK FORCE ON VICTIMS OF CRIME, WHICH HAS RECOMMENDED FEDERAL FINANCIAL AID FOR STATE CRIME VICTIM COMPENSATION PROGRAMS AND FOR VICTIM ASSISTANCE PROGRAMS.

MR. CHAIRMAN, I KNOW THAT, LIKE ALL OF US, YOU AND THE MEMBERS OF THE SUBCOMMITTEE ARE SEARCHING FOR WAYS TO IMPROVE OUR CRIMINAL JUSTICE SYSTEM. HOWEVER, IN THAT SEARCH WE SHOULD NOT OVERLOOK THOSE WHO ARE CRIME'S INNOCENT VICTIMS. FOR THEM THE CRIMINAL JUSTICE SYSTEM OFFERS SCANT COMPENSATION FOR THE PAIN, THE MONETARY LOSS AND THE FEAR THEY SUFFER. OUR

CRIMINAL LAWS ARE VERY PROPERLY CONCERNED WITH PROTECTING THE RIGHTS OF THOSE ACCUSED OF CRIMES, TO ENSURE THAT INNOCENT SUSPECTS ARE NOT WRONGLY PUNISHED. THE LEGISLATION I AM PROPOSING WOULD ESTABLISH THE PRINCIPLE THAT INNOCENT VICTIMS ARE NO LESS ENTITLED TO CONSIDERATION AND ASSISTANCE AT THE TIME OF THEIR GREATEST NEED. I WANT TO ASSURE YOU OF MY OWN STRONG PERSONAL INTEREST IN THE LEGISLATION. I AM CONFIDENT THAT YOUR DELIBERATIONS WILL RESULT IN A BILL THAT FAIRLY AND EQUITABLY MEETS THE PRESSING NEEDS OF THOSE WHO HAVE SUFFERED INNOCENTLY AT THE HANDS OF CRIMINALS.

Mr. CONYERS. I'd like to call now Congressman Russo from Illinois. Mr. Russo is a former member of the Judiciary Committee; as a matter of fact, a former member of the Criminal Justice Subcommittee.

It may have been here that his interest in the subject matter was stimulated, but now he serves on Ways and Means, and has conducted hearings on an excise tax that would be helping crime victims.

We welcome you to the subcommittee, and we'll incorporate your prepared remarks into the record, without objection.

TESTIMONY OF HON. MARTY RUSSO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. Russo. Mr. Chairman, members of the committee, I certainly want to thank you for the opportunity to testify today in support of legislation to help crime victims. The victims are the forgotten participants in our criminal justice system and while there is a good deal of rhetoric concerning their plight, there has been very little in the way of tangible assistance.

Drawing on my own experience as a former assistant State's attorney in Chicago and my days serving on the Judiciary Committee, I know that it is time to do something more than pay lip service to the suffering of victims. One clear way to accomplish this is to provide the money for a compensation program rather than just applaud its merits.

Both Chairman Rodino's bill, H.R. 3498, and my own bill, H.R. 2470, speak to this requirement because for any Federal compensation program to win approval it must be demonstrated that it is financially feasible.

Last spring I reintroduced my legislation that would—with no new appropriations or taxes required—provide funds for a victims of crime program. The bill would amend the Internal Revenue Code to provide for the transfer of the revenues generated by the existing 10-percent handgun excise tax from the Pittman-Robertson

fund, which funds wildlife management and hunter programs, to a trust fund for victims of crime.

Since the original introduction of this bill in 1982, it has received favorable attention and support. The Association of Attorneys General adopted a supporting resolution at their annual meeting last summer. The Washington Post endorsed it editorially and the President's Task Force on Victims of Crime recommended a compensation program funded in part by the handgun excise tax.

The commission's report states that there is little if any relationship between handguns and hunting or wildlife activity, but that there is a substantial relationship between handguns and the commission of violent crime. It goes on to suggest that Congress re-evaluate its priorities with regard to the use of the Pittman-Robertson funds, and I agree.

Let me provide some background on how we arrived at a situation where we are using handgun taxes, not for crime victims, but for hunters.

Back in 1937, Congress passed the Federal Aid in Wildlife Restoration Act, more commonly known as the Pittman-Robertson Act. At its inception, this program was funded solely from the Federal excise taxes on rifles, shotguns and ammunition.

The rationale was that these were hunting weapons and that the excise taxes collected would be earmarked for programs at the State level to promote hunting. Federal funds, administered by the Interior Department, would cover 75 percent of the program cost with the States providing the remainder.

In 1970, Congress, at the urging of the National Rifle Association and others, approved a 10-percent excise tax on handguns which was earmarked for the Pittman-Robertson program. Up to half of the handgun tax revenue, which is now over \$30 million a year, is to be used by the States for hunter safety training programs and maintaining target ranges, and the other half for other Pittman-Robertson programs involving wildlife management.

More than a billion dollars in Federal funds have been spent since Pittman-Robertson was enacted, but because the program is funded exclusively by excise taxes it bypasses the congressional appropriations process, thus escaping public scrutiny.

At a time when the budgetary ax falls on programs throughout the Federal Government—vital programs in housing, education, and health—I think we cannot afford this lack of scrutiny. We cannot afford some of the Pittman-Robertson programs which are essentially a subsidy for hunters.

Hunters do not deserve a Federal tax subsidy for their hobby any more than bowlers or tennis players do. The NRA argues that since hunters agreed to tax themselves the proceeds should go to the hunters' favorite programs. I do not think this is any more logical than arguing that all Federal taxes on whiskey must be used to build saloons and liquor stores.

In theory, it would seem useful to teach a hunter how to avoid shooting himself or innocent bystanders. However, the courses apparently sometimes fall short of the Interior Department's ideals.

The New Jersey Audubon Society, which is not an antihunting organization, charged that too much money would be spent to train

too many hunters—120,000 new hunters over the next 10 years—when the quality of the training already was suspect.

Let me make it very clear I have no quarrel with the existence of Pittman-Robertson itself and many of its programs. However, I think that given the plight of victims in this country, the Federal Government can make this a priority rather than the construction, operation, and maintenance of public target ranges, for example.

Nor do I think that burning U.S. forest lands to provide habitat for elk to the tune of \$50,000 is a priority item.

I feel that we should leave the bulk of the funds for Pittman-Robertson in place, which amounts to some 75 percent of the current funding level, but that we should transfer the revenue raised from the tax on handguns to serve a more significant and appropriate need—providing compensation for the victims of crime.

Others here from national victims' organizations I'm sure will speak forcefully during the course of these hearings on the need for help for victims, but let me just say that I know that our treatment of victims is often a mockery of justice.

We make no meaningful provision for their time, their protection or their compensation, despite the fact that the success of our criminal justice system depends on the willing and patient participation of those victimized. We ask these citizens to endure the inconvenience and the further disruption of their lives that a lengthy investigation and trial inevitably entails, but we leave them along to bear the cost and traumas of the crime itself.

Congress has moved closer in recent years to establishing a Federal program to compensate victims of crime, the kind of program that is already on the books in most of the world's industrialized countries and that 30 States have already established. A major hurdle has been the issue of cost and funding, and this is the problem my bill addresses.

The more than \$30 million from the handgun tax represents more than the amount needed for the program. The Congressional Budget Office has estimated that the compensation program recommended by the full House Judiciary Committee in the past would cost \$16 million and \$22 million in the first 2 years respectively.

This would not become a runaway entitlement program since any legislation passed spelling out the specifics of a compensation program would require that the Congress authorize and appropriate a fixed sum of money, with appropriate ceilings.

I don't think we need to belabor the point that handguns wound and kill people by the hundreds of thousands in this country. It is just and appropriate that the taxes on this weapon should be used to help victims.

The need is there, the money is there. It is critically important that we finally provide a measure of justice and financial help to America's crime victims.

I thank the subcommittee.

Mr. CONYERS. I want to thank you for introducing the second bill to come to the attention of the subcommittee. Do you operate in the same general breakdown as the Rodino measure by dividing this into individual victim compensation measures and then assistance programs for funding?

Mr. Russo. I believe my bill does basically the same thing.

Mr. CONYERS. So you don't argue any major structural differences?

Mr. Russo. No. In fact, I agree with the chairman, and I support the comments made by the chairman in his testimony. My basic thrust in having served on the subcommittee and having seen the victims of crime compensation bill pass out of our subcommittee, pass out of our full committee, go to the floor and be killed in the waning days of the session, because of the so-called argument that it's now a new appropriation, it's going to cost the Federal Government more money. I've been wrestling with this for years. Here we have an opportunity and the chairman has other ideas, in addition to this idea, of figuring out a way of raising the revenue to pay for a program that everybody says is needed in this country. It's no new taxes and no new appropriations.

I would suspect and I would hope that the members of this committee would unite in an effort to pass this bill, and we can deal with the problem of compensation. You're paying for it by either the chairman's route, using all the various components he had, which included this particular component.

Mr. CONYERS. I'm glad to hear that there is essentially little difference between the substantive operation features of both of these proposals.

Do you have any words of mollification for the hunters who would like wildlife restoration programs? Is there someplace they may look to for solace or some consolation?

Mr. Russo. Surely, Mr. Chairman. It is very easy. We're dealing with a \$925 million budget. I'm sure you and I have ideas a lot different from the ones we just saw the President put forth. It's a question of priorities. You have a program, the Pittman-Robinson program, which raises about \$120 million a year. All I'm saying is, out of that \$120 million, let's take \$30 million of it that is raised strictly from a handgun excise tax, which was not put into place at the inception of this particular program, and use that to help victims of crime. That leaves \$90 million left for the program. They can do hunter safety programs, as Mr. McCollum asked the chairman how would we deal with it. They have to allocate the resources a little bit differently. Instead of spending maybe all this particular money on wildlife habitat, maybe we'll spend a little bit less on that and hunter safety programs.

We're all having to deal with tightening our belts in every particular phase of the budget. Why shouldn't the hunter do the same thing? It's only the American way that when the time comes for the President to say we need to sacrifice, why shouldn't they be willing to sacrifice? Victims of crime have been sacrificing for years. They haven't gotten a thing from the Federal Government. All we're saying is, why don't you share a little bit of the wealth you've been able to have since 1937, and the biggest bulk of what you'll receive since 1970 under the handgun tax. Let's use it for victims of crime that are wounded by handguns all the time.

Mr. CONYERS. I think that that's a more than reasonable explanation. I shouldn't expect too much controversy on that. Very good explanation.

I'd like to recognize and yield now to Mr. Seiberling.

Mr. SEIBERLING. Well, thank you. I want to compliment our colleague for a very excellent statement and for the position he's taken on the transfer of the handgun revenues from the sale of handguns to this much more important, in my opinion, priority. Of course, I'm opposed to the sale of handguns generally, anyway. So theoretically, those revenues might dry up. In view of the lack of success we've had around here in getting a ban on handguns, I think that probably that revenue will continue for some time to come. Certainly as long as we're going to sell things whose primary purpose and whose primary use to the extent handguns are used, is in criminal activity and creating victims, the least we can do is take the proceeds from the excise tax and put into the funds to compensate those victims, and maybe that will help bring home the need for getting rid of the handguns. In the meantime, the funds would be going where they are most needed and most appropriate.

Mr. RUSSO. I may point out to the gentleman that the President's own task force recognizes that and recommends that we fund part of the victims of crime compensation program for that particular reason, that there is a greater correlation between handguns and crimes than there is between handguns and hunting.

Mr. SEIBERLING. No question about it. The fact is, there is a greater correlation between handguns and street crime than almost any other index you can obtain. So it seems to me this is a very appropriate measure.

Mr. RUSSO. Thank you.

Mr. CONYERS. Mr. Boucher.

Mr. BOUCHER. I'd like to ask whether your view of the breakdown of the funds from the legislation for compensation programs, on the one hand, and victim assistance programs on the other, is, as Chairman Rodino suggested, somewhat flexible. Would you be willing to accede to the arguments of the victims assistance program advocates, that they can usefully spend more than 20 percent of the total fund?

Mr. RUSSO. I always accede to the wishes of the subcommittee. I think after you listen to all of the testimony, in your wisdom, you'll decide whether 80 or 20 is the proper ratio. But I think we have to have a starting point, and I think the chairman and I both agree that we can put the figures forth, and the subcommittee, in its wisdom, in listening to all the testimony, will make the final determination. Whatever the subcommittee determines, I'd be more than happy to live with.

Mr. BOUCHER. Do you know whether the 80-20 breakdown is a result of the recommendation of the President's Task Force on Victims of Crime, or was there some other basis upon which you made that division?

Mr. RUSSO. No. There's no other basis. I don't think it was made up under the President's thing. I think it was a question of sitting down and determining what you think victims of crime compensation should receive. It could easily have been 70-30. And I'll be perfectly honest with you. I am more than concerned about passing the bill and funding it and getting it in place. And if it's 70-30, 50-50, however you want to do it, you all just do it, and I'll be out there hustling for you, getting the votes to pass it.

Mr. BOUCHER. Let me ask one additional question. I represent a district where there is a great deal of hunting. Deer hunting is particularly famous in our part of the State. People travel to the southwestern part of Virginia from many surrounding States to enjoy our deer hunting. And we have a large number of accidents every year. Rarely does a season go by that I don't hear of six or seven people losing their lives as a result of hunting accidents. It's clear to me that the hunter education programs are particularly valuable, to the extent that they are promoting hunter safety.

You suggested that those programs should make some cuts or incur some cuts, as have other Federal programs. But in view of the accident rate that we are seeing, particularly in areas where hunting is prevalent, do you really believe that that's appropriate, or would you be willing yourself to support some general funding, perhaps, for hunter safety, in view of the very real difficulties?

Mr. RUSSO. I'm not against hunter safety, and I will question whether or not all the money we spent in the past on hunter safety programs has actually worked, in view of the fact that you said hunter accidents have increased over the years. I would think all the dollars we spent out of Pittman-Robinson for hunter training programs, maybe we ought to question whether or not the dollars being used for this specific program that you're using is actually a beneficial program. Maybe what we ought to do is have scrutiny of the type of programs being obtained under Pittman-Robinson and say, let's really contribute to hunter programs. Maybe spending more money doesn't necessarily give you a better program.

What we need is the efficient spending of money. What I'm saying is for \$30 million, we can get an efficient spending of money for victims of crime, and for \$90 million, we can get just as much efficient spending for Pittman-Robinson programs, including hunter safety programs. I wouldn't be opposed to voting for general revenues for hunter safety programs, just like I'm not opposed to general revenues for victims of crime. You couldn't do that in Congress. They yelled and screamed about it, the so-called conservatives said we couldn't afford new programs. Yet we spent all kinds of dollars in all parts of this country, and we couldn't find a mechanism, if I'm correct. I believe the program we finally got to the floor of the House was a 25-percent compensation program, which went down the drain the last minutes because of parliamentary maneuvers. The argument was used, we can't go to general revenues. If it passes this bill, you've got it.

Mr. BOUCHER. You wouldn't object to the passage of a measure that had general revenues for the purpose of victim assistance?

Mr. RUSSO. I wouldn't; no. I'd vote for that too. I think the victims of crime have been paid lip service for too many years, and those of us who sit on the Judiciary Committee and who have had experience in it, know that the victim of crime is somebody that is totally disregarded. We spend more dollars in prisons. We're worried about the rehabilitation programs in prisons, while there is the old victim who is probably still in the hospital by the time the individual comes out of jail. I think the priorities there are kind of backward. I will do whatever I can to support a program for victims of crime, because we can't succeed in the criminal justice program without the help and cooperation of victims.

Can you try a case without a victim or a witness who is willing to come to court and testify? You can't win too many of those cases.

Mr. BOUCHER. Let me just say, finally, to the gentleman, in response to his comment that perhaps the hunter education programs, insofar as hunter safety is concerned, have been less than effective—

Mr. RUSSO. No. I said maybe they have been less than effective, because you cited statistics that the accidents are increasing. I don't know that much about it. I don't hunt, and I am not doing this because I am not a hunter, but I am only using your words.

Mr. BOUCHER. In response to that statement, let me say, I would very much hate to have seen a result in terms of higher accident rates, had those programs not been in effect.

Mr. RUSSO. I'm not for increasing accidents among hunters. All I'm saying is, if we are increasing accidents, maybe the programs that we have in place are not as good as the programs we should have in place, and we ought to have the best programs, if we're going to train people not to kill anyone. I'm all for that.

Mr. BOUCHER. Thank you, Mr. Chairman.

Mr. CONYERS. Let me turn to Mr. McCollum.

Mr. McCOLLUM. Thank you, Mr. Chairman. Mr. Russo, you have proposed, as I understand it, two bills. There are two different ones. We only have one referred to right now. The other has the source of funding from the tax on handguns. Do you support both fully? Do they blend together? I don't have but one in front of me, which is the bigger one, victims compensation.

Mr. RUSSO. The reason I stressed the bill that I talked about to raise the revenues, is because I think the chairman did an absolutely excellent job in describing my position in victims of crime and witness assistance programs. So I didn't need to go into that. What I wanted to talk about is something the chairman raised, which is within his bill, and a bill that I put in front of the House Ways and Means Committee, because we have jurisdiction over the excise taxes.

Mr. McCOLLUM. He has a much more stripped down procedure, a lot less language than you've got in yours. Is there anything special in your H.R. 2961.

Mr. RUSSO. It's probably not as extensive as the chairman's, and I would defer to the chairman.

Mr. McCOLLUM. You've indicated, I believe, there's one source of the funding that would do the trick, at least from your standpoint. That is from a tax on handguns. The chairman has indicated all kinds of other possible sources in his bill.

Mr. RUSSO. He raises, I believe, \$65 million. It's fine with me. It's no additional taxes, no new funding mechanisms. It's just the collecting of fines from various other parts of the Government.

Mr. McCOLLUM. From your standpoint, it's just a matter of degree, how much we get involved and how much money we raise?

Mr. RUSSO. I believe the chairman said, if we had had it in place in 1981, it would have cost the Federal Government \$25 million, and we would have raised \$65 million. It's a trust fund. It just sits there. There's no need to spend any more money than you actually

need to pay for the program. Actually, you can build some surpluses and leave the money there for victims of crime.

Mr. McCOLLUM. Your original concept was for \$30 million from the tax on handguns. The chairman has added these others that you have no objection to, but you personally believed when you introduced the legislation you introduced, that \$30 million was a good starting point.

Mr. RUSSO. I think it was more than adequate to cover the programs as I envisioned the problems, absolutely.

Mr. McCOLLUM. I yield back. Thank you, Mr. Chairman.

Mr. CONYERS. You are more than welcome.

We're happy to have you working with us in your new capacity. It's good to see you again. We're be asking you to follow these deliberations as we see if we can come up with something in the last year of this session of Congress. I'm hopeful that we can get this out on the floor before we adjourn.

Mr. RUSSO. Any help you may need in final passage of the bill, Mr. Chairman, I'd be more than happy to give it to you.

Mr. CONYERS. Thank you, Mr. Russo. That's very cooperative of you.

[The prepared statement of Representative Russo follows:]

STATEMENT BY CONGRESSMAN MARTY RUSSO

Mr. Chairman, members of the Committee, I certainly want to thank you for the opportunity to testify today in support of legislation to help crime victims. The victims are the forgotten participants in our criminal justice system and while there is a good deal of rhetoric concerning their plight, there has been very little in the way of tangible assistance.

Drawing on my own experience as a former assistant states attorney in Chicago and my days serving on the Judiciary Committee, I know that it is time to do something more than pay lip-service to the suffering of victims. One clear way to accomplish this is to provide the money for a compensation program rather than just applaud its merits. Both Chairman Rodino's bill H.R. 3498 and my own bill H.R. 2470 speak to this requirement because of any federal compensation program to win approval it must be demonstrated that it is financially feasible.

Last spring I reintroduced my legislation that would—with no new appropriations or taxes required—provide funds for a victim of crime compensation program. The bill would amend the Internal Revenue Code to provide for the transfer of the revenues generated by the existing 10% handgun excise tax from the Pittman-Robertson Fund, which funds wildlife management and hunter programs, to a trust fund for victims of crime.

Since the original introduction of this bill in 1982, it has received favorable attention and support. The Association of Attorneys General adopted a supporting resolution at their annual meeting last summer. The Washington Post endorsed it editorially and the President's Task Force of Victims of Crime recommended a compensation program funded in part by the handgun excise tax. The Commission's report states that there is a little if any relationship between handguns and hunting or wildlife activity but that there is a substantial relationship between handguns and the commission of violent crime. It goes on to suggest that Congress reevaluate its priorities with regard to the use of the Pittman-Robertson funds and I agree.

Let me provide some background on how we arrived at a situation where we are using handgun taxes, not for crime victims, but for hunters.

Back in 1937, Congress passed the Federal Aid in Wildlife Restoration Act, more commonly known as the Pittman-Robertson Act. At its inception, this program was funded solely from the Federal excise taxes on rifles, shotguns and ammunition. The rationale was that these were hunting weapons and that the excise taxes collected would be earmarked for programs at the state level to promote hunting. Federal funds, administered by the Interior Department, would cover 75 percent of the program cost with the states providing the remainder.

In 1970 Congress, at the urging of the National Rifle Association and others, approved a new 10 percent excise tax on handguns which was earmarked for the

Pittman-Roberston program. Up to half of the handgun tax revenue, which is now over \$30 million a year, is to be used by the states for hunter safety training programs and maintaining target ranges, and the other half for other Pittman-Robertson programs involving wildlife management.

More than a billion dollars in Federal funds have been spent since Pittman-Robertson was enacted, but because the program is funded exclusively by excise taxes, it by-passes the congressional appropriations process, thus escaping public scrutiny. At a time when the budgetary axe falls on programs throughout the federal government—vital programs in housing, education, and health—I think we cannot afford this lack of scrutiny. We cannot afford some of the Pittman-Robertson programs which are essentially a subsidy for hunters.

Hunters do not deserve a federal tax subsidy for their hobby any more than bowlers or tennis players do. The NRA argues that since hunters agreed to tax themselves, the proceeds should go to the hunter's favorite programs. I do not think this is any more logical than arguing that all federal taxes on whiskey must be used to build saloons and liquor stores.

In theory, it would seem useful to teach a hunter how to avoid shooting himself or innocent bystanders. However, the courses apparently sometimes fall short of the Interior Department's ideals. The New Jersey Audubon Society, which is not an anti-hunting organization, charged that too much money would be spent to train too many hunters (120,000 new hunters over the next 10 years) when the quality of the training already was suspect.

Let me make it very clear. I have no quarrel with the existence of Pittman-Robertson itself and many of its programs. However, I think that given the plight of victims in this country, the federal government can make this a priority rather than the construction, operation and maintenance of public target ranges, for example. Nor do I think that burning U.S. forest lands to provide habitat for elk to the tune of \$50,000 is a priority item.

I feel that we should leave the bulk of the funds for Pittman-Robertson in place, which amounts to some 75 percent of the current funding level, but that we should transfer the revenue raised from the tax on handguns to serve a more significant and appropriate need—providing compensation for the victims of crime.

Others here from national victims organizations I'm sure will speak forcefully during the course of these hearings on the need for help for victims, but let me just say that I know that our treatment of victims is often a mockery of "justice". We make no meaningful provision for their time, their protection or their compensation, despite the fact that the success of our criminal justice system depends on the willing and patient participation of those victimized. We ask these citizens to endure the inconvenience and the further disruption of their lives that a lengthy investigation and trial inevitably entails but we leave them alone to bear the cost and trauma of the crime itself.

Congress has moved closer in recent years to establishing a federal program to compensate victims of crime, the kind of program that is already on the books in most of the world's industrialized countries and that 30 states have already established. A major hurdle has been the issue of cost and funding and this is the problem my bill addresses.

The more than \$30 million from the handgun tax represents more than the amount needed for the program. The Congressional Budget Office has estimated that the compensation program recommended by the full House Judiciary Committee in the past would cost \$16 million and \$22 million in the first two years respectively. This would not become a run-away entitlement program since any legislation passed spelling out the specifics of a compensation program would require that the Congress authorize and appropriate a fixed sum of monies, with appropriate ceilings.

I don't think we need to belabor the point that handguns wound and kill people by the hundreds of thousands in this country. It is just and appropriate that the taxes on this weapon should be used to help victims. The need is there, the money is there. It is critically important that we finally provide a measure of justice and financial help to America's crime victims.

I thank the subcommittee.

Mr. CONYERS. I'd like to call now Mr. Angelo Petromelis, a member of the New York State Crime Victims Compensation Board, who will appear with Paul Hudson, counsel to the board, on behalf of the chairman of that board, Ronald Zweibel.

TESTIMONY OF ANGELO PETROMELIS, MEMBER, NEW YORK STATE CRIME VICTIMS BOARD, ACCOMPANIED BY PAUL HUDSON, COUNSEL TO THAT BOARD

Mr. CONYERS. Welcome. We see that you have prepared a statement. That will be incorporated into the record, and I'd like you to feel free to comment on any matters that you have heard here today that have a bearing on your testimony. Welcome.

Mr. PETROMELIS. Thank you, Mr. Chairman.

First, I would like to compliment Mr. Rodino and recognize his services over the years.

I've been laboring in the vineyards of the crime victims field for some 17 years, and we are well aware of his efforts, and I would also like to compliment you, Mr. Chairman, for forthrightly bringing this public hearing as quickly as you did, to have a hearing on this bill.

Mr. Chairman and members of the subcommittee, my name is Angelo Petromelis. I am a member of the New York State Crime Victims Board, and I am speaking on behalf of Ronald A. Zweibel, who is president of the National Association of Crime Victims Compensation Boards and chairman of the New York State Crime Victims Board. Currently, the national association has an active membership of 38 State crime victim compensation programs including the District of Columbia and the Virgin Islands. As of the year ending December 31, 1983, these programs are estimated to have received over 35,000 claims and paid a total of over \$50 million in crime victims compensation.

I am pleased to have this opportunity to speak before you today, in order to share with you my views on the proposed Federal assistance to victim compensation and victim/witness programs. While there are several bills pending that involve crime victim assistance legislation, I will be limiting my remarks to H.R. 3498 which is sponsored by Congressmen Rodino and Berman and is cited as the Victims of Crime Act of 1983.

Crime and its consequences are unpleasant realities. As crime surged uncontrollably in the past decades, attention slowly began to turn toward the plight of the crime victim rather than the rights of the offender. In 1965, California enacted the first State legislation establishing a crime victims compensation program. New York State followed in 1966 by enacting similar legislation and from 1966 through the present time 37 States, districts, or territories in the United States have established their own crime victim compensation programs. While many rationales have been advanced supporting the establishment of such programs, one remains in the foreground. This rationale suggests that victim compensation is a humanitarian response to the obvious and compelling need of crime victims.

For those of us working in the field, this statement could not be more true. Crime victims have a very real and compelling need. The financial burdens of victimization alone can be devastating, even to a greater extent than the crime itself. While State crime victim compensation programs strive to alleviate the burdens placed on crime victims, the sad realization must be that these pro-

grams have their own shortcomings in terms of losses eligible to be compensated and the availability of adequate funds to do so.

I might add at this point, that many of the States ran out of money at different times and compensation faltered. Some 18 States experienced shortages of funds at one time or another.

For many crime victims, compensation for essential property loss, rehabilitative or replacement service is unavailable. Even the provision of compensation for basic losses such as medical expenses, loss of earnings or support, and funeral costs is not adequate due to unrealistic caps placed on maximum benefits available. These caps are most generally attributable to inadequate program fundings. At this point, though no program seeks to maintain a victim at their previctimization standard of living, unrealistic caps on benefits provide more assistance to crime victims than no available compensation at all.

It would appear that the enactment of the Victims of Crime Act could assist existing State compensation programs in overcoming the problems described previously by enhancing their compensation capabilities. The President's Task Force on Victims of Crime recognized in 1982 the fact that the common need that all compensation programs have is the acquisition of adequate funding.

Aside from the financial need for Federal involvement in crime victim compensation, however, there is certainly no shortage of other reasons justifying Federal assistance to State crime victim compensation programs.

First, crime victim compensation programs have from their inception provided compensation to Federal crime victims. Thus, the States have carried the total financial burden of providing compensation to Federal crime victims without any responsibility being taken for these victims by the Federal Government. Victims of bank robbery, kidnapping, organized crime, drug violence, bombing, terrorism, hijacking, and crimes committed by military personnel are all examples of crime where the Federal Government has concurrent jurisdiction with the States.

Second, since the Federal Government provides assistance for State prison systems, for education and rehabilitative services for State prisoners committing State crimes, for funding of State programs dealing with juvenile offenders, it would appear that equity in the usage of taxpayer money is in order. Crime victims deserve at least a fraction of the type of assistance and commitment that the Federal Government affords to those who have perpetrated vicious crimes against the innocent.

Third, the Federal Government should accept its share of the responsibility for the victims of crime related to the conditions over which the Federal Government has primary responsibility. For example, the U.S. Attorney General has recently stated that the No. 1 crime problem in the United States is in the vast and illegal importation of narcotics into the United States. The control of such importation and distribution is clearly a crime problem in which the Federal Government bears primary responsibility. The States do not have border patrols, a coast guard, customs agents, relations with foreign governments, or the other necessary means and laws to control the drug trade.

However, the States are presently left with the responsibility for the crime victims of illegal drug trafficking. Other examples of such conditions or areas of indirect Federal responsibility include crime in south Florida or New York City related to the influx of Cuban or Haitian refugees, crimes committed by or against illegal immigrants, and economic crimes such as robbery and larceny which rise during times of increased poverty or unemployment.

The need for Federal involvement and assistance for crime victims should not and does not end with the issue of compensation. While crime victims are in need of financial assistance to alleviate the great expense that being victimized places on many, the need for victim/witness assistance programs established at the local level to provide basic criminal justice information and community resource assistance, information and referral is vital. The realization must be made that crime victims are basically ignorant in areas that they are most affected by criminal justice processes, as well as in securing basic assistance, emergency or other services available in the local community. Victim/witness assistance programs in conjunction with crime victim compensation establish a well-rounded service delivery system which seeks to address the basic welfare of crime victims in terms of their short- and long-term physical, financial, and emotional needs. Without the availability of both victim services and compensation, crime victims may find themselves unable to function independently with little recourse other than turning to various forms of public assistance.

While it is impossible to precisely pinpoint the cost of providing Federal assistance to State victim compensation programs and local victim/witness assistance programs, the proposed Victims of Crime Act certainly appears to have the appropriate components necessary for efficient administration, cost containment, and cost-effective service delivery.

Since Federal assistance would be contingent upon the availability of fines and penalty assessments collected from criminal offenders and deposited into a fund, the act has a built-in cost-containment feature.

Consideration should also be given to the fact that State crime victim compensation programs provide financial assistance to a relatively small proportion of persons who are victimized. While programs strive to reach out to crime victims, the lack of adequate State funding means that most programs are not even keeping up with inflationary cost increases. Simply put, as award levels remain relatively the same, the actual benefits provided are being eaten by inflation. In general, State compensation awards are limited by statutory dollar limits and have no automatic cost-of-living adjustments commonly used by most Federal social programs.

Before I conclude my testimony, I would like to take a few moments to comment on three specific provisions of the Victims of Crime Act. Contained within the provisions of this act is a funding mechanism which provides 80 percent of the collected money contained in the fund to be used for existing State compensation programs, with the remaining 20 percent to be used for existing victim/witness assistance programs. In my opinion, a 50-50 disbursement of these funds, with State crime victim compensation programs being given the first priority, would be most fair and eq-

uitable. I also believe that these grants should not only be made available to State compensation programs who have been in existence for 1 year or more but also for startup funding with a State match. States newly enacting crime victim compensation legislation that embodies the act's grant-making criteria should also be eligible for Federal assistance. The State match requirement certainly is a show of good faith and local commitment to the continued support of crime victim compensation. State programs should not be penalized because they are in an embryonic stage.

It is also my belief that compensation programs that discriminate against nonresidents should not receive funding from a national victims fund. The provision of some State programs allowing compensation only to their own State residents has no place in a program partly funded by Federal funds. Moreover, such restrictions in many State programs affect the crime victim compensation rights of American citizens who are victimized by crime while visiting or residing in other countries. Countries such as West Germany who also have crime victim programs bar compensation to Americans unless the victim's home State provides compensation to German nationals in similar circumstances.

In closing, I would like to thank this subcommittee for the opportunity to testify on this most important legislation, the Victims of Crime Act of 1983. In our view, this type of Federal legislation has been long awaited and is amply justified. While State crime victims compensation programs and local victim/witness assistance programs have been easing the burdens of crime victims with limited resources, Federal assistance to these programs would ensure the continued financial stability of these programs which treat the tragedy and consequences of victimization.

Mr. CONYERS. This has been a very excellent statement, and we're glad to have our first witnesses from the field, as it were.

Let me ask you this: Is there much opportunity for fraud in these programs?

Mr. PETROMELIS. Not really, because the acts that all of the States have provide for compensation of those victims who sustain personal physical injury and the subsequent losses resulting therefrom. I don't believe that many people shoot themselves in the leg, in order to collect any compensation for it. It also provides for only the medical bills resulting therefrom and any loss of earnings resulting from the disability. And in order to collect loss of earnings, the party had to have a job and had to be earning something, in order to lose something. So that it has its built-in safeguards within the statute itself.

The only times that there have been instances or attempts at fraud would be where the victim was a bona fide victim, and he's trying to get medical bills that are not related to the injuries sustained in the crime. And we have investigators to ferret that out, and we have consulting boards, physicians, as well.

Mr. CONYERS. What about people on welfare? Are they subject to getting a bite at this, just like any other person?

Mr. PETROMELIS. It depends on the State. In the State of New York, as well as a few other States, I'd say the majority do not have any restrictions. But we have a means test that requires that before an award can be made that serious financial difficulty or fi-

nancial difficulty must be demonstrated. It was just amended last year. It used to read "serious financial hardship," and it was made more liberal last year, to the words "financial difficulty," with a lot of exemptions built in.

I might add, Mr. Chairman, if I may, that a person who is on welfare would rarely be eligible for any compensation, simply because he has Medicaid to pay his bills, and he wasn't working, so there isn't any loss of earnings. So principally, it's a bill that takes care of the work individual, a person who is actually engaged in employment.

Mr. CONYERS. Now, you would alter the 80-20 formula to 50-50. What's your rationale, in terms of that modification, sir?

Mr. PETROMELIS. Well, we have both programs that are ongoing in the State of New York. The primary concern is compensating the victims of crime, and although we have suggested a 50-50 ratio, we say that the compensation would take precedence, so that when the money comes into the fund, taking care of the first 50 percent, and whatever spills over, would go into the victim/witness programs. We feel that the victim/witness programs that were originally started by the Federal Government under the LEAA provisions have really done a good job.

A few years ago, we took a trip around the State and held public hearings in different cities and towns, and it was amazing, the number of district attorneys that praised the local victim/witness programs as having aided in the prosecution of their cases. Some of them went so far as to say that the guilty would have gone free, had it not been for the counseling by the local victim/witness program and keeping the witness interested in prosecuting the client.

Mr. CONYERS. That's very important, and I appreciate the experience you bring from the field to this matter.

I'd like to recognize Mr. Seiberling.

Mr. SEIBERLING. Well, thank you.

I simply want to commend the witness for helping us in our understanding of what needs to be done to get this bill in the best possible shape. And I liked your point being made about the non-likelihood of fraud in this program. It's very important. I do think we need to assure our colleagues that this is going to be a program that doesn't lend itself to that sort of thing. Thank you very much.

Mr. CONYERS. Mr. Boucher.

Mr. BOUCHER. Thank you, Mr. Chairman. On the same point that Mr. Seiberling was addressing, let me be sure that I fully understand the structure of the bill. It is my understanding that the money which would be allocated to victims compensation programs would simply be allocated to the State programs that are already in place or may subsequently be established and would be governed under whatever rules the States have for their own compensation programs; is that correct?

Mr. PETROMELIS. That's the way I understand it; yes.

Mr. BOUCHER. I know that in our State of Virginia, we have a quasi-judicial agency called the industrial commission, which administers our Workman's Compensation Program and also has jurisdiction over our Victims of Crime Compensation Program. Claims are made in Virginia by individuals who are victims of crimes, who can demonstrate some adverse effect upon their per-

sonal finances, as a result of the crime committed against them. And then the Industrial Commission determines from among the claims filed, those which are the most meritorious and makes awards accordingly. So there is a quasi-judicial function that takes place, which has proven very successful in our State in preventing any fraud or nonmeritorious claims from working their way through that filtering process.

What is your assessment of how your process in New York has worked, in terms of preventing nonmeritorious claims from being made?

Mr. PETROMELIS. I think it's worked very well. We have a provision in the statute that provides that the board or board members, as the case may be, shall deny or reduce an award, if he finds that the victim of the crime contributed in any way to the infliction of his injuries. So that the board members, in most cases, if they find that the individual was, for instance, in drug trafficking, he'll be denied. We had a few cases where we could actually reduce the award and say, "Well, he was 50 percent at fault, but they shouldn't have done what they did to him" kind of a catch, so that it has built-in safeguards.

I daresay that I don't know of any case where fraud was perpetuated. We had one attempt by a woman—and sometimes I think that it's the restrictions we had in the statute in the early years that were in existence, that were at fault—where she fraudulently created a document to show that she was married to the deceased victim who had been murdered, in order to be an eligible claimant to file for the funeral expenses.

Today we've remedied that by amending the statute, and anyone can file for funeral expenses of the deceased innocent victim, because after all, it's the innocent victim that we're trying to get buried.

I don't mind telling you that we have a provision for emergency awards, and I would say that almost 90 percent of the emergency awards that we advance are to make a downpayment on a funeral, because the people can't afford to bury the victim.

Mr. BOUCHER. Is it your opinion that the administration of your program in New York is sufficient to prevent fraudulent claimants from being granted awards?

Mr. PETROMELIS. Absolutely.

Mr. BOUCHER. Let me, finally, commend you for your very compelling testimony with regard to the share that the Victim Assistance Program, which should receive from this fund. I think your point's well made, and certainly, I think the arguments of those who provide assistance to victims have much merit. Thank you very much.

Thank you, Mr. Chairman.

Mr. CONYERS. Could you just tell us what you think of the idea of requiring that States will not be eligible for any more under a Federal program such as is proposed here than they formerly spent before they received Federal assistance? In other words, that we would have a sort of maintenance of effort provision.

Mr. PETROMELIS. I think that's a proposal that's being made by NOVA and not by the national association. I don't particularly support that provision. The need that the crime victims have should

establish the cost factor, and the funds should be provided accordingly. That would be the position that we would take.

Mr. CONYERS. OK. Thank you very much. Counsel, did you want to add a reaction?

Mr. HUDSON. If I could just add, on the question concerning this maintenance of effort concept, the great majority of the compensation programs which the national association here represents, do favor the legislation such as being proposed by Congressman Rodino; however, I think, if you are to insert a provision that would require the States to spend perhaps as much or more than they're now spending on victim compensation, that you might find that the enthusiasm or any failure of legislation by the States would diminish very dramatically.

Several years ago, when legislation was pending here, and it appeared it was going to be enacted, I know in New York, this was integrated into the physical plan, the fact that we may have been receiving Federal funds. At that time, as well, if this legislation were enacted, there would be a possibility that several States, perhaps a majority, would have to amend their programs to increase the amount being spent.

For example, a majority of States have a residency requirement, but the proposals here would call for the abolition of those to get Federal funds. So the States would be having to spend more money under these legislative proposals. If, on top of that, there would be some provision that a State was spending, say, \$10 million, even after the Federal assistance, would still have to spend \$10 million, I think you would find the majority of States, perhaps, would have second thoughts about Federal legislation.

Mr. CONYERS. Well, the activities that you suggest would indicate they would all end up spending more than they have, so they would be supporting a maintenance of effort provision.

Mr. HUDSON. They would be, to the degree of complying with the legislation; that's correct.

Mr. CONYERS. Well, what would we tell those who would say that there are a lot of people coming in now that the Feds are supporting the program, who would have otherwise had very little concern about this program, if we would eliminate a maintenance of effort provision?

Mr. HUDSON. I think you have a demonstration here by the States, in many cases, of over 10 years of maintenance of effort. These program are 100 percent State funded at the present time. And in States like New York, you even have takeover of formerly Federal victim/witness programs. And it is impossible, I think, to predict the future. But if the record is any guide, I think you will probably see in most States that if Federal assistance were provided, that the victim compensation programs would be enhanced. To what degree, however, would obviously vary from State to State.

Mr. CONYERS. Well, I appreciate your reactions to that and thank you for your testimony.

[The prepared statement of Mr. Zweibel follows:]

STATEMENT OF RONALD A. ZWEIBEL, PRESIDENT OF THE NATIONAL ASSOCIATION OF
CRIME VICTIM COMPENSATION BOARDS, AND CHAIRMAN OF THE NEW YORK STATE
CRIME VICTIMS BOARD

Mr. Chairman and members of the Sub-Committee my name is Angelo Petromellis. I am a Member of the New York State Crime Victims Board, and I am speaking on behalf of Ronald A. Zweibel who is President of the National Association of Crime Victims Compensation Boards and Chairman of the New York State Crime Victims Board. Currently, the National Association has an active membership of 39 state crime victim compensation programs including the District of Columbia and the Virgin Islands. As of the year ending December 31, 1983, these programs are estimated to have received over 35,000 claims and paid a total of over \$50 million in crime victims compensation.

I am pleased to have this opportunity to speak before you, today, in order to share with you my views on the proposed federal assistance to victim compensation and victim/witness programs. While there are several bills pending that involve crime victim assistance legislation, I will be limiting my remarks to H.R. 3498 which is sponsored by Congressmen Rodino and Berman and is cited as the Victims of Crime Act of 1983.

Crime and its consequences are unpleasant realities. As crime surged uncontrollably in the past decades, attention slowly began to turn toward the plight of the crime victim rather than the rights of the offender. In 1965, California enacted the first state legislation establishing a crime victims compensation program. New York State followed in 1966 by enacting similar legislation and from 1966 through the present thirty-seven states, districts or territories in the United States have established their own crime victim compensation programs. While many rationales have been advanced, supporting the establishment of such programs, one remains in the foreground. This rationale suggests that victim compensation is a humanitarian response to the obvious and compelling need of crime victims.

For those of us working in the field, this statement could not be more true. Crime victims have a very real and compelling need. The financial burdens of victimization alone can be devastating, even to a greater extent than the crime itself. While state crime victim compensation programs strive to alleviate the burdens placed on crime victims, the sad realization must be that these programs have their own shortcomings in terms of losses eligible to be compensated and the availability of adequate funds to do so. For many crime victims, compensation for essential property loss, rehabilitative or replacement service is unavailable. Even the provision of compensation for basic losses such as medical expenses, loss of earnings or support, and funeral costs is not adequate due to unrealistic caps placed on maximum benefits available. These caps are most generally attributable to inadequate program fundings. At this point though, while no program seeks to maintain a victim at their previctimization standard of living, unrealistic caps on benefits provide more assistance to crime victims than no available compensation at all.

It would appear that the enactment of the Victims of Crime Act could assist existing state compensation programs in overcoming the problems described previously by enhancing their compensation capabilities. The President's Task Force on Victim of Crime recognized in 1982 the fact that the common need that all compensation programs have is the acquisition of adequate funding.

Aside from the financial need for Federal involvement in crime victim compensation, however, there is certainly no shortage of other reasons justifying Federal assistance to state crime victim compensation programs.

First, crime victim compensation programs have from their inception provided compensation to Federal crime victims. Thus, the states have carried the total financial burden of providing compensation to federal crime victims without any responsibility being taken for these victims by the Federal government. Victims of bank robbery, kidnapping, organized crime, drug violence, bombing, terrorism, hijacking, and crimes committed by military personnel are 11 examples of crime where the Federal government has concurrent jurisdiction with the states.

Second, since the Federal government provides assistance for state prison systems, for educational and rehabilitative services for state prisoners committing state crimes, for funding of state programs dealing with juvenile offenders, it would appear that equity in the usage of the taxpayer money is in order. Crime victims deserve at least a fraction of the type of assistance and commitment that the Federal government affords to those who have perpetrated vicious crimes against the innocent.

Third, the Federal government should accept its share of the responsibility for the victims of crime related to the conditions over which the Federal government has

primary responsibility. For example, the U.S. Attorney General has recently stated that "The Number One crime problem in the United States" is the vast and illegal importation of narcotics into the the United States. The control of such important and distribution is clearly a crime problem in which the Federal government bears primary responsibility. The states do not have border patrols, a Coast Guard, customs agents, relations with foreign governments, or the other necessary means and laws to control the drug trade.

However, the states are presently left with the responsibility for the crime victims of illegal drug trafficking. Other examples of such conditions or areas of indirect Federal responsibility includes crime in South Florida or New York City related to the influx of Cuban or Haitian refugees, crimes committed by or against illegal immigrants, and economic crimes such as robbery and larceny which rise during times of increased poverty or unemployment.

The need for Federal involvement and assistance for crime victims should not and does not end with the issue of compensation. While crime victims are in need of financial assistance to alleviate the great expense that being victimized places on many, the need for victim/witness assistance programs established at the local level to provide basic criminal justice information and community resource assistance, information, and referral is vital. The realization must be made affected by criminal justice processes, as well as in securing basic assistance, emergency or other services available in the local community. Victim/witness assistance programs in conjunction with crime victim compensation establish a well-rounded service delivery system which seeks to address the basic welfare of crime victims in terms of their short and long-term physical, financial, and emotional needs. Without the availability of both victim services and compensation crime victims may find themselves unable to function independently with little recourse other than turning to various forms of public assistance.

While it is impossible to precisely pinpoint the cost of providing federal assistance to state victim compensation programs and local victim/witness assistance programs, the proposed Victims of Crime Act certainly appears to have the appropriate components necessary for efficient administration, cost containment, and cost effective service delivery.

Since Federal assistance would be contingent upon the availability of fines and penalty assessments collected from criminal offenders and deposited into a Fund, the Act has a built-in cost-containment feature.

Consideration should also be given to the fact that state crime victim compensation program provide financial assistance to a relatively small proportion of persons who are victimized. While programs strive to reach out to crime victims, the lack of adequate state funding means that most programs are not even keeping up with inflationary cost increases. Simply put, as award levels remain relatively the same the actual benefits provided are being eaten by inflation. In general, state compensation awards are limited by statutory dollar limits and have no automatic cost of living adjustments commonly used by most Federal social programs.

Before I conclude my testimony, I would like to take a few moments to comment on three specific provisions of the Victims of Crime Act. Contained within the provisions of this Act is a funding mechanism which provides 80% of the collected money contained in the Fund to be used for existing State compensation programs with the remaining 20% to be used for existing victim/witness assistance programs. In my opinion, a 50-50 disbursement of these funds with state crime victim compensation programs being given the first priority, would be most fair and equitable. I also believe that these grants should not only be made available to state compensation programs who have been in existence for one year or more but also for start-up funding with a state match. States newly enacting crime victim compensation legislation that embodies the Act's grant-making criteria should also be eligible for Federal assistance. The state match requirement certainly is a show of good faith and local commitment to the continued support of crime victim compensation. State programs should not be penalized because they are in an embryonic stage.

It is also my belief that Compensation program that discriminate against non-residents should not receive funding from a national victims fund. The provision of some state programs allowing compensation only to their own state residents has no place in a program partly funded by Federal funds. Moreover, such restrictions in many state programs affect the crime compensation rights of American citizens who are victimized by crime while visiting or residing in other countries. Countries such as West Germany who also have crime victim programs bar compensation to Americans unless the victims home state provides compensation to German nationals in similar circumstances.

In closing, I would like to thank this Sub-Committee for the opportunity to testify on this most important legislation, the Victims of Crime Act of 1983. In our view, this type of federal legislation has been long awaited and is amply justified. While state crime victims compensation programs and local victim/witness assistance programs have been easing the burdens of crime victims with limited resources, Federal assistance to these programs would ensure the continued financial stability of these programs which treat the tragedy and consequences of victimization.

Mr. SEIBERLING. Mr. Chairman, I think it's appropriate that the amendment we have to leave to take a vote on is to provide funds to the victims of violence. So it's right in line with what we're doing now.

Mr. CONYERS. The child abuse amendment.

The subcommittee will stand in recess for the purpose of casting our votes on the floor.

[Recess.]

Mr. CONYERS. The subcommittee will come to order.

Our next witness is the executive director of NOVA, the National Organization for Victim Assistance, Ms. Marlene A. Young. Please join us at the witness table, Ms. Young. Welcome to the subcommittee. You've been here quite a long time, and we're very anxious to hear your comments with reference to the subject matter. We will incorporate your prepared statement into the record, without objection, and you might then summarize it any way that you would like.

**TESTIMONY OF MARLENE A. YOUNG, EXECUTIVE DIRECTOR,
NATIONAL ORGANIZATION FOR VICTIM ASSISTANCE**

Ms. YOUNG. Thank you very much. Good morning, Chairman Conyers. I appreciate very much the time restraints that you're under and also the pressures with which you're conducting this hearing and your duties on the floor. And I appreciate your attention at this time.

I am Marlene Young, the executive director of the National Organization for Victim Assistance, and it is my privilege to appear before this subcommittee to speak in support of the type of legislation you're considering, with particular emphasis on H.R. 3498. I commend you for holding hearings on this landmark proposal, and I will summarize the comments that I have submitted to you, in the interests of brevity.

While I applaud you and applaud the committee members, Chairman Rodino and Representative Howard Berman, the principal architects of the bill, as well as Representative Russo and Representative Fish for their bills and salute you and your other colleagues, both in the House, Senate, and executive branch, who have joined you in a commitment to victim issues, still I must say that this is not necessarily an appropriate occasion to celebrate our national leaders' sympathy with what the victims movement is trying to achieve.

For the truth is that for most victims, it is of no consequence that there is such a thing as a victims movement or that its claims for compassion and justice have finally caught the ears of our national leaders. For most of today's victims, like those in past generations, suffer indifference and cruelty from the criminal justice system and the society around them.

I know that you will hear from crime victims during the course of your hearings on this bill. And I know that you will hear from crime victim advocates. But it will do little good unless you and your colleagues are willing to listen, to listen not just to the problems of crime which engender victimization nor to the problem of criminals who create victims—not to the problem of the crime prevention programs which seek to prevent crime and not even just to the problems of crime victim assistance programs which seek to serve victims, but to the problems of the crime victims themselves.

For these are not problems that afflict them, but rather afflict the one household in three victimized by serious crimes every year, and that is virtually all of us over time. And so by the laws of probability, Mr. Chairman, you are a crime victim, and so am I.

Let me speak then on our behalf. I am unwilling to except our fate with resignation or in the spirit of defeat. It is too easy to simply say that crime exists and there is nothing that we can do about it. I choose instead to learn the lessons from people I know: From Betty Jane Spencer, whose head was nearly blown off by a shotgun blast and who, in the same attack, lost four sons in the murder; from Doris Booth, who was a victim, who was forced to strip, who was raped and beaten and left for dead by the side of the highway; from Edith and Phillip Sorgan, whose grief after their daughter's death propelled them into near terminal illness; from Paul and Joan Garland, whose daughter was murdered by her boyfriend, ex-boyfriend, through hammer blows; and from Richard and Dorothea Morefield, who both have suffered the trauma of having their eldest son murdered in an armed robbery, as well as endured a period of frightful separation, when Richard was one of the Americans held hostage in Iran for 444 days.

These are but some among the thousands and perhaps millions of victims who have suffered far more than we, but who have responded neither with passive resignation nor with vindictive rage. Instead, they have tried to make their lives whole again, and in that process, have sought to help others as well.

They have spoken out about the trauma in which they were victimized and their recovery process. They have worked together and contributed hours of volunteer time in support of victim assistance groups. They have worked to see that the civil laws change, such that redress may come to victims from their wrongdoers. They have worked in self-help groups, as well as victim compensation programs, to help other victims recover. And in leading us on that path of healing, not a path of hatred, these victims have spotlighted the kinds of wrongs which both society and the criminal justice system does to the victim, wrongs which include a cruel stigma which attaches to one when they've had their child murdered, their body violated, or their body disfigured. Wrongs done to victims who face an inertia in a criminal justice system which conducts endless tests of its victims and, indeed, ignores their hurts and their sense of privacy, and uses them as evidence.

And these victims have also, in their fight, rejected the status in which we try to place all victims, the status which includes invisibility, silence, and isolation.

In responding positively, I would urge you to consider that these victims of whom I speak have joined with others over the last

decade to make remarkable social progress, social progress of which you will hear today and in future hearings and which is documented; by the fact that 39 States now have victim compensation programs, plus the District of Columbia and the Virgin Islands; by the fact that there are now thousands of victim-witness service programs throughout the United States, and that 17 States are providing subsidies to those programs; by the fact that we now have 14 States which use victim impact statements at sentencing; and perhaps most critically, by the fact that along with the landmark legislation, the Victim and Witness Protection Act of 1982, passed by Congress last year, there are now 11 States that have incorporated those kinds of bills of rights in their own legislation. But while I speak of that progress which has been built by individuals in our system, individuals which have had that kind of commitment, and while that progress reflects courage and hope of the pioneers, the victim service programs and their impact are scant, when compared with the scope of the problem.

The compensation programs which are now in place are highly restrictive.

The victim assistance programs are often narrowly limited, and the bills of rights which have been enacted have lacked local funding to enforce them. Hence, although the individuals I have mentioned have made heroic progress in the past, we can no longer look to individuals to ensure the future. The scope of the problem involves all society, and all society should respond. The essential catalyst to such response should be national leadership.

Mr. Chairman, you and your colleagues in Congress can help to provide that leadership by passing legislation such as is before you today. A Federal leadership role is called for, because crime is a cancer that afflicts us all. And the fact that its impact is most severe on people of color and on the inhabitants of our inner cities, makes it all the more worthwhile to engage our national conscience in responding to the victimized among us.

Federal leadership is called for, because it will induce a more symmetrical system of justice. Congress has frequently honored its responsibilities under the interstate commerce clause to reduce disparities of treatments between States, yet such disparities are still common features of these systems of victim assistance.

Federal leadership is needed, not only to encourage equal treatment of victims of crime, but more readily available treatment. We estimate that at least three-quarters of the victims' service programs which are currently out there in this country were initially funded by seed money by Federal Government programs, and many local governments did, indeed, pick up those programs after Federal money had vanished. But they needed the Federal incentive to begin.

And finally, Federal leadership is needed, because the Federal Government has been woefully remiss in its responsibilities to those victims who suffer from Federal crimes. Thus the National Organization for Victim Assistance has long favored this type of legislation, and the bill in front of you is a commendable vehicle for further discussion.

In every principal respect it meets the painful needs for which we seek national solutions. It is, therefore, in the spirit of thanks

to its authors that I offer a few suggestions on how the bill and the other legislation before you might be improved. I have explained these suggestions in detail in my written testimony, and I mention them only in summary here, but certainly would be willing to answer questions about them.

First, the legislation suggests that 80 percent of any fines or excise taxes collected will be use to subsidize victim compensation programs and 20 percent will subsidize victim service programs. We feel that a far more appropriate division of such fees and fines should be a 50-percent split between compensation and victim services.

Second, this legislation establishes criteria for those programs delivering victims services which, in my opinion, could effectively eliminate a large number of programs from receiving funding.

Those criteria include the requirement that crisis intervention services be available on a 24-hour basis, and that the requirement that volunteers be utilized in the programs. While we find both of these suggestions beneficial as goals toward which programs should aspire, we feel that, such requirements would eliminate many programs which currently exist.

And third, the legislation fails to address the serious concern that has plagued the field for years. It is particularly appropriate for the Federal leadership role to include promoting cooperation between victim service groups, the criminal justice system, and the social service system. We feel that the Federal Government should provide incentives for such cooperation.

Having reviewed these three concerns about the substance of the legislation, let me reemphasize our support for this bill and its intent.

NOVA is different from most national organizations, for it is not only a national advocacy group which seeks to change public policy and also provides assistance to its local programs and individuals working in the field, it has also been placed in the unlikely role of providing direct services to crime victims. That role has been forced upon us, as an organization, because of a lack of services in many areas of this country. We receive constant telephone calls from across this Nation from victims in every State in the Union asking for assistance. Where we can, we refer those calls to local providers. Unfortunately, our abilities are crippled by the problems I've enumerated for you today. And so when I say that I am here to speak on our behalf, I can truly say that the "us" I speak for are the victims. The names and the stories that I have mentioned to you are not just statistics, and they're not newsprint on a written page. These victims and their tragedies, Betty Jane, Doris, Edith, Phil, Dick, Dottie and Paul and Joan, are my friends. I know them. They know me. And their hurts and their sorrows are, indeed, in my mind and in my heart. You cannot erase the scars of their victimization from me, anymore than you can eradicate the scars from them.

But Mr. Chairman and subcommittee members, I would urge you to consider that you can eliminate some of that sorrow and some of that pain for some people, some victims in the future, by passing this legislation. You can turn our personal tragedies into more than a social hope.

We have done and will continue to do our part on a local level by working for programs, working for services, helping to prevent crime, as well as respond to its cruelty. But you and your colleagues are more powerful. You can transform the hurt and the hope and our stories into a new future for this Nation, into a future that will guarantee justice for all, even the victims.

Thank you very much.

Mr. CONYERS. We thank you, counsel. We're really confronted with a very large program in terms of financing, which has really been the stumbling block over the years.

I've been looking at the possibility of how successful we might be by placing an excise tax on handgun sales. I think we might be doing a very salutary act, but we probably will be getting the legislation into an incredibly controversial situation, in view of the powerful lobby that the NRA exercises over many of the courageous Members that you would summon to the front ranks on this legislation.

I think if we're really serious about moving rapidly, we perhaps ought to be examining that consideration, as well as the fact that we may have to ask for general funding, which raises the question of deficits and a large Federal budget.

What views would you bring to the subject?

Ms. YOUNG. Our organization has endorsed, in general, the use of any source of funds, singularly or inclusively: general revenues and appropriations, the use of the fines, as well as the use of the excise taxes. We are willing to support legislation using all three sources, either together or separately. Certainly, we recognize the issue which general revenues raises, is the issue of deficits. But it's our understanding and view that it is time that crime victims are addressed. They are a needy population group that may deserve to have a share of funds drawn from other programs.

With regard to excise taxes, it is certainly fair to suggest their use. The use of such taxes would create an insurance program essentially. It is similar to a car insurance program under mandatory insurance which insures a vehicle which can cause damage. Use of these excise taxes would insure a handgun against the use of it to cause damage.

We are only asking for a small portion of funds under whatever collective funding source there is to help provide an extraordinary amount of good.

Mr. CONYERS. Is there a lobby in Congress, or do you work at the State legislative level?

Ms. YOUNG. We do provide information, as well as testimony in support of State and local legislative efforts. We provide expertise to help guide people, if they ask for direction, in writing legislation on victim issues. We have worked with, for instance, a number of the States that have passed penalty assessment and fine-type of victim legislation, in order to overcome their problems with general revenues.

Mr. CONYERS. Well, does your organization advocate direct communication between your membership and the Members of the Congress?

Ms. YOUNG. We suggest our members should communicate with Members of Congress on every issue that they feel is important to them on a local level, and we encourage them to do that.

Mr. CONYERS. And how many States are you operating in?

Ms. YOUNG. Fifty.

Mr. CONYERS. Well, then, you will have a view about what our opportunities for success are, through your own organizational efforts?

Ms. YOUNG. I think so.

Mr. CONYERS. I would imagine that your membership will be in touch with their representatives.

Ms. YOUNG. Absolutely. The membership is apprised of the fact that this legislation is pending in the House, that there is some discussion of other legislation in the Senate, and that there is the possibility of an administration bill, and they are very much informed of that and are waiting for an opportunity to express their opinion to the Members.

Mr. CONYERS. Now, on another subject, let me ask you about the reality of the fairness here, because you've raised a very important point. You may have been the first witness to do this. Given that many crimes occur in the ghettos and the victims are, in fact, members of minority groups, how are minorities and the poor affected by this legislation?

Ms. YOUNG. Well, I know that they are affected by this legislation in two ways. Clearly, in terms of victim compensation in some States, they're eligible, if they're victims of physical injury, for the kinds of compensation such as medical expenses and lost earnings. They're also affected and I think, perhaps, more significantly by victim service programs which are operating in urban areas. Those programs are trying desperately to provide the necessary personnel to reach out to minority, low income, and other isolated population groups that heretofore have been afraid to come forth to the criminal justice system.

I think it is important to support that kind of outreach, and I think this kind of funding from the Federal Government would help those programs continue and expand that effort.

Mr. CONYERS. I tend to agree with you. I am concerned about what happens to the senior citizen on Social Security, the unemployed who's told to go to Medicaid. Medicaid, in many States, has been suspended. Many doctors refuse to even deal with it, where it is operational. There would be no loss of earnings for many people in the important poverty-stricken areas of the city.

So what I need to look at carefully, as we develop this legislation, is to make sure that the alternatives for the poorest among us are at least barely adequate. We're going to be looking for witnesses and for testimony on that subject. We would ask NOVA to please keep alerted to this aspect of our problem.

Ms. YOUNG. We'd be glad to. I'd like to clarify one thing, and that is, in terms of the Medicaid problem with older people, and I think that there may be a bit of a confusion. In most States, the compensation program would provide funds for those people, if Medicaid would not cover them.

The cases in which compensation would not cover them is where they would get Medicaid, perhaps first, or are eligible for Medicaid,

and then compensation would only pay what was left over, which might involve drugs or other kinds of things. But in those States where Medicaid is not sufficient, compensation certainly would provide for the balance of the medical expenses. So it would help to reach out to that particular population group.

Mr. CONYERS. Well, that's what I'm trying to insure, that local law does, in fact, fit very neatly into this larger scheme. I wish I could feel confident that that was the case in many of the States.

Ms. YOUNG. Well, I think I can tell you that I am close to positive that all of the States have stated, in terms of their law, that medical expenses are covered subject to subrogation to other sources. If I file a claim as a senior citizen for compensation, they will look and see if I am covered by Medicaid, and if not, then they will pay for the claim completely. So that as far as the best of my knowledge, all of the States take into account alternative forms of insurance, but through subrogation rather than making the victim suffer.

Mr. CONYERS. OK. Thank you very much.

The gentleman from California, Mr. Edwards.

Mr. EDWARDS. Thank you very much, Mr. Chairman. And I compliment Ms. Young on really excellent testimony; very, very persuasive testimony. I thank her for stating that we have power. I wish we had power more than we have, but we should be able to enact this almost immediately, because it's very, very worthwhile legislation.

I was curious, Mr. Chairman, perhaps you or the staff might tell me, fines collected in Federal criminal cases, that, of course, goes into the general revenues now. How many millions of dollars are not collected that should be collected? Do we know?

Mr. CONYERS. I would refer to staff.

Mr. HUTCHISON. The Justice Department testified last year that fine collections were running at about \$27 million a year, which put it, I believe, at about half of the fines levied. The fine collections were low. Recent figures indicate there's been an upsurge in fine collection. Whether that is due to some accounting changes, improved methods, or the levying of some unusually high fines on corporate defendants who were able to make the payments, is unclear. The last data provided to the subcommittee indicated a fine-collection level of about \$27 million.

Mr. EDWARDS. Well, thank you.

Under the inspired leadership of our chairman, I am sure we'll move ahead, and certainly, your testimony has helped us a lot. Thank you.

Mr. CONYERS. Mr. Boucher.

Mr. BOUCHER. Thank you, Mr. Chairman. And I, too, would like to commend Ms. Young on her excellent testimony.

I have a couple of questions concerning a few of the comments that you made. To begin with, you had suggested that the current definition of programs that would qualify for aid as victim assistance programs might restrict the receipt of funds by several of them. I think that you pointed specifically to the requirement on page 5 of the bill that programs be available on a 24-hour basis. You mentioned one other qualification which you said might cause

problems, and I missed that. Which other one were you pointing to?

Ms. YOUNG. It was the requirement that they use volunteers.

Mr. BOUCHER. I see that also on page 5. I guess I'm also somewhat surprised by that. The programs in Virginia that I'm familiar with are all volunteer based. In fact, virtually everyone involved with the program has a staff of volunteers. Are there programs in other States that are purely professional and do not use volunteers at all?

Ms. YOUNG. Yes; there are. And I'm aware of the Virginia programs. Some of them are very excellent, and the network is certainly doing a great job in Virginia with the use of volunteers. Volunteers are often used in rural areas or suburban areas, particularly. There are, in some States and in specific geographic areas, such as the inner city, where volunteers are not always as appropriate, and there are two reasons for that.

In terms of the inner-city areas, in some cases, when you are dealing with a working population, one that is trying to exist at a relatively low income, you have a large population that simply does not have the time or energy to both volunteer, and keep their own households going. We've seen that a lot. I used to work a great deal with the elderly crime victims in the inner city and there was a very low number of volunteers that we could get to help out in that effort.

There is another kind of program that has been established in some areas, and California is one of those areas that has a fine victim assistance network and victim/witness network, which provides services. But many of those programs do not use volunteers. The reason is that they have set their own standards in a way that would suggest that they are trying to maintain a quality control over certain aspects of counseling. And some would raise the question about volunteers doing the same kind of job.

The reason I raise the issue is, that while those concerns have not been settled by a well-researched comparison between volunteers and professional staff, the concerns are prevalent enough in the field that I think it would be amiss to prejudge those programs that sought not to use volunteers for very specific and legitimate reasons, and perhaps leave them out of the legislation.

Mr. BOUCHER. That's a very thorough answer to the question. Let me ask you, will the criteria the program involves, a coordinated public and private effort, present problems for some programs receiving funding? I know that in Virginia, our programs do rely upon and work closely with the resources of police departments, rescue squads, and the like. I wonder if that's necessarily so, nationwide?

Ms. YOUNG. As I recall the language—correct me if I'm wrong—it says something to the effect, "as to promote the community; coordinate the community effort." I think that that's distinctly than a requirement that there is a community effort at the time. The idea that this legislation will promote that kind of effort, I think, is very worthwhile. Indeed, there are areas where there are very strong struggles for financial reasons, as well as personality reasons. We feel strongly that when those kinds of conflicts interfere with services to victims, which they most often do, that they should

be overcome. Hence, we support the promotion of cooperation through a guidance from the Federal Government.

Mr. BOUCHER. To summarize, then, you would see the only two barriers to many programs receiving funding, being the 24-hour-per-day requirement and also the requirement that volunteers be used. And if the subcommittee successfully addresses those, that would then qualify your view to give most programs assistance?

Ms. YOUNG. That's accurate.

Mr. BOUCHER. Let me ask again, following up the chairman's question, your view toward the use of general funds as a partial base for financing the program. There is a division of feeling with regard to whether or not an excise tax on handguns would be an appropriate source of funding. Assuming that the will of the subcommittee was that that would not be an appropriate source, would I be correct in assuming that your organization would continue to support the bill with that provision deleted and possibly with general funding substituted for that part of the financial basis?

Ms. YOUNG. Absolutely. As I said, we support any one of the three types of funding that I mentioned. We would support them in conjunction with each other or separately. We would just like to see legislation passed.

Mr. BOUCHER. I join you in that view.

Let me ask one additional question concerning the formula for the division of money among the States for victim assistance programs. The bill provides that the first three-fourths of funding will be divided equally among the States. The balance, or one-fourth, would then be divided in accordance with the populations of the various States.

Do you know whether any charts have been prepared or statistical work done which would indicate how those funds would flow in comparison with an alternative which might be pure population, or yet another alternative which might be based purely on equal division among all 50 States for 100 percent of the dollars?

Ms. YOUNG. I'm not aware of any of the charts. I'm certainly aware of some of the philosophical discussions that have gone on with regards to that issue, but I'm not aware of any charts or statistics.

Mr. BOUCHER. Do you know how the decision was made and upon what basis to effect the allocation among the States as is reflected on page 4 of the bill?

Ms. YOUNG. I'm not sure that I can speak to how the decision was made. I think I could discuss, at least briefly, why I think it might be a reasonable decision, which is that there is a certain amount of funding that is needed with any program to establish basic services. If you assume that such a base is \$50,000 or \$100,000 or \$20,000, that amount of funding, no matter what kind of victim service you're going to provide, must be there. What we're discussing is making sure that there is a certain base of equal funds among the States, to establish a basis for service. Then, in proportion to the amount of population, assuming that crime victimization rises with the amount of population, it is important to provide additional funds for those States that are looking at a larger population group.

Mr. BOUCHER. Do you know if this particular method of allocation was recommended by the President's Task Force on Victims of Crime?

Ms. YOUNG. I don't recall that it was.

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

Mr. CONYERS. Counsel might be able to help you on that question, Mr. Boucher.

Mr. HUTCHISON. I've worked some of the statistics out. What it boils down to is that each State, large and small, assuming there are sufficient funds available, would have a base amount of \$100,000, and beyond that, any additional money would be distributed on a population basis. The formula is similar to that of the Justice Assistance Act. This was not a recommendation of the President's task force but I don't think it addressed the problem with that specificity. I think this formula is an attempt to balance off the large States versus the small States, so that the small States all get something. The crime rate, which is related to population, would be reflected in the funds going to the larger States.

Mr. CONYERS. We're glad NOVA is working with us on this, and we commend you for the work you've done over the years, both individually and organizationally. I see your public relations director is here, and we're hoping that collectively we can reach a swift agreement, and try to get this out before the session ends.

Thank you for appearing before the subcommittee.

Ms. YOUNG. Thank you.

[The prepared statement of Ms. Young follows:]

STATEMENT BY MARLENE A. YOUNG, PH.D., J.D., EXECUTIVE DIRECTOR, NATIONAL ORGANIZATION FOR VICTIM ASSISTANCE, WASHINGTON, DC

Good afternoon, Chairman Conyers and distinguished members of the subcommittee.

I am Marlene Young, Executive Director of NOVA, the National Organization for Victim Assistance, which represents the broad coalition of victim advocates, criminal justice officials, former victims, and ordinary citizens committed to redressing the wrongs done to victims after the criminal has done his worst.

It is very much a privilege to appear before this subcommittee to speak in support of H.R. 3498, the Victims of Crime Act of 1983. I commend you for holding hearings on this landmark proposal.

Those of us have sought to be of help to our fellow victims of crime—for we are all victims—have worked in a state of isolation, unheard and unheeded, for more than a decade. We appreciate this moment in the sunlight, but I am here today to speak for those still in the shadows.

For while we have seen some progress in our states and localities over the last decade, and while we have been encouraged by signs of federal leadership in recent years, we know only too well that the progress and the leadership has been totally inadequate to the overwhelming needs of victims.

And while I commend you and Chairman Peter Rodino and Representative Howard Berman, the principal architects of H.R. 3498, for bringing us to these hearings; and salute Representative Hamilton Fish and Senators John Heinz and Charles Grassley for introducing similar legislation in this Congress; and thank the bipartisan spectrum of Congressional allies in the victim's cause, ranging from Senator Paul Laxalt to Representative Barney Frank, for their continuing support.

And while I commend members of the Executive Branch, most notably Assistant Attorney General Lois Herrington and President Reagan who appointed her to chair his Task Force on Victims of Crime and who as recently as last week reaffirmed his commitment to the goals of the Task Force—of which the proposal before you is the most creative expression—still, this is not an appropriate occasion to celebrate our national leaders' sympathy with what the victims' movement is trying to achieve.

For the truth is, Mr. Chairman, that for most victims, it is of no consequence that there is such a thing as a victims' movement, or that its claims for compassion and justice enjoy a respectful hearing from our nation's leaders. For most of today's victims, like the generations before them, suffer indifference and cruelty by the agencies of criminal justice and the larger society of which these agencies are a part.

The reason that representatives of the victims movement have come to Congress to voice the dissatisfactions of the many is that we know how enlightened public services have succeeded in helping the few. We are fervent in our belief that most of the victims' distresses can be alleviated rather than compounded, and because this is possible, we are committed to make it an actuality.

I know that you will hear from crime victims during the course of these hearings. You will hear from victim advocates. For my part, I will attempt to convey some of what NOVA has learned from both victims and their advocates.

But it will do little good unless our Congressional representatives are willing to listen—not to the underlying problems of crime, which engender victimization, nor to the problems of criminals, who create victims—not to the problems of the crime-prevention programs, which reduce victimization, nor even the internal problems of victim assistance programs, which serve victims—but to the problem of the victims themselves.

These are not problems that afflict "them" but rather afflict the one household in three victimized by a serious crime every year—that is, virtually all of us, over time. So by the laws of probability, Mr. Chairman, you are a crime victim, and so am I. Let me speak on our behalf.

I am unwilling to accept our fate in the spirit of defeat recently expressed by a Washington Post columnist, who wrote, "The other day, my daughter's car was broken into and they took her college luggage. . . . that was a 'coming of age in this society'".

And I am reluctant to accept the resignation voiced by a friend who told me, "I was watching television when the police called and told me that I had been robbed. I looked upstairs and found that the jewelry I had inherited from my grandmother was gone. But what can I do?"

I choose rather to learn my lessons—our lessons—from Barbara Kaplan, who was shot in the face, and lost an eye and, yes, two friends who died in the attack; and from Doris Booth, whose car was forced off a Virginia highway, and who was stripped, raped, beaten, and left for dead; from Edith and Phillip Sorgan, whose grief after their daughter's murder caused them to relocate, in semi-retirement, thousands of miles away from their home state; from Paul and Joan Garland, whose daughter Bonnie was beaten to death with a hammer by her former boyfriend; and from Richard and Dorothea Morefield, who first suffered the anguish of having their oldest child killed in an armed robbery, and then later were forced to endure a period of frightening separation of 444 days when Richard was one of the Americans held hostage in Iran.

These are among the victims who have suffered far more than we, Mr. Chairman, but who have responded neither with passive resignation nor with vindictive rage. Instead, they have tried to make their lives whole again, and have labored imaginatively to help others recover from their losses.

They have spoken out on the trauma that violated their lives, and how they sought to overcome it; they have volunteered their time to programs of victim assistance, so that others may be comforted in their time of unexpected pain; they have sought to expand the protections of the civil law so as to update our ideal that victims should be made whole by their wrongdoers; they have formed self-help groups so that the surviving family members of murder victims need no longer grieve in lonely isolation; and they have been the instigators of new programs of victim compensation and of service to victims in police, prosecutor, and community agencies.

In leading us on a path of healing, not hatred, these victims have spotlighted the kinds of wrongs which both society and the criminal justice system do to victims. They have fought against the social stigma attached to the murder of a child, the disfigurement of a face, and the violation of a person's body. They have confronted the inertia of a justice system which conducts endless tests of its victims, ignores their hurts and their sense of privacy, and uses them merely as evidence. And in all this, these victims have rejected the status we try to place all victims into—the status of the invisible, the silent, and the ignored.

In responding positively, these and so many other victims and victim advocates have forged a remarkable record of social reform over the last decade:

Thirty-nine state victim compensation programs, plus programs established in the District of Columbia and the Virgin Islands, have been established;

Thousand of victim and witness service programs have been initiated, and in seventeen states, state aid to these local programs is now mandated by law;

Victim impact statements have been made part of the sentencing process in fourteen states, and bills of rights for victims, similar to the landmark Victim and Witness Protection Act passed by Congress two years ago, have been enacted by eleven state legislatures.

That progress is astounding when you consider that a decade ago, no one had even dreamed of the idea of "rights" for victims.

But while such progress reflects the hope and courage of its pioneers, the victim service programs and their impact are scant when measured against the desperate scope of the problem.

The compensation programs that are now in place are highly restrictive. Many injured victims or their survivors never receive a penny because they did not know such a program exists, or they were victimized in the "wrong state", or they were caught in the morass of limitations involving means tests, deductibles, minimum loss, or so-called "family exclusion" rules.

The victim and witness service programs, where they exist, are often narrow and limited. They may be restricted to one type of victim or one type of service. Their dedicated staff may be overworked but undertrained. Many live on the brink of destruction—a slight shift in funding resources may mean that thousands of victims are left with no response. In a number of states we witnessed the demise of nearly half of all services in 1980 when federal support was withdrawn.

And where there have been enacted bills of rights or other legislation providing for victim participation in the criminal justice system, there has been inadequate recognition that backup funding is needed to enforce such laws. You and I well know that a right without a remedy is no more than rhetoric. As a society, we are facing up to that truth in respect to offenders' rights—by paying for assigned counsel, safe and decent jails and prisons, and a host of other Constitutional decencies—but we have not made the same connection between victim rights and publicly-supported services.

Hence, although many individuals have made heroic progress in the past, we can no longer look only to individuals if we are to meet the promise of the future. The scope of the problem involves all of society, and all of society should respond. The essential catalyst to that response is national leadership.

Mr. Chairman, you and your colleagues in the Congress can help shoulder that leadership responsibility by working to pass legislation such as that which is before you.

A federal leadership role is called for because crime is a cancer that afflicts us all—black, white, yellow, and brown, rich and poor, residents of our cities and of rural areas, the young and the old. The fact that its impact is most severe on people of color and on the inhabitants of our inner cities merely underscores the need to engage our national conscience in responding to the victimized among us.

Federal leadership is also called for to induce a more symmetrical system of justice. Congress has frequently honored its responsibilities under the interstate commerce clause to reduce disparities of treatment afforded citizens who cross state lines, and to wean states away from policies that bar non-residents from state-supported services. Sadly, these are common features of the systems of victim assistance that have been created in the states.

Federal leadership is needed not only to encourage equal treatment of victims but more readily-available treatment. We estimate that at least three-quarters of the service programs now operating entirely on local and state funds were started with federal grant funds (which no longer are available); when national leaders encourage their local counterparts to examine the distresses of victims—generally for the first time—they respond.

Finally, federal leadership is needed because the federal government has been glaringly remiss in responding to the victims of federal crimes. We applaud the efforts of federal justice agencies to uphold the mandates of the Victim and Witness Protection Act of 1982, but think it imperative to link these agencies with local service programs to better respond to the victims and witnesses who come into the federal system, and to insure that, when needed, they too will receive compensation.

Thus, the National Organization for Victim Assistance has long favored Congressional legislation which would provide for federal leadership, federal assistance for compensation to victims of physical-injury crimes, and federal aid in support of local services to victims of all violent crimes. That is the type of legislation which is under your consideration.

That was the thrust of our testimony to the President's Task Force on Victims of Crime, and happily, the Task Force was persuaded by the merits of that plea, voiced

by us and others. Evidence that the Task Force endorsement of that proposal is found in the creative efforts of members of both houses of Congress to translate its recommendations for federal leadership into concrete bills. We fervently hope that the Administration will soon join in the search for an effective way to give legislative expression to those recommendations.

In the meanwhile, the bill before you is a commendable vehicle for that exploration. In every principal respect, it meets the painful needs for which we seek national redress. It is therefore in a spirit of thanks to its authors that I offer some suggestions on how the bill might be improved. These may be enumerated as follows:

(1) The legislation suggests that 80% of any fines collected will be used to subsidize victim compensation programs and 20% will subsidize victim services programs. We feel that a more appropriate division of funds would be 50% for victim compensation programs and 50% for victim service programs.

It is our opinion that the distinction between compensation and service is important but ambiguous in the public eye. Compensation programs are aimed at providing financial reimbursement to those victims who suffer serious physical injury. Service programs are aimed at providing assistance to all victims of crime in a number of areas. For instance, Bobby Romero's face was blown away by a random assailant's shotgun in New Mexico—he was lucky, there was a compensation program in the state at the time, yet the state program would never be able to cover his medical bills, even with a federal subsidy—at last count over \$120,000, and certainly would not have been able to provide him support in his new life. What was equally important was that there someone willing to fight to arrange for other compensation for those bills and to help him understand what a life would be with a different face.

We feel that compensation for direct medical (physical and mental) expenses of any victims should be mandatory. Yet, in providing any subsidy for such expenses the following factors should be borne in mind:

(a) While compensation programs in their infancy often faced financial difficulties, in recent years, the majority of programs have become financially self-sufficient. In part this is due to the invention of the penalty assessment funding mechanism in the states and in part it is due to the fact that there has been a growing public recognition of the need to provide at least minimal compensation;

(b) Some states now only provide compensation for victims who are residents. Hence thousands of victims are left out of the compensation scheme. While the legislation in front of you addresses the issue of residency by limiting federal funding to those states which do not discriminate against nonresidents, it would accomplish the purpose of broad coverage even better if it included states which either make compensation available to non-residents generally or to residents of states which have reciprocal agreements to compensate each others' residents;

(c) Federal response to the compensation issue should be limited to the amount needed in addition to what states provide already. The majority of states have sufficient compensation funds and federal funds could be used to supplant these already allocated funds rather than to reach more eligible victims unless specific limitations are placed in legislation;

(d) There are still states which do not currently deal with compensation for mental health counseling or non-residents. Such restrictions unduly limit the legitimate recovery of any victim whose life has been substantially altered as a result of criminal attack.

(2) This legislation establishes criteria for those programs delivering victim services, which by my reading, could effectively eliminate a large number of programs. These criteria include:

(a) The requirement that crisis intervention services be available on a twenty-four hour basis; and

(b) The requirement that volunteers be utilized.

We feel that such requirements should be deleted.

There is no research to my knowledge which has established the fact that twenty-four hour crisis intervention services are more effective or desirable than crisis intervention services which are provided a day or two after a crime takes place. While it is clear that there is a need in many cases for crisis counseling to occur, the best timing for that counseling remains a question. Many programs which are both comprehensive in scope and proactive in response to victims do not provide twenty-four hour service. It would be a serious mistake to eliminate these kinds of programs from receiving any sort of assistance.

Similarly, a requirement that a program must use volunteers would cause considerable impact on existing programs. While volunteers can be very useful and are at the heart of many programs, particularly in rural and suburban areas, other pro-

grams do not use volunteers for very legitimate reasons. First, in some areas, particularly those found among inner city, low income, and minority population groups, volunteers can be extremely difficult to recruit. An individual who must work long hours in order to place food on the table often does not have time or energy to volunteer extra hours in community service. While volunteer programs may have established standards of training and sophisticated recruitment techniques, it can be far more difficult to monitor and use volunteers for counseling and advocacy than professional staff.

(3) The legislation fails to address a serious concern that has plagued the field for years and is particularly appropriate for being the focus of a federal leadership role—that of cooperation between victim service groups, the criminal justice system, and the social service system. We feel that the federal government should provide incentive for such cooperation.

As in many areas, in past years the lack of resources and funding has generated arguments and antagonisms among local service providers. These antagonisms tended to be exacerbated by certain long-standing professional rivalries and hostilities between such groups as law enforcement, social services, and grassroots activists. A suggestion that federal funding be based on demonstrated cooperation between community groups, criminal justice agencies, and other programs aimed at aiding all crime victims and their families could provide an important incentive for detente among agencies and individuals whose old antagonisms ill-served the victims under their care.

Having reviewed these three concerns about the substance of the legislation, let me re-emphasize our support for and heart-felt appreciation of this bill and its intent.

NOVA is different from most national organizations in that it not only serves as a national advocate for victim oriented policies and provides assistance to state and local service programs, but NOVA has been placed in the unlikely role of a direct service provider as well. Because of the lack of services in many areas of victims of crime, we receive countless telephone calls from victims who need help. Where we can, we refer those calls to local providers. Unfortunately, our abilities are crippled by the problems I have mentioned today.

And so when I say that I speak on our behalf—I can truly say that the "us" for whom I speak is the victim. The names and the stories I have told you are not faceless statistics, or newsprint tragedies, these victims, Doris, Paul and Joan, Dottie and Dick, Edith and Phil, are my friends. They and thousands of other victims are individuals I know and who know me. Their hurts and their sorrows are imbedded in my mind and my heart. You cannot erase the scars of victimization from me any more than you can eradicate it from anyone of them.

But, Mr. Chairman, what you can do is to eliminate it for some in the future. By passing this legislation you can turn our personal tragedies into more than a social hope. We have done and will continue to do our part—creating a hope by working to prevent crime as well as to respond to its cruelty. But, you and your colleagues are more powerful—you can transform the hurt and the hope in our stories into a new future which will provide justice for all, even the victim.

Mr. CONYERS. Our final witness is Peggy Spektor, the director of the Minnesota Program for Victims of Sexual Assault, part of the State's department of corrections program. It's the first of its kind in the Nation, so we're happy to hear from her.

She's been director since 1975 and has conducted training on assault matters, and has worked on the national board of directors of the National Coalition Against Sexual Assault. So, we're glad that you're here.

We will put your statement in the record and we'll be ready to hear before the subcommittee.

TESTIMONY OF PEGGY SPEKTOR, DIRECTOR, MINNESOTA PROGRAM FOR VICTIMS OF SEXUAL ASSAULT

Ms. SPEKTOR. Thank you, Mr. Chairman, members of the subcommittee.

I am Peggy Spektor and I am here today to support H.R. 3498, the Victims of Crime Act of 1983. In the United States a rape

occurs every 7 minutes according to the FBI. One out of four females and one out of five males will be sexually abused during their lifetime.

Sexual assault is a humiliating and terrifying crime which violates a person's innermost physical and psychological being. It is a violent and/or coercive crime which is primarily an act of aggression rather than a sexual act.

It is any sexual activity that a person is forced into without his or her consent. It includes forcible rape. It includes acquaintance rape, same-sex assault, incest, child molestation, and marital rape.

I'd like to take 1 minute to give you a little history on sexual assault services. In Minnesota, the legislature in 1974, because of a growing community awareness of sexual assault, mandated the commissioner of corrections to develop a statewide program to provide services to victims of sexual assault.

In 1975 the Governor's committee on crime prevention and control awarded a law enforcement assistant administration grant to the department of corrections which established the Minnesota Program for Victims of Sexual Assault.

During the 3-year duration of the funding, volunteer groups throughout Minnesota began organizing to address the issues facing sexual assault victims in their communities. Grant money funded pilot programs in Hennepin County and Ramsey County as well as part-time staff persons to coordinate the development of services in poor rural communities.

But the majority of the local programs relied on the volunteer time of committed professionals and concerned persons to develop community-based sexual assault services.

Upon the expiration of the LEAA grant in 1978, many components of the Minnesota Program for Victims of Sexual Assault were incorporated into the department of corrections' biennial budget. However, no money providing for local services were included in this appropriation.

Without funds for local sexual assault centers the services mandated in 1974 were in jeopardy. Recognizing the need for services at the grassroot level, the 1979 legislature appropriated \$500,000 for the biennium to enable the commissioner of corrections to award grants to local sexual assault programs.

Since 1979 one of the major responsibilities of the Minnesota Program for Victims of Sexual Assault has been to administer this grant program. Currently there are 26 sexual programs throughout Minnesota funded by the department of corrections.

These programs have four program activities. The first major program component is direct victim services. For example, during fiscal year 1983 in Minnesota, services were provided to 3,509 victims, 60 percent in the 7-county metro area and 40 percent outside the metro area.

This number represents a 17-percent increase over the previous year and a 67-percent increase from fiscal year 1980, the first year we kept data. The range of services provided by sexual assault centers reflects the varying needs which confront the sexual assault victim and include:

One, crisis intervention, which is providing factual information in support to a victim at the time of the crisis to the victim can

deal with the intense feelings about the sexual assault. Most of our programs have established 24-hour crisis lines since it is imperative that crisis intervention services be available to the victim at the time of their greatest need.

The second type of service is advocacy. Advocacy is when a trained person is available to accompany the victim through the police, medical, and criminal justice systems. Advocates not only provide information to the victim, but also act as a support person.

Referral is a third major victim assistance component. Limited staff resources preclude most centers from providing long-term counseling. Therefore, appropriate referrals are made to victims and family members.

Peer support groups are also run by the centers. The peer support group provides victims with an opportunity to discuss their own feelings with other victims of sexual assault.

And, finally, assistance and life sustaining needs—such as housing, transportation, child care, and financial aid—are provided.

I'm going to take 1 minute and tell you what we know about the victims who use our services. In Minnesota 90 percent of the victims served in 1983 were women and 10 percent were men. That is an increase of 4 percent in the male population since 1980.

White victims continue to seek services at a substantially higher rate, 92 percent, than nonwhite victims; 45 percent of the victims were under the age of 18 and 8.2 percent of those were under the age of 6.

Thirty-nine percent of the victims seeking services were rape victims and 24 percent were victims of family sexual abuse; 83 percent of the victims knew their assailant either as a friend, relative, acquaintance, or coworker.

The second major program component the local sexual assault center provides is professional training. The goal of professional training is to develop standardized procedures and sensitivity to the need of the victim through the sexual assault delivery system.

The training program seeks to obtain professionals with a full range of options available to the victim as well as clarify the roles of each professional group. In Minnesota we usually target five groups for training: law enforcement, medical, legal, human service personnel, and educators.

Public education is the third major program component of a local sexual assault program. This, to me, is probably the most critical community service offered by the centers.

The myths surrounding sexual assault—such as the victim asked for it; or that only young attractive women in miniskirts who walk alone at night are raped—are still prevalent in our society. These myths present major obstacles to successful service delivery.

They discourage many victims from seeking help, prohibit family members from offering the support needed, and influence prosecutors, judges, and jury members during criminal prosecution.

Public education is also a key tool in prevention. Research is finding between 50 and 75 percent of sex offenders were either physically or sexually abused themselves as children.

I strongly believe that the only way to prevent sexual abuse is to develop and implement comprehensive educational programs for our children which discuss sexual abuse, define good and bad

touch, give kids permission to say no, and acquaint children with available services.

Last year Minnesota programs provided 971 educational programs for elementary age children reaching more than 25,000 students and close to 500 programs were provided to secondary students reaching almost 10,000 students.

The fourth major program component is that of coordination of services. Coordination between agency personnel within a service area is important to the effective delivery of services to sexual assault victims. It helps with communication barriers, duplication of services, and understanding of roles and responsibilities, standardizing of procedures between agencies and advertising available resources as well as providing support and feedback to the professionals involved with victims.

The local sexual assault programs not only participate in these interagency networks, but in many instances they also provide the leadership for the development of interagency communication and coordination.

The programs are information and referral sources in their community. They provide referrals not only to victims, but also to professionals in need of technical information.

All of these services are provided by programs that operate with limited funds and that, in many cases, only have one paid staff member. Our State grants range from \$5,000 to \$25,000 with the majority of the grants being in the \$12,000 to \$15,000 range.

Even with additional sources of funds—such as foundations, local money, United Way, and private contributions—the total budgets of many of these programs are between \$15,000 and \$40,000. For some programs the State grants are their only source of funds.

Consequently the programs are required to rely extensively on volunteers who play a critical role within the programs. In fact, in 1983, 2,274 volunteers contributed 262,000 volunteer hours.

Computed at \$5 an hour it's valued at \$1,300,000 in donated time to assist victims.

A majority of these programs could not continue to provide services to victims in such a cost-effective manner if it were not for a dedicated corps of volunteers. Through our 8 years plus of experience in Minnesota it has been found that local sexual assault crisis centers are programmatically the most effective way to provide the range of services to victims and the community, and also are cost effective.

For example, in 1982 we found that the cost per victim served was \$33; the cost per professional trained was \$10.50; and the cost per person educated in the community was \$1.65.

Before I proceed any further, I think it's important for me to make a distinction between sexual assault crisis centers and victim/witness units. The sexual assault crisis center provides a unique and comprehensive and critically important service to victims that cannot be provided by victim witness units.

A sexual assault program is designed to meet the social service needs of the victim, not just the needs during prosecution. It is designed to provide crisis intervention services, not just prosecution services.

It is designed to address prevention, not just prosecution. It is designed to improve all aspects of the service delivery systems, not just prosecution.

And, finally, victim/witness programs are usually located or connected with a prosecutor's office, which sometimes is very threatening to victims, and victim assistance programs are in agencies that don't have such a limited view.

It has been found essential in those Minnesota counties where victim/witness programs exist to also develop sexual assault crisis centers. In fact, several of the sexual assault programs have been developed at the urgency of prosecutors to meet the immediate needs of the victim.

But I'm concerned. In Minnesota the present funding available will allow for the centers to minimally maintain the current level of services. I'm not sure even minimal services can be provided in those 30-plus States that do not have funding for community-based sexual assault centers.

I am concerned because as local centers become better known in their communities their requests for their services have increased. Client loads have increased dramatically during the last 3 years. Similar increases have been experienced in professional training and public education programs and requests.

If the centers do not have adequate funds, victims' needs will not be met. Moneys must be made available to recruit and train more volunteers to assist with this increased client load.

I am concerned because services are not available in all geographic areas, especially rural areas. Experience has shown that the most economic way to provide services to rural communities is by regional programs.

These multicounty programs require sufficient funds to cover transportation and communications costs. Many of the sexual assault centers in Minnesota and nationwide have begun to address the problem of child sexual abuse. I am concerned because the increased awareness of this problem necessitates the development of services to meet the needs of the child victim and their families, and adequate funds to implement these services.

Additional funds are very much necessary to develop techniques and programs responsive to the special problems of racial minority victims. We also need funds to address the special needs of male victims and of disabled victims.

It is critical that sexual assault crisis centers continue to exist. It is critical that sexual assault crisis centers, the organizations that have specialized expertise in victim services, have adequate funding to provide the range of victim services training and public education necessary to serve all victims regardless of age, sex, race, creed, color, or geographic location.

It is critical that we prioritize victims of violent crime, of crimes against persons, because we have found that other problems that we are addressing today—such as chemical dependency, truancy, running away, and criminal behavior—are all long-term effects of a prior victimization.

That is why I support H.R. 3498. I commend Chairman Rodino and the other sponsors of the legislation for developing legislation that is designed to address the problems that face victims of crime and that recognizes the service need of these victims.

Additionally, I strongly support the qualifications of the crime victim assistance programs outlined in this legislation. These qualifications will direct the funds to and prioritize those victim assistance programs that address the broad range of a specific victim's needs.

It will assist the victim of the most violent crime, the most devastating crime, crime against person.

In my role as an advocate for direct victim services I would be remiss if I did not mention my concern about the breakdown of funds which is potentially 80 percent for victim compensation programs and 20 percent for victim assistance programs. I would hope that this subcommittee would increase the minimum percentage for victim assistance programs.

These programs provide services to a broader range of victims. They do not limit its benefits only to those victims that report the crime and they do not contain other eligibility requirements as the victim compensation programs do.

Additionally, funds allocated to victim assistance programs will have a great impact on the availability of services and the ability of the community-based programs to meet the increased demand for services.

On the plane this morning the headlines in the Thursday, February 2 edition of the Minneapolis Star and Tribune graphically illustrate the issues and problems that we must address. One headline said "Acquaintance rape is TV topic twice, in a movie and a soap opera." A second headline said, "Two men convicted in sexual assault." And a third headline said, "Judge said jury erred in sexual assault case; reduced sentence."

I urge you to support H.R. 3498. This legislation will provide services to victims so that the victimization does not go unnoticed. Hopefully we will then be able to break the cycle of abuse.

Thank you.

Mr. CONYERS. Thank you, Ms. Specktor. We appreciate your comments.

How many States have programs similar to yours?

Ms. SPECKTOR. I believe there's about 12, but many of them are still in just a very beginning stage.

Mr. CONYERS. Do you think there is a tendency for more of them coming into existence?

Ms. SPECKTOR. I would hope so. We do, in Minnesota, provide consultation to other States to help them develop statewide programs. However, with the budget restraints and the myths around sexual assault, I'm just not sure that every State in the country will develop statewide programs.

Mr. CONYERS. Does your program connect into any larger national organizations?

Ms. SPECKTOR. Yes. We are a member of the National Coalition Against Sexual Assault; and, in fact, I was a founder of that organization and served on its board of directors for the first 4 years.

Mr. CONYERS. Well, I think your testimony is very helpful and I know we can count on many of our friends in Minnesota to help spread the word as well as we can. Again, I think much of this is an educational operation beginning to really address the problem in a far more realistic sense than we did before.

Mr. Boucher, I defer to you.

Mr. BOUCHER. Thank you, Mr. Chairman. I'd like to compliment Ms. Specktor on her very well prepared and presented testimony.

I had the pleasure some years ago, when I was a member of the Virginia State Senate of offering the legislation which revised our State's sexual assault laws. We worked very closely in that process with our own Virginia State rape prevention services' and counseling services' individuals.

They obviously do an outstanding job. So I have some firsthand knowledge of the good services that groups such as yours provide.

I'm very interested in seeing that your programs will be qualified for whatever assistance is provided under this bill; and, in that light, I would like for you to consider carefully whether the restrictions that are contained in the measure would, perhaps, prevent some of your programs from qualifying.

Ms. Young indicated that she was concerned that the requirement be that there be volunteers associated with programs and that programs provide services on a 24-hour basis might restrict a number of programs from participation.

What is your view of that?

Ms. SPECKTOR. I do not believe that programs that deal with sexual assault would be restricted by those qualifications. In the area of crisis intervention I believe very strongly that we must have the services available to the victim at their time of need and that we have to have some kind of 24-hour service.

We found in Minnesota that programs can be very creative, especially the rural programs, in developing a way to have a 24-hour service. Some of the programs have a beeper system with a person on call. Some of the hook into, for example, the hospital that already has a 24-hour switchboard.

I would be very, very disappointed if we didn't understand that victims needs services at the time of the crime or at the time they might see a television program that gives them a flashback and they want to talk to someone.

I think the 24-hour crisis intervention is very strongly related to those crimes of the most personal nature and the most devastating nature; those crimes against persons and specifically crimes of sexual assault and battery.

Mr. BOUCHER. Looking then at the question from the other side, do you think organizations similar to yours would have objections to amendments to this language which would delete the volunteer and 24-hour-a-day requirements?

Ms. SPECKTOR. I would have some problems with that. I'll be quite honest with you.

The programs that I have worked most closely with are those programs that have led the way in victim assistance and in providing services to victims. There has to be some kind of safeguard that these programs get some of these funds so they can continue to exist.

I believe that we need to maintain that grassroots community-based program as an option for victims.

Mr. BOUCHER. I think Ms. Young's point is that there are some professionally based programs which are at a very high quality. They have full-time individuals. They do not utilize volunteers.

Under the bill as drafted they would not qualify for funds distributed for victim assistance programs.

Her point, I think, further is that by amending that language and eliminating those qualifications, we would then enable those programs to receive funding along with programs such as yours that are volunteer-based and that do operate 24 hours a day.

What is the objection that you would have to enabling those programs that are purely professionally based and that they operate less than 24 hours a day from participating?

Ms. SPECKTOR. Well, I come from a bias that we have to have programs available to victims 24 hours and I believe that the use of volunteers is a cost-effective way of providing all the services that are needed.

Let me clarify for you 1 minute what a volunteer does. A volunteer provides crisis intervention. A volunteer provides support. And a volunteer may be an advocate for a victim.

I do not advocate the use of volunteers for long-term counseling and none of our centers use volunteers for long-term counseling. I also would like to say that I believe that the sexual assault centers are professional programs and that volunteers bring some professionalism to the area.

My major concern is that we are going to end up funding only institutionalized programs and then there will not be options available to victims.

I'm being very candid because it's been a long day.

Mr. BOUCHER. Well, it's an important point and I would like to ask you just one further question concerning it.

Under the bill as drafted the chief executive officer of each State, the Governor of each State, would be empowered through his designated agency to make grants to qualified victim assistance programs within the State.

Do you not trust the Governors or whoever they might designate to perform that function to include programs such as yours that are volunteer-based as well as some professional programs?

Ms. SPECKTOR. I trust our Governor, but I'm not sure of the educational level of all of the chief executive officers, especially in the States where there has not been any statewide programming and where there has not been a lot of education.

I mean, I think that we have to have some safeguards so that these programs will continue to exist and we have had experience with one other Federal program, which was health service block grant money, and there were many States, even though that money was specifically designated for assistance to victims, that gave that money to police departments so that they could get an extra investigator to investigate sex crimes.

It's a matter of interpretation. I think that we need to have some legislative guidelines that will help with that interpretation.

Mr. BOUCHER. OK. Thank you. I appreciate your comments.

Thank you, Mr. Chairman.

Mr. CONYERS. You're welcome. Staff counsel.

Mr. SMIETANKA. I have one or two questions about what you alluded to on page 3: The demographic factors that you have discovered during the fiscal year of 1983. That is:

Why do—if you've been able to ascertain—nonwhite victims seek services in a substantially lesser number than white victims?

Ms. SPECKTOR. I believe that there are several reasons. First of all, there has not been a sense of outreach into the ethnic minority communities because of limited staff.

Second, I believe there is a fear of talking about the problem. We are now involved in a very innovative training program for ethnic minority human service providers. It's a 9-month training program. We bring them together 3 days a month and we're dealing with all these sexual assault issues.

And the people that we've selected for this program are blacks, American Indians, Hispanic service providers, and they come out of the community agencies. We have looked at many different ways to reach minority victims.

We have funded special community education programs for each of those three targeted minority communities and some victims come forward. We have made some requirements of our programs in the major metropolitan areas that they do specific things to outreach to minorities. We have done community awareness programs.

And finally what we came to is that we need to have some services within the agencies those clients use and are comfortable with. I believe that the outcome of this training is going to be a very exciting model for the country.

But one of the things that I'm learning as a white person is some of the attitudes and problems and myths that surround the crime within those communities that are even far greater than the ones that we generally talk about.

There's family pressures. There's protecting your own. There's the influence of the church. There's the influence of the tribe. There is the background of the woman who doesn't speak English in a Hispanic community.

So all of these cultural factors on top of the myths that surround sexual assault add to a mystification that scare those victims from coming forward.

Mr. SMIETANKA. I gather that outreach hasn't been in effect long enough to make a difference because it says that the figures have remained essentially the same over the past 3 years. So the coverage of the program that we speak of is something that just has been implemented now?

Ms. SPECKTOR. Yes.

Mr. SMIETANKA. You mentioned 39 percent of victims seeking service were rape victims and 24 percent were victims of family sexual abuse. You mentioned that on the next page.

What would be the major category that's not represented since that gets us to only 63 percent?

Ms. SPECKTOR. Probably attempted rape and there are other categories that are sexual harassment. There are some other categories, minor categories that add up to the attempted rape.

Mr. SMIETANKA. Thank you very much.

[The prepared statement of Ms. Specktor follows:]

STATEMENT OF PEGGY SPEKTOR, DIRECTOR, MINNESOTA PROGRAM FOR VICTIMS OF
SEXUAL ASSAULT, STATE DEPARTMENT OF CORRECTIONS

Mr. Chairman, Members of the Committee, my name is Peggy Spektor. I am director of the Minnesota Program for Victims of Sexual Assault, a project of the State Department of Corrections. I am here today to support H.R. 3498, the Victims of Crime Act of 1983.

In the United States, a rape occurs every seven minutes according to the F.B.I. One out of four females and one out of five males will be sexually abused during their lifetime.

Sexual assault is a humiliating and terrifying crime which violates a person's innermost physical and psychological being. It is a violent and/or coercive crime, which is primary an act of aggression rather than a sexual act. It is any sexual activity that a person is forced into without her/his consent. It includes forcible rape; it includes acquaintance rape, same-sex assault, incest, child molestation and marital rape.

In 1974, because of a growing community awareness of the extent and ramifications of sexual assault, the Minnesota Legislature mandated the Commissioner of Corrections to establish a community-based statewide program to provide services to victims of sexual assault. In August of 1975 the Governor's Commission on Crime Prevention and Control awarded a Law Enforcement Assistance Administration Grant (LEAA) to the Department of Corrections, which established the Minnesota Program for Victims of Sexual Assault.

During the three-year duration of the funding, volunteer groups throughout Minnesota began organizing to address the issues facing sexual assault victims in their communities. Grant monies funded pilot programs in Hennepin County, (greater Minneapolis area) and Ramsey County (greater St. Paul area) as well as part-time staff persons to coordinate the development of services in four rural communities. But the majority of the local programs relied on the volunteer time of committed professionals and concerned persons to develop community-based sexual assault services. Upon the expiration of the LEAA Grant in 1978, many components of the Minnesota Program for Victims of Sexual Assault were incorporated into the Department of Corrections biennial budget. However, no monies were provided for local services were included in this appropriation. Without funds for local sexual assault centers, the services mandated in 1974 were in jeopardy. Recognizing the need for services at the grassroot level, the 1979 Legislature appropriated \$500,000 for the biennium to enable the Commissioner of Corrections to award grants to local sexual assault programs.

Since 1979, one of the major responsibilities of the Minnesota Program for Victims of Sexual Assault has been to administer this grant program. Currently, there are 26 sexual assault programs throughout Minnesota funded by the Department of Corrections. These programs have four program activities.

The first major program component is direct victim services. For example, during Fiscal Year 83 in Minnesota services were provided to 3,509 victims—60% in the seven-county metro area and 40% outside the metro area. This number represents a 17% increase over the previous year and a 67% increase from Fiscal Year 1980, the first year we kept data.

The range of services provided by sexual assault centers reflects the varying needs which confront the sexual assault victim and include:

1. *Crisis Intervention.*—Crisis intervention includes providing factual information and providing support from someone who can help the victims deal with the intense feelings about sexual assault. Many programs have established 24-hour crisis lines.
2. *Advocacy.*—Advocacy is when a trained person is available to accompany the victim through the police, medical and criminal justice systems. Advocates not only provide information, but act as a support person to the victim.
3. *Referral.*—Limited staff resources preclude most centers from providing long-term counseling; therefore, appropriate referrals are made for victims and family members.
4. *Peer Support Groups.*—The peer support groups provide victims with an opportunity to discuss their own feelings with other victims of sexual assault.
5. *Assistance in Life-Sustaining Needs* such as housing, transportation, child care and financial aid.

What do we know about the victims who utilized the services of the sexual assault centers in Minnesota during Fiscal Year 83?

90% of the victims served were women and 10% were men, which represents an increase of 4% since Fiscal Year 80;

White victims continue to seek services at a substantially higher rate (92%) than non-white victims. The distribution of non-white victims has remained essentially the same over the past three fiscal years (2.9% of the victims were American Indian, 3.2% were Black, 1.7% were Hispanic, and .7% were southeast Asian);

45% of the victims were under the age of 18 (a 5% increase over Fiscal Year 1982), and 8.2% were under the age of 6;

29.5% of victims utilizing the services were between 18-25 years of age;

39% of the victims seeking services were rape victims, and 24% were victims of family sexual abuse (an increase of 15% since 1980);

83% of the victims knew their assailant either as friends, relatives, acquaintances or co-workers;

The second major program component of local sexual assault centers is professional training. The goal of professional training is to develop standardized procedures and sensitivity to the needs of the victim throughout the sexual assault delivery system. The training programs seek to acquaint the professionals with the full range of options available to the victim as well as to clarify the role of each professional group in response to sexual assault victims. In Minnesota five professional groups have been targeted for training: law enforcement, medical, legal and human service personnel, and educators.

During Fiscal Year 83 in Minnesota: 9,680 training programs were conducted by the local sexual assault centers reaching 17,852 professionals throughout the state, which is close to twice the number reached in Fiscal Year 1982.

Public education is the third major program component of the local sexual assault programs. This is probably the most critical community service offered by the centers. The myths surrounding sexual assault, such as the victim asked for it, or that only young attractive women who walk alone at night are raped, are still prevalent in our society. These myths present major obstacles to successful service delivery. They discourage many victims from seeking help, prohibit family members from offering the support needed and influence prosecutors, judges and jury members during criminal prosecution. Last year the sexual assault centers in Minnesota conducted 2,652 educational programs reaching 85,323 people (a substantial increase over 1982 in which 1,998 programs were held for 16,811 participants).

Public education is also the key tool in prevention. Research is finding that between 50 and 75% of sex offenders were either physically or sexually abused themselves as children. I strongly believe that the only way to prevent sexual abuse is to develop and implement comprehensive educational programs for our children which discuss sexual abuse, define good and bad touch, give kids permission to say no, and acquaint children with available resources. Last year Minnesota programs provided 971 educational programs for elementary age children reaching 25,642 students and 498 programs that reached 9,435 secondary students.

Coordination of services is the fourth common program component of sexual assault centers in Minnesota. Coordination between agency personnel within a service area is important to the efficient delivery of services to sexual assault victims. An active interagency network ensures that: (1) communication barriers between agencies are alleviated; (2) duplication of services is avoided; (3) an understanding of the roles and responsibilities of each professional group in the care of the victim is developed; (4) procedures between agencies are standardized; (5) available resources are advertised; and (6) support and feedback are offered. The local programs not only participate in interagency networks but in many instances they also provide the leadership for the development of interagency communication and coordination. The programs are information and referral sources in their communities. They provide referrals not only to victims, but also to professionals in need of technical information.

All of these services are provided by programs that operate with limited funds and that in many cases have only one paid staff member. The state grants range from \$5,000 to \$25,000, with the majority of grants being in the \$12-15,000 range. Even with additional sources of funds such as foundations, the county, United Way and private contributions, the total budgets of most of these programs are between \$15,000 and \$40,000. And for some programs the state grants are their only source of funds. Consequently, the programs are required to rely extensively on volunteers who play a critical role within the programs. In fact, in 1983, 2,274 volunteers contributed 262,502 volunteer hours to the Minnesota programs. Computed at \$5 per hour, these services are valued at \$1,312,510. A majority of these programs could not continue to provide services to victims in such a cost effective manner if it were not for a dedicated core group of volunteers.

Through our eight plus years of experience in Minnesota, it has been found that local sexual assault crisis centers is programmatically the most effective way to pro-

vide the range of services to victims and the community and also is cost effective. For example, in 1982 we found that the cost per victim served was \$33.74, the cost per professional trained was \$10.54, and the cost per person educated in the community was \$1.65.

Before I proceed any further, it is important to make a distinction between a sexual assault crisis center and a victim/witness unit. The sexual assault crisis center provides unique and critically important services to victims that can not be provided by victim/witness units. The sexual assault program is:

- designed to meet all the social service needs of the victim, not just needs during prosecution;
- designed to provide crisis intervention services, not just prosecution services;
- designed to address prevention, not just prosecution; and
- designed to improve all aspects of the services delivery system, not just prosecution.

It has been found essential in those Minnesota counties where victim/witness programs exist to also develop sexual assault crisis centers. In fact, several of the sexual assault programs have been developed at the urgency of prosecutors to meet the immediate needs of the victim.

But I am concerned. In Minnesota the present funding available will allow for the centers to minimally maintain the current level of services. I'm not sure even minimal services can be provided in those 30+ states that do not have funding for community-based sexual assault centers.

As local centers become better known in their communities, requests for their services have increased. Client loads have increased dramatically in Minnesota during the last three years. Similar increases have been experienced in professional training and public education programs and requests. If the centers do not have adequate funds, victims' needs will not be met. Monies must be available to recruit and train more volunteers to assist with the increased client load.

I am concerned because services are not available in all geographic areas, especially rural communities. Experience has shown that the most economic way to provide services to rural communities is by regional programs. Multi-county programs require sufficient funds to cover transportation and communication costs.

Many of the sexual assault crisis centers in Minnesota and nationwide have begun to address the problems of child sexual abuse. The increased awareness of this problem necessitates the development of services to meet the needs of the child sexual abuse victim and their families, and adequate funds to implement these services. Additional funds are also necessary to develop techniques and programs responsive to the special problems of racial minority victims, male victims and disabled victims. It is critical that the sexual assault crisis centers continue to exist. It is critical that the sexual assault crisis center, the organization that has specialized expertise in victim services, have adequate funding to provide the range of victim services, training and public education necessary to serve all victims regardless of age, sex, race, creed, color, or geographic location.

That is why I support H.R. 3498. I commend Representative Rodino for developing legislation that is designed to address the problems that face victims of crime and that recognizes the service needs of these victims.

Additionally, I strongly support the qualifications of crime victim assistance programs outlined within H.R. 3498 (Title II, Sec. 202). These qualifications will direct the funds to and prioritize those victim assistance programs that address the broad range of a specific victim's needs.

In my role as an advocate for direct victim services, I would be remiss if I did not mention my concern about the breakdown of the funds, which is potentially 80% for victim compensation programs and 20% for victim assistance programs. I would hope that this committee will increase the minimum percentage for victim assist-

ance programs. These programs provide services to a broader range of victims, do not limit benefits to only those victims who report the crime, and do not contain other eligibility requirements as victim compensation programs do. Additionally, funds allocated to victim assistance programs will have a great impact on the availability of services and the ability of the community-based programs to meet the increased demand for services.

I urge you to support H.R. 3498. This legislation will provide services to victims so that their victimization does not go unnoticed. Hopefully, we will then be able to break the cycle of abuse.

Mr. CONYERS. Well, that concludes our hearings for today. I think we've had a very excellent set of witnesses and we're appreciative for all of them, especially you.

The subcommittee stands adjourned.

[Whereupon, at 6 p.m., the subcommittee was adjourned.]

LEGISLATION TO HELP CRIME VICTIMS

TUESDAY, FEBRUARY 7, 1984

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIMINAL JUSTICE,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The subcommittee met, pursuant to call, at 10 a.m., in room 2226, Rayburn House Office Building, Hon. John Conyers, Jr. (chairman of the subcommittee) presiding.

Present: Representatives Conyers, Boucher, and Gekas.

Staff present: Thomas W. Hutchison, counsel, and Raymond V. Smietanka, associate counsel.

Mr. CONYERS. The subcommittee will come to order.

Good morning. This is our second hearing on H.R. 3498 and related measures to help crime victims. Additional hearings are being planned.

The bills before us presently call for Federal aid to go to victim compensation and victim assistance programs. The administration has a measure that will soon be before this subcommittee.

The principal measure in this regard is one that has been offered by Chairman Peter Rodino. What we think is important to be considered here is the responsibility of the criminal justice system to pay more attention to those who are the victims of crime.

We are delighted to start off with our friends from the American Bar Association. We are very interested in the ABA's point of view with reference to forfeitures and fines and new methods of making the victim whole, or as whole as he or she can be made after being the subject of some illegal violence.

Our witness today is attorney Frank Carrington, from Virginia Beach, VA, executive director of the Victims' Assistance Legal Organization, and a person who has also served as a member of the President's Task Force on Victims of Crime.

With him is the director of the victim-witness project of the American Bar Association's Criminal Justice System, Susan Hillenbrand.

We have your statement, and, without objection, it will be made a part of the record. We welcome you both and we would like you, in your own way, to summarize by defining the important points that you would want us to be aware of as we consider this legislation. Welcome to the subcommittee.

TESTIMONY OF FRANK CARRINGTON, ESQ., ACCOMPANIED BY SUSAN HILLENBRAND, DIRECTOR OF THE VICTIM-WITNESS PROJECT OF THE AMERICAN BAR ASSOCIATION'S CRIMINAL JUSTICE SECTION, ON BEHALF OF THE AMERICAN BAR ASSOCIATION

Mr. CARRINGTON. Thank you very much, Mr. Chairman. It is an honor and privilege to testify before this distinguished subcommittee on such an important issue. I was talking to Mr. Hutchison this morning. I think we go back to 1975 when the first meeting of the National Organization for Victim Assistance was held in Fresno, and Mr. Hutchison has been in the forefront of victims' rights, I know, ever since.

Mr. Chairman, my presentation will be very brief. The statement of the American Bar Association, drafted, incidentally, by Ms. Hillenbrand, who sparkplugs our entire victims effort at the ABA, is pretty much self-explanatory. We endorse almost completely the provisions of the bill. There are a couple of minor points that I would point out and one personal point on which I cannot speak for the ABA because they haven't taken a position.

So I will not go into the endorsement part. You can take it for granted that the American Bar Association does, indeed, endorse the bill.

Our reservations are relatively minor. On page 4 of the statement in the first full paragraph, we have pointed out a distinction between sections 101(1) and 101(2). It appears that 101(1), which provides 50 percent reimbursement to the States by the Federal Government, perhaps unintentionally tends to penalize those States who already compensate victims of Federal crimes in their States, as opposed to the 100 percent that would go to States that didn't compensate victims. In the last sentence of that paragraph, we have just stated a simple solution: A statement in the Federal legislation that programs which compensate victims of crime, subject to exclusive Federal jurisdiction, are eligible for 100-percent reimbursement, if all other eligibility requirements are met. We respectfully suggest this addition.

The only other point which the ABA has taken is apparently that the bill deals only with victims and we respectfully suggest it might be expanded for Attorney General assistance for State programs which include witnesses. The reason for this, Mr. Chairman, is that there are two basic conceptual reasons for victim compensation. One is a rather nebulous one, that the system was set up under the social contract. We joined society for protection against malefactors and lawless people, and if society fails in that respect, then the victim may well be entitled to compensation.

But on a far more practical level, Mr. Chairman, it is in the enlightened self-interest of the system to do everything it can to encourage victims to come forward, to report crimes, to testify, and the same principle applies to witnesses. Without victims and witnesses, the system would collapse of its own weight. I don't think there is any question about that. I think we all recognize it from having studied this, and so we would respectfully suggest that the program include Attorney General assistance to witnesses, as opposed solely to victims. We are talking about nonvictim witnesses.

Now, on a final point—and this I speak to as executive director of the Victims Assistance Legal Organization, and personally, but not for the ABA because they haven't taken a position. I have discussed this with Mr. Hutchison. On page 5, in the second full paragraph, second sentence, "We also agree that the State should be subrogated to any claim that a recipient of compensation has against a perpetrator of the crime, to the extent of the compensation received."

Mr. Chairman, victims legal rights happens to be my principal area of interest in the law, and victims' suits against third parties who negligently put the perpetrator in a position of victimizing are of far greater potential recovery benefit to the victim than suits against perpetrators. In perhaps 95 percent of the cases where the victim sues a perpetrator, unless you have a Patty Hearst situation or something like that, where the perpetrator happens to be quite wealthy, the victim can easily enough obtain a judgment in wrongful death or homicide and assault and battery, for rape, in the civil court, but collectibility is a major issue.

Most people who commit crimes of violence are not millionaires and they are either going to be in the penitentiary or if they are on probation, for example, for violent crime they are not the ideal candidate for well-paying jobs with which to satisfy judgments.

Third-party liability is an interesting and relatively new concept in the entire victims movement. The classic example is the Connie Francis case in New York. Connie Francis, as you know, was a national, even world-renowned singer, who had sold some 80 million records. She was making a comeback. In a motel on Long Island she was raped and rather hideously tortured.

Connie bypassed suing the perpetrator for the reason that he was never caught—even if he had been, he probably wasn't a very collectible defendant—and proceeded against a third party, that is, the motel chain, for negligent failure to provide security. Evidence in the case showed that the perpetrator gained entrance merely by kind of jiggling with the heel of his hand the locking mechanism on the sliding glass doors.

Connie received a jury verdict of \$2.5 million and eventually settled for \$1.5 million. This is an example of third-party victims' litigation. Another example might be lawsuits against parole boards for gross negligence in release of prisoners who then victimize again. A study of this was one of the recommendations of the President's Task Force on Victims, on which I had the honor of serving.

I think the bill could and should be expanded to add after "a perpetrator", "or third-party whose negligence or gross negligence put the perpetrator in a position to victimize," end of insertion, thereby broadening the right and power of the State subrogation.

I think it would help the chances of the bill because, obviously, if somebody in such a position as Connie Francis recovers \$1.5 million, and I don't know whether she did recover under the New York State Compensation Act, but if she had, the idea of returning, say, the \$10,000, which is the maximum that she could have received under the victims act, to the State treasury, would, I think, add to the credibility of the instant bill. I think it would encourage third-party litigation, which I am very much in favor of, and so I would respectfully make that suggestion.

As it happens, I have written an article for Trial magazine, which is a house organ of the Association of Trial Lawyers of America, in the December issue, which gives an overview of third-party litigation. I don't happen to have it with me, but with the subcommittee and the Chair's permission, I would like to send it to Mr. Hutchison for inclusion as an addendum to these remarks.

Mr. CONYERS. Without objection, so ordered.¹

Mr. CARRINGTON. Mr. Chairman, that concludes any remarks I have to make. I would respectfully commend the subcommittee and its counsel for the tremendous interest they have shown in this area and would be happy to answer any questions.

Mr. CONYERS. Thank you very much.

Ms. Hillenbrand, would you like to make any observations about the subject? What is your experience in terms of how you pursue your activities for the ABA in this regard?

Ms. HILLENBRAND. I have been working as the director of the American Bar Association's victim/witness project for about 4 years now. We have been involved in a number of areas trying to improve the plight of crime victims. Victim compensation is one area that we have been working very hard on for a number of years and have testified before a number of congressional committees over the years.

Basically, as far as this particular legislation goes, we were very happy with it. The ABA endorses the National Conference of Commissioners on Uniform State Laws' Uniform Crime Victim Reparations Act, which this bill parallels in most respects.

One area I might mention that is not included in this legislation that we would like to see included is a Good Samaritan provision. We feel that it is very important that persons who have been trying to prevent a crime and are injured in so doing also be eligible for compensation.

We feel that that might be one additional requirement for the State programs that doesn't seem to be in H.R. 3498.

Mr. CONYERS. That is a good idea. We haven't considered it before. I think you are the first to raise it.

Anything else?

Ms. HILLENBRAND. I think, as Mr. Carrington said, otherwise the ABA is very pleased with this legislation.

Mr. CONYERS. Do you have any feel for how the State systems are working? We have some 38, 39, 40 out there and, of course, that means there will be a wide spread, but I am going to ask GAO to do a study for the subcommittee on the subject, but I was just wondering whether you have some feel for what the state of the art is?

Mr. CARRINGTON. Yes, sir. It is kind of an ironic, paradoxical situation because, say, in the example of California, the more effective the system is of getting the word out to victims, the more claims that you have, and therefore, the more drain on whatever fund is set up. In California, I think it is based on a very complicated formula of surcharges on traffic fines and misdemeanor fines. Perhaps felony fines.

¹ EDITOR'S NOTE: The article follows Mr. Carrington's prepared statement.

So the state of the art is that these programs in the concept have been tremendously successful. I don't know of any programs which have ever folded. There have been times where the State was scrambling to get the money to continue paying victims, but conceptually, it is excellent.

You do read articles every once in a while, particularly California, that the fund has gone broke, but it seems like they always come up with the money from somewhere to get it restarted again.

I like the California, Virginia, and Ohio system where it comes off the top of fines, rather than coming from a general fund, however, as we have noted in our testimony, I do believe that the area is of such importance that if the general fund is the only recourse, then so be it. It still would be worth doing, but as we understand it, the bill provides for criminal fines, forfeitures, taxes on handguns collected and certain assessments collected from defendants convicted of Federal offenses, so obviously, the subcommittee has studied a source of the funding, and as our testimony states, the ABA would leave that to the discretion of Congress and the subcommittee, again noting what we feel is the importance of the issue.

In closing, and attempting to respond to your question directly, I think that the victim compensation programs, almost without exception, have been totally successful and have been a major improvement in the criminal justice system.

Mr. CONYERS. I would like to look at some of the operations and try to learn as much as we can from those who have been around. I am sure there are a wide variety of results.

Title IV of H.R. 3498 increases fines for corporations and organizations, as well as for individuals. Does your organization support those changes as well?

Mr. CARRINGTON. The ABA, and in particular, the criminal justice section, has not taken a position on the, shall I say, logistics or nuts and bolts of where it comes from. We have stated in our prepared statement at page 7, first full paragraph:

The ABA believes the principle of Federal assistance to crime victims is of sufficient import to warrant expenditure of general revenue funds. Nevertheless, we applaud the effort to utilize appropriate sources of funding.

Without having done any particular background into this specific area, I am a little bit reluctant to speak for the ABA, except for the endorsement in principle, and certainly, speaking for the ABA, we would be extremely interested on the Victims Committee to see the results of a GAO study.

Mr. CONYERS. We would like you to look at that carefully because that is going to become pretty important in terms of how we get the money part together.

Mr. CARRINGTON. Indeed, it is.

Mr. CONYERS. Frequently therein lies the rub, for many people who nominally support the concept don't want to come up with the means for keeping this fund at an appropriate level.

Mr. CARRINGTON. I think, Mr. Chairman, that these things get off the ground very slowly. For example, I couldn't give you any idea of how many years it took to get the moneys, such as they are, that are now available for rehabilitation and education of prisoners. That was a slow, incremental process, too, but now funds are

there and I guess it is a situation of walking before you attempt to run. But I still think the principle is not only necessary but critical to the continued effectiveness of the criminal justice system.

Mr. CONYERS. Could I imply unwavering support for the provision that allows victims to be eligible, even if they are out-of-State residents?

Ms. HILLENBRAND. Yes, we do support States compensating other State victims.

Mr. CONYERS. Then, without trying to pit the crime victim compensation program against the crime victim assistance program, what should be the distribution formula for these two types of program?

Mr. CARRINGTON. I think, Mr. Chairman, that crime takes such a horrible financial toll of the victims that if it came down to a choice between getting my hospital bills paid or being counseled, I think I would opt for the hospital bills, simply because, as you know, the greatest percentage of crime victims are the poor, the powerless, the inner-city dwellers, and they need the financial help, I think, more than they need the counseling. But that is in no way—or assistance from the assistance programs—but that is no way denigrating the importance of the latter. It's a matter of priorities. I would say paying off the hospital should come first. Paying off funeral expenses, out-of-pocket losses, things like that.

Mr. CONYERS. Finally, it has been suggested that there be a maintenance-of-effort requirement for victim compensation grants, would require the State, to be eligible for a grant, to spend at least as much on victim compensation as it did the preceding year.

This notion, I suppose, is to ensure the States show some continuing interest in the programs. Do you have a view on that?

Mr. CARRINGTON. I think I speak for the Victims Committee of the ABA, that that is an eminently fair provision. If the Government is going to come in with subvention to the 50 percent in 101(1), then, as the Government is prone to do in other situations, it does have the right to set certain parameters circumscribing what the States have to do to get the Federal money.

You could go into the argument that it is the States' money coming in taxes in the first place, but I don't think that has any particular bearing here. I think that is a fair enough provision.

The Federal money coming in is, in large measure, to encourage the States to continue and elaborate on these successful programs. I don't think that is unreasonable in the slightest.

Ms. HILLENBRAND. I just might add, though, we would want States to be encouraged to start programs, those several States that don't have the programs. I assume that this wouldn't affect them.

Mr. CONYERS. I would imagine that they wouldn't be affected since they don't have any effort to maintain. They are actually coming in from the beginning.

Before I turn this over to Mr. Boucher of Virginia, could you just redescribe how ABA works in this area through your office. Could you just put that on the record for us?

Ms. HILLENBRAND. We have worked for a number of years basically under specific grants for specific end products. Several years ago, we did a survey of statewide legislation in the victims area to try to get a handle on what different types of issues seemed to be

important to the States, whether they were, indeed, passing legislation, and how that legislation was working.

We came out with a monograph called "Statewide Legislation: Considerations for Policymakers," wherein we set out the different types of legislation, the benefits, the drawbacks, the potential costs, this sort of thing. It evidently has been very useful to a number of persons interested in the area, as a kind of a starting place.

This past year, we developed a set of guidelines for improved treatment of victims and witnesses in the criminal justice system, which the ABA approved last August. Many of these recommendations that the ABA has come out with have endorsed efforts which have been underway in a number of States—things like notifying victims of forthcoming proceedings so that they may attend if they care to, or notifying them of the victim compensation program when this exists in the State.

We also had a recommendation that the victim be allowed to talk to the prosecutor before a plea agreement was entered into, and to talk to the sentencing court, or to provide a written victim impact statement before sentencing to insure that certain facts which may not have been vital to the fact-finding—guilt fact-finding situation in the trial or a plea negotiation would be available to the judge before sentencing.

We have also commissioned a series of papers looking at reconceptualizing the role of the victim in the criminal justice system, kind of "think" pieces on where the victim's constitutional remedies might lie. We are currently negotiating with Pepperdine University, which is considering publishing symposium issue of their law review.

So, to answer your question, we are not a direct-service organization at all. We have addressed areas which we feel are of specific importance to the legal—

Mr. CONYERS. Thank you. That is very helpful.

I would like to recognize Mr. Boucher.

Mr. BOUCHER. Thank you, Mr. Chairman. I would like to join you in commending the witnesses for their testimony this morning.

A number of the victim assistance groups have suggested to us that they could usefully spend more than 20 percent of the total fund. As you know, the legislation authorizes that not more than 80 percent of the fund be spent on compensation programs, and in the event that that occurs in a given year, victim assistance organizations would receive only 20 percent.

I frankly think their proposals for changing that mix and awarding to them a greater percentage of the funds have some merit, and I would appreciate having the benefit of your thoughts.

Mr. CARRINGTON. I agree with you, Congressman, there is simply no question about the merit of victim assistance organizations. I happen to be the executive director of one such, and I have a long relationship with the National Organization for Victim Assistance. In what I said earlier, I didn't mean, in any way, to denigrate the importance of what they are doing.

I still must stick with my prior position that if it comes to assistance, which is terribly important, or paying the medical bills, that for the individual victim, this is going to be more important than being counseled. You know, on this, I almost seem to be talking out

of both sides of my mouth because they are both so terribly important.

The formula, the 80-20, could be arranged up or down, or there could be a sliding scale that if the direct reimbursement compensation of out-of-pocket costs does not exceed, or does not reach the 80 percent level, then you could invoke a sliding scale to put the remainder into the advocacy and assistance programs.

There is no question that they are terribly important. Those in every State in the Union, and on a national level, have compiled an enviable record in the past 10 years, the period in which the victims movement really got started.

I don't think, to close, that the 80-20 should be cast in bronze. I think there should be some flexibility in it.

Mr. BOUCHER. I think your proposal of a sliding scale, which would ensure on the one hand that out-of-pocket expenses, medical bills and the like, are satisfied has merit, but on the other, that would perhaps free up more than 20 percent of the funding here for victim assistance programs.

I wonder if the ABA would like to try its hand at drafting such a provision and submitting it to our subcommittee for our consideration. We are going to be holding hearings for a period beyond today and we would like to look at that language if you could perhaps submit it to us.

You have made several specific suggestions and I would like to pursue a couple of those. First, you suggested that perhaps services should be provided to nonvictim witnesses. Could you give us some idea of what kinds of services you have in mind and by whom those services should be supplied.

Mr. CARRINGTON. Yes, sir; precisely the same services as the bill contemplates for victims. In other words, let's say you have an armed robbery with violence. OK, you have the victim who has been hit on the head. The bill provides for subvention of State services to him, but let's suppose that the only way you are going to put the armed robber in jail is through the fortuitous intervention of a witness who just happened to walk by and is perhaps more able than the victim, because of the physical trauma, to pick the perpetrator out of a line-up.

We feel that if the victim is going to be compensated under the preceding sections for his out-of-pocket losses, or in counseling and advocating for assisting victims, the witness is just as important. The nonvictim witness is just as important to the criminal justice system—in some cases more important, on the concept that we need to have people who will come forward and testify.

This isn't, Mr. Boucher, a new set of standards for the witnesses; it is simply giving them the same assistance in the prosecutor's office, or, in some few occasions, police chief's offices or private organizations, notification of trial date, notification of continuances, assistance in finding parking, courtesy on the part of the staffs of the court and prosecuting attorney's office. So I don't think it is a major addition; it just enlarges the class slightly to include a very, very important class: nonvictim witnesses.

Mr. BOUCHER. I understand, then, that you are suggesting that we make as an eligible recipient for grants under this program law enforcement agencies or prosecutors' offices so that they can pro-

vide services to nonvictim witnesses and you would suggest that we make an amendment to that effect in the list of eligible organizations. Am I correct in your suggestion?

Mr. CARRINGTON. Yes, sir; you are. There are two parts to the bill. The first part is direct compensation for out-of-pocket losses to victims. The second is assistance, some subvention of assistance programs, and it comes under the second part to include witnesses in the same kind of helpful services that the bill contemplates for victims.

Mr. BOUCHER. Under the second part, as it is written now, a Commonwealth attorney's office in Virginia, district prosecutor's office, or a law enforcement agency would not qualify for the receipt of grants for the purpose of providing the kinds of services you suggest to nonvictim witnesses, so my question to you is, are you suggesting that we broaden this category of eligible recipients to include law enforcement agencies and prosecutor's offices so that they can provide those services?

Mr. CARRINGTON. Yes, but I, personally, wasn't thinking so much in terms of the recipient of the grant as the recipient of the services.

Mr. BOUCHER. But in order to qualify, someone to provide the services, we would have to broaden the statute. Is that not correct?

Mr. CARRINGTON. Yes, sir.

Mr. BOUCHER. OK. I am a little bit confused—I am sorry, did you want to add something to that?

Ms. HILLENBRAND. No, I was just saying when you talk about the grant, you mean the grant to the agency, not to the individual.

Mr. BOUCHER. That is correct.

I am a little bit confused by your suggestion with regard to third-party subrogation. Are you suggesting that we establish as a reimbursement for our Federal fund a subrogation right, or are you merely suggesting that we make as a condition for the award of these grants to State compensation programs the qualification that they broaden their subrogation to include actions against third parties who may have been negligent or grossly negligent?

Mr. CARRINGTON. As the bill is written, as I understand it, the subrogation would be on behalf of the State. The bill, at page 3, line 1, subsection 4, provides that the State is subrogated any claim the recipient of compensation has against the perpetrator of the crime for which compensation is granted to the extent of such compensation.

As the bill is written, it would include only the State, although I think if it was in the 101(2) section, where 100 percent Federal funds were involved, that something might be worked out with the State. For example, take the *Connie Francis* case again, let's suppose she had received \$10,000 from the State of New York, but part of that \$10,000 was a 50 percent 101.1.

In fairness, when she wins her lawsuit against the motel chain she pays back the \$10,000. In fairness, I see no legal difficulty if x amount went in State and x amount went to the Federal Government in cases in which the victim receives a third-party award. Usually a third-party award is going to be far in excess of any compensation. Then the percentage that went into the compensation could be related back on the subrogation issue.

Mr. BOUCHER. Are you suggesting that the Federal fund would be replenished, perhaps in proportion to the extent of Federal moneys that were applied originally?

Mr. CARRINGTON. Yes, sir; I think that would be fair. The Federal Government, if this bill passes, is going out of its way to assist States, and to the extent that money is going to be returned, I see no reason why not have a proportionability formula.

This might get awfully complicated, however.

Mr. BOUCHER. Well, I think it will. Let me ask this additional question concerning it. You had suggested that there should be a standard of either negligence or gross negligence. Would you care to choose one of those and supply a rationale for why we should apply one as opposed to the other?

Mr. CARRINGTON. This is a question that has been plaguing the whole area of third-party liability ever since it really got started. The question is generally divided into two parts. There are a lot of suits now and some States, for example, Arizona, have allowed lawsuits against parole boards for gross negligence in release of prisoners. That is, in cases where no reasonable mind could differ as to government culpability. The case is *Grimm v. Arizona Board of Pardons and Paroles* and it will be cited in the Trial magazine article.¹

In other States, of course, there is no action whatsoever against a State organization because of the doctrine of sovereign immunity. This is under study now as a result of the President's task force on victims, at least in the conceptual stage. In the case of custodial officials, everybody I have talked to agrees we should limit liability to gross negligence. You can't go second-guessing parole boards for every kind of release.

For example, if they have a fifth-offense check forger who has never committed an act of violence, if they let him out on early parole to make room for violent criminals coming in—you are as aware as I am of the overcrowding problem—then the releasee goes out and rapes or murders somebody, I do not think that should be a case for liability, because it was not gross negligence in releasing him; it was not a foreseeable consequence of the release.

Now, in the *Grimm* case, for example, they had a man who was in for about five different felonies, every psychiatrist who had ever seen him said this man was a dangerous psychopath, antisocial, and that he was going to commit crimes when he got out. He was released after a third of his sentence and proceeded to murder Mr. Grimm. The Arizona Supreme Court, overturning prior law, allowed a cause of action against the State for gross negligence on the part of the parole board.

Then, Mr. Boucher, you get into the area of private parties where we have no sovereign immunity problems. How gross was the negligence of the motel chain in the *Connie Francis* case? Obviously a jury thought it was very gross because her room was on the second floor and she had locked the door to a room leading to the hall, but she had those sliding glass doors leading out onto a little patio, and the perpetrator just climbed up there, and the testimony

was uncontradicted that that lock was so faulty that just by jiggling it, the door popped open and in went the rapist.

I guess on the question of negligence, of gross negligence, you have got to take a line from Potter Stewart on obscenity, "I can't define it, but I know it when I see it."

I wish I could give you a more complete answer, but that is one of the major bones of contention in the whole third-party liability area.

Mr. BOUCHER. It is always very difficult to determine gross negligence. I know in the State of Virginia—you recall this history as well—the Supreme Court for years and years was deciding on essentially an ad hoc basis what constituted gross negligence in the guest passenger cases. Finally, I think the legislature, out of exasperation as much as anything else, changed the standard and simply made that simple negligence as in other cases of automobile negligence law.

Let me ask this, do you know if any other States have, as a part of their subrogation statute in their crime victims compensation statute program, third-party liability?

Mr. CARRINGTON. Yes, sir; I know for a fact the State of Washington. I don't have the citation of the statute with me, but I could transmit it to counsel for both sides if you would be interested.

I am quite sure other States do. That just happens to be an area that I haven't researched, but it shouldn't be too difficult to run down. I would be happy to do it.

Mr. BOUCHER. It seems to me that essentially we would be better off leaving to the States the question of whether or not they want to impose some third-party liability in connection with their subrogation under the crime victims compensation program, unless we decide that we want to have some sort of Federal reimbursement, and I think you have suggested that only for a very limited category of cases.

I am wondering if the complexity of such an arrangement might outweigh whatever benefit we receive from it.

Mr. CARRINGTON. Perhaps I was misunderstood, Mr. Boucher, I was not suggesting that the Federal bill under consideration, House bill 3498, impose on the States a requirement for third-party liability; for example, doing away with sovereign immunity in cases of gross negligence. All I was suggesting was that if, under existing State law, a victim recovers on a third-party case, as opposed to a case of suing the perpetrator, that there should be subrogation, but the substantive issue of subrogation absolutely should be left to the States.

If the State, for example, provides, either through court decision or legislation, for third-party liability, then I believe that subrogation should apply equally to that, in addition to a successful lawsuit against the perpetrator.

Mr. BOUCHER. Let me pursue one final line of questions. We heard in our previous day of testimony from at least one victim assistance organization that some of the requirements contained in this bill for various characteristics of the program to make them eligible to receive victim assistance grants might well render ineligible some very worthwhile programs, specifically that witness pointed to the requirement that the organization utilize volunteers,

¹ EDITOR'S NOTE: The article is reproduced starting at p. 89.

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and the requirement that the organization maintain its services on a 24-hour-per-day basis.

Does the ABA have any thoughts as to whether or not these two requirements are beneficial and should be retained as a part of the legislation, or whether, indeed, as the witness suggested, they could be usefully eliminated to qualify a broader range of organizations?

Ms. HILLENBRAND. The ABA doesn't have a policy on that. I assume that the reason for encouraging or requiring the use of volunteers was a financial one, to have programs that don't cost as much. I am sure the American Bar Association is very much in favor of that. I am not sure that we would go so far as to make it a requirement.

I think the same is true on the 24-hour program. On the other hand, if the program were staffed by paid staff people, it would probably result in a much more expensive program.

Mr. BOUCHER. I think the theory of the 24-hour approach, at least, was to insure that if we are going to be providing Federal funding for programs, that those programs are available when they are most needed. Oftentimes, it is the late hours when people have the need for victim assistance counseling or crisis intervention, and I think that perhaps was the reason for the 24-hour requirement.

Ms. HILLENBRAND. I can certainly understand that. I guess the other side of the coin is, is it better to have something rather than nothing? Is it better to be able to get counseling in 3 hours than not to get it at all?

Mr. BOUCHER. Thank you very much, I appreciate your helpfulness.

Thank you, Mr. Chairman.

Mr. CONYERS. You are welcome, and I would like to thank the witnesses from ABA and note that Mr. Gekas of Pennsylvania has joined us.

We would like you to feel free to follow along with us to the extent that you can add any views to these more particular issues that are yet to be refined by the subcommittee. Feel free to work with us or our counsel. Again, thank you for appearing before us as the first witnesses today.

Mr. CARRINGTON. Thank you, Mr. Chairman.

[The prepared statement of Mr. Carrington follows:]

STATEMENT OF FRANK CARRINGTON, CHAIRPERSON, COMMITTEE ON VICTIMS, SECTION OF CRIMINAL JUSTICE, ON BEHALF OF THE AMERICAN BAR ASSOCIATION

Mr. Chairman and Members of the Subcommittee: My name is Frank Carrington. I am the Executive Director of the Victims' Assistance Legal Organization, Inc. as well as a private attorney in Virginia Beach. I have had the honor of serving on the President's Task Force on Victims of Crime and on the Attorney General's Task Force on Violent Crime. I appear before you today as Chairperson of the Victims Committee of the American Bar Association's Criminal Justice Section. My purpose is to express the ABA's endorsement of federal aid for direct financial compensation to crime victims and for support of victim assistance treatment programs.

As you may know, the American Bar Association is a voluntary organization of 300,000 attorneys from every state in the Nation. Nearly 10,000 of these lawyers also belong to the Association's Criminal Justice Section. Constituted of prosecutors, defense attorneys, judges, law professors, general practitioners and others interested in the criminal law, the Section represents the full range of interests and perspectives in the criminal justice system.

The ABA's record in protecting legitimate rights of defendants is well known. The Association is proud of that record. We are just as proud, however, of our lesser-

known efforts advocating the kinds of programs addressed by the legislation before you. These include, for example, a 1967 policy in support of federal compensation for crime victims and our 1974 endorsement of the Uniform Crime Victims Reparations Act drafted by the National Conference of Commissioners on Uniform State Laws (NCCUSL). In 1975, a policy calling for treatment centers for rape victims was approved, and in 1978 the Association went on record in support of federal, state and local programs to combat the incidence, causes and effects of violence in the family. Most recently—in August of last year—a set of thirteen "Guidelines for Fair Treatment of Crime Victims and Witnesses" was approved.

These policies were not intended merely to sit on our shelves collecting dust. In 1975, 1977, 1979, and in 1983, representatives of the Association brought our victim compensation policies to the attention of congressional bodies considering federal legislation in this area. In 1979 and 1980, we urged congressional action to approve federal funds for assistance programs working with domestic violence victims. Such funds were also recommended last month by an ABA spokesperson appearing before the Attorney General's Task Force on Family Violence. Association representatives testified before the Attorney General's Task Force on Violent Crime in 1981 and before the President's Task Force on Victims in 1982, urging both groups to recommend federal aid to compensation and service assistance programs. We were extremely pleased that the final report of the Victims Task Force contains recommendations in both of these areas.

Today we appear once again to repeat our strong belief that victims whom the criminal justice system has been unable successfully to protect deserve the assistance of the federal government in dealing with the financial and service needs occasioned by the crime against them. Congress and the President have already recognized a legitimate interest in victims and witnesses of federal crimes. The Victim and Witness Assistance Act of 1982 encourages increased restitution, protection from intimidation, and use of victim impact statements. It also requires improved notification and information to victims regarding the processing of "their" cases.

The ABA fought hard for that legislation and applauds its passage. The fact that only minimal costs are necessary to implement its provisions certainly does not detract from the Act's validity or potential impact. We do note, however, that many of the states have become increasingly willing to expand public funds for more expensive, complementary legislation. For example, thirty-eight states, the District of Columbia and Puerto Rico now have state-funded victim compensation programs. At least fifteen states have institutionalized and provided some degree of funding for local victim assistance projects. To date, the federal government has provided no funds for compensation. The limited Law Enforcement Assistance Administration funds once available for selected victim and witness assistance projects are no longer available. Yet President Reagan, in his recent State of the Union address, stressed the importance of protecting victims.

Federal aid to state compensation and local service assistance programs for victims is necessary, fair and appropriate. The final report of the President's Task Force on Victims points out that most state compensation programs currently include compensation for federal crime victims and that local service programs assist victims and witnesses of federal crime. To the extent that such victims and witnesses are more cooperative with law enforcement agencies, state and local funds encourage cooperation in federal prosecutions. In addition, the Task Force notes that the federal government has made substantial sums of money available for the education and rehabilitation of state prisoners and suggests that it is only just that federal funds also assist the innocent taxpayer victimized by these prisoners. We agree.

It would, of course, be possible to set up separate federal programs for victims of federal crimes, though the administrative costs of such an approach would be significant. It would also be possible (if administratively quite difficult) to limit federal reimbursement to that portion of the state program compensating or assisting federal victims. Either of these approaches, however, would be confusing to the average citizen—and certainly to the average victim—who will be unconcerned with the federal/state distinction and hard pressed to understand why some victims are compensated or assisted by their federal government, while others are not.

I would like briefly to review the several titles of H.R. 3498, the legislation before you today.

Title I authorizes the Attorney General to make grants to eligible states victim compensation programs to cover up to 50% of the covered costs of those eligible for state compensation and up to 100% of those eligible for such compensation but for the fact that the crime is subject to exclusive federal legislation. This coverage is sufficient, we feel, to offer meaningful assistance to existing state crime victim com-

pensation programs and, perhaps, to encourage the dozen states which do not currently have crime victim compensation programs to establish them. At the same time, the fact that the state must provide at least half the funds received by non-federal victims (as well as administrative costs of the program) will ensure a major financial as well as philosophical commitment on the part of the state.

We would point out, however, that Sections 101(1) and (2), as currently written, appear to be unfair to state programs which provide compensation to victims of federal crimes despite the fact that the crimes are subject to exclusive federal jurisdiction. Under § 101(1), these programs would receive a maximum of 50% reimbursement for such payments. The 100% reimbursement of § 101(2) is apparently reserved for those programs which compensate victims of crimes "which would be compensable but for the fact that such crimes are subject to exclusive federal jurisdiction" (emphasis added). The states which already compensate victims of federal crimes could, of course, amend their legislation to exclude such victims in the absence of federal reimbursement, thus qualifying their programs for the 100% reimbursement under the proposed legislation. A simpler solution, however, might be a statement in the federal legislation that programs which compensate victims of crimes subject to exclusive Federal jurisdiction are eligible for 100% reimbursement if all other eligibility requirements are met.

The state program eligibility requirements under the proposed legislation conform to ABA policy. The NCCUSL Uniform Victims Reparations Act which we endorse contains similar requirements—for example, that programs cover medical expenses, loss of wages, and funeral expenses. While we recognize that property loss or non-economic pain and suffering can also be devastating to crime victims, we believe that first priority must be given to "making whole" those victims who have been physically and psychologically injured. Thus we are pleased that reimbursement for non-economic losses is excluded from this legislation. States willing and able to cover additional expenses and non-economic costs of crime will in no way be precluded from doing so. Moreover, they will continue to qualify on an equal basis with other states for reimbursement of injury-related expenses.

We believe the legislation's provision that eligible programs promote victim cooperation with the reasonable requests of law enforcement as a condition of compensation is reasonable and financially responsible. This is not to deny that there are valid arguments against cooperation in certain instances. The wording of the legislation, however, appears sufficiently broad to allow reimbursement for state programs which, in exceptional cases, compensate non-cooperative victims despite a general policy of encouraging cooperation. (It appears unclear from the legislation, however, whether such payments could be included in the "covered costs" on which reimbursement is based.)

We agree with the provision requiring eligible programs to diminish compensation to the extent of the contributory misconduct of the victim or recipient. We also agree that the state should be subrogated to any claim that a recipient of compensation has against a perpetrator of the crime to the extent of the compensation received. One additional eligibility requirement which we would suggest is a "Good Samaritan" provision, requiring coverage of those who are injured while trying to prevent a crime or apprehend a perpetrator. Such individuals are certainly victims of crime. Moreover, such a provision might encourage increased citizen involvement in the state's overall crime prevention strategy.

Title II authorizes the Attorney General to make grants to the chief executive of each state for the financial support of qualified victim assistance programs. Qualified programs must have been established "exclusively to provide services directly to crime victims generally or to any specific category of crime victims and the families of crime victims." The ABA supports assistance to both of these types of programs.

In 1975, the Association approved a policy calling for the establishment of treatment and study centers to aid the victims of rape. In 1978, it went on record as supporting federal, state and local programs to combat the incidence, causes and effects of violence in the family. The specialized focus of these policies underlines the particular needs of certain kinds of victim, and the ABA is pleased that the legislation being considered today authorizes support toward programs providing the necessary treatment to meet these needs.

We are also pleased that comprehensive victim assistance programs are included. This more general approach is recognized in the ABA "Guidelines for Fair Treatment of Victims and Witnesses in the Criminal Justice System," approved by our House of Delegates in August. Among other recommendations, the guidelines call for providing victims with information about available compensation and other as-

sistance programs available to them—a requirement of programs eligible for federal funds under this legislation.

We would, however, recommend that a third type of program also qualify for federal assistance under this title. This is the witness service program, which assists both victim/witnesses and non-victim/witnesses in dealing with the demands of the criminal justice system (rather than the direct consequences of the crime itself). As you may know, these programs are usually based in a prosecutor's office, but occasionally in a court or police department. They provide escort services, notification regarding criminal justice proceedings, intimidation protections, expedited property return and employer intercession, among other services. The trauma of the "secondary victimization" which these programs alleviate is well-founded, and we suggest that the legislation specifically include them as eligible for assistance even if they do not provide all of the other victim services currently required by § 202(2).

Title III establishes a "Crime Victims Fund," consisting of all fines collected in Federal criminal cases, proceeds of forfeitures in Federal criminal cases, taxes on handguns collected under § 4181 of the Internal Revenue Code of 1954, and certain assessments collected from defendants convicted of federal offenses.

The ABA believes that the principle of federal assistance to crime victims is of sufficient import to warrant expenditure of general revenue funds. Nevertheless, we applaud the effort to utilize appropriate alternative sources of funding. While we have no specific policies "pro" or "con" regarding any of the sources contained in this bill, we are pleased to note that Title IV concerning criminal fines would require the court to consider the ability of the defendant to pay before imposing a fine. This is in accordance with ABA Sentencing Alternatives and Procedures Standard 18-2.7(c)(i), and is a practical necessity.

In conclusion, the ABA, with the several exceptions noted above, supports and urges prompt action on H.R. 3498.

Thank you for your time and attention. I will be glad to answer any questions you may have.

VICTIMS' RIGHTS

A NEW TORT? FIVE YEARS LATER

(By Frank Carrington)

"Railroad Rapist" victim Wins 1.7M—July 1983¹

\$10,300,000 Verdict—Attack in Dormitory Results in Burns—December 1982²

\$2,500,000 Verdict—Child Raped by City Employee—August 1982³

Verdicts, settlements, and awards to crime-victim/plaintiffs against third parties whose negligence, or gross negligence, caused the injury are becoming increasingly common on today's legal scene; they may very well presage the development of a new specialty in the personal injury law field—victims' rights litigation.

In June 1978, this author published in *Trial* an article titled "Victims' Rights: A New Tort?"⁴ The article contended, albeit speculatively, that victims' rights litigation was rapidly emerging as an important specialty area in the personal injury field. Today, after five years of consulting with victims' attorneys and researching the applicable law,⁵ speculation is at the end. The evidence supports the fact that a "new tort" has indeed materialized, a development of considerable interest to the trial bar.

This development may have come about without a great deal of fanfare; nevertheless, it has transpired.⁶ Trial attorneys and other interested parties should be aware

¹ New York Daily News (July 16, 1983).

² Verdict Reports, Jury Verdict Research, Inc., Solon, Ohio 44139, Vol. 20, No. 12 (May 17, 1983). The burns were caused by acid thrown by a rejected suitor.

³ *Id.*, Vol. 20, No. 24 (August 9, 1983).

⁴ *Trial*, Vol. 14, No. 6 (June 1978), p. 39; see also Carrington, *Victims' Rights Litigation: A Wave of the Future?* 11 *U. Rich. L. Rev.* 447 (1977); Carrington, *The Crime Victims Legal Advocacy Institute: A Victims' Legal Rights Organization is Formed in Virginia*, VA. B. A. J. (Summer 1980), at 4; Carrington, *Deterrence, Death and the Victims of Crime*, 35 *Vanderbilt L. Rev.* 587 (1982).

⁵ Carrington and Duggan, *Victims' Rights Litigation*. To be published in late 1983 by The Michie Company, Charlottesville, Va. None of the royalties of this book will inure to the personal profit of the authors; they will be donated to the Victims' Assistance Legal Organization, Inc.

⁶ See, e.g., Burke, *A New Relief for Victims of Crime*, *National Law Journal* (October 20, 1980) p. 1, col. 4.

of the development of this new specialty area and know that the time is now ripe for full and formal recognition of this area of tort law.

JUSTIFICATION FOR SPECIALTY STATUS

A threshold question arises: What is the justification for considering victims' rights litigation to be a separate and distinct specialty area? Is it not just a part of the broader-gauged area of personal injury law? The answers to these questions are definitional. If we define "specialty" or "sub-specialty" as an area of law presenting issues that differ substantially from those arising in other areas, then victims' rights litigation qualifies beyond any doubt.

In many, if not most, third-party victims' actions, the litigator confronts three legal doctrines militating against recovery. So deeply entrenched are these doctrines in our civil law system that in most cases in which crime victims prevail against negligent third parties they do so because their attorneys have, through innovative and often ingenious pleadings and proof, found some way to convince the courts that their cases somehow fell within the area of exceptions to tort law rules that are generally adverse.

Two of these doctrines hindering recovery apply almost exclusively to victims' rights cases. First is the "duty-at-large" rule, which holds, in cases in which victims are suing law enforcement or correctional officials for failure to protect them from or to prevent crimes, that such officials have a duty to protect or prevent that runs *only* to the public at large and not to individual plaintiffs, *unless*, based on the given factual situation, counsel can establish that a "special relationship" creating a duty existed between the negligent government officials and the victim/plaintiff (or deceased victim) or, alternatively, between the government and the perpetrator.⁷ Second, in third-party cases against private persons (landlords, innkeepers, owners and operators of premises, carriers, employers, etc.), victims' attorneys run up against the "intervening and superseding force" doctrine, which holds that the criminal act of a third person insulates the defendant from liability, unless, as in the case of the "duty-at-large" rule, a "special relationship" can be established between the defendant and the victim or the defendant and the perpetrator.⁸

Finally, we have the fact—the bane of the existence of personal injury attorneys in any case in which governmental negligence is alleged—that sovereign immunity, either absolute or qualified, bars the lawsuit completely⁹ (unless, of course, the government has waived tort immunity).

These doctrines—the "big three" when it comes to frustrating attorneys seeking redress for crime victims in the civil courts—concededly could lead to a "why bother, the-deck-is-stacked-against-me-anyway" attitude on the part of victims' attorneys. Then the question inevitably must arise: What about the jury verdicts and awards evidenced by the three cases noted at the beginning of this article—and hundreds of others like them nationwide¹⁰ in which victims indeed have prevailed in third-party lawsuits?

VICTIM-ORIENTED APPROACH

The answer lies in the fact that, while some courts—probably still a majority—adhere to the traditionalist view that recovery in third-party victims' rights lawsuits should be the exception rather than the rule, others—probably still a minority but one that is demonstrably growing—have taken a far more flexible, humanistic, and victim-oriented approach to such actions.

A statement in a unanimous panel opinion of the U.S. Court of Appeals for the District of Columbia circuit epitomizes this attitude. Ruling in favor of the plaintiff, a murder victim's widow, who sued the killer's common-law wife for "civil conspira-

⁷ See, e.g., *Warren v. District of Columbia*, (No. 79-6, District of Columbia Court of Appeals, Dec. 21, 1981) (no duty owed to plaintiff/rape victim although she had called the police and relied on their assurances that assistance was forthcoming); *Riss v. City of New York*, 22 N.Y.2d 579, 240 N.E.2d 860 (1968) (no duty to victim of acid attack although she had previously sought police protection).

⁸ *Restatement (Second) of Torts* § 315 (1965).

⁹ *Martinez v. California*, 444 U.S. 277, (1980) (State "blanket immunity" statute did not violate the civil rights, 42 U.S.C. § 1983, or Fourteenth Amendment rights of survivors of sexual assault and murder victim at the hands of a prisoner paroled under circumstances involving egregiously gross negligence); but see: Carrington, *Martinez Ruling Won't Bar Suits on Negligent Custodial Releases*, National Law Journal, (February 11, 1980), at 26, col. 1.

¹⁰ A large number of these are collected and reported in Carrington and Duggan *supra* note 5.

cy" and "aiding and abetting" in unlawful activity (a burglary ring) leading to the wrongful death of her husband,¹¹ the court stated:

"Tort law, at this juncture, is not sufficiently well developed or refined to provide immediate answers to all the serious questions of legal responsibility and corrective justice. It has to be worked over to provide answers to questions raised by cases such as this. Precedent, except in the securities area, is largely confined to isolated acts of adolescents in rural society.

"Yet the implications of tort law in this area as a supplement to the criminal justice process and possibly as a deterrent to criminal activity cannot be casually dismissed. We have seen the evolution of tort theory to meet 20th century phenomena in areas such as product liability; there is not reason to believe it cannot also be adapted to new uses and circumstances of the sort presented here. This case is obviously only a beginning probe into tort theories as they apply to newly emerging notions of economic justice for victims of crime."¹²

A number of courts have adopted this theory and have found for victims in third-party actions by designating exceptions to, or even overruling, the common-law doctrines of non-liability. These cases indicate a discernible trend in favor of victim/plaintiffs, one that should be recognized, carefully studied, and fostered by the personal injury bar.

The Victims Assistance Legal Organization (VALOR)¹³ a national, not-for-profit public interest law firm serving as a clearinghouse of legal information for victims' attorneys, supports this contention. It has contacted hundreds of lawyers who have furnished information about their cases for dissemination to other attorneys similarly situated. Additionally, research during the past five years leads to the conclusion that courts are lending an increasingly sympathetic ear to victims' claims.

Turning to specific cases in which the courts have found in favor of victims against third parties, a number of cases have held that the "duty-at-large" rule will not bar such suits provided that there is a sufficient nexus, usually based on the establishment of a "special relationship" between the plaintiff and the defendant. In one landmark ruling, the Arizona Supreme Court simply abolished that rule on public policy grounds. In *Ryan v. State of Arizona*,¹⁴ the court held that the state and the director of corrections could be held liable for negligence in the escape of a dangerous prisoner, who subsequently inflicted injuries on the plaintiff. In so holding, the court expressly overruled its previous opinion in *Massengill v. Yuma County*,¹⁵ which had established the "duty-at-large" rule and which had been cited routinely as the principal authority for that doctrine.¹⁶

With regard to the "intervening and superseding force" rule, some courts have recognized the validity of the rule, but then held that the requisite "special relationship" to create liability based on a failure to exercise reasonable care to protect or prevent crime had been established. Thus, courts have ruled against the government in cases accusing it of negligence in handling parolees¹⁷ and mentally dis-

¹¹ *Halberstam v. Hamilton*, —F.2d— (D.C. Cir. 1983); see Speiser, *Handgun Manufacturers' Liability for Aiding and Abetting Criminals*, National Law Journal (June 20, 1983), at 24, col. 1. Mr. Speiser is an expert and a prolific writer in the field of victims' rights litigation. Other national experts in this area include, but are in no way limited to: Richard Frank, New York, who was plaintiff's counsel for singer Connie Francis in her landmark \$2.5 million jury award after she was raped in a motel; Harry Lipsig, New York who writes a column on victims' rights for the New York Law Journal; Stephen Friedman, Maryland; Robert Lewis, Virginia, who won *Semlar v. Psychiatric Institute* in the Fourth Circuit (see note 18); Karl Koepke, Orlando, Florida; Philip Corboy, Chicago; David Glickman, Los Angeles; Noel Fidel and Frank Lewis, Phoenix, who won the landmark *Ryan v. State of Arizona* discussed in text; Camille Le Grand, San Francisco; and George W. Nicholson, Office of the Governor, Sacramento.

¹² *Halberstam v. Hamilton*, *supra* note 11.

¹³ Suite # 4, F. & M. Bank Bldg., 210 Laskin Road, Virginia Beach, VA 23451, telephone (804) 428-1825 422-2692, after hours (804) Valor will move its day-to-day operational activity in late 1983 to the McGeorge School of Law, University of the Pacific, 3200 Fifth Avenue, Sacramento, California 95817, telephone (916) VIC-TIMS. The Virginia Beach office will also remain open.

¹⁴ *Ryan v. State of Arizona*, 134 Ariz. 308, 656 P.2d 597 (1982).

¹⁵ *Massengill v. Yuma County*, 104 Ariz. 518, 456 P.2d 376 (1969).

¹⁶ See also: *Zibbon v. Town of Cheektowaga*, 51 A.D.2d 488, 332 N.Y.S.2d 152 (1976) *app. disms'd*, 39 N.Y.2d 1056, 355 N.E.2d 388, 387 N.Y.S.2d 428 (1976) (reliance on police promise of protection created "special relationship" sufficient to establish liability for negligent failure to protect); *DeLong v. County of Erie*, 89 A.D.2d 376, 445 N.Y.S.2d 887 (1982) (reliance on establishment of "911" as a police emergency number created a "special relationship" where plaintiff's decedent was murdered after the dispatcher negligently mishandled the call); and see cases collected in Carrington and Duggan, *supra* note 5, relating these and other cases cited below involving third-party liability to crime victims.

¹⁷ *Rieser v. District of Columbia*, 563 F.2d 462 (D.C. Cir. 1977) *aff'd en banc* 580 F.2d 647 (1980) (negligence in release, failure to supervise, and failure to advise employer of dangerous propensities of parolee who raped and murdered plaintiff's daughter).

turbed prisoners;¹⁸ and have found liability, based on the duty to use care in undertaking custody of such persons. In suits against private parties, courts have held that a special relationship between the defendant and the plaintiff would give rise to liability for failure to exercise reasonable care to protect or prevent crime in cases involving landlords,¹⁹ innkeepers,²⁰ owners and operators of premises,²¹ common carriers,²² and employers.²³

Finally, with regard to the issue of sovereign immunity, while some courts have held that it is an absolute bar to recovery,²⁴ others have gone to great lengths to define the perimeters of when such immunity bars relief and when it does not. For example, in another landmark case, *Payton v. United States*,²⁵ the Fifth Circuit dissected each element of the facts leading up to the grossly negligent release of a mentally disordered federal prisoner, finding some activities to be immune and others not. Thomas Whisanhant had been sentenced to 20 years for a brutal sexual assault, with intent to murder, on an Air Force enlisted woman. Every prison psychiatrist who saw him said that Whisanhant was a homicidal psychopath who would murder women upon his release. Despite this evaluation, Whisanhant was released after serving about one-third of his sentence. He went to Alabama where he raped, murdered, and mutilated the bodies of three women; including the plaintiff's wife.

Plaintiff Douglas Glynn Payton sued the United States under the Federal Tort Claims Act for negligence in the release of the prisoner. The federal district court dismissed on the theory that all acts involving Whisanhant's release were "discretionary acts" and hence immune under the act.

The Fifth Circuit, sitting *en banc*, held that the plaintiff's allegations against the United States Parole Board of negligence in (1) releasing the prisoner, (2) failing to study his psychiatric file prior to release, and (3) failing to supervise him after his release involved "discretionary acts," and hence were immune. However, the court went on to hold that the allegations of negligent failure of the Federal Bureau of Prisons to (1) provide the parole board with full details of the prisoner's record, (2) ascertain Whisanhant's mental condition, and (3) provide proper psychiatric care after this obligation had once been undertaken, were "ministerial acts," not immune, and that the plaintiff had stated a cause of action with respect to each of these acts and omissions.

LOOKING BEYOND TRADITION

"One tree doth not a forest make," and one or two cases allowing recovery for victim/plaintiffs would not, in and of themselves, create a new legal area. However, in a very large, and increasing number of cases, courts have looked beyond the more traditional doctrines tending to deny recovery to victim/plaintiffs in favor of far more flexible interpretations.

A principal complaint of victims' litigators is that *nowhere* in the legal literature is there any central research source dealing with victims' legal rights, as such. No key-number on the subject exists and neither *Am. Jur.* nor *C.J.S.* lists a topic-heading for victims' rights in their indexes. New publications on victims' rights litigation are attempting to fill this void. However, such books are merely vehicles for corre-

¹⁸ *Semlar v. Psychiatric Inst.*, 538 F.2d 121 (4th Cir. 1976) (negligent release in violation of a court order of mentally disturbed prisoners who upon release sexually molested and murdered plaintiff's daughter).

¹⁹ *Kline v. 1500 Massachusetts Ave Apartment Corp.*, 439 F.2d 477 (D.C. Cir. 1970) (failure to provide security for guests in common areas of apartment complex; landlord had knowledge of prior crimes in area).

²⁰ *Garzilli v. Howard Johnson's Motor Lodges, Inc.*, 419 F. Supp. 1210 (1976) (liability for rape of guest/entertainer Connie Francis under theory of negligent failure to provide security; \$2.5 million jury award in damages upheld).

²¹ *Taylor v. Centennial Bowl*, 65 Cal. 2d 114, 416P.2d 793 (1966) (negligent failure to protect business invitee who was sexually assaulted in defendant's parking lot).

²² *Kenny v. Southeastern Pennsylvania Transportation Authority*, 581 F.2d 351 (3rd Cir. 1978) (liability of common carrier to passenger who was raped at an inadequately lighted train station).

²³ *Tobin v. Slutsky*, 506 F.2d 1097 (2nd Cir. 1974) (resort hotel owner, while not an insurer of guests' safety, could be held liable for the sexual assault of plaintiff's daughter by a motel employee).

²⁴ *Thompson v. County of Alameda*, 27 Cal. 3d 741, 614 P.2d 728 (1980) (no recovery for the parents of a child murdered by a dangerous juvenile releasee, even though he was carrying on a homosexual affair with the releasing psychologist and stated that he would murder someone when released).

²⁵ *Payton v. United States*, 679 F.2d 475 (5th Cir. *en banc* 1982).

lating the existing law; it is the trial lawyers "in the trenches" who actually make the law in any given field.

CONCLUSION

Victims' rights litigation has developed to an extent sufficient to warrant its being considered as a separate specialty in the field of personal injury law. It is a rewarding area of practice, not only financially for the litigator, but also because it vindicates the rights of a most deserving clientele—the victims of crime.

Mr. CONYERS. I would like now to call Anne Barrett of the Unitarian Universalist Service Committee, which has established the National Moratorium on Prison Construction and has been a supporter of aid to crime victims for quite a while. She has submitted a prepared statement that will, without objection, be made a part of the record.

I think that she has some concerns that are quite appropriate that we take cognizance of and we welcome you to the subcommittee.

TESTIMONY OF ANNE BARRETT, DIRECTOR, U.S. PROGRAMS, UNITARIAN UNIVERSALIST SERVICE COMMITTEE

Ms. BARRETT. Thank you. I am delighted to be here and thank the chairman and the members of the subcommittee for the opportunity to testify before you today.

I am director of U.S. Programs and Social Justice for the Unitarian Universalist Service Committee. The service committee is a nonsectarian, nonprofit membership organization dedicated to improving the economic, social, civil, and political rights of people throughout the world.

The service committee is rooted in the historic social concern of the liberal religious movement, that is, with human freedom and the struggle against repression in its many forms, hunger, poverty, imprisonment, illiteracy, and the deprivation of basic human rights.

Through our approximately 40-person staff in six cities and nationwide network of trained volunteers, UUSC works for basic social change in the United States in the area of criminal justice and aging and for economic development, health and human rights in Central America, the Caribbean, India, and Africa.

Our criminal justice effort, the National Moratorium on Prison Construction, works to halt all prison and jail construction as a strategy for hastening the development of sound, systematic alternatives to incarceration. Staff are engaged in research, education, organizing, and political action to increase public awareness of and provide a focus for criminal justice changes at the Federal, State, and local level.

I would like to depart from the formal and prepared testimony now because you have it and I would be happy to answer questions about it, and talk to you about our feelings about the bill.

We have studied it at great length. An attorney on our staff has reviewed it and we are happy to say that it is a good bill. It is a good bill in our opinion for two very important reasons: It provides concrete assistance to victims, and I think that is extremely important. It takes into consideration the needs and the concerns of

those people who have been victimized, and it does so without violating the rights of defendants.

From our point of view, that is the key to this legislation over any other in the area of victims' rights that we have seen. I think it shows that it can be done; that it can be done well; and that the challenge of the victims' rights movement really is to take those concerns into consideration and to also help in breaking what feels a lot like in this country a cycle of vengeance and violence.

Nobody—at least I cannot imagine anyone who would not have concern for the rights of victims. In the hideous kinds of things that we see and hear about, it would be just about impossible to ignore. On the other hand, what I think we are really looking for, and I think this bill goes a long way in this regard, is a concern for those rights and to bring about a sense of justice, but not to encourage vengeance. I think that that is a very understandably tricky issue, but incredibly important for us to keep in mind.

When I think about the way that the criminal justice system—particularly we think a lot, of course, about prisons—I think about it in the way that I think about disciplining my children. For instance, they are part of the family situation and when things go wrong, I send them to their room to time-out, kind of to think about the transgression that has happened within a unit.

Now, originally prisons were set up that way. They were set up in such a way that we separated out from the caring community people who had offended our basic sense of moral principle, and it was the sense that they should give that some consideration, and that we were, in fact, making public acknowledgement that what they did offended us on some level, that we did punish them by separating them out and then hopefully, by reintegrating them, building a kind of caring community safe for society.

Frankly, in looking at the criminal justice system now, I look at a system that has essentially gone awry. What I think we find is that we prosecute selectively; we certainly incarcerate selectively. So that what you end up having is that some people—and I might say that research shows that is in the majority poor people and people of color in this country get prisons, the way things are now. More affluent people either get off early or get alternatives later.

So, unless we cap the building of the prison system, it doesn't seem that it is possible to put into practice the creative alternatives for everyone. What is the point of segregating out from the caring community and sending off people who have never been part of the community?

Again, I think of it in terms of my family. My son is mixed-race and my daughter is not. What if we were very respectful to Justine on a regular basis and we mostly didn't talk to Aaron? We left him in his room, we fed him, you know, we let him be there, but he wasn't actually, and didn't feel part of the caring community. Well, when Aaron then did something that offended us and I sent him to his room, what would be the point? He hasn't been part of the community.

If you look at who we prosecute and why we do—and this does concern me a great deal—if you look at the statistics, it is clear that we not only selectively incarcerate, but in terms of the harshness of sentences—this is particularly true for the death penalty—

it seems to matter more who your victim was even than who the perpetrator was.

I thought an interesting article appeared in the Washington Post not too long ago by Richard Cohen called "Victims: A New Rights Movement that Marches to the Uneven Beat." He made a lot of pretty interesting points in that article. If you haven't seen it, I suggest that you try to read it, but essentially his point was, and this is where I would differ from the ABA's testimony, I would not like to see victims intervening at the kinds of points that their guidelines are suggesting, because it seems to me that then what we are doing is we are valuing some lives over other lives.

I thought particularly germane was his point about a recent case in which there was a lot of testimony about the wonderful father and the mother was pregnant when the father was killed, and of course, who could not feel for that situation? Who could not feel the incredible pain and anguish, but as he pointed out, supposing that father had been sleeping with a group of teenagers? I mean, now we get testimony about whether or not he was a good person. It doesn't matter whether he was a good person; we took his life.

So it is a very kind of tricky situation. This bill that you are looking at now seems to me to answer the very real and appropriate and needy concerns of victims who have been ignored in the total system, without jeopardizing the rights of defendants at various points in that system.

I have, however, two concerns when I read through the material. The first one has to do with this issue under the six criteria that you have. No. 2 says that the program must promote victim cooperation with the reasonable requests of law enforcement authorities. Well, as I looked at that, I wondered, first of all, who is going to determine what "reasonable" is? Is this going to come down in the form of guidelines? Do dates determine this? Will that differ from State to State in case to case?

I noticed in looking through the ABA's written testimony this morning that on page 5, they suggest that the legislation's provision that eligible programs promote victim cooperation with the reasonable requests of law enforcement as a condition of compensation is reasonable and financially responsible. These are their words:

This is not to deny that there are valid arguments against cooperation in certain cases. The wording of the legislation, however, appears sufficiently broad to allow reimbursement for State programs which, in exceptional cases, compensate nonvictims despite a general policy of encouraging noncooperative victims.

We didn't—when we reviewed this legislation, we did not find this. Their statement that it appears to allow, you know, the broad interpretation was certainly not as clear to us when we reviewed it, and we would like to raise this as an issue and ask the subcommittee to look again at that provision in the sense of who would make the determination.

I thought of it particularly because I think communities, particularly minority communities, poor communities, have some real fears about cooperation with police and the courts and what that means to them, how that would impact on their lives in a variety of ways. I know that Mr. Conyers is concerned and certainly shown himself to be willing to go the limit on issues of race and class, im-

plication of the kind of legislation that is coming down. That does concern me, and again, I would ask the subcommittee to look at it and draw your attention to that provision.

The other overall concern that I had when I looked at the bill in general was to question myself, would this be essentially a program set up mostly for white middle and upper middle-class people, and I say that basically because those are people who know how to access services that are available. We have all agreed in the variety of testimony that these would not, because of the amount of money and resource that we have, be broad services, so we would be talking about the ability to access those services.

I then reviewed the testimony that was given to you the other day. It was Peggy Specktor, from the Minnesota Programs for Victims of Sexual Assault. I thought it was interesting that on page 3 of her testimony, she points to the fact that white victims continue to seek services at substantially higher rates, that is, 92 percent, than nonwhite victims. It seems to me that there is no reason that this bill could not provide some inclusion to encourage outreach efforts into communities that don't have the same kind of access to services. I would ask the committee to consider that as a possibility and to sort of talk about what that might look like.

Otherwise, we are in strong support of the bill and feel that it is a step toward true justice without the promotion of vengeance.

Thank you.

Mr. CONYERS. Thank you very much. The Department of Justice, which would administer the legislation, would determine whether the program promotes victim cooperation with reasonable requests of law enforcement authorities.

I am concerned with the fact that minorities are often not made aware of programs and then, for other reasons, do not frequently participate in them. I think that it is widely known, but we would not want those statistics to continue on in this kind of program. So I am grateful to you for that observation.

I would like to find out if Mr. Gekas has any questions.

Mr. GEKAS. I have no questions.

Mr. CONYERS. Counsel, do you have any observations?

Let me thank you and note that, as a prison organization, you feel that it is not inconsistent at all for you to be concerned about crime victims. I agree with you that some of the Draconian remedies and the ideas of retribution have been removed from this measure, and I think it presents a very excellent vehicle to begin our discussions.

Thank you, Ms. Barrett—

Ms. BARRETT. It seems that way to us. Thank you very much.

Mr. CONYERS [continuing]. For joining us today.

[The prepared statement of Mrs. Barrett follows:]

TESTIMONY OF ANNE BARRETT, U.S. PROGRAMS DIRECTOR, UNITARIAN UNIVERSALIST SERVICE COMMITTEE

Mr. Chairman, and Members of the Subcommittee, I appreciate the opportunity to testify before you in support of H.R. 3498, the "Victims of Crime Act of 1983." I am Anne R. Barrett, the U.S. Program Director of the Unitarian Universalist Service Committee (UUSC).

The Unitarian Universalist Service Committee is a non-sectarian, non-profit membership organization dedicated to improving the economic, social, civil and political

rights of people throughout the world. The Service Committee is rooted in the historic social concern of the liberal religious movement, which has long been concerned with human freedom and the struggle against repression in its many forms: hunger, poverty, imprisonment, illiteracy and deprivation of basic human rights.

Through its approximately 40-person staff in six cities and nationwide network of 1000 volunteers, UUSC works for basic social change in the United States in the areas of criminal justice and aging, and for economic development, health and human rights in Central America, the Caribbean, India and Africa.

The National Moratorium on Prison Construction (NMPC) was established in Washington, D.C. in 1975 to focus the work of the UUSC in the area of criminal justice. Since then, we have opened offices in San Francisco and Atlanta. NMPC works toward a halt to all prison and jail construction as a strategy for hastening the development of sound, systematic alternatives to incarceration. Staff are engaged in research, education, organizing and political action to increase public awareness of, and provide a focus for, criminal justice change at the federal, state and local levels.

Since initiating the work of the National Moratorium on Prison Construction, UUSC has frequently been questioned about what appears to be a lack of concern with crime itself—public fear of crime, and the rights of the victims of crime. The root of the problem has been that most of what has been suggested in the name of "victims rights" has been done at the expense of the civil liberties of the accused, and has served only to perpetuate a cycle of violence and vengeance.

The movement for victims' rights has grown increasingly stronger in this country in recent years. Often degraded and humiliated as witnesses for the state, rarely taken seriously, victims have been left out of the criminal process almost entirely. The angry and articulate voices of victims are determined to change all of that.

Early victim/witness programs had agendas which focused on the immediate needs of victims: emotional support, financial redress and safety. Rape crisis centers help force society as a whole, and the criminal justice system in particular, to take the crime of rape more seriously. Hospitals and police stations were prodded into hiring staff trained to deal with victims' needs.

But the demand of many of the recently organized committees of victims, and families of victims, are significantly broader in scope. Their complaints go beyond the need for services and resources, and enter into the criminal justice system itself.

Upon entering what is viewed as the defendant's world, they are finding that it is set up to protect the defendant's rights. There are no special provisions made for victims. In the eyes of the state they are witnesses, occasionally asked to speak their piece and go home. Against the defendant's right to constitutional safeguards, the "rights" of victims are being posited. As a result, an amalgam of recommendations and legislation has been drafted across the country which calls for harsher sentencing laws and longer prison terms.

The President's Task Force on Victims of Crime recently released its final report. Contained within are a series of recommendations for programs aimed at improving treatment of victims of crime.

Sandwiched between laudable suggestions for restitution, police protection and separate waiting rooms for victims and defendants, are the frightening recommendations to abolish parole and limit the use of bail. Strong emphasis is placed on the "right" of victims to file impact statements at critical stages of the process: bail setting, plea bargaining, sentencing and parole hearings.

In Annapolis, Maryland the Stephanie Roper Committee has once again assembled an impressive array of bills aimed at tightening parole procedures, limiting pleas for mitigating circumstances, allowing relatives of crime victims to make impact reports at sentencing, and permitting juries the option of life without parole in cases involving first degree murder.

The two men convicted of the brutal rape and murder of Stephanie Roper were given sentences making them eligible for parole in 12 years. The Committee organized in response to those sentences; insisting that their motive is not revenge, but justice.

The stories behind such recommendations are indeed horrifying and painful ones. Many of the ideas, if implemented, would go a long way towards ensuring that victims are not victimized yet again by the criminal justice process. But where do victims' rights end and the rights of the defendant begin to be abused? Is justice served when lengthier prison sentences are meted out? We do not believe so.

U.S. prisons are filled to overflowing. We cannot afford them, and they do not work. They cannot hold the people who will be sentenced under the mandatory sentencing laws which have now passed in 37 states, without utilizing early release mechanisms for prisoners without mandatory sentences.

Rehabilitation does not work. Studies show that deterrence is also a myth. Thus prisons serve as warehouses, releasing people who are more bitter and hostile than when they went in, without skills or education, into the same streets they inhabited when first arrested.

No sentence, no matter how harsh, will bring back the life of a loved one.

Hysteria, born of a media sensationalized, but legitimate, fear of crime, generates a penchant for stiffer penalties. The current mood in this country is one of retribution and of vengeance. It is essential that we step back from our immediate fear and anger, and develop solutions within the larger context of the criminal justice system.

Victims' rights do not have to trespass on the civil liberties of us all. Without absolving the individual perpetrator from his/her actions, society must also be held accountable for the environment in which such crimes are committed. Alternatives to incarceration can emphasize the rights of the victim alongside the responsibility of the offender. But the community must be willing to create and implement such alternatives.

Efforts aimed at making the defendant suffer to the same extent as did the victim is not justice. It is the voice of angry and scared people who do not feel that they have been heard.

In the long run, solutions which severely curtail judicial discretion and abolish parole are untenable. The cost, in both economic and human terms, cannot be borne by a society whose penal system began as a model of reform—not punishment.

We find that H.R. 3498, the bill under discussion, is the first piece of federal legislation which will provide for the victim through funds addressing crisis intervention, advocacy and public education services—in such a way that will not be at the expense of the alleged perpetrator.

Such legislation proves to us that it is indeed possible, and very important, to begin to meet the long neglected needs of the victims of crime in such a way that makes the offender responsible.

Mr. CONYERS. Congressman Hamilton Fish has very timely arrived to be the next witness. He is the ranking minority member of the Judiciary Committee and has long had a concern about these matters. We would like to incorporate his testimony and hear his views on this matter.

Congressman Fish, we welcome you before this subcommittee.

**TESTIMONY OF HON. HAMILTON FISH, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF NEW YORK**

Mr. FISH. Thank you very much, Mr. Chairman, I appreciate this.

Mr. Chairman, I am here to testify on behalf of an effort I have long supported, Federal assistance to America's innocent victims of crime. I think it is in this way that we can restore a balance sadly lacking in our criminal justice system.

I came to a personal appreciation of the unique trauma of the crime victim several years ago when I myself was robbed at gunpoint near my home. Most crime victims are not as fortunate as I. Many die leaving survivors distraught and often destitute. Many are seriously injured, necessitating the expense of hospitalization, prolonged absence from work.

For their pains, victims and survivors have long been rewarded with inattention and inconvenience, while the criminal is insured punctilious adherence to his due process rights. I do not urge less justice to the accused, but only simple justice and as much compassion for the victim as for the victimizer.

I view victims compensation as companion legislation to the Victim and Witness Protection Act proposed by Chairman Rodino and myself and passed in the last Congress. There, we were involving the victim in the process and seeking to assure his protection.

Here, we look to the criminal to compensate his victim or his survivors, as well as dealing with the victim's trauma.

The subcommittee is now exploring a variety of options to provide the most affordable and most effective victims assistance. In May 1983, I introduced H.R. 2978, based in large part on the recommendations of the President's Task Force on Victims of Crime. I realize that not every jot and tittle of that bill is perfect. Like any other bill, it will be improved by the hearing and markup process. However, I do believe, Mr. Chairman, that it represents a sound direction for this Congress.

H.R. 2978 would establish a crime victim's assistance fund drawing from a variety of sources relating to the commission of the crime, a special one-time compensation fee assessed against each person convicted of a Federal crime, forfeitures, with the exception of those already required by Federal law enforcement agencies. In addition, the bill would provide improved fine collection procedures in order to encourage courts to levy appropriate amounts.

One-half of the money raised through these sources under my formula would be disbursed to States with victim compensation programs. My bill does not contemplate any appropriated funds. The other half of the fund will be made available to support State and Federal victim and witness assistance programs involving such things as training of law enforcement officials in how to deal with victims and witnesses and establishes a victims advocate within the Department of Justice.

A major focus of my bill is Federal assistance to State victim compensation programs. Thirty-five—I think the testimony you gave is 38—States already have such programs, so it would appear the States are once again ahead of the Federal Government in innovation and responsible thinking. It is not unusual that a good idea is again coming to, and not from, Washington and good ideas, I submit, deserve our support. So I look upon Federal assistance in my proposal as complementary to the efforts of the States.

A persuasive motivation for Federal assistance to States is the reality that crime is a problem that crosses the seams of the Nation's fabric, even when specific offenses occur within individual States. Crime anywhere spreads and undermines the domestic tranquility of us all.

One can focus his attention, I believe, too narrowly and stumble over basically procedural facts, such as which entity apprehends, prosecutes and incarcerates a criminal and to balk at Federal aid to the victims of essentially State crimes. However, I submit that the Federal Government has a stake in all aspects of crime. Violent crime in our country today, as we know, is a national disgrace. We should be partners in alleviating the suffering of victims as we are in helping to achieve the "certainty" called for by the Chief Justice in apprehension, prosecution and sentencing.

Each phase of the criminal justice process today is addressed by a Federal program, such as the former Law Enforcement Assistance Administration, hopefully soon to be reconstituted by the Justice Assistance Act, or they are addressed by a Federal standard required by a court decision. I have in mind here evidentiary rules and standards of acceptable housing of prisoners.

The plight of the victim is merely another facet of crime, and as such, I submit, an appropriate area for Federal attention.

Cost is and should be a major consideration. As you know, it has been a stumbling block going back almost a decade. In order to fund the effort I propose, every source that relates to the criminal should be examined. I have suggested a few, but the subcommittee should also consider the desirability of raising Federal fines across the board to reflect the value of today's dollar; steps to assure that a criminal will not profit from literary rights to his crime; and other sources that will underscore the responsibility of the lawbreaker to the law-abiding.

Chairman Rodino's bill would apply all fines and penalties to a fund, and this concept should be seriously considered.

As important as it is to assist State-operated victim compensation programs, it is also important to support the efforts aimed at victim assistance and to look to those Federal and State agencies and nonprofit organizations engaged in providing broad-ranging victim services.

Legislation reported by this subcommittee should, therefore, focus a large part of its efforts on such assistance, since it provides services in an innovative manner to a wide range of victims, some of whose trauma cannot be compensated in dollars and cents.

I understand that later in these hearings, the administration will testify, and it is my hope that it will propose legislation to accomplish much of what I described today. As I noted earlier, H.R. 2978 does not represent the final word on every question related to this issue. Any administration proposal deserves the utmost thoughtful considering, since through it, we may all come to a consensus which facilitates prompt action.

Mr. Chairman, this is the Congress for us to act. Innocent victims have waited long enough.

Mr. CONYERS. Thank you very much, Mr. Fish. I can tell you have been working in this area for quite awhile, and I commend you for coming forward with your own legislative proposal. You establish a victim compensation program and a victim and witness assistance program, between which the funds would be divided equally, and you establish State criteria for victim compensation slightly different from that in the Rodino version.

I am not sure if we will be able, without getting into constitutional questions, to take away literary rights. I know that has been a sore spot for quite a while. Does your bill contemplate that as well?

Mr. FISH. No, sir; separate legislation.

Mr. CONYERS. I see. Now, I take it that we are in agreement that this legislation should be given some priority and hopefully we could arrive at a decision before the end of this congressional session.

Mr. FISH. I would hope so, Mr. Chairman. I think the history of consideration of compensation goes back to the Ford administration, and was considered again in the Carter administration. Perhaps we have alleviated the problem of funding, which, you will recall, was the major source of concern at that time, by limiting ourselves to the resources recovered from the criminal himself.

Mr. CONYERS. Now, could you give us any insight on the disposition of the Department of Justice to act on this matter?

Mr. FISH. I wish I could. I had hoped that my testimony would be given at the same time as theirs, but—and that is why I was not a witness with the Chairman last week—but inasmuch as they are not ready to come forward, why, I thought I had better not delay any further. I am sorry I can't tell you just what direction they are proceeding in.

Mr. CONYERS. I can understand that. Perhaps they will adopt your version and allow us to go forward.

Mr. FISH. I would hope they had such wisdom. [Laughter.]

Mr. CONYERS. Mr. Gekas, have you questions?

Mr. GEKAS. I have no questions. I thank the ranking member for making himself available at this time. We will all benefit from his testimony.

Mr. CONYERS. I know that he will be watching the developments in this subcommittee and be a leading participant in the full committee's consideration when we have done our job here at this level.

So, Hamilton, thank you very much for joining us, and we appreciate the long attention that you have given to this matter across the years.

Mr. FISH. Thank you very much.

Mr. CONYERS. Thank you, sir.

I would like to call now Prof. Bertram Gross, professor emeritus, from the City University of New York, and who has now been transferred or exiled to California, but still retains his interest and concern in a wide variety of activities. I recall that he began working on full employment measures in the 1940's, and that he was a leading consultant in the Humphrey-Hawkins Full Employment and Balanced Growth Act. He has been working with ideas about the community and its development, and it was my pleasure to join him in New York at some very exciting programs.

He is, in addition, the author of a number of articles and books on related social subjects, and was the Executive Secretary of the President's Council of Economic Advisers during the Truman administration. He has been a consultant to the United Nations, and today his prepared testimony is on behalf of the Americans for Democratic Action.

We would ask you, Professor Gross, to make any comments that you would like in your own way. Welcome to the subcommittee.

TESTIMONY OF BERTRAM GROSS, DISTINGUISHED PROFESSOR EMERITUS, CITY UNIVERSITY OF NEW YORK, AND VISITING PROFESSOR AT LARGE, ST. MARY'S COLLEGE OF CALIFORNIA, ON BEHALF OF AMERICANS FOR DEMOCRATIC ACTION

Mr. GROSS. Mr. Chairman, it is a great honor to be here. This committee has a very distinguished record in cooling off some of the hotheaded actions that come from another House. I am confident that the committee will continue along these lines.

My statement was prepared on the basis of a few years' work in which I was trying to see just what the connection is between the state of the economy and the victimization of people through the

violation of law through crime. It is an extremely complex subject. It calls for the kind of broad overview that no single subcommittee can handle, because every single aspect of this subject sloshes over into a whole set of other aspects.

We could, if we wanted to, be very philosophical and somewhat overly profound. We could talk about people victimized by the "crimes" of involuntary unemployment, poverty, prejudice and hunger, and that would be relevant. On the other hand, the particular measures before this committee are more narrow. That does not make them insignificant.

I wish, when I go back over my experience in Washington, I wish I could say that when I was working in Mr. Truman's office, that we were foresighted enough to deal with the problems of the rights of victims. In a way, we were, however. When Mr. Truman and his Council of Economic Advisers proposed the first comprehensive health program in this country, back in 1946, we were covering, without necessarily being aware of it, many of the medical provisions which are so seriously absent from our current health programs. We must look to special legislation of this type to provide for medical expenses not covered under a rational health program.

I am not criticizing efforts to provide civilized medical care for crime victims. If we do not have a civilized health program, then we have to have reparatory legislation to fill the many, many holes in our so-called floor of welfare programs.

I wish we could have foreseen long ago, when the Employment Act of 1946 was enacted, and when Congress was working for many, many years on what became the Full Employment and Balanced Growth Act of 1978, I wish we could have foreseen the implications of involuntary unemployment and the poverty and insecurity resulting on victimization through crime.

I would like to think we had a crime prevention program in this country. I do not see it. In the absence of a crime prevention program, which would, of course, include enforcement of the 1978 Balanced Growth and Full Employment bill, in the absence of that, I believe that measures of this type are long overdue.

Coming from both New York and from California, I am proud to say that these two States were the first to take the initiative on help for victims. About 2 years ago, at City University, I asked some of my graduate students to check on the victims assistance programs in Harlem, Brooklyn, and the south Bronx. They reported that the people they spoke to there knew nothing about them. They went to the offices of the local program and reported that they were unbelievably understaffed and unknown.

This has all sorts of bearing on the legislation you are now considering. I find it very hard to get involved in a big dispute as to whether 80 percent of almost nothing goes to the right hand and 20 percent to the left hand, or whether it is balanced off 50-50, when we face a situation where, in essence, the child abuse centers, the rape crisis centers, and the other neighborhood organizations that have been providing victim assistance have been dwindling in effectiveness in the last 3 years.

I think that it would be very helpful if this committee could get a report, not only on what has been happening on the compensation side, but what has been happening on what is technically

called the noncompensation assistance services. In fact, I suspect, and I do not have the data to support this, I suspect that any additional funds provided under this legislation would not go one-tenth of the way to compensate for the general decline in those services that have been supported through other more general purpose funds in the past.

This may be a warning against the over-specialized approach in categorical aid. It is also a way of raising before the committee the entire question of how to finance services of this type, in terms of either compensation side or of the other valuable services that victims and their families and dependents may need.

Of course, it is very hard to talk about that at a time when the Government has a huge deficit in its general fund and is borrowing more money than ever before in peacetime history. Perhaps it would be inappropriate for this committee to go into the entire question of where does the money come from. But every subcommittee has to think of where the money comes from.

I like very much the approach in the Rodino measure, if I understand it properly, to go a little bit further in the collection of penalties from corporate lawbreakers. I would like to see it spelled out more openly.

There is an old English quatrain (which I first heard, when I worked in the Congress many years ago, from Senator Paul Douglas of Illinois):

The law locks up the hapless felon
Who steals the goose off the common,
But lets the greater felon loose
Who steals the common from the goose.

To this I add (in my book *Friendly Fascism*),

While law enforcers quake in awe
Of wealthy men above the law.

If we had proper penalties for the violators of laws, criminal laws on domestic bribery, fraud, illegal political contributions, tax evasion, antitrust violations, environmental protection, price-fixing, employment discrimination and employer denial of collective bargaining rights, I suspect that we would be able to do something other than throw pennies at huge problems.

Of course, one of the problems in our budget is that billions are being thrown into holes in the ground that people call silos and that only contribute to the insecurity in the world and at home, the insecurity that affects both our lives and our livelihood.

So I commend Mr. Rodino and the committee for looking seriously at the question of proper penalties, but at the same time, as I look forward hopefully, and I am always extremely hopeful, as I look forward hopefully to a resolution of this ridiculous budget mess the country is in, I would like to see authorization for general fund contributions.

Other witnesses have raised the question of what kinds of organizations can qualify. I do think that the 24-hour restriction is onerous. Some of the organizations that have been able to provide 24-hour assistance in the past have, as a result of what I would call military Keynesianism, soaked the poor Keynesianism, that throws

money away for things we do not need, many of them have been forced to reduce the 24-hour service to 4 or 5 hours.

I also would like to think that there would be more of a pass-through approach. While a strong supporter of State initiatives and rather proud of the fact New York and California initiatives have been of benefit to the entire country and to this Congress, I would also like to think that there would be more realization here of the importance of initiatives in counties and cities, towns, communities, and neighborhoods. A State bureaucracy can be just as restrictive, just as much up in the air, as a national bureaucracy. This might also be given attention as the committee moves forward to push legislation of this type on to the statute books.

I wonder what people will say about this Congress and this bill by the 106th Congress, at which time I would like to appear before this committee again. I ask that invitation. That would be in the year 2000.

I would think that by that time much more progress would have been made along these lines than had been made in the past 16 years. But above all, I would like to think that by that time and maybe without waiting for the full 16 years, that we really would have been able to look at all these compensatory after-the-fact programs in the context of genuine crime prevention.

Now, the police know that they really can't prevent crime except in an ancillary way. This question of crime prevention goes very deep into all our institutions. I will not try to review the entire problem; that would be beyond the scope of this particular hearing. I would just like to support the statement made by the previous witness who spoke against vengeance and retribution. I would like to add to that the very last sentence in the 2-page list of actions in my piece which has been inserted in the record, and that is that both citizens and government, government at all levels, should set a positive example of response to local, national and international tensions without threats of violence or use of violence.

I would be happy to cope with any questions that the chairman might ask.

Mr. CONYERS. Professor Gross, you have given this a much wider dimension than any other witness so far, and I appreciate that. I think it is very important that we do that.

Assuming that funding from the general Treasury might prove onerous to the bill, what are your views about the funding sources now in the bill: criminal fines, forfeitures, a new assessment for misdemeanor violators of \$25 and for felons of \$50, and an excise tax on handguns.

Mr. GROSS. Though they seem trivial to me, I see no objection to them. I would be more enthusiastic, as I indicated earlier, if I felt that we had both the Congress and the administration. I speak as a law and order witness who really believes that the law should be enforced in an orderly fashion and I believe this calls for a reversal of the decriminalization program of the present administration which, by its own failure in enforcement, has tended to decriminalize the laws on the dumping of chemical wastes and on worker protection, consumer fraud, and environmental protection. This could add a few dollars to the cost of doing business, but it might also go

very far in developing the sense of corporate responsibility which I think is necessary in a free enterprise system.

Mr. CONYERS. Under the circumstances, how can we better develop the kind of sentiment in the community that will lead people to look with less fear and more understanding toward the problems that we are trying to address within the criminal justice system? How can we get people, even before they become victims, to understand more clearly that some of the cures have been counterproductive? That longer sentences and greater numbers of people put in prisons do not necessarily give relief, but as some have argued, really aggravate the problem? How do we separate proposals that would change criminal justice rules and some court procedures to make convictions more easily arrived at? Is there some techniques in and out of the Congress and the Government that might help in this regard?

Mr. GROSS. I think one of the most important techniques is the technique of keeping people out of the criminal justice system in the first instance and in my prepared statement I tried to point out that the organization of people locally for protective action, whether in nonvigilante patrols or in hot lines, in arson watches, I pointed out that those forms of local action become even more significant if they broaden out to build a sense of community in dealing with problems of housing and consumer protection and job development and above all neighborhood revitalization.

Now, when people become active in things like that, much of the aggressive energies that spill over into criminal activities are dissipated. I like to recall the survey that was made of lawbreaking during the height of the civil rights movement. It showed that during those periods of local citizen activism, there was a tremendous decline in all forms of lawbreaking by the lower income people who saw some glimmer of hope in a more just America. This again is another illustration of how, when you look deeply at any particular problem, the subject all of a sudden becomes much broader.

I would like to think we could have Federal aid not merely for a categorical program of this type, but for citizen action in using the tremendous talents of people now engaged in lawbreaking for creative work. These are often extremely intelligent, able people, who have seen no other outlet for their energies. If we had the more positive kind of Federal aid for job expansion, job creation, then I think we would be really both preventing crime and doing much more to help its victims.

Mr. CONYERS. How can we get the police to cooperate more actively with citizens and citizen groups? In Detroit right now there is a high incidence of rape occurring in the streets, especially with schoolchildren as the victims, which is creating a very serious problem there. The city council meets on it, citizen groups are meeting, the police are refusing to disclose the figures. What I keep thinking about is a more open system of law enforcement in which the police and the community are more closely related and in which we do not perceive crime prevention to be an exclusively police prerogative. And in that regard sometimes the professionalism of the police system intervenes to preclude citizens from getting together. I was wondering what your thoughts along these lines might be.

Mr. GROSS. I am quite impressed with that idea and I would certainly think that it would be helpful if legislation to foster and nurture that kind of community-police cooperation were developed. And I would like to think that while initiatives can be taken by the more progressive police officials—and by the way, I come from a family of cops. I look back with great reverence and affection to my two uncles, who served in the Philadelphia police force all their lives, whom I loved very much. I used to pass one of them on my way to grammar school, and some of my very best students have been members of the New York City police force.

But I would like to think that the initiative has to come from the community to avoid that ingrained professionalism which smacks of top-down elitism and can really only be developed in a true sense if there is community action which deals with crime but also deals with the more fundamental issues that have an impact on crime and there I am talking about good jobs, job security, and health protection and housing and the other things that make life worthwhile in this life.

Mr. CONYERS. I feel very strongly attracted to your solutions, but I am also jarred by the condition that I find the Congress in. And so I know that I am going to probably come back to many of the proposals that are mentioned now in the legislation before the subcommittee. I guess that is the difference between what we would like to have and what we have in fact.

I am not sure if an excise tax on handguns is going to be a rational way to proceed in this kind of Congress. I think it could start some very exciting discussion—be very provocative. But whether it would become a new funding mechanism is not entirely clear to me.

Mr. GROSS. I share your skepticism about some of these nickel and dime—although it hasn't reached dime—nickel and penny provisions. I think one of the tasks of the Congress has always been to educate the executive branch and particularly the White House. I would hate to think that the committee will trim its ideas to expectations of what the Justice Department or the White House might like. I do know that during the Nixon administration, the House developed many measures which were strongly opposed by the President and then pushed into the White House, after which he signed them with great pride, trying to take credit for them later.

I believe that the same educational approach should be taken by this committee, which has always been in advance of the administration. It should not be limited to what you think can survive a Presidential veto.

Mr. CONYERS. Are there any other community initiatives that we might be looking toward? Did you find out anything in your New York experience about what moves people to come together to provide a greater common base for developing programs for safety? You may recall that I perfected a community anticrime amendment to the LEAA Program that would allow neighborhood groups to be eligible for pitifully small amounts of money, but at the same time it stimulated many of them to come together. They didn't need much money to get a half dozen walkie-talkies. Sometimes, in a different context—doing something with youngsters—it might be something as simple as getting baseball equipment or baseball uni-

forms. Other times they form councils to organize to meet with the police to get the organization itself going. Others spent it on leaflets or written material of their own for educational purposes.

Do you see that as a link we can bring back in this examination of victims and crime?

Mr. GROSS. The key word in your question, Mr. Congressman, is bring back. These hopeful programs have been in a state of decline. I do hope if they can be brought back, however, they can be brought back in the wider context of a broader form of city planning in which the neighborhoods and communities take part in planning for job security. And when I say job security, I am referring to the fact that while California was the initiator of the first State law in crime compensation, it probably has become the leader in plant closings. Plant closings totally disrupt the community, lead to broken families, alcoholism, drugs, and a tremendous amount of victimization.

Put in another way, community action has to be broad-gauged in nature, bringing together people with many, many special interests but not limited to any particular one. This is why I am very proud to say I have been associated with ongoing ideas in the whole area of Oakland and Fremont, the plant closing center, and Berkeley and other parts of the west coast where consideration is being given now to bringing together—and I am quoting here from the chairperson of the Alameda County board of supervisors, John George—to bring together three things that have always been separate: namely, (1) zoning and physical planning, (2) economic development, and (3) neighborhood vitalization.

Now, a neighborhood vitalization program, particularly in the black and Hispanic slums of Los Angeles and Oakland, and many, many other cities, would be the biggest kind of crime prevention activity that this country could get under way. And I am happy to say that some of these initiatives are taking place in Fremont, in Oakland, in Berkeley today and I would like to think—

Mr. CONYERS. In what way are they affecting crime rates?

Mr. GROSS. Well, the effect on crime rates is very hard to judge because even our victim surveys are underfunded and too narrow in scope and as you know the FBI index of crimes is just a report on what the police report the people have reported to them.

I am—as a specialist in economic and social indicators, I am more skeptical of the crime figures than anything else. But it is this movement of energy toward helping working with others and helping others rather than the dog-eat-dog philosophy which allows people with great potentials to engage in burglary, larceny, rape, and other crimes—it is this sense that all people are brothers, which some communities are developing, that is the great hope, I would say, of crime prevention.

Mr. CONYERS. Thank you for joining us. We appreciate your testimony and I hope that you will be watching our developments as we move toward a finished product for victims of crime.

Mr. GROSS. Thank you very much.

[The prepared statement of Mr. Gross follows:]



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Reagan's Criminal "Anti-Crime" Fix

Bertram Gross

On crime—even more than on jobs, inflation, and the budget—the left seems bereft, the middle muddled, and the right not always wrong.

Having won the 1980 election by snatching the jobs and inflation issues from Democrats, the Reaganites have clearly seized the initiative again by presenting themselves as protectors of all Americans against crime and drug addiction. Excelling the Johnson and Nixon administrations in sophisticated anti-crime demagoguery, they urge a triple panacea: "Police 'em, jail 'em, kill 'em." Police and intelligence officers are to be given a green light for unconstitutional searches and seizures (including forcible breaking-and-entry) without warrants; this is the meaning behind the slogan of "reforming" the exclusionary rule restricting the courtroom use of illegally-seized evidence. The armed forces, FBI and CIA are to join up with local and state police in dealing with the supply side of the narcotics business. The prison population—already one of the largest in the world—is to be expanded through preventive detention, denial of bail or parole, longer sentences, and a huge prison building program (to be financed through state bond issues throughout the country). Capital punishment is to be brought back and used vigorously.

In his first major crime address (before the International Association of Police Chiefs, New Orleans, September 27, 1981) Reagan wrapped these proposals, plus some lesser details, in a sweeping philosophical attack on "the social think-

STATEMENT BY
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ON BEHALF OF
AMERICANS FOR DEMOCRATIC ACTION
BEFORE THE
HOUSE SUB-COMMITTEE ON CRIMINAL JUSTICE
COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES
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ers of the 1950's and 1960's who discussed crime only in the context of disadvantaged childhoods and poverty-stricken neighborhoods" and "thought that massive government spending could wipe away our social ills." He ended on an upbeat note stressing the "deep moral values" that "can hold back the jungle and restrain the darker impulses of human nature."

In narrow political terms, here is where Reagan and almost the entire right—both old-style reactionaries and neo-reactionaries using the label "neo-conservatives"—are correct. They respond quickly and directly to the widespread fear of crime, particularly violent "crime in the streets." By so doing, they deflect from themselves some of the anger aroused by the recession, slashed social programs, and high interest rates. They hope to channel this anger into support for junglelike crackdowns on protesters. And they do this by wrapping their own violent impulses in the language of high morality.

Muddle in the Middle

The vigor of the Reaganite right is enhanced, unfortunately, by the nature of the middle, which has historically always been more technocratic and less upbeat. For over a century middle-of-the-road liberals and moderate conservatives have joined in the many local and national commissions set up to make "criminal justice"—that is, the police-court-house-prison-parole complex—more efficient, professional, and "fair." They have presided over and staffed, in Samuel Walker's words, "the research revolution of the 1970's" and an "unprecedented outpouring of data" on the entrails of criminal justice.¹ Exposing the defects in the FBI's lists of crimes reported to the police, their statisticians have produced "victimization surveys" that yield better information on the large amount of rape, robbery, assault, burglary, larceny, and auto theft not reported to—or misreported by—the police. In so doing, like the FBI, they have been soft on—if not blind to—the victimization inflicted by government officials and corporate executives. They have shied away from any serious attention to violence in schools and homes. They

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use the phrase "white-collar crime" to refer mainly to people who steal from corporations, thereby diverting attention from corporate executives who organize operations that steal from—or inflict physical damage on—employees, customers, and others. They often use "street crime" and "violent crime" to label actions by lower-income people only. They have proposed an almost infinite number of changes in the criminal-justice system, with every proposal going in one direction balanced by well-articulated proposals moving in other directions. Underwhelming arguments are provided for and against the general philosophies of retribution, incapacitation (through incarceration), deterrence, and individual rehabilitation. Detailed evidence is marshaled for and against most specifics of police operations, pretrial bail or detention, plea bargaining, discretionary sentencing, the handling of juveniles, and the use of social agencies, psychiatrists, and community groups. From this huge compote of contradictions liberals, conservatives, or reactionaries can take a quick pick.

In January 1981 Mayor Koch of New York City reached in his thumb and picked out thirty-three plums. In August 1981—with the help of John Q. Wilson, one of Harvard's redoubtable professors of neo-conservatism—the Attorney General's Task Force on Violent Crime pulled out sixty-four. To the chagrin of the liberals in the criminology establishment, they both left out the one theme on which the middle had been previously united—namely, the desirability of throwing more money at criminal-justice researchers. Nonetheless, many of the criminological liberals have risen above the principle and moved rightward. That's where the action—if not the money—now seems to be. Those liberals still concerned about disadvantaged childhoods and poverty-stricken neighborhoods, to update an earlier statement by Tom Hayden ("The Future Politics of Liberalism," *The Nation*, February 21, 1981), seem to counsel people being stabbed to wait until some lovely day when the Humphrey-Hawkins Act of 1978 is enforced, the Reagan-Kemp-Garcia Urban Jobs and Enterprise Zone Bill is law, or the Reagan administration fades away. Meanwhile, the conservatives "recruit liberals who have been mugged."

90 *Bertram Gross***Contradiction on the Left**

The left, in turn, is rent by a serious contradiction. On the one hand, strong liberals, progressives, and radicals—with slender research resources and, often, serious opposition from the institutions in which they work—have been brilliant in demystifying crime. They have exposed “criminal justice” as a “Just Us” system (to use Richard Pryor’s phrase) of repressing or pacifying racial minorities and the poor. They have shown that when corporate, political, or bureaucratic lawbreakers are occasionally brought before tribunals, they are usually let off with eye winks, wrist slaps, consent decrees, *nolo contendere* pleas, pardons, or small fines deductible from taxes. They have unveiled many links between political leaders (from White House to City Hall), police, lawyers, prosecutors, judges, and jailers on the one hand and gangsters, drug rings, and the more-organized law evaders and breakers in executive suites on the other. They have exposed both police and prison violence and the widespread collaboration of police and jailers with the Ku Klux Klan, neo-Nazis, and other violence-prone extremists. They have shown how the media exaggerate “crime waves” and create a growing gap between popular fears and actual dangers.

From Engels on, many Marxists have seen lower-class crime as a side effect of capitalist exploitation, which, while embodying capitalist values of “me first” and “me too” grabbing, is also a primitive form of rebellion against the system. They have shown that alienation, occurring at all levels of market-based societies, stimulates the demand for heroin, cocaine, and the new laboratory-generated drugs that, together with evangelical religion, have become both the sign of the alienated and today’s opium of the people. Radicals have focused on the direct violence committed, fostered, or condoned by the American establishment in third world countries. They have dealt directly with the psychological violence and moral crimes of unemployment, poverty, racism, sexism, ageism, and heterosexism. Together with liberals and some moderate conservatives, they have documented the indirect violence perpetrated by dangerous working condi-

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tions, consumer fraud, and environmental pollution. Above all, they have persuasively warned that many “anti-crime” programs may be coverups for racist attacks on blacks, Hispanics and native Americans or—still worse as Richard Quinney points out—instruments of state repression against the majority of working people.³

On the other hand, on the question “what is to be done by or for working people victimized by person-to-person violence?” *the left is thunderously silent*. Many socialists hold to the stultifying view that nothing can be done until capitalism is first replaced by socialism. They usually ignore both the large amount of crime in all self-styled socialist countries and the new kinds of lawbreaking and alienation that may be produced not only by bureaucratic, command socialism but even by the exigencies of the always-perilous transition from capitalism to the kind of democratic socialism now on the agenda of some first world countries. A Richard Quinney may argue that “the only real solution to crime is to be found in the class struggle . . . against capitalism.” But he is silent not only on the problems of post-capitalist crime but even on how an anti-crime program might contribute to struggles for socialism. Like David F. Greenberg, many radicals, progressives, and liberals fear that any strong attention to crime “might make the subject more salient . . . intensify anxiety and indirectly contribute to demands for more repressive enforcement.”

Others compensate for ignoring person-on-person victimization of working people by concentrating attention on corporate crime and gangsterism only. No wonder ghetto people—more fearful of street crime than the middle class—stay behind locked doors at home rather than risk going to meetings at which some of their deepest anxieties are neglected. No wonder both white- and blue-collar households tend to support—indulge in—tough talk. Neither the Progressive Alliance, the AFL-CIO, the Congressional Black Caucus, the Democratic Socialist Organizing Committee, the New American Movement, the Citizens Party, the Americans for Democratic Action, the Institute for Policy Studies, the National Black United Front, or the New Democratic Coalition

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—let alone the Democratic leaders positioning themselves for a try at the next presidential nomination—have yet offered any serious alternative to the “Police ‘em, jail ‘em, kill ‘em” rhetoric of Reagan and the neo-reactionaries.

A Few Bright Spots

Fortunately, there are some exceptions to this dismal picture. Civil libertarians—conservative, liberal, and radical—have reacted promptly against the most repressive measures advocated under the banner of glib anti-crime wars. In courtrooms, congressional hearings, and the corridors of bureaucratic power, they have defended the rights of accused persons, prisoners, victims, and all those using the opportunities promised in the Bill of Rights. Together with some middle-of-the-road social agencies, they have shown that the “Police ‘em, jail ‘em, kill ‘em” formula has as much capacity to deter crime as the phlebotomy—bloodletting—used in the Middle Ages to prevent or cure disease. In the words of Diana Gordon of the National Council on Crime and Delinquency, it is “a quick fix that provides the illusion of constructive action while affording no significant protection to the public.” Gordon and others have proved that the exclusionary rule has been used in less than 2 percent of all federal criminal cases. Punching holes in it could have “little impact on the overall flow of criminal cases after arrest.”

Others have revealed the “dirty little secret” (known to every cop on the beat) that more policing by itself can do very little to prevent crime. With the vast majority of crimes never reported to the police (often because people know it would be useless), only a small proportion of lawbreakers are ever arrested and of those only a few are brought to trial, convicted, and imprisoned. A major impact of so-called “deterrence by policing” is to give policemen (mostly concerned with traffic problems and non-crime-connected duties) the feeling that they are judged failures as “crime fighters.”

As for preventive detention, John Shattuck and David Landau of the American Civil Liberties Union have proved there is no way to predict who might commit a crime while

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out on bail. “Even if all defendants were detained while awaiting trial,” they point out, “no substantial reduction in the overall rate of serious crime would result.” The National Council on Crime and Delinquency has pointed out that increasing the prison population has had no effect whatsoever in reducing crime. Instead, “the prison system,” according to Dr. Karl Menninger, Representative Shirley Chisholm, and Tom Wicker, “turns petty thieves into master criminals.” To quote John Justerino, a New York City mobster: “It’s in prison that you get your real education.”

Finally, “the reality of capital punishment,” according to the NCCD, “is that it is applied only to the sins of the poor and powerless”—not of capital. A study of official executions in New York State from 1907 to 1963 demonstrates that they have “consistently been succeeded by a rise in homicides—by people seeking attention, directing suicidal motives outward, or . . . stimulated to act by the violent atmosphere surrounding an execution.”

In the years ahead, critiques of this type will become more necessary. Every move in the right-wing “anti-crime” offensive—whether it be the next prison bond issue or the coming report of the Reagan task force on crime victims—requires in-depth analysis and response. *But no part of the reactionary crime offensive can be stopped or turned back by reactive responses alone. Positive alternatives—and much more than calls for national handgun control—are also essential.*

Fortunately, progressive initiatives are underway in scattered parts of the country. Many involve independent citizen action as well as pressures for change in government action. Many go far beyond preoccupation with the criminal-justice meat grinder. Some provide immediate “Band-aids” or “aspirin tablets” for people who need palliatives desperately. Others are addressed more to root causes than quick results.

In the table “Some Elements in Progressive Anti-Crime Action” I report on three specific types of progressive action now under way or under consideration: community protection against violent crime, help for victims, and a serious full-employment movement. If more vigorously pursued, these could prepare the ground for other measures to put the

Possible Elements in Progressive Anti-Crime Programs

	Citizen Action		Government Action	
	<i>In Addition to Advocacy of Government Action</i>		<i>Local-State</i>	<i>Federal</i>
P R O T E C T I O N O L E N T	A C R I M E S T I M E N E S	<ul style="list-style-type: none"> Promote better protection for people against all kinds of crime, with special focus on crimes of person-to-person and indirect violence. Provide information and education on non-violent means of self-protection against violence in homes, schools, streets, and other public facilities, with special attention to violence by burglars, rapists, police, prison guards, racketeers, corporate lawbreakers, the KKK, neo-Nazis, etc. Organize people for cooperative action by (a) non-vigilante patrols, in streets and schools, arson watches, vigils, escort services for the elderly, hot lines, etc.; (b) watch dog committees to rate the work of local police; and (c) broader forms of activism that build a sense of community and self-help. In doing the above, obtain participation by block and neighborhood associations, religious groups, unions, small business associations, schools—and especially younger people. 	<ul style="list-style-type: none"> Restructure police and anti-arson forces through more decentralization, community participation, and hiring of more women, blacks, and Hispanics. Provide more foot patrols by police and fire marshals living in vicinity and cooperating with neighborhood groups. Develop community-based mediation centers for family and school conflicts, as well as minor offenses. Provide better lighting in streets and parks. 	<ul style="list-style-type: none"> Re-deploy FBI from monitoring of dissent to serious concern with racketeering, murder in the workplace, arms smuggling, hijacking, etc. Provide more funds for drug abuse and alcoholism treatment centers. Provide uniform national control of ammunition as well as handguns. Enforce laws against racist and sexist discrimination.

H E L P F O R	V I C T I M S	<ul style="list-style-type: none"> • Extend and improve centers for battered women and abused children. • Organize and/or support counseling services and other forms of prompt aid for crime victims. • Develop special Bills of Victims' Rights, while defending and extending <i>the</i> Bill of Rights. 	<ul style="list-style-type: none"> • Make government responsible for damages in certain cases; provide adequate witness compensation, protection against reprisals, prompt return of confiscated property; and inform victims of progress in cases against their victimizers. • Expand work of Legal Services Corporation, allow victims to be represented by independent counsel (particularly in rape cases), and assign lawyers to help battered women and abused children. • Require appropriate forms of restitution to victims, through work or payment by victimizer or, in some cases, by government.
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F U L L O P P O R T U N I T Y	M O V E M E N T	<ul style="list-style-type: none"> • Survey local needs for facilities and services, now seriously neglected, that could be met by using the wasted capabilities of the unemployed, the underemployed and those now in dead-end or wasteful jobs. • Take special pains to assure that productive job opportunities are opened up for younger people, without displacing older people. • Support work-and-education programs for alcoholics, drug addicts, and released offenders, including community restitution work by corporate and middle-level as well as low-income offenders. 	<ul style="list-style-type: none"> • Gear community-based urban planning to the promotion of productive job opportunities in urban rehabilitation, conservation, repair services, recycling of waste products, basic facilities and services, etc. • In the context of the above, make special provision for needed and productive job opportunities for young adults, older people, and women—including part-time, seasonal, and flexible-time work and self-employment. • Provide for rehabilitation of offenders through work-education combinations on community projects (including restitution) rather than incarceration. 	<ul style="list-style-type: none"> • Guarantee job opportunities for all adults able and willing to work through locally-based national planning for full employment without inflation.
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Possible Elements in Progressive Anti-Crime Programs (cont.)

		Citizen Action	Government Action	
		<i>In Addition to Advocacy of Government Action</i>	<i>Local-State</i>	<i>Federal</i>
G E N E R A L	M	<ul style="list-style-type: none"> Develop special programs for exposure (and possible prevention) of lawbreaking by business executives, lawyers, judges, prosecutors and other professionals. 	<ul style="list-style-type: none"> Deemphasize prosecution of (or decriminalize) prostitution, gambling, and minor drug offenses. 	<ul style="list-style-type: none"> Reverse trend toward decriminalization of murder in the work place, pollution, consumer fraud, and other kinds of corporate crime.
	E			
	A	<ul style="list-style-type: none"> Take initiative in organizing community and anti-crime conferences and task forces. 	<ul style="list-style-type: none"> Develop victimization surveys dealing with <i>all</i> types of crime rather than the narrow range in the FBI's misleading crime reports. 	<ul style="list-style-type: none"> Pressure media to give a more balanced view on all types of crime and reduce violent imagery in films and TV dramas.
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right wing on the defensive and help orient a restructured criminal-justice complex toward genuine crime prevention. In so doing, they can also win support from people who on other matters are genuinely conservative.

Community Protection Against Violent Crime

Conventional approaches to protection against crime emphasize the primacy of establishment agencies. The label "community" is traditionally pinned on police public-relations programs and community "participation" programs that provide the illusion of participation for a handful of selected cooptees who become pawns (unwitting or witting) of political and bureaucratic machines. Whether focused on crime, addiction, or other matters, these "demobilization" programs tend to pacify social discontent rather than channel it into movements that might disturb corrupt power structures. Sometimes they promote harsh—even violent—conflict among groups competing for scarce resources, thereby accelerating community fragmentation. All this tends to deepen the angry alienation of that minority of poor people—black, Hispanic, or white—who release their aggressiveness through crime and addiction. This situation is not helped by the "citizen crime-fighting" groups sponsored in thousands of suburbs by the National Sheriffs' Association.

In sharp contrast, movements toward the empowerment of the weak—no matter what the specific objectives—tend to attract these energies into more constructive channels. During the 1963 March on Washington, for example, there was a phenomenal decrease in robbery and assaults in both the District of Columbia and Harlem. In three other cities, well-organized direct action for civil rights resulted in dramatic declines in "black on black" aggravated assaults. As pointed out in *Crime and Social Justice*, "there is then a very strong argument that the kind of community organization and psychological mobilization inherent in the civil rights struggle may be of prime importance in the development and implementation of various crime prevention programs."

A top priority for progressives in the 1980s should be to

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learn more about the countless community-mobilization actions around the country that, although not rising to the high plane of the old civil-rights movement, provide meaningful lessons on protection against both violent and nonviolent crime. In West Philadelphia, for example, the Citizens' Local Alliance for a Safer Philadelphia (CLASP) has pioneered in organizing block associations to run "neighborhood walks," as detailed in *Instead of Prisons*.¹ CLASP reports that in the organized blocks victimization has declined sharply and "participants have gradually lost their fear of the streets." The same volume reports enthusiastically on two other examples of "community self-management": the House of Umoja (Swahili for "unity") in Philadelphia, a self-help project by street gangs and ex-prisoners who are drug addicts; and the Delancy Street Foundation in San Francisco, a self-supporting "family" of ex-prisoners. Each has made a difference.

In Detroit, black-led community organizations have faced the police on the principle that "The cops help them who help themselves." What difference this will make in that crime-ridden city it is too early to tell. In Seattle the Community Crime Prevention Program organized a neighborhood to make residential security inspections, mark property, coordinate block watches, and distribute informational material. A rigorous evaluation, according to Barry Krisberg of NCCD, "reported (1) reductions in burglary in participatory households ranging from 48 to 61 percent, (2) more in-progress burglaries reported by citizens to police, and (3) no increases in burglaries in adjacent neighborhoods." In the South Bronx, where criminal victimization of the poor has reached unprecedented heights, People for Change—supported by the Catholic Church—has thus far mobilized people mainly against the metropolitan establishment's policies of racism, urban shrinkage, redlining and gentrification. The Metropolitan Research and Strategy Center in the South Bronx, with the support of People for Change, has been trying to develop a still broader anti-crime strategy. Similar efforts are under way in other boroughs, with increasing attention to arson watches, escort services, and non-vigilante patrols. The Guardian Angels, a controversial group with

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semi-vigilante overtones in its earlier stages, has set an example of public service by young people of high school age—and has thus far resisted attempts at cooptation.

A prize for progressive initiative might well go to the Santa Monica Renters' Rights Coalition for their anti-crime actions in Ronald Reagan's California backyard. Before the recent April 1981 election, the local right-wingers, financed mainly by big landlords and other opponents of democratic planning, soft-pedaled their opposition to rent control and other progressive measures. Instead, they put a special anti-crime proposition on the ballot. They flooded the city with beautifully-designed brochures under the slogan "Make Crime Control Santa Monica's First Priority." The head of Santa Monicans Against Crime became their leading candidate.

"If we had merely responded defensively," comments Derek Shearer, the progressives' campaign manager "we would have been swamped. Instead, we took the initiative." They mailed all voters a simple Crime Prevention Guide providing useful information on non-violent self-protection through safer windows, doors, and locks and on "neighborhood watch groups." They also put their own anti-crime proposition on the ballot. While both propositions anticipated more spending on police and protective services, there were many differences between them. Most important, the progressive measure clearly combined police expansion and better street lighting with neighborhood anti-crime programs and broadening public involvement at all levels instead of meek cooperation with the police. It also required the City Council to enact—no later than January 1982—"a comprehensive crime prevention program." These initiatives, together with their advanced position on rent control and city planning, swamped the right wing. The liberal proposition won approval by more than 90 percent of the voters. In a sweeping victory promptly lamented by a *Wall Street Journal* editorial, all liberal candidates were elected.

Since then, a thirteen-member citizens' crime commission—including two rank-and-file policemen—has been appointed. Its public meetings have given right-wingers a chance to blow off steam and everyone else a chance to pon-

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der serious action. In the meantime, the new council, under Mayor Ruth Goldway, has (1) funded a number of neighborhood crime-prevention centers (at \$75,000 apiece); (2) extended to tenants the right (previously enjoyed only by landlords) to obtain public hearings on better street lighting; (3) appointed a new city attorney who, for the first time, has given serious attention to police officials' on-the-job grievances, and helped settle long-brewing disputes with their union; (4) added four new police positions; and (5) arranged for other city employees (in the sanitation, water, and street-maintenance departments) to cooperate with the police. "We have learned," Mayor Goldway tells me, "that police persons want more cops to help reduce their workload. They are under no illusions that they can prevent much crime by themselves. Now that we have responded to their grievances, their morale has risen and they are no longer push-overs for right-wing extremists. Above all, they respect the neighborhood organizing without trying to control it." She feels that protection against crime is the best issue on which to start a neighborhood organization. Once started, she reports, the group can then become stronger by mobilizing community participation in decisions on zoning, housing, health, education, transportation, and other vital urban policies.

Help for Victims

While the Bill of Rights protects offenders from judicial double jeopardy (i.e., being tried twice for the same offense), a crime victim often suffers triple jeopardy—once at the hands of the burglar, mugger, or crooked landlord or merchant, again by losing wages or job if appearing in court as a witness, and a third time by risking retaliation by the initial victimizer. If the victim is a woman who has been raped, the jeopardy may be quadrupled. Police officers, district attorneys, and judges may inflict the cruel and usual punishment of presuming her guilty of lying or seduction until she is proved innocent. In these circumstances, despite the Sixth Amendment's provisions of a defendant's right to counsel, the woman (no defendant) has no right, under existing law, to be represented by an attorney.

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One of the great achievements of the women's movement has been the creation of rape crisis centers staffed by rape victims and community organizers. More than four hundred such centers have been started at various times. As of 1978, sixty shelters for battered women were in operation (addresses and telephone numbers appear in Terry Davidson's *Conjugal Crime*.⁹ This activity has spurred the creation of centers for abused children also. It has led to the beginning of some new legal rights for abused women and children.

Another by-product has been efforts to help the victims of robbery and "street crime." Victims' compensation boards have been set up in over a dozen states. The New York State board, like most of the others, confines itself to helping victims (or their families) by simply plugging some of the holes in the social-security system through payments to cover medical services, funerals, or wages lost while testifying in court. An important new tendency is to develop a victim's bill of rights that would make government responsible for damage in certain cases, adequate witness compensation, protection against reprisals, prompt return of confiscated property, informing witnesses of progress in cases against their victimizers, allowing victims (particularly in rape cases) to be represented by independent counsel, and requiring appropriate forms of restitution to victims through work or payment by the victimizer or, in some cases, by government itself. Another tendency in this new "victimology" is to promote services to victims, many of whom are totally demoralized and sorely in need of prompt and sympathetic counsel.

But as Andrew Kelman of the John Jay School of Criminal Justice points out, there is a dangerously reactionary potential in the new victimology. His view is supported by the fact that Reagan has set up a special task force on the subject. Sometime in 1982 this group will probably come out with proposals that would coopt the new victims' rights activities, divert attention from people victimized by illegal business activity and police brutality, and channel victims' resentments into support of the "Police 'em, jail 'em, kill 'em" horrors. Here again progressive initiative is needed—particularly at the community level. Services to victims can often best be provided—or obtained—not by police or official agen-

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cies but rather by friends and neighbors in block associations. Sometimes neighbors' help can be itself a form of prevention. "Instead of looking away or pulling down the blinds," Judy Abco, director of Santa Monica's Ocean Park Community Organization, tells me, "our members now immediately come to the help of people who are threatened."

A Genuine Full-Employment Movement

Most street crime in urban ghettos is a form of self-employment that fills a small part of the vacuum created by deep depression levels of unemployment and underemployment among young blacks and Hispanics. Compared with substandard menial jobs and off-again on-again, dead-end CETA jobs (both of which are in short supply), robbery and hustling have the attraction of flexible hours, challenge on the job, minimal risks, no taxes, prestige among some peer groups, and the availability of welfare payments, food stamps, and free crime training in jails and prisons.

The many sponsors of the Hawkins-Reuss-Humphrey Equal Opportunity and Full Employment Bill, introduced in 1974, met this problem head on. They proposed that every adult American able and willing to work be guaranteed—largely through national planning and public-sector expansion—an opportunity for useful and productive work at fair wages. Progress in this direction, they hoped, would go "to the very heart of America's most complex social problem: the hopelessness, alienation, drug addiction, and crime that often arise when human beings—no matter what their sex, age, or ethnic backgrounds—are told that they are not needed" (Hubert Humphrey, 1975). But the big-business lobbies torpedoed this hope by watering down the final legislation. Jimmy Carter then violated its weak provisions by seeking—and getting—more unemployment as a "cure" for inflation.¹⁰

Since then, Reagan has projected the image of himself as one who—in addition to acting out the traditional Republican role of fighter against inflation and crime—might put America back to work. Representative Jack Kemp (R., N.Y.), his self-proclaimed heir-apparent, has followed up

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with the Heritage Foundation's Urban Jobs and Enterprise Zone Act, which promises jobs in selected "high poverty-unemployment" areas by targeting them with the same kind of uncontrolled tax cuts and business deregulation that have pauperized Puerto Rico. Liberals supporting this move (like Robert Garcia) may soon find it more dangerous on the mainland than in Puerto Rico. In addition to robbing Harlem and Brooklyn, for example, of companies given tax subsidies to move to Garcia's South Bronx, this measure would rob the entire city of the revenues needed for the public amenities that might discourage other companies from moving to the sunbelt.

Fortunately, some new approaches to genuine full employment are in the making. Progressive members of the New York City Council have introduced a model Community-Based Planning for Jobs and Balanced Growth Act (Bill 1022). Their proposal aims at using wasted labor in producing vitally-needed goods and services: housing rehabilitation; energy conservation; recycling of solid, liquid, and gaseous wastes; mass transportation; expansion of repair services; cultural, artistic, and recreational activities; the development of specialized geographical areas; the improvement (rather than shrinkage) of basic social services and infrastructures; and on-the-job training for all the above. They see this as offering potential low-income offenders constructive alternatives, thus contributing to "the prevention of alcoholism, drug addiction, crime and violence." They also make special provision for "the rehabilitation of narcotic addicts, alcoholics, and convicted criminals through supervised work projects, including job training, and for the subsequent employment of such persons in productive jobs at fair wages." Council Members Gilberto Gerena-Valentin, Ruth Messenger, and other sponsors see this long-range measure as an immediate vehicle in mobilizing citizen action for more public, private, and nonprofit job creation locally.

Nationally, Representative John Conyers (D. Mich.), chairperson of the House Judiciary Subcommittee on Criminal Justice, is drafting new legislation to guarantee job opportunities by strengthening and enforcing the Humphrey-Haw-

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kins act. He is preparing to bring together the local and national approaches—too often seen as separate—in a new measure for community-based national planning for full employment without inflation or militarism. "But no bill, no law and no topdown policy from Washington or City Hall," states Conyers, "is enough. To move successfully against crime and addiction, we need a movement—a nation-wide jobs-for-all movement at the asphalt and grass roots level. We need young people mobilizing themselves—together with parents, grandparents, teachers, churches, labor unions and small business—behind the banner of the human right to a productive and fulfilling job. Hope, belonging, self-respect and empowerment—these are our first weapons against violence and addiction in our schools, homes and streets."

A Progressive Counter-Offensive

As American progressives get underway with their long-delayed initiatives on crime, we will then be in a better position to turn the tables on the right's quick-fix pushers and win the support of many of their present adherents.

"If I were looking to analyze organized crime in the country today," says Thomas Puccio, chief of the Brooklyn-based "organized crime" strike force, "I would probably look closer at the Fortune 500 than at the Five Families. I think that economic control is organized crime at this point." Some others have already taken that look. Marshall Clinard and Peter Yeager point out that far more persons are killed through corporate criminal activities than by individual criminal homicides.¹² In the plants of Mobil Oil, Union Carbide, Chrysler, Ford, Tiokol, Anaconda, Bethlehem Steel, and Minnesota Mining "plant employees are killed and injured by exposure to vinyl chloride, beryllium, silica, lead and other chemicals and substances."¹³ The President's 1972 Report on Occupational Safety and Health stated that as many as 100,000 deaths may result annually from occupationally caused disease. "The efflux from motor vehicles, plants and incinerators of sulfur oxides, hydrocarbons, carbon monoxide, oxides of nitrogen, particulates and many more contami-

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nants, amounts to compulsory consumption of violence by most Americans."¹⁴

Even *Fortune* itself has dared to peek. In December 1980, *Fortune* published a "Roster of Wrongdoing," listing the names of 177 major corporations recently found guilty of a narrow range of crimes: domestic bribery, criminal fraud, illegal political contributions, tax evasion, and antitrust violations. "How much crime in the streets," one of *Fortune's* editors has asked, "is connected with the widespread judgment that the business economy is a gigantic rip-off?"

Devoted help in this rip-off is now being supplied by the federal government itself. The Reaganites have been not only soft and permissive toward criminal activity by their friends; they have been perpetrating one fix after another. Edwin Meese, Reagan's closest adviser (who attacked the American Civil Liberties Union as "an ongoing lobby opposed to law enforcement") has been lobbying the FBI to "put aside the white-collar crime focus of the Carter years."¹⁵ Reagan's Associate Attorney General Rudolph Giuliani is cutting in half the number of economic-crime specialists stationed outside of Washington.¹⁶ Over the protests of career attorneys in the Justice Department, Giuliani has also decided to "drop charges against McDonnell Douglas executives in return for the company's guilty plea."¹⁷ While there is no publicly available smoking gun to prove criminal intent on Giuliani's part, one does not need the entire scoreboard of McDonnell Douglas's campaign contributions to smell the possibility of philosophical collusion.

More sinister, the entire administration is perpetrating a preemptive fix by refusing to enforce—or else punching holes in—the laws against murder in the work place, bribery, consumer fraud, environmental protection, tax evasion, monopoly, price fixing, employment discrimination, and employer denial of collective-bargaining rights. This is the most audacious decriminalization program in America's history. It sends a "You too might get away with it" message loud and clear to corrupt mayors, sheriffs, judges, lawyers, district attorneys, police, prison guards, landlords, and the racketeering and arson-for-profit rings that fan the flames of violence

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in burned-out urban ghettos. And perhaps the biggest fix of all is Reagan's personal pandering to the self-indulgence of the ultra-rich by pushing redistributive policies that nourish their high-cost addiction to money and power and shake down the rest of us to pay the bill.

Mercy to expose Reagan's hypocritical sanctification of personal and institutional greed is not enough. If *Fortune* can publish a once-for-all-time roster of corporate wrongdoing, why cannot progressive magazines and papers publish regular rosters to name the names not only of the lawbreaking institutions but of their top executives (with their total salaries) also? Any such list, as Peter Yeager and Marshall Clinard have already shown in their path-breaking researches, would include large numbers of hard-core recidivists. It would raise profound questions on how to control—and hopefully even rehabilitate—amoral and immoral people who see themselves as (and, in one sense, already are) above the law. Clinard and Yeager suggest an eleven-point menu of stiffer and surer penalties (many of which were in Senator Kennedy's original bill to revise the criminal code but were stricken under pressure from the Business Roundtable) against offending business executives. But nobody should hold her or his breath while awaiting better enforcement, tighter laws, or more appropriate punishments in this area. In the meantime, I urge members of Congress and city councils to require "law compliance" or "honesty" oaths from the top officers of any corporation seeking a government contract, loan, loan guarantee, or subsidy.

"What are our civil liberties worth," asked Corliss Lamont, the twice-mugged chairperson of the National Emergency Civil Liberties Committee, at a recent meeting, "if our right to life is threatened in our streets and homes?"

His rhetorical question hangs in the air. Neither his group nor the American Civil Liberties Union nor the Center for Constitutional Rights has yet to discuss it seriously. Like other progressive groups, they are inhibited by sincere doubts as to the possibility of constructive initiatives without repres-

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sive implications. And when serious discussion is started, unfortunately, it is usually limited to the infinity of reforms needed in the police-court-house-prison-parole complex. As yet, people seem but dimly aware that *the problems of crime and addiction require nothing less than a fresh, new approach to social and economic planning*—an approach that escapes the dead hands of limousine liberalism, Keynesian and post-Keynesian technocracy, top-down centralism, and myopic localism. No one—among all the people I have talked with, including myself—has yet been able to track down, let alone study, the thousands of nonrepressive community initiatives against crime and drug addiction. Yet too few local groups, I can already see, have been able to make the leap from protection against violent crime and help for victims to planning for many more and much better job opportunities. The kind of movement envisioned by John Conyers—a community-based national movement offering Americans a future of hope, belonging, self-respect, and empowerment—is still around the corner. Nineteen eighty-four may come before it does.

In the meantime, there is only one thing to be done: to put the crime issue—with all its complications and snares—high on the agenda of progressive America. Like inflation and unemployment, crime is an issue with far-flung implications. Continuing to dodge it would mean weakness on all other issues, including militarism, racism, and sexism. It would be a liberal-radical gift to the new phlebotomists, who would then be better able to repay us with repression and bloodletting.

Notes

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4. Diana Gordon, *Toward Realistic Reform: A Commentary on Proposals for Change in New York City's Criminal Justice and*

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2. "Crime: The Dirty Secrets," in Bertram Gross, *Friendly Fascism: The New Face of Power in America* (New York: Evans, 1981), pp. 109-16.
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7. Bertram Gross, "Law Enforcement," *The Nation*, June 30, 1979.
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9. Marshall Clinard and Peter Yeager, *Corporate Crime* (New York: Free Press, 1980).
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11. Gilbert Geis, "Deterring Corporate Crime," *Fortune*, 1973.
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Mr. CONYERS. Next we have the director of the Division of Child Protection at Children's Hospital National Medical Center, Mrs. Joyce Thomas, a nurse who has a master's degree in public health. We welcome you to the subcommittee, Mrs. Thomas, and we will incorporate your statement and allow you to make the observations that you think are important in the shaping of this legislation.

TESTIMONY OF JOYCE THOMAS, R.N., DIRECTOR, DIVISION OF CHILD PROTECTION, CHILDREN'S HOSPITAL NATIONAL MEDICAL CENTER

Ms. THOMAS. Thank you.

I welcome this opportunity to be present before you.

I would like to tell you a little bit more about my experience because I think it is very salient to the issues of victimization and issues of victims of crime.

As has been indicated, I have been and am a practicing registered nurse with extensive background and experience in looking at public health and public welfare issues, as well as a deep concern for the issues in pediatrics, as a pediatric nurse specialist.

In my role as director of the Division of Child Protection, I am responsible for a variety of services that involve both direct services as well as working and training within the hospital and in the community. We are active in law enforcement training as well as training of other citizens and many agencies that deal with victims of crime. We are involved in a preventive aspect by working closely with the D.C. public school system and adjoining school systems in the counties that surround the District of Columbia.

In addition to our efforts in primary and secondary prevention, we also focus tertiary prevention by looking at offenders, young offenders, who are often themselves victims of crime, that is, your juvenile sexual offenders.

The population of which we serve is probably considered a more difficult type of population. We deal in the urban and city area with a 92 percent black population. Clients and the families we serve are multiproblem. They come from low- and middle-income families. Their needs and services are usually very extensive.

Having had the direct experience in working in emergency rooms, intensive care, burn units, surgical units, and similar units of the hospital, I come to you with great concern about the issues of victims and the lack of services of the past and I commend you for your efforts with this pending legislation.

I am also here to indicate that health providers must be proactive as well as reactive in serving victims of crime. So our commitment to service and training is quite significant.

Children who are victims of crime need and deserve very specialized attention. I would like to read my prepared statement to identify some of the issues of the legislation H.R. 3498.

The Division of Child Protection is composed of 18 full-time and 6 part-time professionals in the field of medicine, nursing, psychology, social work, education and law. We provide comprehensive medical, crisis intervention, long-term mental health care, social services, and legal advice to over 1,000 children each year who

have been, or are suspected of being victims of physical abuse or sexual maltreatment.

These children are indeed victims of crime. Many of them will have disfiguring scars or long-term health-care problems as a result of their victimization. Equally important, although less immediately obvious, are the short- and long-term emotional problems many of these children will experience as a result of brutal acts perpetrated against them by neighbors, parents, or other caretakers, other relatives, and strangers.

We are committed to helping these children and their families overcome the crisis of being a crime victim and to insure that they have received full protection and their rights under our Nation's law. This often means that they must undergo the additional stress of being a witness in our court systems.

As one of the earlier recipients of the Federal support of Victim/Witness Assistance Program, the child sexual abuse victim assistance project funded by LEAA in 1978, we want to take this opportunity to stress how important Federal initiatives in this area have been and continue to be. Strong Federal leadership in this area has helped to insure that both children and adults who are victims of crime will receive compensation and equitable treatment within America's judicial system. We are gratified that Congressmen Rodino and Berman's bill has received such broad cosponsorship by other Members. Overall, this bill represents a major step in assuring that the needs of victims will be met.

To begin with, let me say that we strongly support this bill in principle. However, we have a number of concerns regarding specific provisions which we hope will be addressed through appropriate amendment. Our major concerns focus on needlessly restrictive qualifications for crime victims assistance programs wishing to participate.

First, the exclusivity portion of section 202 is problematic. Many valuable and effective crime victim assistance programs are components of larger private non-profit agencies. These include many rape crisis centers affiliated with hospitals, victim services programs operated by charitable organizations such as the YWCA, local bar associations, and similar groups.

Other successful victim assistance programs, particularly within the law enforcement, judicial and prosecutorial systems are combined programs addressing the needs of both crime victims and crime witnesses. Our understanding of the current bill provisions in section 202, No. 1, relating to the exclusivity would bar all such victim assistance programs from participation.

Second, we are concerned about the impact of the requirement that crisis intervention services be available on a 24-hour basis. This requirement may be impossible to meet in many rural areas. In that many, although not all, services available on a 24-hour basis provide counselling by telephone only, this provision could also have the negative effect of denying funds to programs providing more extensive counseling in person while funding programs whose only contact with victims is by telephone.

Finally, we are concerned about the fact that many exemplary victim assistance programs currently operating may not be able to meet the criteria requiring the use of volunteers in performing

these services, particularly counseling and mental health services. In some States and jurisdictions public agencies are precluded by regulation from using volunteers. In some other jurisdictions, public agencies may only use volunteers in certain prescribed capacities. Many States as a matter of professional licensure prohibit nonlicensed individuals from providing counseling or other mental health services.

Finally, many medical and mental health facilities, as either a condition of their accreditation or their malpractice insurance provision, are barred from utilizing volunteers in the provision of counseling or other mental health services.

It is our perception that most existing programs providing victim assistance services could not meet these criteria as currently stated, including most victim assistance programs which have been designated as exemplary projects by the National Institutes of Justice. We suggest that these qualifications or requirements be reformulated in terms providing greater latitude and flexibility on the part of state chief executives in awarding these grants.

In addition to our primary concerns addressed above, I would like to briefly address two other concerns. First, the eligibility requirement for victim compensation programs to receive Federal funds—that is section 102—again seems overly restrictive in subsection 5. Approximately half of the States with existing programs compensate nonresidents, but only if their State of residency has a victim compensation program and a reciprocity arrangement with the State where the crime occurred. Such an arrangement seems equitable and prudent, and these States should not be required to pass new legislation to meet this condition as currently stated.

Finally, many victims of crime require the services of victim assistance programs but may be either ineligible for, or entitled to limited claims under the Victim Compensation Program. Given this fact, it would be ultimately more beneficial to more victims to either reverse the percentage division of the fund as stated in section 302(b) to 20 percent to victim compensation programs and 80 percent to victim/witness assistance programs, or at least increase to a significant degree the proportion of funds to be designated for supporting the assistance programs.

We wish to stress that we support the basic goals and approach of this proposed legislation. Our comments should not be construed as a general criticism of the bill. Rather, we have offered these comments in the hope that appropriate amendments will insure that the broadest number of victims may benefit under the bill's provisions. It should be stressed that none of the recommended modifications would increase the overall costs of the program—we seek an expansion of scope, not expansion of the effort.

Ultimately, we collectively must assume and share responsibility for the treatment afforded to victims of crime. Concerted efforts from both the public and the private sectors at the local, State and national levels are needed if these children and adults are to receive the compensation and equitable treatment they deserve.

I present to you this written testimony and I am prepared to respond to any specific questions. I might add that our program, which involves youngsters who are victims of both physical and

sexual assault is a program that has been, as I indicated, an exemplary project in terms of its model and effectiveness for victims.

Mr. CONYERS. Suppose we divided the bill up and have one bill that deals with victim compensation and another bill that deals with funding for victim assistance.

Ms. THOMAS. Well, the issues both need attention. As indicated, there are some individuals who seek help through the programmatic support method and others who come about seeking help in an individual manner. Primarily, the client which we are serving we have not had a great deal of success for our client independently seeking help and support through victim compensation without the support of a program to provide guidance and direction. I am not sure that this will hold true to all communities but clearly in your major urban communities where you have an entanglement of bureaucracy it is important to have not only a comprehensive victim assistance program for the individual, but clearly the programmatic aspect to serve in the broader capacity and this is where I feel that the emphasis is definitely needed. The clients that we serve usually require extensive involvement and supportive service. In addition to serving the clients, it is important to impact on the systems of which programs have a greater opportunity through education and through consultation and technical assistance both in the legal system as well as the community.

Mr. CONYERS. So they get two bills. That doesn't contradict the importance of either one.

Ms. THOMAS. Exactly.

Mr. CONYERS. But it might see both of these pieces of legislation come to a happier resolution. It might also get us into a more realistic funding mechanism and a little bit higher funding than we might otherwise be able to.

Ms. THOMAS. Well, I certainly would be in support of that. I think that as a program director, major portions of most program directors who deal in this area are dealt with funding issues and funding problems. From my own experience, in 7 years at Children's Hospital, I have seen the number of victims' cases increase dramatically, steadily, each year, where the funding has decreased. The available funding, and the pressures associated with maintaining programs is, in fact, a major problem.

Mr. CONYERS. Well, I don't want you to hold out much hope for how much you would be getting out of a program such as this in view of declining funding that is going on generally. I don't even have any estimates. Have there been any projections of what might be raised? I turn to counsel for any research he may have on this.

Mr. HUTCHISON. Mr. Rodino, when he testified, estimated that in fiscal 1981 the fund would have been approximately \$65 million. It is very difficult to project because you don't know how fine collections and forfeitures and the other sources will run. But in fiscal 1981, it would have been in the neighborhood of \$65 million.

Mr. CONYERS. Now, to spread that amount of money across literally hundreds, if not thousands of programs could get pretty thin. So that in the end, we might even have people experiencing the terrible situation of having a program whose involvement might cost as much as they would get out of it.

Ms. THOMAS. This may be, in fact, true. However, it still is a necessary fact that such programs do need support and I think if we are going about looking at the needs of victims, we clearly need to look at the broader, more comprehensive aspect. Individuals are, as well as support from the community as has been mentioned in other testimony, is very significant and certain programs certainly lend themselves to opportunities of outreach and education that has sometimes immeasurable benefits and immeasurable impact on the community. I do sympathize with the issue of limited funds. I am only advocating that for the funds that are available we give consideration to the needs of programs, particularly again programs that service the needy and the poor because the individualized victim compensation has not been that significant a factor in these particular communities and that has been documented fairly well.

Mr. CONYERS. Well, I think that we may have to look at the program from a completely different angle, because what our experience has been is that it is very difficult to get these kinds of programs into the communities of the needy and the poor and apparently we haven't been doing too great a job of it.

Ms. THOMAS. It is a difficult aspect. I can only share with you my 20 years of experience in community work and also to share with you the specifics around this program. It is difficult. It takes a lot of commitment from a large number of people, and it does take a lot of reaching out and a lot of time but the benefits are just as rewarding in a sense, where you are lessening the likelihood of a youngster becoming a victim of a crime who is already in a high-risk environment.

Mr. CONYERS. What is the problem in poor neighborhoods in terms of reaching out. What makes it so tough?

Ms. THOMAS. Well, it is just that you have a multitude of issues associated with the crime itself. You do have your housing problems and the difficulty within the District of Columbia for a family which might in fact benefit from relocating might find themselves two to three years on a housing list. This means there is increased stress and workers are working additionally hard to work with these families to try to help them cope and adjust to rather trying situations. It is the degree of stress on top of the incident of the crime, which makes it somewhat more complex and perplexing for both the workers and for the families.

Mr. CONYERS. With reference to the 24-hour hotline, we have one here in the District of Columbia and I would presume that you get referrals from it?

Ms. THOMAS. We do get some referrals from the hotline, we also are available ourselves in the hospital on a 24-hour basis. We are seeing more youngsters now than ever before, we probably can't handle too many more than we are seeing. And so we do in fact benefit from that. My point in the testimony primarily was to recognize that not only is there a phone call in terms of a hotline, but there really sometimes are needed services and there is a difference in terms of manpower utilization and direct services to the family. It is not always easy to assess a situation by phone. And I think the distinction in the testimony primarily was to lend itself

to the fact that someone should at least have a 24-hour service program but all communities are not capable or able to do so.

Mr. CONYERS. That's why we mandate it in the legislation is that the need sometimes arises outside the eight hour day normal period that they might be available. And I would like to think that a 24-hour hotline has probably proven itself almost anywhere that it has been used. I don't have any experience that it was unnecessary or unwieldy, but it would seem to me that this would be a rather small requirement to enjoy Federal funding.

Ms. THOMAS. I think the distinction again is primarily whether or not the hotline versus direct services issue. That is to certainly recognize the importance of hotline services but there also are needs oftentimes for direct counseling services and under the provisions of the bill certain programs that provide that direct 24-hour on-hand services may be excluded by virtue of the fact that they fit into certain categories and do not meet the eligibility requirements. And other programs which provide somewhat less direct services may not be excluded.

Mr. CONYERS. I would like to assure you that the 24-hour hotline is no way encroaching upon any special services programs. That would be, I think, unthinkable. We haven't questioned Mr. Rodino about it, but I am sure that we are not pressing the case for a 24-hour hotline to the disadvantage of the programs that would be needed for people using the hotline.

But it is a simple fact that at 2 a.m. where a person needs a service, if there isn't a phone, they are not going to get to the program at all. And so it seems that you just need some kind of phone system, which frequently can be satisfied through a hospital or some other 24-hour agency that can be plugged into. We found in rural areas, for example, that that frequently is done. So that it doesn't call for the creation of some kind of telephonic network.

Ms. THOMAS. Let me just restate: I am advocating clearly that this is an important factor, the 24-hour services. I was only trying to highlight the significant difference for those programs that are providing direct services, also need to be considered in this criteria; there needs to be some consideration as to how to address those needs as well.

Mr. CONYERS. Now, with reference to nonresidents, I take it you suggested that we modify the nondiscrimination requirement against nonresidents.

Ms. THOMAS. That was a suggestion primarily from some of the situations, I guess because of our location here in the District. We often run into jurisdictional problems and jurisdictional questions in surrounding communities. Again if this legislation is to be effective, we would try to make sure that all citizens have an equal opportunity.

Mr. CONYERS. That is what we are trying to do. And the way we do it is require that everybody not discriminate against nonresidents. So that you wouldn't have to worry about it. Just from the Washington point of view, Maryland and Virginia would also be suffering under the same Federal disability as a requirement of enjoying the funds. So that it wouldn't operate discriminatorily upon Washington. But I think that this could raise some pretty embarrassing emergency problems. What would we do with a person in-

jured in Washington who is from another State? Would we tell them, "I am sorry, your driver's license shows that you are from Tucson, AZ"?

Ms. THOMAS. Now, this is not in relationship clearly for medical services. I believe this is again in relationship to some of the victim services that often become quite entangled by the systems that we adhere to.

Mr. CONYERS. Well, wouldn't we want to service everybody where they may happen to be?

Ms. THOMAS. We would certainly want to make that effort but it doesn't always occur that way and I believe this is our intent to try to clarify that particular point.

Mr. CONYERS. Well, the way we try to clarify it is to disallow discrimination. Otherwise, that is exactly how we complicate it by having everyone trying to work out their own particular rules and what you end up with, of course, is some jurisdictions having completely different rules from others. You would then get a very uneven kind of treatment.

Well, I appreciate your testimony here and the one point that I think was raised that I really am going to examine carefully, is the fact that the parent agency separating other services from the victim services component, which is a very sticky problem and a very important one.

Ms. THOMAS. That clearly is the one that has the most significance because we are housed in a hospital which is a parent agency. It may, in fact, not be identified under these particular criteria. So I would hope that you would examine that.

Mr. CONYERS. I might not be examining it to your satisfaction, though, because, you know, after a point we begin to ask ourselves, and I don't have the complete answer to this question, but if a hospital or a large service is there to serve the public, why would it have to particularize between getting these funds as a condition to serve some of the people that need the service? I am beginning to think that what we might see happening here is that the large public organizations may end up getting a large share or the bulk of many of these funds and many of the small organizations would end up as in many pecking orders, they would receive a much smaller amount. Some of the more local and isolated ones might not get anything. And so I think that that is a very important part of us developing a fair vehicle.

Ms. THOMAS. Well, again, when you are talking of large public agencies, I think it also would be important to look at the service available in those agencies in a comprehensive manner. And it is very difficult. I think the whole victims' movement has been very, very slow developing in hospitals. I think that we happen to be in a hospital by virtue of the fact this is where we originated. But hospitals have not been traditionally designed to go beyond the medical services and that is to look at the entire victims' compensation needs. And I think that is the distinction, this is why we are concerned about specialized services and being housed in that kind of facility.

Mr. CONYERS. Well, I want to thank you, Ms. Thomas. You have made me focus in on some questions and I am going to give this very careful examination. Thanks for coming today.

Ms. THOMAS. Thank you.

[The prepared statement of Ms. Thomas follows:]

PREPARED STATEMENT OF JOYCE N. THOMAS, R.N., M.P.H., DIRECTOR, DIVISION OF CHILD PROTECTION, CHILDREN'S HOSPITAL NATIONAL MEDICAL CENTER, WASHINGTON, DC.

Thank you for this opportunity to comment on House Resolution 3498. I am Joyce Thomas, Director of the Division of Child Protection at Children's Hospital National Medical Center, a private non-profit pediatric hospital here in Washington, D.C. The Division of Child Protection is composed of 18 full-time and 6 part-time professionals in the fields of medicine, nursing, psychology, social work, education, and law. We provide comprehensive, medical, crisis intervention, long-term mental health care, social services, and legal advice to over 1000 children each year who have been, or are suspected of being, victims of physical or sexual maltreatment.

These children are victims of crime. Many of them will have disfiguring scars or long term health-care problems as a result of their victimization. Equally important, although less immediately obvious, are the short and long term emotional problems many of these children will experience as the result of brutal acts perpetrated against them by neighbors, parents or other caretakers, other relatives, and strangers. We are committed to helping these children and their families overcome the crisis of being a crime victim and to ensuring that they receive full protection and their rights under our nation's laws; this often means that they must undergo the additional stress of being a witness in our court systems.

As one of the earlier recipients of federal support of victim/witness assistance programs (the Child Sexual Abuse Victim Assistance Project funded by LEAA in 1978) we want to take this opportunity to stress how important federal initiatives in this area have been, and continue to be. Strong federal leadership in this area has helped to ensure that both children and adults who are victims of crime will receive compassionate and equitable treatment within America's judicial systems. We are gratified that Congressmen Rodino and Berman's bill has received such broad co-sponsorship by other members. Overall, this bill represents a major step in assuring that the needs of crime victims will be met.

To begin, let me say that we strongly support this bill in principle. However, we have a number of concerns regarding specific provisions which we hope will be addressed through appropriate amendment: our major concerns focus on needlessly restrictive qualifications for crime victim assistance programs wishing to participate.

First, the exclusivity portion of Section 202 is problematic. Many valuable and effective crime victim assistance programs are components of larger private non-profit agencies. These include many rape crisis centers affiliated with hospitals, victim services programs operated by charitable organizations such as the YWCA; local Bar associations, and similar groups. Other successful victim assistance programs, particularly within the law enforcement, judicial, and prosecutorial systems are combined programs addressing the needs of both crime victims and crime witnesses. Our understanding of the current bill provisions in Section 202(1) relating to exclusivity would bar all such victim assistance programs from participation.

Second, we are concerned about the impact of the requirement that crisis intervention services be available on a 24-hour basis. This requirement may be impossible to meet in many rural areas. In that many (although not all) services available on a 24-hour basis provide counseling by telephone only, this provision could also have the negative effect of denying funds to programs providing more extensive counseling in person while funding programs whose only contact with the victim is by telephone.

Finally, we are concerned that many exemplary victim assistance programs currently operating may not be able to meet the criteria requiring the use of volunteers in performing these services, particularly counseling and mental health services. In some states and jurisdictions public agencies are precluded by regulation from using volunteers. In some other jurisdictions public agencies may only use volunteers in certain prescribed capacities. Many states as a matter of professional licensure prohibit non-licensed individuals from providing counseling or other mental health services. Finally, many medical and mental health facilities as either a condition of their accreditation or their malpractice insurance provisions are barred from utilizing volunteers in the provision of counseling or other mental health services.

It is our perception that most existing programs providing victim assistance services could not meet these criteria as currently stated, including most victim's assistance programs which have been designated as "exemplary projects" by the National Institutes of Justice. We suggest that these qualifications or requirements be refor-

mulated in terms providing greater latitude and flexibility on the part of state chief executives in awarding of these grants.

In addition to our primary concerns addressed above, I would like to briefly address two other issues. First, the eligibility requirements for victim compensation programs to receive federal funds (Section 102) seem overly restrictive in subsection 5. Approximately half of the states with existing programs compensate non-residents, but only if their state of residency has a victim compensation program and a reciprocity arrangement with the state where the crime occurred. Such an approach seems equitable and prudent, and these states should not be required to pass new legislation to meet this condition as currently stated.

Finally, many victims of crime require the services of victim assistance programs but may be either ineligible for, or entitled to limited claims under, the victim compensation program. Given this fact, it would be ultimately more beneficial to more victims to either reverse the percentage division of the fund as stated in Section 302(b) to 20% to victim compensation programs and 80% to victim/witness assistance programs, or at least increase to a significant degree the proportion of funds to be designated for supporting the assistance programs.

We wish to stress that we support the basic goals and approach of this proposed legislation. Our comments should not be construed as a general criticism of the bill. Rather, we have offered these comments in the hope that appropriate amendments will ensure that the broadest number of victims may benefit under the bill's provisions. It should be stressed that none of the recommended modifications would increase the overall costs of the program—we seek an expansion of scope not an expansion of effort.

Ultimately, we collectively must assume and share responsibility for the treatment afforded to victims of crime. Concerted efforts from both the public and private sectors at the local, state, and national levels are needed if these children and adults are to receive the compassionate and equitable treatment they deserve.

Mr. CONYERS. I would like to call as the final witness for today, Deborah Jones, who is here to discuss matters that raised in our first hearing, mainly dealing with the utilization of volunteers and the need to maintain a 24-hour crisis intervention hotline. Her experience as a social worker involved in child protective services for 8½ years and as director of Victim Services at the D.C. Rape Crisis Center for 2 years will help us get another perspective on this subject.

Welcome to the subcommittee.

TESTIMONY OF DEBORAH JONES, M.S.W.

Ms. JONES. Mr. Chairman and members of the subcommittee.

First, I am honored to be here today and I am a bit nervous because this is the first time I have had the opportunity to testify before a congressional committee. So please be patient with me.

Mr. CONYERS. We want to thank you for preparing your testimony. It is very carefully put together and reflects a great deal of effort and we are going to incorporate it into the record.

You may not want to read it all, but if you just go over the main points, it would probably be very helpful to us.

Ms. JONES. Today I am here to address two issues which arose during the February 2 hearing on the Crime Victims Act of 1983.

I reviewed the testimony given at the hearing in opposition to the proposed eligibility criteria for victim assistance programs; specifically that criteria which calls for the use of volunteers and the provision of 24-hour crisis intervention services.

As the former director of Victim Services for the Washington, D.C. Rape Crisis Center, I feel very strongly that these criteria should be retained. Not only is immediate crisis intervention critical to the future welfare of all victims of crimes against the person,

but I believe that the future of such services is contingent upon the use of volunteers.

Now, if I should just go ahead and summarize what is in my prepared statement—what I have attempted to do is to show the importance of using volunteers within the rape crisis centers across the country and from my experiences at the D.C. Rape Crisis Center. What I have attempted to do as director of Victim Services was to make it a goal that we would have volunteers from the minority community. I understand that this has—in the past, has been misconstrued as a problem of getting women of color involved in volunteer activities because of economic constraints. However, fortunately, since we targeted at those specific organizations that have minority population such as black churches, and schools within the district of black population, we were very lucky and very fortunate to have a number of women of color from those organizations and from those schools.

The range of professionals in the D.C. Rape Crisis Center were—some of the women were librarians, many were housewives, teachers, social workers, and counselors. What we tried to do to ensure the quality of service was to provide 60 hour training and an inservice training program, an 8-hour inservice training program to ensure that victims received quality service.

I cannot reiterate the importance of the 24-hour hotline. I would shudder to think what would happen to countless victims had we not been there to listen, to provide that support. Some victims would have possibly committed suicide or chosen other alternatives.

I would also like to say that—well, finally, I think I have touched on two issues. One, the importance of volunteers, the dedication that they come with and the ways they can be used within the organization, besides just counseling.

Second, to address the issue that minorities are not actively involved in community organizations.

Mr. CONYERS. Well, thank you very much, Miss Jones.

What I hear you saying is that we can help bring the services into poor communities by the use of volunteers. Is that fair?

Ms. JONES. Yes; that is correct.

Mr. CONYERS. And you also have found that there is a high level of quality people who give their time. They are not people bereft of skills or abilities and training.

Ms. JONES. That is correct, yes.

Mr. CONYERS. I think both of those are very important. You feel that a 24-hour hotline is a very vital requirement for us to continue in considering victim assistance programs.

Ms. JONES. I feel that it is extremely important that when an individual is victimized, they have their hands-on access as an emotional band-aid to help them through.

Mr. CONYERS. I am inclined to agree with you because I think that there have to be more hotlines—and of course we haven't found out where there aren't hotlines. It seems to me that in most urban areas they are already here. They're an accepted tool in dealing with all kinds of victims. I suppose it would be in the more outlying or remote areas that they may not be, but even that might

be an assumption. Do you have any feeling about where there might not be 24-hour hotline services?

Ms. JONES. In the rural areas what they tend to do is use beepers, so they still have access. The client still has access to someone.

Mr. CONYERS. You mean the neighbor—a person's home becomes a basis for the place where a call can be made?

Ms. JONES. Yes.

Mr. CONYERS. And those numbers are given out—

Ms. JONES. What happens is that you would have the main number, the hotline number, and the call can be transferred into the neighbor's home.

Mr. CONYERS. When the office itself is closed and there is a referral number that would kick off when that office is closed.

Ms. JONES. Right. It is not necessarily a referral number but it is automatically transferred into the person's home. So that the client doesn't lose contact by receiving a recording saying to call another number. He is still able to talk with someone because it is transferred automatically.

Mr. CONYERS. I think that is a very good procedure and I am glad to know that that is being used.

Well, thank you very much. I must say you have done an excellent job for your first time in testifying.

I hope you follow the subcommittee's work, and you can remember that you made an important contribution to this discussion today.

Ms. JONES. Thank you.

[The prepared statement of Ms. Jones follows:]

STATEMENT OF DEBORAH JONES, M.S.W.

Mr. Chairman, Members of the Subcommittee. I am here today to address two issues which arose during your February 2nd hearing on the Crime Victims Act of 1983. I have reviewed testimony given at that hearing in opposition to the proposed eligibility criteria for victim assistance programs; specifically, that criteria which calls for the use of volunteers and the provision of 24-hour crisis intervention services.

As the former Director of Victim Services for the Washington, D.C. Rape Crisis Center, I feel very strongly that these criteria should be retained. Not only is immediate crisis intervention critical to the future welfare of all victims of crimes against the person; but, I believe the future of such services is contingent upon the use of volunteers.

There exists a wealth of literature on crisis theory and how it applies to the victims of crime. The field of victimology has grown to such an extent that international symposiums on victimology have been held annually since 1973. From these symposiums and the research which has been done, we now know that an immediate situational crisis such as that involved in violent crimes like murder, rape, assault and battery, as well as arson, pose a serious disruption in the lives of both victims and victim family members. To distinguish between a developmental and situational crisis, it should be said that a situational crisis is merely one where some unexpected disruption occurs in a person's life, causes them to feel out of control, unable to cope. Criminal victimization poses a situational crisis for its victim in most cases. The victim was unprepared for the hazardous event; feels out of control, unable to cope. The purpose of crisis intervention is merely to help the victim regain their sense of control and their ability to cope. It is intervening in a crisis to prevent the crisis from becoming unmanageable. This intervention can be done by a paraprofessional trained in crisis intervention techniques. Where the situational crisis is complicated by certain developmental factors, crisis intervention may need to be followed up with long-term therapeutic counseling; counseling which must be done by trained professionals either within or outside the crisis intervention program. The

majority of adult victims of crime need only short-term crisis intervention. Children, and some adults, need both crisis intervention program meets the total needs of most crime victims; and may serve as an entry into professional mental health counseling for others.

In providing crisis intervention services, the value of a 24-hour hotline cannot be overstated. Many victims seek help from a hotline only moments after a crime has occurred. That immediate assistance not only ameliorates their fears of the moment, but provides constructive direction on what steps must be taken to deal with the crisis. Further, it is the nature of crimes against persons that any number of unrelated events can trigger memories of the crime. In some cases, actually trigger a renewed crisis reaction days, weeks, or months after the crime. The 24-hour hotline may provide the only available help for this renewed crisis reaction. Immediate contact with a counselor is essential in both cases to keep the crisis reaction from becoming intensified.

Further, it should be noted that immediate contact is as vital to the counselor as to the victim. Immediate contact gives the counselor a solid base of comparison as the crisis pattern is followed over time. It is this comparison base which aids the counselor in assessing the victim's progress in settling the crisis.

Finally, in regard to 24-hour intervention, I would like to point out that the hotline concept is the well-established preferred method of crisis intervention in many service areas. It is used by suicide prevention centers, drug and alcohol abuse clinics, runaway programs and victim assistance programs alike. This widespread use is predicated upon the knowledge that a 24-hour hotline is the most effective way of providing immediate crisis intervention.

The vast majority of victim assistance programs, with the exception of prosecutorial Victim/Witness Assistance Units, have traditionally provided 24-hour hotlines. The presence of a 24-hour hotline was among the criteria selected by the National Institute for Mental Health in identifying exemplary rape crisis centers in 1983.

It is my understanding that funding for HR 3483 is limited; and, the grants to states must go for both victim compensation and victim assistance. Given this funding limitation, and the fact that the Department of Justice estimates over 4 million citizens experience crimes against persons annually, I believe it is both appropriate and necessary that crisis intervention assistance be prioritized in the funding to be made available under this bill.

The second, and final, issue I would like to address is the criteria which calls for grantees to utilize volunteers. I am particularly concerned that this Subcommittee has heard statements to the effect that minorities can't or won't give of volunteer time; therefore the presumption is that victim assistance programs in low income or minority communities would be adversely affected by this criteria. I would like to refute this supposition on the grounds of my own experience and the experiences of others similarly situated.

There is solid evidence that crime occurs at an alarming rate in minority communities. There is, however, no evidence that minorities are unresponsive to the criminal victimization of themselves and others.

In my former role as Director of Victim Services, I was responsible for the recruitment, training and supervision of volunteer counselors. At no time did I encounter any racial obstacles in my recruitment of volunteers for the D.C. Rape Crisis Center. The recruitment methods I used were consistent with those utilized by centers in communities with a significantly smaller minority population. I merely used those methods in a concerted outreach to Black and other minority groups in the District. Specifically, I placed public service announcements in local newspapers, spoke with women's groups, church groups, professional associations, and university students. I also sought referrals from center staff and volunteers. The response to those recruitment efforts was gratifying.

My volunteers came from a wide spectrum of D.C. society. They ranged in ages from 20 to 75. They were a racial mix of Blacks, Whites, Hispanics and Asian Americans. By profession, we had teachers, librarians, homemakers, students, secretaries, and social workers. Most were employed full time; while others were students or never employed. All were deeply concerned about the victims of rape and desirous of helping in any way possible. In talking with minority women from other centers around the country, I found their experiences to be the same as mine.

I believe that public concern about criminal victimization is such that volunteers can be easily found among any income or racial strata of a community. If victim assistance programs encounter barriers to minority volunteerism, the problem is with their recruitment methods, not with minority willingness to volunteer.

Finally, it should be noted that quality assistance to victims is furthered, not impeded, by the use of volunteers. Given the limited budgets of all victim assistance

programs, none have adequate full-time staff to meet the ever increasing demand for victim services. Additional funding might improve staffing at these programs, but not provide for sufficient staff to meet the needs alone. Without volunteers to supplement staff efforts, many victims will not receive services.

Experience has shown it is neither necessary nor possible for victim assistance programs to hire extensive numbers of highly paid mental health professionals. Long years of professional training are not prerequisite to counseling or therapeutic ability. Most crisis intervention programs provide both initial and in-service technical training which enables volunteer counselors to function in a professional manner. Further, volunteers are supervised and do not work independently of program staff. Perhaps most important to programs of this nature is the fact that volunteers bring a compassion and dedication to their work not always seen in the professional who views her or his work as but a stepping stone in their career. In fact, in the victimization field, most volunteers have had their own brushes with victimization; a fact which often enhances their counseling ability.

In summary, there is no evidence to show that minority communities will be adversely affected by the aforementioned criteria; nor that the quality of victim assistance would suffer because of it. I would urge this Subcommittee to retain both criteria because it ensures that federal funding will be utilized to meet the most urgent of victim assistance needs today.

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Mr. CONYERS. I would like to acknowledge the presence of attorney Joe Hansknecht of Detroit, MI, and William J. Allen of Highland Park, who have graced our hearings. They are concerned leaders of the greater Detroit community, and we welcome them at the subcommittee hearing.

There being no further business before the subcommittee, we stand adjourned.

[Whereupon, at 12:40 p.m., the subcommittee was adjourned.]

LEGISLATION TO HELP CRIME VICTIMS

THURSDAY, MARCH 15, 1984

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIMINAL JUSTICE,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The subcommittee met, pursuant to call, at 10 a.m., in room 2237, Rayburn House Office Building, Hon. John Conyers, Jr. (chairman of the subcommittee) presiding.

Present: Representatives Conyers, Edwards, Boucher, and Gekas.

Staff present: Thomas W. Hutchison, counsel, and Raymond V. Smietanka, associate counsel.

Mr. CONYERS. The subcommittee will come to order.

Good morning. This is the subcommittee's third hearing on H.R. 3498 and related bills to help crime victims. We have received testimony from a dozen witnesses supporting Federal legislation to help crime victims. These witnesses represent a wide range of viewpoints and include representatives of such groups as Americans for Democratic Action, the National Organization for Victim Assistance, the American Bar Association, Unitarian Universalist Association, and the New York Crime Victims Board.

The principal bill under consideration, and the one to which nearly all of our testimony relates so far, is H.R. 3498, introduced by the chairman of the Judiciary Committee, Mr. Rodino, and some 50 other Members of Congress.

This bill establishes a crime victims fund whose revenues come from four sources: Fines collected in Federal criminal cases; the proceeds from forfeitures ordered in Federal criminal cases; a penalty assessment of \$25 levied upon persons convicted of Federal misdemeanors, and \$50 upon those convicted of Federal felonies; and the excise tax on the sale of handguns.

The fund would be administered by the Attorney General to aid crime victim compensation and crime victim assistance programs. These are two distinct types of programs: Crime victim compensation programs, administered by State agencies, help victims financially by reimbursing them for out-of-pocket expenses, for hospital and medical services, and for lost wages resulting from a physical injury caused by crime; crime victim assistance programs provide victims with a wide range of social services, such as crisis intervention and mental health counseling. Some of these programs are operated by State agencies, and some are operated by private charitable organizations.

Under the formula in H.R. 3498, in any given year up to 80 percent of the fund would go to reimburse State victim compensation

programs for compensation that they have paid to crime victims. Depending upon the amount available, the States would receive up to 50 percent of what they paid to victims. The remainder of the fund is to be distributed among the States according to a formula in the bill and is to be used to aid crime victim assistance programs. The Governor of each State is responsible for distributing Federal money to victim assistance programs within the State.

Earlier this week, the administration sent to Congress proposed legislation that is, in some respects, similar to H.R. 3498 and, in other respects, different. Assistant Attorney General Lois Herrington and Deputy Associate Attorney General William McGuinness are here today to testify in support of the administration bill. The subcommittee will examine this proposal thoroughly and give it full consideration.

In addition, we have other witnesses, but I would like to bring forward now Assistant Attorney General Herrington and Deputy Associate Attorney General McGuinness. We are happy to welcome you before the subcommittee.

Mrs. Herrington chaired the President's Task Force on Victims of Crime, for which we congratulate you for your work, and has been an attorney in private practice, as well as deputy district attorney in Alameda County, CA. She is in charge of the Office of Justice Assistance, Research and Statistics, and is well known to victim service groups and others for her work on behalf of crime victims.

We welcome you before the subcommittee. Without objection, your prepared statement will be put into the record. You may proceed in your own way.

TESTIMONY OF LOIS HAIGHT HERRINGTON, ASSISTANT ATTORNEY GENERAL, U.S. DEPARTMENT OF JUSTICE; AND WILLIAM McGUINNESS, DEPUTY ASSOCIATE ATTORNEY GENERAL, U.S. DEPARTMENT OF JUSTICE

Mr. McGUINNESS. Mr. Chairman, I appreciate this opportunity to appear today on behalf of the Department of Justice to discuss H.R. 3498, the Victims of Crime Act, as well as the administration's Victims of Crime Assistance Act. As you indicated, Assistant Attorney General Herrington is here and will address the substantive provisions of this bill in detail.

Before proceeding to the issue of victim compensation, however, I would like to take just a moment to discuss our approach to the larger universe of victim assistance issues.

On August 17, 1981, the Attorney General's Task Force on Violent Crime issued its final report. In that report, the task force recognized the pivotal of victims and witnesses in the criminal justice system. Among the specific recommendations of the task force was a call for Federal standards for the fair treatment of victims of serious crimes and for a study of victim compensation programs.

On April 23, 1982, President Reagan signed Executive Order 12360 establishing the President's Task Force on Victims of Crime. This task force, chaired by Lois Herrington, was created to address the needs of the millions of Americans who are victimized by crime each year.

The task force heard formal testimony in six cities, from over 200 witnesses, and consulted approximately 1,000 other experts and victims. The final report of the task force, which was submitted in December 1982, made extensive recommendations for executive and legislative action at the Federal and State levels to improve treatment and services to crime victims. Specific recommendations contained therein related to the necessity of Federal legislation that would provide funds for State crime victim compensation and victim/witness assistance programs.

During the period when the Task Force on Victims of Crime was conducting its hearings, the Congress commenced deliberations upon the Victim and Witness Protection Act of 1982. That measure enjoyed virtually unanimous support in the Congress and was quickly approved by the Senate and the House. On October 12, 1982, the President signed the Victim and Witness Protection Act into law as Public Law 97-291. As you know, the stated purpose of the act is to "ensure that the Federal Government does all that is possible within the limits of available resources to assist victims and witnesses of crime without infringing upon the constitutional rights of the defendant."

Mr. Chairman, at this point I will abridge my written submitted statement and proceed to a brief discussion of section 6 of the Victim and Witness Protection Act.

The victim/witness guidelines mandated by section 6 of the act were issued on July 9, 1983, by Attorney General William French Smith. These guidelines entail a significant administrative directive to Department of Justice components with respect to the delivery of victim services and assistance contemplated by the act. The guidelines incorporate all the recommendations in the Victim and Witness Protection Act of 1982, as well as some proposals of the President's Task Force on Victims of Crime. The basic approach of the guidelines is to set out general guidance as to the needs of victims and witnesses and the obligations of prosecutors and investigators.

These guidelines apply to all Department of Justice components engaged in the detection, investigation or prosecution of crimes, and are intended to apply in all cases in which victims are adversely affected by criminal conduct or in which witnesses provide information regarding criminal activity.

Again abridging in part, concurrent with the issuance of the Attorney General's guidelines, the Executive Office for U.S. attorneys distributed materials to all U.S. attorneys designed to aid their offices in meeting the obligations under both the act and the guidelines during the initial phase of implementation. These materials, as well as internal office procedures, are currently being refined. In addition, the administration's fiscal year 1985 budget has requested some \$3 million to fund 94 victim/witness-LECC coordinator positions for U.S. attorney's offices. These victim/witness coordinators would help to ensure that the act and guidelines are implemented as fully and expeditiously as possible.

To assist prosecutors, victim/witness coordinators and other departmental personnel charged with implementing the act, the Department has initiated formal training sessions. The Attorney General's Advocacy Institute has for some time included course materi-

al directed toward new prosecutors and their responsibilities under the act. In April, personnel from each U.S. attorney's office, investigative agency and litigating division will attend a training session designed to address implementation of the act. A technical assistance team comprised of Department attorneys has been designated to visit representative U.S. attorney's offices in order to fully assess training needs. Furthermore, the FBI has initiated training of agents at the FBI Academy in Quantico on this subject, and the Federal Law Enforcement Training Center in Glynco is likewise developing a program to be included in their training structure.

Finally, the Department of Justice has forwarded to the Congress for consideration the Administration's Victims of Crime Assistance Act of 1984. As you know, this bill would authorize Federal financial assistance to State victim compensation programs and would improve the assistance offered by every level of government and the private sector to victims of crime.

Assistant Attorney General Herrington will address the specific provisions of the bill and compare that proposal with H.R. 3498. I appreciate this opportunity to address the subcommittee, and I would submit the complete written text of my remarks for the record. I thank you.

Mr. CONYERS. Thank you, Deputy Associate Attorney General McGuinness. We welcome that overview.

Mr. CONYERS. We will now hear from Mrs. Herrington.

Ms. HERRINGTON. Thank you, Mr. Chairman. I am very pleased to be here today.

May I apologize just briefly because the Washington flu bug just befell me so my voice—I hope you are able to understand it. It is a little hard to articulate.

The bill that we are presenting, the administration bill, is similar in many significant respects to H.R. 3498. The technical differences between the two proposals—the administration bill and H.R. 3498—do not obscure our common commitment to the goal of improving assistance to the innocent victims of crime.

I would like to express my appreciation for all the help that this subcommittee and its staff have provided me, first in my capacity as chairman of the President's task force, and now as Assistant Attorney General for Justice Assistance.

Especially I would like to thank the staff counsel Tom Hutchison for all the help you have given us. You have really gone out of your way and have been of great assistance to us. Ray Smietanka, we certainly appreciate your help also.

I hope that we can continue to work together on the important subject of Federal financial assistance to victims of crime.

I would first like to describe the key features of our bill, then briefly address the differences between the two proposals.

The administration's bill implements major recommendations made by President Reagan's Task Force on Victims of Crime. The task force presented strong rationales for establishing a program of Federal assistance in this area. Foremost among them was that, at present, the States are shouldering the entire burden of compensating victims of crime.

The Federal Government, however, has a significant interest in compensating and otherwise assisting these victims. By helping the

criminal justice system to actually work for the benefit of the innocent victim, the Federal Government can assure greater cooperation between victims and the system to the substantial benefit of law enforcement nationally. Creation of a crime victims assistance fund in the Treasury will help the Government restore public confidence in the efficiency and integrity of the criminal justice system.

The thrust of our legislation is to place the Federal Government in a leadership role without creating an unnecessary bureaucracy to impose the Federal Government's priorities on the States. Under the bill, the Federal Government will provide money to States to encourage them to effectively run their own programs. The States will continue to make their own policy choices on critical elements of their compensation programs. The legislation provides for only minimal Federal guidance in areas of substantial Federal interest that will not interfere with the State's discretion to run its own programs as it sees fit.

Criminals—not innocent taxpayers—will provide the money for the fund. The principal source of funding is the total of all criminal fines collected from convicted Federal defendants, including anti-trust fines. Criminal fines are also defined to include fines imposed for criminal violation of Federal motor vehicle laws, and forfeited appearance bonds posted by Federal criminal defendants.

It is our expectation that with improved accounting techniques and the enactment of the collection procedures delineated in the administration's Comprehensive Crime Control Act of 1983, this source would provide approximately \$45 million to \$75 million for the fund in its first year.

Under our bill, the fund would also receive the proceeds of any contract entered into by any Federal defendant for the sale of literary or other rights arising from his criminal act. This proposal, modeled after the "Son of Sam" laws enacted by some 15 States, responds to the requirement of the Victim and Witness Protection Act of 1982 that the Attorney General report to Congress regarding any Federal laws necessary to ensure that Federal felons do not profit from selling the story of their crimes.

Fifty percent of the money deposited in the fund will be available for distribution annually to those States with operating victim compensation programs for the purpose of reimbursing them for 10 percent of their payouts under those programs. To be eligible for this funding, a State must provide the same compensation to non-resident victims as it does to residents, and the same compensation to victims of Federal crimes as it does to victims of State crimes. The State must also agree to compensate eligible victims for mental health counseling required as a result of their victimization.

Thirty percent of the fund will be distributed to the States—and the territories and commonwealths of the United States—on the basis of their population for the purpose of improving the assistance provided to victims of crime by State governments, local units of government, and nonprofit organizations. To be eligible to receive funding from this portion of the fund, organizations must demonstrate a record of quality assistance to the victims, promote the use of volunteers, demonstrate a commitment from other orga-

nizations to provide necessary services to all victims of crime, and assure coordination with other service providers.

The remaining 20 percent of the fund will be distributed among Federal law enforcement agencies for the purpose of improving the assistance offered by the Federal Government to victims of crime. This money could be spent for establishing victim assistance positions or units in Federal agencies, providing services to the victims of Federal crimes, training Federal law enforcement and court personnel in victim assistance, and disseminating information about Federal victim assistance services. A Federal Victims Assistance Administrator appointed by the Attorney General will administer this share of the fund.

The Administrator will be guided by a Federal Victims of Crime Advisory Committee to be appointed by the President. The committee would also make periodic recommendations to the President about other actions the Federal Government could take to improve treatment of the victims of Federal crime.

The bill would also provide victims the opportunity to appear at Federal parole hearings to inform the Parole Commission of the emotional, psychological, physical, and financial impact a prospective parolee's crime had on their lives.

H.R. 3498's funding and disbursement provisions differ in several respects from the administration's bill. I would like to touch upon the most significant of these differences.

The crime victims fund created by H.R. 3498 would receive all Federal criminal fines, the proceeds of all criminal forfeitures, new penalty assessments imposed on convicted Federal criminals, and the taxes collected on the sale of pistols and revolvers. The administration proposal would place criminal fines and that portion of the "Son of Sam" proceeds not claimed by individual victims in a crime victims assistance fund.

Unlike the administration's bill, H.R. 3498 does not include the proceeds of forfeited appearance bonds posted by Federal criminal defendants in its fund. Appearance bond forfeiture proceeds presently go to the general fund of the Treasury. Department of Justice figures indicate that more than \$6 million in cash was collected from that source in 1983. We believe that, as revenue derived from accused criminals who have fled or otherwise avoided prosecution, this money is an appropriate source of funding for the relief of victims of crime.

The administration has proposed to earmark criminal forfeitures for other high priority law enforcement purposes. Under the Comprehensive Crime Control Act of 1983, recently passed by the Senate, racketeering profits, seized drug profits, and customs forfeitures are to be placed in discrete forfeiture funds. The proceeds of these forfeitures are to be used to pay the expenses of the forfeiture, storage, and sale of seized property. Drug and custom forfeiture proceeds may be also used to pay rewards to informers.

Dedication of these proceeds to the purposes cited is critical to the Government's effort to more efficiently and productively combat RICO, drug and customs violations. This critical need and the nexus between the source of the proceeds and their intended use makes it highly appropriate to use the funds in question for the purposes set forth in the administration's earlier proposal.

Although we have no strong objection to imposition of a nominal penalty assessment fee on convicted Federal defendants, it is our feeling that if money coming into the fund from other sources were adequate, this money might best be spent elsewhere for other law enforcement purposes currently under study.

With respect to the tax on pistols and revolvers proposed in H.R. 3498, we understand that the Department of Interior is providing the subcommittee with the administration's views. We, therefore, defer to that agency, whose representatives are present today, in that regard.

As described more fully in my written testimony, H.R. 3498 places many more conditions on State eligibility for victim compensation assistance than does the administration's proposal. Although the conditions H.R. 3498 would place on the States are well-intentioned, they place the Federal Government in the position of dictating State policy on matters that are best left to the States to decide. The nature and extent of compensation a State chooses to pay to victims of crimes committed within its borders must be, first and foremost, established according to the popular will of the residents of the State and their elected representatives. Those policy choices must be made in the context of the fiscal, political, and administrative realities existing in the State at that time.

Mr. CONYERS. Excuse me, Mrs. Herrington, we are now being summoned under second bells for a recorded quorum call, so we are going to stand in recess until this vote is dispensed with.

Ms. HERRINGTON. All right.

Mr. CONYERS. We will resume the hearing with you.

Ms. HERRINGTON. Thank you.

RECESS

Mr. CONYERS. The subcommittee will come to order.

Assistant Attorney General Lois Herrington, please resume your testimony.

Ms. HERRINGTON. Thank you, Mr. Chairman.

The policy choices I was talking about in the State, we felt must be made in the context of the fiscal, political, and administrative realities existing in the States. The Federal Government should respect the States' choices in these matters and act to assert its will only on those issues of overriding national interest. Our bill is designed to permit the State to fashion its own remedies to these problems with Federal assistance available to help the State implement those remedies.

H.R. 3498 would also allocate only 20 percent of the fund to victims' assistance, in contrast to the 50-percent allocated by the administration proposal. Further, the eligibility requirements imposed on prospective recipients of assistance money are much more restrictive in H.R. 3498 than in the administration bill.

For example, in order to be eligible for assistance under the Rodino-Berman bill, an organization must be established exclusively to provide services directly to crime victims. This would apparently render ineligible a broad range of victim service providers—from hospitals to counseling centers to district attorneys' offices—that would be eligible for assistance under the administration's

proposal. We believe that if the organization can provide quality services to victims, it should not be ineligible for funding merely because it provides those services to others as well.

In addition, H.R. 3498 imposes a series of cumulative eligibility requirements on service providers that, in our view, would again constrict the range of organizations eligible for assistance. Our proposal would make eligible those providers who can demonstrate an ability to provide only one of a list of direct services.

This administration is committed to helping the criminal justice system of this Nation provide fair and compassionate treatment to victims of crime. It is obvious that the drafters and sponsors of H.R. 3498 share the same goal. I hope that the continuation of our constructive dialog on these issues will result in the passage of effective legislation that will benefit both the victims of crime and the criminal justice system as a whole.

Thank you, Mr. Chairman. I will be pleased to respond to any questions you or members of the subcommittee may have.

Mr. CONYERS. Thank you very much. We are pleased that we now have the administration proposal before the subcommittee, and we will begin working on it right away.

Could I ask you whether you think the so-called Son of Sam provision may contain the seeds of a constitutional dispute in taking away proceeds and prohibiting the writing activities of those who may be convicted of crimes?

Ms. HERRINGTON. Certainly. As you may know, the constitutionality has been tested, as far as the due process elements of that, in New York.

We are not prohibiting the writing. Our administration provision prohibits the criminal from receiving profits as a result of the writing. The criminals may still write all they want about their story.

Mr. CONYERS. In other words, to you, that solves the problem, that removes any constitutional problem?

Ms. HERRINGTON. We believe that the constitutionality—we looked at that issue—has been tested. That issue passed in New York on the issue of due process, as long as they were able to write the material and it could be made available to the public. That seemed to be the question on which the due process issue arose.

Mr. CONYERS. This legislation has a high priority, I presume, with the administration, and you are urging that we move it forward as rapidly as possible.

Ms. HERRINGTON. Yes.

Mr. CONYERS. The administration bill proposes to reimburse the State victim compensation program for 10 percent of what they pay the victims. The State programs, however, may tell the subcommittee that they are not going to apply for Federal funds because the level of reimbursement is too low. If that becomes apparent, and only a few States would seem to be interested in the money, would you suggest that we consider increasing that percentage, or should we try to deal some other way with that part of the legislation?

Ms. HERRINGTON. Mr. Chairman, I hesitate to speculate on that. I think certainly, if that issue comes up, we will have to address it.

I know that the administration feels very strongly—and the task force did, too, that talked to these victims—that the leadership position of the administration is very important, and of the Federal

Government, and that encouragement to the States is very important. But we felt very strongly that compensation was a State responsibility. We wanted to give them some assistance, not an enormous amount of assistance and take the entire burden.

Mr. CONYERS. Mrs. Herrington, we know that it is hard to get a handle on the amount of money that might be available to the crime victims fund, but do you have an idea of what you might consider to be a minimum amount that ought to be available to ensure that this legislation would provide meaningful help to victims?

Ms. HERRINGTON. When we were on the task force, we felt very strongly—and, of course, things have changed. We found out that there had been increase in Federal fines, there is an increased revenue from that. We felt very strongly that \$40 million would be the base level that we could operate from. That is why, when we put it in our legislation here, we put \$45 million, actually, to \$75 million for the range.

Mr. CONYERS. If the best estimates available to this subcommittee indicate that the funding provisions of the administration will not meet the minimum that you believe is necessary to ensure the legislation will provide meaningful help, do you recommend that we try to find another source of funding or pass in its inadequate status, so to speak? Would the administration support the use of general revenues if that is required in order to provide adequate funding for the legislation?

Ms. HERRINGTON. Mr. Chairman, I know the administration is very concerned that there be adequate funding. I certainly would think that they would consider other alternatives should it be apparent that we could not even meet a \$40 million or \$45 million fund.

However, last year, the revenues from criminal fines alone were \$72 million, a 50-percent increase from the year before. With these new fine collection procedures we have, and also with the new fines levied under the President's Comprehensive Crime Control Act—if that should go through—some fines would be increased, and we think that there would not be this chance of having such a low fund.

Mr. CONYERS. Shortly after the task force report was issued, in a State of the Union Address, the President indicated that the administration would seek to implement that task force's recommendations. The task force suggested that the crime victims fund receive revenues collected through excise tax on the sale of handguns, and the report noted that, "there is little if any relation between handguns and hunting or wildlife activity. There is a substantial relationship, however, between handguns and the commission of violent crime."¹

In view of the President's statement, will the administration be proposing legislation or support existing proposals before us that deal with the handgun provision?

Ms. HERRINGTON. Mr. Chairman, as you realize, this is in the Department of the Interior, and I believe the Department of the Inte-

¹ EDITOR'S NOTE: President's Task Force on Victims of Crime, Final Report 45 (December 1982).

rior is here today to express the administration's position on those issues.

Mr. CONYERS. We don't have them scheduled as a witness. We will probably have to call him up.

Mr. Phenicie, is he here?

Mr. PHENICIE. Yes.

Mr. CONYERS. Good. Would you join us at the table, please. You are the Chief of the Division of Federal Aid of the Department of the Interior.

We have a letter from the Interior Department to Chairman Peter Rodino of the Judiciary Committee, dated March 14, 1984.²

Would you be able to respond to the question I posed to Mrs. Herrington?

Mr. PHENICIE. Would you repeat the question, Mr. Chairman?

Mr. CONYERS. The question deals with the statement made by the President in the State of the Union Address, in which he suggested that the Crime Victims Task Force report's recommendations would be implemented.

The report made certain observations, among which the report noted that, "There is little if any relationship between handguns and hunting or wildlife activity. There is substantial relationship, however, between handguns and the commission of violent crime."

In view of the President's State of the Union statement and the task force's finding, will the administration support any of the proposals that may include the handgun excise tax?

Mr. PHENICIE. Mr. Chairman, it is the administration's position that there is a substantial relationship between hunting and handguns. Many States—49 States excluding New Jersey—do allow handguns as a means of taking wildlife.

The Interior Department has a program that has been going on for a goodly number of years with the States that finances both wildlife restoration and hunter education, and we consider these to be high-priority programs in the Nation, both for our natural resources and for the safe and responsible behavior of hunters when they are in the field.

The handgun tax is an extremely important part of both of these.

Mr. CONYERS. I guess I could interpret that either way. Agreeing with you, maybe we should assume that the task force report on this is still in effect. The President was going to implement the task force's recommendations. Maybe this is one at which there is not a lot of agreement.

But we do have measures before us that make a case for imposing an excise tax on the sale of handguns for victims of crime. Is it your position that that is supported by the administration and yourself or not?

Mr. PHENICIE. Mr. Chairman, we do support the proposal that Mrs. Herrington just brought to you, the administration's bill. The Interior Department does oppose H.R. 3498.

Mr. CONYERS. What about my question, though, on this particular part of it? You oppose that, too?

²EDITOR'S NOTE: See p. 171.

Mr. PHENICIE. The paragraph in the report?

Mr. CONYERS. Yes.

Mr. PHENICIE. I do not agree with that statement as a person, Mr. Chairman.

Mr. CONYERS. Could you tell me—I haven't had the opportunity to go through the letter that was sent to Mr. Rodino by Mr. Arnett—are you familiar with that letter?

Mr. PHENICIE. I have a copy of it, yes.

Mr. CONYERS. But are you familiar with it? I have a copy of it, too.

Mr. PHENICIE. Yes, I am familiar with it.

Mr. CONYERS. I don't want to take the subcommittee's time and—

Mr. PHENICIE. I am familiar with it, Mr. Chairman.

Mr. CONYERS. What is the thrust of that letter, sir?

Mr. PHENICIE. That letter indicates that the administration does not support the H.R. 3498. It asks that the Department of Justice's bill be substituted for it. Then it specifies the case for continuing the handgun tax in the Department of the Interior's programs. It indicates the need in the Fish and Wildlife Service for a continuation of the funding of the use of the fines from fish and wildlife violations for Lacey Act and Endangered Species Act matters. Then it covers the area regarding the Courts of Indian Offenses that I am not familiar with.

Mr. CONYERS. Thank you very much.

If I could return for just a final couple questions, Mrs. Herrington, the administration bill calls for 20 percent of the victims fund to be spent on Federal programs. Is there a particular set of services that that money would be proposed to be used for?

Ms. HERRINGTON. Mr. Chairman, we felt it was very important that the Federal Government put their own house in order, that if we are going to give leadership and encouragement to the States, we certainly should be doing the same for ourselves.

We have, as of now, no existing services available for even training personnel in victims service units within the U.S. attorney's office. We think it is very important that there be training, that there be personnel available, that there be booklets made available for Federal victims of crime—at least to show them where referrals are possible—what other agencies are existing within that area of the particular U.S. attorney's office that have services that might be able to meet the victim's needs. We thought it was very important that the Federal Government do this for the Federal victims.

Mr. CONYERS. While both the task force and the administration have rejected the notion that the Federal effort in the area of victim compensation be limited to running a compensation program exclusively for Federal crime victims, how does that square with the decision to run an assistance program for Federal crime victims?

In other words, we are going to be working on a dual track. You don't think that there will be any shortage of money or that there will be any problems in this?

Ms. HERRINGTON. Actually, Mr. Chairman, I think that we believe that the amount of Federal assistance might be a little high. We wanted to make sure the house was in order and the rest of

this money, as you realize, will be given back to the States for their assistance programs.

But I don't think that they are contradictory when we talk about the Federal Compensation Program. I think it is important to realize we all want to avoid a bureaucracy, we don't want another bureaucracy. We felt that if we tried to compensate Federal victims of crime throughout this United States, we would have to set up review boards, hearings, and all the procedures that go along with doing something that the States are doing quite well in the States that have compensation programs.

That is different from the Federal victims assistance activities within the U.S. attorneys' offices. This would not be a separate bureaucracy. They are already in existence. We are simply going to bolster their handling of Federal victims. As you know, as of now, there is very little available in the Federal system at all. We certainly should take care of the victims that come under the purview of the U.S. Attorneys.

May I just remark on one thing, Mr. Chairman? I certainly don't want to get any more into the Pitman-Robertson issue, but I think it is important to realize that the President did definitely say that he wanted to implement the recommendations of the task force, and that is exactly what we are doing. The source of funding was simply made as a suggestion to the President, not as a total recommendation. These were among the ideas we put in as to sources; other ideas on how to implement these recommendations appear throughout the task force report. But the recommendation itself, the victims assistance fund and the compensation, that is being implemented.

Mr. CONYERS. Thank you for the clarification.

I would like to recognize now the gentleman from Pennsylvania, Mr. Gekas.

Mr. GEKAS. Thank you. I have just a few questions.

One of the main features of the administration proposal as to source of funding would be the diversion of the moneys now collected for forfeiture of appearance bonds, et cetera, into this new fund for victims compensation; is that correct?

Ms. HERRINGTON. That is correct. That is one source.

Mr. GEKAS. I, just out of curiosity, would like to know where that goes now, into the general fund?

Ms. HERRINGTON. Yes.

Mr. GEKAS. What kind of a hole would that put into the general fund?

Ms. HERRINGTON. \$6 million.

Mr. GEKAS. \$6 million.

Ms. HERRINGTON. That was last year, the collection was \$6 million, which is quite a sizable collection when you think about what it is for.

Mr. GEKAS. Does that take into account the—has there been any statistics to show that there is any rise in the amount of forfeiture of appearance bonds as compared to the rise in fines?

Ms. HERRINGTON. No, there has not. I don't think they are correlated.

Mr. GEKAS. I don't think they are correlated either. I just wondered if there was—

Ms. HERRINGTON. There is not a similar statistical rise.

Mr. GEKAS. I would like to trace through with you how a State would be affected and what the current situation would be.

In Pennsylvania, we have a victims compensation program. How many States have or do not have victims compensation programs?

Ms. HERRINGTON. Between 37 and 38 have compensation programs now.

Mr. GEKAS. If the Pennsylvania program is working, and assuming that there are no major complaints—I don't recall any as a member of the Pennsylvania Legislature, it seems to be working fairly well—are we, in effect, bailing out Pennsylvania if we adopt this by those provisions—bailing out where they need no bailing out—by adopting procedures which automatically allow the Federal program to reimburse the Pennsylvania for X, Y, and Z? Would that occur?

Ms. HERRINGTON. That is, I think, an important issue of why we are talking about a 10-percent limit.

Mr. GEKAS. Yes.

Ms. HERRINGTON. I believe that this is what we talked about in terms of leadership and encouragement. We certainly want to encourage these States to do this.

Also, there is the aspect that we do not, as of this time, compensate Federal victims of crime, but your State does. And we are not doing anything to help your State with the compensation of victims of Federal crime.

Now, we are talking about a much larger percentage, because less than 1 percent of all total victims are Federal victims of violent crime. So we are talking about 10 percent as an appropriate level to reimburse states. So that is a little more so. But it does take over that area so that we do not have a Federal bureaucracy.

Suppose your State said that it didn't want to compensate victims of Federal crime anymore. Then we would have to step in and do a whole separate Federal bureaucracy.

Mr. GEKAS. I can see that. I think we can all agree that, for victims of Federal crime, there is a proper place for us to insert Federal legislation. I am just wondering why we would, even though Pennsylvania would benefit from it, go beyond that and compensate them or refurbish their treasury beyond the amount necessary to recompense for their expenditures for Federal crime victims.

I would be glad to get the money as a Pennsylvanian, but isn't it duplicative and overlapping and not demonstrative of any need beyond that which would come about by Federal crime victims in Pennsylvania?

Ms. HERRINGTON. In some States, that would not be the issue; in some States, it would be very much needed. That 10 percent might make a great deal of difference to their particular compensation programs. Some States are not quite so good financially as you mention your State of Pennsylvania is.

I think that it is important to notice that, in the task force, we looked very closely at exactly what we have done for the criminals in our system. Not one of us wanted to take that away. But we do help the criminals with their housing, with their job support, with their rehabilitation, with medical expenses, with psychiatric expenses, with attorneys, with attorneys on appeal. But we do so

little for the victims of crime, the innocent victims, and the taxpayers.

We felt it was very important that we should take a leadership role, show the victims of crime that they must be encouraged to come forward, and that we appreciate what they have done. I think that is a very important message to put out, because they had been treated so poorly throughout the system.

Mr. GEKAS. I believe very thoroughly in the principles you have enunciated just now. I am just wondering how, in the blanket State aid that this contemplates, it becomes a windfall for any States in pursuit of their programs. That is the only thing I am concerned about in the first instance.

The other thing I wanted to touch upon for the record was something that the chairman alluded to. Are you familiar with the letter from Ray Arnett to Chairman Rodino?

Ms. HERRINGTON. No, I am sorry, I am not.

Mr. GEKAS. I just wanted to note that the administration bill—which veers away from the extra revenues from the handgun part of it—this chart that is attached to this letter demonstrates that, in Pennsylvania, there would be a 25-percent loss to his hunter education and wildlife restoration programs.

Is that generally the theme of what you have learned would happen if we did not adopt the administration proposal?

Ms. HERRINGTON. I am sorry, I could not—I think the Department of Interior could answer that a lot better than I can.

Mr. GEKAS. Thank you.

I have no further questions.

Mr. CONYERS. I would like to recognize the gentleman from California, Mr. Edwards.

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

I welcome Assistant Attorney General Herrington. I believe she is from my area, Alameda County.

Ms. HERRINGTON. Yes, I am.

Mr. EDWARDS. I want to congratulate you and the members of your task force. You did really a splendid job.

Ms. HERRINGTON. Thank you.

Mr. EDWARDS. Your task force found that there was a clear connection between handgun violence and victims of crime. But now, apparently, the Department of Interior is going to come forward and say that the administration thinks that the tax on handguns should not go to the victims of crime.

That doesn't quite make sense to me. It seems to me that your recommendation is much better. Have you any idea why the administration changed its mind?

Ms. HERRINGTON. I think the Department of Interior probably would speak to that better, sir.

But I do think I can point out one aspect of this. When we first started on the task force, we, of course, were assuming a different funding level. We were looking at the fines that were collected the year before that were quite a bit smaller than the fines that are now available. We were looking around for any fund source that we could possibly get, and this was one of the sources. And we only said a "possible source of funding."

As it appears now, we will be able to get the total funding from criminal fines without dipping into an already earmarked fund which does go to wildlife preservation and environmental issues.

Mr. EDWARDS. Thank you.

Mr. Chairman, I would like to ask Mr. Phenicie a question.

Mr. CONYERS. Would you come back and join us at the witness table, sir.

Thank you.

Mr. EDWARDS. Good morning.

The Department of Interior administers this Pittman-Robertson fund; isn't that correct?

Mr. PHENICIE. That is correct.

Mr. EDWARDS. Does the National Rifle Association have any formal or legal or informal arrangements in the administration of the programs?

Mr. PHENICIE. Mr. Edwards, no, they do not have.

Mr. EDWARDS. Do they get repayment or anything for managing some of the target practice ranges and things like that?

Mr. PHENICIE. Not that I am aware of.

Mr. EDWARDS. In other words, does some of this money go to them?

Mr. PHENICIE. Not that I am aware of.

Mr. EDWARDS. I was interested in the chart at the end of Mr. Arnett's letter, and I see that wildlife restoration would theoretically lose considerable funds based on the loss of the handgun excise tax.

How much of that wildlife restoration goes to the purchase of new wildlife property?

Mr. PHENICIE. I was going to say in answer to that, Mr. Edwards, that I don't have the answer, but I might have.

Mr. EDWARDS. Isn't it true that—

Mr. PHENICIE. No, I don't have that particular figure with me.

Mr. EDWARDS. To your knowledge, isn't it true that very little Pittman-Robertson money is used for land acquisition?

Mr. PHENICIE. There is quite a bit used for land acquisition.

Mr. EDWARDS. Can you provide that for the last few years?

Mr. PHENICIE. I can provide you that, yes.³

Mr. EDWARDS. My figures are that less than 10 percent of it goes for acquisition, and most of it goes for target range construction and hunter training, and so forth. I would appreciate it if you would provide that to the subcommittee.

Thank you, Mr. Chairman.

Mr. CONYERS. I recognize the gentleman from Virginia, Mr. Boucher.

Mr. BOUCHER. Thank you, Mr. Chairman.

I would like to ask the representative from the Department of Justice if I understand her correctly in saying that it is the position of the Department of Justice that the criminal fines alone, once allocated to this program, would be sufficient to fund the program?

³ EDITOR'S NOTE: See p. 174.

Ms. HERRINGTON. We were talking about the forfeited appearance bonds, and perhaps some proceeds from the Son of Sam. That is our hope, yes.

Mr. BOUCHER. So you have, then, three sources of funding. You have a Son of Sam source—that is what, profits on books that are written?

Ms. HERRINGTON. Any literary or media depiction of the crime.

Mr. BOUCHER. And then appearance bonds that are forfeited, and criminal fines as well?

Ms. HERRINGTON. That is correct.

Mr. BOUCHER. Those three sources.

Ms. HERRINGTON. Correct.

Mr. BOUCHER. Could you estimate for us what the total of those three sources of funding would represent?

Ms. HERRINGTON. I can tell you that, last year, the source of criminal fines was approximately \$72 million. Out of that, there was some overlap with civil fines. The percentage of that, we have had a very hard time ascertaining.

On top of that, we would have \$6 million with the forfeited appearance bonds. We cannot speculate what the proceeds would be from the Son of Sam. It would be too speculative.

Mr. BOUCHER. Is it your position, having worked with the task force that put forth the initial recommendations, that the moneys collected from those three sources and allocated to this program would then be an adequate level of funding for the program?

Ms. HERRINGTON. We felt that if we got in the \$70 million range, we would be getting into an area that we felt would be adequate at that time. I think, of course, we have to see, but that is our hope, that it would be adequate.

Mr. BOUCHER. I notice there is no mention made in your presentation of providing general funding for the program in addition to these certain special areas of funding. Has the administration considered whether or not general funding at some level would be appropriate, and is there a position concerning that?

Ms. HERRINGTON. I am certain you realize the incredible deficit we have. We felt it was very important that the criminal, and not the innocent taxpayer, pay for this program. And there is an entirely different level of funding, of course, in fines in the Federal Government for Federal criminal activity. Many times, the fines are not commensurate with the profits gained. That, of course, was in the President's comprehensive crime bill to enlarge those fines. We think that this is a very good area to explore.

Mr. BOUCHER. The bill which we have before us, the chairman's bill, as I recall, recommends a split in funding for the various programs, 80 percent toward compensation and 20 percent toward victim assistance.

Does your recommendation contain a different split and funding and, if so, what is the difference?

Ms. HERRINGTON. Yes, it does. Our split is 50/50: 50 percent of the fund will be made available for State compensation programs up to 10 percent of each State's payout; and 50 percent will be made available, 30 percent to the States for victim assistance, 20 percent to the Federal victims assistance, and any left over from

Federal victims assistance will be watched over very carefully by a committee, will go back to the States.

Mr. BOUCHER. Under the programs in operation in most of the States, do not victims of Federal crimes have an opportunity to participate in the State programs?

Ms. HERRINGTON. Many times, they do not, only because there is not that access. They go directly to the U.S. attorneys' offices who do not have relationships with the victim assistance programs that are available within the county. That is one of the things we have to establish, that networking, that referral service. And the Federal prosecuting offices must be made aware and get their house in order as to what is available and what is needed. There should be some counseling available, I believe, in the federal system.

Mr. BOUCHER. I think what you are suggesting is not that victims of Federal crimes are prohibited by law from participating in the State programs, but that there may be some gap between the availability of the program and the knowledge of its availability by the victim; is that correct?

Ms. HERRINGTON. Mostly, that is true.

Mr. BOUCHER. If, in fact, the programs and operations in the States do provide eligibility for participation by victims of Federal crimes, I don't see why we need to set up a separate Federal program for those victims.

You were suggesting that 20 percent of the compensation would be available for victims of Federal crimes, and that that would be a federally administered program. I don't see the necessity of doing that.

Ms. HERRINGTON. Many of the victims services that are so well provided for, and using volunteers also, are in the district attorneys' offices, the local district attorneys' offices. I do not think they would be available to support the Federal victims of crime in the U.S. attorneys' offices. I think the Federal U.S. attorneys' offices have to provide their own services in that regard.

Certainly there are many excellent rape crisis centers, family violence centers, that do help victims, no matter where they are victimized. Those we want to help also. But I think it is very important that we have the staff support, referral service, and the organization set up to help the victim. As of now, there is hardly anything in the Federal system at all to even refer the victim. They don't even know about it in the Federal system.

Mr. BOUCHER. So you are suggesting that this 20 percent of the victim assistance funds allocated toward the Federal component would be expended in the U.S. attorneys' offices to assist victims at that level?

Ms. HERRINGTON. I would think the majority of it would be in that, yes.

Mr. BOUCHER. One of the suggestions which recently was made is that we should qualify local law enforcement agencies for participation in the victims assistance program.

I know that, in my State of Virginia, there are some sheriff departments that operate programs that are for the assistance of both victims and witnesses, witnesses other than victims, and the request has been made that they be made eligible for participation

at some level in the victims assistance program. Does the administration have a position concerning that?

Ms. HERRINGTON. Yes. I think that we felt—there were very limited criteria that we set for victim assistance. We felt very strongly that those agencies already in existence, such as the sheriff agencies, that are helping victims and have shown by proven efforts that are helping victims, should be available for these funds if that is what the State chooses to send forth to the Federal Government to request for—that they should be.

I think there is one difference also in the House bill that we are talking about today. I do think that those, like sheriffs, hospitals, prosecuting attorneys, under the House bill—at least as we read the bill—would not be eligible for the assistance—but under the administration's, yes, they would be.

Mr. BOUCHER. What about extending the reach of these programs to witnesses? I am told oftentimes by law enforcement officials in Virginia that witnesses are the forgotten element in the criminal justice system. Oftentimes, they have to come to court, they wind up sitting there for an entire day without the case even being heard; or if it is heard, oftentimes they are not even called; and sometimes they don't even receive the courtesy of notice of the fact that they will not be expected to testify. So they waste a whole day and, oftentimes, many days.

That kind of procedure could be improved greatly, it seems to me, if programs were in operation in the States which provided assistance to witnesses as well. I would think that such a program would clearly aid law enforcement by making witnesses more cooperative in the effort to bring criminals to justice.

Has the administration considered whether or not this program should be extended generally to witnesses other than victims?

Ms. HERRINGTON. Of course, we would hope that it would be extended to witnesses, but we felt that that call was best left to the States. There are some States, such as Virginia, that do consider the witnesses. They would certainly be available with the—they usually call them the victim/witness assistance agencies—they would be available for funds under the administration bill.

They would not be precluded because they are witnesses, but some States do not have that delineation, and we would not like to in any way set a standard that they could not receive funds also.

Mr. BOUCHER. To be sure I understand your answer, you are saying that if we approve legislation which would qualify programs that provide services to nonvictim witnesses, the administration would be supportive of that approach?

Ms. HERRINGTON. No. I am sorry. I must have misunderstood.

We would be supportive of any agency that is supporting victim/witnesses, victims and witnesses. Witnesses alone, I believe, would be precluded. But I don't know of any agency that only supports just witnesses alone. They will usually always support both.

Mr. BOUCHER. I was not suggesting that we preclude assistance to victims.

Ms. HERRINGTON. OK.

Mr. BOUCHER. Let me state the question again.

Ms. HERRINGTON. All right.

Mr. BOUCHER. If the subcommittee approves legislation which would enable programs that provide services both to victims of crime and to nonvictim witnesses, would the administration then be supportive of that approach?

Ms. HERRINGTON. The caveat I would put on that, which I mentioned before, our fear is that putting another condition on the States that they must have support to the victims and witnesses before they can receive our funding. I think we would be hesitant to put another condition. Although, in actuality and practicality, the majority of the States that do have these victim assistance programs also do, correspondingly, have victim and witness.

Mr. BOUCHER. If the legislation did not require that the services be made available to witnesses as well as the victims, but simply authorized those programs which are providing services to both, to qualify for the Federal funding under this legislation, would the administration then be supportive?

Ms. HERRINGTON. I think certainly. I think that is presently the existing fact under this administration bill, they would be available for funding now.

Mr. BOUCHER. Thank you very much.

Thank you, Mr. Chairman.

Mr. CONYERS. You are welcome.

Mr. HUTCHISON would like to pose a question.

Mr. HUTCHISON. Mr. McGuinness, in your statement you indicate that, in fiscal year 1985, the Department is requesting almost \$3.1 million to fund 94 victim/witness coordinator positions for U.S. Attorneys' Offices. That comes from general revenues.

Is that the sort of purpose for which the 20 percent of the fund for Federal uses would be put?

Mr. MCGUINNESS. Mr. Hutchison, the request in the fiscal year 1985 budget on behalf of the administration for the positions to which you refer, first of all, includes also the anticipation that that position would assist in the administration and development of the law enforcement coordinating committees, as well as the victim/witness assistance effort.

In addition to that, I would distinguish it from the 20 percent that is presently in the administration Victims of Crime Assistance Act in the sense that, when we are talking about the victim/witness-LECC coordinator, we are really talking about a position; whereas the contemplation for the 20 percent of the other funds to which you refer and which we are discussing today is really more in terms of programs and assistance efforts than in terms of positions.

If I just might conclude, also, I think it is important to remember that if it turns out that that 20-percent is not required, either at all or to some extent, then it would revert to the State assistance programs, which we think is a very important element of that request.

Mr. HUTCHISON. The way I read section 204 of your proposed legislation, it says the funds may be expended—and this is talking about the 20-percent funds—for the establishment and maintenance of victim assistance positions and units.

Mr. MCGUINNESS. That is correct.

Mr. HUTCHISON. It would seem to be the—

Mr. MCGUINNESS. The same.

Mr. HUTCHISON [continuing]. Same people we are talking about in the \$3.1 million appropriation.

Mr. McGUINNESS. Not necessarily. The contemplation is, first of all, that if a position is not necessary, then the 20-percent funds would not be directed in that way. Additionally, if there were other positions justified, other than the coordinator position contemplated in the other request, those additional positions could be funded through the 20-percent allocation.

Mr. HUTCHISON. What limits are there on the discretion of the administrator to determine what constitutes a victim service? Suppose the administrator decided it would be of service to the victims to fund U.S. attorneys and their assistants to go to intensive training sessions in the Virgin Islands in the winter. Is there any limitation on the discretion of the administrator in the purpose for which those funds could be used?

Mr. McGUINNESS. Surely we would hope that the administrator, whomever that might be, would not support that type of effort. I think they would have to take a look at the overview of the entire picture and the entire program that we are advocating. If those positions were filled, if a program in a particular U.S. attorney's office was ongoing, on track, and didn't need that sort of assistance, clearly it would be our expectation that assistance would not be granted. I think that administrator would have the opportunity to have an overview of the efforts across the country, in the 94 Federal districts, would be able to take that into consideration, would be advised by the committee that is also contemplated in our bill, and would move forward in a consistent manner. That would be our expectation and hope.

Mr. HUTCHISON. One final question. The bill has a sunset provision of 1988, September 30, 1988. If this legislation is as important as you have testified that it is, why should it sunset in 1988?

Ms. HERRINGTON. Are you addressing that to me?

Mr. HUTCHISON. Whomever.

Ms. HERRINGTON. We felt it was very important to have a re-evaluation—how is it working? Is it working as it is intended? Are people being benefited by it? If they are, then, of course, if we think it is important enough at that time, it will be reintroduced with absolutely no problem whatsoever.

But we think it is very important that there be a stop where things can be looked at and evaluated. We do think it is very important, but we want to make sure it is working well and that there shouldn't be any changes in it.

Mr. HUTCHISON. Thank you.

Mr. CONYERS. Counsel Smietanka.

Mr. SMJETANKA. Ms. Herrington, could you please describe the effect of section 202(a)(b) of the administration's bill. I will read it to you. I take it to be a maintenance of effort clause.

It states that the chief executive of the State, in order to qualify for assistance under section 201(a), must certify that funds awarded under section 201(a) shall not be used to supplant available State funds, but to increase the amount of funds expended by the State to compensate victims of crime.

Could you please describe the effect and operation of that?

Ms. HERRINGTON. Our concern was that anytime a State may say we are going to get 10 percent more than we have now, we will cut back our funding 10 percent. Of course, if you take that down the far line, it would not be very smart to do, because in the next year they would less 10 percent.

But this is a big issue when we come to grants, and you are probably aware of that, in the grant area, what my agency supervises mostly. We want to make sure that the States keep going with the funding level that they think is appropriate, and not anticipate Federal funding and cut back on their own funding.

Mr. SMJETANKA. Would this apply only to that portion of the Federal money that is going toward State compensation programs? It would not apply in the area of victim assistance?

Ms. HERRINGTON. It would be very hard. The victim assistance is based on population, percentage of State population, so the incentive for cutting back would not be the percentage of the payout like it is in the compensation program. It is an entirely different incentive. So that would not apply, of course, in the victim assistance part.

Mr. SMJETANKA. Thank you.

Mr. CONYERS. Could I just ask the representative from Interior who is submitting some things in writing to review carefully the Department's records to determine whether the National Rifle Association is indeed participating in any way of any of the money from the Pittman-Robertson fund or through any other programs of Interior.

There has been, apparently, some confusion, because there is an impression that, somehow or other, the NRA was deriving funds, and we would like you to clear that up for the subcommittee.

Mr. PHENICIE. I will do that.

Mr. CONYERS. I would like to thank both the Assistant Attorney General and the Deputy Associate Attorney General for coming, Ms. Herrington and Mr. McGuinness.

You were in some competition today. The Prime Minister of Ireland is holding forth on the floor the House. You will understand why not all of the members of the subcommittee were present.

Ms. HERRINGTON. With names like Herrington and McGuinness, you know we understand.

Mr. McGUINNESS. We can't argue with that, Mr. Chairman.

Mr. CONYERS. Right. I thought that you would want to know the wonderful truth this morning.

Thank you so much for joining us.

Ms. HERRINGTON. Thank you for your interest and concern.

Mr. CONYERS. We look forward to working with you as we bring these two bills into some conformity.

Ms. HERRINGTON. Thank you. We look forward to that also.

[The prepared statements of Mr. McGuinness and Ms. Herrington follow:]

STATEMENT OF WILLIAM R. McGUINNESS

Mr. Chairman and Members of the Subcommittee, I appreciate this opportunity to appear today on behalf of the Department of Justice to discuss H.R. 3498, the Victims of Crime Act, as well as the Administration's Victims of Crime Assistance Act. Assistant Attorney General Lois Haight Herrington will address the substantive

provisions of this bill in detail. Before proceeding to the issue of victim compensation, however, I would like to take just a few moments to discuss our approach to the larger universe of victim assistance issues.

On August 17, 1981, the Attorney General's Task Force on Violent Crime issued its final report. In that report, the Task Force recognized the pivotal role of victims and witnesses in the criminal justice system. Among the specific recommendations of the Task Force was a call for federal standards for the fair treatment of victims of serious crimes and for a study of victim compensation programs.

On April 23, 1982, President Reagan signed Executive Order 12360 establishing the President's Task Force on Victims of Crime. This Task Force, chaired by Lois Herrington, was created to address the needs of the millions of Americans who are victimized by crime each year. The Task Force heard formal testimony in six cities, from over 200 witnesses and consulted approximately 1,000 other experts and victims. The final report of the Task Force, which was submitted in December of 1982, made extensive recommendations for executive and legislative action at the federal and state levels to improve treatment of, and services to, crime victims. Specific recommendations contained therein related to the necessity of federal legislation that would provide funds for state crime victim compensation and victim/witness assistance programs.

During the period when the Task Force on Victims of Crime was conducting its hearings, the Congress commenced deliberations upon the Victim and Witness Protection Act of 1982. That measure enjoyed virtually unanimous support in the Congress and was quickly approved by the Senate and House. On October 12, 1982, the President signed the Victims and Witness Protection Act into law as P.L. 97-291. As you know, the stated purpose of the act is to "ensure that the federal government does all that is possible within the limits of available resources to assist victims and witnesses of crime without infringing upon the constitutional rights of the defendant."

Because of the importance of that Act, the balance of my remarks will be directed to a brief discussion of its most significant aspects and the current status of their implementation by the Department of Justice. Section 3 of the Victim and Witness Protection Act of 1982 requires the inclusion of a victim impact statement as part of a presentence report filed pursuant to Rule 32(c) (2) of the Federal Rules of Criminal Procedure. Effective March 1, 1983, presentence investigations include an appropriate section describing the impact of the offense upon the victim. The primary objective of this provision is to ensure that information pertaining to the effect of the crime upon its victims is brought to the attention of the sentencing court.

With regard to Section 4 of the Act, which involves obstruction of justice and witness tampering provisions, we have communicated to the United States Attorneys in the field as well as to all Department of Justice attorneys the important changes in the obstruction of justice laws and have provided them with detailed guidance through the U.S. Attorneys' Manual, as to the application of these provisions. Significantly, Section 4 of the Act provides for a civil injunctive remedy to restrain harassment of victims or witnesses, and Section 8 of the Act makes non-violation of these intimidation and harassment statutes a condition of any release on bail. The Criminal Division of the Department has maintained ongoing supervision of these statutes to provide necessary advice to prosecutors and to resolve issues which may arise in the application of those statutes.

The Victim/Witness Guidelines mandated by Section 6 of the Act were issued on July 9, 1983, by Attorney General William French Smith. These guidelines entail a significant administrative directive to Department of Justice components with respect to the delivery of victim services and assistance contemplated by the Act. The guidelines incorporate all the recommendations in the Victim and Witness Protection Act of 1982 as well as some proposals of the President's Task Force on Victims of Crime. The basic approach of the Guidelines is to set out general guidance as to the rights of victims and witnesses and the obligations of prosecutors and investigators.

These guidelines apply to all Department of Justice components engaged in the detection, investigation or prosecution of crimes and are intended to apply in all cases in which victims are adversely affected by criminal conduct or in which witnesses provide information regarding criminal activity.

The Attorney General's guidelines establish procedures to be followed in responding to the particular needs of both crime victims and witnesses. They are intended to ensure that responsible officials, in the exercise of their discretion, treat victims and witnesses fairly and with understanding. The guidelines are also intended to enhance the assistance which victims and witnesses provide in criminal cases and to assist victims in recovering from their injuries and losses to the fullest extent possible.

ble, consistent with available resources. Special attention is directed toward victims and witnesses who have suffered physical, financial, and emotional trauma as a result of violent criminal activity. The amount and degree of assistance provided will, of course, vary with the individual's needs and circumstances.

These actions were followed, on August 29, 1983, by a set of comprehensive instructions to all United States Attorneys, issued by Associate Attorney General D. Lowell Jensen, pertaining to the implementation of the restitution provision of P.L. 97-291. Since the restitution provision of the Victim and Witness Protection Act raised a number of issues relating to the prosecution of criminal offenses, these instructions sought to address these outstanding questions and to provide a common Department policy and approach regarding restitution matters.

Concurrent with the issuance of the Attorney General's Guidelines, the Executive Office for U.S. Attorneys distributed materials to all U.S. Attorneys designed to aid their offices in meeting the obligations under both the Act and the Guidelines during the initial phase of implementation. These materials, as well as internal office procedures, are currently being refined. In addition, the Administration's FY 1985 budget has requested \$3,090,000 to fund 94 Victim/Witness-LECC coordinator positions for U.S. Attorneys' Offices. These Victim-Witness coordinators would help to ensure that the Act and guidelines are implemented as fully and expeditiously as possible.

To assist prosecutors, victim-witness coordinators, and other Departmental personnel charged with implementing the Act, the Department has initiated formal training sessions. The Attorney General's Advocacy Institute has for some time included course material directed toward new prosecutors and their responsibilities under the Act. In April, personnel from each U.S. Attorney's Office, investigative agency and litigating division will attend a training session designed to address implementation of the Act. A Technical Assistance Team comprised of Department attorneys has been designated to visit representative United States Attorney's Offices in order to fully assess training needs. Furthermore, the FBI has initiated training of agents at the FBI Academy in Quantico on this subject and the Federal Law Enforcement Training Center in Glynco, is likewise developing a program to be included in their training structure.

Finally, the Department of Justice has forwarded to Congress for consideration the Administration's Victims of Crime Assistance Act of 1984. As you know, this bill would authorize federal financial assistance to state victim compensation programs and would improve the assistance offered by every level of government and the private sector to victims of crime.

Assistant Attorney General Lois Haight Herrington will address the specific provisions of the bill and compare that proposal with H.R. 3498. I appreciate this opportunity to address the Subcommittee.

STATEMENT OF LOIS HAIGHT HERRINGTON

Mr. Chairman, I am pleased to present the Department of Justice's views on H.R. 3498, "The Victims of Crime Act of 1983". This bill is similar in many significant respects to the Administration's recently introduced legislation, "The Victims of Crime Assistance Act of 1984." The technical differences between the two proposals do not obscure our common commitment to the goal of improving assistance to the innocent victims of violent crime.

I would also like to express my appreciation for all the help that this Subcommittee and its staff have provided me, first in my capacity as Chairman of the President's Task Force on Victims of Crime, and now as Assistant Attorney General for Justice Assistance. I hope we can continue to work together on the important subject of Federal financial assistance to victims of crime.

I would like to first describe the key features of our bill, then briefly address the differences between the two proposals.

The Administration's bill implements many of the recommendations made by President Reagan's Task Force on Victims of Crime. The Task Force presented strong rationales for establishing a program of Federal assistance in this area. Foremost among them was that, at present, the States are shouldering the entire burden of compensating victims of crime. The Federal government, however, has a significant interest in compensating and otherwise assisting victims of crime. By helping the criminal justice system to actually work for the benefit of the innocent victim, the Federal government can assure greater cooperation between victims and the system to the substantial benefit of law enforcement nationally. Creation of a Crime Victims' Assistance Fund in the Treasury will help the government restore public confidence in the efficiency and integrity of the criminal justice system.

The thrust of our legislation is to place the Federal government in a leadership role without creating an unnecessary bureaucracy to impose the Federal government's priorities on the States. Under the bill, the Federal government will provide money to the States to encourage them to effectively run their own programs. The States will continue to make their own policy choices on critical elements of their compensation programs. The legislation provides for only minimal Federal guidance in areas of substantial Federal interest that will not interfere with a State's discretion to run its own program as it sees fit.

Criminals—not innocent taxpayers—will provide the money for the Fund. The principal source of funding is the total of all criminal fines collected from convicted Federal defendants, including anti-trust fines. Criminal fines are also defined to include fines imposed for criminal violation of Federal motor vehicle laws, and forfeited appearance bonds posted by Federal criminal defendants.

The best, most recent figures on criminal fines collected by the courts indicate that just under \$72 million in fines was collected in FY 1983. This figure, however, may be unreliable because it is derived from accounts maintained by the Administrative Office of the United States Courts that do not identify collected fines as civil or criminal. GAO is presently examining this issue and hopes to have a draft report available for the Department of Justice in the near future. Our bill would require the Director of the Administrative Office of the United States Courts to report to the Attorney General within one year after the bill's enactment on what steps have been taken to improve the accounting of criminal fines and to assure the deposit of fines in the Fund. The report may also make other recommendations for future Federal action to improve the collection of fines.

Absent reliable data on the amount of fines being collected now, it is not possible to definitively project how much money would be realized in the Fund from this source. It is our expectation, however, that with improved accounting techniques and the enactment of the collection procedures delineated in the Administration's "Comprehensive Crime Control Act of 1983", this source would provide approximately \$45-75 million for the Fund its first year.

Under the bill, the Fund would also receive the proceeds of any contract entered into by any Federal defendant for the sale of literary or other rights arising from his criminal act. This proposal, modeled after the "Son of Sam" laws enacted by 15 States, responds to the requirement of the "Victim and Witness Protection Act of 1982" that the Attorney General report to Congress regarding any Federal laws necessary to ensure that Federal felons do not profit from selling the story of their crimes.

To that end, the bill adds a new Rule 32.2 to the Federal Rules of Criminal Procedure. The new rule would authorize a United States District Court Judge, at any time after the filing of an indictment or information against a defendant, to order any person or organization with whom the defendant has contracted "for the purpose of having his crime or alleged crime depicted in a movie, book, newspaper, magazine, radio or television production, or live entertainment of any kind, or for the purpose of expressing his thoughts, opinions or emotions regarding such crime" to pay in to the clerk of the court any money which would otherwise be paid to the defendant, his representative, or a third party under the contract. Before entering the order, the court would be required to hold a hearing at which the defendant, the person or organization with whom he contracted, any third party beneficiary of the contract, and the victim would be permitted to speak. The purpose of the hearing would be to permit the court to determine whether the order would be warranted in the interests of justice or to redress the injuries of the victim. The defendant or any third party to the contract would have the opportunity to present any legal challenges to such an order at this hearing.

Any monies paid to the clerk would be deposited in the Fund for the benefit of any victim of the defendant's crimes. The victim could receive the funds only after securing judgement in a civil action brought against the defendant for damages arising out of the crime. If no action was filed within 5 years after the first deposit of money into the Fund, the money would become part of the Fund. The only other use to which the money could be put would be the payment of the defendant's legal defense fees. No more than 20 percent of the money put into the Fund with respect to the defendant could, however, be used for that purpose. Upon dismissal of the charges or acquittal of the defendant, the clerk would immediately pay over to the defendant all money paid into the Fund with respect to the defendant.

These sections may serve as a deterrent to any contract ever being entered between a defendant and another party for the purpose listed above. As a result, it may be that no funds will ever be deposited in the Fund from this source. New York's experience, however, has shown that some defendants will still enter into

such contracts in hope of getting better treatment on parole. No projection of anticipated funding from this source can, however, realistically be made at this time.

Fifty percent of the money deposited in the Fund will be available for distribution annually to those States with operating victim compensation programs for the purpose of reimbursing them for ten per cent of their payouts under those programs. To be eligible for this funding, a State must provide the same compensation to nonresident victims as it does to residents, and the same compensation to victims of Federal crimes as it does to victims of State crimes. The States must also agree to compensate victims for mental health counseling required as a result of their victimization.

Thirty percent of the Fund will be distributed to the States (and the territories and commonwealths of the United States) on the basis of their population for the purpose of improving the assistance provided to victims of crime by State governments, local units of government, and nonprofit organizations. To be eligible to receive funding from this portion of the Fund, organizations must demonstrate a record of quality assistance to victims, promote the use of volunteers, demonstrate a commitment from other organizations to provide necessary services to all victims of crime, and assure coordination with other service providers.

The remaining 20 percent of the Fund will be distributed among Federal law enforcement agencies for the purpose of improving the assistance offered by the Federal government to victims of crime. This money could be spent for establishing victims assistance positions or units in Federal agencies, providing services to the victims of Federal crimes, training Federal law enforcement and court personnel in victims assistance, and disseminating information about Federal victims assistance services. A Federal Victims Assistance Administrator appointed by the Attorney General will administer this share of the Fund.

The Administrator will be guided by a Federal Victims of Crime Advisory Committee to be appointed by the President. The Committee would be chaired by the Attorney General, and would include the Secretary of the Interior (to represent, among others, the Park Policy and the Indian Police), the Federal Administrator, such other Federal officials as the President may appoint, and at least two members of the public who have special knowledge of the needs of victims. The Committee would also make periodic recommendations to the President about other actions the Federal government could take to improve treatment of the victims of Federal crime.

The Federal Administrator must seek to avoid funding activities that duplicate assistance already effectively provided by local organizations. The Administrator would also be responsible for overseeing Federal compliance with the "Guidelines for Fair Treatment of Federal Crime Victims and Witnesses" enacted pursuant to the Victim and Witness Protection Act of 1982.

The bill would also provide victims the opportunity to appear at Federal parole hearings to inform the Parole Commission of the emotional, psychological, physical, and financial impact a prospective parolee's crime had on their lives.

The legislation contains a sunset date of September 30, 1988 and incorporates administrative provisions of the Omnibus Crime Control and Safe Streets Act, as amended, concerning nondiscrimination, audit of fund recipients, and confidentiality of information.

COMPARISON OF H.R. 3498 AND ADMINISTRATION PROPOSAL

H.R. 3498's funding and disbursement provisions differ in several respects from the Administration's bill. I would like to touch upon the most significant of these differences.

The Crime Victims Fund created by H.R. 3498 (the Rodino-Berman bill) would receive all Federal criminal fines, the proceeds of all criminal forfeitures, new penalty assessments imposed on convicted Federal criminals, and the taxes collected on the sale of pistols and revolvers. The Administration proposal would place criminal fines and that portion of "Son of Sam" proceeds not claimed by individual victims in a Crime Victims' Assistance Fund.

Unlike the Administration's bill, H.R. 3498 does not include the proceeds of forfeited appearance bonds posted by Federal criminal defendants in its Fund. Appearance bond forfeiture proceeds presently go to the General Fund of the Treasury. Department of Justice figures indicate that more than \$6 million in cash was collected from that source in FY 1983. We believe that, as revenue derived from accused criminals who have fled or otherwise avoided prosecution, this money is an appropriate source of funding for the relief of victims of crime.

The Administration has proposed to earmark criminal forfeitures for other high priority law enforcement purposes. Under the "Comprehensive Crime Control Act of

1983", recently passed by the Senate, racketeering profits, seized drug profits and customs forfeitures are to be placed in discrete forfeiture funds. The proceeds of these forfeitures are to be used to pay the expenses of the forfeiture, storage, and sale of seized property. Drug and custom forfeiture proceeds may be also used to pay rewards to informers. Dedication of these proceeds to the purposes cited is critical to the Government's effort to move efficiently and productively combat RICO, drug, and customs violations. This critical need and the nexus between the source of the proceeds and their intended use makes it highly appropriate to use the funds in question for the purposes set forth in the Administration's earlier proposal.

Although we have no strong objection to imposition of a nominal penalty assessment fee on convicted Federal defendants, it is our feeling that if money coming into the Fund from other sources were adequate, this money might best be spent elsewhere, for other law enforcement purposes currently under study.

With respect to the tax on pistols and revolvers proposed in H.R. 3498, we understand that the Department of Interior is providing the Subcommittee with the Administration's views. We therefore defer to that agency in this regard.

On the disbursement side, H.R. 3498 would allocate 80% of the Fund for victims compensation. From that allocation, each State operating a victims compensation program would receive a grant of up to 50% of its covered costs of compensating victims of State crimes and 100% of its covered costs of compensating victims of exclusively Federal crimes. A State would be eligible for this grant only if its program offered compensation for medical expenses, including mental health counseling and care; prosthetic devices; dental services; other services "rendered in accordance with any method of healing" recognized by State law; and funeral expenses attributable to a death resulting from a compensable crime.

State eligibility would be further contingent on the State's promotion of victim cooperation with law enforcement; its ability to diminish compensation to the extent of a victim's or beneficiary's contributory misconduct; its subrogation to a beneficiary's claims against the perpetrator of a compensable crime to the extent of compensation paid; its nondiscrimination against nonresidents of the State; and its compensation of victims of exclusively Federal crimes.

By contrast, the Administration's proposal conditions State eligibility for Federal victims compensation assistance only on certification of the amount spent by the State for victims compensation during the prior fiscal year, a certification of non-supplantation, and the State's assurances that it will provide compensation for mental health counseling, and compensate nonresident victims and victims of exclusively Federal crimes.

Although the conditions H.R. 3498 would place on the States are well intentioned, they place the Federal Government in the position of dictating State policy on matters that are best left to the States to decide. The nature and extent of compensation a State chooses to pay to victims of crimes committed within its borders must be, first and foremost, established according to the popular will of the residents of the State and their elected representatives. Those policy choices must be made in the context of the fiscal, political, and administrative realities existing in the State. The Federal Government should respect the State's choices in these matters and act to assert its will only on those issues of overriding national interest. Our bill is designed to permit the State to fashion its own remedies to these problems, with Federal assistance available to help the State implement those remedies.

The Administration's bill allocates 50% of the Fund to state victims compensation programs. The provision awarding States up to 10% of their prior year's compensation spending is principally intended to encourage the States in their compensation endeavors, to reimburse them for compensating Federal victims, and to demonstrate a Federal commitment to provide assistance in this area. The 50% match in H.R. 3498 could result in the unanticipated commitment of far more Federal money than necessary in this area, or prove to be an illusory promise to States whose compensation spending accelerated faster than the growth of the Fund.

H.R. 3498 would allocate only 20% of the Fund to victims' assistance, in contrast to the 50% allocated by the Administration proposal. Further, the eligibility requirements imposed on prospective recipients of assistance money are much more restrictive in H.R. 3498 than in the Administration's bill. For example, in order to be eligible for assistance under the Rodino-Berman bill, an organization must be "established exclusively" to provide services directly to crime victims. This would apparently render ineligible a broad range of victim service attorneys' offices—that would be eligible for assistance under the Administration's proposal. We believe that if the organization can provide quality services to victims, it should not be ineligible for funding merely because it provides those services to others as well.

In addition, H.R. 3498 imposes a series of cumulative eligibility requirements on service providers that, in our view, would again constrict the range of organizations eligible for assistance. Our proposal would make eligible those providers who could demonstrate an ability to provide only one of a list of direct services.

This Administration is committed to helping the criminal justice system of this nation provide fair and compassionate treatment to the victims of violent crime. It is obvious that the drafters and sponsors of H.R. 3498 share the same goal. I hope that the continuation of our constructive dialogue on these issues will result in the passage of effective legislation that will benefit both the victims of crime and the criminal justice system as a whole.

Thank you, Mr. Chairman, I will be pleased to respond to any questions you or members of the Subcommittee may have.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, March 14, 1984.

Hon. PETER W. RODINO, JR.,
Chairman, Committee on the Judiciary,
House of Representatives,
Washington, DC.

DEAR MR. CHAIRMAN: This is to provide you with our views on H.R. 3498, a bill "To provide assistance to victims of crime, and for other purposes."

We strongly recommend that the draft legislation proposed by the Department of Justice for a crime victims compensation program be enacted in lieu of H.R. 3498.

Section 301(b) of H.R. 3498 would deposit into a Crime Victims Fund the 10 percent manufacturer's excise tax currently imposed on pistols and revolvers by section 4181 of the Internal Revenue Code of 1954 (26 U.S.C. 4181). The bill would also deposit into the Fund all fines and forfeitures in Federal criminal cases.

Since fiscal year 1971, amounts equal to revenues from taxes imposed on pistols and revolvers, archery equipment, and ammunition by section 4181 of the Internal Revenue Code have, under the Federal Aid in Wildlife Restoration Act of 1937 (16 U.S.C. 669b), commonly known as the Pitman-Robertson (P-R) Act, been covered into the Federal aid to wildlife restoration fund in the Treasury. These amounts have been available, until expended, for grants to States and territories to carry out the purposes of the P-R Act. To date, \$258,648,621 has been deposited in the fund for wildlife restoration and hunter safety projects from the tax on pistols and revolvers.

By law, one-half of the tax on handguns and archery equipment is allocated to State hunter safety programs, including the construction, operation, and maintenance of public target ranges. State apportionments are based on the proportion of the State's population to the national population, to a maximum of 3 percent of the total funds available and a minimum of one percent. The remaining one-half of the tax on handguns and archery equipment is combined with the tax on firearms and ammunition into the Federal aid to wildlife restoration fund. One-half of this fund is apportioned to the States on the basis of the ratio that the area of the State bears to the total area of all the States. The remaining one-half is apportioned on the basis of the ratio that the number of paid hunting license holders of the State bears to the total number of paid hunting license holders of all the States. The apportionments are adjusted so that no State receives less than one-half of one percent or more than 5 percent of the total apportionment.

Enactment of H.R. 3498 would result in the loss of more than \$30 million annually by State and territorial wildlife agencies. The loss of the handgun tax this year, for example, would reduce the funds apportioned for hunter safety programs by more than 70 percent. In addition, wildlife restoration funds would be reduced by more than 14 percent. We have enclosed a table that details wildlife restoration and hunter safety program losses that would occur under H.R. 3498 for each State program, based on the fiscal year 1983 P-R apportionment.

In addition, the provisions of section 301 that require payment of all fines and forfeitures in Federal criminal cases into the Fund would affect certain law enforcement programs of the U.S. Fish and Wildlife Service under the Endangered Species Act and the Lacey Act. The Lacey Act Amendments of 1981 (95 Stat. 1073) amended the Lacey Act and the Endangered Species Act to provide that rewards for information leading to an arrest, conviction, civil penalty, or forfeiture under those Acts shall be paid from sums received as penalties, fines, or forfeitures of property for violations under the Acts. The Department, through the U.S. Fish and Wildlife Service, is now in the process of implementing this reward program and considers it

to be of extreme importance in the Federal Government's overall enforcement effort in the regulation of trade in fish and wildlife and the protection of endangered species. The successful investigation and prosecution of such violations is dependent in many cases upon obtaining inside information. The loss of the reward program would be a significant step backward.

Finally, we note that the Bureau of Indian Affairs maintains "courts of Indian offenses" on many reservations. These courts impose criminal penalties for violations of Federal regulations codified in 25 C.F.R. Part II. The courts have been in existence for one hundred years. Until 1934, they operated on most Indian reservations. After the passing of the Indian Reorganization Act, however, most of these courts were replaced by courts established by Indian tribes that enforced ordinances adopted by those tribes. In recent years, courts of Indian offenses have been used primarily as a stopgap measure on reservations where, for some reason, there is no functioning tribal court. See 25 C.F.R. 11.1.

Although the courts of Indian offenses derive their substantive law from Federal regulations, the question of whether they are essentially Federal or tribal in nature has never been definitively resolved. An early Federal district court decision concerning these courts concluded that a person convicted by one of them had committed "a crime against the United States." *United States v. Clapox*, 35 F. 575 (D. Or. 1888). Much more recently, the United States Supreme Court has stated that these courts were authorized by Federal statute. *Oliphant v. Suquamish Indian Tribe*, 435 U.S. 191, 196 n. 7 (1978). The Supreme Court has also stated, however, that State assumption of jurisdiction over matters subject to the jurisdiction of the courts of Indian offenses "would infringe on the right of Indians to govern themselves." *Williams v. Lee*, 358 U.S. 217, 222-223 (1959). Congress, for certain purposes at least, has explicitly given these courts the same status as tribal courts. 25 U.S.C. 1301(3) and 1903(12). See F. Cohen, *Handbook of Federal Indian Law* 148-149 (1942 ed.) and F. Cohen, *Handbook of Federal Indian Law* 332-335 (1982 ed.).

We believe that cases in courts of Indian offenses, as well as those in tribal courts, should not therefore be considered Federal in nature. Moreover, in general, fines and other penalties are a significant source of funding for tribal courts. Similarly, fines imposed by courts of Indian offenses are used for payment of designated court expenses. It is unclear whether H.R. 3498 is intended to apply to cases in tribal courts and courts of Indian offenses. We believe it should not apply to either.

The draft legislation proposed by the Department of Justice would address all of the concerns outlined above. The draft legislation would not divert funds from the valuable and successful P-R program, would assure that the important reward provisions of the Endangered Species Act and the Lacey Act remain in place, and would specify that cases in tribal courts and courts of Indian offenses would not fall within the purview of the legislation.

We therefore strongly recommend enactment of the Department of Justice's proposal. We strongly oppose enactment of any provisions, including those in H.R. 3498 and similar provisions in H.R. 2470 and H.R. 2978, that would have an adverse effect on the P-R program or the reward provisions of the Endangered Species Act or the Lacey Act, or that would apply to tribal courts or courts of Indian offenses.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

G. RAY ARNETT,
Assistant Secretary.

Enclosure.

	Actual Apportionments Fiscal Year 1983			Estimated Decrease - Fiscal Year 1983 Based on Loss of Handgun Excise Tax			#2
	Wildlife Restoration	Hunter Education	Total FY-83	Wildlife Restoration	Hunter Education	Total Loss	
1 CALIFORNIA	3,582,847	564,600	4,147,447	610,300	451,000	1,061,300	25.6
HAWAII	441,200	188,200	629,400	75,200	150,300	225,500	35.8
IDAHO	1,811,959	188,200	2,000,159	308,600	150,300	458,900	22.9
NEVADA	1,671,080	188,200	1,859,280	284,700	150,300	435,000	23.4
OREGON	2,379,439	308,400	2,687,839	405,400	246,200	651,600	24.2
WASHINGTON	1,866,245	482,825	2,349,070	317,900	386,400	704,300	30.0
GUAM	147,067	--	147,067	25,000	--	25,000	17.0
AMERICAN SAMOA	--	--	--	--	--	--	--
N. MARIANA ISLANDS	147,067	--	147,067	25,000	--	25,000	17.0
2 ARIZONA	2,077,342	318,383	2,395,725	353,900	254,300	608,200	25.4
NEW MEXICO	2,060,153	188,200	2,248,353	351,000	150,300	501,300	22.3
OKLAHOMA	1,757,915	354,393	2,112,308	299,400	283,100	582,500	27.6
TEXAS	4,412,000	564,600	4,976,600	751,500	451,000	1,202,500	24.2
3 ILLINOIS	1,615,059	564,600	2,179,659	275,100	451,000	726,100	33.3
INDIANA	1,344,284	564,600	1,908,884	228,900	451,000	679,900	35.6
IOWA	1,540,424	341,787	1,882,211	262,500	272,600	535,100	28.4
MICHIGAN	3,629,299	564,600	4,193,899	618,200	451,000	1,069,200	25.5
MINNESOTA	2,474,028	477,615	2,951,643	421,500	381,500	803,000	27.2
MISSOURI	2,147,087	564,600	2,711,687	365,700	451,000	816,700	30.1
OHIO	1,762,655	564,600	2,327,255	300,300	451,000	751,300	32.3
WISCONSIN	2,608,503	551,203	3,159,706	444,300	440,200	884,500	28.0
4 ALABAMA	1,488,153	455,699	1,943,852	253,400	364,000	617,400	31.8
ARKANSAS	1,599,830	267,735	1,867,565	272,500	213,800	486,300	26.0
FLORIDA	1,461,392	564,600	2,025,992	248,900	451,000	699,900	34.5
GEORGIA	1,795,558	564,600	2,360,158	305,900	451,000	756,900	32.1
KENTUCKY	1,335,355	428,916	1,764,271	227,400	324,600	570,000	32.3
LOUISIANA	1,662,630	492,471	2,155,101	283,200	393,300	676,500	31.4
MISSISSIPPI	1,392,291	295,278	1,687,569	237,500	235,900	473,400	28.0
NORTH CAROLINA	1,588,375	564,600	2,152,975	270,600	451,000	721,600	33.2
SOUTH CAROLINA	1,975,928	365,398	2,341,326	166,300	291,800	458,100	19.2
TENNESSEE	2,017,620	537,780	2,555,400	343,900	429,500	773,400	30.3
Puerto Rico	441,200	--	441,200	75,200	--	75,200	17.0
VIRGIN ISLANDS	147,067	--	147,067	25,000	--	25,000	17.0
5 CONNECTICUT	441,200	364,035	805,235	75,200	290,800	366,000	45.5
DELAWARE	441,200	188,200	629,400	75,200	150,300	225,500	35.8
MAINE	1,024,157	188,200	1,212,357	174,700	150,300	325,000	26.8
MARYLAND	367,844	493,933	1,061,777	96,700	394,400	491,100	46.3
MASSACHUSETTS	441,200	584,600	1,025,800	75,200	451,000	526,200	52.3
NEW HAMPSHIRE	441,200	188,200	629,400	75,200	150,300	225,500	35.8
NEW JERSEY	468,310	564,600	1,032,910	80,000	451,000	531,000	51.4
NEW YORK	2,600,069	564,600	3,164,669	443,000	451,000	894,000	28.2
PENNSYLVANIA	3,862,670	564,600	4,427,270	657,800	451,000	1,108,800	25.0
RHODE ISLAND	441,200	188,200	629,400	75,200	150,300	225,500	35.8
VERMONT	452,711	188,200	640,911	77,400	150,300	227,700	35.4
VIRGINIA	1,673,046	564,600	2,237,646	285,000	451,000	736,000	32.9
WEST VIRGINIA	1,135,746	188,200	1,323,946	193,500	150,300	343,800	26.0
6 COLORADO	2,289,882	338,411	2,628,293	390,100	270,300	660,400	25.1
KANSAS	1,739,964	276,836	2,016,800	296,400	221,100	517,500	25.7
MONTANA	2,589,113	188,200	2,777,313	441,000	150,300	591,300	21.3
NEBRASKA	1,530,786	188,200	1,718,986	260,800	150,300	411,100	23.9
NORTH DAKOTA	1,226,441	188,200	1,414,641	208,900	150,300	359,200	25.4
SOUTH DAKOTA	1,472,442	188,200	1,660,642	250,900	150,300	401,200	24.2
UTAH	1,775,433	188,200	1,963,633	302,400	150,300	452,700	23.1
WYOMING	1,828,107	188,200	2,016,307	311,500	150,300	461,800	22.9
7 ALASKA	4,412,000	188,200	4,600,200	751,600	150,300	901,900	19.6
TOTALS	88,240,000	18,820,000	107,060,000	15,031,900	15,031,900	30,063,800	

INFORMATION SUPPLIED BY THE DEPARTMENT OF THE INTERIOR

Request by Chairman. Provide figures to the Committee as Mr. Edwards requested of funds spent on land acquisition in the Pittman-Robertson program. Also supply the costs for target range construction.

Answer. Mr. Edwards' question concerned the percentage of the Pittman-Robertson (P-R) funds spent on land acquisition. Lands are acquired by the States in fee title and by lease and easement. Where the benefits are for wildlife, acquisition is done with an approved P-R project. A few projects each year have both fish and wildlife benefits. This acquisition is with an approved combination P-R and Dingell-Johnson (D-J) project. The cost of each program is proportional to the benefits to wildlife and to fish.

Table 1 provides acres acquired and combined State-Federal costs for the years 1975 through 1982. The total cost by year from this table is transferred to the first column in Table 2. States do not always use the maximum 75 percent Federal matching ratio provided in the P-R Act; however, for a cost estimate we reduced the annual State-Federal cost to 75 percent for entry into the second column of Table 2 for the Federal share. The Federal apportionment is applied to this for the percentage of P-R funds used in acquisition.

The percentage in Table 2 is a minimum figure provided to be responsive to the Committee request in a timely manner. The percentage does not include the P-R share of combination projects. The acreages and costs of these combination P-R and D-J projects are provided in Table 3. If the Committee needs actual Federal costs of P-R projects and Federal wildlife costs of combination projects, these can be obtained from project documents by the FWS Regional Office personnel. These are not immediately available in the Washington Office.

Table 4 furnishes the information requested for target range construction.

FEDERAL AID IN WILDLIFE RESTORATION PROGRAM

TABLE 1.—LANDS ACQUIRED IN FEE TITLE AND APPROVED FOR LEASE AND EASEMENT PURCHASE

Year	Fee title		Lease and easement		Total	
	Acres	Cost ¹	Acres	Cost ¹	Acres	Cost ¹
1975.....	31,283	\$5.272	2,285,701	\$.176	2,316,984	\$5.448
1976.....	44,648	12.343	1,649,526	.291	1,694,174	12.634
1977.....	51,951	11.306	2,096,581	.346	2,148,532	11.652
1978.....	38,768	9.822	1,957,562	.439	1,996,330	10.261
1979.....	30,479	9.050	2,608,765	.431	2,639,244	9.481
1980.....	36,603	13.268	3,480,379	.465	3,516,982	13.733
1981.....	38,335	15.798	262,844	.138	301,179	15.936
1982.....	25,612	14.311	220,361	.101	245,973	14.412

¹ Federal-State combined cost (does not include acquisition overhead cost) in millions of dollars.

TABLE 2.—STATE-FEDERAL COST OF LAND ACQUISITION, ESTIMATED FEDERAL COST (MAXIMUM) APPORTIONMENT TO STATES, AND PERCENTAGE FOR LAND ACQUISITION

[Dollars in millions]

Year	State-Federal cost	Estimated (maximum ¹) Federal share	Apportionment to States	Percent for acquisition
1975.....	\$5.448	\$4.086	\$53.470	7.6
1976.....	12.634	9.476	58.600	16.2
1977.....	11.652	8.739	84.400	10.4
1978.....	10.261	7.696	62.900	12.2
1979.....	9.481	7.111	82.200	8.6
1980.....	13.733	10.300	89.000	11.6
1981.....	15.936	11.952	83.394	14.3
1982.....	14.412	10.809	116.960	9.2

¹ 75 percent of the State-Federal cost. This legal maximum is not always used by States.

TABLE 3.—LAND ACQUISITION IN FEE TITLE, COMBINATION P-R and D-J PROJECTS

[Dollars in millions]

Year	Acres	State-Federal cost
1975.....	8,001	\$1.346
1976.....	11,260	2.029
1977.....	2,340	.823
1978.....	10,425	2.938
1979.....	455	.513
1980.....	1,775	.850
1981.....	4,543	2.018
1982.....	1,985	.795

TABLE 4. HUNTER SAFETY-TARGET RANGES

[Dollars in millions]

Year	Hunter safety apportionment	Program obligations		Percent ¹	
		Training	Ranges	Training	Ranges
1972-79.....	\$52.450	\$23.559	\$2.649	44.9	5.0
1980.....	11.288	5.488	.522	48.6	4.6
1981.....	14.200	5.500	.512	38.7	3.6
1982.....	16.980	7.587	.962	44.7	5.6
1983.....	18.820	10.789	.944	57.3	5.0

¹ Remainder of Hunter Safety apportionment to wildlife restoration projects.

Question by Mr. Conyers. Is the National Rifle Association receiving financial assistance from the P-R program?

Answer. The National Rifle Association (NRA) does not receive financial assistance from the Fish and Wildlife Service P-R Program. There two areas of service which NRA provides to a few State hunter education programs. The NRA currently owns and operates three target ranges, one each at Raton, New Mexico; Cheltenham, Maryland; and their headquarters building in Washington, D.C. The Raton and Cheltenham ranges are used in State programs to train some students in hunter safety; however, none of the ranges receive funds from the Federal Aid Program.

The NRA is one of three basic suppliers of training materials for State hunter training programs. The others are the Outdoor Empire Publishing Company (OEP) and State produced. The NRA currently supplies training manuals and related material to 13 States, the OEP supplies 34 States, and 7 States have either developed or supplement their own program materials. Materials purchased through the NRA are usually sold at cost plus a small charge for shipping and handling.

Mr. CONYERS. I would like to now call the Honorable Judge Reggie B. Walton of the Superior Court of the District of Columbia to join us at the witness table.

He was for a number of years an assistant U.S. attorney, as well as a member of the Defender Association in Philadelphia. He testified before the Task Force on Victims of Crime.

We are very pleased to have your statement, Judge Walton. It will be entered into the record, without objection, and made a part of these proceedings. We welcome you to proceed in your own way.

TESTIMONY OF HON. REGGIE B. WALTON, JUDGE, SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Judge WALTON. Thank you, Mr. Chairman. I appreciate being called out of turn. I have other business to attend to, and that is why I asked to be called out of turn.

It is an honor to have the opportunity to appear before the committee to shed some light on my perspective as to why the legislation in question is necessary.

I know that whenever any legislation is under consideration, there should be a need shown for that legislation. My personal experience as a defense attorney, as a prosecutor, and also as a judge indicate, at least to me, that there is a substantial need for the services of victims to be increased. I have the utmost respect for the rights of the accused who are brought into the criminal justice system, but for too long, unfortunately, the rights of victims have not been shown the same respect by our system of justice.

I think that, as a result of that lack of respect, in many instances, crimes go unsolved because many of our citizens have no desire to become involved in the system. I know from my experience as a prosecutor that many times we were unable to prove cases.

In fact, in one instance, I had a first-degree murder case that I prosecuted, and I am certain that our inability to prove that case was based upon the shabby way that several of the witnesses had been treated when they had been involved in the system on prior occasions and, because their needs were not dealt with, they did not want to become involved in the system again and, as a result, we were unable to prove the case against the person who had been charged.

One example that I would like to present to you in reference to a case that I prosecuted involved an individual who had previously been on welfare. She was 26 or 27 years old. She decided that she wanted to acquire a job to instill in her children the fact that you should work in order to sustain one's self. So she got off of welfare and took a job actually making less money than she would have made if she had remained on welfare.

Because of the neighborhood where she lived, she was unable to get any insurance to insure any of her personal goods, but she, nonetheless, decided that she was going to buy a stereo for her children and a TV for her children so that they would have facilities within the home and wouldn't have to be out on the street among a lot of the negative aspects of that particular community.

Unfortunately, while she was away at work and while her children were at school, three young men broke into her home and stole virtually everything that she had worked so hard to acquire. Unfortunately, the system was not there to assist her.

As she sat in my office and explained her plight, she started to cry and said, "Now what am I going to do to keep my children off the streets? All that I've worked for is now gone. I cannot get any insurance because no one will insure me because of my neighborhood." She said, "I might as well go back on welfare because at least I will be getting more money than I am getting now, and the government does not protect me."

I was saddened by that experience. I am sure that if that individual would possibly be the victim again or would possibly be a witness to an offense, she may have a lot of reluctance about becoming involved in our system of justice.

I also had another case involving an armed robbery victim. That was a recent case that I encountered as a judge.

This young lady also held a job in the evenings and did not make a vast amount of money, but she was in school and she was trying to make something of her life. The only way that she was able to do so was by working at night in a restaurant. That restaurant was robbed by three armed individuals and, during that course of that armed robbery, her life was threatened. That event so traumatized her that she could not work that night position any longer. As a result, she had to take a job during the day, and had to change her class schedule which extremely disrupted her planned schedule.

Unfortunately, there were very little resources available to help her. I am certain from her conversations when she testified before me at the sentencing hearing that she was in dire need of some psychological counseling. Unfortunately, such services were not available to her because the money was not there to provide for the victim of a crime.

I think those are two vivid examples that I think support my conclusion that the legislation in question should be funded. I think it is necessary. I think that there will be distinct benefits that will be derived from the enactment of the legislation. I think it will encourage victims of crimes to be willing to come forward, knowing that the system will treat them with dignity and justice, and I think it will encourage witnesses to come forward, knowing that they will be treated with dignity and justice.

For those reasons, I would encourage Congress to enact the legislation in question.

Mr. CONYERS. Thank you very much, judge. We appreciate your coming before us.

You have been through the system at several levels and in several different places in the country. Can you tell this subcommittee how the courts ignore, or disrespect sometimes, the victims and witnesses in criminal matters and how this mistreatment comes about, and how the police do that, and how, if you will, the judges themselves sometimes do that?

Judge WALTON. I think two examples are, one, the requirement in many situations that all witnesses be present at the courthouse when a case is set for trial. Unfortunately many cases—most cases—generally have three or four, sometimes five, six, seven appearances before that case can actually proceed to trial because of the substantial backlog that we have.

Many of those witnesses and victims are not employed by the Federal or local governments, they are employed by private industry. As a result, they are forced to come down, they receive a \$30 per diem for their presence, and if they make more money than that, there is no legislation—contrary to what I believe is in effect in Pennsylvania—that would supplement them for the difference between the amount of the per diem that they receive and the amount that they would make if they had actually gone to work.

So many of those witnesses are forced to come down and receive \$30 and, if they make substantially more than that, they end up losing money, and it becomes a substantial financial hardship on them to continue to come down.

I think that is one example, and that could conceivably be resolved if prosecutors' offices had the facilities to have on-call services.

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The other, which I think is even more drastic than the one I have just indicated, occurs at the time of sentencing. Most judges will know very little, if anything, about the victim and the plight of that victim as a result of what took place involving the crime that they were the victim of.

The reason for that is because the presentence—although I believe that legislation has been changed, as far as Federal offenses are concerned. There is a provision, I understand, now in the United States Code for the presentence report also to have a victim impact statement. That is not the situation in most jurisdictions. It is not the situation in the District of Columbia regarding District of Columbia offenses. Accordingly, you know a lot about the defendant's background; you know little, if any, about the victim's situation as a result of being victimized by this crime. That has a dramatic impact, I think, on what a judge will decide to do.

I believe very strongly that when someone commits a crime against someone and causes them a financial loss, that person should be obligated to repay that loss. Unfortunately, I see few, if any, cases where the prosecutors arrive at the time of sentencing prepared to present to me evidence relating to the financial loss of the victim. Accordingly, I am not in a position to order that the person pay restitution.

I think those are two distinct examples of the lack of consideration that the system shows to victims and witnesses of crime.

Mr. CONYERS. I hear you gently saying that the prosecutors may not always be doing their jobs, and also that perhaps the court has a responsibility to inquire into these matters.

What I have been thinking about as we go through these hearings is that there is, in fact, a lot of things that we could be doing to clean up our judicial and criminal justice shop ourselves, in addition to this piece of legislation. I mean negligent attitudes and unconcern and disrespect won't be overcome merely by us passing the bill. There seems to me to be a need for the judiciary, the prosecutors, the police, and the court officials to begin to examine the problems that have led us to look at victims of crime in a new light.

What do you think about these auxiliary remedies? I know that, in some circuits, the judges are examining sentencing, for example, informal sessions of their own anticipating that there is some kind of sentencing reform on its way. Don't you think that, with a concentration of interest on the part of the bar and the bench and the police associations and the prosecutorial organizations, both Federal and State, we could really begin to clear up a lot of this without putting in some more Hammurabi codes to be lost among all the other titles? Sometimes, as you know how legislation goes, after the first few years, you don't hear about it anymore.

I was going to ask you if the Speedy Trial Act has been of some help. Even though I know the courts are backlogged, we had great hopes that criminal trials wouldn't take more than 100 days except in unusual circumstances, and that was passed with the same enthusiasm.

Could you give me a reaction to this? You are the first witness who has had such a cross-section of experience, so I really would like you to be forthcoming.

Judge WALTON. First of all, I would like to say that if I gave the indication that I was being gentle in my comments in reference to the prosecution, that was a misperception because I wasn't. I feel that in many cases, I think in most cases, the prosecution is derelict in their obligations to the community and to the victim at the time of sentencing.

It seems to me that, in many cases, the prosecutors tend to drop the ball once they have obtained a conviction, and they think it is then the court's obligation to see that further justice is done. That is a severe problem, and I think a lot of that may result from a lack of education within the prosecutor's office regarding their obligation in reference to victims of crime.

Yes, I do believe that there are a lot of things that are presently in place, if perfected, that could improve the plight of the victims within the system if we had the degree of education necessary to cause those those within the system to be understanding of the plight of victims.

I know, pursuant to a recommendation from the President's Task Force of Victims of Violent Crime, that the National Judicial College did, in fact, recently hold a seminar in reference to victims and how they should be treated by the judicial system. That was, when I appeared before the task force, one of my recommendations, which I am happy to see being implemented. I think that prosecutors' offices need the same type of training. And I do believe that there are a lot of things that can be done within our present system to improve the situation. But I do believe that additional funding is needed.

The explanation given to me as to why we do not receive victim impact statements within our court structure is because our social services division which does the presentence reports is so overworked now that to place an additional burden on them would even further delay the amount of time that it takes for them to prepare presentence reports. So I know that, as far as that is concerned, additional funding from some source is necessary in order to ensure that the judges know something about the victims at the time of sentencing.

But I do agree with you that there are a lot of changes that could be made without the expenditure of additional dollars that could improve the system.

Mr. CONYERS. I appreciate your response.

I now recognize Mr. Edwards.

Mr. EDWARDS. Thank you, Mr. Chairman.

I want to thank Judge Walton for a very informative and helpful testimony.

I have no questions.

Mr. CONYERS. All right.

Mr. BOUCHER.

Mr. BOUCHER. Thank you, Mr. Chairman.

I have no questions either. I, too, would like to thank the judge for being with us today. Thank you.

Mr. CONYERS. We appreciate you coming before us. Your interest in this subject matter is demonstrated by your testimony before the task force and now again before the subcommittee. Thank you very much.

Judge WALTON. Thank you, Mr. Conyers.
[The prepared statement of Judge Walton follows:]

WRITTEN TESTIMONY OF JUDGE REGGIE B. WALTON

I have reviewed The Victims of Crime Act of 1983 proposed legislation which is pending congressional action and I support its enactment. While I do not believe it is a cure all for the plight of victims of violent crime, I do believe it is a step in the right direction.

I am sure that whenever legislation involving the expenditure of public funds is pending before Congress, the first question to be resolved is whether there is a need for the legislation. The second question which must be addressed, I would imagine, is assuming there is a need, does the need justify the expenditure of public funds. Or put another way, what benefits will the citizenry derive from the legislation. I will discuss these questions seriatim.

As was vividly depicted during the hearings before the President's Task Force on Victims of Crime and in the report issued by the Task Force, it seems clear that victims of crime have been neglected by our system of justice and that something must be done about the problem immediately. I can assure the committee members that my personal experiences as a defense attorney, prosecutor and now as a judge, totally support the findings of the Task Force and my belief that the legislation under consideration is sorely needed.

While I could cite you many more examples of how victims of crime are left to fend for themselves after being victimized, I will only cite you one example from each of the three positions I have held in the criminal justice system. First, as a staff attorney in the Defender Association of Philadelphia, I was assigned to represent a young man who along with several other young men were accused of burglarizing, assaulting and robbing an eighty-six year old woman. After breaking into her home, the assailants viciously assaulted the lady with a board, killed her dog and cat and took all of her money and food. Although our system of justice appointed me to represent the defendant without cost, the same degree of attention was not afforded to the victim. Unprepared for the rigors of the system into which she had been thrust, this victim was unable to maintain her composure during the preliminary hearing. Without the assistance of a victim's advocate available to ease her tensions, the victim broke down emotionally during cross-examination and declined to identify my client, who boasted after the hearing that he had in fact been one of her assailants.

As a prosecutor for approximately six years, I experienced numerous situations where the services to be funded by the proposed legislation, would have tremendously assisted the victims I encountered daily. One of the most vivid examples was a young woman approximately twenty-six years old, who had previously been on welfare but at the time she was victimized had obtained employment. Her reason for obtaining employment, as she explained to me, was to instill in her two young children the responsibility of working to support one's self. From her earnings, the woman purchased a television and stereo system, so her children would have recreational facilities inside their home and would not have to be out in the street among the dope pushers and the other negative elements of their neighborhood. Unfortunately, three young men seized the opportunity to break into the woman's home and steal her television, stereo system and a host of other items she had purchased. Financially unable to replace these items,¹ the woman sat in my office crying and asked me, "now what can I do to keep my children off the street." Funding should have been available to help her, but it was not.

As a judge, I have seen numerous instances where victims of crime, have been left by our system of justice to attempt to heal their emotional scars and compensate themselves for financial losses which were no fault of their own. One situation which comes to mind, involved a woman who was an employee of a restaurant which was robbed by three armed assailants. During the robbery, which occurred around 2:00 a.m., one of the robbers held a gun to the woman's head and threatened to kill her. This so traumatized the young woman, that she found it impossible to work the night shift any more and therefore had to switch jobs, which resulted in a substantial reduction in salary. It became obvious to me during the sentencing hearing, that the woman, who I permitted to testify, was in need of psychological counseling, which I am sure she could not afford.

¹ The young woman had been unable to obtain renter's insurance because of the neighborhood where she lived.

These are only three of my experiences as a participant in the criminal justice system which cause me to firmly believe that there is a substantial need for the services envisioned by the legislation pending before you. Without federal aid, however, I am confident that such services will never be rendered to the extent necessitated by the need.

Although I believe the need for the proposed legislation is adequately documented by the report of the Task Force and other studies which have addressed the problem, some may, nevertheless, ask if the need justifies the expenditure of federal funds. I believe it does for the following reasons.

I have seen, during my ten years as a part of the criminal justice system, a steady deterioration in the confidence and respect for the system by those it is designed to serve. Much of this decline, I believe, can be directly attributed to the lack of respect shown by the system to victims. I have heard numerous victims complain about the shabby manner in which they were treated by the various components of the system after becoming unwilling participants in the process. Many have said that absent extraordinary circumstances, they would avoid further participation in the process. This attitude, I believe, is one of the reasons many crimes go unsolved.

I firmly believe that when our fellow citizens are forced to become involved in a system designed to administer justice, they should come out of the experience with respect for the process. If this is not the experience of most victims and witnesses, I am afraid we will see an ever growing dissatisfaction for an integral part of any orderly society. I believe the expenditure of federal funds is necessary to restore the confidence of our citizens in our criminal justice system.

I hope Congress will deem it appropriate to enact the proposed legislation as expeditiously as possible. I believe the rewards will be innumerable.

Thank you for inviting me to appear before you as a witness on this matter.

Mr. CONYERS. I would now like to call a panel of two witnesses: First of all, Mary Ann Largen, Director of Governmental Affairs for the National Coalition Against Sexual Assault; and attorney Lawrence Center of Montgomery County, MD.

Ms. Largen has written extensively on the subject of victims services, and has been working in the field of victims services since 1972, beginning as a volunteer counselor with the Washington, DC, Rape Crisis Center. During the two previous administrations, she was appointed by the Secretaries of Health and Human Services to serve on the Secretary's Advisory Committee on Rape Prevention and Control.

Mr. Lawrence Center has an extensive background in the victims area. He was deputy director of criminal justice and the elderly program of the National Council of Senior Citizens. He is a member of the citizens advisory committee of the Montgomery County Crisis Center, and is a volunteer with the Montgomery County Sexual Assault Service and Crisis Intervention Service.

Both have prepared statements, which we are pleased, without objection, to make a part of the record. We will allow you both to summarize your statements. Ms. Largen.

TESTIMONY OF MARY ANN LARGEN, DIRECTOR OF GOVERNMENTAL AFFAIRS, NATIONAL COALITION AGAINST SEXUAL ASSAULT; AND LAWRENCE J. CENTER, ESQ., VOLUNTEER, MONTGOMERY COUNTY SEXUAL ASSAULT SERVICE AND CRISIS INTERVENTION SERVICE

Ms. LARGEN. Mr. Chairman and members of the subcommittee, I am pleased to be here today on behalf of the National Coalition Against Sexual Assault to endorse H.R. 3498.

I would like to acknowledge at the outset what we feel was a significant contribution on the part of the President's Task Force on Victims of Crime. They seem to have changed some of their origi-

nal positions, but basically it was their recommendation upon which this legislation was based.

We do feel, however, that Mr. Rodino and Mr. Berman took those recommendations, tailored them in such a fashion as to much more closely meet the real needs in the field today, and, produced a very fine piece of legislation.

In my written statement, I attempted to give the subcommittee an overview of the victim assistance field and the ramification that H.R. 3498 would have on that field. So, today, if you will bear with me, rather than going over what has already been said in my written statement, I would like to simply expand upon some of the points I raised there. Had I further expanded those issues in my statement, you would have had a 15- or a 20-page statement instead of a 10-page statement.

First, I should say that NCASA is one of but four national organizations representing the crime victim assistance field. Our organization primarily represents nationwide rape crisis centers, though some of our programs do specialize in child sexual abuse or family violence.

The sexual assault service field resulted entirely from private sector self-help initiatives. The first rape crisis centers were founded in 1972, and now constitute both the oldest and one of the largest segments of the victim assistance field today. The crisis intervention model designed by our centers is the most widely used victim assistance model today also.

Rape crisis centers are housed largely in churches, YWCA's, women centers, university facilities, and in private facilities. Some are also located in hospitals, community and mental health centers, police departments, or some other local arm of government.

Regardless of housing, all rely heavily on the use of volunteers to provide their services, and it can be accurately said that all exist on incredibly low budgets; shoestring budgets. Even within those eight States which have authorized appropriations for sexual assault services, the average grant per center per year is less than \$15,000. Of those centers which now receive some funding under the Federal preventive health State block grants, which expire in September, the average grant per center per year is under \$5,000. And, we are talking about many programs which provide services to an average of 100 victims per month—not per year, per month.

Some centers generate income through fees for training or the sale of publications, but they are not, and can never become, self-supporting. This is because victim services are provided totally free of charge. Few victims can afford to pay for these services and there is no one else to provide them.

Yet, as you well know, providing free community services on even a most cost-effective basis, such as reducing staff costs with volunteers, still requires money. You still have to have money for your hotlines, you still have to have money for your rented offices.

The victim assistance field today is basically in financial need, no matter where programs exist. Even if they exist within a public institution, they generally exist as a poor stepsister. When budgets start getting tight, victim assistance is the first program required to cut services. Perhaps the old adage, "Last hired, first fired," applies to these services.

The victim assistance field today is divided between five types of programs. If there are any others, we aren't aware of them. Specifically, these programs are rape crisis centers, child sexual abuse programs, family violence programs, the so-called comprehensive victim assistance programs, child abuse and neglect programs, and victim/witness assistance units. Comprehensive simply refers to programs which provide both crisis intervention and State management services to all victim populations.

There is no verifiable way of knowing exactly how many victim assistance programs exist nationwide, but we believe a very highly educated guess would be around 3,000. Of those 3,000, three-quarters would definitely meet the eligibility criteria of H.R. 3498, and the remaining quarter could also meet that criteria with some modification of their current programs.

Other significant factors noted in the development of the victim assistance field are the trends toward specialization and toward crisis intervention services. As noted in my written statement, the bulk of victim assistance programs today have services which are geared toward specific victim populations, primarily women, children, and families.

There are three reasons for this. One is that these are the most vulnerable members of society; two is that these are most likely to be the victims of violent crime or crimes against persons; and the third reason is that violent crime victims were the first to be recognized by criminologists, mental health professionals, and sociologists as experiencing crises resulting from criminal victimization.

Today, many of us who have spent a great deal of time in the victim assistance field believe that criminal victimization in any form poses a crisis, or can pose a crisis, for its victim. The elderly person mugged on a street corner, for example, may experience more than financial loss or injury. They may also go through periods of such fear and panic as to have a long-term crippling effect on their lifestyle. Even some persons who find their homes burglarized may go through periods of feeling that their personal safety and personal privacy has been so violated as to interfere with their normal functioning.

The list is endless. I could probably give you a thousand examples. But I will simply suggest three more of the most obvious: The person who is victimized by racially motivated vandalism; the man—men are supposed to be strong in this society—who is robbed at gunpoint on a street corner; the victim who is kidnaped during the commission of some other crime. Any or all of these persons can experience crises as a result of criminal victimization.

In my written statement, I tried to point out that crisis is nothing more or less than a significant event which causes significant disruption in a person's life. By that definition, crime is a crisis for its victims.

Most victims can better manage that crisis—Judge Walton was certainly giving some good examples of the aftermath of crime in his statement—most victims can better manage that period in their life with the help of trained empathic counselors or support persons. This help we call crisis intervention.

Crisis intervention is a time-honored technique which has been applied to a thousand social ills. The most common crisis interven-

tion tool used today is the 24-hour hotline. There are thousands—literally thousands—of hotlines nationwide set up to deal with every issue from drug and alcohol abuse to potential suicide. We have community hotlines that deal with such everyday problems as employment, loneliness, and even the pain of adolescence.

We feel—"we" meaning my organization—feel that the victims of crime deserve and need the same kinds of services. We have been pleased that no witness before this subcommittee, at least so far, has voiced any objection to the crisis intervention criteria. We have, however, noted objections to the eligibility criteria which requires that that crisis intervention be provided on a 24-hour basis.

Without giving an elaborate response to those objections—and I could speak for several hours in response to those objections—I will try simply to point out some very practical realities to the subcommittee.

One has already been noted by an earlier witness, and that is that criminals do not keep business hours. Crime occurs at all hours of the day and night. The pain and the anguish experienced by the victim does not occur at someone else's convenience.

I would like to add to that, that each victim experiences crime differently. Some will experience such problems as sleeplessness or even health disorders related to stress. Some will go through emotional disturbances such as depression, extreme uncontrollable anger, or possibly even develop suicidal tendencies. Every victim is an individual and each experiences crime differently. Because of this, the type of help which is needed, and when it is needed, must be defined by the victims themselves, not by someone else's convenience.

In my own past experience as a rape victim counselor, I have encountered many victims who have called a center immediately following an assault so distraught and so upset that they felt completely unable to face the police or even face the hospital emergency room alone. Had there not been someone there to go with that victim, chances are their very medical needs would have gone unattended.

Further, crisis reaction, meaning a full range of strong emotions, tends to ebb and peak for many weeks, days, months after a crime has occurred. Because of that, help continues to be needed at all hours of the day and night while the victim is going through this recovery process.

Again, without a lot of elaboration, I will simply give an example of a victim who I counseled a number of years ago. This woman was raped in her home by an intruder in the early morning hours of a very dark, stormy night. For 3 months after that assault, during every dark, stormy night which occurred, she relived the experience in her mind. If I had not been there to talk away the hours with her during those nights, the next day she would have been totally unable to function—unable to go to work, unable to tend to her children, unable to tend to her own basic needs.

If help had not been available, in time—I should mention, that she was eventually weaned from that dependency and able to resume her normal productive life. But if someone had not been there when she needed them, through that period, I, quite frankly,

shudder to think what the long-term consequences for her would have been.

It is true that not every victim needs immediate access to help. But it is equally true that many, many do. If the purpose of crisis intervention is to intervene effectively in a crisis, then common sense alone dictates that help must be there when it is needed, and clearly only the victim can determine when that is.

I am not going to spend any time today reviewing—

Mr. CONYERS. You wouldn't mind summarizing today, would you? I have another panel coming on after you, and I know the members are going to be leaving fairly shortly. Some already have.

Ms. LARGEN. OK.

Mr. CONYERS. If you could help me there, I would be very appreciative.

Ms. LARGEN. I was just going to say that I am not going to go into any more discussion about the types of services, both victim and advocacy, that programs like ours provide, because you have already heard testimony to that effect and you will hear more testimony in the future.

What I am going to do is leave with the subcommittee for its interest sample programs and materials from the various services, so if you want to get a better sense of what they are, you can do that.

Mr. CONYERS. Thank you very much. I think we will receive those materials, and I think they should be very helpful to the committee.

Mr. CONYERS. We will turn now to attorney Lawrence Center for your summary remarks, sir. Welcome to the subcommittee.

Mr. CENTER. Thank you, Mr. Chairman. I appreciate the opportunity to testify today on behalf of the victims of crimes bill.

I think I have a somewhat unique perspective because, as you mentioned, I did work on a professional basis with crime victim programs all over this country when I worked with the Criminal Justice and the Elderly Program for about 4 years doing evaluation, technical assistance, seminars for service providers, and the like. Now I am working as a volunteer for the Montgomery County Crisis Center in Montgomery County, MD, and serving on their citizens advisory board.

I just want to comment very briefly, because I know you are pressed for time, on several issues that have arisen in prior testimony and that Mary Ann has touched on briefly. She spoke very articulately about the crises through which crime victims go.

However, no one this morning yet, as far as I can tell, has talked about what we call secondary victims. I want to make it clear to the members of the committee that sexual assault is not necessarily a women's issue, although one of the myths surrounding sexual assault is that it is.

What I am trying to say is that I would not be serving as a male volunteer for a sexual assault program if the only people being helped were women, because in some cases, it is true that a woman who is sexually assaulted an hour ago does not want to see a male volunteer come to the hospital. They are developing negative attitudes toward men obviously as a result of the rape.

But usually at the hospital with the rape victim is the boyfriend, a husband, a mother and/or a father who need as much counseling

and as much attention and as much assistance very often as the victim does herself. It is too frequently that people don't understand that these people intimately associated with the victim, whether they be relatives or friends, are going through crises themselves. That is one of the reasons why the Montgomery County Sexual Assault Service employs volunteers to go out to hospitals with professional counselors to do counseling.

Very briefly, I just want to touch upon one example. Last summer, I was called out on a case where a 16-year-old girl had been sexually assaulted by about 25 boys. I went to the hospital where she was with her parents. The girl was somewhat in a state of shock. However, her father was ready to kill the boys, and her mother was ready to kill her for having gotten into a situation like that. The parents were in conflict, calmed down after a couple of hours, came in for counseling, individually and together, at the crisis center for several weeks, and then decided to go get private therapy with a psychiatrist.

Only 2 weeks ago, I found out that the family had recontacted the crisis center because, since that time period, the girl had begun acting out, her grades had gone down in school, she had been acting promiscuously, and having all kinds of problems. It impacted upon the family, created tensions between the husband and the wife, and the family basically went out of control. I am not saying that this was caused completely by the rape, but I think it was a significant factor.

So one criminal incident like this had a long-lasting significant effect on the whole family. That is why I think it is important that you realize that enactment of this bill will help not only crime victims themselves, but all the people who are associated with those victims and are feeling some of the same anger, depression, revenge, and guilt that the victims themselves feel.

One other point I want to touch upon is two of the criteria that are included in the bill. One is the crisis intervention mandate and the 24-hour capability. I just want to echo what Mary Ann said, in that criminals don't look at the clock and crime victims need help usually right after the crime.

It is a myth that most crime occurs at night, but it is unfortunate that many of them do. Not only are victims in need because a crime has just occurred at night, but, like she said, very often, a crime could have occurred 5 or 10 years ago—very often this happens with incest victims—and they will all of a sudden go into an anxiety attack in the middle of the night and need someone to talk to.

Two nights ago when I was working on the hotline, a woman called threatening suicide based on the fact that she had been raped a week before and was having terrible feelings and emotions about it. It turned out not to be a serious suicide threat, but if that woman did not have someone to talk to at that time, who knows what would have happened.

That is the one criterion that I think should stay in the bill and be supported.

The second one is the use of volunteers. Unfortunately, in this year of shrinking Federal and State funds, it has become clear that volunteers are necessary for these kinds of programs. I read earlier

testimony from some people who have concerns about the use of volunteers for victim assistance counseling. Some people have intimated that volunteers don't work well in minority neighborhoods, and other people have said that the victims may not be well trained to do specific crisis intervention counseling.

My experience tends to show just the opposite. When I was working for the Criminal Justice and the Elderly Program in six major cities around the country, including Washington, it was my impression, although it is just an anecdotal impression, that victims who live in what we would call transitional neighborhoods had more trust for volunteers who were of the same ethnic background and who lived in their neighborhoods than they did for professional counselors who may have lived out in the suburbs on the other side of the city.

When someone has been victimized, one of the first things they need to do is regain a sense of control. One of the best ways to do that is to put trust in somebody else. So I think it is important and critical that volunteers be used in that fashion.

The second thing is that, based on my experience with the crisis center in Montgomery County, which I feel is one of the best ones in the country, volunteers, if they are well trained, well supervised and well motivated, can do victim assistance counseling. Not only can they do it, they have to do it, because in this era, health departments and other agencies which sponsor crisis intervention programs can't afford to have just professionals.

In the last fiscal year at the Montgomery program where I am a volunteer, volunteers contributed 8.2 work-years to the program, which is a savings, I would say, of at least \$150,000. These volunteers, like me, go out to the hospitals to visit victims, do telephone counseling, help victims all the way through the criminal justice process up through conviction and beyond—hopefully conviction. Without them, this crisis center, which I think is a model, could not exist. I have been told that by the director and representatives in the Montgomery County Health Department.

So I would also support the mandate in the current bill that volunteers be used to help fund victim assistance programs.

That is a summary of the highlights of my prepared statement, I would like to take any questions, if you have any.

Mr. CONYERS. I have a question I would like to pose to both of you.

If you have been able to look at any of the other bills, can you tell me the parts in all of the bills that you have the greatest trouble with? Are there parts of any of the bills that you would bring to the attention of the subcommittee to review particularly carefully?

Ms. LARGEN. Are you speaking now of the bill that Mr. Fish introduced some time ago which was similar to Mr. Heinz and Mr. Grassley's bill?

Mr. CONYERS. Yes, ma'am. I am talking about all the legislation before us. Are there parts of them that you would be very circumspect about and, if so, what are they?

Ms. LARGEN. Well, I have not seen the administration's bill. What I know of the administration's bill is what I heard here today, and there were several concerns that flagged my attention.

First of all, I do not know what the total Federal jurisdiction crime victim population is, but I know that for sexual assault, it averages about three victims per year. So I suspect that the total victim population under Federal jurisdiction is a very, very small one, so I have difficulty understanding why the administration feels they would need 20 percent of the victim assistance money to serve that particular population, especially when the vast majority of crime occurs at the State level.

Also, Mr. Boucher has raised the point about Federal jurisdiction victims using private services. There is in Virginia, as you are well aware, a Tidewater area program which serves one of the largest military populations in the State. That is a typical victim assistance situation. Victim assistance programs where they exist, with the exception of the victim/witness unit within local prosecutors' offices, provide the same services to Federal jurisdiction victims, tourists, travelers, anyone. In other words, anyone who is raped within that community and needs help, for example, will get it. So I do not understand why they feel they would need 20 percent of the victim assistance money.

Another thing which concerns me—and something which you are well aware of since this subcommittee certainly had some say—there was a Federal Victim and Witness Protection Act that was passed in 1982. One of the things which that particular bill did was require U.S. attorneys' offices to provide case management services to Federal jurisdiction victims. There was no money attached to that bill. In fact, the bill was sold on the grounds that these are services a prosecutor should be providing as a routine part of case management; and they should have been doing this years ago. It is too bad, but we have to legislatively require them to do it.

Nonetheless, the bill has been passed, and the Department of Justice is implementing those guidelines. Unless they also want to establish crisis intervention services through U.S. attorney's offices for what would be a very small number of victims, I don't understand why they need that much of the victim assistance money.

The other thing which concerned me today was their offer of an alternative to the handgun excise tax funds which I feel—without knowing a lot about the alternative—is speculative. At least with the handgun excise tax, you have a revenue source which has been around since 1970, you have been able to judge its growth and its stability over the years, and it seems to me a much more viable source of funding than what the administration is proposing.

I am aware that the NRA strenuously objects to the diversion of those moneys from the Pittman-Robertson fund, but I would like for this subcommittee to consider two things. First, we need a stable fund, not a speculative fund. Victim assistance programs have lived on speculation for 12 years now. They need more security than that.

Second, when the handgun sales tax was approved back in 1970, there was no victim assistance field; there were no competing interests for Congress to consider in deciding how that money should be used. Now we have a field which reflects great social need; and I think it is simply a matter of a judgment call on the part of this Congress as to whether or not what is now being done with the money—which is supporting recreational activities of hunters—is

in the better interest of society than supporting crime victim assistance.

So, for stability and security's sake, I would prefer to keep the funding items that you have identified in your bill.

Mr. CONYERS. I appreciate your feelings about that. Attorney Center.

Mr. CENTER. Mr. Conyers, I would like to just make a brief comment about a point that Tom Hutchison raised about the administration's bill.

I would like to make sure that all the money that is raised as a result of this legislation goes to help crime victims. I am concerned that perhaps some of this money may end up funding positions of coordinators who are administrators or paper pushers and the help will not get down to the victim.

Too often in the past—and I think things have changed for the better—victim/witness units in prosecutors' offices have had as their primary motivation higher conviction rates. And that motivation is not necessarily parallel with helping the crime victim. In fact, the judge talked about that a little while ago. Sometimes once the conviction is in, the victim drops by the wayside.

If crime victim/witness units are funded through this legislation, I would urge that something be built in to make sure that there is more involved than just getting better convictions or higher conviction rates, that actual assistance does get down to the victim to help him or her through the crisis and through the criminal justice system.

Mr. CONYERS. Thank you.

The Chair recognizes Mr. Boucher.

Mr. BOUCHER. Thank you, Mr. Chairman.

A question that I would propound to both witnesses is to make certain comments concerning a few of the recommendations that we heard earlier from the administration.

To begin with, the 50/50 funding split. I assume that you would favor that in the alternative to the 80/20 funding split for compensation programs versus assistance programs contained in Chairman Rodino's bill. Am I correct?

Ms. LARGEN. Yes, we would, assuming that all 50 percent of the victim assistance went to States and not to the Federal Government.

As I indicated in my written statement, there are only 40 jurisdictions which have crime victim compensation programs, while all 50 States, the District of Columbia, and three U.S. territories have crime victim assistance programs. So simply by virtue of their numbers and the numbers of victims they serve—and also the inadequate funding available—crime victim compensation programs do have State support and most victim assistance programs do not—we feel that they are most in need and would favor a more equitable distribution of the funds.

Mr. BOUCHER. How about the statement by the administration's witness that programs which provide assistance services to nonvictim witnesses would be appropriate? That came in response to a question I asked, and it is related to a concern that I have, that oftentimes witnesses who are not the actual victims of the crime are not treated as equitably in the criminal justice process as they

should, and that perhaps programs should be funded which provide services to them. What is your view about that?

Ms. LARGEN. Under H.R. 3498, the question is not who provides the services, the question is, "What type of services are you providing?"

This bill calls for the provision of crisis intervention services, which are distinct from criminal justice case management services.

Now, then, where witnesses of crimes are concerned, there may be occasions when the witness to a crime, the nonvictim witness to a crime, may have problems, may need to talk to someone, may need counseling, may experience some crisis from having witnessed a crime. But more often than not, what witnesses to crimes need are case management services.

In this particular case, I think what Judge Walton was saying is that the criminal justice system, without any funding, could already do a lot to provide those services and better treatment of witnesses.

Mr. BOUCHER. As I heard his statement, he was suggesting that some sort of on-call system should be established which would let witnesses know when their testimony was required so that the witnesses might not have to sit there all day.

Ms. LARGEN. That is case management services.

Mr. BOUCHER. I grant that that is a case management service.

But I think he was also suggesting that, given the resources that the law enforcement agencies and the court system presently have available, funding for that type of service just is not there, and that some additional funding would be required in order to bring it about. Maybe I misinterpreted it, but that is what I thought he said.

Ms. LARGEN. You interpreted him correctly.

However, there is something I would like to point out. The victim assistance field, as I mentioned earlier, sprang from private sector initiatives. Essentially, government was not responding to the needs, so private citizens designed ways to meet their own needs, and in a much more cost-effective manner than government could.

There is nothing that would prevent, let's say, a district attorney's office from becoming eligible for funding under this bill by killing two birds with one stone. First, provide the crisis intervention services that are not being provided through a 24-hour hotline. They could still call and notify victims or whatever, and use volunteers to do both. The law schools are full of students who would love to get some credit for their studies by working in prosecutors' offices and being involved in victim assistance services. Money should not stop those services from being provided.

If the prosecutor wanted to simply provide the case management services without funding from this bill, they could still set up the same kind of a program. Yes, it requires a little staff time to supervise volunteers, but it is not that costly.

Mr. BOUCHER. Would you agree that it is appropriate for a local law enforcement agency to have such a service to use volunteers and to provide services to victims of crime, but at the same time to provide some assistance in case management to witnesses?

The reason I would adjust your hypothetical slightly is because that reflects a real situation in Virginia. We do have several law

enforcement agencies now, sheriffs' offices in some of our counties, that are providing exactly that kind of service. They are providing intervention services to victims, and they are providing case management services, as you use that term, to witnesses. It seems to me that that kind of service is deserving of funding under this legislation.

How do you feel about that?

Ms. LARGEN. Let me follow you, because I was only aware that there was one such program in Virginia.

Mr. BOUCHER. I am not aware of a great number. I am aware of one myself.

Ms. LARGEN. OK.

Mr. BOUCHER. But it seems to me that it is a good prototype. I have received a request from our State sheriffs association to inquire as to the views of others with regard to making programs like that eligible under this bill.

Ms. LARGEN. OK. But let me understand your question.

This program provides both crisis intervention and case management.

Mr. BOUCHER. That is correct.

Ms. LARGEN. The program would be perfectly eligible for funding under this bill.

You see, there is nothing that says you have to do one or the other; it simply says that you have to provide crisis intervention.

Mr. CENTER. Let me add something.

Mr. Boucher, in the last several years, more and more district attorneys' offices around the country have adopted case management or victim/witness programs because they have seen the impact of disorganization, or lack of respect as Mr. Conyers called it, for the victim and the victim/witness.

Also, the provision of these services does lead to better conviction rates and does provide a measure of support for crime victims. But it is also true that witnesses sometimes go through crises and do need crisis intervention counseling. So, in a jurisdiction where programs do not exist, it would be helpful for the district attorney's office to provide both services, crisis intervention and case management.

Mr. BOUCHER. I agree with you wholeheartedly.

Let me ask, though, for your interpretation of this language, because I am reading it somewhat differently than you are. I am looking on page 4 of the bill, under section 202, where it provides that programs eligible for funding would be either a nonprofit organization, a program of a State or local government or a combination of both.

I assume that a sheriff's office that provides the services we were discussing would be a program of a State or local government.

But then the further qualification is on page 5 which says that even though the program meets one of these three categorical descriptions, that it must be established exclusively to provide services directly to victims of crime generally.

Now, if it is providing services to witnesses and case management also, it doesn't meet the requirement of this language, does it?

Ms. LARGEN. I am glad you brought this up. Mr. Conyers urged me to hurry on, and I didn't have a chance to get to this.

There are a couple of issues here. First of all, if you go back to line 17 and look at section 202, it says a program, not necessarily an organization, but a program, a singular component within some entity.

On line 22, we were going to make the recommendation that you strike the semicolon on line 22 and add "nonprofit organization," and then reinsert the semicolon, because where nonprofit organizations are concerned, this language looks like if you are a hospital or if you are a YWCA and you do something besides victim assistance, you are not eligible for funding. I don't think that is what was meant. What you really meant was that only the victim assistance program would be funded. So that is a problem on line 22.

Now, on the next page, if you follow my thought, we are still going from line 17 and 18 where we are talking about programs, what it really says on page 5 is that the *program* is established exclusively to provide services, not that the *grantee* must be established exclusively to provide services.

Mr. BOUCHER. But the program in this case is established not exclusively to provide services to victims, it is established for that purpose and for the purpose of case management with regard to witnesses.

Ms. LARGEN. Right.

Mr. BOUCHER. So it still would not meet the statutory requirement.

Ms. LARGEN. No.

Mr. BOUCHER. Without rewriting the statute at this point, let me simply ask, do you support an amendment which would expand this parameter to include programs that are operated by law enforcement agencies or other local government entities that provide services both to victims and to witnesses as well?

Ms. LARGEN. In our opinion, they are already eligible for funding if they provide crisis intervention services. So there is no need to make any changes.

Mr. BOUCHER. If they are not established exclusively to provide services to crime victims, if they are established to do that and to provide case management, they are not qualified, are they not?

Ms. LARGEN. I am saying to you that I don't think this language excludes them, this that language is referring to the program and not the agency that would receive the funding. But you might ask your counsel if that is the correct interpretation.

Mr. BOUCHER. I don't want to quarrel, but I would suggest to you that there is a substantial question here as to whether a program that provides both of these services instead of only the one which is required by this language would qualify.

My question to you is, if we want to change the language to clarify that point, to make it clear that a program that provides both of those services would be eligible for funding, would you support or oppose that?

Ms. LARGEN. If you feel that any change is necessary to clarify, I can't imagine any objection we would have.

Mr. BOUCHER. Thank you very much.

Thank you, Mr. Chairman.

Mr. CONYERS. Did you have a reservation, Mr. Center?

Mr. CENTER. The only point I wanted to make, Mr. Conyers, was something that I said a little while ago, that I have a concern that the eventual recipients of this funding be victims. I am not saying that I disagree with Mr. Boucher, but if you end up funding a program that provides both victim assistance, crisis intervention type victim assistance, and victim/witness case management, how do you differentiate or how do you divide their funding between what percentage of their work is case management and what percentage of their work is victim assistance. If 80 percent of their workload is case management and only 20 percent is victim assistance, then, according to the model, they would receive funding. Where do you draw the line? I am just not sure.

Mr. BOUCHER. Let me suggest that in the bill in the earlier sections, the chief executive officer of each State is given the discretion to award funding to various victim assistance programs throughout the State based on applications submitted.

I think one would simply have to trust the discretion of the chief executive officer or his designee to award funding to those programs that provide the kinds of services that the bill contemplates.

Mr. CENTER. I guess that is the issue we are talking to, that specifically what kinds of services does that contemplate.

Ms. LARGEN. May I also add something here?

As I indicated in my statement a while ago, our programs—some of them, certainly not all of them—some of them are already receiving Federal funding through the preventive health block grants which expire next September. Now, Congress, in its wisdom, in passing those block grants, made absolutely certain beyond any shadow of a doubt in the language of the bill, and in the language of the committee report, that the money was to be spent for rape services, and not for anything else.

Yet, despite that, any number of States tried to funnel that money into family services, any number of States tried to funnel the money into law enforcement training, any number of States tried to set up State study commissions instead of doing services. I could go on indefinitely about what States, in their discretion, tried to do with the money which Congress explicitly intended to be used for one purpose. So if you are implying that chief executives can be totally trusted, I am sorry, but I don't think they can.

Mr. CONYERS. We will watch them carefully. I think you raised an important language point that the subcommittee will look at very carefully.

Again, I want to thank you very much for joining us. Your testimony has been very valuable to our work.

[The prepared statements of Ms. Largen and Mr. Center follow:]

STATEMENT OF MARY ANN LARGEN

Mr. Chairman, Members of the Subcommittee. On behalf of the National Coalition Against Sexual Assault, the nationwide rape crisis centers it represents, and the thousands of women, children and families served by those centers, I am pleased to appear before this Subcommittee today to express our support for the Victims of Crime Act of 1983.

We believe H.R. 3498 reflects a shift in public sentiment and public policy on victims of crime seen over the past decade. We are pleased to note the bipartisan support which has surfaced in both Houses of Congress for the creation of a crime

victim assistance fund. We trust that this legislation will meet with the same unanimous success as did the Victim and Witness Protection Act of 1982.

The concept of a federal fund to supplement states' efforts in providing crime victim compensation and assistance originated with the President's Task Force on Victims of Crime. The 1982 Task Force recommendation for legislation to create such a fund resulted from months of hearings and deliberations on how to best meet the needs of crime victims, the propriety of federal involvement in what is primarily a state problem, and cost considerations. From this year-long study, the Task Force concluded that federal support for states' efforts was highly appropriate and with precedent in federal aid to state prisons and other offender-related programs. Further, federal assistance to states' programs was deemed a more cost effective means of meeting the compensation and assistance needs of victims of crime under federal jurisdiction, than the alternative of creating a costly new federal program to service the comparatively smaller federal victim population.

The goals of the Task Force in recommending creation of a crime victim assistance fund were quite specific. The Task Force believed, and NCASA concurs, support for states' victim compensation programs should help solidify state efforts to maintain current levels of compensation for victims; and, should encourage states without such programs to create them. Further, support for state and local victim assistance programs should help ensure their continuity and maintenance of appropriate levels of service.

In an attempt to create a federal fund which is self-sufficient and requires no funding from general tax revenues, the Task Force proposed a more creative use of existing revenues. Specifically, it recommended that the new fund rely in part on revenues now collected, or potentially collectible, as a result of criminal activity; supplemented with the excise tax on the sale of handguns. The rationale behind the latter was that such a diversion would create no hardship on the Pittman-Robertson Fund and would direct the proceeds of this tax to a goal more closely related to the items which give rise to the revenue.

Finally, the Task Force recommended the new Fund be divided into two equal parts with one-half going to support states' crime victim compensation programs and the other half to support state and local crime victim assistance programs.

H.R. 3498 incorporates many of the concepts set forth by the President's Task Force, while improving upon certain of them. Overall, H.R. 3498 is consistent with the Task Force's goal in that it seeks to preserve the continuity of current victim assistance efforts through grants to states to be used as supplemental funding for these efforts. The goal is a worthy one; and, the need for these programs demonstrated by an examination of the nationwide crime victim population itself.

In recent months we have heard that reported crime has dropped in many areas of the country. Less reported, however, is the fact that there has been a long-term 60% increase in violent crimes since 1971. Last year alone over 91 million Americans experienced violent crimes. It is not possible to count the number of secondary victims (i.e., family members and close friends) who were also affected by the same crimes; and, who may benefit from the same victim assistance programs. Further, a recently released Department of Justice study¹ indicated that 1 American household out of every 10 is affected by such crimes as rape, robbery, assault by strangers, and household burglaries. Homicides were not included in the study; but, we know them to average over 20,000 per year in recent years; 50% of which are committed through the use of handguns.²

The same Department of Justice study indicated that crime disproportionately affects blacks and urban residents. Nearly 35% of all black families were touched by crime compared to 29% of white families. City dwellers are more likely to be victimized by crime than residents of the suburbs; while rural families are affected less than suburban families.

There is, of course, little comfort in these risk factors for the actual or potential victims of crime. For any American citizen the so-called FBI Clock has a chilling ring: every 23 minutes someone is murdered. A woman is raped every 6 minutes. A robbery occurs every 58 seconds; and, a burglary is perpetrated every 8 seconds.

With the limited number of crime victim compensation and assistance program now existing nationwide, not all these victims will receive help in the traumatic aftermath of crime. But, crime victim services are slowly increasing; and, with the funding to be made available under H.R. 3498, the continuity of those programs could be better ensured. Further, as past history has shown, federal interest in any

¹ Report to the Nation on Crime and Justice, 1983; Bureau of Justice Statistics, U.S. Department of Justice.

² FBI Uniform Crime Reports.

community service field tends to generate more states' support for that area. Thus, the incentive provided by H.R. 3498 could hasten the day when crime victim assistance becomes more widely available.

In looking at the program which would benefit from H.R. 3498, it should be noted that all represent some form of direct assistance to victims of crime. A distinction, necessary for administrative purposes, is made between crime victim compensation and crime victim assistance; but, regardless of the type of assistance provided, the real beneficiaries of H.R. 3498 are the victims themselves. Further, the victim assistance programs which meet the criteria laid out in H.R. 3498 form the major core of the victim assistance field today.

The benefits derived by victims from compensation programs are primarily financial. Crime victim compensation programs now exist in 38 states, the District of Columbia, and the Virgin Islands. The primary goal of crime victim compensation is to provide financial compensation to individuals who suffer out-of-pocket losses as a result of injuries incurred during criminal victimization. Victim compensation programs may offer the only source of available aid in the face of a personal catastrophe. This is particularly true of the indigent, sick, elderly, or high crime area residents who cannot afford adequate medical insurance; or, who may not be eligible for unemployment insurance. Further, while more states today are promoting offender restitution as a means of compensating crime victims victim compensation remains available even when the offender is not apprehended. Where compensation is available, the victim's ability to receive reparation does not rely solely on the offender's ability to pay even if apprehended.³

Economic recovery is critical to most victims of crime. However, it should be noted, crime victim compensation is not a panacea for all victims of crime. Only the most needy victims who cooperate with criminal justice agencies may benefit. The cooperation requirement is necessary to prevent abuse of the system; but the limited benefits more often related to insufficient funding.

Many states' compensation funds are derived from general revenues, thus requiring ceilings be set on the amount of recovery by an individual claimant. Thus, the means tests in most states disqualifies many victims with income too high to meet the test, yet insufficient to absorb the economic loss from the crime. Where eligibility exists, the awards made are often minimal in comparison to the claimant's needs. The length of time between filing a claim and receiving an award may leave the victim subjected to harassment by collection agencies. Thus, crime victim compensation today is merely a means by which some victims can achieve partial economic recovery.

A number of states today seem to be making a real effort to improve their benefits. Some have waived the deductible for certain categories of victims, such as the elderly; some have instituted an emergency award program; and others are now reimbursing the costs of medical services which include evidence collection.

Even though the purpose of H.R. 3498 is to enable states to maintain their current levels of benefits; NCASA would hope that this federal support will also encourage states to improve those benefits. In any case, we believe federal support for these programs is critical because it is clear that they are the only recourse for many victims of crime.

The benefits derived by victims from victim assistance programs are primarily those of a social service nature. Unlike victim compensation programs which resulted from legislative initiative, the remaining branch of the victim assistance field resulted from private sector initiative. It began with the creation of the nation's first rape crisis centers in 1972. These nonprofit volunteer community service centers, which grew from the founding three to over seven hundred within a decade, have provided the model upon which many other victim assistance programs today are based.

The hallmark of a rape crisis center is its crisis intervention services. These services are largely provided by trained paraprofessional counselors, often in conjunction with some mental health professionals. Services consist of 24-hour hotlines which victims may call to receive counseling or information and referrals. Individual and group counseling is available to both primary and secondary victims (e.g., family members and/or significant others in the victim's life). Depending upon individual needs, counseling services may be provided on a short-term or long-term basis. Centers serve both reporting and nonreporting victims nondiscriminately;

³ Crime Victim Compensation: Program Model, 1980; National Institute of Justice, U.S. Department of Justice.

and, no fees are charged for services provided by the overwhelming majority of programs.

Most rape crisis centers consider themselves to be both service providers and victim advocates. Advocacy activities vary. Most centers provide community education programs and conduct training programs for health, mental health, and criminal justice professionals. Many sponsor community rape prevention forums, or court watching projects. Some provide advice and consultation to public policy makers; while a few work with offenders in rehabilitation or self-help groups in the nation's prisons.

Today, as in the beginning, the majority of rape crisis centers are volunteer, non-profit, community service programs. There are, however, a number of programs which now exist as a component of some public entity such as a hospital or community mental health center. A very small number are within police departments or prosecutors' offices. While many are able to maintain their own housing facilities, many others are housed in churches, YMCAs, women's centers, or in university facilities. The diversity of this sponsorship and housing is reflective of the broader field of victim assistance today.

The success of the rape crisis center concept is largely based on its crisis intervention model. As indicated earlier, this model is the primary model now used in the victim assistance field. The most notable of victim assistance programs to adopt this model to their client needs are the family violence and battered women shelters; over 700⁴ of which offer crisis intervention services, with many featuring a unique temporary housing service. Though most of these programs are independently housed and administered, the battered women and sexual assault services of some rural areas, or less populated states such as Alaska and Wyoming, are jointly administered due to cost consideration.

Also adopting, or adapting, the crisis intervention model are the child abuse and neglect services. Approximately 300 of the private sector programs are quite similar to rape crisis centers in their design and services. A national network is linked through a 24-hour toll free hotline offering immediate crisis counseling and/or referrals to local child abuse and neglect services.⁵

Approximately 300 programs⁶ utilizing some form of crisis intervention provide for the victims of child sexual abuse. Like most other child abuse programs, these services are generally linked to the 24-hour child protective services. It appears that the majority of child sexual abuse services continue to be provided by rape crisis centers which are exclusively crisis intervention programs.

A small, but growing number of communities have access to crisis intervention services for elderly victims of crime through either a nonprofit agency or a social service agency in the public sector. Similarly, there is a small, but growing number of the so-called "comprehensive" victim assistance programs nationwide. These programs may be within some component of the criminal justice system or outside the system in a public or private social service agency. They are distinguishable from most victim/witness assistance units only in that they provide crisis intervention services in addition to case management services. And, unlike most victim assistance programs today which provide specialized services for targeted victim populations, their services are available to all victims of crime.

Finally, there are a growing number of nationwide self-help groups, such as Parents of Murdered Children, which provide peer group support counseling for relatives of the deceased.

These programs constitute the majority of all victim assistance programs now available. A review of them reflects certain trends applicable to H.R. 3498. First, they reflect a trend toward the provision of specialized services to specific crime victim populations. These populations are most often victims of violent crime or crimes against persons; and, they most often represent the most vulnerable members of our society. H.R. 3498 recognizes this trend and does not seek to impose untenable eligibility requirements which would cause specialized services to give way to other victim assistance models in exchange for federal support. At the same time, it offers equal support for those victim/witness assistance units which provide crisis intervention services in addition to their many other services.

Further, through its eligibility criteria, H.R. 3498 promotes the provision of crisis intervention services to all victims of crime. The need for those services has been well established.

⁴ Response survey; Center for Women Policy Studies.

⁵ ChildHelp USA.

⁶ Information source: Children's Institute.

For many years now, victimization has been recognized as a life crisis. This crisis was first noted in conjunction with national disasters such as war, civilian disasters such as riots and racial persecutions, and violent crimes such as murder, rape, assault and battery. Over the past decade, as social scientists, mental health clinicians, and criminologists have begun to look closer at criminal victimization, it has become understood that all such forms of victimizations may pose a crisis for its victims.⁷

True, the crisis posed by violent crime will be more serious than that posed by other offenses. However, even nonviolent crimes may pose a crisis due to the victim's stage of development in the life cycle, or such factors as the individual victim's personality, perception of the event, and ability to solve stressful situations. This can best be understood by examining the definition of crisis itself.

"Crisis", according to Gerald Caplan,⁸ "is a psychological disequilibrium in a person who confronts a hazardous circumstance that for him constitutes an important problem which he can for the time being neither escape nor solve with his customary problem-solving resources." Perhaps more simply put, crisis is a crucial event which, in turn, causes a disruption to an individual's life. Criminal victimization is such an event. Clearly, the physical and psychic injury, and even economic loss, from crime is disruptive to any victim's life. And, as Caplan points out, this disruption occurs at a time when normal problem-solving—or coping—abilities are impaired. Thus, the person in crisis may need help in handling the problems posed by the crisis. This help is what victim assistance programs refer to as crisis intervention.

"Crisis intervention" is, by definition, short-term treatment which attempts to assist the person in the settlement of a crisis. The term "mental health counseling" as it is used in the victim assistance field merely describes short or long term counseling with feelings, emotions, and intimate personal needs. Perhaps a better way of describing the crisis intervention and mental health counseling services cited in H.R. 3498 would be "crisis counseling."

"Crisis counseling" is a more descriptive term for those services actually provided by most victim assistance programs. This counseling may be in the form of giving advice or information; it may be in the form of empathetic listening. In any form, it is giving assistance to someone coping with a major disruption in their life; assistance which they have requested based upon their individual need. Some victims, for example, want only information and/or referrals necessary to making decisions and getting appropriate help. Others may want an advocate in dealing with public agencies with which they come in contact. Still others may want personal counseling, either with the anonymity of a telephone or the comfort of a face-to-face conversation, to assist in dealing with the emotions evoked by their experience; or to provide some guidance in problem-solving. Many will want all these services.

It is crucial that this counseling be available on a 24-hour basis; not only for the victim's benefit, but also for the counselor's. Research dictates that the counselor's effectiveness in helping the victim is based upon an ability to compare changes in the crisis pattern as it is followed over time. Immediate contact with the victim provides the most solid base of comparison.⁹ Research further indicates that the success of a crisis intervention program is based upon its easy accessibility.¹⁰ The experience of those who have been providing crisis counseling for over a decade indicates the research is entirely correct.

The 24-hour eligibility criteria in H.R. 3498 is a simple one to meet. The criteria does not dictate how those 24-hour services must be provided. It simply requires that they exist. The majority of victim assistance programs nationwide already provide 24-hour services through hotlines. Some offer 24-hour walk-in services; others have on-call counselors to meet the victim at any hour. Some have all these services. Where 24-hour services do not exist it is usually because the program lacks the funding to maintain the more sophisticated telephone systems which allow 24-hour coverage; or, where the program has chosen to rely solely on paid staff who work only during regular business hours. The former problem would be resolved with additional funding; the latter could be resolved by the recruitment of volunteers to staff the phone.

Hotlines, it should be noted, are the most cost-effective way of offering 24-hour assistance. They use fewer resources in terms of time, money, and energy. Over the

⁷ "Victims of Criminal Violence," Journal of Public Law 8.

⁸ Principles of Preventive Psychiatry; Basic Books 1964.

⁹ Rape: Crisis and Recovery, 1979; Robert J. Brady Co.

¹⁰ Journal of Alternative Human Services, Vol. 2, Issue 2, 1979; The Community Congress of San Diego.

past 30 years they have become widely accepted as a valuable community service mode which maximizes accessibility of immediate help to the public. Further, it is no longer necessary to staff a 24-hour hotline with an on-site person. Technological advances now offer means by which calls can be transferred from one phone line to another without the caller even being aware of the transfer. Further, counselors can be alerted to an emergency call-back through beeper systems.

Again, this criteria could be easily met with little or no modification of victim assistance programs. The improvement in victim assistance capability is well worth the effort of that modification.

Another criteria easy to meet by victim assistance programs is that calling for the use of volunteers in the provision of services. The overwhelming majority of victim assistance programs, past and present, have relied on volunteers to provide the bulk of their services. Most victim assistance programs today could not exist without volunteers. Others could not provide a full range of services, or meet the ever-increasing demand for victim assistance without volunteers. Volunteers not only provide direct victim services, but they provide much of the support services necessary for victim assistance.

There should be no concern for the quality of services provided by volunteers. Volunteers are screened, trained, and supervised. And, it should be remembered, it was volunteers; not paid professionals; who first adapted traditional crisis intervention techniques to the needs of victims of crime. Volunteers who, in fact, initiated the victim assistance field which exists today.

If as this Subcommittee has been told, there exist government or other public agencies with policies which prohibit the use of volunteers in providing direct victim services, the criteria would still not be a difficult one to meet. Volunteers can be used in any number of creative and cost effective ways. They can be used for community education purposes, fund raising purposes, administrative purposes, or their talents can be applied to newsletters and other forms of communication.

While it is true that volunteer recruitment and training does require some expenditure; that expenditure is minimal compared to the benefit to be derived from their use. And, perhaps most importantly, volunteers ensure the continuity of a service field which has been noted for chronic underfunding. By requiring evidence of financial support, other than the proposed funding; and, by requiring the use of volunteers, H.R. 3498 seeks to ensure the continuity of victim assistance programs which have proven their viability. Funds from H.R. 3498 will also ensure that current levels of service can be maintained; and, hopefully, improved.

NCASA strongly supports the crisis intervention criteria because it is appropriate to the trends and needs of the victim assistance field today. We support the 24-hour criteria because we believe it is in the best interests of crime victims. We also support the volunteer criteria because it ensures that the funding will not encourage the creation or expansion of victim assistance programs totally dependent upon public sector largess. We support the demonstration of financial resources, other than federal, for the same reason. Too often, in the past, we have seen federal funds used to initiate community service models not in keeping with the most critical needs in the given field. And, too often, we have seen federal funds used to create new community services, only to see them disappear when the funds were gone.

Unlike crime victim compensation programs which are funded and administered by states, the majority of victim assistance programs are private sector programs existing on public support. Even where these programs exist as a component of a major public or private establishment, they usually exist as the poor stepsister. Many nationwide victim assistance programs, such as rape crisis centers, actually operate on annual budgets of less than \$25,000. Even in those eight states which appropriate annual funds for sexual assault services, the average grant per center is under \$15,000.

Lack of adequate funding has unquestionably handicapped the expansion of victim assistance efforts. Even with some notable growth over the past few years, thousands of communities nationwide are without any form of victim assistance. Hopefully, the seed money made available through the Justice Assistance Act will generate a new growth in victim services. However, there is an equally great need to shore up existing services. H.R. 3498 offers funding which can be used to ensure that current levels of services can be maintained.

As this Subcommittee has already noted, the funding which would be available to states under H.R. 3498 is limited. Even if proposed revenues are successfully collected, maintained at the same levels each year, and disbursed to states based on a formula which considers population, the average victim assistance grant per state will be minimal compared to the need. For that reason, we would urge this Subcommit-

tee to reconsider the 80/20 split of the proposed Fund which favors victim compensation.

Forty jurisdictions now have compensation programs which serve a wider variety of crime victims than do most victim assistance programs. However, reporting requirement, means tests, and other restrictions reduce the numbers of crime victims receiving any compensation.

Victim assistance programs, on the other hand, exist in fifty-three jurisdictions (or, 50 states, 3 U.S. territories, and the District of Columbia). There is no absolute accounting for the total victim assistance programs in existence. However, we know for a fact that there are over 2,000 programs with conceivably still another 1,000. By virtue of their sheer numbers, victims served, and costs we feel victim assistance programs constitute the most needy of the two program categories. And, based on this need, we would recommend a more equitable 50/50 distribution of the funds between the two program categories.

With only this one exception, NCASA offers its complete support for H.R. 3498. We look forward to its swift and successful passage in the House of Representatives.
NATIONAL COALITION AGAINST SEXUAL ASSAULT,

Arlington, VA, March 19, 1984.

Hon. JOHN CONYERS, Jr.,
Chairman, Subcommittee on Criminal Justice, Committee on the Judiciary, U.S.
House of Representatives, Washington, DC.

DEAR CHAIRMAN CONYERS: This is to express my appreciation for the opportunity to present the views of NCASA at the March 15th hearings on the Victims of Crime Act of 1984; and, to request that the enclosed document be included in the hearing record.

This document illustrates some of the problems which have occurred in the past when federal funding was made available to states for victim assistance purposes. It further illustrates the basis for concerns expressed by myself and other witnesses in regard to the most appropriate uses of the proposed federal Crime Victims Fund. I believe the subcommittee will find this piece of history most enlightening.

Sincerely,

MARY ANN LARGEN,
Director of Governmental Affairs.

Enclosure.

October 12, 1977

STATE COALITION AGAINST RAPE

P. O. BOX 274/CRANBURY, NEW JERSEY 08512

Atlantic County	Rape Crisis Center, Margate
Burgen County	Women Against Rape, Inc., Englewood
Burlington County	Rape Action Center, Willingboro
Camden County	Women Against Rape, Collingwood
Gloucester County	Rape Crisis Center, Glassboro
Mercer County	Women Against Rape, Trenton
Middlesex County	Rape Crisis Intervention Center, Edison
Monmouth County	Women's Resource & Survival Center, Keyport
Union County	Rape Survival Center, Union
National Organization for Women,	New Jersey Rape Task Forces

Issue/ Grassroots Funding for Counseling of Sexual Assault Victims

Each year, N.J. prosecutorial Sex Crimes Analysis Programs receive \$300,000 almost obliterating the visibility of the original Grassroot Rape Crisis Centers.

The N.J. women who brought the rape crisis our country is facing before the public have been and are being systematically excluded from these programs now that funding is available.

The women of the Rape Crisis Centers:

- initiated, organized, and staffed rape crisis hot lines 3 years prior to prosecutorial interest in the subject (made 50 speeches a year, got up in the middle of the night for cases)
- innovated programs for counseling effectively victims of sexual assault, and
- created the public demand that allowed officials to allocate such funding.

According to L.E.A.A. (Law Enforcement Assistance Administration, federal level) guidelines, state agencies are not supposed to replace or duplicate existing service organizations, yet the State Law Enforcement Protection Agency (S.L.E.P.A.) is duplicating Rape Crisis Centers and forcing existing organizations to dissolve by diverting the public mandate from them and limiting their access to victims of sexual assault.

As examples:

- 1) - S.L.E.P.A. wanted to preempt the existing Atlantic County Rape

(2)

Crisis Center and make it part of their unit.. The Center wanted to maintain its autonomy and sub-contract its counseling services to S.L.E.P.A.. The volunteer Center was written out of the grant; instead, three office workers were hired to do counseling. They were four months on the job, with no training and no prior experience with the issue.. (None could speak Spanish.)

- 2) -Mercer W.A.R.N. was a highly effective volunteer Rape Crisis Center funded by the County ^{Freeholder's} Sheriff's Budget. S.L.E.P.A. unit told hospital emergency rooms to stop calling Mercer W.A.R.N., they widely advertised their number as the proper one, and by summer 1976, phones staffed by W.A.R.N. were no longer ringing and the hospitals would no longer cooperate with them. W.A.R.N. feels the SLEPA unit is not picking up the number of reported rapes that it should be, and are highly critical of the unit's use of lie detectors on its victims.
- 3) -Union County SLEPA unit set itself up in parallel with the Rape Survival Center, which has been partially funded by Kean College since 1974. Center women helped write the proposal, but were dissuaded from applying for the jobs in the SLEPA unit. They were to be used instead as back-up counseling at \$4.00/hour. The SLEPA unit was slow in paying and even slower in sending victims. Community speaking engagements were also diverted to the SLEPA unit.

It should be noted that in the first year of SLEPA funding, two of the three units were placed in counties where the grassroots centers had already laid the groundwork of community education, and had created the public demand for adequate funding.

The problem is one of monies going toward prosecution rather than support:

- "if there is no arrest, we do not follow up in counseling." Essex County prosecutor Gloria Murphy calls that "our flaw".
- The Hudson County unit from the prosecutor's office, called SAVA, wants convictions, and publically states that they do only minimal counseling.
- The victim is caught between branches of law enforcement striving

(3)

to get credit for the arrest. The victims' needs cannot be taken care of by a system that measures its cost effectiveness exclusively in the number of convictions obtained.

-By their nature, prosecution systems are not capable of delivering support to the victim. But by making the initial contact as counselors, they deny the victim access to grassroots counseling Centers who will follow through.

In terms of increasing the number of reported rapes, the prosecutor's office is precisely the wrong place for a crisis hot line. According to LEAA's ^{own} proscriptive package, "Identification with law enforcement agencies will discourage many would-be callers...Hotlines should be answered by knowledgeable and understanding women." p 41

The most effective counseling for victims of sexual abuse is peer counseling:

- Counseling by past victims provides a role model to women which says, "Yes, you are strong enough to cope with the trauma of rape, to leave an assaulting husband, to testify in court."
- These self-starters who are running our grassroots centers are motivated by seeing their own initiative bear fruit, are tremendously effective counselors, and cannot be expected to function as dynamically in a structure run by the prosecutor's office.
- We are wasting a valuable resource. The grassroots centers need funding as well as professional back-up services to aid in counselor training, statistical accountability, and management skills. (CETA is not an answer.)
- The division of responsibility for the victim of sexual assault between prosecutorial and support services will obtain better monitoring of actual victim care.

It is ironic that the New Jersey Criminal Justice System, which did not deal with the issue of sexual assault previously, now has a self-protective clause written into its federally-funded programs at the state level.

(4)

- The SLEPA grant guidelines "Crime Specific Rape" require that a program be designed toward the enhancement of prosecution and that all phases of the program be under the prosecutor's jurisdiction. (Cite ^{Jersey State} Monmouth Medical Center program rejection)
- The LEAA (federal) guidelines restrict Sex Crimes Units to only the prosecutor's offices or county agencies.

The Problem Now:

- We are not getting a reasonable increase in the incidence of reported rapes - certainly nothing that relates to the F.B.I. claim that initially only 1 in 10 rapes are reported.
- We have decimated locally-supported Rape Crisis Centers in areas where they existed (replacing them with SLEPA units), and yet still have the gaping holes of non-coverage in Monmouth, Ocean, Cape May, Warren, Sussex, etc. (What happens when federal monies pull out?)

We Need:

- 1)-Adequate state funding for victim of sexual abuse support services throughout N.J.
- 2)-Rewriting of the SLEPA guidelines allowing for the placement of immediate counseling intervention programs in grassroots organizations which either subcontract directly to the prosecutor's office or to another county agency.
- 3)-Setting up of a mechanism requiring police to obtain immediate (and continuous) counseling services for victims of sexual assault.
- 4)-The enforcement of the "non-duplication of existing organizations" clause in the LEAA guidelines.

Issue: Battered Wife Shelter Funding

→ **Statement from the Women's Resource and Survival Center, Inc. Keyport**

- The monies available for sexual assault and battered wives are not enough.
- We strenuously object to a repeat of the above-mentioned disaster on the grassroot Battered Wives Shelters by the misplacement of funding.
- We reject the notion that DYFS should arbitrarily divide state into four quarters, forcing good shelters to compete for limited Title 20 monies under guidelines set up by DYFS alone.
- We have excellent reason to believe that Bob Wells, outgoing director of Monmouth County Welfare and new director for state DYFS, wishes these same Title 20 monies to be diverted to welfare funds; there to be lumped into Comprehensive Emergency Services rather than special services for battered women.
- A battered wife needs peer support even if her situation is going to change for the better.

Have you any suggestions?

While we recognize the need for funding; we also recognize the need to deal with the perpetrator.

STATEMENT BY LAWRENCE J. CENTER, J.D.

Mr. Chairman and members of the Subcommittee, I appreciate the opportunity to testify before you today in support of H.R. 3498, the Victims of Crime Act of 1983.

I am Lawrence Center. For four years, I worked with the Criminal Justice and the Elderly Program, a national demonstration program designed to reduce crime against senior citizens and to assist elderly crime victims. That program evaluated existing projects, gave technical assistance to service providers, helped develop and implement new programs, and assisted program administrators in the transition from Federal to local funding. Currently, I am a member of the Citizens Advisory Committee of the Montgomery Crisis Center and a volunteer for that Center's Crisis Intervention Service and Sexual Assault Service.

Possessing experience with evaluation of and implementation of crisis intervention services across the country as well as experience as a volunteer for such a service, I hope I can lend a valuable perspective to some of the issues concerning the Victims of Crime Act of 1983.

I know that you have heard many statements about the history of the victim assistance movement, the historically ambivalent perspective with which the criminal justice system has viewed the crime victim, the functions and value of victim assistance programs, and the fiscal problems affecting these programs across the country. Therefore, I will not reiterate these points. Rather, I will focus on the lessons I have learned by working with crime victims and their friends and relatives.

As someone working with elderly crime victims, I became familiar with the stages of crisis through which these victims go. However, it was only after I began serving as a volunteer companion for the Montgomery County Sexual Assault Service that I became fully cognizant of the impact of sexual assault on the victim's friends and relatives—the secondary victims of crime.

I and other volunteer companions carry beepers on a 24-hour basis. If a woman in the county is raped, we go to the hospital—along with a professional counselor—to provide support to the victim and the people with her. By visiting with boy friends, husbands, fathers and mothers of victims in the hours immediately after the rape, I have seen the tremendous adverse psychological impact the crime has on these people.

While they try to be supportive to the victim, they are being forced to deal with their own mix of powerful emotions—anger, fear, revenge, shock, confusion, guilt, depression—the same emotions felt by the victims.

In this context, it is critical to understand that crisis intervention services for sexual assault is NOT a woman's issue. It is a human issue that affects and touches each and every person in that victim's immediate circle.

Perhaps the best way to illustrate this contention is to present an example of a case on which I was called last summer. A teenage girl had been sexually assaulted by a group of boys. At the hospital, she was subdued and uncommunicative, seemingly in control of her emotions. Her parents, however, were filled with anger, both at their daughter and the alleged perpetrators. The father was ready to kill the boys who had raped his daughter. The mother was ready to berate her daughter for "getting herself into" a situation. After several hours, both parents calmed down, but it was clear that there was much brewing under the surface. Over the next few weeks, it became more obvious. Both parents were so disturbed over what had happened that they—individually and together—sought counseling at the Crisis Center. Soon afterwards, they decided to continue counseling for themselves and their daughter with a private therapist.

It was only two weeks ago that I learned this family had re-contacted the Crisis Center. Over the past eight months, the daughter has been "acting out," her performance in school has deteriorated, the father and mother have been in conflict over how to respond to their daughter's behavior, and their relationship as husband and wife has suffered in turn. While it cannot be stated with 100% certainty that the rape last summer caused this family to go out of control, it certainly was a significant factor.

The point of this "case study" is to illustrate the tremendous impact a crime such as rape can have on the "significant others" in the victim's life. If any of you have seen a close friend or a member of your family victimized by this violent crime—then you know personally what I am talking about.

Thus if H.R. 3498 is passed, it will help not only victims of crime, but also all those other people who need crisis intervention service because they themselves have been "vicariously victimized." And in terms of rape, we are speaking of all the men and women who are suffering for the victim. that is why this cannot be seen as a woman's issue.

I would also like to comment upon the proposed eligibility criteria for funded victim assistance programs, specifically, the criteria which mandate the use of volunteers and the provision of 24-hour crisis intervention services.

Having evaluated victim assistance programs, watched their daily operations, and participated as a volunteer in one, I feel very strongly that these criteria should be included. The maintenance of 24-hour crisis intervention is critical to the provision of effective victim assistance services, and the use of volunteers is almost always necessary for the 24-hour functioning of such a service. The two go hand-in-hand.

The most serious need for help occurs immediately after the crime for many victims. Other victims may experience anxiety attacks during the night even years after the crime. A 24-hour crisis intervention service is the only option for these people. If these victims cannot receive counseling when they need it, the crisis they are experiencing can escalate.

Just two days ago, Tuesday evening, I spoke with a woman who had been raped and who telephoned the Crisis Center so depressed that she was contemplating suicide. The suicidal threat was a direct outgrowth of the rape and her feelings about it. With a 9-to-5 intervention service, this woman would not have been able to receive ongoing telephone counseling, the kind of counseling which can assess the severity of, and, if necessary, call in local emergency resources for a suicide threat.

Crisis intervention services find it extremely difficult to operate effectively without utilizing volunteers. The Montgomery County Crisis Center, which, based upon my experiences across the United States, is one of the most effective crisis intervention services programs, has a staff of approximately 35 counselors. Yet without a corps of carefully-screened, heavily-trained volunteers, it could not offer the citizens of Montgomery County a seven-days a week, twenty-four hour-a-day service. During the past year, volunteers contributed 8.2 work-years to the Center, saving the Health Department—which runs the Center—the equivalent of approximately \$150,000. Without volunteers, the Health Department could not afford to maintain the Crisis Center. In those rare crisis intervention programs which do not utilize volunteers, the quality of service inevitably suffers because staff are spread too thin.

While with the Criminal Justice and the Elderly Program, I was able to observe numerous victim assistance programs in major cities in every section of the country. These programs had offices in all kinds of communities, neighborhoods which were considered "good," transitional, or declining. Volunteers at these programs performed a variety of functions including intake, assessment, recordkeeping, and victim counseling.

Previous witnesses have articulated a concern about the utilization of minority volunteers in such neighborhoods. My experience tends to support an opposite conclusion.

I would like to echo the sentiments of Deborah Jones, the former Director of the District of Columbia Rape Crisis Center, who testified before this Subcommittee on February 9. During the Criminal Justice and the Elderly Program, in minority neighborhoods in New York City, Los Angeles, Chicago, New Orleans, Milwaukee, and here in Washington, D.C., it was the volunteers—volunteers who themselves lived in the same neighborhoods as the victims—who were the clearest recipients of the victims trust. There existed a camaraderie of race and neighborhood that did not exist between victims and paid professional staff who resided elsewhere. This bond between victim and helper—at a time when a victim has an overwhelming need to trust someone—cannot be overemphasized.

It is my firm belief that a good volunteer program can enhance the quality of a crisis intervention service. Volunteers, properly screened, trained, and supervised, can help meet the usually-increasing caseloads faced by these programs.

At the Montgomery County Crisis Center, a minimum of two volunteers works every "shift" in the "operations room" where crisis calls are taken. Volunteers make trips to hospitals to assist victims and their relatives, help victims as their cases progress through the criminal justice process, and provide assistance to battered women as they try to utilize the legal system. Administrators have told me that without these volunteers, the Center could not function as it does, as what the Attorney General's Task Force on Domestic Violence has considered a model program.

In this area of shrinking government funds, when many victim assistance programs are fading from sight because of funding shortages, it is imperative that these programs utilize volunteers. It is true that volunteers require supervision and monitoring, and usually in-service training. These supportive functions do cost money. However, the cost is minimal when compared to the benefits that qualified volunteers can bring to victim assistance programs.

Moreover, volunteers do not exhibit the same kind of burn-out often experienced by paid staff. It is clear that they do not work the same number of hours. However, it is also important to note that volunteers bring a special motivation and dedication to crisis intervention work. They do it because they want to, not because they have to do so. Their dedication tends to lift the morale of the professional staff.

In summary, I would like to repeat that the Crime Victims Act of 1983, whether it helps rape victims or victims of other crimes, will be helping a much broader population than might be realized. The secondary victims—boyfriends and husbands of rape victims, children of spouse abuse victims—will also be helped by the programs which would receive funding under the bill. Secondary victims are particularly prevalent among the elderly, who, studies have shown, have greater fears of crime than younger persons and who are especially adversely affected by crimes committed against close friends and relatives.

The criteria involving 24-hour crisis intervention and the use of volunteers are appropriate and will help to assure quality assistance to victims. The nature of victimization-induced crisis demands 24-hour crisis intervention capabilities. Such capabilities are greatly enhanced by the use of well-screened, trained, and supervised volunteers.

MARCH 19, 1984.

Hon. JOHN CONYERS, Jr.,
Chairman, Subcommittee on Criminal Justice, Committee on the Judiciary, Washington, DC.

DEAR CHAIRMAN CONYERS: I want to thank you for giving me the opportunity to testify Thursday, March 15, on behalf of H.R. 3498, the Victims of Crime Act. I hope my statement and testimony shed additional light on the plight of "secondary victims," on the need for 24-hour crisis intervention service, and on the value of volunteers.

Congressman Boucher raised an issue Thursday upon which I would like to comment in greater detail. The Congressman urged that this bill be amended to include funding provisions for victim/witness programs as well as victim assistance programs. This suggestion disturbs me for several reasons.

The primary recipients of this proposed legislation are crime victims themselves, those people who have been adversely affected—economically, emotionally, physically, psychologically—by the crime. Additionally, the "secondary victims"—friends and relatives such as Mark Moseley, his parents and brothers—would be helped. My experience has shown that victims' needs include a whole host of services—food, shelter, clothing, money, short-term crisis counseling, long-term counseling, medical assistance, and social services. The wide variety of their needs—and their corresponding lack of control and powerlessness in the days after the crime—are two critical reasons for the important role volunteer companions can play.

When Congressman Boucher speaks about witnesses—witnesses who have not been victims—he is talking about a different population. Witnesses possess needs much different from those of victims. While their needs are critical, they are not usually of a "crisis" nature. Witnesses therefore are very rarely in need of "crisis intervention" services.

I do not intend to belittle the problems of witnesses in our criminal justice system. To some extent, witnesses have been more "forgotten" by our legal system than have victims. Witnesses do need additional assistance; they need help in keeping track of the multitude of court dates, in knowing when appearance is optional and when mandatory, in being cognizant of the criminal justice process, and in knowing their rights against intimidation. These needs can be responded to by efficient prosecutors' offices without additional funding.

Most of this witness coordination requires telephone work, the kind of work done well by volunteers. If a prosecutor's staff does not have the time to devote to witness assistance tasks, volunteers usually welcome the opportunity to work on these matters. My experience has shown that potential volunteers consider the court house an exciting place to work, more "glamorous" than many other sites which typically utilize volunteers.

I believe strongly that to include victim/witness programs as recipients of H.R. 3498's funding would dilute the assistance available to crime victims, would weaken the effects of the law, and would NOT correspond with the Congressional intent as expressed by the bill's co-sponsors. That intent is to assist victims of crime, not witnesses.

Thank you again for the opportunity to testify and for your interest in this important subject.

Sincerely,

LAWRENCE J. CENTER.

Mr. CONYERS. I would like to call our final two witnesses as a panel. We have Mark Moseley, who needs no introduction, the placekicker for the Washington Redskins. He has been involved in many community activities and has been asked to testify here because of his involvement and knowledge as a secondary victim of crime.

We also would like to call Ms. Joan O'Brien of Montgomery County, to whom we feel a great indebtedness for providing the subcommittee with the perspective of a victim of violent crime. It has been painful for her to even prepare her testimony, and I want to commend her on the part of the subcommittee for the courage and forthrightness that she has demonstrated to come before the subcommittee to discuss this matter for the record. I am certain that her testimony will be helpful to all of us.

Your prepared statement, Ms. O'Brien, will be incorporated in the record, without objection, and you may feel free to talk with us as you like. Welcome to the subcommittee this morning.

**TESTIMONY OF JOAN M. O'BRIEN, MONTGOMERY COUNTY, MD;
AND MARK MOSELEY, TEAM MEMBER, WASHINGTON RED-
SKINS FOOTBALL TEAM, WASHINGTON, DC**

Ms. O'BRIEN. Mr. Chairman and members of the subcommittee, good afternoon.

My name is Joan O'Brien—and I understand why there might be some vacancies here today. I am also a resident of Montgomery County, MD.

I am honored to have this opportunity to speak in support of the Victims of Crime Act of 1983, and I would like to share with you some of the aspects and events from a chapter in my life that brought me from victim to survivor.

On a summer day in 1979, I was on my way home to lunch and, upon reaching the door of my apartment, I realized I was being shoved inside. I turned to find myself confronted by a man who was trying to cover his face while directing my attention to the gun that he had pointed at me. When I screamed for help and tried to push the door closed on him, he struck me on the side of the head with the handle of the gun, leaving me very quiet and very stunned.

Within the course of the next half hour, I was robbed and raped and, when that was all over, he put a pillow against my face and shot through it.

When I heard him leave, I somehow managed to get to the phone and called the emergency number. The bullet had severed a facial artery and I was bleeding profusely, but the police and paramedics were there within minutes and I was rushed to the trauma unit at Suburban Hospital where the bullet was removed. It had lodged in my jaw, and, according to the doctors, the only thing that kept it from reaching my brain was a gold tooth that I had.

The impact caused a compound fracture of the jaw, for which my teeth were wired together for a period of about 4 months. As Dr.

John Dowling said, "You had a good surgeon and a benevolent God." To me, of course, he is not only a brilliant plastic surgeon, but also a master of understatement. And so the physical healing process was underway, thanks to this incomparable medical team at Suburban. I attribute my recovery, both physical and emotional, to three sources: My faith, my family, and my friends.

I strongly believe that the God who created us out of sheer love also designated a time for each of us to be born and a time for us to die, and that whatever I am supposed to do and/or become in this life had not been accomplished on that date. I also believe that He gives us whatever strength we need for every event of our lives.

My family was very supportive. My brother and sister came immediately from New Jersey, and although my mother and two other brothers couldn't get here from Texas, my sister and brother-in-law kept us in daily contact by phone.

I also have a second family, the Sisters of the Holy Cross, a community of which I had the honor of being a member for some 24 years. I share this part of my history with you not to elicit any special kind of sympathy, and certainly not to claim any sort of innocence—my friends will testify to that—but to explain why at this time in my life I had no life savings to tap in this emergency.

At any rate, because I was too terrified to be in my apartment alone after leaving the hospital, my Sister friends invited me to stay with them, which I did for about 6 months, until I was able to get my life together enough to arrange to move. Other friends came and called and wrote, some of whom I hadn't seen in 15 or 20 years.

Equally significant, of course, was the immediate emergence of new friends, the medical community, as I have already mentioned, and the Montgomery County Police, who not only worked hard on the case, but always demonstrated the greatest respect, sensitivity, and genuine care. While I was still in intensive care, they told me about the criminal injuries compensation board, which did very much to reduce my fears about the mounting costs of this hospitalization. They also asked me if I would like to see someone from the community crisis center in Bethesda, a facility of the Montgomery County Health Department. Knowing how monumental my need of this kind of help would be, I readily accepted the offer, and another group of new friends was mobilized.

A counselor from the sexual assault services division came, and we negotiated for a treatment program that would consist of two weekly visits, one individual and one group session. The length of the program varies with each client, and mine lasted about a year. Individually, I was helped to identify and express and cope with feelings, the most devastating of which probably was the sense of sudden and complete loss of control over my life. Gradually, we were able to make plans for the changes that would be necessary, notably finding another place to live and a new career.

Group therapy helped to diffuse the horrible feeling of isolation. Here were other human beings who shared some of the same fears, anger, confusion, difficulties in relationships, and problems at work. We talked of the frustrations and successes of the court system proceedings, of support and misunderstanding from sources of all kinds, the good days and the bad days. But as therapeutic as

these exchanges may be, it is imperative, I believe, that they be organized, structured, and guided by well-trained, experienced, and skilled professionals.

I am equally as certain that programs such as this cannot function without volunteers. Since I was too frightened ever to return to my apartment alone again, and since most of my friends worked from 9 to 5, a volunteer was available every time I needed something, and when I had to begin to pack and prepare to move, she was also available whenever needed. In addition, there was never a time—anytime during the day, or even in the middle of the night—when the phone at the center was not answered by a caring, helpful, and friendly voice.

Another volunteer's husband is a very fine and very generous dentist who offered his services at cost to rape victims and who did all the work that I needed beyond that which required oral surgery.

My assailant was never apprehended, but for those victims who had to go through the court proceedings, there was always someone to go with them, to listen, to interpret and clarify, and to facilitate communications with the police and with the State's attorney's office.

There is no crisis to which the center does not respond. I am reminded particularly of the ad hoc therapy groups formed for families of victims of the Air Florida crash, the education programs recently initiated for parents, teachers, and schoolchildren to teach prevention skills, a recent seminar sponsored for professionals of the mental health and criminal justice fields on the subject of juvenile sex offenders, and ongoing training programs for professionals of other agencies also involved in work with victims.

The community crisis center is a model already recognized on national and State levels for the kind of service I would like to see accessible to anyone unfortunate enough to be a victim or a relative of one, and I urge each of you to visit this truly remarkable facility. It is unique in that a 24-hour hotline, walk-in Crisis Intervention Service, an Abused Persons Program and Shelter, and a Sexual Assault Services Program are housed in the same building.

My concern is that because of budget cuts, victims will not receive the same quality of service that I received when I needed it. I am especially concerned for the young, the poor, and the elderly who are so vulnerable. I fear, too, that without quality care, many victims will not recover from such trauma and will be less than productive citizens.

A ranking counselor has already been diverted to another agency for fiscal year 1985, and contract and substitute workers simply do not have the vested interest in the facility as a whole that full-time staff workers have. Supervisory time and details such as record-keeping, and so on, are short-circuited and threaten the quality of service in all areas. So often it seems that staff cuts occur in direct inverse proportion to the increase in the number of cases.

I wish to thank President Reagan for commissioning the research so proficiently accomplished and presented by Ms. Herrington and her associates. I especially commend Congressmen Rodino and Berman who coauthored this bill, and Congressman Russo for his handgun tax bill.

My only recommendation would be a more equitable distribution of funds between compensation and assistance programs. I certainly support the criteria for qualification, although I have some reservations about the ability of rural areas to qualify. And because of the special interest I have in crime prevention, I would urgently endorse the proposal of Mr. Carrington of the American Bar Association for compensation to victims injured in an effort to prevent a crime or to assist a victim.

I sincerely thank you, Mr. Chairman and distinguished members of this subcommittee, for your time and attention, and for your demonstrated interest in assisting victims to become survivors. I know that I speak for many when I urge your earliest possible approval of this fine bill.

I will be happy to answer any questions you may have.

Mr. CONYERS. Thank you very much, Ms. O'Brien.

We know that the Prime Minister of Ireland is on the Hill today, and I know that he would be as proud of you as all of us are here in the Rayburn Building for the way that you have managed your difficulties, and also now have been able, through your testimony and your activities, to help a lot of other people.

I have a question for you, but first, I would like to hear from Mark Moseley. We appreciate you, sir, coming before the subcommittee. We would like for you to talk to us in your own way. Welcome.

Mr. MOSELEY. Thank you.

Mr. Chairman and Mr. Boucher, I appreciate the opportunity to appear before this subcommittee. I am here because of my awareness of the problem we have with regard to victims of crime. As you know, my sister was brutally raped and then murdered almost 4 years ago.

Since that time, I have spent these years trying to figure out why it happened; trying to evaluate what could possibly have been done to have prevented this tragedy; trying to evaluate the results of what happened, not just to my sister—who was a victim who died—but to my entire family who were also victims.

There has been a lot said this morning, and I feel that everything that has been said has great merit. I feel that there cannot be too much emphasis put upon the sufferings of the families of those who are victims. In my estimation, a great majority of these families are also terribly traumatized. They may not be direct victims, but they suffer in the long run.

I look back at what happened in 1979. I have been working to try to prevent such a crime from happening again. One of the most obvious ways, it appears to me, is to reform the parole system. The man who committed the rape and the murder of my sister was a man who had raped three other women. He had been convicted and sentenced to a 5-year term, had served only 2 years of the 5 years, and was released on parole. Six weeks later he decided that he would rape my sister. Because of his experience with the other three women, who had testified against him, he decided that the best thing would be to kill her. He stabbed her with a pair of scissors, and then beat her, and left her for dead.

The one thing that keeps going over in my mind are the last words of my sister before she went into the emergency room. These

words were heard by my 16-year-old brother—"Be sure to tell the doctors that he raped me and that I am not on the pill because we have been trying to have children." She was 21 years old and, yes, she indeed was a victim. She did not know that the injuries she had sustained were such that 45 minutes later she would pass away.

This is something that my family has had to live with now for almost 4 years. We have gone to great lengths to try to find ways to help others and to help ourselves. Fortunately, my family could afford to get help. My mother has been seeing a psychiatrist for over 2½ years now. It got to a point that she could no longer handle it herself.

Fortunately, too, my family is a Christian family, and my parents had the church to turn to. The pastor was very helpful in many instances. In that small town in Texas, they did not have the victim assistance associations that they have now. So my mother had to turn to the church which gave her much strength. Still, she eventually needed some professional help.

But had she been someone who could not have afforded it, that professional help would not have been available. I think that the victim assistance bill before you, even though I am not familiar with all of the particulars, would provide help for those who would otherwise be deprived of an absolute need in time of great distress.

I do know that my father, who is a very loving man, went through changes that I had never seen in a person, personality changes. He and my mother came to a point—they had been married at this time almost 30 years—where they could almost not live together. My father actually moved out for a period of time to his job location and stayed there for long periods of time. He just couldn't face my mother, because she couldn't talk about the tragedy without breaking down.

So there has been a very traumatic experience in our family. As I said, my 16-year-old brother was not a witness to the crime, but he was a witness to my sister's suffering. He was actually right across the street when the event happened. He was in high school at that time. Somebody rushed over and brought him out as soon as the ambulance came to my sister's home. So he was there and witnessed the terrible thing that was taking place.

It completely reversed his personality. My brother at that time was a fine athlete. He had already been sought out and had had a number of tryouts by professional baseball teams, even though he was only a sophomore. He was a great football player, an all-around tremendous athlete, a great personality, a fine young man. But from that day, his personality seemed to change. We have not been able to get him professional help, but, as a family we try to pull together and help him. I feel that one of the victim assistance groups might have reached him sooner. Fortunately for us, he is now beginning to come around, but it has been a very long 4 years.

I feel very sincere about this bill; it should be enacted into law. There are so many people out there—as I said before, I was fortunate to be a member of a family who could afford professional help when needed—but there are so many people out there do not have the means to get help. I feel that this bill is most necessary and appropriate.

I am kind of disappointed that there are so few Congressmen present at this hearing—not to downplay today—but because I would like to motivate Congress to act on this bill expeditiously. It is very much needed. And I am one who speaks from experience. I loved my sister dearly. She was my only sister. There were three brothers, my sister and myself. Nothing will ever bring her back. If an amount of money equal to the national debt were paid to me, it would not bring her back. But some of our national assets paid for assistance to victims could help now and it would help future victims.

I hope that some day we will be living in a nation that has stamped out crime; and I hope that some judicial changes, such as those that we are trying to effect today, will help us to prevent a lot of crimes—such as that against my sister—from ever happening again. I hope that some day there will be no need for victim assistance.

So this afternoon I humbly come to you, to plead for this bill, and I thank you for the opportunity. Perhaps we will be able to achieve some of the goals that we have set to prevent crime and to help all victims of crime. Thank you.

Mr. CONYERS. Thank you, Mark Moseley. That was a very compelling statement. I am sure that you are going to reach a great number of Members of Congress.

I can tell you that there is very strong support on both sides of the aisle for the passage of this bill. We do have matters to be worked out, as always. I think your appearance and continued work in this area will not be in vain.

Mr. MOSELEY. Mr. Chairman, if I might say one other thing: I have just recently finished participating in a documentary on crime entitled "What About The Victim?", which will be shown, I believe, here on April 13. It presents interviews with some victim families, including Senator Ted Kennedy. This documentary shows very specifically what has been happening to a number of people—not just to me and my family—but people of all different walks of life and of all different races, who are victims of all kinds of crimes.

Mr. CONYERS. It has been brought to my attention that these personality changes are very marked on the victim and sometimes the family.

I am reminded that a very close family in my neighborhood in Detroit who live on Woodrow Street were telling me about their father, who had been robbed at the front of his house by some youngsters. He had been a very independent man all of his life, a businessman and worked hard, and was physically a very strong man.

This affected him so badly that he would occasionally break out of the house without any clothes on and run up and down the neighborhood, completely unexplainable behavior that was clearly traced to this trauma of having been robbed, that somehow it was connected with a loss of manhood for a person who had been so independent all of his life.

I am now beginning to see that these kinds of reactions are really not rare or extraordinary at all. Your testimony and Ms. O'Brien's both point that out very, very strongly.

I only have one question I would like to pose to Ms. O'Brien, and that is: What were the considerations that led you to have to move and to look for another career? How did that fit into your whole rehabilitation process?

Ms. O'BRIEN. At the time when this happened, Mr. Chairman, I was employed as an assistant manager in an apartment complex. The man that we suspect did it was a former maintenance man. And even though we think that he was taken care of on another charge, a friend of his one day appeared in the neighborhood quite close to the office and followed me into a grocery store there. That was very frightening to me. So that is probably the reason.

Mr. CONYERS. That had a great deal of logic—

Ms. O'BRIEN. I felt that I would have a hard time dealing with any position of a managerial type which would require my having any input into hiring or firing people.

Mr. CONYERS. Thank you very much for that response.

Mr. BOUCHER, do you have questions?

Mr. BOUCHER. Thank you, Mr. Chairman.

I, too, would like to thank both of the witnesses for their very compelling testimony today, which clearly reveals the need for the kind of legislation that we are here considering.

Ms. O'Brien, you had mentioned during your statement that you had some concerns regarding the ability of this legislation to provide in rural areas the kinds of services that we would all like to see provided nationwide. Could you elaborate a bit on what those concerns are?

Ms. O'BRIEN. I haven't really studied that part of the issue, Mr. Boucher. But what comes to my mind first of all is a case that I know of regarding the relative of a friend of mine. He lives in a rural area in Saint Marys County, and he was beaten and left there probably about 6 hours without any recourse.

I have questions about how this would be organized, or if there would be enough interest in it. You know, this is one case. It just seems like the requirements would be pretty monumental. Since the legislation requires that programs already be in place before they can qualify for Federal funding.

Mr. BOUCHER. That, of course, is a problem.

Whether or not there is a program established which provides assistance to victims depends upon the interest of volunteers in a given locality in having such a program established.

Ms. O'BRIEN. This is true. They are few and far between, and I see a problem there.

Mr. BOUCHER. We certainly see more of those programs in the urban areas than we do in rural areas.

Ms. O'BRIEN. Yes, this is true.

Mr. BOUCHER. I represent a rural area, and we are making progress. We have programs such as this in a large number of our counties now, so I think a better day lies ahead.

Thank you very much.

Ms. O'BRIEN. I am glad to hear that. Thank you.

Mr. BOUCHER. Thank you, Mr. Chairman.

Mr. CONYERS. We are grateful to you both. Thank you for coming here today.

Mr. MOSELEY. Thank you.

Ms. O'BRIEN. Thank you.

[The prepared statement of Ms. O'Brien follows:]

STATEMENT OF JOAN M. O'BRIEN

Mr. Chairman and Members of the Subcommittee: Good morning. My name is Joan O'Brien and I am a resident of Montgomery County, Maryland. I am honored to have this opportunity to speak in support of the "Victims of Crime Act of 1983" and I would like to share with you some of the aspects and events from a chapter in my life that brought me from victim to survivor.

On a summer day in 1979, I was on my way home to lunch and upon reaching the door of my apartment, realized I was being shoved inside. I turned to find myself confronted by a man who was trying to cover his face while directing my attention to the gun he had pointed at me. When I screamed for help and tried to push the door closed on him, he struck me on the side of the head with the handle of the gun, leaving me very stunned. Within the course of the next half hour, I was robbed and raped, and when that was all over, he put the pillow against my face and shot through it. When I heard him leave, I somehow managed to get to the phone and call the emergency number. The bullet had severed a facial artery and I was bleeding profusely, but the police and paramedics were there within minutes and I was rushed to the trauma unit at Suburban Hospital where the bullet was removed. It had lodged in my jaw and, according to the doctors, the only thing that kept it from reaching my brain was a gold tooth I had there. The impact caused a compound fracture of the jaw for which my teeth were wired together for period of about four months. As Dr. John Dowling said, "You had a good surgeon and a benevolent God." To me, of course, he is not only a brilliant plastic surgeon, but also a master of understatement! And so the physical healing process was under way, thanks to this incomparable medical team at Suburban. I attribute my recovery, both physical and emotional, to three sources: faith, family and friends.

I strongly believe that the God Who created us out of sheer love also designated a time for each of us to be born and a time for us to die, and that whatever I am supposed to do and/or become in this life had not been accomplished on that date. I also believe that He gives us whatever strength we need for every event of our lives.

My brother and sister came immediately from New Jersey, and although my mother couldn't get here from Texas, my sister and brother-in-law kept us in daily contact by phone. I also have a second family, the Sisters of the Holy Cross, a community of which I had the honor of being a member for some 24 years. I share this part of my history with you not to elicit any special kind of sympathy, and certainly not to claim any sort of innocence, but to explain why at this time in my life I had no life savings to tap in this emergency. At any rate, because I was too terrified to be in my apartment alone after leaving the hospital, my Sister friends invited me to stay with them,—which I did for about six months until I was able to get my life together enough to arrange to move. Other friends came and called and wrote, some of whom I hadn't seen in fifteen or twenty years.

Equally significant, of course, was the immediate emergence of new friends, the medical community, as I have already mentioned, and the Montgomery County Police, who not only worked hard on the case, but always demonstrated the greatest respect, sensitivity and genuine care. While I was still in intensive care, they told me about the Criminal Injuries Compensation Board, which did so much to reduce my fears about the mounting costs of this hospitalization. They also asked me if I would like to see someone from the Community Crisis Center in Bethesda, a facility of the Montgomery County Health Department. Knowing how monumental my need of this kind of help would be, I readily accepted the offer, and another group of new friends was mobilized.

A counselor from the Sexual Assault Services division came and we negotiated for a treatment program that would consist of two weekly visits, one individual and one group session. The length of the program varies with each client, and mine lasted about a year. Individually, I was helped to identify and express feelings, the most devastating of which was the sense of sudden and complete loss of control over my life. Gradually we were able to make plans for the changes that would be necessary, notably finding another place to live and a new career. Group therapy helped to diffuse the horrible feeling of isolation. Here were other human beings who shared some of the same fears, anger, confusion, difficulties in relationships and problems at work. We talked of the frustrations and successes of the court system proceedings, of support and misunderstanding from sources of all kinds, the good days and the bad days. But as therapeutic as these exchanges may be, it is imperative, I be-

lieve, that they be organized, structured and guided by well trained, experienced and skilled professionals.

I am equally as certain that programs such as this cannot function without volunteers. Since I was too frightened ever to return to my apartment alone again, and since most of my friends worked from nine to five, a volunteer was available every time I needed something, and when I had to begin to pack and prepare to move, she was also available whenever needed. In addition, there was never a time, even in the middle of the night, when the phone at the Center wasn't answered by a caring, helpful and friendly voice. Another volunteer's husband is a very fine and generous dentist who offered his services at cost to rape victims and who did all the work I needed beyond what required oral surgery. My assailant was never apprehended, but for those victims who had to go through court proceedings, there was always someone to go with them, to listen, to interpret and clarify and to facilitate communications with the police and with the state's attorney's office.

There is no crisis to which the Center does not respond. I'm reminded particularly of the ad hoc therapy groups formed for families of victims of the Air Florida crash; the education programs recently initiated for parents, teachers and school children to teach prevention skills; a recent seminar sponsored for professionals of the mental health and criminal justice fields on the subject of juvenile sex offenders; and ongoing training programs for professionals of other agencies involved in work with victims.

The Community Crisis Center is a model already recognized on national and state levels for the kind of service I would like to see accessible to anyone unfortunate to be a victim or relative of one, and I urge each of you to visit this truly remarkable facility. It is unique in that a 24-hour hotline, walk-in Crisis Intervention Service, and Abused Persons Program and Shelter and a Sexual Assault Services Program are housed in the same building. My concern is that because of budget cuts, victims will not receive the same quality of service I received when I needed it. I'm especially concerned for the poor and the elderly who are so vulnerable. I fear too, that without quality care, many victims will not recover from such trauma and will be less than productive citizens. A ranking counselor has already been diverted to another agency for fiscal '85 and contract and substitute workers simply do not have the vested interest in the facility as a whole that full time staff have. Supervisory time and details such as recordkeeping, etc. are short circuited and threaten the quality of service in all areas. So often it seems that staff cuts occur in direct inverse proportion to the increase in the number of cases.

I wish to thank President Reagan for commissioning the research so proficiently accomplished and presented by Ms. Herrington and her associates. I especially commend Congressmen Rodino and Berman who coauthored this bill and Congressman Russo for his handgun tax bill. My only recommendation would be a more equitable distribution of funds between compensation and assistance programs. I certainly support the criteria for qualification, although I have some reservations about the ability of rural areas to qualify. And because of the special interest I have in crime prevention, I would urgently endorse the proposal of Mr. Carrington of the American Bar Association for compensation to persons injured in an effort to prevent a crime or assist a victim.

I sincerely thank you, Mr. Chairman, and distinguished members of this Subcommittee for your time and attention, and for your demonstrated interest in assisting victims to become survivors. I know that I speak for many when I urge your earliest possible approval of this fine bill.

I will be happy to answer any questions you may have.

Mr. CONYERS. This concludes the hearing of the subcommittee, so it accordingly stands adjourned.

[Whereupon, at 12:55 p.m., the subcommittee was adjourned.]

LEGISLATION TO HELP CRIME VICTIMS

THURSDAY, MARCH 22, 1984

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIMINAL JUSTICE,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The subcommittee met at 10:10 a.m., in room B-352 of the Rayburn House Office Building, Hon. John Conyers, Jr. (chairman of the subcommittee) presiding.

Present: Representatives Conyers, Edwards, Boucher, Gekas, McCollum, and DeWine.

Staff present: Thomas W. Hutchison, counsel, and Raymond V. Smietanka, associate counsel.

Mr. CONYERS. The subcommittee will come to order.

This is the Criminal Justice Subcommittee's fourth hearing on legislation to help crime victims. The legislation under consideration would authorize Federal financial aid to State crime victim compensation programs and to crime victim assistance programs.

In previous hearings we have received testimony from a wide range of viewpoints, and they have supported, generally, the goals of the legislation. While there have been differences concerning several matters, differences seem to be "technical," to use a term used by Assistant Attorney General Lois Herrington.

All of the witnesses to date have been interested in all aspects of the legislation under consideration. Today's hearings will focus on one aspect of H.R. 3498, the bill cosponsored by Chairman Rodino and some 50 other Members of Congress. It establishes a crime victims fund composed of revenues from four sources: Federal criminal fines; a new penalty assessment to be collected from persons convicted of Federal crimes—\$25 for misdemeanors and \$50 for felonies; the proceeds from Federal criminal forfeitures; and the proceeds from the excise tax on the sale of handguns.

In 1937, the Congress enacted legislation setting up what has come to be known as the Pittman-Robertson fund. An excise tax on the sale of rifles, shotguns, and ammunition provided the revenues for that fund. The money in that fund was to be distributed among the States, to be used for what was called wildlife restoration projects.

The Pittman-Robertson fund was expanded in 1971 to include revenues from an excise tax on handguns and archery equipment and part of the proceeds from the handgun excise was made available to the States to fund what was called hunter education projects.

H.R. 3498 affects only the handgun excise tax. It does not affect the excise tax on rifles, shotguns, ammunition, and archery equipment.

Pursuant to the committee rule V(a), unless there is objection, coverage of today's hearings by still photography will be permitted.

I'd like to begin the hearings by recognizing my distinguished colleagues: My own dear colleague from Michigan, chairman of the Committee on Energy and Commerce, the Honorable John Dingell, who is well known for his interest and concern as a hunter and sportsman. He has followed our hearing very carefully and has submitted a prepared statement that will, without objection, be made part of the subcommittee's record.

At the same time, we note our friend from Massachusetts sitting at the witness table, the ranking Republican member of the Committee on Ways and Means, Mr. Silvio Conte, also a sportsman, and whose interest in this matter is well known.

We thank you both for initiating these discussions today, and without objection, your prepared statements will be entered into the record and you may proceed in any fashion you choose. Welcome.

TESTIMONY OF HON. JOHN D. DINGELL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN; AND HON. SILVIO O. CONTE, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF MASSACHUSETTS

Mr. CONTE. Thank you, Mr. Chairman and members of the committee, I certainly appreciate you giving us this opportunity to appear before the subcommittee.

Let me state at the beginning that I support the effort to compensate and assist victims of crime. I think for too long our criminal justice system has catered to the privileges and rights of criminals at the expense of innocent victims. Many times a rapist is analyzed and treated by the best psychiatrists while the victim is left to bear a tremendous burden, often alone. The legislation before the subcommittee, both the Rodino bill and the Fish bill, addresses many of these important issues involving victims of crime.

While I support the authorization of the Federal crime victim compensation bill, I strongly oppose the funding mechanism used in H.R. 3498, essentially for two reasons.

First, there is no compelling or logical reason to divert resources from the Pittman-Robertson Wildlife Fund for use in this program. There seems to be some confusion surrounding the nature and use of the wildlife fund. I've heard the argument that only hunters benefit from the fund, and that is not true. Take Massachusetts, for example, the State division of fish and wildlife conducted a "user survey" of State-managed wildlife areas. The results were surprising, even to a hunter like myself. Five times as many non-hunters use these areas as hunters. The division estimates that 50,000 hunters use these lands annually. The other people probably hiked through the Berkshires or went horseback riding or simply walked through the woods observing nature. In fact, roughly half of the 40,000 acres owned by the State was purchased with the Pittman-Robertson Act.

I've also heard the argument that there is no relationship between handguns and hunting. That's news to me. At present, 37 States have big game handgun hunting seasons while 49 States permit small game hunting with handguns. In 1980, over 1.3 million hunters used a handgun to pursue game.

To me, the implied connection between crime and the legitimate purchase of handguns is a "leap of faith" at best. I'm just not convinced that these funds should be diverted from their established use.

I am, however, even more concerned about the national and local impact of H.R. 3498 on wildlife conservation. In fiscal year 1983, the Pittman-Robertson Wildlife Restoration Fund distributed \$107 million to State fish and wildlife agencies. The States, in turn, conducted hunter safety programs, they purchased thousands of acres of wildlife habitat, and they ran scores of successful restoration programs. The loss of the handgun excise tax would cost the program \$30 million.

In Massachusetts, the impact would even be greater, Mr. Chairman. This really means a lot to us. It's put to good use. At one time in Massachusetts, you couldn't find a turkey—that's a turkey with feathers on. They got a lot of other turkeys up there. [Laughter.]

You couldn't find a turkey, a wild turkey in Massachusetts, and with this money from the Robertson-Pittman Act, today we've got turkeys all over Massachusetts. We have a hunting season on turkeys, very bountiful. They've come back. This program has really been a good sound program. And I hope that you will strike that provision from the bill, so that we can all vote for the bill and get it through and signed into law.

I thank you, Mr. Chairman.

Mr. CONYERS. Well, I appreciate your very frank and forthright comments, Mr. Conte. We'll have a couple questions for you, but let's now recognize my colleague from Michigan, the Honorable John Dingell.

Mr. DINGELL. Mr. Chairman, I thank you for the privilege of being here this morning. I commend you for your interest in the very important question of compensating victims of criminal actions.

Mr. Chairman, like my good friend and colleague, Mr. Conte, I am a member of the Migratory Bird Conservation Commission. One of our functions in that small and little known body is to see to it that the contributions of sportsman when they buy their duck stamp every year are put into proper acquisition of refuges for the protection for fish, wildlife and their habitats. These protections do not extend just to hunted species, but rather to all species of fish and wildlife. The Fish and Wildlife Service, today, is one of the largest owners of natural resources in the United States. The resource is administered for the protection and conservation of fish and wildlife, and although most of that land is acquired through the modest contribution of sportsmen from purchasing duck stamps, the principal beneficiaries are the public at large. Water quality is enhanced by the preservation of wetlands and marshes. The aquifers are recharged by the waters which are preserved. The wetland acquisition program constitutes one of the finest natural flood control programs anywhere. The basic users of the system are

not the hunters but rather the citizens who go there to picnic, hike or to simply enjoy the out-of-doors.

A similar situation obtains with regards to State game management lands.

Now, Mr. Chairman, in my 29 years as a Member of Congress, I have interested myself in drafting and refining statutes which establish as their principal objective, the protection and the management of our Nation's wildlife and natural resources. When I became chairman of the Committee on Energy and Commerce, I was compelled to forgo my membership on the Committee on Merchant Marine and Fisheries, where I had very happily engaged in the drafting of much of the legislation that relates to these matters.

Mr. Chairman, I want to object, in the strongest terms, to certain provisions of H.R. 3498, specifically to section 301(b), which would redirect proceeds from the manufacturers' excise tax on handguns from the Federal Aid in Wildlife Restoration Program, more commonly known as the Pittman-Robertson, into a fund for compensating victims of crime. I'll not quarrel with the wisdom of this committee in considering that question. I think it is one that should be looked into. I will observe, however, that there is a real question as to whether there is enough money in this program to make a significant difference in the efforts of this committee to compensate victims of crime, because the revenues only amount to \$30 million. That \$30 million is a tremendous benefit for State wildlife programs in terms of protecting and enhancing fish and wildlife values across the country.

Pittman-Robertson funds allocated to the State of Michigan would be reduced by 25 percent, if this bill passed. In States like New Jersey, as my good friend, Mr. Conte has just mentioned, they would lose more than half of P-R allocation.

Now the Pittman-Robertson Program consists of a number of different components, one of which is the 11-percent manufacturers' excise tax on sporting rifles, shotguns, ammunition, and archery equipment, and the other is the 10-percent excise tax on handguns.

These taxes raised \$111.4 million in the most recent year of record. That's 1981. These excise taxes are paid by sportsmen, who curiously, at time when everybody is complaining about taxes, fight to defend not only payment of those taxes, but also the purposes to which those tax moneys are put. It's one of the few earmarked taxes in the whole lexicon of U.S. law, and it's done largely because the sportsmen recognize that nobody else seems to have any real interest in the protection of wildlife and nobody else seems to put much money into the protection of fish and wildlife. But they're willing to do it, and they're willing to tax themselves, so that this can be done.

I will observe that bird watchers and even some of the witnesses which may testify before this subcommittee, contribute nothing to the acquisition of wetland resources, although they have a great deal of criticism, in many instances, about the expenditure of these funds.

As I previously mentioned, one of the important components of the handgun excise tax is that portion of it which goes to the Pittman-Robertson fish and wildlife acquisition program. The balance,

however, goes to hunter safety and education purposes, to teach good citizenship, and to instruct individuals in the care and safety in the handling of firearms. That's extremely important.

Now let's look at the programs that are under discussion here today.

Since the inception of the Pittman-Robertson Program in 1938, through 1981 States have purchased more than 3.5 million acres of wildlife habitat with \$225.7 million in P-R moneys. They have acquired easements for 51 million acres of natural resource lands which are managed specifically for wildlife.

The P-R Program, as I mentioned, is more than habitat and land acquisition. Half the fund is invested in habitat improvements, such as water retention for waterfowl and winter range habitat enhancement for big game.

Mr. Chairman, if you look at the Western United States, you'll find that in most of the areas where absolutely magnificent animals like sheep and elk have vanished, it's been because man has taken away their winter habitat. These animals used to live in the high country in the summers and come down into the lowlands during the winter to graze. For example, Wyoming lost better than 50,000 elk 1 year, due to a lack of winter habitat for the elk. As a result, Wyoming almost lost a magnificent species.

Similar events, equally distressing, have occurred with regard to species like bighorn sheep, whitetail deer, and pronghorn. And of course, the restoration of the whitetail deer, the elk, the pronghorn, and the mountain sheep and mountain goat are, in large part, due to the Pittman-Robertson Program.

Now Mr. Chairman, the total amount deposited in Pittman-Robertson for wildlife restoration and hunter safety is \$258,649,621. And that has come in from the tax on pistols and revolvers alone. About 750,000 young Americans are trained in safe firearms use and outdoor ethics every year. That's an extremely effective effort, in terms of assuring good citizenship and careful use of something which is both beneficial and potentially dangerous.

I do not quarrel, I reiterate, with the committee as to whether there should be victim compensation. But the committee is going to have to decide whether this type of a raid on the Pittman-Robertson fund is going to result in more good than it does harm. I think the answer to that question is no. I believe it is going to do enormous damage.

If this committee desires to utilize the revenues from a manufacturers' excise tax levied on things like pistols or revolvers or anything else, the question of how those moneys should be used should be addressed in the appropriate fashion. The subcommittee should not seek to raid a program such as the Pittman-Robertson Program which has been working splendidly over the years, and whose purposes have been proven to be successful by the accomplishments that it has achieved. I think that one of the questions you're going to have to ask, if you raid this fund, are you going to get enough money out of it to make it worth the fight that you're going to have on the floor? Is it also going to be worth the evil that you are going to be accomplishing? Also, is it going to be worthwhile, in terms of adding any significant amount of money to the compensation of a large number of victims of crime?

There is, of course, that harsh fact, Mr. Chairman that one of the reasons that there are so many victims of crime is that there are so many criminals running around this country who are neither properly punished, apprehended, or who are detained for any sufficient period after they have committed a crime. All you have to do is look in the newspapers and find that criminals who commit rape, assault, murders, and other criminal acts, are not infrequently out on parole or bond or awaiting or are fugitives from criminal events, of which they are guilty.

I think if we really want to do something about this problem, don't go and raid moneys that are conferring an enormous benefit on the Nation as a whole, and not just the sportsmen, but others who enjoy natural resources, but do something about the real problems concerning criminals who literally laugh at the law and anticipate no real criminal sanctions or punishment, and look at some of the other basis problems that you've got relating to hunger, misfortune, ignorance, deprivation, discrimination on the basis of race and sex and things of that kind, which are exacerbating crime and hurting the whole future of this country, and address those questions.

Don't raid a small fund contributing enormous good to the whole of the society for a modest, if not doubtful, contribution to a victims' compensation fund whose merit may be great, but needs are far greater than the funds that are available in the Pittman-Robertson Program.

Mr. CONYERS. Well, I would commend you to the other hearings that we're holding on many other subjects in this subcommittee, which might touch upon at least several of the other activities that you suggested that we repair to in trying to stop the crime problem in this country.

I would also be willing to entertain your views on any of those subjects in our other hearings, where it would be a more appropriate forum for us to examine more views.

What we're proposing, and that's why we have the hearing, is to discuss how the handgun excise tax should be spent. What we're doing is reviewing what we should do with it. It can be spent to help people who have been maimed by criminals or it can be used to control the burning of forestlands, building up of wildlife, building target ranges and support other activities that promote recreational activities.

In my view, that is a legitimate discussion, and in a time of reductions of all domestic programs, the Pittman-Robertson Program has been so far immune from this belt-tightening process. Do you not think it's reasonable that it should be considered for some revised scrutiny? This P-R money has been primarily to support recreational activities, so shouldn't the Pittman-Robertson Program be also one of the domestic programs to have its belt tightened?

Mr. DINGELL. Mr. Chairman, the Pittman-Robertson Program is an earmarked tax. The Pittman-Robertson Program is a tax which is supported by sportsmen and conservationists for the protection of fish and wildlife values, for the enhancement of the fish and wildlife populations and their habitat.

It is a program which has many aspects, one of which is the teaching of hunter safety and good citizenship. I regard that as

being extremely important. It is a program where the States are required to match the Federal expenditures. It is a program which is not within the jurisdiction of this subcommittee or the full Judiciary Committee. It is one which is in the jurisdiction of a quite different committee of this Congress and has been for years.

Now I have no quarrel with this committee, if it wishes to proceed to deal with the question of victims' compensation, but I would simply observe that if this committee wishes to deal with that issue, and it desires to fund a victims compensation program, it ought to fund it out of its initiatives and their own efforts. The committee should not raid the jurisdiction of another committee or raid a fund in which the committee has had no part in its creation and no part in its administration.

Mr. CONTE. Mr. Chairman, if I may, I agree with Chairman Dingell on that point. As he said earlier, we both sit on the Migratory Bird Commission. There are only two Congressmen and two Senators along with three members of the Cabinet who serve on the Commission. Since the inception of the duck stamp, which was enacted by the Congress for the purchase of wetlands, we've bought 3.5 million acres of wetland in the United States. You should sit on that commission and see what's happening to our wetlands in the United States. If we had not bought that 3.5 million acres, the migratory birds, the geese, the duck, wouldn't have any place to land, no place to nest in the United States. Wetlands are being gobbled up for cheap commercial purposes: hot dog stands, and everything else.

The Robertson-Pittman Act also was enacted as a tax for recreational and for conservation purposes. If you didn't have this money, irreversible damage could have occurred. Once land is developed, you can never restore that area to its natural state. This tax is for a specific purpose. For example, we have a gas tax. What is it for? It's for building of highways and transportation expenses. If you try to take that tax for victims of crime, the Public Works Committee will kill you! We have a users' fee for the airports, for the building of airports. There are great airports out in California, Los Angeles, San Diego. It would be difficult to rob that fund for victims of crime.

Mr. CONYERS. You've used murder and robbery in the legislative context here. I don't really think the Public Works Committee would kill us, and I don't think we're going to rob their fund, even raid their fund.

This bill was referred to us by the appropriate sources in the Congress. It came to this committee, was assigned to this subcommittee by the chairman of the full committee. I assume it was appropriately done. If you wish to contest the jurisdiction for us to even have this discussion, I think it's probably a little difficult to do here, except to note that you don't think we should be discussing it.

The point that I'm trying to make, I don't want to take one nest away from one bird anywhere in the country, off or on Federal domains. I want all birds, wildlife and everybody else in the animal kingdom to be perfectly delighted with the way things are going now. We do not want to destroy the concept of Pittman-Robertson. What we're proposing is that one small part of that fund be given

to the problem of crime victims, and so I—without becoming someone opposed to wildlife preservation, I think this is an appropriate discussion. There is nobody—there are no handguns being used in the Public Works on the gas tax bill, and so there is no reasonable relationship, it would seem to me, somebody would argue, if I got a bill like that before the subcommittee.

Incidentally, I don't have anybody making that proposal. We do have a number of colleagues making this proposal. They make it, because they see a reasonable relationship between handguns and crime. As a matter of fact, according to the NRA statement, half the handguns bought in the country are bought for sporting and recreational purposes, another quarter of them are bought by law enforcement officers and agencies, another quarter are bought for self-defense. Now accepting that as accurate, which I don't always do with the NRA, aren't law enforcement agencies and people who buy handguns for self-defense purposes subsidizing a recreational activity that they do not engage in?

Mr. DINGELL. Mr. Chairman, I don't believe that excise taxes paid on handguns or other firearms apply to the purchases of firearms by communities or cities for the purposes of municipal government. I think you have to understand that the firearms subject to the excise tax are firearms that are purchased by private citizens and corporations. So we're not talking about raiding the pockets of municipalities for the purposes of Pittman-Robertson.

Now you talk about hunting. I'll be delighted to talk about that subject, because as you know, Mr. Chairman, I do a great deal of hunting. First of all, when I'm hunting I carry a handgun, lawfully, when I can. I also hunt with a handgun. If you'll come up to my office, I'll be glad to show you the head of what is called a Russian wild boar up on the wall. I shot him with a .44 caliber handgun. That weapon was a weapon of choice for this particular purpose for a number of reasons. First of all, it was legal to use the weapon for this purpose in this area. Second of all, the area was so difficult, in terms of terrain and vegetation, that this kind of weapon had to be used.

Now I do hunt other types of game with handguns, and I'll be delighted to show you either in this hearing or in connection with a visit to my office or my home, the kind of handguns that I use to hunt.

Mr. CONYERS. Well, I'd be delighted to look at them, and I am sure that there are some good stories behind how you brought them down. [Laughter.]

But, what will I do, John, when I come back, after being moved by your hunting experiences, how will I apply it to the bill in front of me? [Laughter.]

Mr. DINGELL. I've got a splendid suggestion, and I'll provide you with the language for the purposes of record: Strike that portion of the bill that Mr. Conte and I complain about, which is in title III, in section 301. That would be the beginnings of, I think, a splendid cooperative program by you and I. [Laughter.]

But Mr. Chairman, let me just tell you, in a 1980 survey of fishing and hunting, conducted by the Department of the Interior, it was found that better than 1.3 million hunters use handguns for 10.7 million hunting days a year. The purchasers' warranty re-

sponse cards indicate that hunting with handguns is the most rapidly growing form of sport hunting. Forty-nine States now permit small game hunting with handguns, 37 States permit big game hunting with handguns. A gun is a legitimate hunting weapon, and it's one where additional skills are required. So the hunters who use these kinds of weapons for hunting usually do it as a matter of special pride, and they do it when they could otherwise hunt with a rifle which might be much more effective in taking game at a greater range.

Mr. CONYERS. All right. I understand.

My last question is this. I mean, we've got to stay in some contact with reality here.

Mr. DINGELL. I agree.

Mr. CONYERS. Most handguns don't happen to be, as far as I know, used for hunting purposes. I thought most handguns were used for a completely different purpose, one which ties some rational relationship to the proposal before us, to the need that those who purchase handguns would have some responsibility for subsidizing, and I admit that it would only be a very small degree of the victims programs which all of us have no objection to.

Mr. DINGELL. Mr. Chairman, let me just make an observation here.

Criminals don't usually buy their guns; criminals usually steal them. Two of the biggest suppliers of handguns to criminals over the years were, first, the U.S. Postal Service and, second, John F. Kennedy Airport. And the number of guns stolen from the U.S. Postal Service has declined slightly of late, because they've finally taken the advice of our former colleague, Mr. Ichord and I, and used a great deal of pressure on the Postal Service and compelled them to take the word "firearm" off of the package. And what was going on in the Postal Service, amongst other things, where firearms were being stolen, were some of the postal employees were simply putting a sticker on, over the address label on the package, and addressing the package to their own home, and then they had it delivered by the U.S. Postal Service. Now, there are law-abiding citizens who want to have a firearm, but I don't think we ought to get into a discussion of whether a law-abiding citizen ought to have a firearm in their home. I happen to believe very strongly that they should. But a lot of law-abiding citizens do hunt with handguns, and more importantly, they support the Pittman-Robertson fund as a fund which has worked over the years.

Without discussing whether victims of crime ought to be compensated, the question is whether they ought to be compensated by some kind of tax. I'm simply saying that, first of all, you ought not to be raiding a fund which has worked well, does enormous good, not just for hunters, not just for handgunners, but for every citizen in the country.

Mr. CONYERS. You have your objections, and I think you presented your case most forcefully. Perhaps we shouldn't call it a raid, but I suppose that's perfectly appropriate debate language.

Let me recognize Mr. Edwards. I've spent far too much time on the questions, but I appreciate your response.

Mr. EDWARDS. Well, thank you, Mr. Chairman, I appreciate the testimony of my colleagues. When you invite us up, will you serve turkey, John? [Laughter.]

Mr. DINGELL. Beat this bill, and I'll get you the best dinner in town. It'll probably be a wild turkey, if I have any success in this area.

Mr. EDWARDS. I have no questions, Mr. Chairman.

Mr. CONYERS. Mr. Boucher.

Mr. BOUCHER. Thank you, Mr. Chairman. I want to commend the witnesses for their well presented and well prepared statements here this morning. I strongly support the victims of crime compensation program, but like you, I feel that the Pittman-Robertson fund should not contribute to the support of that program. I know that in our State of Virginia, we have purchased thousands of acres of wildlife habitat with those money, and the hunter safety programs are of tremendous benefit to us.

I'm a little bit uninformed as to exactly how the hunter safety programs work, and I wonder if either of you could provide some information concerning who administers those programs, how is the funding mechanism established in the States for them, and generally, how they operate.

Mr. DINGELL. Well, first of all, they operate very successfully. Second of all, they train an awful lot of youngsters in the safe use of firearms. The way the program works is that the manufacturers' excise tax on firearms and handguns is collected. It is apportioned to the States annually by the Interior Department, by a formula using several statistics. First, the area of the State and the number of hunters is taken into consideration. The portion which is allocated to hunter safety is approximately half the handgun tax program. That half the handgun tax then goes to the particular State which administers the program. It is administered then by the State game and fish agency or department, with certain matching additions—

Mr. CONYERS. Excuse me, John, pull that mike up, please. Everyone in the back can't hear you.

Mr. DINGELL. The fund then—I apologize, Mr. Chairman. Then the funds are used for hunter safety programs. Usually, these are conducted by either persons in State employ or more frequently by private citizens, all of whom are qualified firearms instructors and firearms safety instructors, usually provided as volunteers from, almost without exception, members of the National Rifle Association. Those programs and classes are held as official functions of the State government, and the youngsters in many States are compelled to have this kind of training and a certificate of having attended one of these schools, before they are permitted to have a hunting license. I think that is true in your State of Virginia.

Mr. BOUCHER. I believe you're right. As I understand your answer then, there is a State agency in each State—

Mr. DINGELL. State game and fish agency.

Mr. BOUCHER. Right, which is then responsible for administering the hunter safety program as funded through the Pittman-Robertson fund.

Mr. DINGELL. That's right.

Mr. BOUCHER. That's correct. Well, I know in our state of Virginia, every fall, when we have deer season, we have a tremendous number of hunting accidents, and a number of deaths occur each year. In fact, I'd be surprised that any year in the last several decades did not have at least a couple of fatal hunting accidents. But I have the feeling that if we did not have these hunter safety programs funded through Pittman-Robertson funds, that the number of accidents and the number of fatalities would be far higher. And I think that's a point that we should bear in mind, as we consider this measure further.

Mr. DINGELL. We go one step further in my county. We have a camp, and the sportsmen clubs provide the volunteers, and they bring the students up there, where they spend 1 week or 2 weeks at the camp and learn both safety and conservation.

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

Mr. CONYERS. You're welcome. Mr. Gekas.

Mr. GEKAS. Thank you, Mr. Chairman. I too commend you for the testimony that you've offered, and tell you at the outset that there are members of the committee who will be supporting the deletion of P-R from the victims compensation program.

The questions that I want to ask are related just to general theses. Are you aware that the administration in its testimony through its agents here also concur with you. They have not followed the recommendation of the White House task force. Are you aware of that, sir?

Mr. CONTE. Yes, the administration did not follow the recommendation of the task force.

Mr. GEKAS. Yes, so that's part of this scene at the moment. There is even testimony from the administration, the original proponents, really, of crime compensation, that P-R should not be touched.

Second, in Mr. Dingell's testimony, you had asked what kind of funding would there be on our part, if we did raid P-R to replace the moneys lost by P-R, and that might become moot, because at markup here, as I say, we're going to try to delete that problem to start with. But rather the question should be, why not go to other sources of funds, which you have already posed, and that there are many of us who want to follow some of the administration's proposals for going into some forfeiture of bond and other fine types and penalties for the crime victims compensation program, so that when you leave here, we're going to be asking you for support, implicitly, for the passage of such legislation, if it comes to the floor, with the other alternative types of funding.

Are you aware of these other alternative funding possibilities?

Mr. DINGELL. Yes. There are a lot of possibilities for funding. If you will look at the statistics which are beginning to come out on the number of people who pay their fines. Fines are relatively low. If you look at the number of people who are actually tried when they are arrested, you will find it's relatively low. If you look at the number of people who are convicted, you will find it's relatively low. If you will look at the number who actually go to jail, even if sentenced, you will find the percentage is relatively low.

There is a strong possibility of looking to forfeiture to fund victims compensation. However, I don't think the forfeiture statutes with regard to the taking of property of persons engaged in crimi-

nal activity are really strong enough or broad enough. You have massive funding possibilities, but you are bringing to mind another question.

When the Fisheries and Wildlife Subcommittee used to consider questions like forfeiture relating to activities such as illegal hunting of ducks and illegal hunting of endangered species, the subcommittee wrote some of the most savage forfeiture provisions it possibly could. The reason was that the subcommittee wanted to deter that kind of activity. And the subcommittee has, to a very large degree, deterred illegal taking of endangered species, waterfowl, and things of that kind, by reason of very stern forfeiture sections.

I think you can enhance significantly the forfeiture sections, and you may want to deal rather strongly with the collectability of funds due on criminal actions.

I would observe that the Government is extremely deficient in collecting its funds. We're finding that large numbers of Federal employees are involved in nonpayment of school loans, and things of that kind. And it's literally a major hemorrhage of Federal funds.

Mr. GEKAS. The only other question I want to ask as to the major theme of the legislation itself, is whether you—either of you two in your own districts, hear a hue and cry or demand for the passage of crime victims compensation programs. Do your own States have them, No. 1? And No. 2 is there a demand for them?

Mr. DINGELL. I don't believe we have one in Michigan. Mr. Conyers is our expert on criminal law, and he could tell you better than I.

Mr. CONTE. We have it in Massachusetts.

Mr. GEKAS. I think it's incumbent upon those of us who in our States do have crime victims compensation programs, to see whether or not this is really needed at all in the Federal level. That's one of the questions being raised, and if it is needed, what form should it take? Should it help the State funds, or should it be an adjunct to them, or how? So we have a lot of questions to answer, as correctly put by both these distinguished Congressmen.

I thank the chairman for the time.

Mr. CONYERS. Well, I want to thank my colleague from Michigan, Chairman Dingell, and my colleague from Massachusetts, Silvio Conte, for coming here and really putting the case for the deletion of this particular provision before the subcommittee. We will consider your well-argued reasoning. And we appreciate your being here this morning.

Mr. DINGELL. Mr. Chairman, you're always gracious, and we thank you and the committee for your kindness to us. Thank you, gentlemen.

Mr. CONTE. As far as I'm concerned, Mr. Chairman, you have the right to discuss anything. [Laughter.]

Mr. CONYERS. Even if it's not in our jurisdiction.

Mr. CONTE. That's right. [Laughter.]

Mr. CONYERS. That's all I needed.

[The prepared statements of Mr. Dingell and Mr. Conte follow:]

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Congress of the United States
House of Representatives
Washington, D.C. 20515

March 22, 1984

COMMITTEES:
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COMMITTEE ON ENERGY AND
COMMERCE
CHAIRMAN
SUBCOMMITTEE ON OVERSIGHT
AND INVESTIGATIONS
OFFICE OF TECHNOLOGY
ASSESSMENT
MIGRATORY BIRD
CONSERVATION COMMISSION

Statement of the Honorable John D. Dingell
before the
Subcommittee on Criminal Justice
of the
House Committee on Judiciary
on H. R. 3498

Mr. Chairman: I am John D. Dingell, Member of Congress from the 16th Congressional District of Michigan. I am currently a member of the Migratory Bird Conservation Commission and a former Chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment of the House Merchant Marine and Fisheries Committee. In my 28 years as a Member of the House of Representatives, I have actively involved myself in drafting and refining statutes, which have as their objective the protection and management of our Nation's wildlife and natural resources. I believe I am qualified to address the issue of wildlife management activities and the funding of these activities.

What brings me before your Subcommittee, Mr. Chairman, is to voice my strong opposition to Section 301(b) of H. R. 3498, which would redirect the manufacturers' excise tax on handguns from the Federal Aid in Wildlife Restoration Program (commonly known as the Pittman-Robertson or P-R program) into a fund for compensating victims of crime. This provision of H. R. 3498, in my opinion, constitutes an unjustifiable raid on funds specifically earmarked for wildlife conservation and management purposes and hunter safety programs. This raid is totally unacceptable. It is a clear case of robbing the poor to pay the unfortunate.

H. R. 3498 would slash \$30 million annually from state wildlife budgets. It would reduce P-R funds going to my State of Michigan by 25.5 percent. That would be devastating to the State's wildlife conservation efforts. Some states, like New Jersey and Massachusetts, would lose more than half of their P-R apportionments.

The P-R Program is funded by an 11 percent manufacturers' excise tax on sporting rifles, shotguns, ammunition, and archery equipment, and a 10 percent tax on handguns. These taxes, which totaled \$111.4 million in the most recent year of record (1981) are paid by sportsmen and women and collected from manufacturers by

the Federal government. These monies are transferred to the U. S. Fish and Wildlife Service which deducts a small administration fee and apportions the remainder to State wildlife agencies to pay three-fourths of the costs associated with State approved wildlife restoration projects and hunter education. The program is paid for entirely by these special taxes paid by the hunting public. The P-R program received no general fund revenues.

Since the inception of the P-R Program in 1938 up to 1981, states have purchased more than 3.5 million acres of vital wildlife habitat with over \$225.8 million of P-R monies. They have acquired easements on 51 million more acres, which are managed specifically for wildlife. The P-R program, however, is more than land acquisition. About half of the fund is invested in habitat improvements such as water retention for waterfowl and winter range habitat enhancement for big game. Also, P-R finances habitat restoration for endangered species and translocation of animals to unoccupied habitat. The white-tailed deer, elk, pronghorn and wild turkey restoration successes are due largely to the P-R program.

The tax receipts from archery equipment and handguns support hunter education programs in all 50 states as well as wildlife restoration activities. To date, \$258,648,621 has been deposited in the P-R Fund for wildlife restoration and hunter safety projects from the tax on pistols and revolvers alone. About 750,000 students are trained each year in safe firearms use and outdoor ethics. These programs have saved many lives by significantly reducing the rate of hunting accidents. The latest statistics indicate that P-R money is helping save the lives of more than 21 hunters each year in New York alone. I am proud to say that I was Chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment during the early 1970's when the archery and handgun taxes were dedicated to wildlife restoration and education. I will not, and Congress should not, support any legislation which would undermine these objectives.

H. R. 3498 would carry out a recommendation by the White House Task Force on victims of crime which calls for a raid on the handgun tax receipts to fund the crime victims program. In preparing its report to Congress, the Task Force erroneously concluded that: "There is little if any relation between handguns and hunting or wildlife activity." Such an assertion is ridiculous and is pure fabrication. The truth is that handguns are very popular and often necessary protection in hunting activities. As a practice, I carry, in a lawful and legal fashion, a handgun when I hunt. In addition to hunting with rifle and shotgun, I also hunt with a handgun only. I hunt small game, including woodchucks, deer, turkey, and wild boar. On my office wall I have a large ugly and imposing head of a "Russian" wild boar shot with a .44 calibre revolver. A handgun was the weapon of choice for this particular hunt because the terrain was

too difficult and the vegetation too thick for other weapons thought by some to be of a more sporting character. The 1980 National Survey of Fishing, Hunting and Wildlife Associated Recreation conducted by the Departments of the Interior and Commerce found that there were 1.3 million hunters using handguns for 10.7 million hunting days that year. The purchasers' warranty response cards used by industry reveal that hunting with handguns is the most rapidly growing form of sport hunting. Forty-nine states now permit small-game hunting with handguns; 37 states permit big-game hunting with handguns.

Mr. Chairman, America's sportsmen and women who pay this excise tax on handguns and manufacturers of the products are strong backers of the P-R Program. Years ago, when it was proposed that a number of these excise taxes should be eliminated, hunters and manufacturers urged Congress to retain the taxes on sporting arms and ammunition so that wildlife restoration efforts could continue. That is unselfish support of wildlife conservation in my view. And it would betray these dedicated millions of people if we divert those special funds to other purposes, no matter how noble.

I strongly urge the Committee to delete the handgun provision in this bill. There simply is no justification in degrading this Nation's wildlife effort to fund a crime victims program. Surely the Congress, this Committee, and the authors of this bill are more able and creative than that.

If the authors of this bill wish to fund a victims compensation bill let them suggest their own sources of funding. The program they seek to raid is a good one. It accomplishes great good in the field of conservation, wildlife management, and public recreation. The program subject to attack here funds firearms safety programs and educational programs, which build better citizens, better character, and firearms safety for hunters and non-hunters alike.

I do not oppose victims compensation at this time. There are, however, several important questions to be answered here before the bill, H. R. 3498, is reported.

First, is victims compensation a Federal responsibility, or is it the responsibility of the criminal, or of the States?

Second, is the amount proposed sufficient to deal justly with claims of the victims?

Third, what would be the basis for transferring funds from a successful program to one of conjectural success?

Fourth, is there justification for a raid of this sort on the funds supporting a program which has a record of such proven success?

Fifth, what does this Committee propose to do to replace funds taken from the Pittman-Robinson program?

Sixth, why not protect honest citizens by punishing more sternly criminal firearms misuse, and make punishment more sure to deter crime with firearms?

Seventh, why not compel the criminal to compensate the victim rather than society at large?

I believe the answer to the above questions is either negative or at least sufficiently in doubt to require that the bill, H. R. 3498, be opposed.

Testimony of

(2) — HONORABLE SILVIO O. CONTE

Before the
Judiciary Committee
Subcommittee on Criminal Justice

March 22, 1984

Mr. Chairman, members of the subcommittee, I appreciate the opportunity to testify this morning.

Let me say at the outset that I support the effort to compensate and assist victims of crime. For too long, our criminal justice system has catered to the privileges and rights of criminals at the expense of innocent victims. Many times, a rapist is analyzed and treated by the best psychiatrists while the victim is left to bear a tremendous burden, often alone. The legislation before the subcommittee — both the Rodino bill and the Fish/Administration bill — addresses many of these important issues involving victims of crime.

While I support the authorization of a federal victim compensation and assistance program, I strongly oppose the funding mechanism used in H.R. 3498, essentially for two reasons.

First, there is no compelling or logical reason to divert resources from the Pittman-Robertson Wildlife Fund for use in this program. There seems to be confusion surrounding the nature and use of the wildlife fund. I've heard the argument that only hunters benefit from the fund. That's simply not true. In Massachusetts, for example, the state Division of Fish and Wildlife conducted a "user survey" of state managed wildlife areas. The results were surprising, even to a hunter like me. Five times as many non-hunters used these areas as hunters did. The division estimates that 50,000 hunters use these lands annually. The other people probably hiked through the Berkshires or went horseback riding or simply walked through the woods observing nature. In fact, roughly half of the forty thousand acres owned by the state was purchased with Pittman-Robertson funds.

I've also heard the argument that there is no relationship between handguns and hunting. That's news to me. At present, 37 states have big game handgun hunting seasons while 49 states permit small game hunting with handguns. In 1980, over 1.3 million hunters used a handgun to pursue game.

To me, the implied connection between crime and the legitimate purchase of handguns is a "leap of faith" at best. I'm just not convinced that these funds should be diverted from their established use.

I am, however, even more concerned about the national and local impact of H.R. 3498 on wildlife conservation. In fiscal year 1983, the Pittman-Robertson Wildlife Restoration Fund distributed \$107 million to state fish and wildlife agencies. The states, in turn, conducted hunter safety programs, purchased thousands of acres of wildlife habitat and ran scores of successful restoration programs. The loss of the handgun excise tax would cost the program \$30 million.

In Massachusetts, the impact is even greater. Based on the FY 1983 apportionment, the handgun excise tax loss would cost the state \$526,000 or 52 percent of the federal funds distributed under Pittman-Robertson. The hunter safety program would be practically eliminated, and the wildlife conservation and restoration efforts would be severely curtailed. The states just do not have the resources to pick up the slack.

Let me give you an example of how these funds have been used in my state. In fact — if you can believe it — Pittman-Robertson funds have helped restore the historical integrity of a great American tradition. How can you have Thanksgiving in Massachusetts without wild turkey? For over 100 years — before Pittman-Robertson — that was the case. Wild turkey was extinct in Massachusetts.

On a more serious note, the turkey restoration effort, partially financed by these funds, began in 1969 and was in full swing by 1975. The results are commendable. Now, wild turkey can be found in many parts of the state. In fact, some of the best turkey hunting in the region is in southern Berkshire County. (If the committee is interested, I can arrange a field trip to view this success first hand.)

Finally, although I am unsure about funding levels, I recognize the genuine need for victim compensation and assistance programs. The first source of funding, however, must come from fines, forfeitures and penalty assessments. Criminals should pay for their crimes not sportsmen.

Environmentally, the costs of H.R. 3498 are high. The loss of revenue will be devastating to wildlife conservation and restoration. It's already an uphill battle to fund these programs and ones like them, I hope the Subcommittee doesn't increase the load.

Mr. Chairman, thank you for this time to testify.

Mr. CONYERS. Our colleague, John Breaux of Louisiana has joined us. He is chairman of the Merchant Marine and Fisheries Committee's Subcommittee on Fisheries and Wildlife, which has the oversight responsibility for the Pittman-Robertson fund. We have your testimony that has been prepared for this hearing, and it will be entered into the record without objection. We know that you were in testimony elsewhere this morning already.

We welcome you to the subcommittee.

TESTIMONY OF HON. JOHN B. BREAUX, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF LOUISIANA, ACCOMPANIED BY JEFF CURTIS, COUNSEL

Mr. BREAUX. Thank you very much, Mr. Chairman and members, and I will be very brief. I commend really your committee for taking a look at something that I think is incredibly important, and I am very glad to see the Judiciary Committee moving and looking at what we do with criminals vis-a-vis their impact on the victims and what they leave behind them, which is an incredibly serious problem that we have neglected for too long.

I really congratulate the committee for trying to find a way of addressing the poor innocent people who are left mangled many times and maimed for the rest of their lives while the State and county and Federal Government spend a great deal of time, effort, and money on trying to rehabilitate the criminal and we forget the victim.

With regard to the approach that you use, as you might expect, I have some concerns about it, particularly with regard to the attempt to use the Pittman-Robertson funds.

I am reminded of my colleague in the other body over on the Senate side, Russell Long. When it comes to taxes, his position is we won't tax you, don't tax me, we are going to tax that fellow behind the tree.

No one wants to put up and no one wants to have their bailiwick attacked or raided—if you want to use those terms. I would prefer to use a more milder term—because you are making an honest effort to try and find some funds. I would only suggest that while you are embarked upon this effort that you take a very serious look at how the Pittman-Robertson funds have been used. It is an excise tax; it is a user's fee; it has a direct purpose which is strongly supported by the people who are in fact paying that tax.

The total budget for the Interior Department's Fish and Wildlife Service is about \$520 million. That is not a lot when you consider what they use it for—national programs, buying land, rehabilitating areas, protection of wildlife and habitat—and hunters and fisherman have voluntarily—I say voluntarily. They have to pay it, but they also support it.

They have testified before Congress many times on increasing the funds, on assessing themselves, and have made suggestions as to how we can even find more money in that area.

But the point I would make is that it is serving a good purpose. If it was not being used wisely, I would say have at it, go to it because we are not using it rightfully. But they are.

With regard to the tax on handguns, statistics I think are very clear, and perhaps we are helping victims already by the tax on handguns. I say that because of the fact that—you take the States that have had good programs and have used the tax on handguns for hunter education.

New York is an example. They have decreased the accidental accidents by the use of handguns by something like 70 percent. They have decreased the nonfatal accidents by something like 50 percent, and I daresay that a lot of that is attributable to the fact that people are being taught how to handle these firearms, and so you are coming up with less victims as a result of the hunter education programs and the programs that teach people how to use these particular firearms.

So in fact we are helping society, not only the birds and the bunnies or the bees, but you are helping the human element by the tax on firearms which is being used to teach people how to handle weapons, which if they are not handled properly can be very, very dangerous.

The statistics in New York are just cited here. There are many other States that could tell you the same type of statistics, which indicate, I think, to this committee that the money is being used in a representative way.

How do you solve your problem? I don't really have a lot of suggestions. But it irks me to no end to see people who have been tried and convicted by their peers, sometimes going to a facility where they are incarcerated and actually making money off the crime.

How many times have we seen people who have been convicted of a murder or other brutal crime sitting there and writing a novel about it and then selling the book rights to Hollywood to make a movie about it? Where does that money go?

It goes into the criminal's pocket or it goes for his legal fees or it goes for some other promotion that he is going to engage upon as a result of his criminal activities.

That doesn't seem right. I think perhaps this committee could suggest that any funds that a person derives as the result of a criminal act which he has been truly convicted of should be deposited in an account to take care of victims that he has caused misery for the rest of their lives.

The second thing I would suggest that perhaps you could look at is establishing some sort of a system whereby the work effort of that particular incarcerated criminal, if he is in good health, or she is, is doing something while they are in the penitentiary, and perhaps that their salary or their economic remuneration from those efforts could go into a fund which would be deposited to help the victim of the crime that they in fact caused to occur.

I think that person has the responsibility of trying to help pay for his crime, not people who are interested in hunter education programs, not the general sportsmen in the country. They do not have a reason other than the goodness of their heart to try and help victims, which is a noble reason, but that criminal has a reason. He has a debt to pay to society other than just sitting incarcerated in a facility while we pay their expense.

So I congratulate the committee, and in the very best sense of the word. It is a very important step that you are taking.

I would suggest that the Pittman-Robertson Program is already insufficient to take care of the legitimate needs, and it is perhaps not the best place that you can go to find the funds.

Thank you, Mr. Chairman.

Mr. CONYERS. I appreciate your testimony very much.

Let me just point out to you that there are proposals before this subcommittee and others that would take the film and book rights and profits from criminals. It presents something of a constitutional problem, so it hasn't been worked out in its entirety yet.

I am impressed with your reasonableness about this, Mr. Breaux. I think you understand that we are not trying to rip off anybody or that we are not being anti-environment. We want to support the preservation programs. But we are trying to make a point here, that there is a reasonable relationship between the use of firearms and the injuries that result to human beings as a result of them.

It is hard for me to conceive that most people are buying handguns to shoot rabbits or turkeys. I am sure that somewhere that is going on, but obviously that is not what these 40 or 50 or 60 million handguns are doing out here in pretty urban neighborhood across America.

And so what I would like to just ask you, is there a relationship between the crime that goes on and the firearms that are sold, or handguns?

Mr. BREAUX. I think there is definitely a relationship. I think that anyone would have to be naive to say that when people—that the number of handguns that are in use in the United States does not have some relationship to the crimes that are committed.

The points that I would make are, No. 1, that it is certainly legal to purchase and own handguns, and that argument has been debated from a constitutional standpoint for years.

The other point that I think Mr. Dingell addressed is there are an awful lot of people who acquire handguns who never pay—not only don't pay the tax, they don't pay the price of the gun. A lot of the weapons that are found in the hands of criminals are acquired through illegal means by stealing. They not only don't pay their tax, they don't even pay the price of the weapon.

The other thing that was addressed with regard to this: With the number of municipalities, police systems, et cetera, that also are somehow paying the tax, I think we could address that problem by giving them an exemption if some does not already exist. I think they probably get a rebate.

The tax, as I understand it, is on the manufacturer's level, and so if you buy the weapon, you are in effect paying the tax. They probably have a rebate. I am not sure, but if they don't, perhaps they could address that fact.

I have no objections to what you are saying, Mr. Chairman. I would only point out the example that I cited in New York, where, because of the hunter education programs, the fatal accidents in hunting areas in New York State were reduced by 70 percent; the nonfatal accidents were reduced by 50 percent.

That shows, I think, that we are in fact addressing the victims of accidents and intentional occurrences through the use of handguns.

Mr. CONYERS. Good point.

Let me ask you about the hunter education program because it has been brought up more than once. Would you support legislation mandating the successful completion of a hunter education program before someone could possess a firearm?

Mr. BREAUX. I have no problem with some sort of a system being established which would ensure that the people who are buying a piece of equipment to hunt with know something about it.

I, quite frankly, have the fear of the Lord put in me any time I am at a hunting camp—and I do an awful lot of hunting—with people who have not been properly trained in the use of a shotgun. I mean, I have had them swing them over my head. I have hit the deck in the blind. I have jumped out the blind because someone is careless and doesn't know how to use a firearm.

They shouldn't have a firearm, I would submit. They shouldn't be using it. I don't want them to use it around me.

We have a program that tries to help that, and it is called the Pittman-Robertson Program. So I would certainly say we need to keep it. We need to expand upon it and improve it.

Mr. CONYERS. Well, I would like to extend it to the owners of handguns, which is where most of us get killed, even more so than on the opening—

Mr. BREAUX. Yes, but you know, Mr. Chairman, in all fairness and practicality, the people killed by handguns are getting murdered by handguns. The fact that we take a criminal and teach him how to use it better isn't going to mean he is not going to use it to go out and commit a crime. He is just going to be more accurate when he commits that crime.

Mr. CONYERS. You keep referring to the criminals. We talked about taxing the people that own handguns, and you are talking about the guy that stole the legitimate owner's handgun.

But what about the person who honestly bought it? We are talking about him. I am not talking about teaching criminals how to handle the guns. We have had police chiefs testify before this subcommittee across the years that handgun accidents happen in the homes of the police officers. They are accidental weapons discharge by people that don't know how to use them.

I am just taking the same principle for hunting and thinking it might not be a bad idea to apply to the guy living next door to you.

Mr. BREAUX. We have no disagreement, I think, between our two positions on that. But the program in New York again is an example. It is teaching not only people who go out and use that shotgun or that rifle to hunt; they are also teaching people who privately own handguns in the home how to use those handguns and prevent them from blowing their heads off.

So, I mean it cuts across. You use it not only to teach hunters, but you use it to teach the honest citizen who wants that handgun in his home for protection, and which I would honestly admit that an awful lot of people, men and women, have a handgun sitting next to the night table and they don't know which end of the barrel the bullet comes out of. I get concerned when that type of a person has a handgun.

Mr. CONYERS. Well, that would be everybody that hasn't had any training.

Mr. BREAUX. Well, not really. I never took a handgun shooting lesson, and I think that I could handle it fairly safely because of previous experience with other firearms.

Mr. CONYERS. Well, yes, but the average handgun owner hasn't had any previous experience.

Mr. BREAUX. Well, I think they should. I have no problems with that. They should be trained. My goodness.

Mr. CONYERS. Well, I thank you for your—

Mr. BREAUX. You have to get trained to use a motorcycle. You ought to get trained to use something much more dangerous.

Mr. CONYERS. Good idea. I thank you for your candid suggestions.

Mr. BREAUX. Thank you.

Mr. CONYERS. Mr. Edwards.

Mr. EDWARDS. Thank you, Mr. Chairman, and thank you, Mr. Breaux, for your very excellent testimony.

Mr. BREAUX. Thank you.

Mr. EDWARDS. You understand that the suggestion that there be a diversion of these funds from Pittman-Robertson didn't originate with this subcommittee. It originated in the President's Commission on—

Mr. BREAUX. That is probably not the first time he has been wrong.

Mr. EDWARDS. Probably not. [Laughter.]

Mr. BREAUX. I thought we would agree on that.

Mr. CONYERS. Now, note reluctant agreement. [Laughter.]

Mr. EDWARDS. Last year the fund had \$107 million, in 1983, and I am just curious—this is not the subject of this hearing—but do you know, in your oversight, how that was broken down, what percentage of the \$107 million went actually to purchase new wildlife areas?

Mr. BREAUX. Let me give you the best figures that we have. Maybe my counsel can help us on the thing, but the legislation provides—I mean, the law provides that up to half of the revenues that result from the tax on handguns may be used for the hunting safety and the target ranges. Only about 25 percent of the funds have typically been used for those purposes, leaving an additional, approximately of course, 75 percent of those funds available for wildlife restoration projects.

The money from the other firearms, nonhandguns, are used 100 percent for the wildlife restoration, land acquisition, et cetera.

Mr. EDWARDS. How much of the \$107 million, what percent, would go to training?

Mr. BREAUX. Well, I don't have that figure. The only figure I gave you was the money coming from the tax on handguns. Up to 50 percent of that money alone could be used for hunter education, and about 25 percent of it actually has been used.

And, counsel, let me ask him. He might have something.

Mr. CURTIS. Well, it was about \$30 million, I guess, came from the taxes on handguns, and that would be about 25 percent of that \$30 million was used for hunting safety programs.

Mr. EDWARDS. So around \$10 million a year is.

Mr. CURTIS. Probably less.

Mr. EDWARDS. Something like that.

Mr. BREAUX. About.

Mr. CURTIS. And the rest of it in wildlife habitat.
 Mr. EDWARDS. Are these instructors paid?
 Mr. CURTIS. I think it probably varies from State to State.
 Mr. EDWARDS. Well, thank you very much. Thanks, Mr. Chairman.
 Mr. CONYERS. Sure. Mr. Boucher.
 Mr. BOUCHER. Thank you, Mr. Chairman.
 Mr. Breaux, I want to commend you on your excellent testimony also.
 Mr. BREAU. Thank you.

Mr. BOUCHER. I think that the suggestion that perhaps we should include as a part of the funding for the crime victims program profits that criminals make on the sale of books or movies is interesting.

I wonder, though, if we would—

Mr. BREAU. I would suggest further, though—and you are going to another point—why not take some portion of the money that he is being paid to make license plates or to work in the kitchen or to do anything that he or she does in the penitentiary, that also a portion of that be docked and used for this purpose?

Mr. BOUCHER. That second point, I think, is perhaps more valid in terms of generating a substantial fund over the long term than is the former suggestion, the reason being that if we remove the financial incentive for the criminal to write a book or make a movie and obtain royalties from it, how many criminals really are going to do that?

Mr. BREAU. Very few.

Mr. BOUCHER. So I suspect that we probably would not generate a substantial amount.

Mr. BREAU. Well, probably every one of them, if you think about it, probably is working in some facility within the institution—and I know in Louisiana—and they get paid for it, and they are also getting free room and board, and if the system is worth a darn they are probably getting some retraining and they are getting paid.

Now, when you think about it, we got a victim down there who may be paralyzed for life and has a family that has no support and is getting nothing from anyone, and that doesn't quite balance to me.

Mr. BOUCHER. Well, I agree with that wholeheartedly. I know in our State of Virginia people who are incarcerated and work within the prison receive very little in terms of compensation. It is just a matter of a dollar a day or something along that line.

So I think that we should not assume that we are going to generate any very large funds to support a program such as this by diverting those payments into this kind of program.

Mr. BREAU. Its symbolic value is almost as much as it is a dollar value.

Mr. BOUCHER. And I assume you would say that the symbolic value of taking royalties from books or movies for the purpose of this program would be worthwhile also?

Mr. BREAU. Oh, I think it is a tragedy that we would allow that to happen. I realize the chairman has pointed out some constitutional problems. I would recognize those, but that person truly has

a debt to society, and I would question whether it is totally absolved merely by being incarcerated when there are dollars that are available to help that can be helpful.

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

Mr. BREAU. Thank you.

Mr. CONYERS. Let me just ask you as you leave. We have got a figure that about 9 percent of the people who own handguns do so for hunting purposes.

Do you have any statistics on that?

Mr. BREAU. I really don't. I don't.

Mr. CURTIS. Wildlife Management Institute.

Mr. BREAU. The Wildlife Management Institute, counsel says, might have some good figures on that.

Mr. CONYERS. All right. Thank you so much for your testimony.

Mr. BREAU. Thank you, Mr. Chairman.

Mr. CONYERS. We appreciate it very much.

[The prepared statement of Mr. Breaux follows:]

OPENING STATEMENT BY JOHN BREAUX, CHAIRMAN
 SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION
 AND THE ENVIRONMENT
 IN REGARD TO
 H.R. 3498, THE VICTIMS OF CRIME ACT OF 1983
 BEFORE THE CRIMINAL JUSTICE SUBCOMMITTEE
 MARCH 22, 1984

MR. CHAIRMAN, IT IS A PLEASURE TO BE HERE TODAY TO TESTIFY ON PROVIDING COMPENSATION FOR VICTIMS OF CRIME. THE RANKING MINORITY MEMBER OF THE SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION AND THE ENVIRONMENT, CONGRESSMAN FORSYTHE, WAS GOING TO APPEAR WITH ME TODAY BUT IS UNABLE TO BE HERE. WITH YOUR PERMISSION I WOULD LIKE TO HAVE A STATEMENT BY HIM ENTERED INTO THE RECORD.

MR. CHAIRMAN, I AM SUPPORTIVE OF PROVIDING COMPENSATION FOR VICTIMS OF CRIME, BUT, I MUST SAY, WHEN I SAW THE PROPOSAL FOR FUNDING THE PROGRAM BY DIVERTING SOME OF THE FUNDS FROM THE FEDERAL AID IN WILDLIFE RESTORATION PROGRAM TO VICTIMS OF CRIME, MY FIRST REACTION WAS "WHY PICK ON WILDLIFE?"

AS YOU CAN IMAGINE, THOSE OF US IN CONGRESS--BOTH HUNTERS AND NON-HUNTERS--WHO SUPPORT WILDLIFE PROGRAMS HAVE HAD A DIFFICULT TIME OVER THE LAST FEW YEARS PROTECTING THE MEAGER APPROPRIATIONS FOR WILDLIFE. FOR FISCAL YEAR 1984, THE TOTAL FEDERAL

APPROPRIATION FOR THE U.S. FISH AND WILDLIFE SERVICE, INCLUDING THE MONEY COLLECTED FROM THE PITTMAN-ROBERTSON (P-R) TAX ON GUNS AND AMMUNITION AND THE DINGELL-JOHNSON (D-J) TAX ON FISHING EQUIPMENT, WAS APPROXIMATELY \$502 MILLION. OUT OF THIS APPROPRIATION MUST COME FUNDS TO ACQUIRE WILDLIFE HABITAT, PROTECT ENDANGERED SPECIES, MAN AND MAINTAIN A WILDLIFE REFUGE SYSTEM BIGGER THAN THE NATIONAL PARK SYSTEM, CONSERVE OUR MIGRATORY BIRD RESOURCE, CONDUCT RESEARCH ON SUCH MATTERS AS WILDLIFE DISEASES AND PESTICIDE EFFECTS ON FISHERIES AND WILDLIFE, PARTICIPATE IN REGULATORY PROGRAMS PROTECTING WETLANDS, INVESTIGATE VIOLATIONS OF OUR WILDLIFE LAWS, PROVIDE SUPPORT FOR STATE WILDLIFE PROGRAMS (P-R) AND FISHERY PROGRAMS (D-J) AND CARRY OUT THE MANY OTHER ACTIVITIES THAT ARE NECESSARY TO CONSERVE THE BIOLOGICAL RESOURCES OF THIS COUNTRY. I SUPPORT COMPENSATING VICTIMS OF CRIME, BUT CAN'T WE FIND THE FUNDS TO DO IT IN ONE OF THOSE PROGRAMS WHERE THE ROUNDING OFF IS DONE TO THE NEAREST HUNDRED MILLION RATHER THAN TO THE NEAREST HUNDRED DOLLARS.

MY SECOND REACTION WAS "WHY PICK ON SPORTSMEN?" UNLIKE MANY INTEREST GROUPS IN THIS COUNTRY, HUNTERS AND FISHERMEN HAVE CONSISTENTLY SUPPORTED USER FEES IN THE FORM OF TAXES AND LICENSES AS LONG AS THE PROCEEDS WENT TO PROGRAMS THAT HELPED FISH AND WILDLIFE RESOURCES. OF THE \$502 MILLION IN APPROPRIATIONS FOR WILDLIFE IN FISCAL YEAR 1984, MORE THAN \$150

MILLION CAME FROM USER FEES PAID BY HUNTERS AND FISHERMEN. THEIR CONTRIBUTIONS HAVE HELPED ALL OF US. PROCEEDS FROM THE SALE OF FEDERAL DUCK STAMPS HAVE BEEN USED TO PURCHASE NATIONAL WILDLIFE REFUGES, LIKE CHINCOTEAGUE ON THE VIRGINIA SHORE, THAT ARE ENJOYED BY MILLIONS OF AMERICANS, BOTH HUNTERS AND NON-HUNTERS. STATE PROGRAMS FUNDED BY P-R THAT CONSERVE WILD AREAS PROTECT THE HABITAT OF BLUEBIRDS AS WELL AS QUAIL AND HELP BIRD WATCHERS AS WELL AS BIRD HUNTERS. PROJECTS FUNDED BY D-J TO PROVIDE BOATING ACCESS TO RIVERS LIKE THE SHENANDOAH BENEFIT THOSE OF US WHO FISH AND THOSE OF US WHO JUST PADDLE.

ALTHOUGH THE LEGISLATION PROVIDES THAT UP TO HALF OF THE REVENUES RESULTING FROM THE TAX ON HANDGUNS MAY BE USED FOR HUNTING SAFETY AND TARGET RANGES, ONLY ABOUT 25 PERCENT OF THE FUNDS HAVE TYPICALLY BEEN USED FOR THOSE PURPOSES; LEAVING APPROXIMATELY 75 PERCENT OF THOSE FUNDS AVAILABLE FOR WILDLIFE RESTORATION PROJECTS. THE SMALL PORTION THAT IS GOING TO HUNTER SAFETY PROGRAMS HAS HAD A REMARKABLE EFFECT. IN NEW YORK, FOR EXAMPLE, FATAL HUNTING ACCIDENTS HAVE DROPPED 70 PERCENT SINCE THEY INSTITUTED A HUNTER SAFETY PROGRAM; NONFATAL ACCIDENTS HAVE DECREASED MORE THAN 50 PERCENT. CAN'T WE PROVIDE COMPENSATION FOR VICTIMS OF CRIME WITHOUT CRIPPLING STATE PROGRAMS THAT ARE SAVING LIVES.

RECENTLY, SPORT FISHING AND CONSERVATION GROUPS, CONCERNED FOR THE STATE OF THE FISHERY RESOURCE, HAVE APPROACHED MEMBERS OF CONGRESS SEEKING SOLUTIONS. TYPICALLY, THEY HAVE VOLUNTEERED TO BEAR SOME OF THE BURDEN THEMSELVES, PLACING ADDITIONAL TAXES ON FISHING TACKLE ITEMS TO SUPPORT FISHERY PROGRAMS. IF WE PASS SUCH LEGISLATION, WILL SOMEONE COME ALONG NEXT YEAR AND DIVERT THOSE FUNDS TO OTHER USES?

I BELIEVE WE MAKE A COMMITMENT TO SPORTSMEN WHEN WE PASS LAWS THAT PLACE TAXES ON ITEMS THEY PURCHASE. THEY HAVE TAKEN THE LONG VIEW, PAYING NOW SO THAT THEY, AND THEIR CHILDREN AND GRANDCHILDREN, CAN CONTINUE TO ENJOY WILDLIFE. THEIR VOLUNTEERING TO SUPPORT CONSERVATION PROGRAMS IS A CONSCIOUS, UNSELFISH AND, INDEED, A NOBLE ACT. TO DIVERT FUNDS THEY HAVE RAISED TO OTHER PURPOSES, NO MATTER HOW NOBLE, WOULD BE A BETRAYAL.

THANK YOU, MR. CHAIRMAN, THAT CONCLUDES MY STATEMENT. I WILL BE GLAD TO RESPOND TO ANY QUESTIONS YOU MAY HAVE.

Our next witness represents the National Rifle Association. He is the executive director of the NRA Institute for Legislative Action, Mr. J. Warren Cassidy. Welcome to the subcommittee.

Mr. Cassidy has submitted a prepared statement, which, without objection, will be incorporated in its entirety into the record.

If you would identify your companion at the witness table.

TESTIMONY OF J. WARREN CASSIDY, EXECUTIVE DIRECTOR, NATIONAL RIFLE ASSOCIATION INSTITUTE FOR LEGISLATIVE ACTION, ACCOMPANIED BY TOM MELIUS, ASSISTANT DIVISION DIRECTOR OF THE NATIONAL RIFLE ASSOCIATION, HUNTER SERVICES DIVISION

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

Mr. CONYERS. I know that you will summarize, so that we won't—

Mr. CASSIDY. Yes, I will.

Mr. CONYERS [continuing]. Need to read the whole statement.

Mr. CASSIDY. That is correct.

Mr. CONYERS. Welcome to the subcommittee.

Mr. CASSIDY. Thank you very much for inviting us.

Many of the questions you asked I think can be answered by Mr. Tom Melius, sitting at my right, assistant division director of the NRA Hunter Services Division.

To answer one very quickly, at least from the statistics. Congressman Edwards asked approximately how much of that \$107 million distributed in fiscal year 1983 went to the Hunter Education Program. According to the Interior statistics, \$18,820,000 of that 107 million went for that purpose.

I would also, before I summarize my remarks, comment that we are well aware that this legislation to which we are opposed did not originate in the committee, and my remarks are not directed at the committee, individually or collectively.

We take no position relative to the general concept of victims legislation, victims assistance legislation. If it is the will of the Congress to enact such a program, to broaden or to supplement the Victims Compensation Programs which currently exist in 38 States, we will not oppose that action at all.

Rather, I come before you on one matter which is of great interest to our 2,800,000 members and to which we are strongly opposed. Several of the proposals before the committee, for example, H.R. 3498, introduced by Congressman Rodino, would fund a victims assistance program by utilizing the existing 10 percent excise tax on handguns. We will oppose any action of that type with the strongest possible terms.

The Congressmen who have addressed you have analyzed and described our arguments, I think, better than I could, and I will not repeat them. What is of prime concern to us is the fact that funding a Victims Assistance Program through the use of handgun excise taxes would, in our opinion, be nothing more than a direct slap in the face to the millions of law-abiding sportsmen and firearms owners who pay this excise tax.

I would make the point that in the proposed legislation there are four methods of funding, and three of them have to do with crime

and criminals—fines collected in Federal criminal cases, forfeitures in Federal criminal cases, assessments collected from defendants convicted of Federal offenses and then out of the blue, the fourth one, a tax on law-abiding citizens providing funds for wildlife habitat, hunter safety programs.

It is incongruous to us that penalizing this type of individual be included in four methods of proposed funding, three of which have to do with crimes, fines, and forfeitures.

You, of course, have heard of the crippling aspects of taking the \$30 million out of the Pittman-Robertson fund. I submit that although Pittman-Robertson is certainly subject to the same economic fiscal dictates of the society that all other funds are, if money is taken from it and directed elsewhere it is certainly not a belt-tightening exercise. It is simply a redirection of income from one source to another.

I would point out also that I think some of the folks that may support Chairman Rodino's point of view and oppose our point of view, where we attempting to speak on behalf of conservation, are many of the same people that opposed Secretary Watt because they felt that his administration was attempting to do the same thing that Chairman Rodino is attempting to do. That is to take moneys out of areas reserved for wildlife conservation. I would make that point very strongly.

Originally, as you know, the fund was restricted to the tax on long guns. Later on the tax on handguns was added.

Another point that would be of interest to you—I think one of you gentlemen asked it of another witness—there are approximately 700,000 students trained each year by the Hunter Safety Programs in the States. I happen to be one of them, and I have a card that I received in 1978 from the State of Massachusetts, from which I recently migrated, signed by Gordon Como, Jr., working for the Division of Fish and Wildlife in the Commonwealth of Massachusetts. In many of our States and the Canadian Provinces, in order to obtain a hunting license it is necessary, if you have not had one the immediate prior year from that State, to present a card such as this, and then they will grant you a hunting license in that particular State.

Another question that was asked relative to the State level—these are full-time employed fish and wildlife personnel that conduct these classes. They are not given any additional money by the fish and game clubs or the rifle and pistol associations that bring them in and give them the availability of their buildings and their desks. They are not paid anything. The money does not go into their pocket.

Those who see the 10-percent excise tax as a source of funding base their arguments in great part, I think, on certain allegations, and I will touch very briefly on them.

One, they do say that there is no relationship between the ownership of handguns and hunting. I think that relationship has been displayed by previous witnesses. Regardless of the debate as to how many or what portion or percentage of handguns are used in hunting, there is a definite relationship when 37 States permit handgun hunting and when 1½ million hunters—again, this is the Interior statistics—purchase their license purely for handgun hunting. So

there is a substantial number regardless of the percentage it represents in the overall number of hunters.

Another allegation is handgun ownership is an important cause of criminal violence. I think, again, a statement such as this assumes a collective guilt or responsibility on law-abiding citizens.

Now, the Law Enforcement Assistance Administration financed a study, as you perhaps know, by Professors Wright and Rossi of the University of Massachusetts. They concluded: "There is little evidence to show that gun ownership among the population as a whole is per se an important cause of criminal violence." They further stated: "Truly decision evidence; for example, evidence on the ensuing criminality of persons who acquire firearms, does not exist."

Another allegation that is frequently made—legitimate handgun sales are the source of criminal weapons. According to a paper by Professor Wright at the annual meeting of the American Society of Criminology last November, concluded that crime guns come predominantly from illicit activity, which in itself is criminal in nature. Criminals steal their firearms or get them "on the street". Only rarely is such a firearm acquired through legitimate channels.

Another allegation is Pittman-Robertson funds are only used for the benefit of hunters and not the public as a whole. I think Chairman Dingell, Congressman Conte, and others have pointed out very graphically and dramatically that far more nonhunters benefit from what Pittman-Robertson does out of excise tax sales than do the hunters themselves. Eighty-seven million Americans, it is estimated, use the wildlife areas.

Another allegation is that the removal of the handgun excise tax from Pittman-Robertson will not pose a hardship on the fund. Although I believe that the \$30 million may not make a great impression on victims throughout the country—and I say that as one who has engaged in the insurance business prior to coming to Washington 23 months ago—I will promise you that if victims compensation becomes law you will have exactly the same thing that you had with Medicare or other benefits such as that. Once victims are aware of the program, the initial funding, whatever it is, will be miniscule. It won't approach the moneys you will need once a legitimate victim sees another legitimate victim collecting and they did not know about it, and we will breed a whole new corps of legal counsel who will be able to act in that area.

So that although the 30 million, in my opinion, will not add much to the victims, it will so badly cripple the Pittman-Robertson funds as to make them unrecognizable, and I think again, rather than bore you, you have testimony submitted with statistics from Ray Arnett and I think Congressman Dingell and others showing just how badly it would hurt it.

Finally, we do have a strong history of support for conservation efforts. We continue to do that, and I think we make it quite obvious that we do. What we do oppose is the misconception that—as I started my presentation—that law-abiding citizens paying a tax that they helped in part to put into effect are included with three forms of criminal offenses—Federal crimes, forfeitures of cases, convicted of Federal offenses, misdemeanors and others as a means

of funding. That out of the blue, a segment of law-abiding America is included, with criminals however erroneously. I think that is our greatest objection.

I respectfully request that the committee strongly consider rejecting H.R. 3498 or other proposals of that nature.

Thank you very much.

Mr. CONYERS. Thank you, Mr. Cassidy. We appreciate your testimony, and we will study very carefully the arguments that are contained in your statement.

Do you have any indication of how many people own handguns for hunting purposes?

Mr. CASSIDY. How many own them?

Mr. CONYERS. Do you know how many people own handguns for hunting purposes?

Mr. CASSIDY. It would only be a guesstimate, Mr. Chairman. I would suggest we have figures of 1½ million.

Tom, do you have that?

One and one-half million is a guesstimate. I would hate to hang my hat on it.

Mr. CONYERS. We had one study that suggested Nine percent of the handgun owners do so for hunting purposes. Does that strike you as accurate?

Mr. CASSIDY. Nine percent of all handgun owners?

Mr. CONYERS. Right.

Mr. CASSIDY. I wouldn't argue it, Mr. Chairman. I think that we have in our debates over many years—and I had the pleasure many years ago of appearing before a committee of yours in New York when we were having proposition question 5 in Massachusetts in 1976. I don't know that it was a great pleasure for me, but I think that we are guessing as to how many guns are owned—handguns are owned privately.

I would think the 9-percent figure is not even correct. I would think it is less than that are used for handgun hunting.

Mr. CONYERS. Would you support a proposition that states that firearms are related to crime; namely, handguns?

Mr. CASSIDY. No, I would not.

Mr. CONYERS. Well, would you agree with the fact that most gun deaths are caused by handguns?

Mr. CASSIDY. Most gun deaths would be caused perhaps by handguns, although there are States where that is not true. But that is like saying most knife deaths are attributable to knives.

Violent crimes—the FBI shows conclusively each year that there are ways that are used more frequently than guns in the commission of homicides.

Mr. CONYERS. Well, aren't the greatest number of deaths and crime related to firearms?

Mr. CASSIDY. They are not in the violent crimes, no. Seven percent of rapes—and that is one of the violent crimes—guns are used. Something like 9 percent or 10 percent of all murders—now I am not talking about the ones cleared by arrest and cleared by conviction—but regardless if they are, Mr. Chairman, I respectfully submit that the method of dispatching the victim is really irrelevant, and I think the FBI states that year after year they attribute

it to socioeconomic causes, to people, whether they are highly mobile or stable citizenry.

I really don't think there is any connection.

Mr. CONYERS. In your view, then, it doesn't matter how many guns are in the society. That would not be relevant to the crime rate.

Mr. CASSIDY. To the crime rate, no, sir.

Mr. CONYERS. And to the number of people who die by firearms?

Mr. CASSIDY. No, sir. No.

Mr. CONYERS. If this handgun excise tax were imposed as one of the bills before us suggests, wouldn't most of the people paying the tax be people who in fact are not buying handguns for the purpose of hunting?

Mr. CASSIDY. If we conclude—and it should be concluded—that I think the military are the only ones that escape that tax. I do not think law enforcement communities escape that tax. Now they get sales. They get it at a less price than you and I might, but they do not—at least in theory—escape the tax. The military does.

So that if you are saying that of all handguns sold, a relatively small portion are bought for hunting purposes, and therefore the people that actually are hunting are only paying a small portion of the overall tax, I think that is true.

But I think it is also true that it displays better than anything I could say the overall support of legitimate handgun buyers in that they don't complain about it.

The police, many of whom are NRA members, people who buy them for self-defense, people who, as you point out, do not buy them for hunting, have never come to NRA and said go before a committee of Congress and lobby to wipe that darn thing out because we don't use our handguns for hunting.

I think that is a degree of measurement as to the unanimity of feeling that the Pittman-Robertson bill is a valuable tool.

Mr. CONYERS. Would you or your organization support legislation that would expand the hunter education program to include all people who would seek to possess a firearm?

Mr. CASSIDY. We would support and have supported—that is what Mr. Melius does to a very great degree—the expansion of hunter safety. What we oppose is mandating programs, particularly where the intention of the mandating is not to educate the hunter or the gun owner but to make it more difficult for him to purchase and use his guns legitimately.

We have—as I say, I am recently from Massachusetts, and we have certain chiefs of police who are the issuing authority in that State. They are few in number, but there are a few who mandate a marksmanship test, and they have no ranges in their town. Now, we view that as a rather gratuitous slap at a legitimate activity.

So that I think everything would have to be taken into consideration. We are strongly in favor of the program. We spend a good deal of NRA moneys on that type of thing.

We educate the police trainers, as you are aware, I am sure. But it is the mandating of it where we feel there is no need. We are suspicious—perhaps you will say paranoid, but I will say we are suspicious—of the motivation when someone comes forth with something like that.

Mr. CONYERS. Well, I don't mean to impose it as a form of harassment but as a real means of extending a program that apparently reduces injuries and deaths with the long guns.

Mr. CASSIDY. No question.

Mr. CONYERS. Maybe that same program should be effectively applied where there are much greater numbers of people killed.

Mr. CASSIDY. We think that the statistics, which are not—many of the hunter safety programs have not been in existence that many years. We believe that in a few years there should be a body of statistics available.

For example, I don't think there is any question that the fluorescent orange vest or hat has dramatically reduced the incidence of accidental death in the hunting fields. There is no one who would argue against that, and in many States they mandate. They mandate how many square inches of fluorescent orange you must have on your body when you are hunting particular game.

I think in a few years there may well be a body of statistics available so that we could sit down and look at it. We are willing and encourage—and we truly do encourage—the hunter safety programs.

Mr. CONYERS. Well, I am glad to hear that, and it is good to see you again. I remember the hearings in Massachusetts.

Mr. CASSIDY. You were a very dominant figure, Mr. Chairman.

Mr. CONYERS. I was my old modest self as always. [Laughter.]

Up to no harm or mischief to anybody in the hunting community.

Mr. Edwards.

Mr. EDWARDS. Thank you, Mr. Chairman, and thank you, Mr. Cassidy, for your testimony.

I think I should point out that you are treated with great courtesy, you and your colleagues here today, as you are always treated before Congress—

Mr. CASSIDY. Yes, sir.

Mr. EDWARDS [continuing]. And that some of us, however, do not appreciate the impugning of our patriotism that is in some of your recent publications, and since you are relatively new, I would hope that you would point it out to your people with whom you work.

Mr. CASSIDY. Mr. Congressman, I am aware of that situation—that was not NRA. We have traced that down, and I won't say it here publicly, but I would be happy to tell you who did that, and it was not the National Rifle Association.

Mr. EDWARDS. I would appreciate it.

Mr. CONYERS. Mr. Boucher.

Mr. BOUCHER. Thank you, Mr. Chairman. Mr. Cassidy, we welcome you here today and thank you for your testimony.

Mr. CASSIDY. Thank you, sir.

Mr. BOUCHER. Mr. Breaux had stated during his testimony that in one State—I think the State he referred to was New York—the provision of Pittman-Robertson funds for hunter safety programs had resulted in an identifiable decrease in the number of accident-related fatalities.

Are those statistics available nationwide on a State-by-State basis, and are we in a position to have that information presented to us?

Mr. CASSIDY. I think the statistics as far as accidental death or wounding are available. I think there is a question, though, in the minds of many folk as to exactly what the reason for it.

I, for example, with my experience, and I have hunted for many years in many States and Canada and Alaska, and so forth, would tend to believe that the fluorescent orange is a far more meaningful item.

Also, in other States they have refined the hunting seasons. It is not fair, for example, to compare the number of people accidentally shot in a State where the hunting season used to be 2 months if you are now looking at a hunting season that is half that, so that I don't know how you would attribute it.

I doubt that attribution is broken down in the way we would like to read it other than just the end result of the reduction in accidents.

Mr. BOUCHER. So it would be difficult to attribute the reduction directly to the Pittman-Robertson Hunter Safety Program?

Mr. CASSIDY. I think it is fair to credit a good deal of it to it, but I would be less than candid if I—as I said, I think that the fluorescent situation has far more to do with it.

Mr. BOUCHER. I hope that you can enlighten us somewhat further concerning the way that the hunter safety programs are conducted in the various States. I notice that during the course of your statement you indicated that paid employees of the State fish and wildlife commissions actually conduct the programs.

Mr. CASSIDY. Yes.

Mr. BOUCHER. When Chairman Dingell was testifying, he stated that NRA members often participate in the training aspects of the programs but as volunteers.

Are NRA members in fact serving as instructors in some of the States; in how many States if that is the case?

Mr. CASSIDY. Oh, yes, and I am going to let Tom speak on that.

Anything that Chairman Dingell says as far as NRA activities is the gospel, and I accept it without question, and I think that what he is saying is that NRA members do volunteer and do teach these courses.

In order to get a signed hunter safety certificate, at least in my former State, the Commonwealth of Massachusetts, it was necessary for an officer of the department of fish and game.

But, Tom, would you like to comment? I think you know more about this than I.

Mr. MELIUS. Within each State fish and wildlife agency there is a person responsible for the administration of the program. He works with other employees in his department as well as a large group of volunteers.

Each State is responsible for training those volunteers to go out and certify the students, and I think Congressman Dingell did say that there are about 40,000 volunteers in the United States actively involved with the program. So we are talking about a large group of people.

Mr. BOUCHER. Would it be fair to say that most of the actual training is provided by NRA volunteers rather than by the paid employees of the various State game commissions?

Mr. MELIUS. I would say that the large percentage of training is done by the volunteers, and a large percentage of those volunteers are NRA members.

Mr. BOUCHER. So mostly the involvement of the employees of the State agencies is in an administrative capacity, and they are directing then the training of hunters and other gun owners by the NRA volunteers?

Mr. MELIUS. Correct.

Mr. BOUCHER. OK, thank you very much. Thank you, Mr. Chairman.

Mr. CONYERS. Thank you very much.

Counsel Hutchison has a question, sir.

Mr. HUTCHISON. With regard to those volunteers, it is unstated but implied, and I would like it made explicit, are those volunteers unpaid?

Mr. MELIUS. I would say in probability every one of the States that they are volunteering their services at no additional payment from any of the States.

Mr. HUTCHISON. They are unpaid? Is that your answer?

Mr. MELIUS. Yes.

Mr. HUTCHISON. Does the NRA itself, or any State or local affiliate or the Institute for Legislative Action, derive any revenues at all from any program administered with Pittman-Robertson funds?

Mr. CASSIDY. No, we do not, Counselor. NRA actually has ownership of any form—one form or another in only three ranges throughout the country—our basement range for testing here on Scott Circle, Whittington Range out in Raton, NM, and a range, Cheltenham, over in Maryland, and we derive no benefits from that at all.

Mr. HUTCHISON. From any Pittman—

Mr. CASSIDY. No, sir.

Mr. HUTCHISON. No Pittman-Robertson money to the NRA itself or any State or local affiliate?

Mr. CASSIDY. No, sir. What happens I would like to explain very briefly.

You have a fish and game club. I belong now to the Fairfax Rod and Gun Club down here in Virginia. I am a new member.

But in Danvers Fish and Game in Massachusetts, which I just left, you will have different committees, and you will have a hunter committee, and the chairman of that committee, twice a year usually, will call for a hunter safety training program.

And in our State he will contact the fish and wildlife, and one of their enforcement officers will come down and attend the two sessions, and they are purely volunteers, the members of the club, and in most cases they are NRA members, but there is no remuneration, no, sir.

Mr. HUTCHISON. OK, looking for a moment at a comment you made concerning the potential costs of victim compensation programs, the legislation also deals with victim assistance. I assume your comments, the cautionary comments, would apply to that as well.

Mr. CASSIDY. Yes, sir.

Mr. HUTCHISON. How long did you live in Massachusetts?

Mr. CASSIDY. All my life except for the past 2 years.

Mr. HUTCHISON. And as a concerned and interested taxpayer in Massachusetts, did you notice the costs of the Massachusetts Victim Compensation Program skyrocket from its inception through the present time?

Mr. CASSIDY. I did not. I made the comments based on other—

Mr. HUTCHISON. Would it be fair to say that they were based on speculation rather than fact?

Mr. CASSIDY. No, I think it would be based on 27 years as an insurance agent.

Around the time that I was mayor of Lynn, MA, we had many programs introduced. You are aware that Massachusetts pioneered compulsory automobile insurance, compulsory workers' compensation insurance, and others. We saw over a long period of time the premiums, the rates skyrocket to the point that when I left Massachusetts the two motor vehicles that I insured in 1972 in the State of Massachusetts cost me just under \$2,000. The same two automobiles, insurance in the State of Virginia cost \$668.

And I am just projecting the fact that I believe when a program is introduced that has not existed before, I believe that it takes people a period of time to understand that the program even exists, and once they understand—I saw this happen in the Homeowner Insurance Program when they first packaged it. There were never any claims for vandalism and malicious mischief, for example, even though it has been sold for decades. Once it was in a package insurance and insurance agents had to compete and sell, that rate went up dramatically.

So it is just conjecture on my part.

Mr. HUTCHISON. How much education time? Would 15 years be enough?

Mr. CASSIDY. I wouldn't hazard a guess. I certainly wouldn't know.

Mr. HUTCHISON. Do you know when the Massachusetts program was inaugurated?

Mr. CASSIDY. The compulsory auto? 1927.

Mr. HUTCHISON. No, the victim compensation program.

Mr. CASSIDY. No, I do not.

Mr. HUTCHISON. So you have no data to support that the Massachusetts program costs have skyrocketed since the Massachusetts program was set up?

Mr. CASSIDY. No, I do not.

Mr. HUTCHISON. Do you have data on any other State's program?

Mr. CASSIDY. No, I do not.

Mr. HUTCHISON. With regard to the handgun excise tax, you are essentially, as I understand it, arguing that this is a user tax which goes for programs related to hunter training, hunter safety, as well as to wildlife habitat. It is essentially a user tax.

Mr. CASSIDY. In essence, yes, sir.

Mr. HUTCHISON. And the data you provide indicate that something on the order of—using your figures—half of the handgun owners are users and half are not?

Mr. CASSIDY. I don't believe I made that statement.

Mr. HUTCHISON. Well, it indicates in here that half the handguns are purchased for sporting and recreational purposes.

Mr. CASSIDY. Yes.

Mr. HUTCHISON. Assuming that means hunting—

Mr. CASSIDY. No, it does not.

Mr. HUTCHISON. It does not mean hunting?

Mr. CASSIDY. No.

Mr. HUTCHISON. So the figure is somewhat less than half for hunting?

Mr. CASSIDY. I am sure, but I doubt that we could pinpoint it.

Mr. HUTCHISON. So that somewhat less than half the handgun owners in this country are really paying a user tax and something more than half are paying something other than a user tax?

Mr. CASSIDY. But they are all paying the tax.

Mr. HUTCHISON. I am not questioning that they pay the tax, but you are justifying the handgun excise tax as a hunter's user tax when in fact most of the people who pay the handgun tax are not going to use it for that purpose?

Mr. CASSIDY. That is correct.

Mr. HUTCHISON. So it is not really fair to call the handgun tax a user tax, is it?

Mr. CASSIDY. I think you would call it a user's tax to a degree, but I don't see what the line of questioning—what the purpose is.

Mr. HUTCHISON. Well, to the extent that it is not a user tax, then the question is what public policy is best served by that money?

Mr. CASSIDY. I think the Congress determined that the Pittman-Robertson bill was the way to best serve that money.

Mr. HUTCHISON. And now when it is under review, you are trying to justify it not being changed on the grounds that it is a user tax going for programs that benefit users when in fact over half the handgun owners are not users?

Mr. CASSIDY. But that isn't the thrust of my argument.

Mr. HUTCHISON. I understand that.

Mr. CASSIDY. I resent on behalf of our membership that we are classed with felons, misdemeanor conductors, forfeitures and fines.

Mr. HUTCHISON. But your argument, insofar as it is based on a user tax, is not accurate when it applied to handguns?

Mr. CASSIDY. It is to a degree.

Mr. HUTCHISON. Well, then it depends on the extent to which people own handguns for hunting?

Mr. CASSIDY. Yes.

Mr. HUTCHISON. Are you familiar with the survey entitled "Attitudes of the American Electorate toward Gun Control in 1978," conducted by Decisionmaking Information?

Mr. CASSIDY. I am familiar with some of those.

Mr. HUTCHISON. Commissioned by the Institute for Legislative Action, the National Rifle Association?

Mr. CASSIDY. Yes.

Mr. HUTCHISON. Table 14 on page 40 reports the results of a question asked—"Why do you own a gun?"

Mr. CASSIDY. Yes.

Mr. HUTCHISON. Referring to a handgun. Hunting, 9 percent.

If we are going to make the handgun excise tax a user tax, should only 9 percent of it then go to the current Pittman-Robertson Programs and the other 91 percent of the handgun excise tax could go for other social purposes?

Mr. CASSIDY. No, because all the people who pay it are more than happy and very much aware that the money goes for wildlife habitat, hunter safety, whether they themselves participate in it or not.

Mr. HUTCHISON. Would you then support a checkoff system to let the people who purchase the guns choose whether it goes to crime victims or to the Pittman-Robertson fund?

Mr. CASSIDY. No, I am not in favor of checkoff systems in any event, counselor.

Mr. HUTCHISON. If these people are willing for it to go into that, why are you opposed to a checkoff system?

Mr. CASSIDY. What purpose would be gained? It all goes into it now. No one is coming before you who pays this fee, telling you they don't like to pay the fee or the tax.

Mr. HUTCHISON. But even though all of these people who buy handguns are happy for the money to go to the Pittman-Robertson fund, you don't want that tested by giving them an opportunity to check it off to go for crime victims?

Mr. CASSIDY. I am sure you could test it, but the fact that you have no opposition from them says something, I think.

Mr. HUTCHISON. Thank you.

Mr. CONYERS. Any further questions?

[No response.]

Mr. CONYERS. We want to thank you for coming before us.

Mr. CASSIDY. Thank you, Mr. Chairman. I appreciate it.

Mr. CONYERS. Good to see you again, and thank you for joining us.

Mr. CASSIDY. Thank you.

[The prepared statement of Mr. Cassidy follows:]

A
TESTIMONY OF J. WARREN CASSIDY
EXECUTIVE DIRECTOR

National Rifle Association
Institute for Legislative Action

before the

House Judiciary Committee
Subcommittee on Criminal Justice

on

March 22, 1984

Mr. Chairman:

The National Rifle Association thanks you for the opportunity to present our views regarding proposed legislation to establish a federal victims assistance program.

The NRA takes no position relative to the general concept of victims assistance legislation. If it is the will of the Congress to enact such a program, to broaden or supplement the victims compensation programs which currently exist in 38 states, NRA will not oppose such an action. Rather, I come before you this morning to discuss one issue which is of vital concern to our 2.8 million members.

Several of the proposals before the Committee, for example H.R. 3498 introduced by Congressman Rodino, would fund a victims assistance program by utilizing the existing 10 percent excise tax on handguns. NRA will oppose any such funding proposal in the strongest possible terms.

Funding a victims assistance program through the use of the handgun excise tax would be nothing more than a direct slap in the face to the millions of law-abiding sportsmen and firearms owners who pay this excise tax. It would impose a collective guilt upon those of us who own firearms legitimately for the acts of the small minority of the population that make up the criminal element of society. It would cripple a wildlife conservation program which has been the financial backbone of State fish and wildlife activities since 1937 -- the Pittman-Robertson Wildlife Restoration Fund.

The Pittman-Robertson Wildlife Restoration Fund is financed

by the excise taxes collected on the sale of firearms, ammunition and archery equipment. In fiscal year 1983, slightly more than 107 million dollars were distributed to the states based upon a formula that takes into account the number of hunting licenses sold and the land area of each state. The states in turn utilize the money to acquire, develop and manage wildlife habitat, for wildlife management research, and for hunter safety programs.

Originally, the fund was composed only of the excise tax revenue from long-guns and ammunition. During the 91st Congress, the 10 percent excise tax on handguns and archery equipment was added to Pittman-Robertson, with the active support of hunters and sportsmen. By law, half of the funds generated by the handgun excise tax are to be utilized for hunter safety programs, with the balance used in conjunction with taxes on other firearms, ammunition and archery equipment for wildlife restoration. The excise tax on handguns alone, provided slightly more than 30 million dollars in fiscal year 1983 to the fund. For the committee's reference, I have attached charts showing the Fiscal Year '83 distributions to the states and an approximation of the loss to each state if the 10 percent handgun excise tax were removed from Pittman-Robertson. I ask that they be made part of the record.

Those who see the 10 percent handgun excise tax as a source of funding for a victim compensation program, base their case upon a variety of allegations which are without basis in fact.

These are some examples:

Allegation: There is little if any relationship between handguns and hunting.

Fact: According to the 1980 National Survey of Fishing, Hunting and Wildlife Associated Recreation, compiled by the Interior Department's Fish and Wildlife Service, over 1.3 million hunters pursued their game with handguns in 1980. More recent estimates by the Interior Department place the number of handgun hunters at nearly 1.5 million. Handgun hunting is soon expected to surpass bow hunting in popularity. Thirty-one states specifically allow big game handgun hunting -- the most recent being West Virginia which acted legislatively in February of this year to permit such hunting. Prior to this, West Virginia allowed small game hunting with handguns. In fact, all states but New Jersey provide for some type of handgun hunting.

Allegation: Handgun ownership is an important cause of criminal violence.

Fact: A statement such as this assumes a collective responsibility of all legitimate purchases of handguns for the misuse of the

firearm by criminals. The LEAA financed study by Professors Wright and Rossi of the University of Massachusetts concluded ". . . there is little evidence to show that gun ownership among the population as a whole is, per se, an important cause of criminal violence". They further stated: "Truly decisive evidence -- for example, evidence on the ensuing criminality of persons who acquire firearms -- does not exist."

According to this same study, one half of the handguns purchased in this country are for sporting and recreational purposes. One fourth are purchased by law enforcement and one fourth purchased for self-defense purposes. The net effect of a proposal to fund a victims program from the excise tax on handguns would be to tax sportsmen, law enforcement, and those who fear criminal activity and want to be able to defend themselves.

Allegation: Legitimate handgun sales are the source of criminal weapons.

Fact: Most criminals, according to a paper presented by Professor Wright at the Annual Meeting of the American Society of Criminology

last November, concluded the source of "crime guns" comes predominately from illicit activity which is in itself criminal in nature. Criminals steal their firearms or get them "on the street." Only rarely is such a firearm acquired through legitimate channels.

Several years ago the Washington Post ran a story about an illicit street dealer operating out of a suitcase in Northwest, Washington, D.C. The story related this person's acquisition of firearms through illegal channels and his subsequent illegal sales. It is ridiculous to assume that such an individual will collect and report to federal officials any excise tax on the illegal handgun sales he makes for criminal purposes.

Individuals such as this should be the target of our criminal law activities, not the law-abiding citizen.

Allegation: Pittman-Robertson Funds are only for the benefit of hunters and not the public as a whole.

Fact: While more than 17.5 million law-abiding citizens of this country hunt, the

Department of the Interior estimates that more than 87 million other Americans engage in additional wildlife related activities including fishing and non-consumptive activities such as observing and hiking. Over 40 percent of this activity occurs on state-owned land, in large part acquired and managed by utilizing Pittman-Robertson Funds. The maintenance and acquisition of such lands by the state, and the development and maintenance of a healthy wildlife population is an effort which is of concern to all -- not just hunters. Pittman-Robertson benefits all citizens who utilize and enjoy outdoor activity.

Allegation: Removal of the handgun excise tax from Pittman-Robertson will not pose a hardship on the fund.

Fact: The handgun excise tax represents nearly 30 percent of the entire Pittman-Robertson Fund. In addition, it must be remembered that half of the excise tax is earmarked for hunter safety. Thirty states have made such training mandatory. The remaining 20 states have instituted

voluntary Hunter Safety Training. By removing the handgun excise tax, 70 percent of hunter safety funds will be eliminated.

I also find it ironic that some believe that the program can stand a 30 percent cut in revenue when a July 30, 1981 hearing focused upon the need to expand Pittman-Robertson because of inadequate funding to meet present needs. The loss of 30 percent revenue would place a greater burden on the entire wildlife management concept just to meet the need.

In order to maintain even current service levels in the entire wildlife conservation effort, including Hunter Safety, the various state governments would have to find the revenue to make up the funding loss. Given the fact that most state governments are facing financial difficulties the only assumption one can make is that wildlife conservation will suffer. A 30 percent cut in funding will cripple any viable and ongoing program. Pittman-Robertson is such a program.

The National Rifle Association has always maintained that the criminal must be the one to bear responsibility for the acts which he commits. It would seem appropriate that if the Congress sees fit to create a victims assistance program, the criminal

should be looked to as the funding source for the program. This would place the responsibility on the element of society that causes the loss. It avoids singling out the law-abiding American gun owner as the one segment of society to assume a collective responsibility for the acts of the criminal.

It is estimated that victims assistance programs, such as you are considering, would require 30 million dollars per year. The funding proposal contained in H.R. 2978 and the Administration's proposal place the burden on the criminal. It has been estimated that such a proposal would generate a minimum of \$45 million dollars with a potential for generating more than \$125 million per year. If such estimates are accurate, it would appear that more than sufficient funding would be generated.

I realize from past hearings that some concern has been raised about the accuracy of these estimates. We believe that it is highly appropriate for the criminal to bear responsibility for his actions. If the Congress decides to enact victims legislation and has concerns regarding the sufficiency of funding by these means, it would seem more appropriate to make up any potential shortfall out of general revenues, rather than cripple a viable ongoing wildlife conservation program which depends upon the handgun excise tax for a substantial portion of its funding.

NRA has a history of strong support for wildlife conservation programs. Pittman-Robertson has evolved into the backbone of this effort. While we do not oppose the concept of victims legislation, we must strenuously oppose any effort to fund such a program from Pittman-Robertson Funds. Such efforts are

based upon misconceptions which ignore fact, and instead focus only upon simplistic rhetoric.

	Actual Apportionments Fiscal Year 1983			Estimated Decrease - Fiscal Year 1983 Based on Loss of Handgun Excise Tax			# of State Total FY-83 P-2 Funds
	Wildlife Restoration	Hunter Education	Total FY-83	Wildlife Restoration	Hunter Education	Total Loss	
1 CALIFORNIA	3,582,847	564,600	4,147,447	610,300	451,000	1,061,300	25.4
HAWAII	461,200	188,200	649,400	75,200	150,300	225,500	35.8
IDAHO	1,811,959	188,200	2,000,159	308,600	150,300	458,900	22.9
NEVADA	1,671,080	188,200	1,859,280	284,700	150,300	435,000	23.4
OREGON	2,379,639	308,400	2,688,039	465,400	246,200	711,600	26.2
WASHINGTON	1,866,255	483,825	2,350,080	317,900	386,400	704,300	30.0
UTAH	147,067	—	147,067	75,000	—	75,000	17.0
AMERICAN ISLANDS	—	—	—	—	—	—	0.0
P. MARIANA ISLANDS	147,067	—	147,067	25,000	—	25,000	17.0
2 ARIZONA	2,077,347	318,343	2,395,690	353,900	254,300	608,200	25.4
NEW MEXICO	2,040,151	188,200	2,228,351	351,000	150,300	501,300	22.5
OKLAHOMA	1,757,915	354,393	2,112,308	299,400	283,100	582,500	27.4
TEXAS	4,412,000	564,600	4,976,600	751,500	451,000	1,202,500	24.2
3 ILLINOIS	1,615,059	564,600	2,179,659	275,100	451,000	726,100	33.3
INDIANA	1,344,284	564,600	1,908,884	228,900	451,000	679,900	35.4
IOWA	1,540,424	341,287	1,881,711	262,500	272,600	535,100	28.4
MICHIGAN	3,626,299	564,600	4,190,899	618,700	451,000	1,069,700	25.5
MINNESOTA	2,474,028	477,615	2,951,643	421,500	381,500	803,000	27.2
MISSOURI	2,147,087	564,600	2,711,687	365,700	451,000	816,700	30.1
OHIO	1,762,655	564,600	2,327,255	300,300	451,000	751,300	32.3
WISCONSIN	2,606,503	551,703	3,158,206	444,300	440,200	884,500	28.0
4 ALABAMA	1,488,153	455,699	1,943,852	253,400	364,000	617,400	31.8
ARKANSAS	1,595,830	267,735	1,863,565	272,500	213,800	486,300	26.0
FLORIDA	1,441,392	564,600	2,005,992	248,800	451,000	699,800	34.5
GEORGIA	1,795,558	564,600	2,360,158	305,800	451,000	756,800	32.1
KENTUCKY	1,335,355	428,916	1,764,271	227,400	342,600	570,000	32.1
LOUISIANA	1,662,630	482,471	2,145,101	283,200	393,300	676,500	31.4
MISSISSIPPI	1,394,191	295,278	1,689,469	237,500	235,900	473,400	28.0
NORTH CAROLINA	1,544,375	564,600	2,108,975	270,400	451,000	721,400	33.5
SOUTH CAROLINA	975,928	365,398	1,341,326	166,300	291,800	458,100	34.2
TENNESSEE	2,017,620	537,780	2,555,400	343,900	429,500	773,400	30.3
Puerto Rico	441,200	—	441,200	75,200	—	75,200	17.0
VIRGIN ISLANDS	147,067	—	147,067	25,000	—	25,000	17.0
5 CONNECTICUT	441,200	364,035	805,235	75,200	280,800	356,000	44.1
DELAWARE	441,200	188,200	629,400	75,200	150,300	225,500	35.8
MAINE	1,024,157	188,200	1,212,357	174,700	150,300	325,000	26.8
MARYLAND	587,844	493,933	1,081,777	96,700	394,400	491,100	45.3
MASSACHUSETTS	441,200	564,600	1,005,800	75,200	451,000	526,200	52.3
NEW HAMPSHIRE	441,200	188,200	629,400	75,200	150,300	225,500	35.8
NEW JERSEY	468,310	564,600	1,032,910	80,000	451,000	531,000	51.4
NEW YORK	2,600,089	564,600	3,164,689	443,000	451,000	894,000	28.2
PENNSYLVANIA	1,852,670	564,600	2,417,270	457,800	451,000	908,800	37.6
RHODE ISLAND	441,200	188,200	629,400	75,200	150,300	225,500	35.8
VERMONT	435,711	188,200	623,911	75,400	150,300	225,700	35.8
VIRGINIA	1,673,046	564,600	2,237,646	285,000	451,000	736,000	32.9
WEST VIRGINIA	1,135,746	188,200	1,323,946	193,500	150,300	343,800	26.0
6 COLORADO	2,285,862	338,411	2,624,273	390,100	270,300	660,400	25.1
KANSAS	1,739,964	276,836	2,016,800	296,400	221,100	517,500	25.7
MONTANA	2,585,113	188,200	2,773,313	441,000	150,300	591,300	21.3
NEBRASKA	1,530,786	188,200	1,718,986	260,800	150,300	411,100	23.9
NORTH DAKOTA	1,276,441	188,200	1,464,641	208,900	150,300	359,200	24.4
SOUTH DAKOTA	1,472,442	188,200	1,660,642	250,900	150,300	401,200	24.2
UTAH	1,775,433	188,200	1,963,633	302,400	150,300	452,700	23.1
WYOMING	1,826,107	188,200	2,014,307	311,500	150,300	461,800	22.9
7 ALASKA	4,412,000	188,200	4,600,200	751,600	150,300	901,900	19.4
TOTALS	88,240,000	18,820,000	107,060,000	15,031,900	15,031,900	30,063,800	

Mr. CONYERS. We now call upon Alice Herrington, who is the president of Friends of Animals and who represents the Committee for Humane Legislation, Friends of Animals, Inc.

Welcome to our hearing.

Ms. HERRINGTON. Thank you, Mr. Chairman.

Mr. CONYERS. You may feel free to comment on anything that you would like. We note that you are testifying on behalf of a coalition of 100 animal protection and humane society organizations.

Your statement will be entered into the record. You may summarize in whatever manner you choose, and identify the person at the table with you.

TESTIMONY OF ALICE HERRINGTON, PRESIDENT, FRIENDS OF ANIMALS, INC., COMMITTEE FOR HUMANE LEGISLATION, ACCOMPANIED BY SANFORD HORWITT

Ms. HERRINGTON. My colleague is Sanford Horwitt, and I believe that, in true cliché fashion, as a male he will do a much nicer and briefer resume if you will permit him to chop up my full paper.

Mr. CONYERS. All right. Tell us a little bit about yourself, Mr. Horwitt.

Mr. HORWITT. I work with Friends of Animals here in Washington, have long been interested in the same issues that the National Rifle Association has been interested in. I live here in Arlington, VA.

I never thought until just a few moments ago that I would agree so enthusiastically with the statement that the executive director of the National Rifle Association made; namely, that there is no substantial evidence that the Hunter Training Program, which has been around since 1970, since the excise tax was first rolled into Pittman-Robertson, really shows that hunter training has any direct or very important tie to diminished fatalities across the United States.

Mr. Chairman, if I could, I would like to refer to some excerpts of the prepared testimony, and then if there are any questions we would be glad to answer them.

Although Friends of Animals and the other animal protection groups take no formal position on victims of crime issues, we are sympathetic as individuals to the causes reflected in H.R. 3498.

In addition, as animal protection organizations, we strongly support the provision in H.R. 3498 that would divert funds out of Pittman-Robertson because P-R is harmful to wildlife and the environment and is little more than a thinly disguised subsidy for special interests; namely, the National Rifle Association and the hunting industry generally.

Friends of Animals has played a leading role in trying to unmask Pittman-Robertson for what it is, an anti-environmental and anti-wildlife set of practices which have been cloaked in the motherhood terms of habitat restoration, and wildlife management by a lot of the special interests who benefit from these programs.

One of the things that struck me in listening to a lot of the supporters this morning of Pittman-Robertson was that the term "target range" was hardly ever used, and yet that is a very important part of the Pittman-Robertson Program. Half of the handgun

excise tax is earmarked for target range construction and maintenance, along with the so-called hunter training.

We believe that if the American people would be aware that each year millions of dollars are being spent on target shooting ranges that they would be angered and shocked, and if target range construction in these tight budgetary times does not qualify for the Golden Fleece Award, then I don't know what does.

The NRA claims that because its hunter members agreed to have a tax placed on products that they use, public policy must be shaped—I would say warped—to satisfy those special interests.

Since hunters purchase all the arms and ammunition on which excise taxes are collected, the NRA argues all of the tax revenues are justly theirs. That is an interesting argument which intrigued us, and so Mrs. Herrington asked her staff to do a little arithmetic, and we have constructed the appended table to our statement using as base data the Fish and Wildlife Service's listing of excise taxes collected and distributed.

Assume for a moment that the National Rifle Association is right, that hunters are the ones buying all of these products. Therefore, in 1982, they purchased 671 million dollars' worth of rifles, shotguns, and ammunition and spent an additional \$376 million on handguns and archery equipment. That is a total weapons expenditure of nearly \$1.05 billion, and that is just for 1 year.

We then went back and added up the Fish and Wildlife Service figures for the last 12 years, and they reveal, assuming the NRA is right, that since fiscal year 1971 hunters bought more than 6.2 billion dollars' worth of arms and ammunition and nearly \$2.3 billion in handguns and archery equipment, for a total of \$8.5 billion in the last 12 years.

Mr. Chairman, if this is true, we have one hell of a war on wildlife going on in this country. These expenditures in 1982 alone, \$1.05 billion, make the war in El Salvador look like a game of tiddly-winks, since President Reagan only wants \$350 million to stop the Communists. Perhaps that means that here at home we are in danger of being overrun with communistic squirrels, deer, moose, and other seditious creatures.

To continue for a moment to assume that the NRA is right about hunters having claim to all of the excise tax revenues, I find it interesting that by inference the hunting world must claim as its own Lee Harvey Oswald for his 11 percent rifle tax contribution and also John Hinckley for his 10 percent handgun tax contribution. Perhaps the National Wildlife Federation, another pro-hunting group, can claim the membership of all the hit men for organized crime and even the Irish Republican Army, which, according to a recent television report, gets virtually all of its guns from the United States.

Of course, the truth is not quite like the NRA and the National Wildlife Federation would have us believe. Do the buyers each year of hundreds of thousands of cheap handguns agree to the excise tax? Of course not.

Moreover, these cheap handguns, which may comprise more than half of all the handguns sold each year, are useless for any sporting purpose. One might have a hard time hitting the broad side of a barn at 30 paces with these cheapies.

As for the NRA claim that there are millions and millions of Americans stalking grizzly bear with handguns these days, Congressman Russo has given an irrefutable reply: "The NRA makes this argument with an apparently straight face even though its own statistics show that less than three-tenths of 1 percent of the American public hunts with handguns."

Mr. Chairman, President Reagan's task force on victims of crime, in recommending that the handgun excise tax revenue be diverted from Pittman-Robertson, made the obvious point: "There is little, if any, relation between handguns and hunting or wildlife activity. There is a substantial relation, however, between handguns and the commission of violent crime."

Coincidentally perhaps, one of the members of President Reagan's task force was the Rev. Pat Robertson, who happens to be the son of former Senator Robertson, who is one of the original sponsors of the Pittman-Robertson Program that we are discussing here this morning, and my understanding is that that was a unanimous decision to recommend, among other recommendations by that task force, that the handgun excise tax money be used to fund, at least in part, a victims of crime compensation and assistance program.

I would like to just talk about one other aspect which is very important to not only Friends of Animals but a lot of other environmental and wildlife groups. Half of the handgun excise tax money, and all of the rest of the excise tax from the long guns, which I understand is not under consideration here, but half of the excise tax from handguns really is, and that is goes into the so-called wildlife restoration part of Pittman-Robertson.

Again, this program, from our point of view, is replete with euphemisms, and I think rather than "wildlife restoration" a more accurate term would be "wildlife demolition" because this Pittman-Robertson Program is, pure and simple, a hunting program.

Back in 1937, when Pittman-Robertson was first enacted, the originators were very clear. There was none of the sanctimonious rhetoric about wildlife and keeping habitat in a pristine way for the public at large. There were no bones made about what the purpose of Pittman-Robertson was. Out and out, it was intended to be a hunting program.

So consequently, much of the activity that goes on in the so-called wildlife restoration area involves the manipulation of habitat. Examples include the clearcutting of forests and the controlled burning of forests, which in not every case remains in control.

We have had some serious burns go out of control, particularly, Mr. Conyers, in your State of Michigan back in 1976—I believe it is pronounced the Seney Wildlife Refuge—thousands of acres were lost at a tremendous cost to taxpayers in trying to put that intentional burn out.

There is the intentional flooding of lowlands to change the migratory practices of birds.

All of these kinds of practices to manipulate the habitat intentionally are done to promote the population of a few game species—at least game species as they are referred to by the hunting industry—such as elk, moose, deer, and so forth, at the expense of the environment generally, the delicate balance of the ecosystems,

and of all the other animals that are only good for target practice as far as hunters are concerned.

We don't think that most of the so-called wildlife restoration part of Pittman-Robertson is in the larger public interest.

If we were starting over again, if this were, in effect, 1937, I do not believe that Congress, given the enlightenment and new sensitivity to the environment, to the environmental cause, and the public interest that we have in a sound environmental policy, I cannot believe that we would seriously even consider the kind of program that for all these years Pittman-Robertson really has turned out to be.

Mr. Chairman, it is a vastly different world, as I have said. We feel strongly that when you put the interest of recreational shooters up against the cause of the victims that it is really not a tough decision to make, and we hope that this subcommittee will report out a bill, including the provision to take the handgun excise tax and fund a victims compensation and assistance program.

I would also like to point out that both the Russo bill, Congressman Marty Russo's bill, and Congressman Rodino's bill have nothing whatsoever to do with handgun control despite any attempt by the National Rifle Association or the National Wildlife Federation to make it appear otherwise. These bills would neither make handguns more expensive nor affect their availability.

The NRA and the National Wildlife Federation are fond of saying that Friends of Animals works for gun control. That is not true. The position of Friends of Animals regarding guns is best expressed in the bumper sticker that we distribute, which says "We support the right to arm bears."

And if I may end on a slightly more serious note, I was at the subcommittee's hearing last week when Mrs. O'Brien testified, and I—just as an ordinary citizen now, not speaking for any group—would like to at least on the record say how moving I found her testimony, how eloquent and courageous it was, and that to me there is just not a close call between the claims that for the last 40 years some recreational interests have had on this money and the kind of cause that Mrs. O'Brien was speaking for last week.

Thank you very much, Mr. Chairman, and if you have any questions, Mrs. Herrington and I would be pleased to try to answer them.

Mr. CONYERS. Well, I want to thank you for your testimony. It makes me want to ask the real Pittman-Robertson Act to stand up. [Laughter.]

What we have now, after having several glowing accounts over the weeks about how this program is of great benefit to the environment, to animals and wildlife, we now find a little bit different depiction occurring, and I suppose that is the purpose of these hearings.

We have ourselves commissioned a study from GAO, which has not come forward yet, but there is nothing to stop organizational representatives like yourself from indicating from your experience and your knowledge and information what is going on, and I think this is very important.

I want to let everybody know that I am looking for a great deal more information about Pittman-Robertson because it does seem a

little bit incongruous that those who hunt and who take away from the wildlife are the ones that are now the most concerned and claim to have a program that is doing the most to enhance the wildlife and the environment. There seems an obvious contradiction there. I don't suppose it is impossible, and I do understand that they are doing it for very limited purposes.

In the overall, however, there may be a great harm going on, and so your testimony makes me want to look for others to get a very good handle on it. I think many of the Members only know what they read, and what they read is that this is a great conservationist activity, that it would be unthinkable to interfere or take moneys away from a program of this nature. You have put a finger on some problems that need to be very much more carefully examined, and I commend you for your testimony.

I do see Ms. Joan O'Brien here today. Again, we welcome her to the hearing room and are glad that her interest and time allows her to work along with the subcommittee as we deal with this very complex matter. We would like to publicly thank you again for the assistance that you have given the subcommittee.

Do you think it is fair to say that there is a relationship between handguns and crime, or do you think that that is a subject that we should not try to tangle with in this area because it makes it appear that we are trying to punish somebody? What do you think?

Ms. HERRINGTON. Well, I think that we are very sympathetic, and I am sure we speak for all the other groups as well, with the victims of crime, but our analysis has been limited to the impact on wildlife and public lands of the Pittman-Robertson Act, and we can say that that is a totally negative impact, so that we think that the victims of crime funding would be a far more honorable use of public funds.

I do want to bring up one proposal that Sandy neglected in our statement, and I think that Mr. Cassidy, since he used to work for the insurance industry, might be very interested in as well. Instead of using—training hunters, training people in the use of guns, we feel that if the Government has a responsibility for one hunter's safety against another hunter's gun, then it certainly does have a responsibility for the shooting of children and cows and horses by hunters, and under the current program these people get no recompense whatsoever for the loss of their families or their domestic animals.

We propose that the Federal Government quite simply turn it back to the private sector by passing a law that anyone hunting or trapping on Federal public lands or lands purchased with any amount of Federal funds, people who go on those lands with guns and traps must have a million dollar public liability insurance policy.

We really think that the insurance company could do a very bang-up job in testing people for their ability to recognize a sparrow from an eagle, a child from a goat, or a horse from a deer, and that they would not issue the public liability policies very readily unless those people had passed a safety testing in the use of the gun and recognition of the various species.

So possibly Mr. Cassidy, if this is the way it goes, could address himself to that proposal. They then would not need public funds for this purpose whatsoever.

Mr. CONYERS. Well, I think we should address ourselves to it, too. What would you say, Mr. Horwitt and Mrs. Herrington, to this notion? Let's drop this plan. It is too controversial. The NRA is on our backs. The Congress is intimidated. Half of them might be members of the NRA anyway. So let's just take the easy way out. Let's fund it by every other known means, but not this one.

Ms. HERRINGTON. Can I take that one?

Friends of Animals isn't allowed to electioneer, but there is a new public opinion survey put out by an advertising agency, of which we will give you a copy. It should be of great interest to anyone who wants to get reelected.

It was done in order to tell manufacturers how they should advertise in order to sell maximum products. They found that 70 percent of the American public finds that sports hunting is an unacceptable activity, and I think Mrs. Mondale probably made a little boo-boo when she told the New York Times that Fritz Mondale's favorite recreation is killing moose, which is a gentle and timid little animal, but that is neither here nor there. [Laughter.]

So we really think that people should consider an endorsement by the NRA kind of a kiss of death these days and look at it that 70 percent of the people really enjoy their wildlife and nature, and not too many of the people are familiar with the Pittman-Robertson habitat manipulation program.

But if they knew that in the 10-year period, 1975—here are the FWS statistics, which will be in our total report—over 1 million acres of public land will have been burned and then they planted things that what they call game animals like to eat. Since animal populations are in conformity always with the available food and habitat, this burning and clearcutting of forests, creating this big salad bowl also creates an artificial explosion of populations of the animals that they are aiming at—and I say that word "aiming" in a double entendre here—and the result in some places like Pennsylvania, and I must say we do have ex-hunters and current hunters who live in that State who are on our side. They think this habitat manipulation is just awful.

They have built up the population of white-tailed deer in Pennsylvania so you can't drive down the road without getting banged up in your car, and the thousands of people that run into deer and get killed and wounded is a whole other aspect of this crime against animals that is called hunting.

I better stop. Always hold up your hand if you want me to stop. [Laughter.]

Mr. HORWITT. Mr. Conyers, I have just a brief reaction or comment to your question. I am always optimistic that people can be educated, including of course every one—every Member of Congress, and I think this is a supportable program—

Mr. CONYERS. I am interested in that kind of comment. Please tell me more. [Laughter.]

Mr. HORWITT. I think that the victims have a very high and important cause, and as people learn more about this program—for example, with all due respect to Mr. Conte, who is very enthusias-

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tic about the Massachusetts part of Pittman-Robertson and how not a cent could be spared without great harm—I have a copy here of the fiscal year 1983 statistics from the Fish and Wildlife Service. You know, there are a number of States each year that return money unspent, Pittman-Robertson money, to the Interior Department. That is the only Federal program I know where States are sending money back to Washington.

Massachusetts happens to be one of those States, fairly consistently over the last several years. In 1982, Massachusetts sent back \$37,000. In 1981, Massachusetts sent back \$109,672.

I am not saying that every State does this, but I—

Mr. CONYERS. Why didn't they spend it, which is the normal governmental attitude?

Mr. HORWITT. Ask Massachusetts.

Ms. HERRINGTON. You know, there are absolutely lashings of funds available that subsidize the hunting world, whether they are so labeled or not. I mean, part of the military budget. They do this habitat manipulation on military lands. They have little hunting parties and cabins, and so forth.

For example, in my State of New Jersey, one-fifth of the 1978 endangered species budget was given to the State of New Jersey to buy land down near Cape May for the endangered species bald eagles and ospreys, and do you know that today that is labeled "Wildlife Management Unit"—I have photographs of the signs—and it is open to hunting.

So when you are talking about what money is used where when you have all of this money in a great big till, whether it is green acres funding, that almost all goes for buying lands to hunt on. The public doesn't know this. It is called in the law with the euphemism "recreation."

Mr. CONYERS. You can't believe the signs in this part of our business at all. Wildlife management is where hunting goes on?

Ms. HERRINGTON. That is right. "Wildlife Management Unit" was purchased with endangered species funds in the southern tip of New Jersey near Cape May, now open to hunting and trapping and snowmobiling and all kinds of things that ruin the land.

Mr. CONYERS. Thank you very much.

Mr. Edwards.

Mr. EDWARDS. I appreciate the testimony of the witnesses, Mr. Chairman.

I think that what I have gotten out of these valuable hearings this morning, the most important aspect has to do with financing because if we are going to pass this bill where we establish a right to money, Federal funds, if we are going to be responsible, we should determine where the money is going to come from. It would be helpful if all Members of Congress and all committees did that. We really shouldn't start to spend new money without pointing our finger, or providing for where the money is going to come from.

I think, from Mr. Hutchison's question of Mr. Cassidy, he got right to the point, and that is that Mr. Cassidy described the fund as a user's tax and that the people—which really means that the people who are going to use it—ought to pay for it.

But that is apparently not true, only a partial user's tax, and most of the people who are paying the tax are not users. They are

police people and people who have these handguns in their homes and who might have them for downtown target practice, on a local range, or something like that, but less than 50 percent—is that correct—less than 50 percent of them are actually going to be hunters or what one would describe as a user.

So it really would be legitimate, although perhaps not politically possible, to distribute that money more equitably, more fairly, and it certainly would be distributed more equitably if it were distributed to the victims of crime. Politically, it would be a fire storm.

Ms. HERRINGTON. And as the NRA pointed out, when they say that it was bought for recreation, it wasn't all hunters even that have—I think probably most of it goes to clay pigeon shooting or just plain target shooting. A lot of people like to use guns for that purpose.

Mr. EDWARDS. Thank you, Mr. Chairman.

Mr. CONYERS. Thank you, Mr. Edwards.

Do you have any idea of how much handgun hunting goes on?

Mr. HORWITT. Well, in our statement we referred to a remark that Congressman Russo made about that, using the NRA's own best statistics that I think they have, you know, made in the past often, and it is a miniscule number, percentage of the American population, and I would think that in terms of victimization it is a small percentage of the total number of people who have been victimized in the criminal sense in the last few years.

Mr. CONYERS. I want to thank you for your testimony. It has been very enlightening, and you have given us some new areas to investigate.

Mr. HORWITT. Thank you.

Mr. CONYERS. Thank you both.

Ms. HERRINGTON. Could I bring up one additional point? I have tried to find—you know, they do spend \$18 million a year on training hunters. I have been unable to find out just where that money goes.

As you heard the NRA say, mostly the training is done by volunteers in the NRA, and I can't find out when they lease the target ranges, who did they lease them from? I thought it was local hunting clubs or the National Wildlife Federation, and maybe they will clarify that when they testify, and how many of these target ranges that cost \$18 million belong to what States, and if they have all of these thousands of target ranges already built and ready to go, why do they need any more money next year for more target ranges when the training is all volunteer?

And thank you very much.

Mr. CONYERS. Thank you both very much.

[The prepared statement of Mrs. Herrington follows:]

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Mr. Sanford Horwitt

TESTIMONY OF ALICE HERRINGTON

PRESIDENT OF FRIENDS OF ANIMALS

BEFORE THE SUBCOMMITTEE ON CRIMINAL JUSTICE

OF THE COMMITTEE ON THE JUDICIARY

UNITED STATES HOUSE OF REPRESENTATIVES

WASHINGTON, D.C., MARCH 22, 1984

Mr. Chairman, I am Alice Herrington, President of Friends of Animals, a national, non-profit organization which has worked for animal protection for the past 25 years. We also have a Washington office for our Committee for Humane Legislation. Today, I am also testifying on behalf of a large coalition of 113 animal protection and humane society organizations from 38 states and the District of Columbia, and for the thousands of individuals who comprise those organizations. At this time I would like to provide the Subcommittee with a list of these organizations so that they may be made part of the hearing record.

I want to commend you, Mr. Conyers, for your leadership in holding these important hearings. I also want to commend both Congressman Marty Russo for his outstanding leadership in the introduction of H.R. 2470, and Congressman Peter Rodino who is the sponsor of H.R. 3498.

Both bills, by amending the Internal Revenue Code, would shift the revenues derived from existing federal excise taxes on pistols and revolvers out of the Pittman-Robertson (P-R) program and into a proposed trust fund to compensate and assist victims of crime. Although Friends of Animals and the other animal protection groups take no formal position on victims of crime issues, my associates and I, as individuals, are sympathetic to the cause as reflected in H.R. 3498. In addition, as animal protection organizations, we strongly support the provision in H.R. 3498 that would divert funds out of Pittman-Robertson because P-R is harmful to wildlife and the environment, and is little more than a thinly disguised subsidy for special interests, namely, the National Rifle Association and the hunting industry. Friends of Animals has played a leading role in trying to unmask P-R for what it is--an anti-environmental and anti-wildlife set of practices which have been cloaked in motherhood terms of "habitat restoration," and "wildlife management," by the special interests who benefit from the status quo.

Since P-R was enacted in 1937, \$1.3 billion in tax revenues have been spent, which might make P-R the least known billion dollar program in the country. Since P-R is funded exclusively by excise taxes, it escapes the annual review and public spotlight of the appropriations process. I know that the vast majority of the American people would be shocked and angered if they knew how these tax dollars were being spent--that, for example, millions of tax dollars are spent to build and maintain target shooting ranges. If that doesn't qualify for the Golden Fleece award, then I do not know what does.

Today, Mr. Chairman, I want to focus on the half-truths, distortions and outright falsehoods that the NRA has been disseminating in a desperate effort to save its Pittman-Robertson gravy train.

P-R is currently a \$120 million a year boondoggle for the benefit and enrichment of such special interests as firearms manufacturers, the National Rifle Association and assorted other groups and companies that live off of the hunting industry. In fact, when Congress enacted P-R in 1937, it was quite clear that it was a hunting program, pure and simple. At least then, there was not the sanctimonious rhetoric about "wildlife" and "nature" from P-R proponents. At its inception, P-R was funded solely by excise taxes on rifles, shotguns and ammunition. The rationale was simple: these were hunting weapons and the excise taxes collected would be earmarked for programs at the state level to promote hunting. Federal funds, administered by the Interior Department, would cover 75 percent of the program cost, with the states providing the remainder.

But, in 1970, at the urging of the NRA and others, Congress approved a new 10 percent excise tax on handguns which was earmarked for the P-R program. Half of the handgun tax revenue, which now totals nearly \$35 million a year, is to be used by the states to build and maintain target shooting ranges, and for so-called "hunter training." The other half of the handgun tax goes for other P-R programs which are euphemistically referred to as "wildlife restoration." A more accurate term would be "wildlife demolition."

The NRA claims that because its hunter-members "agreed" to have a tax placed on products that they use, public policy must be shaped--I would say warped--to satisfy their special interests. Since hunters purchase all the arms and ammunition on which the excise taxes are collected, the NRA argues, all of the tax revenues are justly theirs. That's an interesting argument that intrigued me. So I got my staff to do a little arithmetic and construct the appended table, using as base data the Fish and Wildlife Service's listing of excise taxes collected and distributed.

Assume for a moment that the NRA is right, that hunters are the ones buying all of these products. Therefore, in 1982, they purchased \$671 million worth of rifles, shotguns and ammunition, and spent an additional \$376 million on handguns and archery equipment. That is a total weapons expenditure of nearly \$1.05 billion. And that is just for one year. I then went back and added up the FWS figures for the last 12 years. They reveal, still assuming that the NRA is right, that since FY 1971, hunters bought more than \$6.2 billion worth of arms and ammunition, and nearly \$2.3 billion in handguns and archery equipment--a total of nearly \$8.5 billion in just the last 12 years.

Mr. Chairman, if this is true, we have one helluva war on wildlife going on in this country. These expenditures in 1982 alone--nearly \$1.05 billion--make the war in El Salvador look like a game of tiddlywinks since President Reagan only wants \$350

million to stop the communists. Perhaps that means that here at home we're in danger of being overrun with communistic squirrels, deer, moose and other seditious creatures.

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Of course, the truth is not quite like the NRA and the National Wildlife Federation would have us believe. Do the buyers each year of hundreds-of-thousands of cheap handguns "agree" to the excise tax? Of course not. Moreover, these cheap handguns, which may comprise more than half of all the handguns sold each year, are useless for any sporting purpose; one might have a hard time hitting the broad side of a barn at thirty paces with one of these cheapies.

As for the NRA claim that there are millions and millions of Americans stalking grizzly bears with handguns these days, Congressman Russo has given an irrefutable reply: "The NRA makes this argument with an apparently straight face, even though its own statistics show that less than three-tenths of 1 percent of the American population hunts with handguns." Mr. Chairman, President Reagan's Task Force on Victims of Crime, in recommending that the handgun excise tax revenue be diverted from Pittman-Robertson, made the obvious point: "There is little if any relation between handguns and hunting or wildlife activity. There is a substantial relationship, however, between handguns and the commission of violent crime."

The Pittman-Robertson program is replete with euphemisms, and "hunter safety" is another. Half of the handgun excise tax is earmarked for building target shooting ranges and for hunter safety training. I've looked into those training programs and in practically every state all the money is spent in merely building or leasing target ranges, and in how to pull triggers. At the very least, one would think that instructors in these programs would hold up photographs with labels attached reading, "This is a horse," or "This is a Bald Eagle," or "This is a child." Recently, the New Jersey chapter of the Audubon Society publicly charged that Pittman-Robertson money was being wasted on excessive staffing levels for a hunter training program that was of dubious value. But, of course, the state officials who run these programs have their own self-interest, as do assorted companies such as Olin-Matheson, Remington-Arms and Smith and Wesson. No wonder they are delighted to pay the excise tax; they get it all back--and then some--on the target shooting ranges around the country.

What a sweetheart of a deal this is, and it has as much merit as if Congress were to require that all taxes on whiskey must be used to build more liquor stores.

I think that there is a better way to handle the issue of hunter safety. Let's grant that it may be government's business to protect one hunter's safety from another hunter's gun, as it is certainly the government's business to protect endangered species, the non-hunting public and their domestic animals from the hunters' guns. I suggest that the private sector could do a bang-up job, so to speak, in the safety department if there were a law that simply required that any person hunting or laying traps on federal public land must be covered by a million dollar public liability policy. I predict that the insurance industry would put together a good "hunter training" testing system before issuing a policy. Then, when a hunter kills another hunter, or kills someone's prize horse, or a whooping crane, the families and government could be justly compensated. Today, under the so-called hunter training program, they get nothing.

The other half of the handgun excise tax, along with all of the revenues from the sale of long guns and ammunition, is earmarked for the P-R's so-called "wildlife restoration" programs. A major part of this program funds habitat manipulation that damages both wildlife and the larger environment. For example, the FWS, as noted on the attached table, plans to burn 701,000 acres of public land in 1985. They call it "controlled burning" but the burns frequently get out of control. The disaster in Michigan in 1978 is a tragic example. Over 70,000 acres of the Seney Wildlife Refuge was lost; and, the American taxpayers ended up footing a bill of several million dollars to extinguish the out-of-control blaze.

Even when fires are controlled, they burn up millions of animals and plants, and permanently erase the habitat needed by many "non-game" animals--animals that hunters only shoot at for target practice. In addition, P-R "wildlife restoration" programs also include clear-cutting of thousands of acres of forests. Other thousands of acres are sprayed with potent herbicides. Despite the obvious destructive nature of these practices, they do benefit a small minority of Americans: the hunters. When whole forests are removed, the sunlight hits the earth and creates a large salad bowl from the seeding and planting done by the "wildlife managers." The salad appeals to such animals as moose, elk, deer, and caribou. Since the birth rates of animal populations fluctuate with available food and habitat, the managers "create" an explosion of hunted or "game" animals. This type of habitat manipulation, boasts the FWS, has increased the population of white tailed deer from 500,000 at the turn of the century to about 15 million today.

Other habitat manipulation involved the flooding of land to attract migratory birds to new areas, making them more accessible to hunters. (The flooding drowns millions of animals and erases

permanently their needed habitat.) Then, to keep the geese and ducks in the area, the "wildlife managers" often clip their wings; build protective shelters where the birds can lay their eggs; spread poisons and traps to kill raccoons and other animals which might eat the eggs; and, then tell the public when the public complains about, for instance, an intrusion of Canadian Geese on a golf course, that the "solution" to the problem is a longer hunting season and a bigger kill quota.

A recent national survey reported that nearly 70 percent of the American people believe that sport hunting and fur trapping are unacceptable activities. I would predict that a large majority would also oppose the kind of habitat manipulation that is carried out under Pittman-Robertson. I know from first-hand experience that even many individual hunters oppose the burning and clear-cutting of forests and the intentional flooding of lands. The Sierra Club, for example, to which many hunters belong, is on record as opposing this habitat manipulation.

P-R funds may also be used to purchase land but the quantity of land that has been purchased in recent years is pitifully small. In fact, it appears that many states in recent years spent none of their P-R funds on land acquisition. It appears that little more than 10 percent of all P-R funds in recent years went for land acquisition. Also, during the past half dozen years, 6-8 states each year returned unspent P-R money to the Department of Interior. To say that Pittman-Robertson is not a high priority program in many states would seem like an understatement.

Mr. Chairman, it is a vastly different world today than it was when Pittman-Robertson was enacted. The new field of ecology recognizes the close inter-relationships of flora and fauna, and respects Mother Nature's ability to manage a balance of populations among her species. Enactment of a trust fund for victims of crime, funded by a handgun excise tax, will not stop all of the ecological insanity, but it will decrease it a bit. I am certain that if the American people were given a choice, the vast majority would favor helping victims of crime rather than to continue to subsidize a small number of recreational shooters. There is no more reason to provide a federal subsidy for the "sport" of hunting than there is to provide a subsidy for golfers, bowlers or tennis players.

I would like to point out, Mr. Chairman, that the proposals in Congressman Russo and Rodino's bills have nothing whatsoever to do with handgun control, despite any attempts by the NRA or the National Wildlife Federation to make it appear otherwise. These bills would neither make handguns more expensive nor affect their availability. The NRA and the National Wildlife Federation are fond of saying that Friends of Animals works for gun control. That is not true. The position of Friends of Animals regarding guns is best expressed in the bumper sticker that we distribute, which says: "We Support the Right to Arm Bears."

Mr. Chairman, one of the directors of Friends of Animals is the nationally known president of Value Line Investments, Mr. Arnold Bernhard. Mr. Bernhard said recently that he is appalled that more than a billion dollars for the Pittman-Robertson program has been largely hidden from public view. "I think that I speak for many of my colleagues in the financial community," Mr. Bernhard said, "that the avoidance of the appropriation and screening process in the funding of Pittman-Robertson is a violation of the public trust. It is a totally unacceptable combination of bad budgetary policy and bad wildlife and environmental policy, too. These excise taxes ought to be remitted to the general Treasury or placed in a trust fund for a widely beneficial purpose, such as to aid victims of crime."

Mr. Chairman, on behalf of Friends of Animals and the coalition of 113 other animal protection organizations, we urge the Subcommittee to approve the Rodino bill, especially the provision that would shift the handgun excise tax to a trust fund for victims of crime. By so doing, the Subcommittee would be helping not only our fellow citizens who have been victimized, but also our wildlife and public lands that for too long have been victimized by an outdated, unnecessary federal program.

friends of animals, inc.

Administrative offices: 1 Pine Street, Neptune, N.J. 07753 • (201) 922-2600

U.S. SALES AND EXCISE TAX COLLECTIONS ON ARMS, AMMUNITION, ARCHERY AND HANDGUNS

Fiscal Year	Total Sales Arms & Ammunition	11% Excise Tax	Archery & Handguns	10% Excise Tax
1971	\$ 268,034,997.36	\$ 29,483,849.71	\$ 72,202,395.00	\$ 7,220,239.54
1972	325,185,462.36	35,770,400.86	75,631,319.00	7,563,131.98
1973	376,983,718.18	41,468,209.00	83,320,590.00	8,332,059.00
1974	434,128,221.45	47,754,104.36	91,005,675.00	9,100,567.55
1975	465,179,090.91	51,169,700.00	118,769,460.00	11,876,946.00
1976	623,622,427.27	68,598,467.00	210,886,870.00	21,088,687.00
1977	456,174,300.00	50,179,173.00	176,101,430.00	17,610,143.00
1978	578,770,145.45	63,664,716.00	223,539,170.00	22,353,917.00
1979	649,073,818.18	71,398,120.00	225,759,820.00	22,575,982.00
1980	565,720,054.55	62,229,206.00	284,154,450.00	28,415,445.00
1981	799,321,527.27	87,925,368.00	339,626,310.00	33,962,631.00
1982	671,021,290.91	73,812,342.00	376,416,870.00	37,641,687.00
Total	\$6,213,215,053.89	\$683,453,655.93	\$2,277,414,359.00	\$227,741,436.07

Fiscal Year	Combined Totals Arms, Ammunition Archery & Handguns	Combined Totals Excise Tax	State 25% Matching Funds	Total for Wildlife Restoration & "Hunter Safety"
1971	\$ 340,237,392.36	\$ 36,704,089.25	\$ 12,234,696.42	\$ 48,938,785.67
1972	400,816,781.36	43,333,532.84	14,444,510.95	57,778,043.79
1973	460,304,308.18	49,800,268.00	16,600,089.33	66,400,357.33
1974	525,133,896.45	56,854,671.91	18,951,557.30	75,806,229.21
1975	583,948,550.91	63,046,646.00	21,015,548.67	84,062,194.67
1976	834,509,297.27	89,687,154.00	29,895,718.00	119,582,872.00
1977	632,275,730.00	67,789,316.00	22,596,438.67	90,385,754.67
1978	802,309,315.45	86,018,633.00	28,672,877.67	114,691,510.67
1979	874,833,638.18	93,974,102.00	31,324,700.67	125,298,802.67
1980	849,874,504.55	90,644,651.00	30,214,883.67	120,859,534.67
1981	1,138,947,837.27	121,887,999.00	40,629,333.00	162,517,332.00
1982	1,047,438,160.91	111,454,029.00	37,151,343.00	148,605,372.00
Total	\$8,490,629,412.89	\$911,195,092.00	\$303,731,697.35	\$1,214,926,789.35

FROM: USDI Fish and Wildlife Service "Environmental Impact Statement, Federal Aid in Fish and Wildlife Restoration Program", p. I-3

TABLE 1-A
CURRENT AND PROJECTED PROGRAM ACTIVITY LEVELS
OF THE FEDERAL AID PROGRAM
(Costs in Thousands)
P. R. PROGRAM

	1975		Projected 1985		Cumulative 1975-1985		
	Units	\$	Units	\$	Units	\$	
Acquisition							
• Management Areas	acres	109,424	\$ 5,832	81,732	\$11,281	1,051,358	\$ 94,121
• Winter Feed Areas	acres	7,423	1,147	5,545	2,220	71,324	18,520
Habitat Management							
• Controlled Burning	acres	422,868	455	701,163	1,349	6,182,171	9,920
• Chemical Usage	acres	35,415	331	58,722	983	517,754	7,226
• Seeding & Planting	acres	284,715	5,802	472,090	17,221	4,162,427	126,627
• Mechanical	acres	126,375	2,085	209,544	6,189	1,847,555	45,508
• Water Development	acres	21,178	2,074	35,116	6,157	309,617	45,270
• Water Maintenance	acres	578,348	853	958,966	2,531	8,455,227	18,608
• Timber Harvest	acres	18,094	318	30,002	944	264,528	6,942
Development							
• Road & Trails	miles	2,350	661	5,255	2,764	41,278	18,835
• Public Use Facilities	acres	1,962	804	4,583	3,362	35,998	22,913
• Fencing	miles	327	566	764	2,366	6,000	16,124
• Winter Feeding	tons	1,028	108	2,401	452	18,859	3,080
• Nesting Structures	no.	6,010	84	14,037	351	110,258	2,393
• Blinds	no.	459	37	1,072	153	8,421	1,042
• Buildings	sq. ft.	99,268	485	231,858	2,029	1,821,193	13,827
Maintenance							
• Roads & Trails	miles	32,640	1,805	68,254	6,757	554,917	47,090
• Public Use Facilities	acres	4,133	681	8,643	2,547	70,268	17,753
• Fencing	miles	5,746	562	12,015	2,104	97,686	14,663
• Nesting Structures	no.	12,387	86	25,902	323	210,589	2,251
• Blinds	no.	680	23	1,422	87	11,561	609
• Buildings	no.	1,870	991	3,910	3,708	31,790	25,843
Stocking							
	no.	4,454	352	2,866	405	40,260	4,162
Research & Surveys							
	no.	1,087	20,045	1,779	58,730	15,763	433,264
TOTAL			\$46,187		\$135,014		\$966,592

Alabama.—Colbert County Humane Society, Shirley Maize, President, Highway 43 South, Tuscomb, AL 35674.

Arizona.—Arizona Animal Welfare League, Stevia Slaughter, P.O. Box 908, Scottsdale, AZ 85252.

Union County Humane Society, Jennie Thomas, President, P.O. Box, El Dorado, AZ 71730.

Arizona Zero Pet Population Growth Committee, Peg Eggleton, Chairperson, 13209 North 49th Place, Scottsdale, AZ 85254.

Humane Society of Sedona, Inc., Shannon McCracken, P.O. Box 1185, Sedona, AZ 86336.

California.—United Humane Society, Linda Farrall, Manager, 31339 East Main Street, Barstow, CA 92311.

Tuolumne County Humane Society, James Hill, President, P.O. Box 446, Sonora, CA 95370.

Napa County Humane Society, Terry Brown, President, P.O. Box, Napa, CA 94558.

Oakland, California SPCA, Charles Marsh, Executive Director, 8323 Baldwin Street, Oakland, CA 94621.

Ecology Center of Southern California, Elaine Stansfield, Assistant Director, P.O. Box 35473, Los Angeles, CA 90035.

California Humane Council, Edward Newman, President, 4432 Canoga Ave., Woodland Hills, CA 91304.

Ventura City Humane Society, Amanda Rankin, Director, 402 Bryant St., Ojai, CA 93023.

Connecticut.—Pet Animal Welfare Society of Connecticut, Inc., Betty Holmes Long, Secretary, P.O. Box 214, Green Farms, CT 06436.

Delaware.—Delaware Humane Association, H.E. Puseatt, President, 701 A Street, Wilmington, DE 19801.

Florida.—Humane Society of South Brevard, Allene Capley, President, 318 B Ave., Melbourne, FL 32951.

Humane Society of South Brevard, Mr. and Mrs. W.S. Gawthorne, 2861 Electronics Drive, Melbourne, FL 32935.

Humanitarians of Florida, Inc., Joan W. Jenrich, P.O. Box 1780, St. Petersburg, FL 33701.

United Humanitarians, Mrs. George Parks, Chairwoman, P.O. Box 3543, Judialatic, FL 32903.

Humane Society of South Brevard, Inc., Laurie Carriugtan, 2861 Electronics Drive, Melbourne, FL 32935.

Humane Society of South Brevard, Mr. and Mrs. J.R. Monjar, Melbourne, FL 32935.

Georgia.—Humane Society of Houston County, Inc., Colleen Vuncannen, Treasurer, P.O. Box 2593, Warner Robins, GA 31099.

Cherokee County Humane Society, Janet Connolly, President, Rt. 7, Lower Scott Mill Drive, Canton, GA 30114.

Bartow Humane Society, Sheryl S. Vance, Treasurer, Box 195, Cartersville, GA 30120.

Muskogee County Humane Society, Miram Spirks, Treasurer, P.O. Box 6039, Columbus, GA 31907.

Humane Society of S. Coastal Georgia, Inc., Clanita Moeser, Vice President, P.O. Box 39 E., Darien Highway, Brunswick, GA 31520.

Lawrens County Humane, Inc., Mrs. B. Warren, Rt. 4, Box 283 A, Dublin, GA 31021.

Idaho.—Bingham County Humane Society, Mary K. Hill, P.O. Box 602, Blackfoot, ID 83221.

Illinois.—The Humane Society of Olney Area, J. Faldis, Secretary, 315 S. Fair Street, Olney, IL 62450.

Clinton County Humane Society, Mernah Barror & Mary Clark, 416 Claride Drive, Centralic, IL 62801.

Humane Education Council, Dorothy Keeper, 2921 Carriage Lane, Waukegan, IL 60085.

Alto Area Animal Aid Association, Mrs. Helen Gibson, E. Delmar Road, Godfrey, IL 62035.

Tri-County Humane Society, Sam Skuston, Secretary-Treasurer, P.O. Box 601, LaSalle, IL 61301.

Beverly Area Planning Association, Carles Shanabruch, Executive Director, 9730 S. Western Avenue, Chicago, IL 60642.

The Humane Society of Danville, J.H. Corlim, Sr., Executive Director, 1225 North Collett, Danville, IL 61832.
 Wee Care, Tony Malin, Editor, Suite 57, 1744 West Devon, Chicago, IL 60660.
Indiana.—Franklin County Humane Society, Ginny Krause, President.
Iowa.—Iowa City Animal Shelter, Beverly Horton, Director, 410 E. Washington, Iowa City, IA 52230.
Kentucky.—Hopkins County Humane Society, Sylvia LeTourneur, P.O. Box 96, Madisonville, KY 42431.
Maine.—Belfast-Waldo County Humane Society, Inc., Harold Higgins, Sec., R.F.D. 1, Box 3, Belfast, ME 04915.
Maryland.—Prince Georges County Humane Society, Henina Poist, President, P.O. Box 695, Laurel, MD 20707.
 The Humane Society of Harford County, Inc., Nancy Vales, 2208 Connolly Road, Fallston, MD 21047.
Massachusetts.—Provincetown Animal Shelter, Inc., Carrie Seaman, P.O. Box 594, Provincetown, MA 02657.
 Cambridge Animal Comm., Ginger Gay, 57 Inman St., Cambridge, MA 02139.
Michigan.—Animal Welfare Educators, Carolyn Butler, 27575, S. River Rd., Mt. Clemens, MI 48045.
 Michigan Humane Society, Catherine Randazzo, 7401 Chrysler, Detroit, MI 48211.
 Anti-Cruelty Association, Deborah Thurman, Asst. Manager, 13569 Joseph Campau, Detroit, MI 48212.
 Cheboygan County Humane Society, Ray Lalake, 1536 Hackleburg Rd., Cheboygan, MI 49721.
 Humane Society of Muskegon County, Margaret Robinson, 3030 Eastland Rd., Muskegon, MI 49441.
Minnesota.—Humane Society, Inc., Ruth Dodson, President, Route 2 Box 20, Moorhead, MN 56560.
 Minnesota Environmental Control Citizens Association, Mrs. Mary Kent, Wildlife Task Force.
Mississippi.—Leflore County Humane Society, Marie Taylor, Ione Str. Box 620, Greenwood, MS 38930.
 Washington County Humane Society, Nell Harrigan, President, P.O. Box 4421, Greenville, MS 38701.
Missouri.—Mid-Mo Humane Society, Mrs. John Madden, P.O. Box 1171, Sedalia, MO 65301.
Montana.—Humane Society of Cascade County, Jan Davidson, Director, 1601 2nd Ave. No., Great Falls, MT 59401.
Nevada.—Animal Relief Foundation, K. Lauf, P.O. Box 1333, Elko, NV 89801.
New Hampshire.—Greater Derry Humane Society, Inc., Michele La Medica, President, P.O. Box 142, East Derry, NH 03041.
 N.H. Society for the Prevention of Cruelty to Animals, Joel Faria, Executive Director, P.O. Box 196, Route 1, Stratham, NH 03885.
New Jersey.—Protect Our Pets, Inc., Kathy Fohnson, President, 118 Rutherford N.E., Lyndhurst, NJ 07071.
 Friends of Animals, Inc., Nancy Pinkerton, 1 Pine St., Neptune, NJ 07753.
 Lost Pet Service, Inc., Eloyne Muth, President, 13 Taylor Dr., Closter, NJ 07624.
 Animal Birth Control, Inc., Jessie D. Manuel, 142 Lillian St., Brick Town, NJ 08723.
 Wessex Animal Welfare League, Edith F. Miller, Legislative Chairman, P.O. Box 1072, West Caldwell, NJ 07006.
 The Noah's Ark Animal Welfare Association, Inc., Mrs. Elgrit B. Russell, Legislative Aide, Rt. 46 West, Ledgewood, NJ 07852.
 Friends of Animals, Inc., Alice Herrington, President, 1 Pine St., Neptune, NJ 07753.
New Mexico.—San Juan Animal League, Midge Pascal, Rt. 2, Box 89, Farmington, NM 87401.
 Deming Luna Humane Society, Ma Sareo E. Hemedey, President, P.O. Box 568, Deming, NM 88031.
 Animal Protection, Inc., Geraldine A. Aron, Vice-President, P.O. Box 5883, Sante Fe, NM 87502.
New York.—Beauty Without Cruelty, Ethel Thieostine, 175 West 12th St., Suite 16G, New York, NY 1004.
 Humane Society of Port Jervis, Deerpark, Inc., Wilh L. Floyd, RD. #3, Box 166, Port Jervis, NY 12711.
 Delaware Valley Humane Society, Daniel Scanlon, President, Sidney, NY 13838.
 P.A.W.S., Sybil Meesel, Box 861, Hichsville, NY 11802.

Estherville, The Animal Shelter, Edna-Ann Senecal, President, R.D. 1, Greenfield Center, NY 12833.
 North Carolina.—Humane Society of Rowan County, Jane S. Arey, President, P.O. Box 295, Salisbury, NC 28144.
 Humane Society of Guilford County, Inc., Elaine G. Elkis, Legislative Chairman, P.O. Box 9531, Greensboro, NC 27408.
 Mecklenburg County Humane Society, Charlie Vactor, 1815 Park Drive, Charlotte, NC 28204.
 Animal Haven, Inc., Tonya K. Autry, Founder and President, Autryville, NC 28204.
Ohio.—The Darke County Humane Society, Martha R. Woodbury, President, P.O. Box 613, Greenville, OH 45331.
 Huron County Humane Society, Inc., Roselle S. Ward, President, Box 631, Norewalk, OH 44857.
 Mansfield Humane Society, Mrs. D. Craig, P.O. Box 2821, Mansfield, OH 44906.
 Union County Humane Society, Robert W. Schery, President, Box 414, Marysville, OH 43040.
 Pet Birth Control Clinics, Rosemarie Woods, Box 19143, Cleveland, OH 44119.
Oklahoma.—Volunteers For Animal Welfare, Inc., Lynda Powell, President, P.O. Box 20061, 9228 N. May Ave., Oklahoma City, OK 73156.
Oregon.—Oregon Humane Society, Alan Thomas, 1067 N.E. Columbia Blvd., Portland, OR. 97211.
 Humane Society of Central Oregon/SPCA, Bruce J. Hanonit, Executive Director, 61170 S.E. 27th St., Bend, OR 97702.
 Benton Humane Society, Margaret Melora, P.O. Box 1336, Corvallis, OR 97339.
Pennsylvania.—The Enchanted, Bertha Herrmann, Animal Kingdom, Suscon, Avoca, PA 18641.
 Animal Care and Welfare, S.P.C.A., Edward Blotzer, Pittsburgh, PA 15218.
 Northwestern Pennsylvania Humane Society, David Parker, Shelter Chairman, P.O. Box 1065, Erie, PA 16512.
 Society for the Prevention of Cruelty to Animals, Barbara Ziemer, Treasurer, Fox Hill Road, Plains, PA 18705.
 Lawrence County Humane Society, P.O. Box 62, New Castle, PA 16103.
 Animal Care of Westmoreland County, Marie Long Michaels, 134 East Pittsburgh Street, Greensburg, PA 15601.
 Beaver County Humane Society, Carl Barley, Executive Director, P.O. Box 63, Monaca, PA 15601.
 Animal Protectors of Allegheny Valley, Evelyn Abraham, 1922 Woodmont Avenue, Arnold, PA 15068.
 Trans-Species Unlimited, George Lase, Ph.D., President, P.O. Box 1351, State College, PA 16801.
 The American Anti-Vivisection Society, William Cave, President, 801 Old York Road, Jenkintown, PA 19046.
 Animal Rights Network of Berks Co., Maria Grant, P.O. Box 8547, Reading, PA 19603-8547.
 Strayhaven Animal Shelter Inc., Charles Heisser, Box 464, Greenville, PA 16125.
South Carolina.—Hilton Head Humane Association, Eleanor Lowell, Member of Advisory Board, Hilton Head Island, SC 29928.
Tennessee.—Sumner County Humane Society, Rosemary Rogers, Vice President, P.O. Box 243, Gallatin, TN 37066.
Utah.—Valley Humane Society, Mildred Kickel, 1635 Sunset Drive, Logan, UT 84321.
Virginia.—Humane Society of Fairfax Co., Carole Ryczek, President, P.O. Box 4555, Falls Church, VA 22044.
 Gloucester-Mathews Humane Society, Bonnie Jones, Shelter Director, Box 385, Gloucester, VA 23061.
 Danville Area Humane Society, Joan Schwarz, Vice President-Communications, P.O. Box 3352, Danville, VA 24543-3352.
 Galax SPCA Inc., Nancee Waush, P.O. Box 230, Galax, VA 24333.
 Animal Welfare of Alexandria, Va., Inc., Margaret Hodges, 910 South Payne St., Alexandria, VA 22314.
Washington.—Concern for Animals, Joyce Pearce, President, 1120 S. McCormick St., Olympia, WA 98501.
 Humane Society of Cowlitz County, P.O. Box 172, Longview, WA 98632.
 Progressive Animal Welfare Society, Todd Putnam, P.O. Box 1037, Lynnwood, WA 98036.

Washington, D.C.—The Washington Animal Rescue League, Elizabeth S. Kiernan, President, 71 Oglethorpe St. N.W., Washington, DC 20011.

West Virginia.—Mercer County Humane Society, Kitty Naoldridge, Pres. & Exec. Director, Box 1392, Bluefield, WV 24701.

Wisconsin.—Defenders of Animals, Ruth McCloud, P.O. Box 19741, West Allis, WI 53219.

Oneida County Humane Society, E. Kabel, 104 King St., Rhinelander, WI 54501.

Animal Protective League, Inc., E. Romais, President, 2130 N. 106th St., Milwaukee, WI 53226.

Wyoming.—The Humane Federation of Wyoming, Sherman L. Mast, President, P.O. Box 1062, Laramie, WY 82070.

Animal Care Center, Lois Mast, Board member, Box 299, Laramie, WY 82070.

Mr. CONYERS. I would like to now call the Director of Fisheries and Wildlife Division of the National Wildlife Federation, Mr. Alan Wentz.

Welcome, and we would like to introduce your statement into the record and allow you to testify in your own way. Thank you for coming.

TESTIMONY OF ALAN WENTZ, DIRECTOR, FISHERIES AND WILDLIFE DIVISION, NATIONAL WILDLIFE FEDERATION

Mr. WENTZ. Thank you, Mr. Chairman. I will be glad to abbreviate my oral statement.

I would like to point out that the National Wildlife Federation is the Nation's largest conservation education organization. We have over 4 million members and supporters, and 51 affiliated organizations in the States and territories.

We are dedicated to the conservation, restoration, and management of the Nation's wildlife and fisheries resources and other natural resources also.

We are, however, opposed to any proposal that would take funds away from the Federal aid in wildlife restoration or Pittman-Robertson Program, including the diversion of the handgun excise tax to a crime victim compensation fund. Let me, however, hasten to add that we do not object to the concept of crime victim compensation, an idea which has found wide support in many of the States.

However, a worthwhile program like Pittman-Robertson should not be sacrificed in order to accomplish that objective.

The Pittman-Robertson Program has long been a model of State and Federal cooperation and is crucial to funding the work of our State wildlife agencies. It was started in 1937, and I am proud to say the National Wildlife Federation was there to help initiate this program and lobbied on its behalf at that time.

The program has, as you have already pointed out, been supported by excise taxes on various kinds of arms and ammunition and archery equipment.

The P-R Program has financed the purchase and easement of over 54 million acres of valuable habitat for numerous species of wildlife, including migratory birds, various sensitive species, and a lot of nongame wildlife species, as well as the traditional game species.

For instance, the State of Florida has purchased 2.4 million acres of lands with P-R funds. These lands have become part of that State's wildlife management area system.

Since 1940, the State of Michigan has used over \$40 million of P-R funds to acquire 150 wildlife management areas.

If I could address just one thing that has been discussed, that is the burning of some of these lands, Mr. Chairman.

P-R funds are indeed used for habitat manipulation and habitat management, and I am sure you are well aware that in your State of Michigan the Kirtland's warbler, an endangered species, survives because of some of that burning of its habitat. That species requires that lands be burned and treated on a fairly regular basis in order to provide the kind of habitat that bird species needs to survive.

In California, P-R funds have purchased over 250 wildlife management areas throughout that State, and P-R funds now finance the maintenance of these areas.

In addition, P-R funds finance long-term wildlife research projects. The nongame research and habitat management program in California has been funded with P-R funds since 1968. During that period, \$150,000 to \$200,000 has been provided each year for research on the status and habitat needs of numerous nongame populations.

Florida's Game and Fresh Water Fish Commission uses P-R money to restore hardwood hammocks and southern pine forests on their wildlife management areas.

Old fields are maintained through mowing and prescribed burning to provide extensive habitat in Ohio and other States.

At least 3,000 acres of valuable marshland have been restored with P-R funds on Pte. Mouillee Marsh in Michigan. I am sure you are familiar with this area. These wetlands have been extremely valuable, not only for numerous migratory bird species, and game species, but also nesting shorebirds, herons, and other nongame wildlife.

The excise taxes on sporting arms and munitions, particularly the handgun excise tax, have been spent to train several million people in safe gun handling through State hunter education programs. That has been well-addressed here this morning. We believe that these programs have indeed helped to save lives by reducing hunting accidents.

The proposal to cut the P-R fund by over one-fourth is based on the December 1982 report of President Reagan's Task Force on Victims of Crime. That report recommends that the excise tax on the sale of handguns be diverted into the crime victim assistance fund.

The task force report contains a number of errors. In one place the report makes the statement that "there is little, if any, relation between handguns and hunting or wildlife activity." In fact, handguns are authorized for use, as has been pointed out, in 49 States for small game hunting and in 37 States for big game hunting.

In response to your earlier question about how many people actually hunt with handguns, in 1980 the U.S. Fish and Wildlife Service reported that 1.3 million people spent 10.7 million days hunting with handguns.

Mr. CONYERS. Excuse me. We have run into a problem. We had thought we would not have a recorded vote, and the two lights have gone on the clock indicates that there is a recorded vote, and there is also the problem of another witness.

So what I am going to try to do so that we won't have to prolong this, if you would summarize, and then I could bring the next witness on to get his statement in, and we would have concluded, and if you choose to or want to come back, we will invite you back for further testimony.

Mr. WENTZ. All right, thank you, Mr. Chairman.

The one point I would like to make is that we hope that your subcommittee will consider the alternative funding sources that have been proposed by the Department of Justice in H.R. 5124 that members of your committee have cosponsored.

Mr. CONYERS. Do you have any objection to liability insurance for people hunting on public lands?

Mr. WENTZ. Our policy is set at our national meeting by our delegates. We do not have a current position on that subject.

Mr. CONYERS. Tell them I asked about that.

Mr. WENTZ. Yes, I will.

Mr. CONYERS. OK, and thank you very much. We appreciate your cooperation, sir.

[The prepared statement of Mr. Wentz follows:]



NATIONAL WILDLIFE FEDERATION

1412 Sixteenth Street, N.W., Washington, D.C. 20036 202-797-6800

March 22, 1984

(6) *Alan Wentz*
 COMMENTS OF THE NATIONAL WILDLIFE FEDERATION
 ON H.R. 3498
 BEFORE THE SUBCOMMITTEE ON CRIMINAL JUSTICE
 OF THE COMMITTEE ON THE JUDICIARY
 OF THE U.S. HOUSE OF REPRESENTATIVES

Mr. Chairman, I am Alan Wentz, Director of the National Wildlife Federation's (NWF) Fisheries & Wildlife Division. I welcome the opportunity to appear here today to tell you our views on legislation proposed by Representative Rodino to establish a fund to compensate victims of crime.

NWF is the nation's largest private, conservation-education organization, with over 4 million members and supporters and 51 affiliate organizations in the states and territories. We are dedicated to the conservation, restoration, and management of this nation's natural resources. Many of our members are sportsmen with strong interests in outdoor recreation including hunting and the shooting sports. Many own and use handguns for hunting, target shooting, and competitive shooting sports.

NWF stands in opposition to any proposal that would take funds away from the Federal Aid in Wildlife Restoration program (Pittman-Robertson) including diverting the handgun excise tax to a crime victim compensation fund. Let me hasten to add that the NWF does not object to the concept of crime

victim compensation, an idea which is finding wide support. However, a worthwhile program like Pittman-Robertson should not be sacrificed in order to accomplish that objective.

The Pittman-Robertson (P-R) program has long been a model of state and federal cooperation that is crucial to funding the work of our state wildlife agencies. Since its inception in 1937, the program has been supported by an excise tax on sporting arms and ammunition, with later amendments to include handguns and archery equipment. Today the program generates approximately \$110 million per year including around \$30 million coming from the 10 percent excise tax on the sale of handguns.

Because of the 3-to-1 matching scheme of P-R fund apportionment, this translates into almost \$140 million spent on wildlife management and hunter education each year. (For every P-R funded project, the state pays 25 percent of the project costs and federal P-R money reimburses the state for the other 75 percent.)

The P-R program has financed the purchase and easement of over 54 million acres of valuable habitat for numerous wildlife species, such as migratory birds, sensitive species, and non-game wildlife as well as traditional game species. To illustrate, the following table presents the land acquired with P-R funds for fiscal years 1981, 1982 and 1983 in selected states.

P-R Expenditures for Land Acquisition*
in Selected States

State	FY '81		FY '82		FY '83	
	\$ Spent	Acres	\$ Spent	Acres	\$ Spent	Acres
Florida	517,160	647	1,876,024	723	624,892	2266
Illinois	900,600	1598	-	-	-	-
Michigan	1,085,600	1240	678,800	758	811,250	883
Ohio	546,850	427	263,184	370	247,279	428
Pennsylvania	-	-	-	-	803,256	669

* All \$ amounts are combined federal- and state-matching P-R funds.

In California, P-R funds have purchased over 250 wildlife management areas throughout the state and now finance the maintenance of these resource areas. Approximately \$40 million in P-R funds have been spent in Michigan alone on land acquisition since 1940.

In addition, P-R funds finance long-term management projects and wildlife research projects. For example, a non-game research and habitat management program in California has been funded with P-R funds since 1968. During that period \$150,000 - \$200,000 has been provided each year for research on the status and habitat needs of numerous non-game populations, such as peregrine falcons, mountain beaver, spotted skunks, and nesting seabirds. Florida's Game and Fresh Water Fish Commission uses P-R money to restore hardwood hammocks and southern pine forests in their Wildlife Management Areas. Old fields are maintained through mowing and prescribed burning to provide extensive habitat in Ohio for species

such as songbirds, barn owls, quail, rabbits, and a diversity of wildlife species. At least 3,000 acres of valuable marshland have been restored with P-R funds on Pte. Mouillee in Michigan. These wetlands are extremely valuable for numerous species of migratory birds and nesting shorebirds and herons.

The excise taxes on sporting arms and munitions, particularly the handgun excise tax, have been spent to train several million people in safe gun handling through state hunter education programs. Each year 750,000 people receive instruction in firearm safety, hunting ethics, and wildlife management through programs supported by P-R funds. These programs help save lives by reducing hunting accidents.

The proposal to cut the P-R fund by over one-fourth apparently is based on the December 1982 report of President Reagan's Task Force on Victims of Crime. That report recommends that the excise tax on the sale of handguns be diverted into a Crime Victim Assistance Fund. H.R. 3498 would do that.

The Task Force report contains a number of errors. The report makes the statement that "There is little, if any, relation between handguns and hunting or wildlife activity." In fact, handguns are authorized for use in 49 states for small game hunting and 37 states for big game hunting. The U.S. Fish and Wildlife Service reports that in 1980 1.3 million people spent 10.7 million days hunting with handguns. The same report shows that handgun hunting is twice as popular as hunting

with "primitive" black powder firearms. With the current growth in handgun hunting, it will soon pass archery hunting in popularity.

The Task Force also concluded that "diversion of these monies into the Crime Victims' Assistance Fund will reduce the Pittman-Robertson Fund by about 25 percent of its total every year" and that this would not "unduly impede" the purposes of the P-R fund. In actuality, reduction in P-R funding would seriously hinder state programs. The U.S. Fish and Wildlife Service reports that California, Michigan, Pennsylvania, and Texas will lose over one million dollars annually in P-R revenues if the proposed cut is implemented. Other states will face a reduction in their total available P-R funding of over 45 percent each year.

States make full use of the P-R funding available. In the past four fiscal years, only about one percent of the money apportioned to the states has been returned to the federal government. The few states that return P-R funds do so because the state cannot raise enough funds to "match" the P-R funds provided by the federal government.

It is difficult to understand how a 25 percent reduction would do anything other than impede the P-R program, particularly in light of the massive federal budget cuts that have put significant new burdens on state wildlife agencies. Further evidence of the impact of such a cut is shown in the record of a House of Representatives hearing (held on July 30, 1981) which identified the need to expand the P-R excise tax

to other items since the fund is inadequate to handle present needs. Simple logic says that diverting P-R funds would seriously harm ongoing state programs.

The objective of the President's Task Force is meritorious, but removal of these funds from the P-R program would seriously harm important, needed efforts in every state in this nation. We ask that H.R. 3498 be amended to remove the provision that diverts the handgun excise tax into the Crime Victim Fund.

We urge the Subcommittee to consider the alternative funding sources proposed by the Department of Justice. H.R. 5124, introduced by Rep. Hamilton Fish on behalf of the Administration, implements many of the recommendations made by the Task Force to compensate crime victims but does not remove the handgun excise tax from the P-R fund. We recommend enactment of the Administration's proposal or any alternative funding mechanism that does not divert valuable funds from the P-R program. It would be a disservice to sportsmen and wildlife enthusiasts to establish a crime victim fund at the expense of equally important wildlife programs.

Thank you for the opportunity to present our views.

Mr. CONYERS. Let me bring forward the assistant commissioner for fish, wildlife and marine resources of the New York Department of Environmental Conservation, Mr. Herbert Doig.

Welcome to the subcommittee. Excuse our press for time, but I did want to incorporate your testimony into the record and allow you to make an opening and concluding statement, and if you would like to come back we will have you come back.

TESTIMONY OF HERBERT E. DOIG, ASSISTANT COMMISSIONER FOR FISH, WILDLIFE AND MARINE RESOURCES, NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION, ON BEHALF OF THE INTERNATIONAL ASSOCIATION OF FISH AND WILDLIFE AGENCIES

Mr. DOIG. Thank you, Mr. Chairman.

I am pleased to have the opportunity to share the information that is provided in the testimony, which represents the position of the 50 States with regard to fish and wildlife management and the impact that is imposed by the provision in H.R. 3498 that would reduce the amount of money available to the States for fish and wildlife restoration, including hunter education.

My testimony presents the key points from the standpoint of the States on this issue. It reinforces some of the testimony that has been given previously.

It does elaborate more on some experience from New York and responds to the question of what is the effect of hunter safety resulting from hunter training programs. New York is the first State to have had a program, and has seen a very significant decrease in the hunting accident rate as a result of that program.

I also point out that the benefits of fish and wildlife restoration programs go way beyond those to sportsmen alone. They include urban wildlife programs, endangered species programs, and environmental impact analysis, among others.

Wildlife restoration also includes the acquisition of critical habitats that are used by all species. Fish and wildlife resources are used and owned by everyone, and as such, the fish and wildlife programs of the Nation are responsive to broad resources. Even though some species may be targeted by wildlife management programs for prime emphasis there are benefits to other species as well.

It should also be recognized that game species are not only enjoyed by hunters but are enjoyed by a great many other people, as well.

Mr. CONYERS. Could you make a concluding statement?

Mr. DOIG. In conclusion, I would like to emphasize that the international association is in no way expressing opposition to the concept of crime victims compensation but rather looks to ways to amend proposed legislation to reduce the impact on fish and wildlife resources and wildlife management. We feel that there has been a long tradition in Congress of supporting this kind of support for fish and wildlife resources, and that there are alternatives that will maintain that commitment while providing compensation for victims of crime.

Mr. CONYERS. Thank you, Mr. Doig. You have been very cooperative. We will study your written statement very carefully.

[The prepared statement of Mr Doig follows:]

STATEMENT OF HERBERT E. DOIG, ASSISTANT COMMISSIONER FOR FISH, WILDLIFE AND MARINE RESOURCES, NEW YORK DEPARTMENT OF ENVIRONMENT CONSERVATION

Mr. Chairman: I am pleased to have the opportunity to share with you the views of the state fish and wildlife agencies with regard to one important aspect of H.R. 3498 that will significantly impact fish and wildlife management programs. As Legislative Chairman for the International Association of Fish and Wildlife Agencies, it is my privilege to represent the position of that Organization on this matter.

Fish and wildlife resources are owned by all of the people in the United States and enjoyed by a broad spectrum of the population. To assure continued use and enjoyment of these resources, State governments and the Federal government have forged a cooperative relationship which depends upon a complex infrastructure of communications and funding mechanisms to assure effective protection and management of wildlife and their habitats.

A third and equally important component of the wildlife program equation is constituent support and involvement. For more than a century sportsmen, outdoorsmen and more recently, nearly every citizen, have actively participated in decision making and the financing of needed management programs. Sportsmen were pioneers in the evolution of the philosophy that users should pay for the benefits they receive and in landmark legislation, Congress nearly fifty years ago, enacted the Pittman-Robertson Act which established an excise tax on arms and ammunition to help pay for wildlife research, restoration and management programs on a cost share basis with the states. The Act has been amended subsequently adding new sources of revenue to meet the ever growing needs and challenges facing wildlife agencies. In 1970, Pittman-Robertson funds were augmented by the handgun tax, with special recognition given to hunter education needs in that the states were allowed to use up to one-half of the handgun revenues for hunter education, with the remaining half, plus what was not used for that purpose, to go to wildlife restoration. Handgun excise taxes are a legitimate funding source for these programs in that 49 states permit small game hunting and 37 states permit big game hunting with handguns.

Particular note should therefore be made of hunter education. Each of the 50 states has a hunter education program, with all of these state programs supported by Pittman-Robertson funds. Of the 50, 29 programs are mandatory; that is, before someone receives a hunting license, he must take a hunter training course. Nationwide, close to 700,000 students are trained by some 50,000 instructors each year, in courses averaging approximately nine hours. The subjects taught at these courses include hunter safety, ethics and behavior, relations with landowners, and principles of wildlife ecology and wildlife management. These courses are primary tools of the states in reaching an important, active segment of the public with regard to wildlife and people's enjoyment of wildlife. The record in New York will illustrate the value of hunter education for safety. In 1982, we had 6.3 accidents per million days of hunting. Twenty years earlier in the early 1960's the rate was 30 accidents per million days, or five times as high. The difference is attributable to our hunter education programs.

Since the Pittman-Robertson program was signed into law by President Roosevelt, it has provided over \$1 billion to the states for wildlife conservation as well as hunter education. In the 45 years of its existence, the Pittman-Robertson contribution has funded one-third of the states' wildlife conservation work.

In recent years in New York State that work has included wetlands acquisition, endangered species restoration, hunter education, inventory and analysis of habitats, environmental impact reviews, and management of public lands for wildlife purposes. Across the country, states have used Pittman-Robertson funds to purchase more than 50 million acres of land for wildlife purposes and have bought easements on another 1 million acres. Successful whitetail deer, elk, pronghorn and wild turkey restoration have been underwritten by Pittman-Robertson assistance.

No one can deny the significance of wildlife management programs to the health and vitality of wildlife resources today nor their importance to molding the ethics and behavior of a large segment of our population who own and use firearms. Countless young people have been taught the basic principles of responsible gun ownership and use and have been afforded the opportunity to use firearms in a healthy and rewarding manner. Surely these activities do not deserve diminished federal support.

Yet, one of the funding sources contributing to the Crime Victims Compensation Fund established by H.R. 3498 would divert approximately \$30 million a year from the excise tax on handguns to the newly established fund. This provision [Section 301(b)(3)] would reduce by approximately 25 percent the money made available for the Pittman-Robertson program. This would be a serious blow to many states who depend upon these funds to conduct hunter training and other essential wildlife programs. Ten states: Connecticut, Delaware, Hawaii, Indiana, Maryland, Massachusetts, New Hampshire, New Jersey, Rhode Island and Vermont would lose over 35 percent of their annual P-R funding.

The concerns of the International Association for funding of wildlife resource programs should in no way be interpreted as an expression of opposition to the concept of crime victims compensation. To the contrary, the interests of society mandate that Congress look carefully at that issue. We are aware, however, of alternative legislation in H.R. 5124 sponsored by Congressman Fish of New York, that would achieve the objectives of H.R. 3498 while preserving the integrity of the Pittman-Robertson funding base. We support this initiative as one that is responsive to the question of crime victims compensation without including provisions that would cause adverse effects on wildlife programs.

In recognition of the importance of Pittman-Robertson funds to state wildlife resource programs, the severe impact a reduction of these funds would have on state efforts toward wildlife restoration and hunter education and the clear legitimacy and close association of handgun use to wildlife management, the International Association of Fish and Wildlife Agencies strongly oppose any diversion of Pittman-Robertson funds from their current dedicated purpose and urges the adoption of H.R. 5124 as an acceptable alternative to H.R. 3498 or deletion of Section 301(b)(3) from H.R. 3498 and, by so doing, reaffirm the strong commitment of the House of Representatives toward conservation of our nations' wildlife resources.

The subcommittee stands adjourned.

[Whereupon, the subcommittee was adjourned subject to the call of the Chair.]

LEGISLATION TO HELP CRIME VICTIMS

MONDAY, APRIL 2, 1984

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIMINAL JUSTICE,
COMMITTEE ON JUDICIARY,
Washington, DC.

The subcommittee met pursuant to call, at 10 a.m., in room 228, U.S. Courthouse, Detroit, MI, Hon. John Conyers, Jr. (chairman of the subcommittee) presiding.

Present: Representative Conyers.

Staff present: Thomas W. Hutchison, counsel; Ronald Stroman, assistant counsel; and Raymond V. Smietanka, associate counsel.

Mr. CONYERS. The Subcommittee on Criminal Justice will come to order.

We are pleased to be in Detroit and the Federal Courthouse building for another important hearing on H.R. 3498 and related bills to help crime victims.

I am very pleased to announce this is the subcommittee's fifth hearing on the legislation. The bills pending before us call for Federal funds to go to crime victim compensation and crime victim assistance programs.

The compensation programs, which are administered by State agencies, help victims financially by reimbursing them for out-of-pocket expenses for hospital and medical services and for lost wages resulting from physical injuries caused by crime.

The crime victim assistance programs provide victims with a range of social services, such as crisis intervention and mental health counseling. Some programs are operated by State agencies and some are operated by private, nonprofit organizations.

The principal bill, which was introduced by Representative Peter W. Rodino, the chairman of the House Judiciary Committee and 50 Members of Congress, would, first of all, establish a crime victim fund consisting of revenue derived from four sources. First, from fines imposed upon persons convicted of Federal crimes. Second, from new penalty assessments to be imposed upon persons convicted of Federal offenses. Third, from the excise tax on the sale of handguns. Fourth, from the proceeds from forfeitures ordered in Federal criminal cases.

Up to 80 percent of the funds are to be used to provide financial aid to State-run crime victim compensation programs, which would be reimbursed for up to 50 percent of the compensation that they pay to crime victims.

In addition, the bill would distribute the remainder of the fund to the States to aid crime victim assistance programs.

Please come forward and make yourselves comfortable at the witness table.

Mr. Fullwood, as administrator of the Michigan Crime Victims Compensation Board you have a prepared statement, as does Ms. Cuza, who is appearing on behalf of Governor Blanchard. Without objection, these statements will be made part of our hearing record.

You may proceed in any way that you choose.

TESTIMONY OF MICHAEL FULLWOOD, ADMINISTRATOR, MICHIGAN CRIME VICTIMS COMPENSATION BOARD; ULYSSES W. BOYKIN, MEMBER, MICHIGAN CRIME VICTIMS COMPENSATION BOARD; AND PATRICIA CUZA, DIRECTOR, OFFICE OF CRIMINAL JUSTICE

Mr. FULLWOOD. Good morning, Mr. Chairman and members of the subcommittee, my name is Michael Fullwood. I am the administrator of the Michigan Crime Victims Compensation Board. I appreciate this opportunity to testify in support of House Resolution 3498, the Victims of Crime Act of 1983.

I want to provide the subcommittee with some background on the fiscal history of the compensation program in Michigan to demonstrate the need that exists for a shared responsibility between the Federal Government and the State in addressing the concerns of crime victims.

I also want to address the legislation before this subcommittee.

Mr. Chairman, I know that you are sensitive to the economic realities of the past several years and the difficulty that has faced public agencies with regard to service delivery. This has not been an ideal period in which to seek increased appropriations for public programs. It has been a particularly difficult task for a small program with a randomly selected and relatively powerless constituency—such as victims of crime.

In this fiscal adversity, the Michigan Compensation Program has continued to operate with a broad range of public support. In less than 6 years the level of appropriation needed to respond to our legislative mandate has increased from less than \$1 million to over \$2 million per year. That need continues to grow at a steady rate.

The problem that we encounter is that the dollars available to respond to that growing need are increasingly difficult for the State to provide.

In fiscal year 1979-80 the board received an appropriation of \$1½ million. The compensable losses of the victims awarded that year were \$1.68 million. The net result was that over 100 eligible victims had to wait several months until the passage of the fiscal year 1980-81 budget in order for their needs to be addressed.

In fiscal year 1982-83, the necessity of balancing the budget required sacrifice by all offices of State government. Our budget was reduced 10 percent. Only a one time administrative transfer saved over 50 victims from the added insult of delayed compensation in that instance.

Our budget has been frozen at \$1.8 million for this year and through the end of fiscal year 1984-85.

Lastly, the bill substantially increases maximum fines that can be imposed for convictions of Federal crimes.

The administration agrees that Federal funds should be used to aid victim compensation and victim assistance programs. The President's Task Force on Victims of Crime recommended such legislation in December 1982 and just recently the administration sent proposed legislation to Congress.

There are differences, of course, between the Rodino bill and the administration bill. The administration bill looks only to Federal criminal fines for funding its program.

The Rodino bill provides that States be reimbursed for up to one-half of what they spent to compensate crime victims. The administration bill calls for 10 percent reimbursement and sets aside money to be used by the Federal Government for assistance programs for victims of Federal crimes. The Rodino bill, on the other hand, provides that all money be distributed to the States.

There are other differences as well, and I expect we will be hearing about some of them from today's witnesses.

I should point out that the legislation under consideration does not incorporate several proposals that I have seen that are ostensibly aimed at helping victims. Some of the proposals, like abolishing the exclusionary rule, are seeking to overturn legal safeguards against governmental overreaching. Other such proposals are directed at making our penal system more harsh and would create mandatory and longer prison terms. Such proposals, if implemented, might possibly enable us to overtake the Soviet Union and South Africa, the two industrialized countries whose prison sentences and rates of imprisonment exceed ours. That is something that I would not like to see happen.

The subcommittee must make sure that the legislation really addresses the financial, emotional, and medical needs of the victims and does not become a vehicle to make our criminal justice system more harsh than it already is.

In our four previous hearings the subcommittee has received testimony from a wide range of viewpoints and perspectives, ranging from the National Coalition Against Sexual Assault to the Unitarian Universalist Service Committee; and while there has been a general agreement on the need for and desirability of Federal legislation, there has been differences about the details.

The greatest controversy raised has centered upon using the excise tax on the sales of handguns to help crime victims.

The subcommittee has devoted one full hearing to that issue alone. Today's hearing will not be limited to that issue, but will take up other parts of the legislation that concern some of the organizations here in the Detroit area.

The subcommittee will hear from a diverse group of witnesses, including persons involved in compensating and assisting victims of crime. I'm sure that our witnesses will contribute very substantially to the work of the subcommittee on this legislation.

With that, I would like to call the first set of witnesses, who will constitute a panel. The witnesses are Mike Fullwood, administrator, and Attorney Ulysses W. Boykins, member Michigan Crime Victims Compensation Board. They will be joined by Ms. Patricia Cuza, director of the Governor's Office of Criminal Justice.

Please come forward and make yourselves comfortable at the witness table.

Mr. Fullwood, as administrator of the Michigan Crime Victims Compensation Board you have a prepared statement, as does Ms. Cuza, who is appearing on behalf of Governor Blanchard. Without objection, these statements will be made part of our hearing record.

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In fiscal year 1982-83, the necessity of balancing the budget required sacrifice by all offices of State government. Our budget was reduced 10 percent. Only a one time administrative transfer saved over 50 victims from the added insult of delayed compensation in that instance.

Our budget has been frozen at \$1.8 million for this year and through the end of fiscal year 1984-85.

Based on our February 1984 status report, which has been submitted to the subcommittee, we project a \$200,000 to \$300,000 shortfall in the current year.

We are continuing our efforts to enhance our funding base and to increase our appropriation, but if those efforts are not successful, it is clear that we face some hard choices down the road.

The choices that we will face, however, cannot be compared to the agonizing prospects that will face our clients. When victims of violent crime apply to the board they do so with a ray of hope. They hope to be able to have the medical attention that they need. They hope that they will finally be able to satisfy their long lists of creditors. Above all, they hope to put their lives back together again.

The passage of House Resolution 3498 would remove the major hurdle that stands in the way of fulfilling our promise to the victims looking to us in last resort.

There are several eligibility criteria in section 102 of the Rodino bill. They represent a logical and realistic approach to safeguarding the expenditure of Federal compensation dollars.

Compensation for medical and other injury related expenses, loss of wages, and the payment of funeral expenses are universally recognized as the most basic of the immediate needs of victims and survivors.

The promotion of victim cooperation with the reasonable requests of law enforcement agencies has been included in the vast majority of State compensation program requirements.

Well over one-half of the existing programs require an assessment of any contributory misconduct by the victim. Our intention is to make reparations to innocent victims and not those who provoke an incident or those who are injured while participating in an illegal activity.

That the State be subrogated to any claim that a recipient of compensation has against a perpetrator of the crime, to the extent of compensation awarded, is part of Michigan law and is a reasonable requirement of public policy.

That the program not discriminate against nonresidents is a reasonable requirement placed on the expenditure of Federal dollars.

Finally, that State programs will provide compensation to victims of crimes within the State that come under exclusive Federal jurisdiction. Many States have been providing this compensation already. Again, it's a reasonable requirement of Federal policy.

I have read testimony previously given to this subcommittee by an administration official, stating that these requirements place the Federal Government in the position of dictating State policy.

On the contrary, it would appear that a thoughtful analysis of existing State programs and of the public role in this effort was done prior to the drafting of the Rodino bill.

The bill provides for an 80/20 split of the fund between compensation programs and victim assistance programs. It is really not known at this time if this division would produce an actual result substantially different from that which would be produced by a 50/50 split of the fund. In any case, the unused portion of title I dollars would revert to title II expenditure.

I would submit that the basic and immediate needs of crime victims, such as medical care and replacement of lost wages should be the first priority to be attended to.

Over two-thirds of the States have operational programs with proven expertise in the statewide delivery of victim compensation and assistance. These existing structures should be utilized to their full extent rather than scattering the bulk of these much needed dollars to a vast assortment of new programs that are more parochial in scope and less organized in their operation.

Finally, I want to address the basic question of why, other than the basic need of State programs, the Federal Government should play a role in compensating crime victims.

Over the years, the Federal Government has provided billions of dollars that have been utilized for law enforcement assistance, the operation of the prison systems, and other programs concerned with the needs of those who have broken the law.

Considerations of equity and fairness suggest that the Federal Government recognize the losses of those who have suffered at the hands of offenders.

There are examples of crime for which the Federal Government has a compelling interest. These include crimes related to the importation and use of narcotics, organized crime, bank robbery, kidnapping, and crimes committed by or against illegal aliens.

As was noted before, the States have been shouldering the burden of assisting the victims of Federal crime.

I would like to thank the subcommittee again for the opportunity to testify today on this important legislation.

The bill before you is an overdue recognition of the interest of crime victims and is more than justified in its purpose and scope and thank you, Mr. Chairman.

Mr. CONYERS. We appreciate your statement, Mr. Fullwood and we will have some questions for you.

Let's hear now from the director of the office of criminal justice, Ms. Patricia Cuza.

Ms. CUZA. On behalf of the Blanchard administration I want to express our commitment in Michigan to more emphasis on victim's concerns.

As we look at the spectrum of criminal justice needs, we have often concentrated on the traditional areas of police, courts, and corrections. There was nothing wrong with that, their needs are great.

We are proud of the billions of State and local dollars, and the \$200 million from the Federal LEAA Program, which have sustained and improved the criminal justice system in the past 15 years.

It is encouraging to note the broadening of perspective in recent time. From an early emphasis on facility, equipment, and process improvements, the system has come to realize that human values and social patterns are equally important.

We have seen considerable action to mobilize for community crime prevention. We have adopted more nontraditional sentences such as restitution, community service, fines, work release, education and substance abuse treatment. The trends reflect recognition

that crime problems are people problems, and that we must improve society in fundamental ways to truly reduce crime.

We are now beginning to acknowledge the importance of another human dimension, that of the crime victim. I bring to this matter the perspective of having administered the State Crime Victims Compensation Program. That dimension is most valuable in my present position of administering the State Office of Criminal Justice.

We intend to raise the level of awareness of victims concerns and the priority of our response to them.

Victims compensation is an important element. But we must also assure the victim of proper attention, dignity, and participation throughout the criminal justice process. No one deserves to be heard more than the victim. Federal assistance in this regard is necessary and overdue.

The Blanchard administration places a very high priority on private, local, State, and Federal attention to crime victims. They want this committee to understand our commitment and to share our sense of urgency about victim's concerns.

On behalf of the Governor's office, I want to thank you for inviting us, and we stand prepared to do anything that we can to help you in this area, and thank you.

Mr. CONYERS. Thank you very, very much.

Let me recognize now, Ulysses W. Boykin, member of the Michigan Crime Victims Compensation Board. Welcome to the hearing.

Mr. BOYKIN. Thank you and good morning, Mr. Chairman.

I have served as a member of the Michigan Crime Victims Compensation Board since August 1981. I'm an attorney in private practice and serve as an attorney-member of the board. Currently we have two members because last year we lost our chairperson, the Honorable Jessie Slaton, in an unfortunate airplane incident over Russian territory.

I would only like to add that, as the others here, I'm happy to have an opportunity to address you.

During my tenure on the committee, I've had a chance to observe some very real problems that have cropped up in this area, both from a budgetary point of view where we had to struggle to maintain the funding sources for our programs there and continual problems and the freezes that at one point in time threatened total elimination of our program about a year ago. We have managed to survive.

I would like to point out, on that end, in the brochures that have been distributed to you which consists of our annual report, you can see that our administrative costs are low. I think that we pride ourselves on being one of the governmental agencies that has the lowest administrative costs to fund a program of this size, and very little is spent on those costs, the bulk of the money going directly to the victims themselves who are recipients of the awards.

I would also like to point out that in addition to the budgetary side, that I've seen human beings on the personal side. We've had hearings where we review the claimant's claims, those which are rejected, administratively, and they apply to the board for review; and many times we do overturn administrative decisions made and allow an award to be made. This, I think, gives the feeling of the

effect that the program has in giving some hope and some minor compensation to people who have had their whole lives changed through no fault of their own. One day they are honest working people going to work and the next minute they are victims. The victimization does not end when the pain from the injury subsides or when they get out of the hospital, but it goes on and there are further problems that are caused by being a victim by their loss of income and excessive hospital costs, medical expense that must be paid and their whole lives are shattered and changed.

This program has, in some small way, been able to give the victims some hope to show them that there is someone out there that cares; that there is someone who takes an interest in their needs and is attempting to meet them on a compensatory basis and some of them—it's really quite tragic to have to continually listen to a lot of the problems. But, it's the kind of situation where they have no one else to turn to and we are their only source of any kind of comfort. Sometimes just the fact that they can come and talk to somebody and have them listen to what happened to them helps.

I'm speaking today in support of H.R. 3498, and as Mr. Fullwood pointed out, the criteria set forth, we feel are excellent, they're in line with those that we use in making decisions on granting or denying awards. I feel that Federal help in this area is long overdue. This is a national problem and I see no difference between mugging victims in Cleveland or Chicago, IL. The problems that they face as a result of becoming victims are common. Just as there is no difference between victims in Flint or victims in Saginaw, as there is now across the country. The Federal Government has played a pervasive role in many areas of the criminal justice and penal systems and programs to combat crime; and I see no reason why the victims should not receive the same sort of Federal consideration and assistance.

Without anything further, I would again like to state my gladness at being able to come and address the subcommittee this morning and we would be happy to entertain any questions that you might have.

Mr. CONYERS. I want to thank you all and appreciate, attorney Boykin, the statement that you made.

I would like also to mention that Jessie Slaton was not only a Detroit lawyer and judge who all of us knew and who served on this board so ably, but was also a very beloved figure in the community. I'm very happy that she is so well remembered by the compensation board leadership.

Let me ask you to first just take us through a hypothetical case of a person who makes application here and just how it operates so that we get it on the record.

Would any of you like to—

Mr. BOYKIN. The board members become involved when there is a denial and more recently we have become involved because we are functioning without an executive director, and myself and the other board member take turns in signing initial decisions.

I will defer to Mr. Fullwood on that issue.

Mr. FULLWOOD. We receive an application from a victim. They are usually notified about the program. I review our public awareness efforts for police agencies or the prosecutor's office.

Once the application is received, we verify all the facts that would be involved in the investigation of a claim. This entails obtaining copies of the police report. We also obtain statements from either the officers at the scene or the detective investigating the case.

A notification goes to the prosecutor whose jurisdiction the case falls in to ask them if they wish us to defer, for any reason, on a claim.

We examine the losses that the victim has suffered by sending verifications to all service providers whether they be the hospital, doctor, dentist, ambulance company, psychological treatment center, or whatever. We ask them for copies of their clinical records and itemized bills. If the victim is claiming lost earnings, we contact the employer and we obtain copies of the victim's tax statement in certain cases; and we also then verify any other secondary sources such as insurance coverage, medical, and things of that nature.

When all of this information has been collected to the satisfaction of the standards that have been traditionally set out by the board, the file is prepared and a recommendation is made for the board members to review.

The board members, at that time, review the recommendation and they review the file for completeness and either sign a decision in accordance with the recommendation or remand the case back to myself for further information or further investigation.

Mr. CONYERS. Who makes the initial decision or determination that there is an awardable incident?

Mr. FULLWOOD. That is done administratively.

Mr. CONYERS. Well, would you describe that? That's what we want to get on the record.

Mr. FULLWOOD. The requirements of the act involved such things as the filing time. The act requires that the claim be filed within 30 days after the date of the crime or 90 days after the death of the victim. It can be extended to 1 year for good cause.

The board found out early on that it's not realistic, it's not a realistic period to require claimants to file a claim, particularly in the early years of the board's operations when its existence was not that well known. The board has since promulgated a rule which allows the presumption of good cause if a claim is filed within 6 months of the date of the crime and unless contrary evidence exists. That is one thing that we look for.

The act also requires that the crime be reported to the proper law enforcement agencies within 48 hours; that information is contained on the police report that we get from the law enforcement agencies.

Other requirements involve minimum loss. Except for retirement reasons, retired persons, there must be \$100 minimum out-of-pocket loss or 2 continuous weeks of lost earnings. This is information that is verified through the service providers and in statements denoting copayments and deductions that a claimant may have for the out-of-pocket expenses or the 2 continuous weeks of lost earnings. This must be verified and coverified from two sources. One, from the employer; and two, from the attending physician who will also verify that, yes, indeed, the victim was unable

to work for that minimal 2-week period, or whatever period they specify that the person has to be out of work, if they were working prior to the time.

Mr. CONYERS. Who on the board makes the investigations and verifications and so forth?

How much staff do you have?

Mr. FULLWOOD. We have four full-time staff including myself.

Mr. CONYERS. So you are busy pitching in even as administrator, evaluating the claims as they come in?

Mr. FULLWOOD. When you have a staff of four, we all try to wear whatever hats we have to wear to keep the process going.

Mr. CONYERS. OK, about how many claims do you get annually?

Mr. FULLWOOD. It's approaching 2,000 per year. We may receive somewhat more than that this year and, approximately, 50 percent of those 2,000 claims we receive within a year are awarded.

Mr. CONYERS. Do you feel that the more this program gets to be known, the more applications you will be receiving? It seems to me that the number of claims will steadily increase for awhile into the foreseeable future.

Do you have that prognosis?

Mr. FULLWOOD. Certainly, during the first 3 years of program operations, when it became visible, the increase in claim activities was quite great. It appears to have leveled off to about a 10-percent increase per year based upon the uniform crime reports statistic which I'm sorry I don't have right now in front of me. We have estimated there are as many as 6,000 eligible claimants under the act as currently written, 3,000 of which, based upon past experience, would probably receive awards.

So, it appears right now that we are impacting approximately 30 percent. But, again, that does not take into account the fact that there is a general reluctance on the part of many victims who apply for State aid.

Mr. CONYERS. Not to apply for the benefits on their own volition?

Mr. FULLWOOD. From personal experience, I have heard from many victims who say, I have never received anything from the Government nor have I ever asked anything before, but my circumstances are such now that it is my last resort.

Mr. CONYERS. Now, let's describe the appeal process.

Mr. BOYKIN. Mr. Chairman, after the staff has worked up a decision, the way the process formerly worked and still does, except for change in the roles, the executive director would review the staff decision and sign the decision and order, either making an award or denying an award for certain specific reasons.

Right now, because we have no executive director, myself and another board member, Ms. Fojtik function in that capacity as well, taking turns going up to Lansing and reviewing decisions made by the staff and signing the decisions, either awarding or denying a claim.

When a claim is denied, a notice is sent with that denial to the claimant stating that they have a right to file an appeal within 30 days of receiving the notice of the denial. They can request either a full evidentiary hearing before the board or merely a review by the board of the file.

Many people elect to have the file reviewed by the board itself. Others elect to have evidentiary hearings.

We have hearings on the average of once a month and we sit in Detroit primarily, but at least three or four times a year we do hold hearings in Lansing so that out-of-State claimants can travel a shorter distance rather than coming all the way to southeastern Michigan.

The hearing itself is a recorded process by tape recorder, and the individual claimants can come in accompanied by an attorney if they so choose and present their testimony or documentation that they feel will support their claim in an attempt to get the board to reverse the decision of the agency. Generally in these hearings we try to average about 15 minutes per hearing, although because of witnesses it can sometimes take longer. But, basically, the claimant comes in and is placed under oath and either the attorneys will question them and present evidence or the person will make a statement; and after the person has made a statement, the individual board members will question the claimant. Many times there are additional facts brought out in the hearing itself which you cannot get by reviewing the documents. For example, there are denials made for reasons that the person failed to cooperate with the local police agencies or sometimes there are certain statements in the police reports that say maybe the claimant was the perpetrator. However, when we actually get the claimant in sometimes we find that there is a lack of diligence on the part of the police rather than on the part of the claimant, in that case, causing the determination made that there is not cooperation.

Many times the victims are in hospitals immediately after the crime occurs and when the police officers might go to the hospital and the person is not available. They may leave a card and never hear anything more from the victim who is waiting for the police officer to contact him.

We have situations where there are decisions made that there is no cooperation, but upon hearing of the actual circumstances from the claimant, sometimes we are able to overcome what deficiencies might exist in the record.

I didn't mean in my last comment to suggest that the police don't cooperate. We receive cooperation from most police agencies with our staff. There are some that because of things that happen, they are under budget restraints and they don't get verification into us, and we have to write them several times. But, all in all, most of the agencies do cooperate very well as well, as most of the counties.

Mr. CONYERS. What are the main reasons for appeals? Do they boil down to several principal reasons?

Mr. BOYKIN. Normally, when a denial is made there are a list of reasons checked off and so the appeal is really narrowed around specific issues. One of the most common is late filing.

As Mr. Fullwood stated, the statute provides that we can compensate up to 1 year after the filing of the claim. We can process it and make an award. We have selected 6 months as an arbitrary cutoff period. But, over 6 months, between 6 months and a year, we have found it's necessary to have good cause shown for allowing the discretion up to 1 year.

During the past few years I have been on the board, one of the biggest reasons for the appeal has been late filing and one of the most numerous reasons given is lack of knowledge about the program. However, that has not been deemed to be sufficient to be good cause. We have found good cause in situations where there have been extended hospital stays for victims or even after they are out of the hospital and there has been an inability to get around and take care of personal business.

There have been situations where victims have been misinformed. One recent example I recall is where in one county the prosecutor or police agency told the victim that the board was running out of money and that there was no need to apply. That was true, but we got an advance on future appropriations and we were—

Mr. CONYERS. That is not a defense against late filing?

Mr. BOYKIN. No.

Mr. CONYERS. Even if you are, in fact, out of money?

Mr. BOYKIN. No; but what we were trying to do is encourage people to file, even if they hear rumors to still file because we hope to have money from some source and that should not be the reason for the person not filing. But we did find funds and it was a good excuse for late filing because of misinformation received from law enforcement agencies, and that person was eligible for the award.

Mr. CONYERS. Any other common grounds for appeal?

Mr. BOYKIN. Yes; and one reason that has more recently become more common is the substantial contribution by the victim to the crime. That is another one where we have to determine on a case-by-case basis whether or not the actions of the victim contributed in any way to the crime that resulted. In that area, we have discretion and we can apportion or reduce an award by whatever percent we deem the victim to be at fault. Sometimes it can totally negate the award. If the victim went out and purposely started a fight where he was subsequently injured, or, maybe he didn't start the fight but did something else like name calling or something that would, not necessarily cause someone to use violent force, but under circumstances it might; or maybe there is a 60/40 or 50/50 situation, depending upon the facts.

I would think that late filing, substantial contribution and perhaps noncooperation with law enforcement agencies would all negate or possibly reduce an award.

Sometimes there is unwillingness of a victim to prosecute and in those cases we deny compensation because they won't cooperate with the law enforcement agency.

Another thing we come across is a situation where there is not enough on the record to show that the crime has been committed and we also exclude auto vehicle accidents. They are not included in the program.

One of the other areas that we do see and we are starting to see a lot of is filing for claims by people who are not eligible. That is for burial allowances and the ones responsible for the burial, those are the ones who, if they have paid it, will be reimbursed. Sometimes we have situations where several siblings in a family, or brothers and sisters of a decedent all file for the same claim and only one paid the expenses and we weed those out.

Mr. CONYERS. It sounds like there is a great deal of verification to be done in these claims. If you are not careful, you could be paying compensation to someone who might not be eligible.

Have you provided the staff with a copy of the applications and the general paperwork? I would like very much to—

Mr. FULLWOOD. We would be happy to give those to you, Mr. Chairman.

Mr. CONYERS. I would like to go over that and compare them with how they are handled in other jurisdictions.

There has been some discussion that the Federal Government should limit itself to compensating victims of Federal crimes and exclude its interest from State crime victims.

What kind of reaction do you have about that kind of argument?

Mr. BOYKIN. Mr. Chairman, I don't believe that is really a realistic criteria. We support victims no matter what in this State. The State, I think, by and large, has been compensating victims of Federal and State crime. We make no distinction here in Michigan. As I stated earlier, I think the problem is a national problem. There are no differences between victims of different States. They suffer the same types of losses and they should be compensated for those same losses wherever they are; and with the increase of overall crime against persons that is occurring across the country, I think that the problem now in terms of victim compensation is one of a national nature. Just as in the past, the Federal Government has stepped in when things like bank robberies became national problems and drug trafficking became national problems, victims of crimes are now national problems and I feel that there should be no distinction in the Federal Government's role in attempting to assist victims because it's not a local problem.

Mr. CONYERS. Any other reactions to the question about Federal Government and State programs?

Mr. FULLWOOD. Certainly, from my point of view, it would be a welcomed development budgetwise.

Mr. CONYERS. What would happen if there are no funds available to the Michigan program?

Are claims held over until there is some liquidity? What happens when you run into the needle being on E, as they say?

Mr. FULLWOOD. The past practice, and this has occurred before, is to honor those claims that were awarded out of the next fiscal year's budget. We have been fortunate in that the legislature has responded in those instances.

Mr. CONYERS. Did they give you additional moneys for that or did you just have to take it out of what was the next fiscal year's appropriations?

Mr. BOYKIN. There was, Mr. Chairman, quite recently during a Lansing meeting back in February, a discussion about some of the things that you projected and we raised—the issue came up about our budget being frozen statewide as what to we would do when we reached a point where the funds were exhausted. There were very harsh suggestions that we had to pose and one was taking a harder line on discretionary decisions that we had to make in terms of good cause and substantial contribution and the pros and cons about taking such a stand; and people who would have previously been eligible can be shut off because we are taking a harder stance

with belt tightening and this would be through no fault of the victims themselves, but just because of budgetary crunches.

The other projection was to continue to process as we have been and when we run out of money we will just be out and for those people who would be applying at that point, there would just be nothing to pay them from. So, these are things that we are continually looking at because of the budgetary problems. And futuristically looking, they make for hard choices and the end result will be that those who suffer will be the victims again. This time, in addition to being the victims of crime, they will be the victims of a lack of budgetary sources which we feel should not be the case in programs of this type; and if the Federal funds were available, they would prohibit or prevent those kinds of harsh decisions or belt tightenings or fiscal maneuvers which could deprive claimants in the next fiscal year.

So, with all of those kinds of things, we feel a bill like H.R. 3498 would tend to eliminate us having to make those kinds of arbitrary and harsh decisions.

Mr. CONYERS. How is the program being received by the public, by the legislature, by the criminal justice community?

Mr. BOYKIN. From my experience, the prosecutors around the State are very supportive and have worked very well with us.

The public, when they find out about the program and those who participate in it, are very receptive and I have had the opportunity to address certain police community groups in the city who generally are receptive. They have lots of questions about the program, quite naturally. But there are victim assistance groups throughout the city and State that we have met with and talked to and we receive good reception from most of them generally.

I have been in situations and appeared on numerous programs and so forth where certain individuals are kind of, I won't say anti the program, but feel that tax dollars shouldn't be used to support it.

But, in the final analysis, most people are receptive to the program and realize that there is a great need for victims assistance programs and compensation and there are really, other than the board, no widespread sources for providing that kind of compensation to victims of crime; and with all of the emphasis placed on penal reform, not that it's not needed, and law enforcement efforts, I think that the average citizen, when they find out about this program, has the feeling that, well, this is something for us and they are trying to help victims and everything has been going to the criminal and here is something that we will look to that will provide some source of hope. While we can't remedy all of the wrongs done as a result of the crime, we can at least alleviate some of the dollars lost in terms of expenses that have been brought, through no fault of their own, upon the victim.

Mr. CONYERS. Yes, ma'am?

Ms. CUZA. I would like to respond to that from the perspective of the criminal justice system. One of the things that I have discovered in the last 1½ year is that there have been general consciousness raising about the plight of crime victims and part of that has come from the national task force on crime victims and the testimony that was taken 1½ to 2 years ago. But on the State level,

what we found is an increase in senior citizens conferences on crime on the elderly. We find groups like the American Citizens for Justice in the Asian-American Community, showing more focus on crime victims. We have rape counseling centers and police agencies have more seminars on victimization and how to handle it and the resources available. This is also true of the prosecutor's office and they have prosecutor seminars where they began to put more emphasis on victims and witness assistance programs.

The other thing that is important for your committee to recognize is that we in Michigan have been very, very fortunate in the way our crime victims statute was drafted. I think that our statute addresses the kinds of things and has the same kinds of forethoughts that H.R. 3498 has in it so that the issues were well defined and the—what do I want to say—the—it was defined in such a way that it's a modest program, but it reaches the issues that has to—it speaks to—it talks to helping costs, burial costs, compensation in such a way that it becomes easier to administer.

If you look at the annual reports given, we are very proud in Michigan, that Michigan has the lowest administrative costs of processing a claim of any program in the country, and also having the shortest turn around time of processing a claim of any program in the country. What that then says to you and to the citizens is that the way we structured the program, the way the legislature structured it originally and the board has structured it is that the crime victims really do get the emphasis and we are not spending money on administration. The legislature appreciates that so when it comes time for funding of the program we can always go to the legislature and show them that on proclaimed costs we are doing the best of any program in the country. I would hope that you would take that into consideration as you are looking to other States for publication.

Mr. CONYERS. We will.

Let me just ask about the rate of crime and applications for compensation. Detroit, of course, is the most urban part of our State by far and would logically be the place where many of these applications would occur.

Is there some difference in the time it takes to process claims and the amount of crime that is committed?

Mr. FULLWOOD. Mr. Chairman, I think that once our claim has been received, regardless of where it comes from, it is given the same procedures and same attention. We receive close to half of our claims from Wayne County, the Wayne County area, and that is, in fact, due in large part is that is where the people are living and it's also due in large part to the fact that there appears to be much more community information in the Detroit area. The information is better disseminated amongst the law enforcement agencies, community groups and the prosecutor's office working in contact with these different individuals, but once we have received a claim, it goes through the same process as one that we would receive from Iron Mountain or wherever.

Mr. BOYKIN. The kind of factors that affect the processing of the claims really, as Mr. Fullwood pointed out, are not determined by where the applicant comes from, but there are such things as verifications that are sent out to local law enforcement agencies or to

hospitals for verification of expenses or to employers for verification of income. That is where time lags develop when you get on individual cases and these verification forms are sent out. Some people are faster in getting them back in than others, but that has no geographical relationship.

There are some police agencies throughout the State, fortunately not Detroit, who are slower in responding, and we have to write them several times to get back verifications of police reports. Detroit is pretty good. They have good personnel working in that area and they do get the reports back in a timely fashion. So, once we get the applications in it depends on the others that we have to contact in order to verify the losses and verify the crime. So, that is where the time lags occur. That is governed by—

Mr. CONYERS. All applications have to arrive in Lansing at the board?

Mr. FULLWOOD. Yes.

Mr. CONYERS. That is the only place in the State?

Mr. FULLWOOD. Yes.

Mr. CONYERS. Do you ever have to suggest to somebody to get their own report? If you've got a police agency that won't submit it and a claimant says, "I'm pretty sure that I can go and get it," is that permissible? Is it permissible for the applicant to forward his or her own hospital accounts or some other information?

Mr. FULLWOOD. Yes.

Mr. CONYERS. That may not technically be their responsibility, but they would be permitted to do that just to expedite the process?

Mr. BOYKIN. Yes, we try to exhaust all sources possible to make sure that we have as much information before us so that a fair and equitable decision can be made.

Mr. CONYERS. Finally, let me just ask you to comment, if you have any views, about the reimbursement rate for compensation programs—10 percent—in the administration's bill.

Is that high enough? Can you live with that? What is your general reaction?

Mr. FULLWOOD. I would like to say that I feel that it's not an equitable type of portion for the Federal Government to offer, because of the numbers involved, and State compensation programs are currently, I believe, spending something like \$50 to \$55 million a year. So that is leaving us with a requirement from the Federal Government, if you will, of \$5 to \$5.5 million a year. Judging from the size of the fund that would be created by either of these bills, that does not seem like an equitable portion.

Mr. CONYERS. All right, Mr. Smietanka do you have any questions?

Mr. SMIETANKA. I just have a few questions.

I gather that Michigan is not compensating nonresidents?

Mr. FULLWOOD. Not at the present time.

Mr. SMIETANKA. I gather that you do not compensate people for mental health counseling?

Mr. FULLWOOD. Yes.

Mr. SMIETANKA. Well, on the second question, the second part of that question may be moot by that, but would you find that a requirement that may be in the ultimate bill as it is in the administration's bill that states in order to qualify for Federal assistance

that you provide the same financial assistance to victims of crimes who are nonresidents that you do to residents? Would that considerably raise your costs?

Mr. FULLWOOD. No, the amount of denials and I'm sorry I don't have a copy of our annual report—

Mr. SMETANKA. It says that you have to be a resident of Michigan and if you were a resident of Michigan at the time of your victimization and moved, would you become ineligible?

Mr. FULLWOOD. No.

Mr. BOYKIN. There was a case that I reviewed a couple of weeks ago where a woman was assaulted at Western Michigan University and resides now in a Western State and she was given an award.

Mr. SMETANKA. How many victims in the last reporting season of Federal crimes did you compensate and how much does that amount to?

Mr. FULLWOOD. That is a statistic that we don't gather at all.

Mr. SMETANKA. There is a number at least?

Mr. BOYKIN. I would think so. We make no distinction at all. If you are a victim of crime, a victim of a crime that occurred here in the State of Michigan, and it was a crime reported to the law enforcement agencies, we don't distinguish in our reports whether or not they were shot during a bank robbery versus armed robbery on the street. But there have been victims who have been victims of Federal crimes, but we don't maintain the statistics on them.

Mr. SMETANKA. Is that required for there to have been a crime that someone must have been apprehended?

Mr. FULLWOOD. No.

Mr. SMETANKA. Now 33 percent of the claims were disallowed because of the act which gave rise to the claim didn't constitute a crime pursuant to the laws of Michigan.

What does that generally mean?

Mr. FULLWOOD. It can mean accidental injuries, or altercations between individuals that were never reported to the police.

It can be an unknown injury where you have a case of someone who just happens to walk into a hospital emergency room and the hospitals, of course, are very happy to submit applications for these people in the cases where they may be victims of crime; and in many cases they are not.

Mr. SMETANKA. Finally, another percentage has been proposed for Federal assistance divided between victim assistance and victim compensation is contained in H.R. 3978 which contains many of the recommendations originally made by the Presidential Task Force on Victims of Crimes, and I believe that is 50 percent for compensation and 50 percent for assistance. Correct if I'm wrong. Fifty percent for Federal compensation of the State expenses? Is that correct?

Would you be comfortable with a division between victim's assistance and victim's compensation which would give you more of a percentage of your expenses but less percentage of the total pie as it were, for victim's compensation and victim's assistance?

Mr. FULLWOOD. We try to keep expenses as low as possible. We would prefer to receive a larger portion of the actual grant for the individual victim.

Mr. SMETANKA. Thank you very much.

Mr. FULLWOOD. On the first question that you asked on nonresidents and psychological counseling, as early as 9 months ago we prepared a draft of enabling legislation with the amendment that would eliminate residency requirements and would also include psychological counseling as a specific out-of-pocket loss should that be a requirement of the Justice Department.

Mr. SMETANKA. You do right now compensate for psychological counseling?

Mr. FULLWOOD. Yes; as another out-of-pocket expense necessary as a result of the crime.

Mr. SMETANKA. It's not specifically mentioned.

Mr. FULLWOOD. Should it be required that that be specifically included, we would be very glad to do so.

Mr. SMETANKA. Thank you very much.

Mr. CONYERS. What is the most that you have paid out for a claim and what is about an average claim payment as best you can recall?

Mr. BOYKIN. We have a statutory \$15,000 amount as a ceiling out of any one crime. If a person was a victim of one incident, we have a lifetime ceiling of \$15,000 on that. There have been cases where that has been done. The average is \$1,500 to \$1,600 per claim.

Mr. CONYERS. Staff Counsel Tom Hutchison.

Mr. HUTCHISON. The argument is often raised with regard to this legislation that it's inappropriate to have innocent taxpayers redress the wrong inflicted by criminals, that the criminals themselves should pay.

With regard to victim's compensation, what is your answer to that? Why should State taxpayers who are not responsible for the injuries compensate crime victims?

Mr. BOYKIN. I have a response to that. That is a question that comes up quite frequently when we address public groups. In theory, it sounds good because citizens are always conscious of where tax dollars are going. However, in reality many of the perpetrators of the crimes are persons having very little means themselves, and normally, when they are apprehended, they end up incarcerated and have no real livelihood or means of generating any type of capital that would be sufficient to compensate victims. There are restitutional programs in existence now but they work on a very limited basis. For this reason, that is, the perpetrator who is apprehended does not have the kind of resources that could fund a program that would adequately compensate the victim. I think this is a social responsibility that society as a whole must undertake just as we have made a commitment to assist unwed mothers with ADC programs and undertake commitments to assist other individuals who, for various reasons, are not able to sustain themselves; that is, in this situation where something happens to innocent victims through no fault of their own, it is a function collective of the community to band together through some mechanism like this through Federal and State funds to provide assistance to those who have been hurt through no fault of their own. I think that it's the very, it's one concept that government is based upon; that is, where members of society are finding themselves in a situation where they have become a victim and there is nowhere else to turn for compensation to pay these medical bills and help

them while they are out of work as a result of the crimes; that is, it's necessary that society determine that this is one of the priorities that must be addressed and because we do band together as a government it should assist those persons in society to help sustain those who have sustained losses.

Mr. HUTCHISON. Thank you very much.

One additional question. I take it from your testimony that it's clear that a 50-percent reimbursement for what you pay to crime victims from Federal funds is attractive and you would be interested in making application for Federal aid at that level. What if the Federal reimbursement were 10 percent?

As a supplemental question to that, would it depend upon the extent to which you have to make changes in your State's law?

Mr. FULLWOOD. Our projected shortfall for this year is somewhat over 10 percent. I'm not suggesting that it would not be attractive to make up that particular 10 percent if that opportunity presents itself.

On the other hand, when, as you mentioned, it comes to the additional whatever paperwork would be involved, having to go back to the legislature, I'm not sure. I guess I don't know what the answer to that question is. It's certainly not going to provide the essential assistance that the victim compensation programs in this country generally need.

Mr. HUTCHISON. Thank you.

Mr. CONYERS. I want to thank you for joining me and I am very proud of the Michigan program.

To Mr. Fullwood, Attorney Boykins, Ms. Cuza, thank you very much for joining us. The subcommittee will take a 2-minute recess.

[Recess.]

[The prepared statement of Mr. Fullwood follows:]

Testimony
of
Michael Fullwood
Administrator of
The Michigan Crime Victims Compensation Board

Submitted Before the
Sub-Committee on Criminal Justice
U.S. House of Representatives
Committee on the Judiciary
Congressman John Conyers, Jr., Chairman

Detroit, Michigan
April 2, 1984

M. Fullwood
 Testimony in Support of H.R. 3498
 the "Victims of Crime Act of 1983"
 April 2, 1984 - Detroit, MI.

Good afternoon Mr. Chairman and members of the Subcommittee:

My name is Michael Fullwood. I am the Administrator of the Michigan Crime Victims Compensation Board. I appreciate this opportunity to testify in support of H.R. 3498, the "Victims of Crime Act of 1983."

I want to provide the Subcommittee with some background on the fiscal history of the compensation program in Michigan to demonstrate the need that exists for a shared responsibility between the Federal government and the states in addressing the concerns of crime victims. I also want to address the legislation before this Subcommittee. Mr. Chairman, I know that you are sensitive to the economic realities of the past several years and the difficulty that has faced public agencies with regard to service delivery. This has not been an ideal period in which to seek increased appropriations for public programs. It has been a particularly difficult task for a small program with a randomly selected and relatively powerless constituency such as the victims of crime.

In this fiscal adversity, the Michigan compensation program has continued to operate with a broad range of public support. In less than six years, the level of appropriation needed to respond to our legislative mandate has increased from less than \$1 million to over \$2 million per year. That need continues to grow at a steady rate. The problem that we encounter is that the dollars available to respond to that growing need are increasingly difficult for the State to provide.

In F.Y. 1979-80, the Board received an appropriation of \$1.5 million. The compensable losses of the victims awarded that year were \$1.68 million. The net result was that over 100 eligible victims had to wait several months until the passage of the F.Y. 1980-81 budget in order for their needs to be addressed. In F.Y. 1982-83, the necessity of balancing the budget required sacrifice by all offices of State government. Our budget was reduced 10%. Only a one-time administrative transfer saved over 50 victims from the added insult of delayed compensation in that instance.

Our budget has been frozen at \$1.8 million for this year and through the end of F.Y. 1984-85. Based on our February, 1984 status report, which has been submitted to the Subcommittee, we project a \$200 - \$300 thousand shortfall in the current year. We are continuing our efforts to enhance our funding base and to increase our appropriation, but if those efforts are not successful, it is clear that we face some hard choices down the road.

The choices that we will face, however, cannot be compared to the agonizing prospects that will face our clients. When victims of violent crime apply to the Board they do so with a ray of hope. They hope to be able to have the medical attention that they need. They hope that they will finally be able to satisfy their long lists of creditors. Above all, they hope to put their lives back together again.

The passage of H.R. 3498 would remove the major hurdle that stands in the way of fulfilling our promise to the victims looking to us in last resort.

There are several eligibility criteria in Sec. 102 of the Rodino Bill. They represent a logical and realistic approach to safeguarding the expenditure of Federal compensation dollars.

Compensation for medical and other injury related expenses, lost wages, and the payment of funeral expenses are universally recognized as the most basic of the immediate needs of victims and survivors.

The promotion of victim cooperation with the reasonable requests of law enforcement agencies has been included in the vast majority of state compensation program requirements. Well over one-half of the existing programs require an assessment of any contributory misconduct by the victim. Our intention is to make reparations to innocent victims and not those who provoke an incident or those who are injured while participating in an illegal activity.

That the State be subrogated to any claim that a recipient of compensation has against a perpetrator of the crime, to the extent of compensation awarded, is part of Michigan law and is a reasonable requirement of public policy.

That the program not discriminate against non-residents is a reasonable requirement placed on the expenditure of Federal dollars.

And finally, that state programs will provide compensation to victims of crime within the state that come under exclusive Federal jurisdiction. Many states have been providing this compensation already. Again, it is a reasonable requirement of Federal policy.

I have read testimony previously given to this Subcommittee by an Administration official, stating that these requirements place the Federal government in the position of dictating State policy.

On the contrary, it would appear that a thoughtful analysis of existing state programs and of the public role in this effort was done prior to the drafting of the Rodino Bill.

The Bill provides for an eighty-twenty split of the fund between compensation programs and victim assistance programs. It is really not known at this time if this division would produce an actual result substantially different from that which would be produced by a fifty-fifty split of the fund. In any case, the unused portion of Title I dollars would revert to Title II expenditure. I would submit that the basic and immediate needs of crime victims such as medical care and replacement of lost wages should be the first priority to be attended to. Over two-thirds of the states have operational programs with

proven expertise in the state-wide delivery of victim compensation and assistance. These existing structures should be utilized to their full extent rather than scattering the bulk of these much needed dollars to a vast assortment of new programs that are more parochial in scope and less organized in their operation.

Finally I want to address the basic question of why, other than the basic need of State programs, the Federal government should play a role in compensating crime victims.

Over the years, the Federal government has provided billions of dollars that have been utilized for law enforcement assistance, the operation of the prison systems and other programs concerned with the needs of those who have broken the law. Considerations of equity and fairness suggest that the Federal government recognize the losses of those who have suffered at the hands of offenders.

There are examples of crime for which the Federal government has a compelling interest. These include crimes related to the importation and use of narcotics, organized crime, bank robbery, kidnapping and crimes committed by or against illegal aliens. As was noted before, the states have been shouldering the burden of assisting the victims of Federal crime.

I would like to thank the Sub-committee again for the opportunity to testify today on this important legislation. The Bill before you is an overdue recognition of the interest of crime victims and is more than justified in its purpose and scope.

Mr. CONYERS. We are delighted to have another member of Michigan Crime Victims Compensation Board with us today, Ms. Kathleen Fojtik.

You have a prepared statement and you are welcome to submit it. Feel free to proceed your own way.

**TESTIMONY OF KATHLEEN FOJTIK, MICHIGAN CRIME VICTIMS
COMPENSATION BOARD**

Ms. FOJTIK. Representative Conyers, thank you for this opportunity to speak in support of both House Resolution 3498, the Rodino bill, and House Resolution 5124, the administration bill. I would like to add the recommendation that both bills be incorporated into one with the most positive elements of each to be retained.

My recommendations are based upon 7 years of experience as a member of the Michigan Crime Victim's Compensation Board and 5 years of experience as the founder and coordinator of the Domestic Violence Project and SAFE House, a shelter for battered women near Ann Arbor, MI.

Currently, I work with the Victimization Research and Training Institute, Inc., in the State of Michigan, but my remarks will be coming from the grassroots from the point at which Federal dollars and Federal assistance meets the victim.

Generally, I believe the administration bill to be overly bureaucratic and cumbersome, difficult to administer and requiring a Federal Victim's Assistance Administrator and Department; while the Rodino bill is straight-forward in its provision of financial aid to the States.

I would recommend that the movie rights section be incorporated into the hybrid bill which I will call the Conyers bill.

Also, the section which allows victims the right to speak at parole hearings should be retained, as well as the advisory committee.

But, I think it's irresponsible to give this committee a pot of money and tell them to think of ways to spend it when clearly the need is so great for crime victims compensation and assistance at the State and local level. In other words, the committee can exist as advisory, but not with authority to spend money. However, this is not an important part of the legislation and I would consider it mostly show and not very substantive.

The beef, now they're always saying, "Where's the beef," the beef of the bill is clearly the percentage of Federal dollars that will be sent to the States to aid them in their efforts to compensate and assist victims of crime. The Rodino bill, which allows up to 50 percent, when the money is available within the fund, is clearly more meaty, substantial, helpful, and a better way to return tax dollars to the citizens of this country in the form of vital services than the 10-percent maximum rule within the administration bill.

I actually think that the sentence on page 8, "No State shall receive more than 10 percent of the amount it spent for the compensation of victims on crime during the preceding fiscal year," that must have been added by someone who opposes crime victim compensation. That must be eliminated.

I questioned the Rodino bill's emphasis on volunteers and crisis intervention, because I have worked 24 hours a day, 365 days a year with volunteers trying to provide crisis intervention and it is a very difficult business. I would be happy to answer questions about this and the source of funds for the fund because I believe the true beauty and perfection within the Rodino bill is the clear delineation of where the money would come from to provide for this Federal support.

If all legislation was written in this responsible fashion, our great country would not be faced with the crippling Federal deficits that we are seeing today.

I thank you and I would be happy to answer your questions.

Mr. CONYERS. Thank you very much Ms. Fojtik. I appreciate your testimony.

I take it that you would not favor the provision that requires what we call a maintenance of effort; that is, that in each year compensation programs would have to have spend more, the State would have had to spend more on victim compensation than the previous year to remain qualified?

Ms. FOJTIK. I oppose that.

Mr. CONYERS. I think I understand your comments with reference to voluntary programs versus nonvoluntary programs. What we are confronted with is this: While we recognize that it would be always better to have paid people, which implies that maybe they are more experienced and more prepared and skilled to handle a professional category, there still remains the fact that there are a lot of programs that can be helped by volunteers. So, while you emphasize volunteers or emphasize paid help, you would not want any program not to be funded because it would not meet the requirements of having—

Ms. FOJTIK. I don't oppose volunteers.

Mr. CONYERS. You have to recognize that you were once one.

Ms. FOJTIK. I still am. I'm just saying let's not overemphasize volunteerism and underemphasize financial assistance to crime victims.

I don't think that the Rodino bill overemphasizes it but—

Mr. CONYERS. It is a caveat and you want us to know that you feel strongly about.

The reason I'm raising this is that there are some who suggest that we should only fund programs which are comprised of professionals. I don't want your testimony misunderstood.

Ms. FOJTIK. I wouldn't be in that category. We have many professional staff that we utilize. We utilize a lot of volunteer staff, too. They are incorporated into the program. What I'm saying is that the program can't be all volunteers. Sometimes we are expected to do everything on a volunteer basis and that is not possible.

Mr. CONYERS. Of course not, and I appreciate your testimony.

Any comments?

Thank you very much and we are glad that you were able to appear.

Ms. FOJTIK. Thank you.

[The prepared statement of Ms. Fojtik follows:]

TESTIMONY OF KATHLEEN FOJTIK ON THE CRIME VICTIMS ASSISTANCE ACT 4/2/84

Representative Conyers, Thank you for this opportunity to speak in support of both H.R. 3498, the Rodino bill, and H.R. 5124, the Administration bill. I would like to add the recommendation that both bills be incorporated into one, with the most positive elements of each to be retained.

My recommendations are based upon seven years of experience as a member of the Michigan Crime Victims Compensation Board and five years of experience as the founder and coordinator of the Domestic Violence Project and SAFE House, a shelter for battered women near Ann Arbor, Michigan. Currently, I work with the Vicimization Research and Training Institute, Inc. in the State of Michigan, but my remarks will be coming from the "grass roots", from the point at which federal dollars and federal assistance meet the victim.

Generally, I believe the Administration bill to be overly bureaucratic and cumbersome (difficult to administer and requiring a "Federal Victims Assistance Administrator" and department) while the Rodino bill is straightforward in its provision of financial aid to the states. I would recommend that the movie rights section be incorporated into the hybrid bill which I will call the Conyers bill. Also, the section which allows victims the right to speak at parole hearings should be retained, as well as the Advisory Committee. But, I think it is irresponsible to give this committee a pot of money and tell them to think of ways to spend it when clearly the need is so great for crime victims compensation and assistance at the state and local level...in other words, the committee can exist as advisory, but not with authority to spend money. However, this is not an important part of the legislation and I would consider it costy show and not

very substantive.

The "beef" of the bill is clearly the percentage of federal dollars that will be sent to the states to aid them in their efforts to compensate and assist victims of crime. The Rodino bill, which allows up to 50%, when the money is available within the fund, is clearly more meaty, substancial, helpful and a better way to return tax dollars to the citizens of this country in the form of vital services than the 10% maximum rule within the administration bill. I actually think that the sentence on page 8 "...no State shall receive more than 10 per centum of the amount it spent for the compensation of victims of crime...during the preceding fiscal year..." must have been added by someone who opposes Crime Victim Compensation. That must be eliminated.

I question the Rodino bill's emphasis of "volunteers" and "crisis intervention", because I have worked 24 hours a day 365 days a year with volunteers trying to provide crisis intervention...and it is a very difficult business. I would be happy to answer questions about this and the source of funds for the "Fund" because I believe the true beauty and perfection within the Rodino bill is the clear delineation of where the money would come from to provide for this Federal support. If all legislation was written in this responsible fashion, our great country would not be faced with the crippling federal deficits that we are seeing today.

Thank you. I would be happy to answer your questions.

RESPECTFULLY SUBMITTED,

Kathleen M. Fojtik
1011 Barton Dr.
Ann Arbor, MI 48105
(313) 995-2532

Mr. CONYERS. Our next witness is Prof. Leroy Lamborn of Wayne State University Law School.

He has previously testified before the subcommittee concerning victims legislation, some 6 or 8 years ago. He has written extensively on the subject and we are interested in his assessment of, and recommendations for, the legislation that is pending before us. Welcome to the subcommittee.

TESTIMONY OF LEROY L. LAMBORN, PROFESSOR OF LAW, WAYNE STATE UNIVERSITY, MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL ORGANIZATION FOR VICTIM ASSISTANCE, AND MEMBER OF THE EXECUTIVE COMMITTEE OF THE WORLD SOCIETY OF VICTIMOLOGY

Mr. LAMBORN. Thank you, Mr. Conyers, for the opportunity to be here.

Mr. CONYERS. I'm sorry, we can't hear you. Would you pull the mike up so that we can hear you?

Mr. LAMBORN. I would like to make several comments about the pending legislation.

First, I think that the administration bill's limitation of the Federal subsidy to 10 percent of a State's compensation awards in the preceeding year results in a subsidy too small to be an incentive for new States to adopt compensation legislation.

That amount is also too small to be an incentive for States to improve existing compensation and assistance programs. Most of us see a lot of room for improvement in both types of programs. More is needed than a Federal subsidy amounting to 10 percent of the preceeding year's expenditures by the States.

The Rodino bill, which provides for a Federal subsidy of up to 50 percent of a State's awards for the preceeding year is, far preferable.

Second, the Rodino bill provides that the Federal subsidy be divided between State compensation and victim assistance on an 80/20 percent basis. I would prefer a 50/50 division for the following reasons.

Most States already have compensation programs. Although some of them have been in financial difficulty and do need Federal encouragement, some of them are returning funds to the State treasury.

On the other hand, most States don't have statewide comprehensive victim services programs, and there is much room for improvement in existing programs.

The victim assistance programs are a newer phenomenon than the compensation programs and for that reason greater encouragement of their establishment is needed. A 50/50 split was the recommendation of the Presidential Task Force on Victims of Crime.

Third, the administration bill requires that the Federal Treasury recapture subsidy funds not used by the State compensation programs. There is a sufficient need for support of victims of crime that money not spent by a State compensation program should be spilled over to the State's victims assistance programs or to other States, or be kept in reserve for that State to use in its compensation program in following years.

Fourth, the administrations bill has a nonsupplantation clause; that is, a State may not replace its funding of the compensation program by the Federal subsidy, but must use the Federal subsidy as a means of improving its program. The Federal subsidy should be used to improve the existing compensation program and to provide greater assistance to victim assistance programs.

Fifth, the administration's bill has a sunset provision that repeals the Federal subsidy unless Congress decides to the contrary before 1988. Such a provision is unnecessary because both compensation and victim assistance programs are of proven value, and crime and its victims are not going to disappear as of September 1988.

Sixth, the Rodino bill requires as a condition of the Federal subsidy that victim assistance programs have 24 hour services and use volunteers. These should not be a precondition of the subsidy. Use of volunteers and 24 hour services should be goals to be achieved in community as a whole, the subsidy should not be conditioned on each and every agency meeting these requirements.

Finally, I would suggest that subsidy legislation, especially if it provides a level of support sufficient to encourage State action, should be used to encourage improvements in State programs. That is, in some States, there are no provisions for emergency awards of compensation; and in some States so-called emergency awards are delayed so long as to not meet emergency needs.

In most States there is no provision for compensation to the poor for loss of essential property and that is something that could be encouraged.

In many States persons injured by members of their family are ineligible for compensation. A modification of that limitation could be encouraged by the Federal subsidy legislation.

In most States, the upper limits on benefits are in the neighborhood of \$15,000. That is entirely sufficient for the vast majority of victims, but does not come close to meeting the needs of the few victims of catastrophic damage. Federal subsidy legislation could encourage an increase of the upper limits on benefits.

Federal subsidy legislation could encourage the removal of lower limits on benefits so that more indigents would be eligible for awards. It could also encourage compensation for pain and suffering, at least for victims of sexual assault. In a number of areas existing legislation could be improved and minimal standards could be set. This is a good opportunity for that to be done.

Thank you.

Mr. CONYERS. Thank you, Professor. I would like to start off with the last part of your testimony, in which you suggest expanding the benefits of victim compensation programs.

Do you think that might start us off with legislation that may result in our not being able to meet the kinds of volume that might result? That reservation occurs to me. You could, on the other hand, wait to see how the legislation works out, and say, "We will come back to this later." But it frequently happens in the legislative world that you never come back to it and you are sort of stuck with the model that you first came out with.

Mr. LAMBORN. The compensation laws are a relatively new phenomenon, having been in existence for about 20 years. One virtue

of our federal system of government is the opportunity for experimentation. The early programs were established at a time when we didn't know how many victims there were. We didn't know how many victims would make claims for compensation. We didn't know what the needs of victims were. Now, however, we have the Federal Government victimization surveys and 20 years of experience in some of the State programs and some States provide compensation without inquiry into minimum loss; their experience is that the additional expenses are not extravagant. The needs of victims are real, but experience shows that only a tiny percent of victims know about the compensation program and apply for benefits.

I don't think that States will be faced with overwhelming expenses if program benefits are liberalized.

Mr. CONYERS. On the requirement of using volunteers in the Rodino bill, you believe that provision should be modified so that it encourages the use of volunteers?

Mr. LAMBORN. Yes; I think that the problem with the requirement of the use of volunteers is that it would exclude a number of well-thought-of agencies providing good services. Yet we should encourage the use of volunteers. Volunteers can be very helpful and do some things that perhaps professionals can't do as well. But it should be sufficient that the use of volunteers is encouraged as far as possible within the community. Usually in a community there is more than one agency providing services, for example, rape crisis centers and victim witness centers. It is not necessary that each agency be open 24 hours. What is necessary is that the agencies work together to provide 24-hour coverage. Perhaps volunteers can be used for this purpose.

Mr. CONYERS. Thank you. What would you suggest be done with those funds not used?

Mr. LAMBORN. I think that the funds available for compensation programs not used for that purpose should spill over to the victim assistance programs. Funds not used within a State, should be transferred to other States.

Mr. CONYERS. You suggest that the victims assistance programs be split with the compensation programs?

Mr. LAMBORN. A certain amount of tension exists in some States between the two types of programs that does not redound to the benefit of victims. In some States, however, there is a spirit of cooperation and an attempt to ensure adequate financial compensation as well as adequate provision of services. I don't think that there has to be such friction. But, to the extent that these bills are written in the language of money for victim compensation and money for victim services, it strikes me that limiting the money for victim services to 20 percent of the total funds is not desirable.

Mr. CONYERS. Do you have any experience as to how victims feel the tension between the assistance programs and the compensation programs?

Mr. LAMBORN. No.

Mr. CONYERS. Perhaps the agencies would know about the differences, but the victims themselves would only be aware of whether there is something available or not.

Mr. LAMBORN. That is probably true.

Mr. CONYERS. I just wanted to make sure that things have not come to such a pass that victims were feeling it themselves, and if they were I would like for it to be reflected on the record.

Mr. LAMBORN. This is a matter of conjecture only. But if the relationship between the victim compensation board and agencies providing victim assistance is not good, then one agency may not be willing to refer victims to the other. There should be a cooperative spirit.

For example, in Michigan, when the compensation board provides money to victims it should, as a matter of routine, also refer them to the victim assistance agencies for the services that they provide. However, I'm not personally aware of a situation in which the relationships between agencies are so bad that referrals are not made.

Mr. CONYERS. Well, after listening to the crime victims compensation board leadership, it's such a small operation that I probably would be willing to forgive them if they didn't make referrals. Referrals would require that the board know what's available in the community that the victim comes from, and that would probably be pretty tough to do for all of the communities in the State of Michigan. I'm sure that they wouldn't fail to do that if they could, but I think too frequently they are hard pressed to keep up with their statutory responsibilities so that they probably don't have that service available.

Mr. LAMBORN. I think that Mr. Fullwood should be commended for his spirit of cooperation with the victim service agencies. We are presently trying to form a coalition of those interested in improving the situation for victims of crime in Michigan. Mr. Fullwood has been an active participant in this effort. Certainly there is difficulty in always knowing what victim services are available in any particular city.

The board, if it is unaware of the services available, can't be faulted for not referring the victim to them. But, the coalition we are in the process of forming should help the compensation board to know what services are available throughout the State and should help the compensation board to make those referrals. Similarly, the spirit of working together should encourage the victim services agencies to provide referrals to the compensation board.

Mr. CONYERS. Subcommittee staff member Ray Smietanka.

Mr. SMIETANKA. I have one question and that is, you noted that the possibility of Federal subsidy might encourage States to make some modification in their programs that would reach more victims or the same victims, but with more assistance such as increasing the level of compensation, the ceiling of the awards or modifying the family exclusion rule.

I suppose this could be used as argument by those who don't favor victim compensation, but our taxpayers, do you feel really committed to spend more money than having received the Federal subsidy that they would go out and find ways to spend more and more money?

Mr. LAMBORN. What you refer to is a potential problem that I think would achieve actuality only in the distant future. The victims exist and their needs are real. Most members of the crime victims compensation boards would say that they would like to meet

more of these needs but have to impose limits because of the potential expense. I'm suggesting that there is now sufficient experience to show that the improvement of benefits does not involve extravagant expense.

Mr. SMETANKA. Do you have an estimation, for example, in the modification of the family exclusion rule—well—modifying that, would you have any idea of how much we are talking about?

Mr. LAMBORN. No, I don't. I would suggest that "Compensating Victims of Crime" by McGillis and Smith, is probably the best source on the operations of compensation programs in the United States. It discusses many of the improvements that I have referred to.

What we can do is look at the experience in a State that eliminates an existing limitation on benefits and see that its expenses are not drastically increased in comparison with States that retain that limitation on benefits.

Mr. SMETANKA. Would you have any way of assessing the spirit to expand out there? It's strong enough to overcome budgetary increase that might otherwise—

Mr. LAMBORN. It would depend upon the extent of the subsidy. Some of my colleagues would say that there has not been a good faith effort on the part of States to meet the needs of victims of crime and that the programs are mere window dressing. It's easy to point to the uniform crime statistics and see that there are hundreds of thousands of crimes of violence against the person and only thousands of victims receiving benefits. Some estimate that only about 2 percent of the victims of crime receive compensation benefits. It is unlikely that most of the improvements that I suggest will be made unless there is substantial Federal subsidy.

Mr. SMETANKA. I take it that you are saying that the larger the Federal subsidy the more likely the expense of the cost or efforts by the State is likely to be?

Mr. LAMBORN. The efforts of the States to improve benefits will be increased in proportion to the subsidy.

Mr. CONYERS. Of course, we are not trying to get everybody to apply for a claim. What we want to do is make this service available to those who need it and want it. But, it seems to me, there are some people at economic levels in our society who can appropriately decline. They may use some of the victim services programs, but they need not.

I don't think that we should measure our success by how many people are using it, especially if we are doing a fair job in getting it communicated, which is always the problem.

Mr. LAMBORN. You are quite right. If I am mugged and my insurance covers my medical expenses, there is no need for the State to provide compensation for those expenses. If I don't have insurance, or if I don't feel a need for the replacement of the \$50 taken from my billfold, if that were compensable, then the compensation program should not be criticized for my not applying for an award. However, in large part the failure of victims to apply for compensation is the result of a lack of knowledge on the part of the citizenry of the existence of the programs. Moreover, in many States redtape and delays in the decision process discourage victims from applying. Victims think it's not worth the effort to make applications.

Mr. CONYERS. Staff member Hutchison.

Mr. HUTCHISON. Picking up on the theme of additional improvements that the program can make, are you suggesting that the legislation require that the State victim compensation programs meet criteria other than those already spelled out in the two bills under discussion, the Rodino bill and the administration bill?

Mr. LAMBORN. Yes. One of the bills requires that States provide compensation for psychological counseling; that is an attempt to improve the services available. Moreover, Federal subsidy bills introduced in past years have included a number of minimum standards as conditions of the subsidy. Although we might disagree on what the minimum standards should be (that would require some further exploration by the subcommittee) this is an opportunity to improve the services for victims.

Mr. HUTCHISON. Do you agree with the characterization of H.R. 3498 as dictating State policy?

Mr. LAMBORN. Those criteria, with the possible exception of the residency requirement, are already met by the vast majority of the State compensation programs.

Mr. HUTCHISON. To the extent that the requirement in the administration bill for mental health counseling is not in the Rodino bill, might it not be fair to say that the administration bill goes beyond the Rodino bill in dictating policy to the State?

Mr. LAMBORN. Perhaps, but that sort of provision also presently exists in the vast majority of the State compensation programs.

Mr. HUTCHISON. The Rodino bill says that moneys not spent on compensation are to be used for victim assistance purposes. I take it that this is a sort of provision that you would favor if the administration bill were to be adopted?

Mr. LAMBORN. Yes. Victims have proven needs and money initially appropriated for victims needs shouldn't go back to the Federal Treasury merely because one portion of a State's program for victims does not use the moneys available.

Mr. HUTCHISON. You indicated that your concern is that an assistance program not be rendered ineligible because it fails to provide 24-hour crisis intervention. Would your objection to that part of the Rodino bill be modified if it were possible for a program to comply with that by, for example, having a system where the calls went through a central switchboard and were referred to someone at home—or other methods besides having someone on duty in the office 24 hours a day?

Mr. LAMBORN. We want to beware of attempts to meet the 24-hour requirement that don't provide adequate services for victims. Merely to have an answering machine is not sufficient. I would not favor mere pro forma compliance with the requirement of the 24-hour services.

Mr. HUTCHISON. Do you think that the 24-hour provision is important?

Mr. LAMBORN. I gather that there is a substantial dispute among those who provide services to victims about how important 24-hour availability is for all victims. For some victims that is very important, but I take it that for the vast majority that is not so important. I don't have the expertise to give you a good answer.

Mr. HUTCHISON. You criticized H.R. 3498 for requiring 24-hour availability of crisis intervention services, but at the same time you don't want to make it easier for the programs to meet that requirement. Do you just want the provision taken out which would say that 24-hour—

Mr. LAMBORN. Perhaps my response wasn't clear. I think that in any community services should be available on a 24-hour basis, but I don't think that each of the agencies that applies for the Federal subsidy should be required to have 24-hour capabilities.

Is that responsive?

Mr. HUTCHISON. Yes, and I guess the follow-up question is, if programs decided to comply with the 24-hour crisis intervention requirement by hooking into a police switchboard so that police would refer the calls when they came in to members of the victim services program at home, no matter what time of day or night, would that seem to comply with the 24-hour requirement?

Mr. LAMBORN. I would think so, but I have not been involved personally in attempting to provide 24-hour services.

Mr. HUTCHISON. Would you think that it was fair to say that certain services, from the standpoint of society as a whole, are more important than others?

For example, some of the services provided to victims include providing a ride to court and a secure waiting room, other services deal with the potential psychological problems of the victim.

Is it fair to equate case management type victim services with helping victims overcome the psychological trauma of a criminal act?

Mr. LAMBORN. I don't think that anyone would say that these are equal in importance. Both are important and both have been neglected by society for a long time. Both should be taken care of.

People have talked for a long time about the secondary victimization that occurs in the criminal justice process too often. If there is a way of sensitizing officials, protecting the privacy of victims and witnesses in the courthouse, minimizing the trauma of appearing in a strange setting with cross-examination, that can be most important and should be done. On the other hand, it is very important to attempt to deal immediately with the often severe psychological trauma of victimization. I don't think that we have to compare the needs for these two types of services.

Mr. HUTCHISON. Given the fact that there probably will be limited funds available, is it appropriate to place a priority on which programs should receive payment first or set up some sort of method for determining which of the services will get the limited funds; and if so, what criteria would you suggest?

Mr. LAMBORN. The proposed legislation does not attempt to prioritize such services perhaps because of the difficulty of doing so. I assume that Congress intends to leave this to the States to determine. I don't at this time have a suggestion for prioritizing those services.

Mr. HUTCHISON. Thank you.

Mr. CONYERS. Thank you very much, Professor. We appreciate the time that you have spent over the years on this subject.

Are the law schools taking a greater interest in this subject?

Mr. LAMBORN. Law schools are beginning to take some interest. Courses in a handful of schools deal with the rights of victims and any course dealing with sentencing would take into account legislation dealing with victim impact statements. It would be fair to say that law schools are not doing very much with regard to the study of victims.

Mr. CONYERS. Thank you very much for joining us, and I know you will be watching our work.

Mr. LAMBORN. Thank you very much.

Mr. CONYERS. Now we will hear from Ms. Althea M. Grant, director of the Detroit Police Department's Rape Counseling Center and president of the Southeastern Michigan Anti-Rape Network. Please come forward and make yourself comfortable at the table and welcome.

TESTIMONY OF ALTHEA M. GRANT, DIRECTOR OF THE RAPE COUNSELING CENTER OF THE DETROIT POLICE DEPARTMENT AND PRESIDENT OF THE SOUTHEASTERN MICHIGAN ANTI-RAPE NETWORK

Ms. GRANT. Thank you very much, and my remarks will be brief as I will confine myself to the H.R. 3498.

Good morning, Chairman Conyers and distinguished members of the subcommittee.

I am Althea M. Grant, director of the Rape Counseling Center of the Detroit Police Department. The Rape Counseling Center was founded under the now defunct Law Enforcement Assistance Administration in 1975.

In 1977, it was put under the auspices and administration of the Detroit Police Department, Sex Crimes Unit. This is also the year when I became the director of the center.

The center provides 24-hour crisis intervention which includes telephone counseling and walk-in crisis counseling in the Detroit Receiving Hospital Emergency Department. It services all victims of sexual assault and their families who are age 13 and older.

The basic job objectives of the Rape Counseling Center are as follows:

No. 1, to follow up in counseling all victim intakes via the telephone, home visits, and/or office visits through individuals, family and group counseling.

Two, to provide court counseling and advocacy for the victim.

Three, to provide 24-hour crisis intervention and referral for battered spouses in the emergency department only.

Four, to provide training and prevention sessions for professional and/or community groups.

Five, to make referrals to agencies for services not provided by the center.

Six, to be an educational facilitator for social work students attending Wayne State University, University of Michigan, University of Windsor, Marygrove and schools under the the city of Detroit Urban Corps Program.

Seven, to facilitate the coordination of services to victims of sexual assault in Detroit and the tricounty area through networking.

Eight, to plan and facilitate ongoing crisis intervention and crime prevention programs with the Detroit Police Department, Crime Prevention Unit, Sex Crimes Unit and Detroit Metropolitan Police Academy.

Nine, to recruit and train volunteers for the center.

In the past 8½ years, the Rape Counseling Center has found that the 24-hour crisis intervention telephone line has been invaluable. Out of the 10,000 sexual assault and domestic violence cases we have counseled, it is estimated that one-third of these cases initially sought help from this center before seeking medical or law enforcement assistance.

The center was able to provide to these ambivalent victims constructive direction on what steps should be taken to deal with medical and legal issues, to administer immediate crisis intervention in dealing with the fears of the moment and other concerns of the victim.

At the present, 90 percent of the sexually assaulted victims who report to the Sex Crimes Unit are seen immediately by the Rape Counseling immediately after the police have concluded their initial investigation. The counselors are able to provide medical information, emotional counseling, and give to the victim and family members any other needs which are needed immediately.

It has been found by the Rape Counseling Center, in accordance with crisis theory, that the quicker the victim gains back the control which was taken from them at the time of the crisis, the sooner the victim will resume his or her normal lifestyle again.

Rape, as with many crimes, may occur at any time and is not always the 9-to-5, 5-day-a-week situation. It is imperative that 24-hour crisis intervention telephone lines and/or centers be available to assist the emotional, psychological, medical, and legal needs of these victims at the onset of the crisis.

Therefore, I speak in favor of the Crime Victims Act of 1983, H.R. 3498, the proposed eligibility criteria for victim assistance programs which calls for the provision of 24-hour crisis intervention services, and I thank you for letting me appear before you today.

Mr. CONYERS. Thank you very much.

Isn't this a unique resource that has been developed with the Detroit Police Department—the Rape Counseling Center? It is my impression that it's unique and that it's now being tried in other places.

Ms. GRANT. Yes, the uniqueness about it is that it is attached to a law enforcement agency, namely, the Detroit Police Department. There are centers around the country that operate as we do but they are not directly under the auspices of the administration of a police department.

Mr. CONYERS. To whom should we give credit for that? Was it the idea of the center, or the police department, or the mayor, or do you recall how this notion was brought forward?

Ms. GRANT. Yes, it was originally brought forward by N.O.W., National Organization for Women, and also Councilwomen Maryann Mahafney and Erma Henderson. They were the original ones who thought up the grants and they thought it should be under the Detroit Police Department.

Mr. CONYERS. And the police department had no problems with accepting it? Was there some reluctance?

Ms. GRANT. Administratively there was no problem. From the standpoint of social workers being a part of a paramilitary organization, I think that they did. My experience has been that there are a lot of problems in terms of getting them to understand what we actually do.

Originally they felt that we would actually obstruct justice in terms of giving victims incorrect information.

Mr. CONYERS. You are established at 1300 Beaubien?

Ms. GRANT. No, our physical location is Detroit Receiving Hospital Emergency Department for the 24-hour work, and the administrative offices on the seventh floor of the university help center, but all of the administrative work comes under the auspices of the police department, sex crimes unit, to whom I answer.

Mr. CONYERS. Do you have badges? How do you relate to the police department?

Ms. GRANT. We have badges that say civilian police department. In terms of the relationship we have with victims of crime, victims that are assaulted in the city of Detroit that need medical attention are referred to us by the police within 2 to 4 hours after the assault. The police department sex crimes unit will call us and give us the names. Some of the officers more sensitive than others, pick up on some of the types of emotional problems and let us know right away. For example, if there are problems with victims going to court and they do not want to testify, a police officer might call us to assist the victim.

Mr. CONYERS. I understand your organization has been helpful in the past crisis that the city had with the increased incidents of rape. Can you suggest to us how your organization was critical in getting us through that period?

Ms. GRANT. The typical victim in the Detroit area has always been 15 years old. That is, of course, your school-aged person. We have been saying for years that we need not only to go into schools to do speaking engagements, but to also help curriculums to understand the whole issue of sexual assaults. What I have done now is to train all of the board of education principals and teachers in the elementary, middle, and high schools and assist them, not only with the sensitivity of the issue of rape and understanding it, but also how to teach their youngsters about rape prevention.

Mr. CONYERS. What about during the crisis? Did you have an unusual role or were your services just taxed to the maximum?

Ms. GRANT. I'm the only one doing the training. The center employs 10 paid people and 8 are social workers on a 24-hour a day, 7-day-a-week basis. In the recent crisis, all of the media attention brought forth more victims who reported and more questions. So, I was the only one to actually do the training. So the services at the center were taxed.

Mr. CONYERS. Did you have any experiences that led you to make new recommendations about the way you operate or are constructed or your procedures as a result of the recent crisis?

Ms. GRANT. My suggestions are in terms of budgeting. I definitely need more staff. It's almost totally impossible for eight social workers to do a 24-hour, 7-day-a-week job. We have divided it

amongst ourselves to try to handle it. An example is what happened this past week when my afternoon person was sick and we couldn't bring anyone else in. We had been told by the Detroit Police Department that we had to keep our time at a minimum and do less overtime. As a result, the Friday and Saturday afternoon shifts went uncovered at the hospital because we couldn't bring anyone in for overtime.

Mr. CONYERS. Under these circumstances, volunteers are specifically precluded?

Ms. GRANT. We have in the past used volunteers, but the staff is unionized, and we cannot use volunteers where paid staff persons should be. We have been instructed in the emergency department by the director, Dr. Khrome, that we cannot have volunteers in the emergency department alone. They must be assisted by paid staff persons. We have found in the past that after training volunteers that we have gotten very little results in terms of people returning to continue to work for us.

In 1982 we trained 90 people as volunteers and we had 5 people to return for about a month and 1 person stayed with us a year.

Mr. CONYERS. What is, roughly, the size of your budget?

Ms. GRANT. A quarter of a million, \$250,000.

Mr. CONYERS. Would you need in excess of \$300,000 to bring it up to some minimum?

Ms. GRANT. Yes, we have requested this and it is being negotiated with the city of Detroit to hire two more paid staff people at the bachelor degree level.

Mr. CONYERS. All of this money comes through the city, or is there a city/State mix?

Ms. GRANT. It's through the city. I believe the same way police officers are paid.

Mr. CONYERS. All right, we want to thank you for coming and I want to personally commend you for the excellent work that you have been doing. I hope that cooperation between the center and the police department grows deeper. Thank you very much.

Ms. GRANT. Thank you.

Mr. CONYERS. There being no further witnesses to come before this subcommittee, I want to thank everybody on the subcommittee staff who has helped make this hearing possible, the stenographer, and a number of people in this city who have cooperated to facilitate the hearing. We will continue the hearings in Washington, but this hearing in Detroit is closed and the subcommittee stands adjourned.

[Whereupon at 12:30 p.m. the hearing was adjourned.]

LEGISLATION TO HELP CRIME VICTIMS

THURSDAY, AUGUST 2, 1984

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIMINAL JUSTICE,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The subcommittee met, pursuant to call, at 10 a.m., in room 2141, Rayburn House Office Building, Hon. John Conyers, Jr. (chairman of the subcommittee) presiding.

Present: Representatives Conyers, Boucher, Gekas, and DeWine.

Staff present: Thomas W. Hutchison, counsel, and Raymond V. Smietanka, associate counsel.

Mr. BOUCHER [presiding]. The subcommittee will come to order.

Chairman Conyers has been unavoidably detained at another meeting and has asked that I begin the hearing and preside until he arrives.

Today's hearing is a continuation of the subcommittee's hearings on H.R. 3498 and related bills to assist victims of crime. The legislation pending before the subcommittee is premised on the belief that the Federal Government can and should do something to assist crime victims. The bills call for Federal funds to be used to aid State crime victim compensation programs and public and private nonprofit crime victims assistance programs.

State crime victim compensation programs help crime victims who suffer physical injuries by reimbursing them for out-of-pocket expenses for hospital and medical services and for lost wages resulting from their victimization. Crime victim assistance programs provide crime victims with a range of social services, such as crisis intervention and mental health counseling.

The focus of nearly all of the testimony has been H.R. 3498, sponsored by Chairman Rodino and some 50 other Members of Congress. The subcommittee has received some testimony about the administration bill, primarily from Assistant Attorney General Lois Haight Herrington. Today, we will hear from several persons involved in administering State crime victim compensation programs, and they will be able to compare H.R. 3498 and the administration bill from their perspective. We will also hear from a local prosecutor whose office operates a victim assistance unit and from representatives of two religious groups concerned about crime victims and the criminal justice system in general.

Chairman Conyers plans to begin markup of a bill as soon as possible. Chairman Conyers had an opening statement, and he has asked that I read a portion of it since he is unable to be here for the start of the hearing. Quote:

It is important that any legislation we recommend truly be directed at helping victims. We have heard proposals advanced in the name of helping victims that seem to me to have no special relationship to crime victims as a group. Those proposals really affect us all, as members of the general public, rather than affecting only victims.

Some of the proposals advanced in the guise of helping victims, like abolishing the exclusionary rule, seek to overturn legal safeguards against governmental overreaching and illegality. Other such proposals, like mandatory and longer prison terms are directed at making our penal system more harsh. Such proposals, if implemented, will only enable us to overtake the Soviet Union and South Africa, the only two countries whose rate of imprisonment exceeds ours.

The legislation that the subcommittee reports must address the financial, emotional and medical needs of victims and not be a vehicle to make our criminal justice system more harsh than it already is.

I would like to recognize at this time the ranking minority member of the subcommittee, the gentleman from Pennsylvania, for his statement.

Mr. GEKAS. I thank the Chair for this opportunity to put in the record an opening statement. The crime victims legislation has taken many turns over the years but there seems to be mounting interest in resolving the issue once and for all, and the Chair is quite correct in portraying that this subcommittee, through the various means at its disposal, will be producing a workable bill in the very near future.

Today, I would like to ask for unanimous consent to enter into the record as if it were testimony from a witness, the statement of the Honorable Hamilton Fish, the ranking member of the Judiciary Committee.

Mr. BOUCHER. Without objection.
[The statement of Mr. Fish follows:]

STATEMENT OF HON. HAMILTON FISH

Mr. Speaker, I am today introducing legislation to provide federal grants to states for crime victim compensation and assistance.

Earlier in the Congress, I introduced H.R. 2978 and later H.R. 5124. The first represented a cooperative effort between myself and Senator Heinz and I testified on the bill before the House Subcommittee on Criminal Justice. The latter bill was introduced on behalf of the Administration and represented its proposed victim assistance program.

The bill I am introducing today is that core portion of S. 2423 (as reported by the Senate Judiciary Committee) which deals with federal assistance to states for victim programs. The bill I introduced does not include Titles III, IV and V of the bill because they are outside of the scope of legislation now being considered by the Criminal Justice Subcommittee and could conceivably inject new issues at a time when that Subcommittee is nearing mark-up.

My proposed legislation represents a bipartisan effort of the Senate in considering the Administration's crime victim legislation. The bill differs in some respects with the Administration's original bill. For example, it offers state victim compensation programs a larger matching federal grant (25% as opposed to 10%); creates a so-called "spillover" mechanism so that unspent money earmarked either for compensation or assistance can be used for the other purpose in the event of an excess, and finally, the bill provides a slightly different allocation between victim compensation and assistance.

Although the bill represents a more costly program than H.R. 5124, it provides additional funding through the creation of a special penalty assessment against those convicted of federal crimes. Moreover, it sets a \$100 million cap on the Crime Victims' Assistance Fund.

I think this bipartisan bill moves toward a final resolution of the many policy questions which the Congress has considered for many years. It represents a step in the direction recommended by the President's Task Force on Victims of Crime. This bill, I feel, can and will serve as a sturdy vehicle for carrying the concept of victim aid into reality.

Mr. GEKAS. Which he discusses the introduction of a new bill to add to the panoply of weaponry that we are mounting in this particular issue, which now has the number H.R. 6059. Although H.R. 6059 will, in due course, find its way to our subcommittee, I say to the Chair I still would like to, as part of this record, enter a copy of the pending bill into the record for the purposes of quick review as we prepare for markup.

Mr. BOUCHER. Without objection, so ordered. [See p. 453.]

Mr. GEKAS. Thank you.

The Chair has quite carefully elucidated the genre of legislation that we will be considering. I wish to put on the record one caveat, however, that it is the Chair's description of the exclusionary rule as not being in the category of helping victims of crime, may not be quite accurate. I simply wish to state that although we are producing and projecting legislation having to do with crime victim compensation, that our later deliberations on the exclusionary rule, in keeping with recent Supreme Court descriptions is also very helpful to the citizenry and the victims of crime.

With that, I yield back the balance of whatever time was yielded in the first place.

Mr. BOUCHER. I thank the gentleman.

The first witnesses to appear today will appear as a panel. They are Herbert Parker, chief of the Bureau of Crime Compensation of the Florida Department of Labor and Employment Security. Mr. Parker is also the president of the National Association of Crime Victim Compensation Boards. He will be accompanied by the immediate past president of the association, Ronald Zweibel. Mr. Zweibel is the chairman of the New York Crime Victims Board.

They will testify on behalf of the National Association of Crime Victim Compensation Boards, which recently adopted a resolution concerning Federal legislation. In addition I am sure they will offer comments in their capacities as heads of State crime victim compensation programs. We welcome these gentlemen to the subcommittee today, and they may proceed in such order as they determine.

Mr. GEKAS. Would you yield?

Mr. BOUCHER. Yes.

Mr. GEKAS. Would the Chair recognize the newly arrived member of the subcommittee?

Mr. BOUCHER. We have with us the gentleman from Ohio, Mr. DeWine. We would be glad to hear any statement he may have.

Mr. DEWINE. I have no opening statement.

Mr. BOUCHER. We will be glad to hear from our witnesses at this time.

TESTIMONY OF HERBERT G. PARKER, PRESIDENT, NATIONAL ASSOCIATION OF CRIME VICTIM COMPENSATION BOARDS, AND CHIEF, BUREAU OF CRIME COMPENSATION, FLORIDA DEPARTMENT OF LABOR AND EMPLOYMENT SECURITY; AND RONALD A. ZWEIBEL, PAST PRESIDENT, NATIONAL ASSOCIATION OF CRIME VICTIM COMPENSATION BOARDS, AND CHAIRMAN, NEW YORK CRIME VICTIMS BOARD

Mr. PARKER. Mr. Chairman, and members of the committee, it is indeed a pleasure for me to have the opportunity to address you today in my capacity of president of the National Association of Crime Victim Compensation Boards and chief of the Florida Bureau of Crimes Compensation.

Today, there are 40 victim compensation programs, including the District of Columbia and the Virgin Islands. This is strong testimony of the States' commitment to assist persons who are innocent victims of crime. In fiscal years 1982-1984, the State of Florida alone awarded \$3.7 million to crime victims and more than \$13.5 million have been awarded during its 5-plus years of existence.

While these figures are impressive, one should not forget the large number of victims who were not compensated due to regulations and lack of funds. Furthermore, it should be noted that even in these days of rising medical, hospital and other costs, the highest award the Florida law permits is \$10,000. This alone indicates a need for Federal assistance.

During the past 18 years, dozens of victim compensation bills have been considered by the U.S. Congress. However, none have reached the same stage of fruition as the present bills. It is my hope and the hope of those I represent that some victim compensation and assistance bill will be passed this legislative session.

Today, 40 of the States, or approximately 80 percent, have established compensation programs. No one can deny the fact that as long as criminal violence is perpetrated against the innocent, that victims of such violence will have legitimate needs deserving of adequate assistance. These States that have established such programs have recognized the need of its residents who are victimized to be provided some measure of assistance as innocent victims of crime. This is a heavy burden that has been borne by many States since the inception of the first crime victim program in 1965 in California.

However, some programs have often felt the pains of fund shortages, which have caused delays and deferments in assisting crime victims. The program in the State of Washington became inoperative for a period of time until adequate funds could be found to resume payment of awards to innocent crime victims. Other programs have experienced delays of payments of 1 to 2 years to victims because of fiscal constraints.

The most difficult obstacle to overcome in the establishment of victim compensation programs is the impediment of an adequate funding base. It is my firm belief that the establishment of a Federal crime victim fund will provide the strong encouragement needed to enroll those States not presently involved.

Crime victim compensation programs receive funding from a variety of sources. The most stable programs seem to be those which

are funded by the mechanism of fines and penalties, since such funds are derived from the courts through penalty assessments, rather than from appropriations. Some States have experienced financial difficulties where the statutes require a dependence on general revenues or supplemental appropriations. The Federal fund would provide the strong underpinning needed to stabilize the State programs, no matter what their funding source.

Many States have established programs and incorporated only those provisions which could be supported by the funds to be made available. Many aspects of a good program could not be included simply because funds to support such would not or could not be provided because of other State priorities.

For example, the State of Florida could not include the provision of awards to nonresidents because of the prohibitive cost that would be incurred. The State recognized the need for such a provision, however the projected revenue would not permit such.

Many States do not include other provisions that have greater consideration for victims because of inadequate revenues. Some of those provisions for inclusion are: nonresidents of the State; mental health counseling; uninsured persons injured by motor vehicles; persons injured by drivers under the influence of drugs or alcohol; persons related to the assailant; injured minor children.

Other provisions which could be included if adequate funds were available are: increasing maximum awards; eliminating minimum loss provisions; and eliminating serious financial hardship criteria.

The maximum awards in victim compensation programs range from \$5,000 to \$50,000 with the average award being approximately \$12,500. Needless to say, the cost of medical care, out-of-pocket losses, and loss of support rapidly consume maximum awards at the lower ranges. Minimum loss provisions are usually included in criteria because the cost of processing awards is greater than the loss involved.

The serious financial hardship criteria allows only those persons who can demonstrate a serious financial hardship and actual need to be eligible for compensation. Many persons who should receive awards are denied assistance because of this clause. These three provisions were designed to establish criteria to conserve revenue of compensation programs. There is little doubt that there is a strong need for additional revenue to permit States to grant awards to a broader range of innocent victims of crime.

The funding scheme for Federal assistance under this bill seems to have all the necessary components to provide a stable source of additional funding to improve State service delivery systems to victims of crime compensation and assistance programs. With the additional assistance, programs would become more effective and indeed more responsive to crime victims' needs that presently are neglected.

Under this bill, up to 80 percent of the fund would be used to support State crime victim compensation programs with the remainder assisting victim witness services. Eligible State compensation programs would receive up to 50 percent of the costs of the State's awards made in the previous fiscal year and 100 percent for coverage of Federal crimes. The National Association of Crime Victim Compensation Boards supports the provision of the 50 per-

cent of the costs for State programs and 100 percent of coverage for Federal crimes.

State crime victims compensation programs would be required to meet certain eligibility requirements, to include compensation to nonresidents who are victimized within the State borders. Such States as Florida, California, Nevada and Massachusetts, which have large numbers of visitors, have been reluctant to repeal their victim residency requirements because of the negative fiscal impact. However, the 50-percent provision would assure participation by all States in the Federal assistance fund. Most compensation programs presently meet the other eligibility criteria enumerated in the bill. This provision will also encourage those States without compensation programs to consider establishment of such programs.

It is my belief that the criteria established by this bill for State to be eligible for assistance are reasonable. It is also my belief that the reimbursement for 50 percent of the costs of State programs will induce States that are not presently involved to become involved. Additionally, this will provide the incentive for all programs to broaden their base to assist a greater number of innocent victims. Those programs which were reluctant to eliminate residency requirements because of the negative fiscal impact, will be strongly encouraged to participate.

The administration bills, S. 2423 and H.R. 5124, also create a victim assistance fund which will provide a stable source of additional funding for compensation and victim assistance programs.

There are two principal differences in the Rodino-Berman bill and the administration bill. Those differences are the administration bill would provide additional stated requirements for programs to receive assistance from the Federal fund and the distribution of the fund to compensation and service programs.

The Rodino-Berman bill provides that compensation programs will receive 50 percent of the costs of awards paid out by a compensation program the previous fiscal year and 100 percent of coverage of victims of Federal crimes. Eighty percent of the total fund is available to provide 50 percent to compensation programs. The remaining funds would be distributed to victim assistance programs.

The administration would provide that State compensation programs receive no more than 10 percent (now changed to 25 percent) of the amount of the State spent for compensating crime victims the preceding year. Thirty percent—now 45 percent—would be distributed "among the States on the basis of State population in relation to population of all States" and 20 percent—now changed to 15 and 10 percent—to the Attorney General for distribution to law enforcement agencies.

The percentage of distribution to compensation programs is too low a figure (1) to induce many of the noncompensation States to establish programs, or (2) to influence all the nonqualifying States to meet the program requirements, or (3) to cause those States that qualify to change their programs to assure greater consideration for victim needs.

The National Association of Crime Victim Compensation Boards endorses a 50 percent of awards figure contained in the Rodino-Berman bill to obtain the desirable effects enumerated above. If

the 10-percent figure were to be utilized, the State of Florida would possibly not participate because of the negative fiscal impact caused by nonresidency requirement. Other tourist States would likely be similarly affected.

Much has been said pro and con regarding the nonsupplantation clause included in the administration bill. In my opinion, such a policy should include both compensation and service programs if such a provision is included in the bill. I hope that this provision will not be included in the bill even though it is included in the language of some grant programs. Most States that have established crime victim and assistance programs have done so based on the varying needs of State residents. Those States have no interest in letting the Federal dollars merely take the place of State dollars.

The Federal Government should not attempt to dictate a uniform level of funding support to be given to State crime victims compensation programs. Such attempts would undermine the basic level of national coverage for crime victims. Because some States are frequently unable to adequately support their crime victims programs, one effective means of providing Federal assistance is to allow a supplantation of funds.

In closing, I would like to express my appreciation to this committee for the opportunity to provide testimony before you, the attentive and concerned representatives of the people. This legislation is of vital importance to the States and has been eagerly awaited for several years. Federal assistance is needed to assist States that have for so long shouldered the burden of compensating innocent victims of crime. Enactment of this legislation will be an important step forward in enabling States to effectively and more adequately administer their own crime victim compensation and victim assistance programs.

Mr. CONYERS [presiding]. I want to thank you, Mr. Parker.

I apologize for not being able to be with you earlier, and I also want to apologize to my colleagues, who were aware that I was testifying before another subcommittee on another bill that relates to improving the criminal justice system. You have made a very good statement. Thank you very much.

I would like to now call forward Mr. Ron Zweibel, who chairs the New York State Crime Victim Board. Welcome to the subcommittee. Without objection, your full statement will be incorporated in the record, and you may proceed.

Mr. ZWEIBEL. Thank you, Mr. Chairman, members of the committee.

I am pleased to appear before you to present the views of the New York State Crime Victims Board on H.R. 3498, the Victims of Crime Act of 1983, and H.R. 5124, the Victims of Crime Assistance Act of 1984. As my written testimony is somewhat lengthy, I would ask that I be permitted to have my full written testimony included in the record while I summarize this testimony for the subcommittee at this time.

I would like to begin by stressing how important this legislation is to victims of violent crime.

Crime victim compensation is the oldest service provided by government to crime victims. The basic benefit provided by State com-

compensation programs are payment of reimbursed medical costs, loss of earning or support, and burial expenses. Few crime victims, however, are able to take advantage of such benefits, largely because of program restrictions, underfunding, and residency requirements. New York's crime victim compensation program, for example, is one of the most generous of all the States, yet it imposes eligibility requirements which forces administrators to make difficult decisions denying benefits to many otherwise worthy crime victims claimants. In short, only a lucky few are awarded compensation at the State level.

It is thus of urgent necessity that there be Federal assistance and national direction if there is to be a meaningful safety net for the pain caused by the over 1 million violent crime related injuries and deaths which occur every year in our country.

Under the provisions of H.R. 5124, a crime victims assistance fund would be established into which Federal criminal fines and royalties paid to a convicted Federal defendant as a result of a contact made to depict his criminal act would be deposited. While \$45-\$75 million would be generated in the first year, moneys earmarked for State compensation programs would be limited to 10 percent of the amount paid out by the States for compensation awards. This amount is, frankly inadequate. Moreover, H.R. 5124 would require States to repeal their victim residency requirements in order to qualify for Federal assistance. This may have the effect of discouraging State participation in the Federal program.

H.R. 5124 would also require that States could not use Federal funds to offset or supplant State expenditures for compensation. In my view, the Federal Government should not dictate to the States on the matter of primary State policy: the level of funding support to be given to State crime victims compensation programs.

In H.R. 3493, the Federal share of State compensation costs would be 50 percent and up to 80 percent of the Federal funds available would be disbursed to State compensation programs, as opposed to crime victim assistance programs. In this point, I support the position of the National Association of Crime Victim Compensation Boards which calls for a 50-50 split with no priority for either compensation or victim assistance programs. I believe this is most fair and would give recognition to the importance of nonmonetary victim assistance as well as to compensation.

"Son of Sam" provisions: I am gratified to see that H.R. 5124 includes a provision that ensures that moneys which would otherwise be paid to criminals for use of their crime story would be paid to the victims of these criminals. I would urge, however, that States be allowed to exercise concurrent jurisdiction in this area where the crimes, contracts, and crime victims are located intrastate. Such concurrent jurisdiction is needed due to a constitutionally untested feature in the bill which allows the Federal Government to confiscate the media profits of a person committing a crime independent of the victim obtaining a civil judgment.

In New York, the Crime Victims Board acts as a neutral stakeholder to ensure that victims' claims are settled before moneys are paid to the criminal or his representatives. Such an approach, is not found in the provision of H.R. 5124, leading to the chance of constitutional challenge. Such a challenge may lead to a situation

where it would be legally difficult to ensure that infamous criminals not be rewarded for their criminal activities.

Both H.R. 5124 and H.R. 3498 bar Federal assistance for the administrative costs of processing compensation claims. This is unfortunate, for unless funds are also made available to increase staffing to process newly included claims, service to crime victims is likely to suffer.

In New York, we have a growing backlog of unprocessed claims due to expanded eligibility requirements and reduced staffing. Since the proposed Federal legislation would increase the number of claims, it is imperative that staffing levels are increased as well. Moreover, it seems inequitable that victim assistance programs would receive Federal aid for administrative expenses while compensation programs would not.

I would suggest that State compensation programs be granted a 1-year grace period to bring their programs in compliance with the proposed Federal standards. This would prevent programs from losing a year of funding assistance due to the time required to amend State statutes.

In conclusion, I would like to thank this committee for the opportunity to offer testimony today. The type of legislation under review is certainly justified and long awaited. With adequate assistance from the Federal Government, the small steps that States have been able to take to provide services to crime victims can be great strides toward relieving the physical, emotional, and financial crisis that millions of law abiding citizens face upon being victimized by violent crime.

Thank you.

Mr. CONYERS. I want to thank you for coming here, Mr. Zweibel. This may be the last hearing we are going to have before we move this measure forward. I thank you both for your thoughtfulness in preparing the statements.

I would like to recognize the gentleman from Pennsylvania, Mr. Gekas.

Mr. GEKAS. Thank you, Mr. Chairman.

Mr. Zweibel, I was interested in learning of your hesitation about the lack of language in the Son of Sam provisions that would not allow for Federal preemption of the field there, and perhaps we ought to be thinking, as members of the committee, of language that would safeguard a State program. How would they overlap if we did not do that? Are you fearful that no State program could be instigated at all if we did not amend this language?

Mr. ZWEIBEL. I believe that that would be true because it would appear that there would be Federal presumption with the language that is contained in the Senate bill.

Mr. GEKAS. I was wondering what harm there would be in that.

Mr. ZWEIBEL. Well, in view of the fact that as I indicated, I think there is a potential constitutional problem with the bill because it is basically confiscatory in nature. As I indicated, the New York bill provides that the New York Board acts as a stakeholder for the funds that would be otherwise paid to a criminal for release of his story, whether it is for—

Mr. GEKAS. Why isn't there a constitutional problem with the New York stakeholder? Don't they take the proceeds?

Mr. ZWEIBEL. We hold it, as I indicated, as a stakeholder, but it gives the perpetrator of the crime an opportunity for a hearing on this issue.

Mr. GEKAS. So does the Federal legislation.

Mr. ZWEIBEL. I don't believe the Federal legislation requires that there be a civil judgment as is required in the New York statute. The victim of the crime in New York must obtain a judgment against the perpetrator before the moneys can be released to the victim in the New York bill.

Mr. GEKAS. That may be. I am not making you aware of the new bill that has been introduced.

Mr. ZWEIBEL. I haven't seen that new bill.

Mr. GEKAS. We do treat that particular portion. As a matter of fact, we will get your name and address and forward a copy of that to you so that you can forward back to us commentary as to whether you agree with the new concept or whether you feel the same problem obtains.

That is all the questions I have.

Counsel would like to—

Mr. CONYERS. Welcome back.

That was an important consideration that was raised. I am very glad that it was discussed.

Mr. BOUCHER.

Mr. BOUCHER. Thank you, Mr. Chairman.

I will propound my questions to both of the witnesses and both or either may reply. The administration bill, sponsored by Mr. Fish of New York, would reserve 20 percent of the compensation funds for victims of Federal crimes. In your opinion, is that justified, are there enough victims of Federal crimes with need so that 20 percent of the total money should be reserved for that purpose?

Mr. PARKER. I don't think it reserves 20 percent for Federal crimes. I think that it says that the Federal crime will be covered by the States. Of course, if we participate in the program that the administration bills says there, we will provide 10 and then I think it has been changed to 25 percent for the programs to participate, but that the Federal crime would be covered, but it doesn't specify an amount there.

Mr. BOUCHER. Do you feel that a reservation of sums for Federal crime victims is appropriate?

Mr. PARKER. Yes sir. I don't think that there is a problem so far as the compensation is concerned in the bill. If we are able to get the moneys that are stated in the bill, the percentages, I think that we could adequately cover those crimes as well as those that we now cover.

Mr. BOUCHER. One of the provisions that is contained I believe in each version of the bill, is that for a State compensation program to qualify, that State may not discriminate in the provision of compensation against nonresidents. Is that particular provision justified, in your opinion? If it is, do you believe that it is going to cause problems for the handful of States—Florida, I think being one—that presently do not provide for compensation of residents from other States?

Mr. PARKER. As I mentioned in my testimony, the reason that Florida does not at the present time include nonresidents of the

State—although they would like to do so—is that adequate funds are not available. If we would get the amount of revenue that is anticipated here, this would indeed allow States to do several things, eliminate the residency requirement, provide compensation for those individuals who are nonresidents, and provide those other States without programs the opportunity to establish crime victim programs. They could be established with the moneys that are being appropriated in this bill.

So, the provision to eliminate discrimination among nonresidents would be acceptable. In fact, most States, except those States that do not compensate individuals who are nonresidents, have reciprocal agreements. Those agreements allow one State, if a person is injured in that State to compensate the nonresident. The other State would do the same for nonresidents injured inside its borders.

So I don't think this is a great problem. There are only a small number of States involved. With the revenue that we would get, it would take care of that problem.

Mr. ZWEIBEL. Provided the level of funding was sufficient, I don't think it would be a problem.

Could I backtrack to one of your earlier questions with regard to the 20 percent that would be set aside for victim assistance programs. I do believe that is contained in the administration bill and I think that it would create a new level of bureaucracy to administer that part of the program for a small number of Federal crime victims. I think it could be more efficiently and effectively run out of State compensation programs provided that funding is made available.

Mr. BOUCHER. I anticipated that would be your point of view. Do most State programs today provide for compensation of victims of Federal crimes?

Mr. ZWEIBEL. Yes, they do.

Mr. PARKER. I know of none that do not.

Mr. ZWEIBEL. I know of none that do not. I do believe the answer would be yes.

Mr. BOUCHER. So it is fair to say that victims of Federal crimes who can demonstrate their eligibility under whatever criteria the State has, would be eligible to apply for—and assuming all conditions are met—receive aid under current State compensation programs.

The argument has been made that perhaps there should be a provision for the payment of administrative expenses for State compensation programs. Do you agree that there should be and if you do, how much or what percentage of the total funds should be allocated toward administration?

Mr. ZWEIBEL. I do believe that there—first of all, as I indicated in my testimony, that there should be a provision for administrative expenses. It does cost money to run these programs. We do anticipate there there will be additional claims filed as a result of Federal funds being made available. I think it would be reasonable to set a cap on the amount of administration expenses that a State could use out of that fund and perhaps 10 percent would be reasonable. I haven't researched that. I believe the New York program runs at approximately 13 percent administrative cost and if the Federal Government is interested in seeing to it that that ceiling is kept

down, then a figure that is on the low side or so could be set. But I think it would be only fair to set a reasonable amount.

Mr. BOUCHER. All right. Mr. Parker, would you like to respond?

Mr. PARKER. I concur with Ron. The Florida program's administrative cost is approximately 11 percent. I think that most programs require administrative moneys to run their operations, such as investigation of claims. In addition to that, just the general management of the program costs money. It would only be reasonable that some of the moneys be provided to assist in operating such programs.

Mr. BOUCHER. I want to commend both of the witnesses for their presentation today.

Thank you, Mr. Chairman, I yield back the balance of my time.

Mr. CONYERS. Very good.

I just left Mr. DeWine in another subcommittee I was appearing before. I am glad he is back. Do you have any questions?

Mr. DEWINE. Several questions, Mr. Chairman. I also would like to thank our witnesses for appearing this morning.

I wonder if you could give us a little overview of the different State systems. I am wondering, for example, what is the range of limits in most of the States? In other words, the maximum compensation. Do most States have a figure of \$50,000 or how does that work?

Mr. PARKER. Yes. The program with the lowest maximum is \$5,000. Of course each State sets its own limits, the minimum or maximum amount. The minimum we have for any State is \$5,000 and the maximum is \$50,000, with the average approximately \$12,500. The State of Florida's maximum award is \$10,000.

Mr. DEWINE. Are all the States limited to injury of a personal nature versus property, injury to an individual versus a loss of property or how do they split out that question?

Mr. PARKER. In most States, you have to incur a physical injury to receive compensation and in most States it has to be the result of a crime that is punishable under that State's laws. So far as property loss is concerned, most States do not pay for property losses.

Mr. DEWINE. What about the question of a needs test or of the related question of whether or not the victim has been compensated in some other way for the injury? For example, if there were \$10,000 worth of hospital bills but those are covered by say Blue Cross/Blue Shield, how do most States come down on that issue?

Mr. PARKER. There is a subrogation agreement which is included in practically all programs and that subrogation agreement allows that if you are compensated from some other sources, such as if you have medical insurance, or if you are compensated through a third party, or through some other way, then you have to repay that amount that you have received back to the fund.

Mr. DEWINE. Thank you.

Thank you, Mr. Chairman.

Mr. CONYERS. I echo my colleagues' comments of appreciation.

Could you just tell me about the National Association of Crime Victim Compensation Boards? I hope you are as big and powerful and strong as I think you are, because we are getting a lot of support behind this legislation. We haven't worked it all out yet, as

you can tell, but I would like to hear a little bit about the organization, since I have got the president and past president before me.

Mr. PARKER. The National Association of Crime Victim Compensation Boards is a consortium of all of the compensation programs that are established in the United States as well as the Virgin Islands and D.C. Those programs have come together for the purpose of assisting each other, so far as crime victims are concerned, learning about what can be done to improved the programs that we have.

In addition to that, also making the people aware around the country as well as the States, what is going on in victim compensation and also, you might say, lobbying to assure that crime victims are indeed provided the assistance that is needed.

Mr. CONYERS. How is the Michigan program going incidentally—picking a State at random?

Mr. PARKER. The Michigan program is one of the larger programs that we have. I think they are third or fourth in the country. I don't know of any problems that they are experiencing at the present time. They have paid out so far as compensation is concerned some of the largest awards that we have.

Mr. CONYERS. Well, we are kind of proud of them and I was just checking up on that.

Thank you, gentlemen, we appreciate your continued diligence in the field, and we think we are doing something important in the area of criminal justice.

Mr. ZWEIBEL. We do, too.

Mr. CONYERS. It is a long time coming where we look at the victim in the whole scheme of criminal justice, and you have been doing this for many years and are pioneers, and I am very proud of you.

Mr. ZWEIBEL. Thank you.

[The prepared statements of Mr. Parker and Mr. Zweibel follow:]

SUMMARY OF STATEMENT OF HERBERT G. PARKER

During the past eighteen years, dozens of crime victim compensation bills have been considered by the United States Congress. However, none have reached the stage of fruition as the present bills by Rodino-Berman and by the Administration. While Congress has been considering such legislation, forty or approximately 80 percent of the states have attempted to fill the need by establishing compensation programs for victims of crime. This financial burden has been so heavy upon the states that some programs have suffered fund shortages causing delays and deferments of up to two years in assisting innocent victims of crime. In one state the program actually became inoperative for a period of time until adequate funds could be found to resume payments. In others the maximum payment to victims who do receive compensation is less than adequate. Then, every state has numerous victims who receive no compensation often despite great need because of regulations and inadequacy of funds.

A Federal Fund would provide the strong underpinning needed to stabilize the existing state programs, encourage all states to establish similar programs, and permit broader availability and adequacy of awards.

The National Association of Crime Victim Compensation Boards and the State of Florida, strongly support the provisions of H.R. 3498 to provide states with compensation programs up to 50 percent of the covered costs of compensating victims of compensable crimes.

TESTIMONY OF HERBERT G. PARKER, PRESIDENT, NATIONAL ASSOCIATION OF CRIME VICTIM COMPENSATION BOARDS AND CHIEF, BUREAU OF CRIMES COMPENSATION DIVISION OF WORKERS' COMPENSATION, DEPARTMENT OF LABOR AND EMPLOYMENT SECURITY, STATE OF FLORIDA

INTRODUCTION

Mr. Chairman and Members of the Committee, I am Herbert G. Parker. Presently, I serve as President of the National Association of Crime Victim Compensation Boards (NACVCB) and Chief of the Bureau of Crimes Compensation, State of Florida.

It is indeed a pleasure for me to have the opportunity to address you today in my capacity of President of the National Association of Crime Victim Compensation Boards and Chief of the Florida Bureau of Crimes Compensation.

Today, there are 40 victim compensation programs, including the District of Columbia and the Virgin Islands. This is strong testimony of the states' commitment to assist persons who are innocent victims of crime. In 1983, more than 36,000 claims were received by these programs and more than \$59 million were awarded to innocent victims of crime. In Fiscal Year 1983-1984, the State of Florida alone awarded \$3.7 million to crime victims and more than \$13.5 million have been awarded during its five plus years of existence. While these figures are impressive, one should not forget the large number of victims who were not compensated due to regulations and lack of funds. Furthermore, it should be noted that even in these days of rising medical, hospital and other costs, the highest award Florida law permits is \$10,000. This alone indicates a need for federal assistance.

From my vantage point, I would like to express my position on the Victims of Crime Assistance Act of 1984, which would establish a Crime Victims' Assistance Fund for the purpose of providing federal financial assistance to state compensation programs as well as to local and federal victim assistance programs.

It is admirable that Congress has for some time recognized that many innocent persons suffer personal injury or death as a result of criminal acts or in their efforts to prevent crime or apprehend persons committing or attempting to commit crimes. Such persons or their dependents may thereby suffer disabilities, incur financial hardships or become dependent upon public assistance.

During the past eighteen years, dozens of victim compensation bills have been considered by the United States Congress. However, none have reached the same stage of fruition as the present bills. It is my hope and the hope of those I represent that some victim compensation and assistance bill will be passed this legislative session.

In May of this year, the annual conference of The National Association of Crime Victim Compensation Boards was held in Orlando, Florida. Although there were many concerns regarding the present legislation, the major consideration for this year was the passage of federal legislation to assist compensation and victim assistance programs.

Today, forty of the states or approximately eighty percent, have established compensation programs. No one can deny the fact that as long as criminal violence is perpetrated against the innocent, that victims of such violence will have legitimate needs deserving of adequate assistance. These states that have established such programs have recognized the need of its residents who are victimized to be provided some measure of assistance as innocent victims of crime. This is a heavy burden that has been borne by many states since the inception of the first crime victim program in 1965 in California. However, some programs have often felt the pains of fund shortages, which have caused delays and deferrals in assisting crime victims. The program in the State of Washington became inoperative for a period of time until adequate funds could be found to resume payment of awards to innocent crime victims. Other programs have experienced delays of payments of one to two years to victims because of fiscal constraints. The most difficult obstacle to overcome in the establishment of victim compensation programs is the impediment of an adequate funding base. It is my firm belief that the establishment of a Federal Crime Victim Fund will provide the strong encouragement needed to enroll those states not presently involved.

FUNDING MECHANISMS

Crime Victim Compensation programs receive funding from a variety of sources. Thirty-nine percent of existing programs are funded solely through general revenues, 36 percent funded solely through fines and penalties and 24 percent through a combination of general revenues and fines and penalties. Sixty percent of current

state victim compensation programs are funded solely or in part through revenues from fines and penalties. The most stable programs seem to be those which are funded by the mechanism of fines and penalties, since such funds are derived from the courts through penalty assessments, rather than from appropriations. Some states have experienced financial difficulties where the statutes require a dependence on general revenues or supplemental appropriations. The Federal Fund would provide the strong underpinning needed to stabilize the state programs, no matter what their funding source.

WHY FEDERAL ASSISTANCE?

Many states have established programs and incorporated only those provisions which could be supported by the funds to be made available. Many aspects of a good program could not be included simply because funds to support such would not or could not be provided because of other state priorities. For example, the State of Florida could not include the provision of awards to non-residents because of the prohibitive cost that would be incurred. The state recognized the need for such a provision; however, the projected revenue would not permit such.

Many states do not include other provisions that have greater consideration for victims because of inadequate revenues. Some of those provisions for inclusion are:

- (a) Non-residents of the state;
- (b) Mental health counseling;
- (c) Uninsured persons injured by motor vehicles;
- (d) Persons injured by drivers under the influence of drugs or alcohol;
- (e) Persons related to the assailant; and
- (f) Injured minor children.

Other provisions which could be included if adequate funds were available are: Increasing maximum awards; eliminating minimum loss provisions; and eliminating serious financial hardship criteria.

The maximum awards in victim compensation programs range from \$5,000 to \$50,000 with the average award being approximately \$12,500. Needless to say, the cost of medical care, out-of-pocket losses, and loss of support rapidly consume maximum awards at the lower ranges. Minimum loss provisions are usually included in criteria because the cost of processing awards is greater than the loss involved. The serious financial hardship criteria allows only those persons who can demonstrate a serious financial hardship and actual need to be eligible for compensation. Many persons who should receive awards are denied assistance because of this clause. These three provisions were designed to establish criteria to conserve revenue of compensation programs. There is little doubt that there is a strong need for additional revenue to permit states to grant awards to a broader range of innocent victims of crime.

H.R. 3498 THE RODINO-BERMAN BILL

The funding scheme for federal assistance under this bill seems to have all the necessary components to provide a stable source of additional funding to improve state service delivery systems to crime victim compensation and assistance programs. With the additional assistance, programs would become more effective and indeed more responsive to crime victims' needs that presently are neglected.

Under this bill, up to 80 percent of the fund would be used to support state crime victim compensation programs with the remainder assisting victim witness services. Eligible state compensation programs would receive up to 50 percent of the costs of the states' awards made in the previous fiscal year and 100 percent for coverage of federal crimes. The National Association of Crime Victim Compensation Boards supports the provision of the 50 percent of the costs for state programs and 100 percent of coverage for federal crimes.

State crime victim compensation programs would be required to meet certain eligibility requirements, to include compensation to non-residents who are victimized within the state borders. Such states as Florida, California, Nevada and Massachusetts which have large numbers of visitors, have been reluctant to repeal their victim residency requirements because of the negative fiscal impact. However, the 50 percent provision would assure participation of all states in the Federal Assistance Fund. Most compensation programs presently meet the other eligibility criteria enumerated in the bill. This provision will also encourage those states without compensation programs to consider establishment of such programs.

Twenty percent of the fund would be distributed among states to support victim assistance programs. Victim/witness assistance programs in coordinating with crime victim compensation establish good delivery systems to provide both short

and long term basic physical, financial and emotional needs of crime victims. Based upon the Government Accounting Office estimate that between \$45-75 million would be deposited into the fund during the first fiscal year, and that the apparent needs of compensation programs would approach approximately \$30 million, I would personally support an increase greater than 20 percent of the total fund for victim assistance programs.

It is my belief that the criteria established by this bill for states to be eligible for assistance are reasonable. It is also my belief that the reimbursement for 50 percent of the costs of state programs will induce states that are not presently involved to become involved. Additionally, this will provide the incentives for all programs to broaden their base to assist a greater number of innocent victims. Those programs which were reluctant to eliminate residency requirements because of the negative fiscal impact will be strongly encouraged to participate.

COMPARISON OF ADMINISTRATION BILL TO RODINO-BERMAN BILL

The Administration Bills, S. 2423 and H.R. 5124, also create a victim assistance fund which will provide a stable source of additional funding for compensation and victim assistance programs.

There are two principal differences in the Rodino-Berman Bill and the Administration Bill. Those differences are the Administration Bill would provide additional stated requirements for programs to receive assistance from the federal fund and the distribution of the fund to compensation and service programs.

I will first address the distribution of funds. The Rodino-Berman Bill provides that compensation programs will receive 50 percent of the costs of awards paid out by a compensation program the previous fiscal year and 100 percent of coverage for victims of federal crimes. Eighty percent of the total fund is available to provide 50 percent to compensation programs. The remaining funds would be distributed to victim assistance programs.

The Administration Bill would provide that state compensation programs receive no more than ten percent (now changed to 25 percent) of the amount the state spent for compensating crime victims the preceding year. Thirty percent (now 45 percent) would be distributed "among the states on the basis of state population in relation to population of all states" and 20 percent (now changed to 15 and 10 percent) to the Attorney General for distribution to law enforcement agencies.

The percentage of distribution to compensation programs is too low a figure (1) to induce many of the non-compensation states to establish programs, or (2) to influence all the non-qualifying states to meet the program requirements, or (3) to cause those states that qualify to change their programs to assure greater consideration for victim needs.

The National Association of Crime Victim Compensation Boards endorses a 50 percent-of-awards figure contained in the Rodino-Berman bill to obtain the desirable effects enumerated above.

If the ten percent figure were to be utilized, the State of Florida would possibly not participate because of the negative fiscal impact caused by the non-residency requirement. Other tourist states would likely be similarly affected.

Much has been said pro and con regarding the non-supplantation clause included in the Administration's Bill (S. 2423 and H.R. 5124) which reads: "A State is eligible to receive funds under section 201(a)—compensation—if . . . the chief executive of the State submits an application . . . which . . . certifies that the funds awarded . . . shall not be used to supplant available state funds, but to increase the amount of funds expended by the State to compensation victims of crime. . . ."

In my opinion, such a policy should include both compensation and service programs if such a provision is included in the bill. I hope that this provision will not be included in the bill even though it is included in the language of some grant programs. Most states that have established crime victim and assistance programs have done so based on the varying needs of state residents. These states have no interest in letting the federal dollars merely take the place of state dollars. The federal government should not attempt to dictate a uniform level of funding support to be given to state crime victim compensation programs. Such attempts would undermine the basic level of national coverage for crime victims. Because some states are frequently unable to adequately support their crime victims. Because some states are frequently unable to adequately support their crime victim programs, one effective means of providing federal assistance is to allow a supplantation of funds.

CLOSING

In closing, I would like to express my appreciation to this Committee for the opportunity to provide testimony before you, the attentive and concerned representatives of the people. This legislation is of vital importance to the states and has been eagerly awaited for several years. Federal assistance is needed to assist states that have for so long shouldered the burden of compensating innocent victims of crime. Enactment of this legislation will be an important step forward in enabling states to effectively and more adequately administer their own crime victim compensation and victim assistance programs.

TESTIMONY OF RONALD A. ZWEIBEL, CHAIRMAN, NEW YORK STATE CRIME VICTIMS BOARD

Mr. Chairman, I am pleased to appear before you again to present the views of the New York State Crime Victims Board on H.R. 3498, "The Victims of Crime Act of 1983," and H.R. 5124, the "Victims of Crime Assistance Act of 1984". As I previously submitted testimony to this Sub-Committee in February of this year on H.R. 3498, my statement today will focus primarily on H.R. 4134.

I would like to begin by thanking this Sub-Committee and its staff for the continuing strong interest they have shown in this important legislation. As you know, since your last hearing in February, 1984 on H.R. 3498, the Reagan Administration has had its legislative proposal introduced as S. 2423 in the Senate and H.R. 5124 in the House. It is my understanding that the Senate bill (S. 2423) has already been amended and reported by the Senate Judiciary Committee. Of several amendments made to the Administration proposal, the most significant from the viewpoint of crime victims compensation programs was the increase of the Federal Assistance share from 10% to a more realistic 25% of a State's victim compensation expenditures.

Before going into some detailed comments on the legislation before you, I would like to stress how important this legislation is to victims of violent crimes.

Crime Victim Compensation is the oldest service provided by government to crime victims. The New York program was established in 1966, and the concept of government funded crime victims compensation goes back nearly 4,000 years. The basic benefits provided by such programs are payment of unreimbursed medical expenses, loss of earnings or support, and burial expenses. Unfortunately, because of underfunding and program restrictions aimed at holding down program costs, only about two out of every one hundred persons killed or injured by murder, rape, robbery or assault, receives any compensation in the United States.

Because most state programs have residency requirements, most victims are not eligible to receive compensation outside of their home state.

Not only are most violent crime victims ineligible for state compensation due to fiscal restraints, but the minority who do receive assistance will often find that only a fraction of their medical expenses and other losses are covered due to award caps and other spending restrictions imposed on the programs by budget conscious state government. For example, nearly all state compensation programs have an overall maximum award cap that limits awards to a maximum dollar amount. These caps range from \$2,000 for Iowa to \$50,000 for Texas, and average \$17,600. In New York, maximum award for funeral expenses of a homicide victim has been fixed at \$1,500 for ten years. Compensation for lost earnings and support were last adjusted in 1976 when the present \$250 per week limit/\$20,000 overall maximum was established.

In New York, California and about one third of the other states, a claimant for crime victim compensation must demonstrate financial hardship to receive an award. Victims of crimes committed by family members are also ineligible for compensation in most states. Many crime victim compensation administrators find these provisions difficult to justify. Not a month goes by that myself and other members of Crime Victims Compensation Boards are not subjected to tirades of verbal abuse from innocent victims of violent crime justly enraged that fiscally inspired state program restrictions have caused the denial of their meager claims. The total amount spent on crime victim compensation in the United States is less than the cost of one fighter plane for the military. New York's program, I would hasten to add, has generally provided more generous benefits than other state programs.

In my view, Federal assistance and national direction is vitally necessary if crime victim compensation is to be received by more than a lucky or desparate few, and in amounts adequate to provide a true "safety net" for the pain caused by the over 1,000,000 violent crime related injuries and deaths which occur annually in the United States.

FUNDING FORMULAS

The funding formulas for federal assistance to state crime victims compensation programs contained in H.R. 5124 are inadequate with a 10% Federal share. This amount, for many states, would not even offset the costs of meeting the proposed Federal program standards of repeal of state residency requirements.

Under the provisions of H.R. 5124 (Fish), a Crime Victims' Assistance Fund would be established in the U.S. Treasury into which criminal fines imposed in Federal cases, as well as royalties and other moneys paid to a convicted Federal defendant as a result of any contract made to depict his criminal act would be deposited. It has been estimated that \$45-75 million would be deposited into the Fund in the first year with 50% being available to state compensation programs. With these figures in mind, while the Fund would appear to be more than ample to provide adequate funds for state crime victim compensation, certain disbursement criteria require that:

- (1) available funds could not be used to supplant available state funds,
- (2) moneys earmarked for State compensation programs would be limited to 10% of the amount paid out by the states for compensation awards. These provisions would seem to defeat the stated intent and purpose of this Act, sparked by the recommendations of the President's Task Force on Victims of Crime. By way of example, under the bill's present funding formula, state compensation programs would have received a maximum of \$5.9 million for 1983 while the Federal Treasury would receive by way of reversion at least \$20.1 million, assuming total collections were \$50 million. Crime victim compensation, it must be remembered, is by and large the only government program which provides direct monetary support to victims of violent crimes such as murder, rape, robbery and assault. It would be incongruous, indeed, if a Federal Victims of Crime Assistance Act were approved that allocated 90% of its finds to programs providing indirect services or soft services to victims, for government administration, and as revenue to the General Fund of the United States.

Moreover, it is quite possible that some states, such as Florida, California, Nevada, or Massachusetts, which have a large number of visitors and would be required to repeal their victim residency requirements in order to qualify for Federal assistance, would actually suffer a negative fiscal impact by participating in the proposed federal aid program. Under the bill's non-supplantation clause, all states with compensation programs would be required to certify that any federal money received would only be used "to increase the amounts of funds expended by the State to compensate victims of crimes". This provision, while apparently a well-intentioned attempt to prevent states from reducing their funding commitment to victim compensation, may indeed have the opposite effect by discouraging state participation in the Federal program. States with well-established programs, states where the crime rate and/or population is dropping or states with serious fiscal problems may be unwilling or unable to increase funding to victim compensation. Such a provision while perhaps appropriate to new categorical grant programs, is not in my opinion appropriate for crime victim compensation, a service initiated by and provided by most states for over a decade.

The Federal government cannot and should not attempt to dictate to the states on a matter of primary state policy: The level of funding support to be given to state crime victim compensation programs. Any such attempt will potentially undermine a basis level of national coverage for crime victims, an important goal for any national victim assistance program.

In H.R. 3498 (Rodino) the Federal share of state compensation costs would be 50% and up to 80% of the Federal funds available would be made available to state compensation as opposed to crime victim assistance programs.

While in my earlier testimony in February of this year, I supported the 50% Federal share for compensation together with 50-50 split in distribution of available federal funds as between compensation and victim assistance programs with a priority for compensation programs, the National Assn. of Crime Victims Compensation Boards has adopted a position that merely calls for a 50-50 split with no priority for either compensation or victim assistance programs. I support this position as most fair and most likely to provide balanced support for both compensation and non-compensation services to crime victims.

For example, under this suggested formula, whatever Federal moneys were available in the Fund for grants to the states would be divided in half with one half going to provide assistance to eligible compensation programs and one half to earmarked victim assistance programs.

SON OF SAM PROVISIONS

Since 1977, when New York first enacted a statute titled "Disposition of Moneys received as a result of a crime" (Executive Law, §632-a, popularly known as the "Son of Sam" law), at least 25 other states have enacted similar laws.

I am gratified to see in H.R. 5124 a similar provision aimed at ensuring that monies which would otherwise be paid to the criminal for use of the crime story by the media will instead be paid to the victims of these criminals.

I am, however, constrained to note that this provision as presently drafted would unnecessarily pre-empt state laws. In my opinion, a wiser course would be to permit the states exercise concurrent jurisdiction in this area. In those cases involving interstate transactions between a criminal perpetrator and book publishers or motion picture producers, or in cases where crime victims are located in several states, Federal jurisdiction could potentially secure victims their rights more effectively than the application of one or more state laws. However, in cases involving criminal acts, contracts, and crime victims all located within a single state with an established and court-tested "Son of Sam" Law, that state's jurisdiction should be preferred.

I believe concurrent jurisdiction with the states is particularly important due to a constitutionally untested feature in the bill which would have the federal government confiscate the media profits of a person committing a crime independent of the victim obtaining a civil judgement. New York and most states use a stakeholder rather than a confiscatory approach. The New York State Crime Victims Board acts as a neutral stakeholder in order to ensure that victims' claims are settled *before* monies are paid to the criminal or his representatives. I would suspect that several years after enactment of a federal law in this area, there would be one constitutional challenge after another to such a statute. Should a federal confiscatory law that pre-empts all state laws be found unconstitutional, a situation could develop where both the Federal government and the states would find it legally difficult to prevent the enrichment of infamous criminals at the expense of their victims.

FEDERAL ASSISTANCE FOR ADMINISTRATIVE EXPENSES OF COMPENSATION PROGRAMS

Both H.R. 5124 and H.R. 3498 would bar, unwisely in my view, Federal assistance for the administrative costs of processing compensation claims. While Federal legislation would substantially increase funds available to provide compensation to violent crime victims, unless funds are also available to increase staffing to process the new claims that will be induced, at least in part, by this Federal program, service to crime victims is likely to suffer.

This problem was widely discussed at the Conference of the National Assn. of Crime Victim Compensation Boards in May. Many programs' administrative resources are presently stretched so thin that they cannot keep up with present case loads. In New York, while claims increased dramatically in 1983 after the state legislature expanded benefits and eligibility, we are operating the compensation program with a staff that has been reduced by 18% since 1982, leading to a growing backlog of unprocessed claims. While some states may increase administrative funding and staffing of compensation programs after enactment of Federal legislation, the overall result is likely to be an increased flood of new claims for understaffed programs and more delays in processing claims. Delay in processing compensation claims is a major complaint of the public with present staffing levels at compensation programs.

Moreover, it seems inequitable that victim assistance programs which provide soft services to victims would receive Federal assistance for administrative expenses while compensation programs would not.

GRANDFATHERING

Finally, I would suggest that state compensation programs that do not presently comply with the proposed federal standards for such programs, be "grandfathered" or granted a one year grace period to amend their statutes to bring their programs in compliance. Such a provision, which was contained in proposed federal legislation in prior years, would prevent programs from losing a year of funding assistance due to the normal lead times required to amend state statutes.

CONCLUSION

In closing, I would like to thank this Committee for the opportunity to provide testimony before you today. This type of federal legislation is certainly both justified and long-awaited by states and local communities across this country. As you are no

doubt aware, the time remaining this year to act on this legislation is short. However, I am confident that if this Sub-Committee hastens its deliberations and reports a bill, it will be signed into law by the President within the next three months.

With adequate assistance from the federal government, the small steps that states have been able to take to provide needed services to crime victims can become great strides toward relieving the physical, emotional and financial crises that millions of law abiding citizens face after being victimized by violent crime.

Mr. CONYERS. I would like to call on the gentleman from Ohio, Mr. DeWine.

Mr. DEWINE. I notice there are TV cameras here. I wonder if I should make a motion to have the hearing covered under rule 5?

Mr. CONYERS. Without objection, such coverage will be allowed pursuant to Committee Rule V.

Mr. DEWINE. It is my pleasure to introduce to the committee a very good friend of mine, Bill Schenck, who is the prosecuting attorney in Greene County. Bill and I served as assistant prosecuting attorneys in the early 1970's. Bill was my chief trial counsel during the 4 years that I was Greene County prosecuting attorney, and when I left the prosecutor's office to become state senator, Bill ran for the seat and was elected, and is running this year again unopposed.

He has over 10 years experience as a trial attorney, has tried a number of murder cases, a number of felony cases in Greene County, and has established in the last several years a very effective crime victim program to assist the victims of crime, assist witnesses who are going to testify, in surviving the hurdles of dealing with the criminal justice system.

I might mention that during the time that I was prosecuting attorney, Bill as the chief trial counsel and I tried a number of cases together, and we sort of established our own informal victims assistance program.

He and I were talking just a few moments ago, reminiscing about the number of times we went out and worked directly with the victims of crime, particularly rape victims, in preparing them for trial and trying to get them over the ordeal of being worried about testifying and the trauma of the rape and the trauma of having to relive that in court, and we did that on a sort of ad hoc basis, informal basis.

I am very happy to say after Bill became prosecuting attorney he institutionalized this, set up a very good program which he will tell us about as he talks about this particular bill, and he has relied extensively on volunteers and people in the community who have assisted victims.

So without much further introduction, I would like to introduce to the committee my good friend and law partner, Bill Schenk.

Mr. CONYERS. Thank you very much, Mr. DeWine. Sounds very interesting. We welcome the witness, and you may proceed, Mr. Schenk, in your own way.

**TESTIMONY OF WILLIAM SCHENCK, GREENE COUNTY
PROSECUTING ATTORNEY, GREENE COUNTY, OH**

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

Mr. Chairman, and members of the committee, I appreciate the opportunity to testify before you today in support of H.R. 3498, the Victims of Crime Act of 1983.

As Mr. DeWine indicated, I am William F. Schenck, prosecuting attorney in Green County, OH. Greene County is a jurisdiction of 125,000 people in southwest Ohio, and is composed of a mixed urban/rural population which represents a broad cross section of American life—civilian and military, university students, professional people, laborers, farmers, housewives, and children.

Our office prosecutes approximately 500 felony cases to conclusion yearly, which is somewhat higher than the average for a county of our size. This figure does not include the thousands of prosecutions for misdemeanors and juvenile crimes. Of these 500 felony cases per year, our records indicate that at least half involve victims of violence—sexual assault, robbery, child abuse, and of course, homicide.

During my 10 years as a prosecutor, either as elected prosecutor or as an assistant, the most common complaint I have heard from the average citizen is that our criminal justice system goes to great lengths to protect the accused and to provide benefits indefinitely after conviction. I am certain you have heard your constituents complain about the money being spent for free lawyers, free court transcripts, drug rehabilitation programs, college educations for those in prison, and halfway houses. A good portion of the taxpayers money is used to provide assistance to criminals.

While it is not in my testimony, I don't have any problem with that. I have no complaint with due process and rights for the accused. That is not the purpose of which I am trying to say here.

The second most common complaint, and one being heard with increasing fervor, is that the system is totally insensitive to the rights, needs, and feelings of the victims of crime. The victim has no lawyer to advocate his or her rights to the judge, the probation office, or the parole board. The prosecuting attorney in a sense represents the victim, but in reality the prosecutor represents society, and his duty is far greater than simply advocating for the person offended. It is clear to me that the time has come for us to implement a method that will help fill this void, without diminishing the rights of all others involved in the criminal justice process.

In January 1982, I began the development of the victim/witness assistance program, as a division of my office. This was an expansion of many things begun by your colleague, Mr. DeWine. This was done for both practical and philosophical reasons. I was convinced that many cases were not being reported and/or prosecuted because of reluctance and fear on the part of those who had suffered personal violence.

Misinformation and/or anxiety about the unknown are the most common reasons for people's unwillingness to report crime, to come forward, and to entrust their personal cases to the criminal justice system. I am convinced that our program has directly produced successful prosecutions of cases that otherwise would have been lost. I don't necessarily mean successful prosecution just in getting convictions and locking people up, I mean successful in the sense of leaving the victim with a feeling that somebody cares, that there is some compassion, and whether or not there is a statistical conviction.

tion, at least leaves the victim with a feeling that his or her rights are important. So I think success is a relative term, depending upon whether you look at it statistically or from a humanitarian standpoint.

I believe that our program has, as well, increased the number of prosecutions in cases that otherwise would not have been brought to our attention. We have experienced increased reporting, more thorough investigations, increased numbers of prosecuted cases, and increased conviction rates because someone advocated for the victim. Specifically, since January of 1983 when the program began, only one case in which the victim/witness assistance was provided has resulted in an acquittal.

Before this program was started, the only support and assistance directly available to a victim of a crime against his or her person other than monetary compensation from the State fund, was that provided by the particular prosecutor or assistant prosecutor handling the case, and occasionally from the investigating officer. Mr. DeWine mentioned that we had our own ad hoc program.

It brings to mind a case he and I had involving a college student from down in Oxford, OH, in which we must have traveled 500 or 600 miles in our own automobiles, making trips to her home to try to assure her that her rights would be protected, to assure her that she would be treated fairly, to encourage her to continue with this rape prosecution. It took a lot of time. To some extent, it gets the prosecuting attorney too personally involved in a case. It was the best that we had. It had a happy ending in the sense that there was a conviction. That is basically what there was of a victim/witness assistance in our county until more recently, and I suppose it was effective, the point being I think it can be a lot more effective.

The problem with this was that the prosecutors and police officers did not have ample time to adequately explain the court process, what to expect, and how to prepare. Fear of the unknown is so great to witnesses, and to the victim they are afraid, they are scared, don't know what to expect. They have heard horror stories, watched television and they need support and counseling and assistance before they ever reach the courtroom.

Most prosecutors and police officers are not adequately trained for the task of support counseling, and in many cases, are not personally committed to the extent necessary. In fact, if a prosecutor or police officer attempts to be a victim advocate, he or she may be less effective in performing his primary job in the criminal justice system. You get too close to the victim and it becomes very difficult to prepare cross examination.

It becomes very difficult to be both advocate and support counselor and at the same time explain to them what is wrong with their story or their testimony or what is wrong with their appearance. You are trying to wear two hats. You may lose your objectivity, or you may in fact seriously harm the victim or the witness' attitude about going forward. On the one hand, they feel you are their friend and support but then on the other hand before trial you are tearing them down and pointing out to them the weaknesses in what they are saying and it is not a good situation from my experiences as a trial lawyer to be in.

I would like to give you some specific information about the victim/witness assistance program in Greene County. The program has stated, service oriented objectives. Among these are:

Providing immediate and ongoing support, assistance, counseling, and advocacy to victims and witnesses of violent crime, through a 24-hour-a-day response program to all police and hospital requests for assistance.

Providing crisis intervention counseling by both professional staff, and well trained volunteers, of which we now have approximately 40 volunteers that we have trained during the past 2½ years and who work with us.

Improving services to victims and witnesses of violent crime by providing seminars for and by law enforcement agencies, hospitals, and social service agencies.

Providing community education programs on sexual assault prevention and awareness, child sexual abuse prevention, and the criminal justice system.

We developed a coloring book which is designed to subtly educate the small child on child abuse, things to be aware of and what to do about it. We have developed our own film through the assistance of the State university where we put a play on to film that can be presented in the schools to the children, virtually every public school in Greene County, OH, has been given presentations on a class-by-class basis by both our staff people and with the assistance of the volunteers.

We have three staff members, including a full-time director who has a masters degree in counseling from the University of Dayton. She has been with me for 2½ years. Very self-directed, has worked for an average of \$15,000 a year. We have been most fortunate to find somebody with that talent to work for that type of a salary. I could go on, I think, at pretty great length—

Mr. CONYERS. We appreciate brevity in this subcommittee.

Mr. SCHENCK. I don't want to linger. I would like to say the rest of my testimony set forth in here is more of specific statistics and facts, which may or may not be of some value to you at some point in time. Rather than read and continue through that, I would like to submit this testimony for what value it may have and hope that it will be supportive of the legislation in whatever form. I would like certainly to thank you for honoring me and allowing me to come here and give my position and thoughts on the matter. I will try to answer any questions that the members of the committee might have.

Mr. CONYERS. Thank you, Mr. Schenck. I appreciate your coming here at Mr. DeWine's invitation. I can see why he invited you.

Just two questions. Are there more prosecutors who are becoming sensitive to victims because the prosecutors are the front line people? They bring the case to the judge. We are lambasting judges around here, and a lot of people don't remember that it is the prosecutor who presents the charges and usually has a lot to do with framing the counts. You seem to represent a new kind of orientation among prosecutors.

Mr. SCHENCK. I appreciate your saying that. I hope that it is not—

Mr. CONYERS. I hope it doesn't get back to Ohio.

Mr. SCHENCK. Mr. Chairman, can I answer your question, which I think is to what extent do district attorneys and prosecutors generally feel the way I do. I believe the change is likewise occurring within prosecutors nationally. I think this is an idea and thing that is coming to fruition. I believe that prosecutors are no different than the country as a whole. To what extent prosecutors nationally truly feel compassion and a need to do this on a humanitarian basis, versus a political basis, is a very difficult question to answer and sometimes difficult I think for all of us to separate.

Mr. CONYERS. Is your association looking into the question of victim assistance?

Mr. SCHENCK. Yes sir. In our State there are 88 counties and I believe that there are a growing number of jurisdictions who are attempting to do exactly what I am doing. I must say to you in all candor we will continue with some form of victim assistance, whether there is funding or not. I think it is critical to what we are doing. The extent to which we can do this and the number of victims that we can help is directly dependent upon the monies available.

Approximately 50 percent of our \$40,000 per year comes from State funding through grants which of course puts specific objectives and mandates on us as to what we can and can't do, and what types of things we must do, which is good and bad. Because in effect we have to use our people and methods I don't think that are totally effective in terms of what we are trying to do, but it is certainly better than not having any funding at all, and I think that more and more in the State of Ohio, prosecutors and our statewide organization are looking toward providing these types of staffs, and I think on both practical and humanitarian ground—mean, feeling personally we ought to do this regardless of what we are going to get out of it in terms of favorable publicity or politics or statistics.

That is all fine and well, but my feeling is the victim ought to have some support regardless of whether there is even a prosecution or not. These people have suffered and somebody should be there to help them, and I think that is a growing philosophy among prosecutors in my experience.

Mr. CONYERS. I deeply appreciate your contribution to this legislative process.

I would like to recognize the gentleman from Virginia, Mr. Boucher.

Mr. BOUCHER. I thank the chairman and want to join with him in commending the witness for his very well presented statement here today.

Mr. SCHENCK. Thank you, sir.

Mr. BOUCHER. I assume that you would apply for Federal funding for your program in the event that legislation passed. Is that a correct assumption?

Mr. SCHENCK. Absolutely a correct assumption.

Mr. BOUCHER. Have you had a chance to examine the criteria for eligibility of programs and do you believe that under H.R. 3498 that your program would qualify under the current criteria?

Mr. SCHENCK. I think it is debatable. There is one word in that particular piece of legislation that as we presently operate could make us ineligible. I believe the word is exclusively. The word ex-

clusively is to me a dangerous word in this type of legislation because it could for whatever reason was being put in there, could actually adversely affect numerous types of organizations who might apply for funding, whether it be a district attorney or prosecutor, or whether it be a rape crisis intervention center, whether it be a battered wives shelter.

That word bothers me because it may unfairly limit what can be done and at the present time, we operate at least partially on State funds which mandate and require us to do thing other than what this bill says must be done exclusively, which might put me in a position where I might have to give up some other funds and/or some programs because of the limitations which arguably are inherent in the word "exclusively."

So other than that, I think we would qualify and I think that probably our program and the program from Montgomery County, which is immediately adjacent to our jurisdiction, probably are that two most advanced programs in the State. I don't mean to blow my own horn, but probably ours provides a greater commitment and greater services than any of the other programs in the State at this time. Montgomery County is much larger and has much larger jurisdiction, but other than that one word I think we are, I think we are all right, and we might even be allright even with that word, but it would make it arguable and perhaps difficult.

Mr. BOUCHER. Whether you qualify, if the word exclusively remains, would probably depend on how the word "program" was defined, whether that refers to the specific services you might provide to victims and their families, or whether that word is given a broader reach and would include the prosecutorial functions and other things that you do in your office.

Mr. SCHENCK. That is a statement that I am in agreement with. I think that would be the turning point as to whether or not we would or would not qualify.

Mr. BOUCHER. I gather your recommendation would be that we perhaps adopt some amendment that would ensure that programs such as the one that you operate are eligible for funding?

Mr. SCHENCK. I would, sir. I realize that regardless of what happens if a bill or if legislation is passed, there is going to be a lot of competition—and I don't like word "blood-letting"—there might be among different competing agencies for funds. Naturally I feel that prosecutors are in the best position to administer these programs because for one reason—this is kind of directed to the word "exclusive"—I don't know these other special interests, whether it be domestic violence, rape crisis, they are geared toward really basically one type of crime, whereas the district attorney or prosecuting attorney can operate a program that affects a broad spectrum of criminal victims, and is very serious about providing the services for everything from rape, to domestic violence, what have you.

So I would hope some amendment will come about which certainly would not put prosecutors in a position that they cannot commit and make application, whatever method that they take.

Mr. BOUCHER. Mr. Chairman, I want once again to commend the witness, both for his presentation today and more particularly, for the program which he has established. I think it is very laudable

and I hope it will become a model for other prosecutors not only in the State of Ohio, but nationwide.

Mr. CONYERS. The gentleman from Florida.

Mr. McCOLLUM. You are getting a lot of commendations. They are deserved. Not enough people are recognized for their work in this area. As you said in your testimony, it is a very popular thing all of a sudden. It shouldn't be all of a sudden, it should be all along. But at the same time, those who actually are performing the functions that you are, in your area, are not getting, in my judgment the kind of recognition that would enhance the program as it should be. So today perhaps we can add a little to that. You have made a very good contribution so far in your testimony to what we are doing.

I really don't have questions that I want to ask of you because you answered the only ones I think that are material or relevant. I am sure my good friend and colleague from Ohio, who knows you very well, undoubtedly will pursue some.

I would like to take the opportunity to say that I am sorry I could not have been here, because of the same place you and I were testifying this morning when Mr. Herbert Parker, who is the Florida Bureau of Crime and Compensation chief, and I know that his testimony was well received because I went over it yesterday with him. So I really think that it is great that we are having the opportunity to hear him this day.

I yield back.

Mr. CONYERS. Well, it is very interesting to know where Mr. Parker's testimony comes from. I thought that he had been doing that on his own.

Mr. McCOLLUM. I didn't create that one bit. I want him to get 100 percent credit. He came in and convinced me of a few points. I didn't convince him of anything.

Mr. CONYERS. Now to close it up, Mr. DeWine.

Mr. DEWINE. Thank you very much.

I might tell my colleague from Virginia that the reason, maybe one of the reasons he enjoyed Mr. Schenck's testimony is that Mr. Schenck is a Virginia native. He came to Ohio to go to Ohio State and loved the Buckeyes so much he has been there ever since.

Mr. SCHENCK. Maybe you shouldn't have said that.

Mr. DEWINE. Bill, you and I discussed this a number of times. I think the key, at least as far as I am concerned, is that our system of justice is a good system, but it has not been designed to protect the victim directly, at least there is no direct victim's advocate. We have the defense attorney who protects the defendant, we have the prosecutor who protects the people of State, but no one there directly advocating for the victim. I think what you have done and what other programs have done, are going a long way to accomplish that.

I wonder if you could comment on the question of money, the allocation of the limited resources that we always deal with between the direct compensation to the victim and money going into programs such as the program you have. To play the devil's advocate, what would you say to someone who would say, I think it is better that the money goes directly to the victim, that we put 100 percent

of this money, instead of splitting it between victims compensation and victim assistance, that we give it all directly to the victims?

Mr. SCHENCK. I think that the problem with that approach is that an overwhelming number of persons who are victims of crime numberwise, do not really suffer that much out of pocket. Sure, there are exceptional cases of homicides and the ones that involve a bad assault, that requires hospitalization and lost wages, but the truth is, speaking from my experience, 90 to 95 percent of the people who truly are victims of crime, within the meaning that we are talking here, don't suffer much in the way of medical bills or that much in the way of actual out of pocket.

Really from providing monies for counseling and things like that, certainly that is helpful, but the way these programs are being administered now, it really is a basically out of pocket type of reimbursement for the most part. I mean maybe some of them allow for mental anguish and emotional trauma. I am not opposed to that either, but the truth is there is there is a real need to help the victim from the beginning, to make that victim feel as he or she is taken through the criminal justice process, that his or her feeling and rights are important and you can't do that by simply making an application and at some point later in time sending them a check. I am sorry, that is kind of cold when you just do that, it is cold, and I think there is far more involved in sustaining victims than monetary payments.

Money is not the simple answer to everything. It is important and I do agree with the Nova position, which I am sure you are familiar with, that basically it should be an equal thing. The monetary compensation is important. It is extremely important, but I agree with the gentleman who was here earlier testifying from New York—it is interesting that he being on the compensation side, he agrees. I think the consensus of informed opinion out here among us involved is that something roughly equivalent to 50-50 is reasonable and fair and I advocate that.

Mr. DEWINE. I just have one additional question. Bill, could you give us an example, so that we can see how it actually works, how your program works? Let's make it a rape case, or any example you want to use. At what point do you become involved or does this victim's assistance program that your office runs and conducts, at what point do you become involved?

Mr. SCHENCK. We become involved, depending upon when we are notified. Most often any case that involves law enforcement taking someone to the hospital, the hospital automatically calls a specific number which is available 24 hours a day. We send a person for person to person contact. None of this business of "we will get to you in the morning, we will be back." We get the call, our people go, they go then, not tomorrow.

Mr. DEWINE. Go to the hospital?

Mr. SCHENCK. Yes, and they assist the victim in explaining to the victim why certain items of clothing are being held, why the doctor is conducting a certain examination, why the scrapings are being taken from the fingernails, why the hair is being clipped. That is explained, the process is explained.

The victim/witness advocate acts as a buffer, if necessary, between the police officer, who may or may not be a sensitive, able

individual—some are, some aren't. The truth is most are not trained and the victim/witness advocate is there immediately. Obviously if they are not called they don't get there, but as a rule, I would say 80 or 90 percent of the time, the victim/witness advocate is there immediately after the crime has been reported and stays with the victim through the prosecution, if there is one, and even for such period as is necessary after the prosecution to provide support counseling.

If the problem appears to be serious enough and the mental trauma is bad enough, we then try to direct that person to the appropriate mental health people for profound or deep counseling and evaluation.

Mr. DEWINE. So your people would be with them. In Ohio we go through a long process as we do in most States.

Mr. DEWINE. Preliminary hearing?

Mr. SCHENCK. Yes, sir.

Mr. DEWINE. A grand jury appearance, pretrial, before the trial preparation with the prosecutor. A rape victim you would be hours and hours tied up in court?

Mr. SCHENCK. We took a 5-year-old girl rape victim, the judge allowed her to testify. It was somewhat historical for our county. We used the anatomical dolls to assist the child in giving her testimony. She testified in a forcible rape case. It did result in a conviction. There were over 20 hours of time preparation between the prosecutor who handled it, which in that case was myself, and the victim/witness person, 20 hours in the week before the trial. That child and that child's mother never went to a court hearing, application station, interview, at any time without that person being there, day, night, weekends.

It worked. The situations where you take the 5-year-old child quite frankly, down to get an ice cream cone to make her feel at ease. We try to be careful that we don't get ourselves into a position, Michael, that we are going to be perhaps too greatly influencing the testimony. That is the danger the prosecutor must watch when he has this type of program, will be that he is being so influential that he can get the victim or the witness to say anything. So we walk a fine line there, too. We can spend too much time with our victim that we actually mitigate the credibility of the witness.

So the prosecutor has to be thinking about what role he wishes these people to play and remain above board and keep in mind that the prosecutor is seeking one thing, the truth, not just the conviction. The conviction is important, but the most important thing is to really, truly assist the victim, even if that victim says I don't want to prosecute, still provide the assistance. It is not a statistics game, it is a humanitarian approach.

Mr. CONYERS. That is very good, because you have reinforced something here. I may not have picked it up in your written testimony, and that is that the human factor is far more important than the bucks.

Mr. SCHENCK. That is my opinion.

Mr. CONYERS. There are poor people coming into this system who needed the financial assistance.

Mr. SCHENCK. Surely.

Mr. CONYERS. We are not ignoring that, but the psychological, as well as physical, services are what this thing is all about, and you put it forward in a very excellent way. Normally, I am not excited about increasing the jurisdiction of prosecuting attorneys, they are pretty big political guns in most of the political jurisdictions I know anything about, but in this instance I think a case can be made for them being the person, the office out of which these program are operated, because they are in touch with the witnesses and the defendants and other people. I have heard people say I will never come down there again and unless you come and put the cuffs on me, you can forget it. That is what we don't need in the efforts to improve our criminal justice system.

Your testimony has been very important, and I want to compliment my colleague for making it possible for you to appear here today. We appreciate everything you have said.

Mr. SCHENCK. I am honored to have been here and I hope I have been of some help, and thank you for all your kind comments.

Mr. CONYERS. You are welcome.

[The prepared statement of Mr. Schenck follows:]

STATEMENT OF WILLIAM F. SCHENCK, PROSECUTING ATTORNEY, GREENE COUNTY, OHIO

Mr. Chairman and members of the Subcommittee, I appreciate the opportunity to testify before you today in support of H.R. 3498, the Victims of Crime Act of 1983.

I am William F. Schenck, prosecuting attorney in Greene County, Ohio. Greene County is a jurisdiction of 125,000 people in southwest Ohio, and is composed of a mixed, urban-rural population which represents a broad cross section of American life—civilian and military, university students, professional people, laborers, farmers, housewives and children.

Our office prosecutes approximately 500 felony cases to conclusion yearly, which is somewhat higher than the average for a county our size. This figure does not include the thousands of prosecutions for misdemeanors and juvenile crimes. Of these 500 hundred felony cases per year, our records indicate that at least half involve victims of violence—sexual assault, robbery, child abuse, and of course, homicide.

During my ten years as a prosecutor, the most common complaint I have heard from the average citizen is that our criminal justice system goes to great lengths to protect the accused and to provide benefits indefinitely after conviction. I am certain you have heard your constituents complain about the money being spent for free lawyers, free court transcripts, drug rehabilitation programs, college educations for those in prison, and half-way houses. A good portion of the tax payers' money is used to provide assistance to criminals.

The second most common complaint, and one being heard with increasing fervor, is that the system is totally insensitive to the rights, needs, and feelings of the victims of crime. The victim has no lawyer to advocate his or her rights to the Judge, the probation office, or the parole board. The prosecuting attorney in a sense represents the victim, but in reality the prosecutor represents society, and his duty is far greater than simply advocating for the person offended. It is clear to me that the time has come for us to implement a method that will help fill this void, without diminishing the rights of all others involved in the criminal justice process.

In January, 1982, I began the development of a Victim/Witness Assistance Program, as a division of my office. This was done for both practical and philosophical reasons. I was convinced that many cases were not being reported and/or prosecuted because of reluctance and fear on the part of those who have or had suffered personal violence. Misinformation and/or anxiety about the unknown are the most common reasons for people's unwillingness to report crime, to come forward, and to entrust their personal cases to the criminal justice system. I am convinced that our program has directly produced successful prosecutions of cases that otherwise would have been lost. It has, as well, increased the number of prosecutions in cases that otherwise would not have been brought to our attention. We have experienced increased reporting, more thorough investigations, increased numbers of prosecuted cases, and increased conviction rates because someone advocated for the victim. Spe-

cifically, since January of 1982 when the program began, only one case in which victim/witness assistance was provided has resulted in an acquittal!

Before this program was started, the only support and assistance directly available to a victim of a crime against his or her person (other than monetary compensation from the state fund) was that provided by the particular prosecutor or assistant prosecutor handling the case, and occasionally from the investigating officer. The problem with this was that prosecutors and police officers did not have ample time to adequately explain the court process, what to expect, and how to prepare. Most prosecutors and police officers are not adequately trained for the task of support counseling, and in many cases, are not personally committed to the extent necessary. In fact, if a prosecutor or police officer attempts to be a victim-advocate, he or she may be less effective in performing his primary job in the criminal justice system.

I would like to give you some specific information about the victim/witness assistance program in Greene County. The program has stated, service-oriented objectives. Among these are: Providing immediate and on-going support, assistance, counseling and advocacy to victims and witnesses of violent crime, through a 24-hour a day response program to all police and hospital requests for assistance; providing crisis intervention counseling by both professional staff, and well-trained volunteers; improving services to victims and witnesses of violent crime by providing seminars for and by law enforcement agencies, hospitals, and social service agencies; and providing community education programs on sexual assault prevention and awareness, child sexual abuse prevention, and the criminal justice system.

The program in Greene County has three staff members, a full-time director and two half-time advocates who serve also as a communications coordinator and a volunteer coordinator. One of these three persons is on call, on a rotating basis, 24 hours a day, seven days a week, 365 days of the year. The staff is assisted by 30 volunteers who also rotate being on call. Volunteers receive approximately 36 hours of training, which covers all aspects of the criminal justice system, violent crime and its aftermath, such as "rape trauma syndrome", child abuse—sexual and physical—and crisis counseling. In addition, they attend in-service training programs, and receive on-the-job training by a member of the professional staff until they are completely qualified, and confident to handle cases on their own. All police agencies in the County make referrals to the victim/witness assistance program, and cooperative agreements for cross-referrals have been established with all relevant social service agencies in the County.

In the two and a half years since it was organized, the program has provided direct services to over 400 victims and witnesses of violent crime. The primary case load has been fairly equally divided between sexual assault victims, child victims of sexual abuse, and domestic violence victims. I think it is worth noting that most cases of domestic violence in Ohio are misdemeanor cases. I think it says something about the commitment and dedication of the staff and volunteers that these crime victims also receive support and assistance, even though their cases are not handled by the County prosecutor's office. In addition to the kinds of cases I've already mentioned, services have also been provided to kidnap victims, armed robbery victims, and witnesses of a senseless neighborhood shooting spree.

The first step in the victim/witness assistance program is the response to the hospital or police station when a crime occurs. This is followed by close contact with the client to assess needs in the first few days after the crime; court escort to all hearings; escort to all meetings with police officers and prosecutors during the trial preparation stage; and follow-up for a short period of time after the criminal justice process is completed. I might add that the program provides similar services even if the victim chooses not to pursue prosecution.

During the same two and a half year period, the program has made over 200 public presentations, to a total of nearly 7,000 Greene County residents. These presentations have covered such topics as rape prevention and awareness, child sexual abuse prevention and awareness, victim rights and victim advocacy, and the criminal justice system. One of the larger undertakings of the program was to develop and deliver child sexual abuse prevention programs for every first and fourth grade classroom in the County. In addition, rape prevention and awareness information was provided for all employees of the Wright Patterson Air Force Base Exchange, one of the largest exchanges in the country. This required four 1½ hour presentations a day, for four days.

The budget for the program is approximately \$40,000 per year. About half of this comes directly from my budget as prosecuting attorney, and most of this is used to pay the salary of the full-time director. The other half of the budget has, for the past eighteen months, been derived from competitive grants available through Ohio

Department of Public Welfare and the Ohio Department of Health. These grants have paid the salaries of the two half-time victim advocates, and for much of the extensive educational program.

Our funding is at-best, tenuous. The grants we have received have been earmarked for innovative programs. The funding agencies specifically preclude funding for continuing programs. In short, I have no real confidence that such funds will continue to be available. If and when such funds are no longer available to the program in Greene County, I have serious doubts about the ability of the county government to absorb the costs of the program.

Consequently, I sincerely urge your approval of H.R. 3498. I would ask that you give serious consideration, as well, to making the division of funds at least 50-50 to victim compensation and victim assistance. My reason for this request is that it is my understanding that most states now have funded victim compensation programs, and that most are solvent. Victim assistance programs on the other hand, are generally poorly funded, or more commonly non-existent.

I encourage your support of this important legislation for three overriding reasons:

First, victim/witness support and assistance have been shown to be a crucial part of the process of recovery that a crime victim undergoes;

Second, victim/witness assistance is a positive aid in obtaining convictions in cases of violent crime, thus assuring that perpetrators are, at least for a while, under some sort of control, and removed from society. A possible fringe benefit of this is that it could ultimately help to reduce the number of crimes and the number of victims;

Third, victim assistance programs can help to correct a long-standing shortcoming in our otherwise excellent criminal justice system, while improving both its credibility and its image.

Thank you very much for your time, and for your attention.

Mr. CONYERS. Our next two witnesses will appear as a panel. The first member of the panel is the executive director of the Minnesota Crime Victims Reparations Board, Duane Woodworth, a former judge, and the cochairman of the International Association of Crime Victim Compensation Boards. The other panelist is the director of the Delaware Violent Crimes Compensation Board, Oakley Banning, who is the vice president of the National Association of Crime Victim Compensation Boards.

Gentlemen, you bring a wealth of experience and we have your prepared statements, which will, without objection, appear in the record in full. I will let you take it from here.

TESTIMONY OF DUANE E. WOODWORTH, EXECUTIVE DIRECTOR, MINNESOTA CRIME VICTIMS REPARATIONS BOARD; AND OAKLEY M. BANNING, JR, EXECUTIVE DIRECTOR, DELAWARE VIOLENT CRIMES COMPENSATION BOARD

Mr. BANNING. Thank you, Mr. Chairman, distinguished members of this committee.

In Delaware, I would like to first point out, we are in support of H.R. 3498, the Victim of Crime Act of 1983. I would like to state that we are not in favor of passage of H.R. 5124 or S. 2423 in their present form. We feel that H.R. 3498, the way it is written, would do more to help victims of violent crime.

It is my understanding that there has been testimony given by certain individuals where the majority of the State compensation programs have excess and surplus funds. This may be the case of three or four States. However, the majority of the 39 State programs are underfunded and understaffed. For example, the State of Tennessee, the General Assembly just recently, in the last few

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months, dropped the maximum award from \$10,000 to \$5,000 in an effort have the program break even.

It is my opinion that some testimony that has been given regarding compensation programs has been based on some incorrect statistics. One example, in the publication of the National Institute of Justice, "Analysis of American Programs", had in there several things pertaining to Delaware that were not correct. One being administrative costs were 57 percent, which is not correct.

Our program in Delaware has been in operation since 1975. I have been with the program since its inception. We are a small State and I am able to keep in touch with our victims more easily than the larger States. Our program in Delaware covers mental health counseling and grants awards for mental suffering. We have learned over the years how important it is for victims to receive counseling from competent psychiatrists. As you are well aware, the past several years have been very difficult for most victim compensation programs. The economy as it has been, has caused money problems for us all.

I recommend to this panel if this legislation passes, that States should be allowed to accumulate a surplus of funds for lean years that may follow. Also, if the States were allowed to accumulate money in this legislation, maximum awards could be raised by various States to cover the increasing rise of medical costs.

The 80-20 split as proposed in the bill seems a reasonable split. I think that the needs of the crime victim compensation programs should be considered first as they are the backbone of assistance to crime victims. I would recommend that separate funds be set up for the compensation programs and victim assistance programs. This will eliminate any turf wars between the two organizations for the Federal funds.

I believe the immediate needs of crime victims, such as medical care, and lost wages, should be the priority of this legislation. The bulk of this money should not be used to create a bureaucracy of a vast assortment of new programs. I believe the existing compensation programs have proven their expertise of assisting crime victims and should be utilized for any additional assistance needed.

I feel Federal intrusion and paperwork should be kept at a very minimum. Over the years, the various State compensation programs have done a commendable job administratively. I think Federal grants for crime compensation programs should go directly to the compensation boards. If they were to go to the Governors of various States additional intrusion would be created. In our State the money would be turned over from the Governor to another State agency with a possibility of dictating policy to compensation programs. I think this is probably true in other States as well.

I would like to thank this committee for the opportunity to testify today and I would be more than happy to answer any questions you might pose.

Mr. CONYERS. Thank you, Mr. Barning.

I would like now to call on Mr. Duane Woodworth, executive director of Minnesota Crime Victims Reparations Board.

Mr. WOODWORTH. Thank you, Mr. Chairman, members of the subcommittee.

It is indeed a pleasure for me to be here in Washington and be invited to testify before this subcommittee and indeed have the State of Minnesota recognized.

Mr. Chairman, and members of the subcommittee, I believe there is on record a letter to the chairman from the commissioner of public safety in the State of Minnesota expressing the views of Gov. Rudy Perpich from Minnesota, in support of H.R. 3498 in its present form without amendment.

Minnesota has had a compensation program since 1974. We have task forces going on now and have been in the past studying all aspects of treatment of crime victims, including the criminal justice system, the compensation aspect, and all the services available, whether they ought to be combined, united, separate but distinct.

Mr. CONYERS. We are in receipt of such a letter, by the way.

Mr. WOODSWORTH. You have?

Mr. CONYERS. Yes.

Mr. WOODSWORTH. But Minnesota and the Governor have taken a distinct interest in all phases of benefits and assistance to victims and Minnesota is not unlike many other States that have seen the need in the past and have risen to the occasion, have done their best.

Funding has always been tough, but across the board, the States have taken the burden by themselves and with the advent or possible advent of federal involvement, the questions appear to be not whether the Federal Government wants to get involved, because obviously you gentlemen wish the Federal Government to get involved, and without a lot of apparent restrictions or directives applied from the Federal level to the State level. And in this regard, Minnesota and many of the other programs have looked at the different pieces of legislation and have resolved that H.R. 3498 is the favored legislation before the subcommittee.

I would liked to address my comment particularly to three areas. One is funding—and digressing somewhat from my prepared text, which is in the hands of the subcommittee—there appears to have been some misinformation bounding around the country, so to speak, regarding the financial stability of compensation or reparations programs. All I can say, gentlemen, is please believe me that the programs are not suffering a surplus of riches. No programs whether they be victim/witness programs or sexual assault programs or shelter homes or compensation programs, none of us have an excess of wealth.

The compensation programs, as you know, are all funded by the States. We are not receiving any Federal dollars at this point. To my knowledge, no compensation program has ever received any Federal money in any particular. At the same time, the States have assumed what they believe the burden to meet this need. I have had occasion in private practice of law to run across a couple of items in tax practices that have, let's just say, caused me to raise my eyebrows. I think we are familiar with what happened to tax deductions for medical expenses. It is not a lucrative deduction like it used to be before and you happen to be a victim with \$3,000 of medical bills the deduction doesn't do you much good. Likewise, you can't call it a casualty loss. A \$100 deduction for casualty loss is not available any more. I believe it is \$3,000 for casualty loss.

It seems to me like the Federal Government is sneaking in around the victims on all sides in limiting what they can do. Veterans' Administration hospital expenses is another regard. In the past, we didn't have to pay the bill at Veterans' Administration hospitals because it was a collateral source, so the Federal Government has a law now that says we have to pay to the Federal Government to the Veterans' hospitals for bills of victims of crime being treated at the hospitals. We have always paid for victims of Federal crimes. We always paid for Indians. We have several Indian Reservations in Minnesota.

I noticed the one administration bill, H.R. 5124, excludes Indians from coverage. I am not here to speak on behalf of the Indians, but I think it is disturbing that one segment of our society should be excluded from coverage.

The lack of funding has hurt these programs and I think Herb Parker spoke slightly about it. I won't dwell on it, but one way we have been able to live with reduced budgets and with inadequate funding, is we simply cut services. Everyone has to live within a budget. We have reduced benefits. We have a \$25,000 maximum in Minnesota. But when you want to find a way to make your dollar stretch from the beginning of the year to the end of the year, you can find ways of denying payment. Instead of being a close case that should go in favor of the victim, it is a close case that goes against the victim.

We also have taken steps to strengthen the eligibility requirements. This makes them stricter. It would be more beneficial to the victim if we could expand the definition of victim to allow more people to become eligible, but we can't do that at the same time that we have reduced funding.

The artificial method, artificial barriers that State compensation programs pose in order to stay within their fiscal guidelines are in fact hurting victims, at best they are not doing any good for the victims that could be done with adequate funding. Now, I would think that if the Federal Government became involved that the greatest impact the Federal Government could have would be in three distinct areas— one obviously I have talked about here is the funding, the funding that would broaden coverage. That would have impact on more victims, and upon those victims in a greater degree.

Second, to expedite process. There have been times in Minnesota when we have been 13 months behind times from the day a claim is received until it is paid. We are getting almost as bad as the Federal courts calendar. There are States that have gone as far as 2 years from the time a claim has been made until payment. We have been able to bring ourselves down in Minnesota to 8 months now. That is what we are currently running at. I think we should be down to 60 to 120 days as excess carriers is where we should be at.

The processing, the administration, is crucial in law—and I am sure Mr. Schenck would agree with me—justice delayed is justice denied, and payment delayed is payment derived. If you are going to give funds to the States, I would suggest that please include some for administration. You are adding addition, receipt of funds would be additional burden to administer and to ask the States to

administer with their present staffs is in my mind not feasible. It would be welcome if you would include some administration expenses along with the bill.

Third, and what I think is important also, one thing the Federal Government can do that the States can't do by themselves and that is create a system of uniformity. Now, I wouldn't want the Federal Government to dictate every jot and tittle as to what the uniformity ought to be, but within broad and general guidelines as exist now, within H.R. 3498, I think that uniformity is especially desirable.

I think, gentlemen, that concludes my remarks.

Mr. CONYERS. Well, I am glad to receive your testimony, Judge.

The question that I have is with reference to the International Association of Crime Victim Compensation Boards. Can you describe that organization in terms of its scope and activity?

Mr. WOODWORTH. It is an organization that is almost identical to the national association. In fact, almost all of the national members are also members of the international. The difference being, of course, that the international includes the Federal Republic of Germany, Hong Kong, China, which interestingly doesn't admit to having crime but has a crime victim compensation board. Hong Kong, Japan, Sweden, Australia. Of course, the whole concept of compensation started in New Zealand and Australia and spread throughout the British Commonwealth in the middle 1960's. All these countries are members of the international.

We have continuing contact, we have reciprocity agreements. For example, an Englishman or German visiting here in Washington, DC, that is a victim here in Washington, DC, but goes home to Germany for medical treatment, the Washington, DC, program director, Mr. Eric Cox, can contact Mr. Shetler in Germany and they can have instant communications between themselves and the victim and the person in Germany will help the victim in Germany and help investigate the claim in Germany to provide documentation back to Mr. Cox in Washington.

So we have a net working across the whole world.

Mr. CONYERS. Well, that is interesting to hear and I am very pleased to receive both your testimony. Are there any questions from any member of the subcommittee?

Mr. Smietanka.

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

Mr. Woodworth, and Mr. Banning, this relates to a statement that was made earlier by Mr. Parker but I believe both of you being from victim compensation boards, can probably relate to the question and provide an answer. He indicated that the percentage of distribution to compensation programs recommended in the administration bill and also that percentage that remains in the administration bill after being reported by the Senate Judiciary Committee is too low to induce many noncompensation States to establish programs or to influence all the nonqualifying States to meet the program requirements or to cause those States to qualify to change their programs to assure greater consideration for victim needs.

The percentage in the Rodino-Berman bill is 50 percent and in the administration's first bill, original bill it is 10 percent. Do you

have a comment on that? Was there some figure at which less than 50 percent you would find acceptable?

Mr. WOODWORTH. Less than 50 percent?

Mr. SMIETANKA. I guess that is the answer.

Mr. WOODWORTH. I would suggest that compensation and assistance, as we know them to be, are decidedly different both in theory and in practical application. Assistance is complicated and it is local. It is high touch, it is hands on on the front line. Compensation is uncomplicated.

Mr. SMIETANKA. Before you go too far, perhaps I should make myself better understood. I was referring exclusively to the compensation programs and the Federal matching percentage that would be available for compensation programs leaving apart the issue of which percentage of the Federal victim fund would be available for assistance and which percentage would be available for compensation. I am referring entirely now to compensation and what ought to be the percentage of the Federal matching grant.

Mr. WOODWORTH. Well, I think 50 percent has been a term that has been mentioned in several bills for several years and it is an insidious thing. I think people have lived with it, it is not something anybody has made strenuous argument for 100 percent. There have been one or two bills that may have mentioned 25 percent, which especially is language it is hard to get excited about. In Minnesota you are talking about less than \$100,000. It is a little bit difficult although we qualify across the board, with H.R. 3498. Now, we won't have to make any change. As a matter of fact, I look at 3498 and wonder if you didn't draft it using Minnesota law as a model, we qualified so well. But I don't know of a lot of States that are going to get excited about 25 percent, whereas 50 percent I think they have accepted it.

Mr. SMIETANKA. One last question that relates to something I believe you said in your statement that in H.R. 5124, victims of crime on Indian reservations would not be covered and I wonder maybe you could clarify that. It would appear that under the definition of crime only those would be excepted who are victims of crime that are prosecuted in Indian tribal courts or courts of Indian offenses. This would still, as I understand it, permit victims of the Indian major crimes, major assault crimes that are prosecuted in Federal courts to be covered, is that correct?

Mr. WOODWORTH. Yes, I interpret it the same way. I didn't mean earlier to imply that Indians would not be covered at all. We cover Indians that are victims of a crime committed on a reservation whether it is an open reservation or closed reservation, which is purely under Federal control or on a military installation. We will cover those people right now today and we will cover them regardless of what bills come from the United States Government. My comments were only directed at the administration bill that I thought it odd that the administration would even mention what they mentioned regarding the Indian court of claims.

Mr. CONYERS. Any further questions?

Mr. DeWine?

Mr. DEWINE. No questions.

Mr. CONYERS. We want to thank you both. You have contributed very importantly to our deliberations, and we commend you for your extensive work in the field. Thank you very much.

Mr. WOODWORTH. Thank you. Mr. Chairman, members of the subcommittee, thank you for allowing me to appear.

Mr. CONYERS. You are more than welcome.

[The prepared statements of Mr. Banning and Mr. Woodworth follow:]

TESTIMONY OF OAKLEY M. BANNING, JR., VICE PRESIDENT OF THE NATIONAL ASSOCIATION OF CRIME VICTIMS COMPENSATION BOARDS AND EXECUTIVE DIRECTOR OF THE DELAWARE VIOLENT CRIMES COMPENSATION BOARD

Good morning, Chairman Conyers and other distinguished members of this subcommittee.

I am Oakley M. Banning, Jr., Vice-President of the National Association of Crime Victim Compensation Boards and Executive Director of the Delaware Violent Crimes Compensation Board.

It is a privilege to appear before this subcommittee to testify in support of H.R. 3498, "The Victims of Crime Act of 1983," and express my views.

First, I would like to inform this committee that the Delaware Board is not in favor of passage of H.R. 5124 or S. 2423 in their present form. We feel H.R. 3498 would do more for innocent victims of violent crimes.

It is my understanding there has been testimony given that most state's compensation programs have a surplus of money. This may be the case of three or four states, however, the majority of the 39 state programs are underfunded and understaffed. For example, in the state of Tennessee, the General Assembly lowered the maximum award from \$10,000 to \$5,000 in an effort to place the program on a break-even basis. It is my opinion too much testimony about state compensation programs has been given by certain individuals who have little knowledge of crime compensation programs. I believe a lot stems from incorrect data and statistics of private interest groups and the National Institute of Justice publication, An Analysis of American Programs. This publication caused us some problems in Delaware because of incorrect statistics. We were listed as having 57% administrative costs. This statement is erroneous.

Our crime compensation program in Delaware has been operational since March of 1975. I have been with the program since its inception. As we are a small state, I am able to keep in touch with our victims more easily than larger states. Our crime compensation program in Delaware pays for mental health counseling and grants awards for mental suffering. We have learned over the years how important it is for victims to receive counseling from competent psychiatrists.

As you are well aware, the past several years have been difficult for most crime compensation programs. The economy being as it has these past years has caused a money problem for all. I recommend that states should be allowed to accumulate surplus money to help overcome lean years that may follow. Also, maximum awards could be increased to cope with rising medical costs.

The 80-20 split proposed in this bill seems reasonable. Crime compensation programs needs should be considered first, as they are the backbone of assistance to crime victims. I would recommend separate funds for compensation programs and victim assistance programs. This would eliminate turf wars for the federal funds. I believe the immediate needs of crime victims such as medical care and lost wages should be the priority of this legislation. The bulk of this money should not be used to create a bureaucracy of a vast assortment of new programs. I believe the existing compensation programs have proven their expertise of assisting crime victims and should be utilized for any additional assistance needed.

Federal intrusion and paperwork should be kept very minimal. Over the years the state compensation programs have done a commendable job administratively.

I think the federal grants for crime compensation programs should go directly to the compensation boards. If they were to go to the Governors of the States, additional intrusion would be created. In our state, this money would be turned over from the Governor to another state agency to be distributed. If this were the case, additional procedures would be dictated for crime compensation programs to follow from another state agency. This would create additional problems and turf wars.

I would like to thank the subcommittee for this opportunity to testify today, and will be pleased to respond to any questions the subcommittee may have.

STATEMENT OF DUANE E. WOODWORTH, EXECUTIVE DIRECTOR, MINNESOTA CRIME VICTIMS REPARATIONS BOARD ON LEGISLATION TO HELP CRIME VICTIMS H.R. 3498

Mr. Chairman and Members of the Subcommittee, on behalf of The Minnesota Crime Victims Reparations Board and for myself, please know that we appreciate this opportunity to offer testimony before you in support of H.R. 3498, the "Victims of Crime Act of 1983".

My name is Duane E. Woodworth. I am the Executive Director of the Minnesota Crime Victims Reparations Board. I am also the Co-Chairman of The International Association of the Crime Victim Compensation Boards. I have been actively involved in public service since the early days of The Office of Economic Opportunity, then as a staff attorney on a Legal Services Project on an Indian Reservation. I have since been an Executive Director of two Legal Aid Societies; a private attorney providing substantial pro bono services for Community Organizations; and as a member of The Judiciary, I have witnessed and tried to cope with some of the problems which are now addressed by H.R. 3498.

I know you are well aware of the litany of horrors faced by innocent victims of violent crime and I will not dwell upon them: The fear itself; the criminal event; the compromising, degrading, and indifferent response the The Criminal Justice System; and the physical, emotional and financial aftermath of the entire sequence of events.

Instead, I will focus my remarks mainly on Title I, of H.R. 3498 dealing with compensation to victims, and Title III, dealing with the funding of Titles I, and II.

Approximately 40 states have recognized the financial burdens assumed by the innocent victims of violent crime and they have acted in response. They have found solutions without Federal encouragement. They have done so without Federal financial help. They were not formed merely to receive Federal funds. They have voluntarily assumed the financial burden of compensating victims of Federal crimes. These states, individually, have risen to the occasion as did Minnesota in 1974 when one of your members, Congressman Vento, then a State Representative, sponsored our Minnesota Crime Victims Reparations Board.

These programs all had financially tentative beginnings. Minnesota which is representative of other programs started with \$100,000. It now stands at only \$650,000. We have never had sufficient funds to close out any fiscal year. Our total budget has been expended as early as the 6th month and as late as the 10th month. The same is true of most other state programs. And these are efficiently run state agencies. They are not labor-intensive. The average administrative cost percentage being approximately 14.95%. An exceptional amount by any standard. Further, this 14.95% administrative cost includes, in some states, some of the cost of administering Victim Assistance programs as well as administering the compensation programs.

The number one problem of the State Compensation programs has always been, and is today, financial. The Compensation Programs do not derive funds from charity, the United Way; Corporate gifts; governmental Block Grants; nor from charging a fee for services. Nor were they experimental or pilot projects funded through the L.E.A.A. To a state they depend upon either a general appropriation, fines and penalties collected in State criminal cases, or a combination of both.

In probably the most ambitious study of State Compensation programs (Victim Compensation Program Characteristics, Draft Report, Abt Associates, Cambridge, Mass., 1982), the researchers report: "Virtually everyone contacted indicated that program funding is the central issue for Crime Victim Compensation Programs." (Id. at 11.) One State, Washington, even closed its program for one year due to lack of funding. Yet, these state compensation programs have survived through a myriad of expedencies. They have further restricted eligibility requirements, they have delayed payments for months at a time, they have placed maximum limits on specified losses, they have required deductibles and minimum loss requirements, they have expanded collateral source deductions, and have strictly limited the exercise of their discretionary powers. All of which operates adversely to the interests of the innocent victims and their families.

Meanwhile, the Federal Government allows the victim little in the way of medical deductions or casualty losses on their income taxes. And recently the Federal Government enacted a law allowing the Veterans Administration hospitals to collect their bills from State Compensation Programs for their medical treatment of veterans who are also victims of crime. The recent federal cutbacks in Medicare and Medicaid funding have correspondingly produced increased expenses for State Compensation Programs.

Members of The Subcommittee, I submit that there is a time and place for everything. In the Past you have considered similar legislation and have passed it, as did the Senate, and as did a Joint Conference Committee. (It failed to pass the final House vote). This generation has seen a great deal of Federal involvement regarding the rights of the accused, and the treatment of the convicted; the enlargement and professionalization of law-enforcement on all fronts, from police officers to jails to prosecutors to public defenders; and a host of other areas within the Criminal Justice system. Federal involvement in the area of victim compensation is remarkable by its absence. The most important person in the entire scenario-the Innocent American Citizen-will be the last to be recognized by its own government.

There is another aspect to the right time and the right place concept. That is quite simply one of the Uniformity of Law.

As the several states have enacted compensation programs, they have tended to strike out on their own, meeting local needs and local desires, but not following a uniform pattern of laws, and allowing some Conflict of Laws issues to arise, and allowing some unjust results to occur. Thus, we have had the unfortunate situation involving vacationers from Wisconsin being victimized in Florida, both states having a compensation program but neither state able to provide benefits. Wisconsin because they only cover crimes committed within their state, and Florida because they cover only their own residents. The reverse would be equally unjust, for the California traveller in Michigan would be covered by both states. California because it covers its citizens wherever they may travel, and Michigan because it covers all victims within its borders. Worse yet, the California traveller-victim would be covered in New Hampshire, but the New Hampshire resident-victim would not be covered since New Hampshire does not have a program.

Some of these problems have been solved by the execution of reciprocity agreements between state compensation programs. A solution arrived at through the efforts of The National Association of Crime Victims Compensation Boards. Similar agreements exist on an International level through the efforts of The International Association of Crime Victim Compensation Boards.

Obviously this issue of Uniformity of Laws is an area where Federal involvement and leadership could provide excellent results. The current lack of uniformity does not appear to be a substantial obstacle given proper or adequate incentives.

The bill, H.R. 3498, was not drafted in a vacuum. It is brief, concise, to the point, and well-drafted. It meets the need without surplusage. However, as is often the case, different people and different groups have different views on solving a problem.

I would submit for your consideration a problem that has troubled some compensation programs, and that is recovering subrogation from persons other than the assailant. Title I, Section 102, (4), refers to a ". . . State being subrogated to any claim that a recipient of compensation has against a perpetrator of the crime . . .". In limiting the right of subrogation to only the perpetrator, we ignore some third parties that may have to respond to the victim in damages, e.g. Dram Shop litigation. In Dram Shop litigation the bar owner responding with payment to the victim for injuries arising out of the crime is not the perpetrator of the crime. Further, the perpetrator is often insolvent or otherwise judgment-proof.

Although Section 103, (1), (c), would prevent double recovery for losses, time constraints would be unworkable. Compensation program payments are made anywhere from 3 months to one year after the claim is made. Dram Shop litigation however is subject to the vagaries of the civil court calendar. Litigation under the control of the victim's private attorney may not be commenced for a year or more, and then not be tried for several more years.

We would suggest that consideration be given to rewording the subrogation section so that it would run ". . . [against a perpetrator of the crime] any person for damages arising out of the compensable crime. . .".

I would also like to speak to Title III of the bill, the Funding Section. Section 302, (b), (1), provides that not more than 80% of the fund shall be expended on compensation programs under Title I, and Subclause (2) requires that the remaining 20% plus the unused funds from subclause (1) shall be expended for grants under Title II, for Victim Assistance.

We urge you to adopt the language of the bill as presented to you by Congressman Rodino and Congressman Berman. They and their staffs have studied these issues for several years. They have read the independent studies that have been published. They know well that the financial problems of The State Compensation Programs must be met and met adequately, if the bill is to be effective, and must offer the one incentive that will induce the several states to participate and cooperate in this endeavor. An even greater incentive would be to offer 100% of the fund first to Com-

compensation programs with the unused surplus pouring over into Title II Assistance Programs.

The few programs that admit of financial solvency, can do so only at the expense of the innocent victim. It is quite simply just adding more water to the soup. In order to maintain financial solvency, compensation programs have cut back on services. They have restricted the eligibility requirements, reduced coverage, imposed maximums on specific losses, set higher deductibles and minimum loss levels, and instituted other artificial devices. We do it in Minnesota. Other states do it. And foreign countries have had to do it. Every budgeted program has been forced to balance the equities between survival of the program on the one hand, with providing the maximum benefits possible on the other. It may be an insidious thing, but good management dictates that one live within the financial constraints imposed from without.

The majority of the State Compensation Programs are not funded sufficiently to meet even their own statutory mandate. The addition of Federal funds would allow these programs to more adequately meet that mandate, and in some cases to expand coverage into areas long recognized as worthy but neglected due to under-funding.

One area is that of Victim Assistance. Several states have placed administrative and budgetary control over assistance programs under the existing compensation program. It may be that this method was used to institute assistance programs where none were before. It may also be that since compensation programs are generally of State-wide application and assistance programs are highly localized, that a merger of assistance programs into compensation program placed the compensation programs in the role of a white knight, saving the Victim Assistance programs from financial oblivion and also offering a state-wide distribution system for Victim Assistance services.

Members of The Subcommittee please know that the comments I have made have been based on my personal experiences in dealing with similar problems over many years. I have participated in situations involving Federal assistance and have seen first hand what has worked and what hasn't worked, I have seen what was needed and what wasn't needed, what was given and what wasn't given. And, as I stated earlier, there is a time and place for everything, and I state most sincerely that the time and the place to pass H.R. 3498 is here and now.

Again, on behalf of The Minnesota Crime Victims Reparations Board and myself, I thank you for this opportunity of offer testimony in support of The Victims of Crime Act of 1983.

I would be most happy to respond to questions.

Mr. CONYERS. Our next witness is Mr. Daniel Van Ness, vice president, Justice Fellowship, an outgrowth of the Prison Fellowship founded by Chuck Colson. We welcome you, Mr. Van Ness. We would like to hear you elaborate on your statement, which will be incorporated in the record without objection.

TESTIMONY OF DANIEL W. VAN NESS, VICE PRESIDENT, JUSTICE FELLOWSHIP

Mr. VAN NESS. Thank you, Mr. Chairman, members of the subcommittee, I am pleased to address you today on the subject of victim assistance and compensation, particularly H.R. 3498, but the other bills as well which the committee is considering. As you note, Mr. Chairman, I have submitted a written statement and will attempt to summarize that in just a few minutes and would be happy then to take questions.

Justice Fellowship is a public education and lobbying organization working for criminal justice reform. Our goal is a reduction in the use of prison for property offenders and the development of alternative punishments to incarceration, such as restitution and community service, for those offenders. Members of the subcommittee undoubtedly are familiar with the arguments for such an approach. The keystone is the prison overcrowding problem which is afflicting States throughout the country.

So why is Justice Fellowship appearing today speaking in support of victim assistance and compensation? After all, aren't the interests of the victims and prisoners mutually exclusive? Our interest in the victims of crime stems from two bases. The first is experiential. Many of us have been victims of crimes. Firsthand experience has helped us to understand something as to how the criminal justice system works and does not work for those who have been victimized, in the same way many of us have, because of our experience as defenders of prisoners, understood something better about how the criminal justice system operates for those people.

But the second reason for our interest and what I would like to devote most of my comments to this morning, is that we are convinced that a just and effective criminal justice system will address appropriate concerns of all parties to the process. All parties: the defendant, the victim, the community and the State.

In the Old Testament, as an example, the predominant sanction was restitution. If you wronged someone, you had to pay back multiple value what you had gained from the offense. We see this in the New Testament in the account of Zachaeus, who came down from the sycamore tree and said if I have defrauded anyone I will pay him back fourfold.

The advantage of the criminal justice system based on restitution is that it blends two fundamental ideas—we must hold the offender responsible for his conduct and we must do so in a way that promotes restoration not only of harm caused to the victim, but also of the relationship in the context of the community.

Now, at one time all four parties to the crime—the victim, the offender, the community, and the State—were involved in fixing responsibility and bringing restoration. But with the centralization of government over time, the role of the State in the criminal justice process has increased. Crime is not only an offense against the victim but now is also an offense against the State for violating the laws of the sovereign.

Restitution over time was reduced to being simply a part of the State punishment of the individual and eventually disappeared and was replaced with a system of fines. It is now making a reappearance, which we applaud.

And finally, 200 years ago, we established prisons to hold offenders. In addition to creating a new form of punishment, this also changed the definition of restoration from the older concept of restoring the victim to a new concept of restoring or rehabilitating the offender. In other words, the themes of responsibility and restoration are no longer played out in the context of all the parties of the crime.

The criminal justice system now involves essentially two parties, the offender and the government. As a result, responsibility means only the offender's accountability for violating the law, restoration means making the offender a law abiding citizen. It is no wonder, then, that victims feel excluded because they have been. They have been reduced to being simply one of the prosecution witnesses if the case goes to trial. If they want to be restored, then the victims must resort to civil suit.

Unfortunately, some of the things that have been promulgated in the name of victim's rights have in and of themselves not had any-

thing to do with victims as a class of people. They would in some cases better be described as prosecutor's rights measures. The chairman referred in his opening statement to several of those issues which perhaps should concern all of us as citizens, but do not affect particularly victims in a unique way as a class of citizens.

But victims do have legitimate, unique expectations of the criminal justice system, expectations which have gone unmet until recent years. The bills before you address two of these: victim assistance and compensation. I would suggest that there are three steps that could be taken by the government to move toward a system of justice that promotes true restoration.

The first, which I already alluded to, is for the government to make a serious commitment to restitution instead of imprisonment for property offenders. Victims of these people are not covered for compensation purposes under these bills and would thus be permitted to be restored.

Second, in appropriate cases courts should permit the victim and offender to meet together to reconcile. This is an important issue. It sounds idealistic but it is happening. You have had testimony on this before, and I believe we will later on today.

The third step is for Government to assume some responsibility for the effects of crime on the victim. This means not only taking the first two steps but also helping to fund victim compensation and assistance bills, which is the purpose of the bills before you.

Each of the bills as I have reviewed them, demonstrates significant differences and you have had testimony already this morning, and probably have had on other occasions, about those differences. Examples are the funding mechanisms, the distribution formulas, and the degree of specificity that is desirable in describing a qualifying organization.

Perhaps what we can lend to this discussion is to step back and look again at the purposes and some of the features that we applaud in each of the bills:

First of all, they provide for both assistance and compensation. This is fundamental and it is good that it is provided for in all three bills. Victims have immediate as well as long term assistance needs.

Second, Federal funds for victim assistance programs are limited to programs which utilize volunteers in performing assistance. I recognize the three bills vary in terms of degree of discretion that is permitted a program in the use of volunteers and you have already had testimony that the quality of the assistance to victims is advanced not impeded by the volunteers.

The experience of Prison Fellowship has been that in using volunteers for prison ministry, volunteers who are trained and well supervised bring a dimension and commitment of energy and compassion that is sometimes missing from those of us who are paid to provide such services. This is in addition to the obvious multiplication of effort that comes from having volunteers. Many volunteers can do far more than paid staff are able to accomplish.

Third, the funding mechanism in each of these bills are creative. They are derived principally from transactions surrounding the criminal justice system and not from general revenues. One of the

concerns that I note in my printed statement I understand has been addressed by legislation which has been passed by the House relating to fines. That concern was that restitution ought to take priority over a fine so that the immediate victim would be able to receive whatever compensation they could receive prior to a general national victim compensation program.

Finally, the fourth feature that we applaud is that these bills are truly victim oriented. They respond to the very real immediate and long-term needs of victims of crime.

We need to rethink the paradigm on which we built a criminal justice system, but these bills and others such as the Sentencing Improvement Act¹ now pending in the Senate, help move us in that direction.

Mr. CONYERS. I would like to comment that that is an excellent statement of our situation. I especially appreciate your tracing of the development of the parties to the criminal justice process.

I would ask the gentleman from Pennsylvania if he has any questions.

Mr. GEKAS. Yes; thank you.

Although I arrived late, I listened to the remainder of your statement after my advent and tried to follow along with your written statement. One thing that puzzles me, this is perhaps the second or third time today that it crossed my thinking, is it not consistent with your concern for victims rights that a man or a woman accused of a crime, in which there defendant is a victim, that that defendant escapes justice by reason of a technicality, or by the use of the exclusionary rule, wherever one knows that that fellow mugged this old lady, but he was able to escape because of the application of the exclusionary rule.

Your statement seems to indicate that the exclusionary rule is one that works against victims rights. I don't understand that.

Mr. VAN NESS. Perhaps I should clarify my statement then. The point that I am trying to make is that with each of the parties in the criminal justice system, there are issues that will relate exclusively to those parties. There are some issues that only victims will be principally concerned about. The rest of us will be concerned because we are concerned for victims but they really affect only the victim, such as assistance and compensation. No one else will benefit, other than being pleased that we have an effective criminal justice system, other than the victims through victim assistance compensation.

I don't mean to say that the issues that you are raising, the exclusionary rule and the others that I have mentioned in my statement, are ones that victims will be apathetic about. But those are issues that don't address victims exclusively and yet they have been included in measures that are called victim's bills of rights, and so people are enthusiastic about it because they think it is about time we do something for victims. My point is that it is a misnomer. It would be better to say that this is a bill related to improvement of the criminal justice system process or investigation of crimes or of the ability to convict people or to sentence them to

¹ EDITOR'S NOTE: S. 1644, 98th Congress.

prison or whatever the objective of the measure is, rather than calling it a victim bill.

There is a sense in which victims as a part of the community benefit by anything that improves the criminal justice system and so just about anything could be called a victims bill. My point is that this bill, these bills that are pending, really do relate to victims, and victims exclusively as a class, and not simply to something that is broader that would affect victims simply because they are part of a large class.

Mr. GEKAS. You are saying that this generation of bills that we have deal with compensation for victims, benefits for victims?

Mr. VAN NESS. Yes, sir.

Mr. GEKAS. Whereas the tightening up of procedures or the change of law to prohibit defendants from escaping justice through loopholes and technicalities are questions of victims rights or victims—how shall say—justice for victims, but not necessarily compensation and benefits in the monetary sense, is that what you are saying?

Mr. VAN NESS. Those provisions relate primarily to the posture of the defendant versus the State. The question is what evidence can the State use in its attempt to get a conviction of the defendant and what are the rights of the defendant?

Mr. GEKAS. I understand. Are you and our concern for victims dispassionate in the question of whether or not an exclusionary rule should apply in a particular case where somebody has been mugged and the defendant escapes by reason of the exclusionary rule, are you saying that it is not the concern of yours with respect to talking about victims?

Mr. VAN NESS. What I am saying is that when we talk about victims and the victims' rights, we talk in terms of the assistance, compensation, restitution.

Mr. GEKAS. I understand that.

Mr. VAN NESS. The issues that will make the system deal promptly with the concerns of this very confined group of people. We won't include matters such as the exclusionary rule and that sort of thing under the category of victims.

Mr. GEKAS. I guess what I am really asking, if this hearing were being held exclusively on the exclusionary rule, would you appear to express your concerns about victims and their rights and how justice may have eluded victims by reason of escape by defendants on technicalities?

Mr. VAN NESS. You are asking me our position on the exclusionary rule?

Mr. GEKAS. Or any kind of procedure that militates or that the end result by reason of application would be that a victim leaves a case or leaves a courtroom, unsatisfied in justice?

Mr. VAN NESS. I don't know what we would be testifying in connection with the exclusionary rule. We have not taken a position on it one way or the other. Certainly one of the things we would consider would be the effect of the exclusionary rule on the victim. We would also have to consider the effect on the defendant and on the appropriate and inappropriate use of State power and that sort of thing.

Mr. GEKAS. Well, that is what I was asking, is your organization veered toward justice for everyone, which we all want in different aspects, but if you would hone in on the exclusionary rule you would give just as much weight on your concern to the defendant as to the victims loss of justice?

Mr. VAN NESS. And to the State and the interest of the community.

Mr. GEKAS. I thank you.

I have no further questions.

Mr. CONYERS. Well, I didn't have any until just now.

What is your concern or how do you view harsher prison sentences in relation to the victims' receiving a sense that justice has been done?

Mr. VAN NESS. I think it is important that we all have a sense that justice is being done in the court. It is important for the community to realize that—they read about the cases in the paper. It is important for the victims because they have been involved in the crime personally.

Our house was burglarized, our apartment. We lived without a door that would close for two nights and were worried the persons might come back. I was upset the persons were never caught, that the police weren't interested in finding them. So we want the victim to be satisfied and we want the public to be satisfied.

I am not convinced that long prison sentences serve the cause of justice. They certainly do in situations where we have persons who have demonstrated that they are dangerous individuals because of their past criminal conduct or because of other circumstances that are available, and there are people who definitely should be in prison. Some should be in prison for a long time.

But long prison sentences as a general rule do not satisfy if what we are looking for is an effective criminal justice system. I may be momentarily satisfied with a long sentence. When I discover, however, that the property offender who is now doing 5 years in prison is going to be costing me \$15,000 a year and probably more because of prison construction, then I am not satisfied.

I think what is important is that people who have violated the law be held responsible for that. There should be a variety of sanctions that are available and they should be based on the seriousness of the event and the dangerousness of the individual.

Mr. CONYERS. Well, I want to thank you very much for your testimony. I deeply appreciate it, and I congratulate Mr. Colson on the work that he has been doing in these various organizations. Give him my regards.

Mr. VAN NESS. Thank you very much.

[The prepared statement of Mr. Van Ness follows:]

STATEMENT OF DANIEL W. VAN NESS, VICE PRESIDENT, JUSTICE FELLOWSHIP,
CONCERNING H.R. 3498—VICTIMS OF CRIME ACT

SUMMARY

Prison overcrowding has led many states to re-evaluate their sentencing practices. Increasingly they are adopting policies which emphasize imprisonment for serious and dangerous offenders, but restitution, community service and other non-prison punishments for property offenders.

Such a change should be encouraged, in part because they represent a return to a concept of criminal justice which includes all parties: the defendant, the victim, the community and the state. The current prison-based criminal justice system excludes the victim from meaningful involvement. A restitution-based criminal justice system would insure that victims' interests were included.

The government can take steps to respond to the appropriate concerns of victims. First, it can establish a policy of restitution instead of prison for property offenders. Second, it can encourage programs of reconciliation and mediation between victims and offenders. Third, it can assume responsibility for responding to some of the effects of victimization.

H.R. 3498 has several excellent features: it provides for both victim assistance and compensation; it endorses the use of volunteers; and it incorporates creative funding mechanisms. It is suggested that Section 3621(c) be amended to include restitution orders in the factors the court is to consider before imposing a fine.

Mr. Chairman, Members of the Subcommittee: I am pleased to address you today on the Victims of Crime Act (H.R. 3498). My name is Daniel W. Van Ness, and I am testifying in my capacity as Vice President of Justice Fellowship.

Justice Fellowship is a public education and lobbying organization working for criminal justice reform. Our goal is a reduction in the use of prison for property offenders and the development of alternative punishments to incarceration, such as restitution and community service, for those offenders.

Justice Fellowship was formed last year by Chuck Colson to complement the pastoral work of Prison Fellowship. That organization works with churches across the country to train Christians for ministry to men and women in prison, to ex-prisoners, and to their families. There are currently 17,000 such volunteers engaged in this activity.

Seventeen thousand is too few. The prison population in this country is growing explosively. It has more than doubled in the last decade; it is growing 15 times faster than the general population.

As a result, 40 states report that their prison population exceeds their capacity. Thirty states and the District of Columbia are under court order. Eighteen states have people sleeping on the floors of their prisons. In many, chapels and educational facilities have been cleared of pews and desks and converted to dormitories.

States have found they cannot build their way out of this crisis. The state making perhaps the most valiant—and futile—effort to do so is California, which will spend \$1.1 billion in construction in the next three years. When the 17,000 new beds have been added, the state will still be 8,000 beds short! Meanwhile, its prison operating budget will have doubled to \$1 billion per year.

It is no wonder that states are exploring other options, paying increasing attention to non-prison punishments for property offenders. Among other benefits, this reserves scarce prison cells for those judged to be more dangerous or violent.

States as diverse as Michigan, Minnesota, Florida, Indiana, Washington and Texas have taken substantial steps to implement such an approach. We applaud their leadership.

So why are we supportive of victim assistance and compensation? After all, aren't the interests of victims and prisoners supposed to be mutually exclusive?

Our interest in victims of crime stems from two bases. The first is experiential—many of us have ourselves been victims of crime. We conducted a survey of the employees of Justice Fellowship and Prison Fellowship to determine how many had been victims of crime. We were surprised to discover that 85% had either been victims themselves, or had family members who had been victimized. Many indicated that it was this experience of being a victim that led to their interest in prisons and prisoners, and ultimately to employment with us.

For some of us the experience of victimization was more traumatic than for others. Some have been victimized on many occasions; others only once. The crimes ranged from the most brutal to petty theft. Some of us are willing to talk about our experiences; others are not.

So we are interested in victims of crime in part because we ourselves have been victims.

The second reason for our interest is that we are convinced that a just and effective criminal justice system will address the appropriate concerns of all parties to the process: the defendant, the victim, the community and the state.

For example, in the Mosaic Code the predominant sanction was restitution. If you defrauded someone you had to pay back multiple value what you had gained from the offense. And there were provisions for performing free services as in-kind restitution if you had no money. This principle was reflected in the New Testament ac-

count of Zachaeus, the white collar offender who came down from the sycamore tree and said: "If I have defrauded anyone I will pay him back fourfold."

The advantage of a criminal justice system based on restitution is that it blends two fundamental ideas: we must hold an offender responsible for his conduct, and we must do so in a way that promotes restoration—not only of the harm caused the victim, but also of the relationship between the victim, the offender and the surrounding community.

Crime involves at least four different parties: the offender, the victim, the surrounding community and the state. At one time, all four parties were involved in fixing responsibility and bringing restoration. The Mosaic Law, for example, required thieves and other property offenders to pay restitution to the victim. This was to be worked out by the people in the community, but if it could not be, there were provisions for taking the case to priests or judges for determination.

However, over time the role of the state in the criminal justice process increased. Crime became not only an offense against the victim, but also an offense against the state for violating the laws of the sovereign (e.g., a "breach of the King's peace"). Restitution to the victim was reduced to a part of the state's punishment of that individual with the state withholding some of the proceeds to cover its costs. Eventually victim reparation vanished and was replaced with a system of fines.

Finally, two hundred years ago, the Quakers established Walnut Street Jail as a place of punishment of offenders. But they added more than simply a new form of punishment. They also changed the definition of restoration from the older concept of restoring the victim to a new concept of restoring, or "rehabilitating", the offender. This new version of restoration focused on treating the offender in such a way that he or she became a law-abiding citizen of the state.

So not only had the state assumed a dominant role over the victim in the process of fixing responsibility, the victim was also excluded from the new definition of restoration.

The significance of these developments is that the themes of responsibility and restoration are no longer played out in the context of all the parties to the crime. Crime now involves essentially two parties: the offender and the state. As a result, responsibility means only the offender's accountability for violating the laws of the state. And restoration means making the offender a law-abiding citizen: rehabilitation.

It is no wonder that some victim-rights advocates are frustrated and angry. Victims have effectively been excluded from the criminal justice process, reduced to being simply one of the prosecution's witnesses—if the case goes to trial. One who wants to be restored must bear the costs of bringing a civil suit, and the sanctions often imposed on the defendant after his criminal conviction (imprisonment or fine) reduce the likelihood that the victim will ever be repaid.

Unfortunately, some of the efforts to redress this problem under the aegis of "victims' rights" have had little to do with victims. They should be called "prosecutors' rights" measures, because they only increase the ability of the state to obtain convictions (e.g., abolition of the exclusionary rule, increasing prison sentences, limiting the scope of guilty pleas, etc.).

But victims do have legitimate expectations of the criminal justice system, expectations which have gone unmet until recent years. The bill before you (H.R. 3498) addresses two of those: victim assistance and compensation.

The state's dominant role in the criminal justice process is as given. It is unlikely that our country will move to the more decentralized process of the Old Testament or even of 200 years ago. Consequently, we should look for ways in which to promote true restoration within our adversarial system.

One approach is to increase the use of restitution and community service, since each provides an opportunity for the offender to help restore the victim and the surrounding community.

However, this means more than lip-service to restitution. If victims are to be repaid, judges will have to impose reasonable restitution orders and then enforce them. A sentence of imprisonment for a first-time property offender which has a restitution order tacked on does not reflect a serious commitment to victim restitution. The victim will receive nothing while the nonviolent offender is in prison. And unless the offender is fortunate, he will have enough difficulty re-establishing himself with new employment when he is released that there is little realistic chances of him ever paying restitution.

So a first step is for the state to make a serious commitment to restitution instead of imprisonment for property offenders.

Second, in appropriate cases, the courts should permit the victim and offender to meet to attempt to reconcile. This sounds idealistic but it is happening. Victim-Of-

fender Reconciliation Programs, initially established by Mennonites in Canada and Indiana and now spreading throughout the country, provide for such victim/offender contact, and lead to agreements on restitution and community service payments.

A third step is for the state to assume responsibility for the effects of the victim and community being excluded from the criminal justice process. This means helping to fund compensation and victim assistance programs, which is the purpose of H.R. 3498.

This bill has several excellent features. First, it provides for both victim assistance programs and compensation. This recognizes that immediate as well as long-term assistance may be needed.

Second, federal funds for victim assistance programs are limited to those programs which are either governmental or nonprofit (or a combination of the two) and which utilize volunteers in performing the assistance services. There are many benefits to volunteer involvement in the criminal justice system. You have heard testimony from practitioners that the quality of assistance to victims is advanced, not impeded, by the use of volunteers. The experience of Prison Fellowship in using volunteers for prison ministry certainly confirms this view of voluntary service. Volunteers who are trained and well-supervised bring a dimension of commitment, energy and humanity that is sometimes missing from those who are paid to provide such services.

Third, the funding mechanism is creative. We note with approval the factors the court is required to consider in determining whether to impose a fine (Section 3621(c)). An additional factor should be the restitution payments which the court may order the defendant to pay pursuant to Section 3579. Such payments to the immediate victim should certainly take priority over a fine which will help fund nationally these victim compensation programs.

Finally, the bill is truly victim-oriented. It responds to the very real and immediate needs of the person who has been victimized.

We need to rethink the paradigm on which we have built our criminal justice system. This bill, and others such as the Sentencing Improvement Act (S. 1644) now pending in the Senate, could help move us in that direction.

Thank you very much.

Mr. CONYERS. The subcommittee will stand in recess for the time that it takes to dispose of the matter that is pending a recorded vote on the floor.

[A short recess was taken.]

Mr. CONYERS. The subcommittee will come to order.

Our next witness is Mr. Howard Zehr, the Director of the Office of Criminal Justice of the Mennonite Central Committee. His organization has experience in operating a Victim Offender Reconciliation Program, which he touched upon when he testified before the subcommittee on sentencing reform.

We apologize for the delay, Mr. Zehr. We welcome your prepared statement, and it will be, without objection, made part of the record. We know your comments are important in this area, and we look forward to your testimony.

**TESTIMONY OF HOWARD ZEHR, DIRECTOR, OFFICE OF
CRIMINAL JUSTICE, MENNONITE CENTRAL COMMITTEE, U.S.**

Mr. ZEHR. Thank you.

I am glad for the chance to be here again, this time to testify in favor of victim-oriented legislation. I represent, as you said, the Mennonite Central Committee Office of Criminal Justice. Mennonite Central Committee is an agency that represents Mennonite and Brethren in Christ Churches in service work in some 50 different countries around the world. The Office of Criminal Justice is a resource program.

The question of victims' experience and victims' rights has been a concern of ours for a number of years. When I first got into this business, I was there as an advocate for offenders. But partly

through my experience in the Victim Offender Reconciliation Program, I became more and more aware of how victims experience crime and justice. A major concern of our program, therefore, has been to help people understand victims.

I am very pleased to see this bill before us. You have my written testimony, so I will highlight several issues.

I am glad to see the Government recognizing the needs of victims and taking some responsibilities for them. I am glad to see this happening on a Federal level, yet without creating some kind of Federal bureaucracy. I am glad that this legislation, unlike much legislation, is clearly pro-victim and yet is not anti-offender. I think that is a mistake many of us have made for too long, we assumed it had to be one or the other, and yet both offender and victim are equally part of the crime equation. We have to be concerned about both of them. I am also pleased to see that this legislation supports both victim assistance and victim compensation.

I do have several reservations. One of them has to do with the division of funding between victim compensation and victim assistance. I think giving 80 percent of funding to victim compensation is, in addition to a financial statement, a kind of moral statement in favor of compensation. Yet victim assistance is equally important. In fact, some people would argue that victim assistance is actually more important than victim compensation.

When you look at the total experience or total needs of victims—I tried to outline that a bit in my earlier testimony—the financial needs are one aspect of it. But as a previous witness has stated here, that is only a small part of it—and some surveys suggest a rather small part. There are the trauma, the emotional needs, the need for power—that is the need to be involved in their own case—the need for answers. There are a variety of needs that are not met by compensation.

I think victim assistance is at least as important as compensation, and moreover has just as good a track record, possibly a better track record. And this leads to another concern. It is my impression from the literature on victim compensation that while the concept is good and many of the programs are good, programs have often been underutilized and selectively utilized; they are not used as extensively as they should be and they are often applied more to well-to-do people than to minority and to lower income people.

This happens for a variety of reasons: part of it is the red tape involved, partly this is a result of the classes of cases that are excluded (some exclude nonresidents, many exclude relatives—a variety of kinds of exclusions) and partly it is because programs have not been publicized. In Indiana, in the numbers of years we have had a program, less than 700 victims have been compensated, partly because hardly anybody knows about the programs.

I think that the bill moves in the right direction by requiring programs to include nonresidents, but I wish there were a way to address some of the other concerns that would help to make victim compensation programs more effective.

I am concerned, as one of the previous witnesses is, that the language of the bill would seem to exclude programs which are not exclusively designed to assist victims. The Victim Offender Reconciliation Program has a great deal of experience dealing with vic-

tims, yet that program in Indiana where I live would be excluded under this bill, as I read it, because it also serves offenders. I think that tends to increase polarization because it assumes you cannot serve both victims and offenders; you have to have the program exclusively established for victims.

I wish, as Dan Van Ness mentioned, that the bill would distinguish more clearly and set priorities between fines, compensation, and restitution. With a fine, the Government takes money unto itself that may be used for a certain purpose or maybe designed as a punitive sanction. With restitution, a victim is paid back directly by the offender. Compensation is a kind of insurance—when a person has losses that aren't compensated otherwise, the state, using the term generically, will step in and make sure those are covered.

I think it is restitution that makes the most sense. It is restitution that really recognizes offender responsibility and encourages offender accountability. When an offender has to pay restitution to a victim, that offender understands on some level that he or she is righting a wrong. At the same time, restitution allows the possibility of a sense of justice on the part of victims when they know that they are not simply being compensated by the government, but they are being compensated by the offender. It provides a probability of a sense of justice that simply is not there in other kinds of reimbursement.

Compensation, I think, is appropriate when restitution is impossible, but I would prefer that the bill state a preference for restitution. Fines are a way for compensation to happen, but as I have suggested, fines do not really make offenders accountable, and they are often simply viewed as a kind of punitive sanction on the part of offenders without a recognition of the connection to victims' needs.

Fines represent the state taking money unto itself, using it at its discretion. And that leads to a larger issue, an issue that was touched upon also by Dan Van Ness, and that is the proper role of the victim, the offender, and the state in this crime equation. I think that embedded in our legal system is a fundamental misconception of what crime means. I said that before in my earlier testimony, as well. We tend to define—our legal system defines—"crime" as an offense against the state. A crime is seen as law breaking first of all.

An offender has violated the State—using the term generically—and therefore, it is the State, the Government, that responds. Therefore, it is no surprise to me, and shouldn't be a surprise to any of us, when victims are left out of the process, when they are neglected: they are not part of the definition of "crime". They are not part of our understanding of crime. As long as we fail to address that issue, I think any kind of bill we pass, any kind of legislation, will only be a beginning. As long as a victim remains a pawn instead of a participant, is a kind of a footnote instead of part of the definition of crime, then we cannot expect any kind of reform to fundamentally change that relationship.

Perhaps we can't do anything else, perhaps we are too limited by the whole paradigm we have to operate under, but I think it is important to keep raising the issue. We must realize that the kind of

crime we are talking about in many of these cases is not at heart an offense against the state; what really matters is that one person has been violated by another person. When we design sanctions, when we design help for either party, we need to keep that definition in mind.

We cannot afford to neglect victims any longer, for both political and moral reasons. Politically, victims are better organized than they have been before. People are concerned about crime, and for political reasons we have got to address victims' needs. But we also have to do it for moral reasons. It is right to do so. Victims are persons who have been victimized and they deserve our special concern.

Those of us who are Christians have a particular responsibility. When Christ decided to tell us how we relate to our neighbors, what our responsibilities are to other people, he chose the Good Samaritan, a crime victim. We have no other choice.

I am glad, therefore, to see this piece of legislation. I think it is basically a good piece of legislation and hope it will pass.

I thank you.

Mr. CONYERS. I thank you, Dr. Zehr.

It seems to me that this is the beginning of a reexamination of some of the principles of our criminal justice system. What I am concerned about doing is helping victims without developing, at the same time, a retributive attitude toward those who are wrongdoers. I think we have avoided that with this bill and with the kind of witnesses who have been coming forward.

I am hoping that there will be a greater incentive to develop this focus in the criminal justice system, because once we begin raising the moral considerations, I think it creates the atmosphere in which we can reflectively consider many other parts of the criminal justice system that need to be changed.

Do you have any questions, Mr. Hutchison?

Mr. HUTCHISON. The statement you submitted, in the section called larger concerns, says that the bill assumes that the State is the primary victim and is primarily responsible to respond when there may be a crime committed, and that this is not a correct attitude to have.

In your estimation, who is the primary victim, and who is primarily responsible to respond? If it is the actual victim of the offense, aren't you concerned about putting retribution in the hands of various victims throughout the society and thereby running into problems with unequal punishment? Some people would be more harsh in their retribution or their approach to dealing with the offender.

Mr. ZEHR. Several things need to be said in response to that. One of them is that legislation has to work within the operating set of assumptions. I think this bill does what it has to do in that regard, so I am not assuming that the bill itself can do any different without a larger examination of our assumptions. But I do think we have to keep raising that point for examination. That point is not meant particularly as a criticism of this bill as much as a reminder that we really need to rethink some of our larger assumptions.

The second concern is with who has been violated. It is the victim that has been violated. I think we need to keep that fore-

most in our minds. I am not saying that the state has no responsibility in that, nor am I saying we should return to an age when we expected victims to take justice into their own hands. I think the state has a very real responsibility. But it ought to limit its responsibility to what that is, which is probably something closer to a mediator kind of role.

I think the question of victim vengeance is a very real one. It is unfortunately heightened by the way we tend to do justice. We make victims so frustrated with how they are treated, and then we demand that they be vengeful. Socially, we expect them to be vengeful. Friends and neighbors put pressure on them. So I think we tend to heighten the vengefulness of victims.

We have a stereotype of the victim as a vengeful person. But our experience in the Victim Offender Program is they are not as vengeful as we think. A lot of the vengeance grows out of other kinds of frustration. When they can experience justice in other ways, victims are not as vengeful as we think.

We shouldn't sell victims short. We shouldn't assume they want every piece of flesh they can get.

Mr. HUTCHISON. What sort of offenders do you deal with? Are you talking about persons who commit property crimes? Are you talking about persons who commit misdemeanors, or felonies against the person? Maybe you could describe the nature of your program and the people you deal with.

Mr. ZEHR. The particular program I was referring to, the Victim Offender Reconciliation Program, deals primarily with property offenses. We do deal with some violent crimes, we have seen the same kind of concept used in some cases with violent offenses. We don't know what the limits are on that, but we think it has possibilities. It was that program that made me begin to realize how I had misconceived crime and misconceived my responsibilities to the victim and offender.

Mr. CONYERS. There being no further questions, we thank you very much for your continuing concern in this area. We welcome you always before the subcommittee. And I thank you again for some excellent testimony.

[The prepared statement of Mr. Zehr follows:]

TESTIMONY OF HOWARD ZEHR, PH.D., DIRECTOR, OFFICE OF CRIMINAL JUSTICE,
MENNONITE CENTRAL COMMITTEE U.S.

I am thankful for the opportunity to express my support for victim-oriented legislation such as that represented by H.R. 3498.

I represent the Mennonite Central Committee Office of Criminal Justice. Mennonite Central Committee is a non-profit organization which is an instrument of Mennonite and Brethren in Christ churches in various service programs and ministries in the United States and about fifty other countries around the world. The Office of Criminal Justice is a national resource program of MCC U.S.

Throughout the past decade, this office has worked with our own constituencies as well as many other religious and non-religious individuals and groups to provide leadership, educational resources and technical assistance on a variety of criminal justice issues and programs. We have helped to establish and support a variety of criminal justice programs in the United States.

We have had a special concern for victims' issues for a number of years. Our involvement with the Victim Offender Reconciliation Program, described briefly in my testimony on April 12, 1984, concerning H.R. 4554 and H.R. 4827, has provided direct contact with the needs of victims and represents one attempt to meet some of these needs. In addition, education about the victim experience and victim needs

has been a major priority during the past three years. A recent booklet, "Who is My Neighbor? Learning to Care for Victims of Crime," is one result of that concern.

It is on the basis of this experience and concern that I wish to comment on the issues raised by H.R. 3498 and, to a lesser extent, H.R. 5124.

VICTIMS' NEEDS MUST BE ADDRESSED

As previous testimony before the Committee has documented well, crime can be extremely traumatic, affecting many areas of victims' lives, sometimes permanently.

Unfortunately, the damage of the offense is often compounded by the neglect and insensitive treatment which victims experience throughout the criminal justice process.

In some communities, victim assistance and compensation programs help meet the financial and emotional needs of victims. Too often, however, such programs are inaccessible or not available.

We strongly support and advocate strong service programs and due process protections for offenders. However, we recognize that victims are an integral part of the crime equation and believe that their rights and needs must be treated seriously as well. Victims have been neglected much too long; we must be concerned with those on both sides of crime.

FEDERAL ENCOURAGEMENT OF VICTIM PROGRAMS IS ESSENTIAL

Both H.R. 3498 and H.R. 5124 recognize legitimate needs of victims in a realistic way. They acknowledge that federal encouragement of such programs as victim assistance and victim compensation is essential. At the same time, they attempt to work at the issue primarily through the support of local and state efforts rather than by the provision of services by a federal agency.

H.R. 3498 IS A STRONG BILL

H.R. 3498 contains a number of important provisions:

1. Moral and financial support are provided at the federal level for two essential categories of programs: victim assistance, and victim compensation. In doing so, a governmental responsibility to victims is implied.

2. As noted above, this legislation attempts to work at victim needs by supporting and helping to expand existing state and local efforts rather than by creating federal programs. H.R. 3498 appears stronger in this regard than H.R. 5124, which directs some funding to both new and existing federal structures.

3. Without dictating program structures, this legislation works to ensure that certain minimum standards are met, including the following:

a. To qualify for funding, assistance programs must make use of volunteers and provide 24-hour crisis intervention service. As the testimony of Deborah Jones (February 9, 1983) and others has documented well, the use of volunteers and the availability of immediate crisis intervention services are important parts of most successful victim assistance programs.

b. In order to obtain funding, compensation programs must not discriminate against non-residents. Too often in the past, visitors from out-of-state have been denied compensation by state programs because, through no fault of their own, they were victimized in the wrong place.

c. Compensation programs must provide compensation for the costs of healing, both physical and emotional. Many victims have serious medical costs which are inadequately covered by insurance. Even when physical injuries are minimal, however, the emotional damage of crime is often serious, requiring mental health counseling, and it is good that this bill requires compensation for such injuries.

4. Compensation for victims of federal crimes is included by requiring coverage by state programs, then providing full compensation to the states for this category of crime, rather than by creation of a federal agency.

5. The bill recognizes local and state initiatives by supporting program concepts which have developed at that level and by acknowledging the possibility of private non-profit service-suppliers.

6. Total dependency on federal funding is discouraged by requiring additional funding sources.

7. This bill is pro-victim without being anti-offender. Too often we have assumed that to be concerned about offenders' needs meant unconcern about the needs of victims, and vice versa. This is unfortunate; both victim and offender are part of the crime equation, and the needs of both must be addressed equally.

CERTAIN PROVISIONS ARE PROBLEMATIC

We do have reservations and questions about certain provisions of H.R. 3498, however:

1. The current bill provides up to 80% of available funding to victim compensation, with the remaining 20%, plus any monies remaining after grants for compensation are made, to be earmarked for assistance programs. Yet victim assistance is at least as important as compensation; moreover, such programs have a track record which is as good or better than that of compensation programs. We would advocate the 50-50 division between program categories recommended by the President's Task Force on Victims of Crime.

2. Victim compensation programs are good in theory and have worked well in many instances. All too often, however, accessibility to them has been hindered by poor publicity, red tape, limited coverage and restricted eligibility. Therefore they have often been under- and discriminately utilized, serving only a select few. If possible, it would be well for legislation such as this to address such problems beyond what it already does.

3. This bill is funded in part by the creation of a new class of fines and by raising the limits on existing fines. To have offenders pay for victim compensation and assistance makes intuitive sense. Also, it is appropriate that well-to-do individual and corporate defendants be fined according to their ability to pay. However, adding sanctions without examining and addressing overall sentencing issues raises a number of potential problems of both a practical and philosophic nature.

4. The principle of diminished compensation for victim misconduct (Sec. 102(3)) is an understandable and perhaps necessary one. However, it is difficult to apply without establishing a tone which seems to blame the victim—a tendency which is all too prevalent in our society already.

5. Property offenses and losses are perhaps necessarily excluded in this bill. However, to do so is to underestimate or devalue the trauma which can and often does accompany such victimizations—trauma which is often not unlike that experienced by victims of violent crime.

6. Funding for victim assistance is limited to programs established exclusively to provide victim services. This would eliminate a variety of programs which provide valuable services to victims. For example, the Victim Offender Reconciliation Program in Elkhart, Indiana, where I live, has provided certain services to victims as well as offenders for a number of years, and hopes to develop more comprehensive services in the future. However, it would be excluded from funding under this bill.

7. The bill does not distinguish carefully or set priorities between fines, victim restitution and compensation.

We would prefer that legislation clearly state a preference for restitution to victims by offenders. Direct victim restitution maximizes offender accountability for the wrong done. When payments are not made directly to victims, they are likely to be perceived by offenders as a punitive sanction rather than an attempt to right a wrong.

When restitution is not possible or is incomplete, however, it is appropriate for the government to provide compensation. Fines are appropriate in certain cases as a means of making that possible, but again they do not encourage direct offender accountability in the way that restitution does.

AND A LARGER CONCERN

In addition to these concerns, a larger, more philosophic, issue can be raised.

This bill of necessity accepts and works within the basic assumptions and definitions governing our legal process. In doing so, it continues to obscure the real meaning of crime and insures that any attempt to meet victim needs will be partial at best.

As I noted in my April 12 testimony concerning H.R. 4554 and H.R. 4827, our legal system defines crime as lawbreaking, as an offense against the state, i.e. the government. Legally it is the state which has been wronged, and it is the state which responds when a crime is committed. It is no accident, therefore, that victims are left out of the process; only as potential witnesses are they seen as part of the equation.

In reality, however, crime is a violation of one person by another. Both victim and offender are part of the equation. Only solutions which take this meaning of crime into account can hope to genuinely meet the needs of either victim or offender.

This bill continues to assume the centrality of the state in the crime experience. It assumes that the state is the primary victim and is primarily responsible to respond. Limited help is provided for victims, but without questioning fundamentally

the meaning of crime or the proper role of the state. Crime is still an offense against the state; victims remain something of an afterthought. Until the equation is changed, the possibility of real attention to victims' needs seems limited.

Perhaps a bill such as this can do no other. Nevertheless, I think it important to continue to offer this perspective.

FINAL OBSERVATIONS

While we cannot neglect the needs of offenders, we have no alternative but to become more sensitive to the needs of crime victims as well.

The public is much concerned about crime. Victims are better organized than ever before. We can support victim concerns, therefore, because they are a political issue.

But we must become more sensitive to victim needs because it is right to do so. Victims have suffered immeasurably, and we have most often been insensitive to their suffering. Yet they are as much a part of crime as are offenders.

We who are Christians have a special obligation to victims of crime. The Bible frequently proclaims our responsibility to care for and identify with the oppressed, the powerless, the wounded. Victims of crime fit that category well. Moreover, when Christ sought to demonstrate the nature of our responsibilities to one another, he used the story of the "Good Samaritan"—the story of a crime victim!

Crime victims cry out for our attention. I am pleased that in bills such as H.R. 3498 and H.R. 5124 there are signs of a response.

Mr. CONYERS. The president of the Board of Directors of the National Organization for Victim Assistance, Ms. Constance Noblet, is next. She directs a victim resource center in Chester County, PA, and is accompanied by her organization's faithful Washington representative, John Stein.

We have your testimony, Ms. Noblet, and, without objection, it will be made a part of our record. I can tell you, Mr. Stein has been at every one of these hearings.

TESTIMONY OF CONSTANCE C. NOBLET, R.N., EXECUTIVE DIRECTOR, VICTIM RESOURCE CENTER OF CHESTER COUNTY, PA, AND PRESIDENT, BOARD OF DIRECTORS, NATIONAL ORGANIZATION FOR VICTIM ASSISTANCE, ACCOMPANIED BY JOHN STEIN, DEPUTY DIRECTOR, NATIONAL ORGANIZATION FOR VICTIM ASSISTANCE

Mr. STEIN. I enjoyed them very much.

Mr. CONYERS. And has been talking with us in-between, in addition.

So we welcome you to the subcommittee to be our final witness for the day.

Ms. NOBLET. Thank you, Mr. Chairman.

In the interest of time, I will not read the entire presentation. I will pretty much read the first two or three pages. After that, I will summarize NOVA's views and its suggestions on this legislation.

As you said in introducing me, I am, as well as the president of the Board of Directors of the National Organization for Victim Assistance, the executive director of the victim resource center in the State of Pennsylvania. We started that center in 1973 as a rape crisis center, and we experience, as all programs have throughout the Nation, annual funding crises. Despite that annual crisis, we have been fortunate enough to expand the program to serve all victims of violent crimes, and the program has developed along such successful lines that it is now treated as an important professional resource by law enforcement agencies, prosecutors, and judges in our community.

So the prospect of some additional aid to a center like ours in its constant need for resources is a good welcome one. We anticipate this legislation.

I am not here, however, to talk only about my program and its sometimes precarious problems, or even about those programs that are similar to ours—the rape crisis center, the battered wives program. I want to speak as well for my colleagues across the country who are prosecutors and law enforcement officials, victim compensation directors, chapter leaders of self-help groups, child protection workers, mental health workers, doctors and nurses, all of whom identify with the logical victim movement and look to NOVA to express their common interests and those interests which unite us all.

I want you to appreciate that some of the suggestions I would like to give you about H.R. 3498 would translate to fewer dollars for centers such as mine, for prosecutors and compensation directors, to name only a few of those who serve victims. Each of us work to achieve less than we might have under a Federal funding program in hopes of nurturing a comprehensive network of services for victims throughout the country.

While this subcommittee has heard special pleading from different sectors of the victims' movement for their cause, we, who basically subscribe to all of their special causes, must ask ourselves: What is fair? What is equitable? What will best meet the needs of victims?

I hope that NOVA's positions, which I will summarize for you, meet those tests. They are the product of hard work by our board and staff. I am proud to say that not one of our positions on this legislation represents a compromise among political factions—from beginning to end, we aimed our sights and drew on our diverse experiences, to envision a Federal grant program that would promote a healthy, comprehensive network of services to victims in every community in our country.

A final thought before I summarize our positions: Both H.R. 3498, which was introduced last year, and S. 2423, which was introduced this year, are attempts to express legislatively the recommendations of the bipartisan President's Task Force on Victims of Crime. Both bills are similar. Either bill, if passed in its original form, would be a magnificent display of Federal response to a long-overlooked national problem.

We believe that the Senate Judiciary Committee significantly improved S. 2423 in a bipartisan fashion, and we hope that this subcommittee will work its will on H.R. 3498 in the same spirit. There is a coalition of bi-partisan decency surrounding the two principal bills working their way through Congress, and our urgent desire is to see that coalition succeed in sending a bill to the President before Congress adjourns this fall.

On that note, Mr. Chairman, permit me to review a few critical issues that arise in reviewing H.R. 3498 and S. 2423, as amended by the Senate Judiciary Committee.

One: The sources of revenue for the Crime Victims Fund. Last October, NOVA sent a letter to the Counselor to the President, Edwin Meese, outlining the precepts that we and a host of national victim rights and criminal justice organizations felt should be in-

cluded in a funding bill. In it, we stated that the revenue sources recommended by the President's task force were all justified and that, as a practical matter, the fund will need a minimum of \$75 million from any and all sources to be the catalyst of change the task force envisioned.

Our estimates are that the main revenue sources in S. 2423—Federal criminal fines, bond forfeitures, and penalty assessments—would meet these minimal funding needs. While we would welcome any additional revenues—from the excise tax on handguns and from general revenues—we would be pained to observe a fight over these issues effectively kill congressional action on a bill this year.

On the question of cap on the fund, while we oppose any cap, if there were to be one we would suggest it be started at a level of \$150 million, and that it should contain a capacity for growth. For example, we feel that it would be fair, if postcap revenue were to develop, that it be divided 50-50 between the fund and the Treasury.

On the issue of establishing a formula for State compensation programs, I would like to give you a case example. If you or I were victims of a violent crime and were severely injured and our medical bills were to come to, say, \$90,000, we would probably carry insurance that would cover approximately \$80,000 of those bills. We would be most grateful if our citizens saw fit to effect a crime victims compensation bill that would cover the balance of \$10,000. However, a gas station attendant, a liquor store clerk, a cab driver similarly victimized would be unlikely to be so heavily insured, if insured at all. And what does the compensation program director say to this victim with the \$90,000 medical bill? That our maximum award for victim compensation is \$15,000. That is the ceiling typical of benefits offered by compensation programs to victims, many of whom are uninsured.

The larger grant program envisioned in H.R. 3498 would help to eliminate such less than generous statutory rules in State compensation programs. We support the 50 percent formula and we feel that it is critical to also include the two rules in the Senate bill.

First, there should be a non-supplantation clause that bars any efforts to convert the Federal grant into a scheme to replace State funding with Federal funds.

The second important rule in the Senate bill allows a State with well-funded compensation program to have their unused Federal compensation grants spill over to the State's victim assistance programs.

We strongly support the Senate bill's non-supplantation and spill-over rules, and are pleased that they apply equally to the victim compensation and victim assistance grants.

I am sorry that I couldn't hear the earlier speaker, the prosecutor. I understand that NOVA shares many of his views and that he was very eloquent when he addressed the subject. The majority of the NOVA board represents victims through district attorneys' victim/witness programs. And they share and participate actively in our view that we must meet the greater need at every possible level among all victims.

The involvement of the victim in the criminal justice system beyond the witness management unit, to the level of participation

in discussion of disposition issues, sentencing, bail dismissal, etc. is very important to the victim and to the system. What is more important is that this involvement is good and it is healing for the victim.

In listening to the gentleman who spoke to you just prior to me about the victim who may feel vengeful—or experience a desire for retribution—I find I agree with him; one rarely sees that. The victim in the criminal justice system is still in the process of healing and recovering. Involvement in the criminal justice system often retards that recovery. Anything that can be done which makes the victim feel some sense of participation, of being an important part of that process, is going to help. There is a certain catharsis in it—a sense of return of control over one's life.

As I said before, NOVA is very much concerned about the quality of services at all levels. We are concerned about eligibility standards, which might allow an avoidance of good standards, that might allow for makeshift attempts to, for example, plug into an existing hotline but not put the victim in touch with those who are qualified and trained to talk with traumatized people.

We are concerned also about the loss of funding for some good programs which serve victims but which cannot, for reasons beyond their control, institute such services on a 24-hour basis or use volunteers.

We realize that these are problems that are not easy to address. However, we are in hopes that the Congress will find a way to resolve them equitably.

Other provisions of the bill about which we in NOVA have a concern are, first, the 10 percent and 15 percent for the first year for Federal assistance programs. Our sense is that State compensation programs and local service programs can and should meet the needs of victims of Federal crime. My program has, on several occasions. Further, we believe that core victim/witness services should be part of the Federal prosecutors' regular budget, similar to their State counterparts.

Thus, we question the need for the Federal victim service program, and certainly one of the size of the Senate bill's.

Second, we object to the sunset clause in the Senate bill. There are no sunsets in such policy-oriented statutes as a sentencing law or our Social Security laws, and there should be none in the policy-oriented bill you are reviewing.

Mr. Chairman, that concludes my review of the legislation. I thank you for the opportunity to testify today, and respectfully urge you and your colleagues to adopt some of the improvements NOVA suggests, and then move the legislation through the Congress this session.

Mr. CONYERS. Well, thank you, President Noblet. We will do just that.

Could you tell me if you have a view about whether the provision in the Senate Judiciary Committee's bill, which allows the crime victim's fund to accept public contributions, meets with your approval or not?

Ms. NOBLET. It meets with my personal approval. But John, as our director of public affairs, and more in touch with the NOVA constituency, would answer the question better.

Mr. STEIN. As Connie would certainly say, the board hasn't taken it up as a policy matter. Some of the discussion that we have had privately over this, I confess, has brought out a terribly parochial viewpoint on the part of some of us. We ask ourselves, do we want to create a competing national victim assistance organization to seek contributions and donations? While I think it is doubtful that that provision would in fact attract a lot of money, I could be wrong. But having indicated that some of us are parochial that way, I will back away and repeat that we don't have a position.

Mr. CONYERS. I quite agree with you that if you want to make contributions, there are already enough existing organizations, and I think it confuses our Federal responsibility with the amount of generosity that might be forthcoming on this particular issue from time to time.

Let me ask you: Are there service programs or services to victims that are of greater value than others in your experience here, setting aside the compensation organizations for the moment?

Ms. NOBLET. That is a hard question to answer.

When you consider that throughout the Nation there are so few, and there are so many communities which have no way of meeting the victims' needs, I could not put down any effort that tries to do so. But depending upon resources and upon community support—and when I say community support, I mean from the individual residents all the way up to the county commissioner—they differ in quality.

In the State of Pennsylvania, for example, rape crisis counselors are required to be trained a minimum of 40 hours. Certainly, that creates a much more qualified counselor and much better system of meeting the victims' needs than in a State where there are no such standards. The field is new and the quality of services are irregular.

It is hard to answer your question. If you are asking me is there a model for the perfect service to victims, there are many, and they are still developing. They are still growing and they are still learning.

Mr. CONYERS. Could you just spell out your reasons for opposing reserving any part of the crime victim's fund for the Federal victim assistance programs?

Mr. STEIN. I would be happy to. If I understand Ms. Noblet's statement correctly, it is not surely flatout opposition. It would accept a proportionately smaller Federal program than has been proposed.

The basic thinking is this: That what a Federal prosecutor needs in Dubuque, in Detroit, wherever, what he needs for the occasional case of personal violence that he has to prosecute, what he needs is a good rape crisis center nearby, or other crisis center. And for that, the Federal aid really should go to strengthen that full network of community-based, local service programs. That is what we need to see available to him, and that is what this legislation could support.

Similarly, the Federal law enforcement official who wants to see a victim of Federal crime compensated should be able to look to the State compensation program to get that done. That is what this legislation also promotes, as it should.

The few additional things that Federal criminal justice agencies can and should do on their own is to expand their own capacity to respond well to victims and witnesses. Our view is much, if not all, of that should be done through the normal appropriations process. There should be victim assistance staff in every U.S. attorney's office, and there should be brought in just as Mr. Schenk has done in his prosecutor's office, through his regular budget.

But, having said that, we sadly note the Federal criminal justice system is way behind the States and localities. They have hot-shot prosecutors, terrific law enforcement personnel, very skilled staff, but for all that quality they have got virtually nothing in place yet in the way of victim assistance. So we are sometimes tugged to say, gee, maybe at least some of the money could go to start up something there that is long overdue.

Mr. CONYERS. Of course, the Federal criminal caseload is much smaller than the State caseload, and that might account for that, and it also might explain how the Federal system might be able to catch up more quickly once we get on track.

But I want to commend your organization. I have now had the pleasure of running into a number of your leaders. I think they are all working toward this common end, and I think we have come a long way in spreading out the possibilities of compromise in this legislation. So we are going to be going to markup from here and you can feel that the National Organization for Victim Assistance has played a major and crucial role in helping us shape this legislation, which I think will be widely received in the Congress.

So my thanks to you both for all you have done.

Ms. NOBLET. Thank you.

Mr. STEIN. Thank you.

[The prepared statement of Ms. Noblet follows:]

STATEMENT OF CONSTANCE C. NOBLET, R.N., EXECUTIVE DIRECTOR, VICTIM RESOURCE CENTER OF CHESTER COUNTY, PA, AND PRESIDENT, BOARD OF DIRECTORS, NATIONAL ORGANIZATION FOR VICTIM ASSISTANCE ON H.R. 3498, THE VICTIMS OF CRIME ACT OF 1983

Good morning, Chairman Conyers and members of the subcommittee. I am Constance Noblet, Executive Director of the Victim Resource Center in Chester County, Pennsylvania, just outside of Philadelphia. I also serve as the President of the Board of Directors of NOVA—the National Organization for Victim Assistance—whose headquarters is here in Washington. Accompanying me today is John Stein, NOVA's Director of Public Affairs.

Mr. Chairman, in behalf of the tens of thousands of paid and volunteer staff who devote their efforts to help the victims of crime, let me say how pleased I am to have the opportunity to testify at these hearings. We have been following the progress of H.R. 3498 and S. 2423, and are very encouraged by the favorable reception these bills are receiving in Congress.

Speaking personally, I can tell you how much the proposed federal funding would do for my center and the victims we are seeking to serve. We began our service as a rape crisis center in 1973, and keeping our doors open was a struggle.

Now, our center is well-established, has expanded its services to all victims of traumatic crime, is treated as an important professional resource by our law enforcement agencies, prosecutors, and judges—and yet we still face annual funding crises.

So the prospect of some additional aid may mean that one of our three staff members will keep her job—or that, finally, we will get the fourth staff member we needed for many years.

But I am not here just to talk about my sometimes-precarious program or even about the programs that are most similar to mine—the rape crisis centers, the battered womens' shelters, or other grassroots crisis programs.

Though I want to speak for these non-profit crisis intervention programs, I also want to speak for my colleagues across the country who are prosecutors, law enforcement officials, victim compensation directors, chapter leaders of self-help groups, child protection workers, nurses, doctors, and mental health workers, and most importantly, for the victims—all of whom identify with the larger goals of the victims movement and look to NOVA to express the common interest that unite us all.

I want you to appreciate that some of the suggestions I would like to give you about H.R. 3498 would translate into fewer available dollars for my center. That is true for me, and some of my friends who are prosecutors, and others who are compensation directors—to name only three of the many professions which serve victims.

Each of us is working to achieve less than we might under a federal funding program in hopes of nurturing a comprehensive network of services for victims. While this subcommittee has heard special pleading from different sectors of the victims' movement for their cause, we who basically subscribe to all of their special causes must ask ourselves, what is fair, what is equitable, what will best meet the needs of victims?

I hope that NOVA's positions that I will summarize for you meet those tests. They are the product of hard work by our board and staff. I am proud to say that not one of our positions on this legislation represents a compromise among political factions—from beginning to end, we aimed our sights, and drew on our diverse experience, to envision a federal grant program that would promote a healthy, comprehensive network of services to victims in every community of our country.

A final thought before I summarize our position:

Both H.R. 3498, which was introduced last year, and S. 2423, which was introduced this year, are attempts to express legislatively the recommendations of the bi-partisan President's Task Force on Victims of Crime. Both bills are similar. Either bill, if passed in this original form, would be a magnificent display of federal response to a long-overlooked national problem.

We believe that the Senate Judiciary Committee significantly improved S. 2423 in a bi-partisan fashion, and we hope that this subcommittee will work its will on H.R. 3498 in the same spirit. There is a coalition of bi-partisan decency coalescing around the two principal bills working their way through Congress, and our urgent desire is to see that coalition succeed in sending a bill to the President before Congress adjourns this Fall.

On that note, Mr. Chairman, permit me to review a few critical issues that arise in reviewing H.R. 3498 and S. 2423, as amended by the Senate Judiciary Committee.

1. THE SOURCES OF REVENUE FOR THE CRIME VICTIMS FUND

Last October, NOVA sent a letter to the Counsellor to the President, Edwin Meese, outlining the precepts that we and a host of national victim-rights and criminal-justice organizations felt should be included in a funding bill. In it, we stated that the revenue sources recommended by the President's task Force were all justified, and that, as a practical matter, the Fund will need a minimum of \$75 million from any and all sources to be the catalyst of change the Task Force envisioned.

Our estimates are that the main revenue sources in S. 2423—federal criminal fines, bond forfeitures, and penalty assessments—would meet these minimal funding needs. While we would welcome any additional revenues—from the excise tax on handguns and from general revenues—we would be pained to observe a fight over these issues effectively kill Congressional action on a bill this year.

2. PUTTING A CAP ON THE FUND

The Senate bill puts a cap of \$100 million on the revenues to be dedicated to the Fund, whereas H.R. 3498 has no such cap.

In our view, a transfer of criminal fines and other "abuser taxes" should be made a permanent source of funding in support of victim assistance programs—quite simply as a matter of principle.

Were Congress to impose a ceiling on the application of this principle, we certainly hope that the cap would not be set at just above the minimal funding level of \$75 million, such as the Senate committee has proposed. Though we oppose any cap, if there were one, we would suggest that it should be started at the level of \$150 million, and that it should contain a capacity for growth. For example, we think it would be fair if the post-cap revenues, if there be any, should be divided 50/50 between the Fund and the U.S. Treasury.

3. ESTABLISHING FUNDING FORMULAS FOR STATE VICTIM COMPENSATION PROGRAMS

Both bills use two formulas for determining grants for state victim compensation programs.

The most important formulas in each bill are these: H.R. 3498 would give each qualifying state a grant equal to 50 percent of the amount of compensation awards given out the previous year. S. 2423 would set that figure at 25 percent of the last year's awards.

The Senate figure of 25 percent is, historically, the minimal amount that both the National Association of Crime Victim Compensation Boards and NOVA have thought acceptable. Like that association, we strongly prefer the House figure of 50 percent. That would quickly induce the 10 states without a compensation program to create one. And more importantly, it would encourage the existing programs to meet the simple tests of decency mandated in both bills and would encourage them to treat the injured victims of crime more generously.

Let me put that issue in a case example. Say a violent criminal injured you or me, and that our medical bills came to \$90,000. The chances are that your health insurance or mine would cover at least \$80,000 of those bills. We would be grateful that our fellow citizens, through victim compensation, would cover the remaining \$10,000.

But now picture the gas station attendant, or liquor store clerk, or the cab driver, who was similarly victimized but has no medical insurance. What does the compensation program director say to that victim with a \$90,000 medical bill? That our maximum award for victim compensation is \$15,000?

That is a typical ceiling on benefits offered by compensation programs to victims, many of whom are uninsured. The larger grant program envisioned in H.R. 3498 will help to eliminate such less-than-generous statutory rules in state compensation programs.

In supporting the 50 percent formula, we feel it is critical that two rules in the Senate bill be part of a final bill:

[First, there should be a non-supplantation clause that bars any efforts to convert the federal grant into a scheme to replace state funding with federal funds.

The second important rule in the Senate bill allows states with well-funded compensation programs to have their unused federal compensation grants to "spillover" to the state's victim assistance programs.

We strongly support the Senate bill's non-supplantation and "spillover" rules, and are pleased that they apply equally to the victim compensation and victim assistance grants.]

The second formula in both bills says that compensation programs may draw their 25 (or 50 percent) grants from part of the Crime Victims Fund, but may not totally deplete the Fund in the process.

The Senate bill accomplishes this by distributing 45 percent of the Fund to the qualifying compensation states based on the size of their last-year's grant awards, and then imposing the 25-percent-of-awards formula. Any money the state would receive but for the 25 percent formula could be transferred to the victim assistance program. In effect, this would reward the generous compensation states with extra victim assistance money.

The House bill takes a simpler tact. It allows the compensation states to draw 50 percent of their last-year's awards out of the federal Fund, but reserves a minimum amount of that Fund for victim assistance. That minimum is set at 20 percent. Whatever the amount left over for victim assistance—20 percent or higher—it is distributed to the states on a population basis.

Many witnesses have urged this subcommittee to preserve the principle H.R. 3498 of a minimum reserve for victim assistance but to set that future at 50 percent, not 20 percent. We fully agree with that position. It is equitable.

4. ELIGIBILITY STANDARDS FOR LOCAL PROGRAMS APPLYING TO THE STATE FOR A VICTIM ASSISTANCE GRANT

We believe that the President's Task Force and the drafters of both the House and Senate bills all want to accomplish the same goals: to strengthen the entire range of victim assistance programs through the program of federal grants, but to give special emphasis to supporting programs which offer crisis intervention and counseling services to victims of traumatic crime as soon after the event as possible.

We subscribe to those goals. The competing claim for the grant funds comes from prosecutors who want to expand their so-called victim/witness services so that all prosecution witnesses are given an education as to what the court process is all

about, are kept notified about the progress of their case, and are called into court only when they are needed.

No one resisting this claim on the available resources says that such victim/witness services lack merit. They are very beneficial to all victims and witnesses in prosecutorial districts where such services exist. The reason all the interested parties have resisted opening up the Fund to these services involve values and priorities.

We who support these values and priorities know that, if Congress does not circumscribe the ways the victim assistance grants may be used, the vast majority of them are likely to flow into prosecutors' victim/witness units. That is a reflection of the influence that these elected officials have in our states and localities.

If left as a free-for-all, not only would the prosecutors get the lion's share but forgotten would be the four victims out of five whose cases never reach the prosecutor's office because there was no arrest, much less a prosecution.

Also lost in the decisionmaking would be an emphasis on helping the victim recover from the trauma in favor of an emphasis on making the court process less burdensome on all victims and witnesses.

And overlooked would be fact that hundreds of prosecutors have established and maintained basic victim/witness service programs because of the value of these services in running a well-managed prosecutor's office.

While NOVA shares this outlook, it should not be taken as hostility to prosecutors or their victim/witness programs. Representatives of those offices are, in fact, the largest group on NOVA's board. These individuals, like the rest of us, want prosecutors' offices involved in the grant program but in ways that will produce the most benefits.

Fortunately, both H.R. 3498 and S. 2423 invite prosecutorial involvement in the program. But they differ significantly in how the prosecutors might be involved.

Under the House bill, a prosecutor's special unit that functions just like my non-profit program in Chester County—that is, it is exclusively devoted to offering crisis intervention services, does so on a 24-hour basis, and uses volunteers—is eligible for support.

Unfortunately, that not only excludes the many conventional victim/witness units, it also excludes the majority of unusual prosecution-based crisis intervention programs, some of which do not use volunteers, others of which do not have crisis intervention services on a 24-hour basis, and virtually none of which are "exclusively" devoted to this mission.

More troublesome is the fact that many outside agencies, though exclusively devoted to crisis intervention for victims, fail to meet either the 24-hour or the volunteer tests—and for reasons beyond their control.

All in all, we fear that the House bill's efforts to conserve the victim assistance funds for the most important services may have gone a bit too far. And I am extremely wary of the simple expedient often suggested in these hearings to overcome the restrictions; if a prosecutor's office or any other agency can get funding by linking up with a telephone hotline, without requiring trained counselors to talk to the victim in person, Congress may end up subsidizing a second-rate and retrogressive system of victim services.

In our view, the Senate bill's attempts to accomplish the goal of focusing the funding does a better job. It would permit funding of any crisis intervention program that met some quality standards articulated in the bill in place of such standards as the 24-hour and volunteer rules.

It would also support programs that notify victims of the status of their case and involve them in the criminal justice proceedings. This involves a partial overlap with conventional victim/witness services—the case notification features—but it then induces the prosecutor to go beyond the conventional and involve the victim in key discretionary decisions, like dismissals, plea bargains, and sentencing.

That kind of involvement is at the heart of the "fair standards" enacted by Congress two years ago, and is well worth supporting in this kind of legislation.

While the Senate bill invites prosecutorial involvement in constructive ways, we remain concerned that the implicit limit on how much money should go into the "fair-standards" activities at the expense of crisis intervention services. We would hope that Congress would find a way to make that division equitable.

5. OTHER PROVISIONS IN THE SENATE BILL BUT NOT IN H.R. 3498

Finally, I might comment on two provisions in the Senate bill but not in H.R. 3498.

First, S. 2423 reserves 10 percent of the Fund (15 percent the first year) for a federal victim assistance program. Our sense is that state compensation programs and local service programs can and should meet the needs of victims of federal crimes. Further, we believe that core victim/witness services should be part of the federal prosecutors' regular budget, just like their state counterparts.

Thus, we question the need for the federal victim service program, and certainly not one of the size of the Senate bill's.

And second, we object to the "sunset clause" in the Senate bill. There are no sunsets in such policy-oriented statutes as a sentencing law or our Social Security laws, and there should be none in the policy-oriented bill you are reviewing.

Mr. Chairman, that concludes my review of the legislation. I thank you for the opportunity to testify today, and respectfully urge you and your colleagues to adopt some of the improvements I have suggested and then move the legislation through the Congress this Session.

Thank you.

Mr. CONYERS. The subcommittee will stand in adjournment.

[Whereupon, at 1:10 p.m., the subcommittee adjourned, subject to the call of the Chair.]

ADDITIONAL MATERIAL

STATEMENT

THE HONORABLE G. WILLIAM WHITEHURST

BEFORE THE SUBCOMMITTEE ON CRIMINAL JUSTICE

TESTIMONY ON BEHALF OF LEGISLATION TO ASSIST CRIME VICTIMS

MR. CHAIRMAN, MEMBERS OF THE SUBCOMMITTEE, IT IS A PLEASURE TO BE ABLE TO PRESENT TESTIMONY TO YOU, AND TO SPEAK OUT FIRMLY IN FAVOR OF H.R. 3498. THIS LEGISLATION IS LONG OVERDUE, AND IT RIGHTLY ADDRESSES THE PROBLEMS OF HELPING CRIME VICTIMS, WHO IN MANY CASES ARE CRIPPLED PHYSICALLY, MENTALLY AND FINANCIALLY FOR LIFE AS A RESULT OF AN ACT OF VIOLENCE AGAINST THEM.

IN MY STATE, VIRGINIA, A PROGRAM WAS ESTABLISHED IN 1977 TO PROVIDE ASSISTANCE TO THESE VICTIMS, AND I CAN ASSURE YOU THAT THE PROGRAM HAS RECEIVED WIDE SUPPORT FROM EVERY LEVEL WITHIN THE LAW ENFORCEMENT COMMUNITY, THE PROSECUTORS' OFFICES, AND THE VARIOUS BRANCHES OF GOVERNMENT.

ALL OF US WOULD PREFER IF THERE WERE NO NEED FOR SUCH A PROGRAM, IF CRIME COULD BE ELIMINATED ALTOGETHER. BUT WE MUST DEAL WITH REALITIES, AND THAT MEANS ADDRESSING THE VERY REAL PAIN SUFFERED BY THOSE WHO, THROUGH NO FAULT OF THEIR OWN, BEAR THE BRUNT OF CRIMINAL BEHAVIOR.

IF WE, AS A HUMANE NATION, ARE WILLING TO LOOK AFTER THE NEEDS OF THOSE WHO LIVE IN OTHER COUNTRIES, I THINK IT IS ONLY FAIR THAT WE ALSO GIVE ATTENTION TO THE DESERVING IN OUR OWN.

IT IS NOT ENOUGH, HOWEVER, MERELY TO ADDRESS THE FINANCIAL CONSEQUENCES OF BEING THE VICTIM OF AN ACT OF VIOLENCE. IN MANY CASES, SUCH AS RAPE AND SEXUAL ASSAULT, THE MENTAL HARM IS MUCH GREATER THAN THE ACTUAL PHYSICAL ATTACK. THAT IS WHY I THINK CRISIS INTERVENTION PROGRAMS AND 24-HOUR HOTLINES ARE SUCH VALUABLE ASSETS TO COMMUNITIES.

LET ME TELL YOU ABOUT A COUPLE OF INSTANCES THAT I AM AWARE OF THAT SPEAK SO CLEARLY TO THE ISSUES BEING WEIGHED BY THIS SUBCOMMITTEE.

A WOMAN WAS AT NATIONAL AIRPORT WHEN SHE WAS SHOT BY HER BOYFRIEND, WHO THEN KILLED HIMSELF. THE WOMAN, WHO LIVES IN MARYLAND, SURVIVED. ALTHOUGH SHE RESIDES IN A STATE THAT HAS VICTIM COMPENSATION, AND WAS IN ANOTHER STATE, VIRGINIA, THAT ALSO HAS A COMPENSATION PROGRAM, SHE WAS INJURED ON FEDERAL PROPERTY. SINCE THE FEDERAL GOVERNMENT HAS NO SUCH PROGRAM, THE WOMAN HAS BEEN PLACED IN LIMBO, UNABLE TO RECEIVE MUCH NEEDED AND OTHERWISE UNAVAILABLE ASSISTANCE.

ANOTHER EXAMPLE, ONE THAT SPEAKS TO THE BENEFITS OF THE PROGRAM IN VIRGINIA, INVOLVES A FAMILY IN MY DISTRICT IN VIRGINIA BEACH. A MAN BROKE INTO THEIR HOUSE, BEAT UP THE HUSBAND AND WIFE, RAPED THEIR 12-YEAR-OLD DAUGHTER AND ASSAULTED THEIR 6-YEAR-OLD SON. AS A RESULT OF THIS VICIOUS ATTACK, THE BOY REMAINS IN A COMA, AND DOCTORS DO NOT EXPECT HIS CONDITION TO IMPROVE.

AS YOU MIGHT IMAGINE, THIS ATTACK HAS DEVASTATED THE FAMILY, AND CHANGED EACH OF THEIR LIVES UNALTERABLY.

THE VICTIM COMPENSATION PROGRAM IN VIRGINIA HAS BEEN ABLE TO PROVIDE NEEDED FINANCIAL AND EMOTIONAL SUPPORT TO THIS FAMILY, THOUGH NO ONE WOULD ARGUE THAT ANYTHING CAN HELP THEM OVERCOME THE TRAGEDY OF THEIR SON'S CONDITION.

I RAISE THESE TWO EXAMPLES TO ILLUSTRATE WHY I AM URGING THE MEMBERS OF THIS SUBCOMMITTEE, THE FULL COMMITTEE, AND THE HOUSE TO SUPPORT THIS BILL.

I KNOW THERE ARE SOME WHO HAVE RAISED THEIR VOICES IN OBJECTION TO THE USE OF MONEY RECEIVED FROM EXISTING TAXES ON HANDGUNS, BUT I REJECT THEIR CLAIMS. AS THE PRESIDENT'S OWN TASK FORCE ON VICTIMS OF CRIME STATED: "THERE IS LITTLE IF ANY RELATION BETWEEN HANDGUNS AND HUNTING OR WILDLIFE ACTIVITY. THERE IS A SUBSTANTIAL RELATIONSHIP. HOWEVER, BETWEEN HANDGUNS AND THE COMMISSION OF VIOLENT ACTS."

LET ME CLOSE BY AGAIN AFFIRMING MY SUPPORT FOR THIS LEGISLATION, AND LET US DRAW TOGETHER AND PASS THIS BILL SO THAT SOME JUSTICE CAN BE DELIVERED TO VICTIMS.

THANK YOU, MR. CHAIRMAN, FOR YOUR ATTENTION AND CONSIDERATION.

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STATEMENT BY THE HONORABLE EDWIN B. FORSYTHE (R.-N.J.) AT THE SUBCOMMITTEE ON CRIMINAL JUSTICE HEARING ON H.R. 3498, THE VICTIMS OF CRIME ACT OF 1983: MARCH 22, 1984.

MR. CHAIRMAN, THANK YOU VERY MUCH FOR ALLOWING ME TO TESTIFY BEFORE YOUR SUBCOMMITTEE REGARDING H.R. 3498, THE VICTIMS OF CRIME ACT OF 1983.

H.R. 3498 ESTABLISHES A CRIME VICTIMS FUND TO SUPPORT CRIME VICTIM COMPENSATION PROGRAMS AND CRIME VICTIM ASSISTANCE PROGRAMS, BOTH OF WHICH I BELIEVE ARE EXTREMELY WORTHY CAUSES. THE AUTHORS OF THIS LEGISLATION ARE TO BE COMMENDED FOR ADDRESSING THE SERIOUS NEEDS OF INNOCENT VICTIMS OF CRIME.

HOWEVER, I MUST, MOST STRENUOUSLY, OBJECT TO THE PROVISIONS FOR FUNDING THESE PROGRAMS, WHICH WILL HAVE A SERIOUS IMPACT ON FEDERAL AND STATE FISH AND WILDLIFE MANAGEMENT AND ENFORCEMENT PROGRAMS. AS I UNDERSTAND THE LEGISLATION AS DRAFTED, THE CRIME VICTIMS FUND WOULD CONSIST OF (1) ALL FINES COLLECTED IN FEDERAL CRIMINAL CASES, (2) THE PROCEEDS OF ALL FORFEITURES IN FEDERAL CRIMINAL CASES, (3) THE TAXES IMPOSED ON THE SALE OF HANDGUNS, AND (4) THE NEW ASSESSMENTS CONTAINED IN TITLE IV OF THE BILL. WHILE I DO NOT KNOW HOW THE FIRST TWO ITEMS WILL IMPACT ON ALL STATUTES, BOTH THE LACEY ACT OF 1981 -- DEALING WITH ILLEGAL TRADE IN FISH AND WILDLIFE -- AND THE ENDANGERED SPECIES ACT

AMENDMENTS OF 1981 PROVIDE THAT THE GOVERNMENT "SHALL PAY A REWARD FROM SUMS RECEIVED AS PENALTIES, FINES, OR FORFEITURES OF PROPERTY OR ANY VIOLATION ... TO ANY PERSON WHO FURNISHES INFORMATION WHICH LEADS TO AN ARREST, A CRIMINAL CONVICTION, CIVIL PENALTY ASSESSMENT, OR FORFEITURE OF PROPERTY FOR ANY VIOLATION". THE RECEIPTS TO DATE HAVE BEEN BETWEEN \$1.3 MILLION AND \$2.0 MILLION PER YEAR. AS OF YET, NO REWARD MONIES HAVE BEEN PAID OUT, BUT, THE DEPARTMENT OF THE INTERIOR IS ABOUT TO IMPLEMENT THE PROGRAM AND THE PROMISE OF THESE REWARDS HAS ALREADY MADE SIGNIFICANT CONTRIBUTIONS TO THE ENFORCEMENT PROGRAMS ASSOCIATED WITH BOTH ACTS. THE RECENTLY ANNOUNCED ARRESTS CONCERNING TRADE IN BALD EAGLES AND PRODUCTS OBTAINED FROM THOSE MAGNIFICENT BIRDS ARE BUT ONE EXAMPLE. TRANSFER OF THOSE FUNDS TO THE VICTIMS OF CRIME FUND WOULD, OF NECESSITY, BRING THE REWARDS PROGRAM AND ITS ASSOCIATED BENEFITS TO A COMPLETE HALT. I WOULD STRONGLY SUGGEST, THEREFORE, THAT THE BILL, IF YOU DECIDE TO ACT FAVORABLY UPON IT, BE AMENDED TO CLARIFY THAT FINES AND FORFEITURES COLLECTED UNDER STATUTES WHICH PROVIDE FOR OTHER USES OF THOSE RECEIPTS WOULD NOT BE INCLUDED IN THE CRIME VICTIMS FUND.

IN ADDITION, THE 10 PERCENT EXCISE TAX WHICH IS CURRENTLY IMPOSED BY SECTION 4181 OF THE INTERNAL REVENUE CODE OF 1954 ON PISTOLS AND REVOLVERS IS NOW APPORTIONED TO THE STATES (ALONG WITH SIMILAR EXCISE TAXES ON OTHER ARMS, AMMUNITION, AND ARCHERY EQUIPMENT) BY THE FEDERAL AID IN WILDLIFE RESTORATION ACT OF 1937 (THE PITTMAN-ROBERTSON ACT). PITTMAN-ROBERTSON PROGRAM PROVIDES

THE STATES WITH MATCHING GRANTS TO ACQUIRE, RESTORE, MANAGE, AND IMPROVE WILDLIFE HABITAT. TO DATE, THE STATES HAVE USED THESE FUNDS TO ACQUIRE MORE THAN 4 MILLION ACRES OF FISH AND WILDLIFE HABITAT AND TO MANAGE MORE THAN 37 MILLION ACRES FOR THEIR FISH AND WILDLIFE RESOURCES.

FIFTY PERCENT OF THE HANDGUN TAX IS DISTRIBUTED TO OPERATE A WIDE RANGE OF HUNTER SAFETY PROGRAMS IN EVERY STATE INCLUDING THE CONSTRUCTION, OPERATION, AND MAINTENANCE OF PUBLIC TARGET RANGES AS WELL AS HUNTER SAFETY INSTRUCTION. THE HANDGUN TAX ACCOUNTS FOR 80 PERCENT OF THE FUNDS AVAILABLE TO THE STATES FOR HUNTER SAFETY.

THE HANDGUN FUNDS, WHICH MAKE UP MORE THAN 30 PERCENT OF THE TOTAL PITTMAN-ROBERTSON RECEIPTS, ARE USED TO BENEFIT NOT ONLY THE 1.3 MILLION HUNTERS WHO USE HANDGUNS FOR PURSUING LEGAL GAME, BUT ALSO THE MILLIONS OF AMERICANS WHO ENGAGE IN OTHER WILDLIFE-RELATED ACTIVITIES. THE HUNTER SAFETY PROGRAMS, IN PARTICULAR, HAVE DEMONSTRATED SIGNIFICANT BENEFITS IN REDUCING GUN AND HUNTING-RELATED MORTALITIES.

IN MY STATE OF NEW JERSEY, THE HANDGUN PORTION OF THE PITTMAN-ROBERTSON TAXES PROVIDES MORE THAN 50 PERCENT OF THE TOTAL WILDLIFE RESTORATION AND HUNTER SAFETY FEDERAL GRANTS RECEIVED EACH YEAR. THE LOSS OF THESE REVENUES TO THE STATE OF NEW JERSEY, AS WELL AS THE OTHER 49 STATES, WOULD BE SORELY FELT.

I DO NOT BELIEVE THAT THE INTERESTS OF THIS NATION ARE WELL SERVED BY FUNDING ONE PROGRAM, NO MATTER HOW WORTHWHILE, AT THE EXPENSE OF OTHER PROGRAMS OF PROVEN VALUE.

IN SUMMARY, MR. CHAIRMAN, WHILE I SUPPORT THE BASIC NEED FOR RECOGNIZING THE PLIGHT OF CRIME VICTIMS, I MUST STRONGLY OPPOSE ANY ATTEMPT TO USE PITTMAN-ROBERTSON MONEY FOR THIS PURPOSE TO THE DETRIMENT OF FISH AND WILDLIFE CONSERVATION AND HUNTER SAFETY PROGRAMS PRESENTLY FUNDED BY TAXING LEGAL HANDGUN PURCHASERS. THESE LAW-ABIDING CITIZENS SHOULD NOT BE PENALIZED AS A RESULT OF ACTIONS BY CRIMINALS. IF, DURING YOUR DELIBERATIONS ON THE BILL, CHANGES CANNOT BE MADE IN THE FUNDING MECHANISMS, I WILL BE FORCED TO WITHDRAW MY COSPONSORSHIP.

I THANK YOU, MR. CHAIRMAN, AND THE MEMBERS OF THIS SUBCOMMITTEE FOR THEIR TIME AND INTEREST.

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EBF:gpm

STATEMENT OF THE HONORABLE WALTER B. JONES, CHAIRMAN,
COMMITTEE ON MERCHANT MARINE AND FISHERIES, ON H. R. 3498,
TO PROVIDE ASSISTANCE TO VICTIMS OF CRIME, AND FOR OTHER PURPOSES
BEFORE THE SUBCOMMITTEE ON CRIMINAL JUSTICE, COMMITTEE ON THE
JUDICIARY

MARCH 22, 1984

MR. CHAIRMAN, I APPRECIATE THIS OPPORTUNITY TO TESTIFY
BEFORE YOUR SUBCOMMITTEE AND THANK YOU FOR TAKING THE TIME TO
HEAR MY VIEWS ON SECTION 301(b)(3) OF H. R. 3498.

I WANT TO MAKE VERY CLEAR THAT I DO NOT OPPOSE THE PURPOSE
OF THE LEGISLATION UNDER CONSIDERATION. NOR AM I OPPOSED TO THE
ESTABLISHMENT OF A CRIME VICTIMS FUND. WE HAVE TOO LONG
OVERLOOKED THE TERRIBLE PRICE PAID BY THE INNOCENT VICTIMS OF
CRIME.

HOWEVER, MR. CHAIRMAN, I DO WISH TO VOICE MY STRONG
OPPOSITION TO SECTION 301(b)(3) OF H. R. 3498, SPECIFICALLY THE
REALLOCATION FROM THE PITTMAN-ROBERTSON PROGRAM OF EXCISE TAXES
ON PISTOLS AND REVOLVERS TO A CRIME VICTIMS FUND.

THE PITTMAN-ROBERTSON ACT WAS PASSED IN 1937 AND AIDS THE
STATES IN WILDLIFE RESTORATION PROJECTS. THESE FUNDS ARE VERY
IMPORTANT IN HELPING THE STATES FUND WILDLIFE RESOURCE
MANAGEMENT AND HUNTER SAFETY AND EDUCATION PROGRAMS. THE
WILDLIFE RESOURCE MANAGEMENT PROGRAMS INCLUDE MANY AREAS, SUCH AS
RESEARCH AND DEVELOPMENT, STOCKING AND TRANSPLANTING GAME, AND

THE CONSERVATION OF NON-GAME, ENDANGERED, AND THREATENED
WILDLIFE. THESE PROGRAMS ARE CRUCIAL TO THE CONTINUED HEALTH OF
OUR NATION'S VALUABLE AND IRREPLACEABLE WILDLIFE RESOURCES.

HUNTER SAFETY AND EDUCATION PROGRAMS ARE ALSO FUNDED WITH
PITTMAN-ROBERTSON MONEY. STATE HUNTER SAFETY PROGRAMS ARE
DESIGNED TO REDUCE THE NUMBER OF HUNTING ACCIDENTS AND TO MAKE
HUNTERS MORE SKILLED IN THE USE OF FIREARMS. THE FEDERAL AID
PROGRAMS ALLOW THE STATES TO INCLUDE TRAINING IN HUNTING ETHICS,
WILDLIFE MANAGEMENT, SURVIVAL, ARCHERY SAFETY, AND HUNTER
RESPONSIBILITY FOR THE IMPROVEMENT OF OUTDOOR SPORTSMANSHIP AND
WILDLIFE STEWARDSHIP.

HUNTER TRAINING PROGRAMS REACH MANY YOUNGSTERS WHO NEVER
INTEND TO HUNT, THUS ENHANCING UNDERSTANDING BETWEEN THE HUNTER
AND THE NON-HUNTER. AS A RESULT OF SUCH HUNTER TRAINING
PROGRAMS, THE HUNTER AND NON-HUNTER ALIKE WILL BE BETTER PREPARED
TO MAKE SENSIBLE DECISIONS ABOUT WILDLIFE AND SAFETY IN THEIR
DAILY LIVES. THE HUNTER SAFETY TRAINING PROGRAMS ARE IN USE IN
49 STATES AND, IN MOST CASES, ADULTS AS WELL AS YOUNGSTERS
RECEIVE THIS TRAINING. WHATEVER ONE'S PERSONAL OPINION MAY BE
ABOUT HUNTING, I CANNOT IMAGINE THAT ANYONE WOULD NOT PREFER THAT
THOSE WHO DO HUNT BE KNOWLEDGEABLE IN THESE AREAS AND COMPETENT
IN THE USE OF FIREARMS FOR THE SAFETY OF ALL CONCERNED.

IF THE 10 PERCENT EXCISE TAX ON HANDGUNS AND REVOLVERS IS

REALLOCATED FROM THE PITTMAN-ROBERTSON FUND TO A CRIME VICTIMS FUND, IT WOULD MEAN AN ANNUAL LOSS OF APPROXIMATELY \$30,000,000 TO THESE PROGRAMS AND WOULD HAVE A DELETERIOUS EFFECT ON THE CONSERVATION OF WILDLIFE AND THE SAFETY OF HUNTERS AND NON-HUNTERS THROUGHOUT OUR COUNTRY.

MR. CHAIRMAN, ESTABLISHMENT OF A CRIME VICTIM'S FUND IS A WORTHY AND COMMENDABLE IDEA; BUT, THE PROGRAMS FOR PROTECTION OF OUR WILDLIFE RESOURCES AND ENCOURAGEMENT OF HUNTER EDUCATION AND SAFETY ARE EQUALLY VALUABLE TO OUR CITIZENS. THEREFORE, I AM ASKING YOU TO TAKE A GOOD LOOK AT SECTION 301(b)(3) AND, GIVEN THE IMPORTANCE OF THESE MONIES TO THE EXISTING PROGRAMS, I HOPE THAT EVERY EFFORT WILL BE MADE TO OBTAIN FUNDING FOR ASSISTANCE TO CRIME VICTIMS FROM SOME OTHER SOURCE.

THANK YOU FOR YOUR TIME AND CONSIDERATION OF MY VIEWS IN THIS REGARD.

Remington.


REMINGTON ARMS COMPANY, INC.

EXECUTIVE
OFFICES

ARMS-AMMUNITION-TARGETS-TRAPS
BRIDGEPORT, CONNECTICUT

CABLE ADDRESS
HARTLEY, BRIDGEPORT, CONN.

November 2, 1983

939 VARNUM AVE #1193 06601

DATE	NOV 07 1983
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The Honorable John Conyers, Jr.
Chairman, Criminal Justice Subcommittee
House Committee on the Judiciary
2137 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Conyers:

Victims of Crime Act of 1983 (H.R. 3498)

We are very much concerned with the proposed diversion of funds from the Pittman-Robertson Fund to a new Crime Victims Fund, as provided by the subject bill. We therefore request that the enclosed statement be made part of the hearing record on the bill.

Very truly yours,


E. F. Barrett
Executive Vice President

EFB:CK
Enclosure
cc: Members of the Subcommittee
Don Edwards
John F. Seiberling
Howard L. Berman
Frederick C. Boucher
George W. Gekas
Bill McCollum
Michael DeWine

neg
11-22-83

STATEMENT OF
 REMINGTON ARMS COMPANY, INC.
 ON H.R. 3498
VICTIMS OF CRIME ACT OF 1983

Remington Arms Company, Inc., is the nation's largest manufacturer of sporting firearms and ammunition. It is committed to the safe use of these products for recreational purposes and to the conservation and restoration of wildlife resources, which are supported by taxes on its products. While it is also concerned for the relief of crime victims, it is opposed to the diversion of funds raised by these taxes away from their basic purposes, as provided by H.R. 3498, the Victims of Crime Act of 1983.

The wildlife conservation, hunter education, and range construction programs of the Federal government and the states are unique in that the funds to support them come largely from excise taxes on sporting firearms, ammunition, handguns and archery equipment and revenues from hunting license sales. The concept of funding these activities in this manner has had the strong support of the manufacturers of sporting firearms and ammunition and the vast majority of hunters, shooters and sportsmen's organizations.

The most important element in these programs is the Pittman-Robertson Federal Aid in Wildlife Restoration Act, which was enacted in 1937. Over \$100 million is raised each year under the terms of this measure. These funds are distributed to the states on a 75%/25% matching basis. Originally this money was derived from an 11% excise tax on long guns

and ammunition and was used to support state wildlife programs. However, in 1970, the statute was amended to dedicate the 10% excise tax on handguns to the Pittman-Robertson Fund. The law authorized state wildlife agencies to use up to one-half of the handgun tax receipts for hunter education and range construction and the balance for wildlife restoration.

H.R. 3498 would seriously impede these programs by diverting the funds raised by the excise tax on handguns from the Pittman-Robertson Fund to a new Crime Victims Fund. We are not opposed to compensation for crime victims, but only to the diversion of funds from the Pittman-Robertson Fund.

Over the years, the Pittman-Robertson programs have been very effective. They have resulted in the acquisition of substantial acreage by the states, which has been developed to promote wildlife habitat. The body of knowledge about wildlife and its needs has been greatly enhanced by research efforts paid for from these funds. It is significant to note that all species of wildlife, and thus all citizens who enjoy wildlife, have benefited.

The hunter education programs have also been very successful. All states now have some form of hunter safety training and more than 750,000 people attend these courses each year. In many states,

successful completion of them is a prerequisite for those applying for a hunting license the first time. The result has been a significant decrease in hunting accidents, despite an increase in the overall number of hunters.

In summary, the Pittman-Robertson programs have been of great benefit to all of the population, not just those who hunt. H.R. 3498 would result in a major curtailment in these programs and accordingly, Remington is opposed to that portion of the bill. This does not constitute an objection to the establishment of the proposed Crime Victims Fund or its proposed funding from other sources -- only to the use of Pittman-Robertson funds for this purpose.

REMINGTON ARMS COMPANY, INC.

E. F. Barrett

E. F. Barrett
Executive Vice President

February 29, 1984

Representative John Conyers, Jr.
Chair, Criminal Justice Subcommittee
2313 Rayburn House Office Building
U.S. House of Representatives
Washington, D.C. 20515

Dear Representative Conyers:

I have given many hundreds of hours of time as a volunteer over the past four years, assisting in the local rape crisis center here in Laramie, and more recently helping to organize the Wyoming Coalition on Family Violence and Sexual Assault. And as a victim advocate, I've watched with satisfaction the growing concern on the national level with victim rights legislation. In particular last March, I wrote to my own Senator Alan Simpson thanking him for co-sponsoring the Victim Witness Protection Act of 1982, and as a board member of the National Coalition Against Sexual Assault, I have worked closely with both the President's Task Force on Victims of Crime and the newly formed Task Force on Family Violence by making rape crisis centers and shelters in the northwestern states aware of the hearings and encouraging them to locate resource materials and survivors willing to testify.

I'm writing to you now to thank you for the work you are doing on the Crime Victims Act of 1983 and to encourage your committee to approve Representative Rodino's H.B. 3498 in its current form with no changes in the eligibility criteria.

I believe that the qualifications for programs as they are presently outlined in the bill will come the closest to directly helping victims and their families, and if I may, I would like to share with you just a little of my experience in this regard. In a rural state like Wyoming (and other "large but sparse" Western states), our only method for providing services to rape survivors and victims of child sexual abuse and domestic violence is through community-based, non-profit rape crisis centers and shelters which contract with the state for direct assistance money. Much of our work is devoted to educational presentations in the schools and prevention programs, but by far the greatest amount of our energy goes into crisis intervention. With 4 staff and 40 trained volunteers, we keep open a 24-hour crisis line so that we are prepared, for instance, to meet a rape victim at 3:30 a.m. at the emergency room at the hospital when we get that early morning call from the police officer or ER nurse. The hotline also means that we are ready on weekends and holidays (when too often domestic violence is exacerbated) to accompany the sheriff's deputy 12 miles out of town to a ranch house where a battered woman and her two year old child need help collecting a few personal belongings before being transported into town to the shelter for safety's sake. As volunteers, we each take turns carrying the beeper and going on call four days and nights a month because we know that certain situations demand immediate intervention and referral, especially if the

healing and support processes are to begin right away.

Now, while as a volunteer advocate I often accompany a victim through the criminal justice system, I do not do "case management" as would a person who worked in a D.A.'s victim/witness unit. (Incidentally, there is but one such unit presently operating in Wyoming, and that office is in Casper, a town 160 miles north of Laramie.) Instead, I work alongside the victim as a support person because (as you know, for example, with an incest or even rape victim) the family may not be making it very easy for her to come forward to report and even the best trained individual officers or attorneys do not always provide a coordinated and compassionate response to victims of crime. Throughout the hearing/trial period, and following it, I find myself spending time meeting individually with a survivor or facilitating a self-help group.

As I prepare to close this letter, I want to make one more observation, and that concerns the importance of funding to rape crisis centers. In these months when budget constraints on all levels of government have been leaving our grassroots programs begging for operating funds, we have found ourselves relying more and more on the added energies of willing volunteers, and indeed many of us find ourselves paying our own way for trainings, conferences, and reproducing educational materials. For myself, over just the last two years I've contributed more than \$1000 (which will not be repaid) for travel and networking costs (postage, xerox, phone). The added funding to centers which H.B. 3498 offers as a possibility is desperately needed, both for basic operating expenses and also for direct services to victims, where we scrape at the last minute to find donations to pay for the rape exam or emergency transportation.

If you feel it would be appropriate, I would appreciate your sharing my letter with other members of the committee. And again I extend my thanks for the work all of you are doing on behalf of the innocent victims of violent crimes.

Sincerely,

Lee Stanfield
416 South 25th Street
Laramie, Wyoming 82070

x/c Senator Alan Simpson
Representative Dick Cheney
Senator Malcolm Wallop



THE WILDLIFE LEGISLATIVE FUND OF AMERICA
To protect the Heritage of the American Sportsman to hunt, to fish and to trap.

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Statement By

The Wildlife Legislative Fund of America

In Opposition To

H.R. 2470 and Section 301(b)(3) of H.R. 3498

Which Divert Funds From the
Federal Aid in Wildlife Restoration (Pittman-Robertson) Program
to Compensate Crime Victims

Submitted to

The Criminal Justice Subcommittee

of the

House of Representatives Judiciary Committee

March 22, 1984

Washington, D.C.

The Wildlife Legislative Fund of America (WLFA) strongly opposes passage of H.R. 2470, Section 301(b)(3) of H.R. 3498, or any other legislation which would break the compact between the Congress and the American sportsman which is embodied in the Pittman-Robertson program.

This is not to say that the WLFA opposes the compensation of crime victims. In fact, we urge the Subcommittee to carefully consider H.R. 5124 which establishes a crime victim's assistance program, funded by perpetrators' fines and forfeitures. This legislation makes sense to law abiding citizens: It places the burden of compensation on the criminal.

The WLFA is an association which provides legislative and legal representation to sportsmen's groups throughout the country, both in Washington and in the states. We represent many sportsmen's organizations at the state and local levels, as well as most of America's major, national sportsmen's conservation groups. Perhaps the best known of these is Ducks Unlimited, whose 400,000 members raise \$40 million annually to acquire and maintain waterfowl habitat in North America. Our primary purpose is to protect the heritage of American sportsmen and to protect scientific wildlife management practices. Two of the bills before the Subcommittee today appear to touch on both of our purposes.

The Pittman-Robertson Act has been one of the most successful federal programs of all times. Financed by excise taxes on firearms, ammunition, bows and arrows, and other hunting-related equipment, the funds are used in state wildlife management programs. The Act was passed in 1937, with enthusiastic support from sportsmen's organizations, and has served a two-fold role ever since that time.

In addition to providing a reliable source of Federal revenue, the Act serves to guarantee the availability of hunting license fees paid locally by the sportsman, as states are required to insure that all such license fees are devoted exclusively to wildlife purposes as a condition of receiving the Federal funds. This provision, strongly advocated by sportsmen, ended an unfortunately widespread practice by state legislatures of diverting license fees to non-wildlife uses.

Pittman-Robertson funds were largely responsible for some of the most dramatic restoration programs of the plentiful wildlife populations we now take for granted.

Few recall that the buffalo was not the only species decimated by the westward march of civilization. By the turn of the century, most of the country had almost no populations of deer, beaver, wild turkeys, elk, moose, wild sheep and antelope. It was the funds made available

by Pittman-Robertson that enabled the states to begin the stocking and habitat protection programs which have restored these species to their current plentiful status.

For example, deer were nearly eliminated from most states in the 1800's, and it was not until the late 1950's that deer hunting seasons were instigated in all states; most had none until the 1940's. Now, of course, there are deer everywhere, in many cases threatening to overpopulate their habitat; a situation which would have amazed anyone concerned with wildlife when the Act was passed. Sheep hunting was instituted in Colorado in 1953 for the first time since 1885, as a result of transplants funded by Pittman-Robertson, and western antelope populations have similarly increased from approximately 30,000 in the 1930's to over 1 million. Today beavers, after an absence of more than a century, are again plentiful in their original range. Turkeys, considered a prime candidate for extinction in the 1930's, are now found in 43 states, including many, such as California, where they had never previously been located. The population of the species is now estimated to exceed 1.5 million birds.

Several points need to be emphasized in connection with this. First and foremost, it was habitat destruction - felling of forests and plowing of prairies - and unrestricted market hunting that was responsible for the massive destruction of

wildlife populations in the 1800's, not sport hunting.

Indeed, sport hunters, beginning with Theodore Roosevelt and organizations such as the Boone and Crockett Club, took the lead in establishing National Parks and Forests to protect wildlife habitat, and in outlawing market hunting. State fish and game commissions, hunting licenses, seasons and bag limits, and indeed the entire structure of modern wildlife management, were largely created as a result of demands by sportsmen for responsible, scientifically-based management and protection of wildlife.

Secondly, it should be noted that hunting seasons are only authorized for a species when the species is widespread and plentiful within a state. Thus, the reinstatement of hunting seasons referred to above represents not just an opportunity for hunting, but scientific recognition that the species has successfully reestablished itself within the state or area in question. The latter fact is as much, if not more of, a cause for satisfaction among sportsmen.

Finally, although the thrust of the sportsman's concern quite naturally revolves around game species, where it is in his own interest to maintain plentiful populations, he pays the bill for almost all wildlife programs - game, and non-game alike.

Except for a few migratory and endangered species wildlife management and protection is a state responsibility. State wildlife agencies are largely financed by sportsmen, through license fees and the excise taxes of the Pittman-Robertson and Dingell-Johnson Acts.

For the 1978-79 period, which were the available figures when the most recent funding study was completed, 77.5% of total budgets of the State wildlife agencies were derived from sportsmen.

"Other" and "Special" sources of revenue - tax check-offs, mineral leasing receipts, etc. - provided 13.8% of the total, and general tax revenues provided 8.7%. A table illustrating this, on a state-by-state basis, is contained in the brochure at the end of the statement as Appendix I. (See Fish and Wildlife Agency Funding, produced by the Wildlife Conservation Fund, companion to WLFA.)

These funds are not just used to benefit game species. Habitat acquisition programs, as one example, benefit all species. And enhanced populations of game species provide enjoyment to hikers, photographers, and many others in addition to hunters.

It should also be noted that hunters' activities on behalf of wildlife do not stop with the payment of tax and license fees. Private hunter/conservationist groups such as Ducks Unlimited, Game Conservation International, Foundation for North American Wild Sheep, Ruffed Grouse Society, National Wild Turkey Federation and many others have contributed millions of dollars and hours of volunteer time to wildlife programs. Ducks Unlimited alone raised over \$40 million last year for wetlands protection

and management for the benefit of migratory waterfowl. And purchases of "duck stamps", primarily by hunters, provide additional millions annually for acquisition of wildlife refuges and other habitat protection measures at no cost to the taxpayer.

In short, despite the nay-saying of the anti-hunting, animal rights organizations, the present healthy population levels of those animal species the public generally encounters, and is concerned about, are not the result of natural forces or happenstance. They are solely the result of billions of dollars and hundreds of thousands of man-hours of work from the nation's hunters. These resources could not possibly have been made available otherwise.

And since the institution of modern scientific wildlife management programs in the United States, not a single species has become endangered or threatened as a result of hunting. Indeed, since Congress has seen fit to severely reduce appropriations for state endangered species programs in recent years, sportsmen's funds are being utilized here as well - for the benefit of wildlife, not hunters.

As to the specifics of the present legislation and wildlife, we would request the Subcommittee consider that the excise taxes on sporting goods yielded \$120 million for distribution to the states last year. The handgun portion of that revenue amounted to nearly \$30 million, or almost one-quarter of the total.

The question necessarily arises as to why this money should be diverted, and how it could be replaced.

The latter question has a simple answer, in all likelihood - it will not be. There is simply no untapped revenue source in

existence which cover a \$30 million annual shortfall for wildlife programs. The results will be serious. There will undoubtedly be witnesses before the Subcommittee who will provide specific information on this point, but we urge the Subcommittee not to underestimate the impact of such a funding reduction on a chronically underfunded set of programs.

Equally important, however, is the question of why these monies are considered so appropriate for transfer to a crime victim compensation fund. The public statements of some supporters of the idea indicate that serious misconceptions exist.

Statements have been made by some, including the President's Task Force on Victims of Crime, that there is no relationship between handguns and hunting. This is simply false.

A 1980 Census Bureau study, conducted for the Fish and Wildlife Service, found over 1 million people hunt yearly with handguns, a figure that is rapidly growing. Forty-nine states now permit small game hunting with handguns, and 37 permit big-game hunting.

Handguns are also widely carried and used for protection against snakes and animals in the wild on non-hunting occasions, as examined in a story from the November 1983 issue of *Outdoor Life* magazine, Appendix II.

The facts are clear - handguns do play a major role in hunting and outdoor activities.

It must also be pointed out that the tax in question is not absorbed by the manufacturers. Rather, the tax is paid

by the firearm purchaser, who at least 99.99% of the time is a totally honest citizen.

Many of these handgun owners are not hunters. Some are target shooters, while others are seeking protection. And, as noted above, there are over 1 million persons hunting with handguns annually. This disparity among those to be taxed resulted in a change in the traditional distribution formula for Pittman-Robertson funds at the time handguns were added to the program. Rather than apply all the revenue from the tax directly to wildlife programs, the revenue was to be split, with half going to wildlife and half to hunter education and target range construction programs. Funds not used for the latter can be reapplied to wildlife programs.

This split not only supported hunter safety programs, which are valuable firearms safety programs even for non-hunters, but also provided a means whereby the non-hunting handgun owner could receive some benefit from the higher tax rate he was being asked to pay on his firearm purchase.

Whatever criticism may now be made of this division, the record clearly establishes that it was extensively discussed within the Congress and with representatives of sportsmen and gun owners. It is the law, not a policy decision, which directs the funds to range construction. And it may be conclusively stated that without this division of funds, the legislation increasing the handgun excise tax and placing the revenues into the Pittman-Robertson program would not have passed.


The Pittman-Robertson program is, in concept if not law, a trust fund. Taxes were imposed on items, with the enthusiastic support of most purchasers of the items, on the clear understanding the revenues were to go to specific purposes which benefited, and were supported by, those taxpayers.

Now, however, Congress is being asked to break that agreement.

Raiding the Pittman-Robertson program from funds, as suggested by the legislation before the Subcommittee, would be severely damaging to the nation's wildlife programs.

We strongly urge the Subcommittee to reject the idea of using the Pittman-Robertson Act as a source of funding for any non-wildlife programs. The Act is doing what it was intended to, and doing it very well. There is no rational reason for dismembering it.

To protect the Heritage of the American Sportsman to hunt, to fish and to trap... and to protect scientific wildlife management practices.



**THE WILDLIFE
CONSERVATION FUND
OF AMERICA**

50 West Broad Street • Columbus Ohio 43215 • 614/221-2684

FISH AND WILDLIFE AGENCY FUNDING

State-by-State results of WCFA
Revenue Sources Survey

In the latter part of 1979 The Wildlife Conservation Fund of America sent a survey questionnaire to all state fish and wildlife agencies. This report is a compilation of the results of that survey.

It is intended to serve as a review of information and ideas concerning the financing of state fish and wildlife agencies. Our desire and objective is that every fish and wildlife agency have the support it needs to carry on with the kind and quality of program essential for an ongoing wildlife management program that serves the needs of the hunter, the fisherman, the trapper, and the wildlife resource. Despite the oft-stated opinions of non-hunting "animal welfare" organizations, it is our firm belief that fee-financed wildlife programs provide a wildlife management base that would not be replaced in most states if wildlife programs were made a general fund responsibility.

This is not to say that wildlife programs should not have general fund support. State fish and wildlife agencies are charged with managing the resource for the benefit of all people, users and non-users alike. And regardless of the source of funding and special management objectives, they do this. Most fish and game management programs result in benefits to all people, and to nongame as well as game species. A marsh acquired for waterfowl habitat benefits the entire wetland resource—the hunter's benefit is minor compared to that of the general public in benefits to the environment, and specifically the scientist, the ground water user, the student, the birdwatcher, the photographer, and others who value wetlands. A range improved for game through hunters' dollars has similar benefits, to many species and many people, not just to game species and the hunter.

Fee-financed fish and wildlife agencies have been the backbone of environmental programs in most states. That some of their support ought to come from general fund sources seems obvious, but convincing the general public of this can be difficult, or it may not be worth the political involvement that results from the biennial struggle for one's place in the budget. Some agencies seem to have come to terms with substantial general fund financing; more appear to believe it out of the question.

This report summarizes results shown in detail in the table, and summarizes information provided by the states concerning sources of income used to finance wildlife programs.

A few states recently have conducted studies of fish and wildlife agency financing, either by the agency itself, a special committee, or a committee of the legislature. Those reported to us were Iowa, North Carolina, Maine, and Idaho.

Figures provided us were a mixture of fiscal years ending in 1978 and 1979, so the totals cannot be quoted as those of a single year. This suited the purpose of our study, which was intended to

provide perspective rather than documentation. Source categories were provided to us in forms that were inconsistent from state to state, and it is apparent that some park, watercraft or other money is mixed in with wildlife figures. To the extent that we could isolate such figures easily, we deleted them. We did not go back to the agency for more definitive splits. As it was, a couple of agencies let us know that they had about "had it" with survey questionnaires. Most agencies welcomed our inquiry.

To those who find this discussion useful, we wish you would communicate your reactions and your questions. We realize that this survey is only a beginning in examining the subject of financing of state fish and wildlife programs, and we are open to suggestions as to how this organization may be of help to the states in securing a financial base for strong fish and wildlife agencies.

As we see it, the hunter, the fisherman, the trapper, and the wildlife base, are in the long run critically dependent upon such strong agencies.

The IAFWA was pleased to work with and encourage The Wildlife Conservation Fund of America (WCFA) in conducting this survey. It provides a perspective that is sure to assist the cause of sound and durable funding for our agencies. We are especially pleased to note that we can count on the WCFA as an ally in our common pursuit of securing such funding.

Jack Berryman
Executive Vice President
International Association of Fish
and Wildlife Agencies.

*James H. Glass, President
The Wildlife Conservation Fund of America*

A REVIEW OF STATE WILDLIFE AGENCY FINANCING

State wildlife agencies were funded in fiscal 1978 and 1979 at an annual rate of about \$600 million, the bulk of it (58.3%) revenues from the sale of hunting and fishing licenses, trapping licenses, and various other types of licenses, permits and stamps. By state, the proportion of license revenues to total agency income ranged from 84.3% in Vermont to 7.2% in Hawaii. There were 17 states above 70% and only 9 below 50%.

The second largest source of money was federal - 17.8% - consisting principally of Pittman-Robertson and Dingell-Johnson reimbursements, but various state wildlife agencies received federal money from more than 20 other federal programs such as Endangered Species, Coastal Zone Management, Anadromous Fisheries, the Land and Water Conservation Fund, and programs of the Bureau of Reclamation, Forest Service, Bureau of Land Management, etc.

Next was "other and special", at 13.8%. This category includes fines and forfeitures, sale of products and

minerals, sale of publications, user fees, severance and miscellaneous taxes, and anything else not in the major categories. The figure is drawn out of proportion by one item - Missouri's sales tax which produced over \$30 million. Without that item, the category "other and special" represented only 8.4% of total revenues.

Fourth in size overall was the 8.7% derived from general taxation. Only 19 states received money from this source. Segregating these states, general fund revenues represented 22.3% of their total income.

The remaining category, representing 1.4%, is interest derived from moneys on deposit in the state treasury. This occurred in only 18 states, generally not the same as the 19 which allocate some general fund money. Segregating the states that received interest, this income represented 2.8% of their total income.

Following is a discussion of possible sources of new revenue for state wildlife agencies, based upon reports received from agencies in response to this survey.

The Fee Increase

Of all potential sources of revenue, the fee increase offers the most promising avenue for substantial increases in income in most cases. A number of states have recently increased fees. Others reported to us that this is politically impossible in their states. Also to be considered is the "elasticity" of demand for hunting and fishing licenses - if fees are increased too much, the increase of income may be disappointing due to (1) people who drop out of these activities and (2) increase in the number of people who hunt or fish without a license.

The Iowa Conservation Commission in a recent report on wildlife funding options observed another constraint on raising fees: the need to maintain license fee levels at approximately the same levels as surrounding states. It noted also that to some degree fee revenues are inversely proportional to the need for management, development and acquisition of fish and wildlife resources, since states with a bountiful natural resource base can generate significant revenue amounts with limited effort to improve the resource, while states such as Iowa must be more active relative to fish and wildlife management, development and acquisition if the same quality of experience is to be provided the hunter and fisherman.

If recent inflation rates continue, a periodic increase in fees will be necessary if wildlife management is not to be gradually phased out as a government activity. General funds or federal fund increase offers some possibilities, but not the "giant strides" that will be necessary if current rates of inflation are to continue.

An exceptional case is Missouri, where a special voted sales tax yields over \$30 million annually for conservation. (See further discussion below.) This may be the ideal method of financing wildlife management. We do not give it priority as a fund source only because of the relative difficulty of amending a state's constitution by vote for a tax increase, as compared with getting the state's sportsmen together on a legislative fee increase.

California's mechanism deserves study as a method of coping with inflation. In 1978 that state changed its fees and looked to the future by adding Section 710 et seq to the Fish and Game Code. That section recites:

"The Legislature finds and declares that the department has in the past not been properly funded. The principal cause has been the fixed nature of the department's revenues in contrast to rising costs resulting from infla-

tion. This lack of funding has prevented proper planning and manpower allocation. The lack of funding has required the department to restrict warden enforcement and to defer essential repairs to fish hatcheries and other facilities. The lack of secure funding for fish and wildlife activities other than sport and commercial fishing and hunting activities has resulted in inadequate nongame fish and wildlife protection programs."

The law then goes on to require that hunting and sport fishing license fees be adjusted annually by a factor which reflects changes in an inflationary index developed by the Department of Finance based on the fiscal year 1977-78 costs of the department relating to salaries, staff benefits, and operating expenses. The factor is multiplied by the individual base fee for each license, stamp, or tag (e.g. resident hunting license \$10), and the product is rounded to the nearest twenty-five cents.

The law states that the inflationary index may not be used to accommodate an increase in the aggregate of hunting and sport fishing programs.

Arizona authorizes its Game and Fish Commission to raise or lower fees under a statutory maximum and a further limitation that it cannot increase fees more than a certain amount in one year - for general hunting and fishing licenses this is \$1.00.

The Iowa Conservation Commission, in connection with its studies of conservation funding, recommended legislation which would link license fee increases to an index such as the Consumer Price Index, through statute rather than administrative rulemaking process. An interesting discussion of the pro's and con's of indexing is contained in a staff paper of the Conservation Commission entitled "Staff Analysis and Comments - License Fee Indexing Proposal".

How Fee Increases are Presented to Buyers

A 1979 Analysis and Proposal by the Michigan Department of Natural Resources identified inflation as the problem. In connection with a proposal for fee increases the Department recommended creation of an "escalator" mechanism under which the Natural Resources Commission could increase license fees in increments of 25 cents based on an inflation rate such as the percentage raise approved by the Civil Service Commission for state employees. The Legislature would have 60 days after the

TABLE OF REVENUE SOURCES FOR STATE WILDLIFE AGENCIES

STATE	TOTAL REVENUE	LICENSE FEES	FEDERAL PAYMENTS	GENERAL TAXATION	INTEREST INCOME	SPECIAL & OTHER	PERCENT OF TOTAL						
							LICENSE FEES	FEDERAL PAYMENTS	GENERAL TAXATION	INTEREST INCOME	SPECIAL & OTHER	MONTHS RESERVE	INTEREST DIVERTED
ALABAMA	2,455,844	412,847	1,051,707	400,000	—	—	16.8	42.8	16.4	—	—	—	—
ALASKA	31,065,835	4,676,700	19,141,400	—	—	—	15.0	60.3	—	—	—	—	—
ARIZONA	6,099,890	4,098,000	2,001,890	—	—	—	67.2	32.8	—	—	—	—	—
ARKANSAS	10,025,429	8,200,485	1,824,944	—	—	—	81.8	18.2	—	—	—	—	—
CALIFORNIA	23,844,228	25,842,788	3,954,380	—	—	—	108.4	16.6	—	—	—	—	—
COLORADO	28,011,956	20,564,465	2,451,356	—	—	—	73.4	8.7	—	—	—	—	—
CONNECTICUT	1,170,000	500,000	670,000	—	—	—	42.7	57.3	—	—	—	—	—
DELAWARE	1,714,004	338,062	737,900	—	—	—	19.7	43.1	—	—	—	—	—
FLORIDA	16,828,787	7,725,370	2,617,187	—	—	—	45.9	15.5	—	—	—	—	—
GEORGIA	12,502,935	4,850,198	2,502,417	—	—	—	38.8	20.0	—	—	—	—	—
HAWAII	1,687,352	1,132,702	336,650	—	—	—	66.9	18.2	—	—	—	—	—
IDAHOO	9,644,861	6,093,827	3,332,378	—	—	—	63.2	34.6	—	—	—	—	—
ILLINOIS	8,282,000	2,300,000	—	—	—	—	27.8	—	—	—	—	—	—
INDIANA	8,799,876	2,464,481	2,457,263	—	—	—	27.9	27.9	—	—	—	—	—
IOWA	1,700,000	1,300,000	—	—	—	—	76.5	—	—	—	—	—	—
KANSAS	6,832,599	3,949,327	2,349,850	—	—	—	57.8	34.4	—	—	—	—	—
KENTUCKY	7,283,043	3,396,903	1,302,677	—	—	—	46.5	18.0	—	—	—	—	—
LOUISIANA	16,020,025	4,272,898	2,232,376	—	—	—	26.7	14.0	—	—	—	—	—
MAINE	6,863,807	2,871,758	2,748,869	—	—	—	41.8	40.0	—	—	—	—	—
MARYLAND	3,758,419	2,853,027	736,546	—	—	—	76.0	19.5	—	—	—	—	—
MASSACHUSETTS	2,690,000	2,690,000	—	—	—	—	100.0	—	—	—	—	—	—
MICHIGAN	23,816,801	17,595,893	1,865,500	—	—	—	73.9	8.1	—	—	—	—	—
MINNESOTA	25,198,000	14,000,000	3,300,000	—	—	—	55.6	13.1	—	—	—	—	—
MISSISSIPPI	8,401,344	5,012,695	2,193,484	—	—	—	59.7	26.1	—	—	—	—	—
MISSOURI	9,670,364	3,075,786	3,075,786	—	—	—	31.8	31.8	—	—	—	—	—
MONTANA	10,883,730	7,853,969	7,853,969	—	—	—	72.3	24.2	—	—	—	—	—
NEBRASKA	7,877,687	5,053,159	1,560,424	—	—	—	64.2	19.8	—	—	—	—	—
NEVADA	6,819,816	4,336,340	1,973,358	—	—	—	63.6	28.9	—	—	—	—	—
NEW HAMPSHIRE	1,570,780	2,540,780	3,000,000	—	—	—	165.6	184.1	—	—	—	—	—
NEW JERSEY	5,064,976	3,796,532	756,709	—	—	—	75.0	14.9	—	—	—	—	—
NEW MEXICO	5,738,980	1,154,254	1,367,947	—	—	—	20.1	23.5	—	—	—	—	—
NEW YORK	14,807,258	12,511,700	1,357,258	—	—	—	84.5	9.0	—	—	—	—	—
NORTH CAROLINA	9,884,881	8,880,183	2,279,344	—	—	—	89.8	23.0	—	—	—	—	—
NORTH DAKOTA	4,524,854	2,500,000	1,599,634	—	—	—	55.3	35.3	—	—	—	—	—
OHIO	11,435,272	9,377,091	1,086,868	—	—	—	82.0	9.5	—	—	—	—	—
OKLAHOMA	9,424,508	6,565,827	1,878,618	—	—	—	69.7	20.2	—	—	—	—	—
OREGON	21,288,827	13,982,981	3,771,138	—	—	—	65.8	17.7	—	—	—	—	—
PENNSYLVANIA	25,321,214	14,335,658	4,539,414	—	—	—	56.6	17.9	—	—	—	—	—
RHODE ISLAND	1,567,000	290,000	824,000	—	—	—	18.5	52.6	—	—	—	—	—
SOUTH CAROLINA	17,720,722	3,820,459	2,721,227	—	—	—	21.5	15.3	—	—	—	—	—
SOUTH DAKOTA	4,446,536	2,388,279	1,261,687	—	—	—	53.7	28.4	—	—	—	—	—
TENNESSEE	9,881,487	7,175,223	2,254,961	—	—	—	72.6	22.8	—	—	—	—	—
TEXAS	19,207,000	10,514,313	5,806,062	—	—	—	54.7	30.2	—	—	—	—	—
UTAH	6,600,000	6,600,000	1,400,000	—	—	—	100.0	21.2	—	—	—	—	—
VERMONT	2,877,814	2,427,814	425,000	—	—	—	84.0	14.8	—	—	—	—	—
VIRGINIA	7,790,006	6,491,823	870,483	—	—	—	83.3	11.2	—	—	—	—	—
WASHINGTON	15,088,718	10,834,283	3,987,094	—	—	—	71.8	26.4	—	—	—	—	—
WEST VIRGINIA	5,946,283	4,128,222	925,145	—	—	—	68.0	15.6	—	—	—	—	—
WISCONSIN	19,828,200	11,848,400	2,125,800	—	—	—	59.7	10.8	—	—	—	—	—
WYOMING	10,609,473	8,381,774	1,112,228	—	—	—	78.9	10.5	—	—	—	—	—
Total	402,870,318	351,818,824	107,163,898	52,849,726	110,811	—	87.3	13.8	—	—	—	—	—
Percentage of Total	58.3%	17.8%	8.7%	1.4%	0.0%	—							

*X indicates figures are for 1978 fiscal year; others are for 1979. "Months Reserve" shows period the agency could maintain normal operations from reserve funds if current revenue were cut off. "Interest Diverted" identifies states in which interest on deposited revenues is used for purposes other than wildlife.

Commission's recommendation at its April meeting to reject the Commission action, in the absence of which it would go into effect.

The states which have studied the fee increase problem have observed that small annual increases meet less resistance from buyers than infrequent large increases. Some states in making "catch-up" license increases have doubled fees, yet have still found themselves behind the inflation rate. In the meantime, they have been running at deficient revenue levels. Thus, even though a state might revise its fees every few years to meet the Consumer Price Index, the increase doesn't make up for what an annual increment would have produced over the same period.

Another way to raise fees is to create new types of

licenses, permits and stamps, but except for meeting particular needs that sportsmen find acceptable this is generally considered undesirable. In the Michigan analysis the complexity of the license system which resulted from bit-by-bit additions was criticized, the Department recommending simplification in order to realize important cost savings but also to "reduce the bewilderment, frustration and animosity of the license-buying public, and make life much easier for the private businessman upon whom we depend for selling licenses."

Who Pays for "Free Licenses"?

There are gaps in the license system which could be

filled, but most of these do not offer any substantial source of revenue, yet would incur some cost. In public relations, these include landowner-tenant licenses, lowering the age for licenses, and in the case of seacoast states, requiring salt water fishing licenses.

While filling such "gaps" may not be considered subjects for serious discussion, there appears to be more reason to question sportsmen's sole support of legislative exemption of other people, veterans, and handicapped people. The recent California law requires payment of free hunting and fishing license programs out of general revenue. A few other states have made this change or considered it. Legislators tend to see free licenses as good politics, but when the sportsman pays the entire shot for

wildlife management, this is not normal generosity or the expense of the general taxpayer but rather the imposition of an unequal burden on the fee-paying sportsman. This is in no way to say that elderly or handicapped people should not be given free licenses, but like any other social welfare program, this should be supported by general tax sources so that all may participate.

A 1979 report of a Wildlife Resources Financial Study Committee in North Carolina recommended creation of a "lifetime" license to create a fund, the interest from which would be available in lieu of annual license revenue. Hypothetically, the Committee noted that if 200,000 lifetime licenses were sold at \$300 each, a fund of \$60 million would be established, yielding \$6 million per year at 10 percent interest. The Committee also suggested creation

of an endowment fund by sale of lifetime subscriptions to its magazine, **Wildlife in North Carolina**.

A few agencies get all or part of watercraft or snowmobile registration fees. This is usually expressly or impliedly connected to an enforcement responsibility by the wildlife agency.

User fees for wildlife areas is a minor source of income. Camping fees are common, but fees for entering wildlife areas are not.

"Watchable Wildlife" Programs

Oregon has a "Watchable Wildlife" program the purpose of which is to encourage non-hunters and non-fishermen to contribute to the support of wildlife protection and management. The program is voluntary — the contributor receives a decal. Other states have similar systems for voluntary contribution, but none generates significant income. North Carolina's study committee recognized the rightness of non-consumptive users of wildlife paying their fair share of the cost of wildlife conservation programs which benefit them. The Committee estimated that there are about 700,000 non-hunters and non-fishermen in the state who are sufficiently interested in the welfare of wildlife to make a contribution, noting that \$5 from each would generate \$3.5 million per year. The Committee then added a realistic comment: "Experience has proven that effective programs cannot be supported from contributions that lack active involvement and participation by its constituency."

General Fund as a Wildlife Revenue Source

Thirty state wildlife agencies receive no general fund income, and only about nine receive any substantial amount from that source, either in absolute terms or as a proportion of their budgets.

This independence from general fund financing has been the preference of most wildlife agencies in the United States. If the sportsman turns the responsibility for financing wildlife programs over to the general taxpayer, the broader decision-making base cannot be expected to fully sympathize with the hunter, the fisherman, and the trapper. Even more basic is the feeling that the broader base will not sympathize with wildlife itself — that any general-fund financed program may start with the best of intentions, but at the first competition in the state budgeting process between wildlife and public welfare or education, wildlife will lose. The climate will of course vary from state to state, but it is probably a fair estimate that in most states reliance on general fund revenues would be highly detrimental to wildlife programs in the long run.

Nevertheless, a number of states are looking at the feasibility of obtaining general funds for nongame and endangered species activities, which are clearly of general benefit.

North Carolina's Wildlife Resources Commission estimated that in 1978-1979 nongame and endangered species programs plus activities required by state and federal laws not related to hunting or fishing amounted to about \$2 million. Its Wildlife Resources Financial Study Committee commented: "It seems logical that activities of a State agency that benefit and serve all the citizens of the State should be supported by general tax funds rather than solely from the license fees of hunters and fishermen. License fees can no longer support the size and scope of program demanded in this area and support an

adequate hunting and fishing program as well".

Another approach has been to require that free programs such as free hunting and fishing licenses to elderly and handicapped people be compensated from general fund monies. This seems reasonable and easily explained, and it has the further advantage of being an ascertainable figure that could be included routinely in each legislative appropriation bill.

In 1978 California as part of an overhaul of its license provisions enacted a law requiring the costs of nongame fish and wildlife programs and the costs of free hunting and fishing license programs to be appropriated from the General Fund and sources other than the Fish and Game Preservation Fund.

Interest on Invested Wildlife Funds is Often Diverted

The use of interest on deposited hunting and fishing license fees and other wildlife monies for general fund purposes rather than wildlife purposes has probably been the subject of more attention per dollar involved than any other aspect of state wildlife agency financing. Justifiably, the fee-paying sportsman finds this an incorrect use of "his" money.

A number of state agencies reported to us that recently they have been able to redirect this income into wildlife uses; of the 25 agencies that still do not receive the interest, a number reported that they had tried and failed, or that they recommend such a change.

Of the 25 agencies, 12 do not receive any money from general taxation, and these would appear to have the strongest case. The best case can be made by the agency that also pays its share of overhead items such as rent, centralized bookkeeping and administrative services, etc. However, even receipt of general fund monies does not make diversion of interest to general fund purposes correct. This is much more apparent now that high interest income has become essential to mitigate loss of purchasing power caused by high inflation rates.

In 1978, the Ohio Wildlife Legislative Fund (a private association supported entirely by sportsmen) obtained a court order directing the State Treasurer to credit interest on deposited wildlife funds (including federal reimbursement monies) to wildlife rather than general fund uses. The ruling was based on statutory language stating that no funds derived from license fees may be used for purposes other than the wildlife purposes delineated in the statute. The court ruled that interest was money derived from license fees.

One of the points made in the brief, which is applicable in any state, is that although the sportsman's fee pays for a privilege to be exercised by him, these privileges do not result in a net burden on the state. On the contrary . . . "the programs made possible by payment of hunting, trapping, and fishing license fees benefit the public. The Division of Wildlife (financed by these fees, and not from general revenue) maintains wildlife areas throughout the state that are open to the public; provides educational programs, printed materials, and films that are available to the public; enforces the stream litter law to maintain the beauty of streams and rivers in Ohio, for the benefit of all residents; maintains natural areas for the benefit of all; brings actions against polluters who have caused fish kills, thus discouraging others from recklessly polluting the waters of the state; stocks fish and game; and engages in programs to protect endangered species, which result in preservation and enrichment of the environment of the State of Ohio, to the benefit of all."

The brief also argued that loss of interest was a special

burden contrary to the Fourteenth Amendment to the U.S. Constitution, which has been interpreted to require equality in taxation. It drew an analogy to the special assessment on property, where the courts have held that although the state can assess for benefits provided, when the assessment is greater than the benefit, an unequal burden occurs that should have been carried through general taxation. The brief concluded: "In the instant case the state, imposing a fee for specified privileges, violates this principle of equality by use of the interest on deposited funds for purposes other than those for which the fee is charged. The fees produced the interest; the interest could be used to increase benefits or to reduce the fee charged. The result to the fee-paying sportsmen is the imposition of a special burden that the state and federal constitutions forbid".

One of the arguments made in opposition to crediting interest to wildlife rather than general fund uses is that the wildlife agency, and thus the fee-paying sportsman, benefits from housing, centralized bookkeeping, administrative services, and other tax-supported services in its day-to-day operations. In the Ohio case, the agency made payments for these items. The sportsman's best argument may be that "his" agency benefits the public in many ways, as noted above, and that in fact equity would require allocation of general fund moneys to help support the agency. Short of the political involvement that may occur in having to seek general fund support, re-allocation of interest income offers a way to provide funds that are the sportsmen's by right and which does not require a biennial combat in the legislature.

Of course, in any state the question is whether there is enough money on deposit for a long enough period to make the issue worthwhile. The present study revealed that Ohio, of four states that maintain a year's operating reserve, was the last to obtain use of its interest income. The amount at issue there was over \$1 million annually. Of the state agencies which do not get their interest, the typical operating reserve is more like two or three months. One of these is North Carolina, whose study committee estimated that interest reallocation would produce, conservatively, \$185,000 annually on the Wildlife Fund and \$15,000 on the Boating Fund.

Tax Check-off

A means for allocating general fund revenues by choice of the taxpayer is the check-off on state income tax returns. Colorado enacted such a provision in 1977 to be used for nongame wildlife programs. The taxpayer may check whether he wishes part of his tax refund to go for this purpose, with a choice of \$1, \$5, or \$10. In its first year the check-off netted approximately \$350,000.

Oregon enacted an almost identical law in 1979. In its first year (1980) this program has produced over \$260,000.

Minnesota and Kentucky enacted check-off laws for nongame wildlife in 1980, collection of which will first occur in 1981.

Sales Tax Increase

Voters in Missouri in 1976 approved a constitutional amendment placed on the ballot by initiative petition to add 1/8 cent to the state's sales tax "for the control, management, restoration, conservation and regulation of the bird, fish, game, forestry and wildlife resources of the state, including the purchase or other acquisition of property for said purposes, and for the administration of the laws pertaining thereto."

In fiscal 1979 this tax produced over \$30 million, surely giving it the rank of king of concepts for state wildlife program financing. For practical purposes, though, it is

not available to most states. Almost three-fourths of the states have no mechanism for a constitutional initiative. It should also be noted that the Missouri constitution places wildlife and forestry resource management under a non-salaried "Conservation Commission" appointed by the Governor. This commission appoints the Director of Conservation and sets his salary and that of his employees.

Other Taxes

In Washington, a bill to direct revenues from sale of personalized license plates was vetoed by the Governor, but later became law by statewide vote on an issue placed on the ballot by initiative petition. This generates about \$300,000 a year for "furtherance of the programs, policies and activities of the State Game Department in preservation, protection, perpetuation and enhancement of the wildlife resources that abound within the geographical limits of the State of Washington."

Marine fuel tax is directed to wildlife purposes in some states. In Indiana it generated \$309,555 in 1979, and in South Carolina, \$614,160.

Severance taxes on natural resources seems like an appropriate source of money for wildlife programs, but they are rarely used. They are important in Louisiana, where severance taxes on oysters, oyster shells, shrimp, fur, gravel, fill material, and clamshells totalled about \$2.7 million in a recent year. This and oil and gas royalties of \$5.7 million supplied more than half the budget of the Wildlife and Fisheries Commission.

In Indiana, a 1 cent cigarette tax produced almost \$1 million for the Division of Fish and Wildlife in fiscal 1979. A similar tax took effect January 1, 1980, in Nebraska for park purposes.

In South Carolina and Tennessee, ammunition taxes produce wildlife agency income, in either state less than \$100,000 annually.

Publications

Magazines are not major money-makers for state wildlife agencies. A few gross between \$100,000 and \$500,000 annually, but most are under \$100,000.

Other Sources

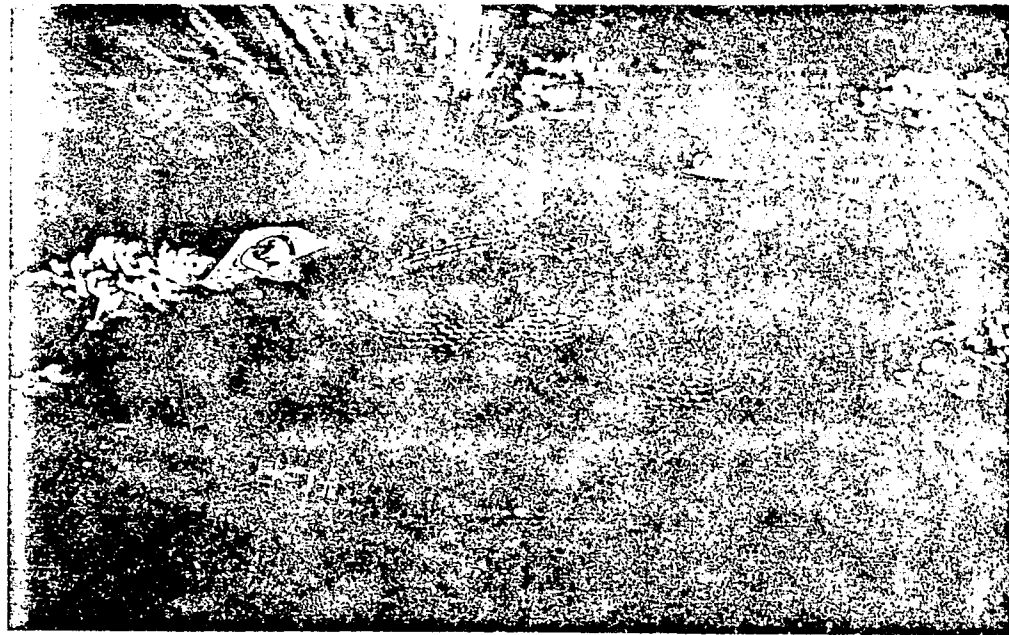
Illinois has a firearm owner's identification card that must be renewed every five years. The fee is \$5, of which the Department of Conservation gets \$3, amounting to just under \$1 million in fiscal 1979.

In California, funds for acquisition of property and construction of facilities for recreation and for preservation, protection and restoration of wildlife come from the Wildlife Restoration Fund, created in 1955 to receive a continuing annual appropriation of \$750,000 from the state's share of parimutuel betting on horse races.

Federal Programs

S.2181 (Chafee) would establish a national program benefiting nongame fish and wildlife, authorizing \$20 million over four years to be apportioned to the states for planning and implementing nongame conservation programs and projects.

S. 1631 (Randolph) and H.R. 6074 (Breau) would expand the Dingell-Johnson program by estimated new income of \$100 million per year from a 3% excise tax paid by sport fishing boat, motor, and boat trailer manufacturers. In addition, the present 10% excise tax would be extended to most other forms of sport fishing tackle.



Can A Handgun Save Your Life Outdoors?

Last summer another camper was killed by a bear in one of our national forests. Could he have saved himself with a handgun? Here are the opinions of people who know about bears, cougars, snakes and other dangerous wildlife—and the guns that protect you.

By Jim Zumbo, Editor-at-Large

The surface of Hebgen Lake shimmers lazily as a faint breeze caresses its surface in the bright moonlight. Nearby Rainbow Point campground in the Gallatin National forest is quiet, except for soft conversation here and there among campers who are enjoying the Montana evening. It is a tranquil, peaceful scene, just like thousands of other summer nights in the Rocky Mountains.

But this night of June 24th is different. A large grizzly bear enters the campground about midnight and prowls about the shadows made by the towering moonlit lodgepole pines. The bear wanders over to a campsite and circles a tent that contains two children. A horrified woman spots the bear from inside a camper vehicle and watches as the grizzly paces around and finally walks off into the night. Later the bear looks in on a party of campers toasting marshmallows over a fire. Someone hears a noise and shines a flashlight at the bear, and the big grizzly turns and plods down the road.

About 2:30 a.m., the bear walks up to a tent and suddenly strikes at

There is no man alive who can beat an enraged bear with his bare hands in a one-on-one battle, but a gun can change the odds when a bear attacks.



the fabric with a huge paw. He tears open the tent and drags 23-year-old William May out into the night. Ted Moore, May's companion, jumps out of his sleeping bag and throws a tent pole at the grizzly. Then Moore looks hurriedly in the battered tent for a flashlight, his eyeglasses, and the keys to his car, thinking he and May can escape the bear by taking refuge inside the vehicle.

His efforts are futile. The bear carries May off and Moore runs to a nearby camper for help.

Shortly afterward, two sheriff's deputies arrive and track the bear and his victim through the campground. They discover May's remains but only after the bear had consumed a large portion of the man's body.

The campground is evacuated, snares are set and a large grizzly is captured the next night. The animal—a boar—is confined to a cage and, when tests prove he is the killer, he is immediately destroyed.

This was a tragic incident and one that still has experts baffled. May and Moore had followed all the bear-country rules. Their food was secured in their vehicle and there was nothing in the tent to attract the bear. An autopsy on the bear revealed no clues as to the reasons for his behavior. The grizzly was healthy and was not suffering from any physical defects that might have prompted the savage attack.

It was the first time a bear had ever killed a person in the Gallatin National Forest since records were first kept in the early 1900s. In nearby Yellowstone National Park, just a dozen miles away, four people had been killed by bears in the park's history.

The bear that killed William May was no stranger to human beings. Several wildlife officials knew him as bear No. 15. Trapped as a cub more than 12 years ago, the bear blundered into several traps throughout his life and didn't become trap shy as most bears do. He was captured several times by biologists studying grizzlies in and outside of Yellowstone, and fitted with radio collars that he always managed to get rid of. Observers who monitored his movements verified that he avoided direct contact with people on four occasions when humans unknowingly approached close to No. 15.

Why did the bear attack? I asked Doug Seus, who raises and trains grizzlies and other dangerous animals for movies.

Guns are forbidden in national parks. But does a government agency have the right to prevent you from defending yourself against a dangerous animal?

"A grizzly fears nothing except man," Seus told me, "and sometimes it doesn't fear man. A bear is boss of the woods. It isn't used to playing second fiddle and it doesn't have to back off from anything except a bigger more dominant bear. Bear No. 15 might have killed the camper simply because the opportunity was there. The grizzly could have been hungry or he could have attacked out of hostility because of man's intrusion into his environment."

Could something have been done to save May's life? Would a gun have helped? I queried several people and received various answers.

A forest service official told me he thought a gun would only make an attacking bear more angered if it wasn't killed outright and could do more harm than good. Another man, who is a veteran outdoorsman and a high-ranking government official, gave me a different answer.

"I camp in Yellowstone Park quite a bit," he said. "I have a lot of respect for bears, especially park bears that have more contact with people. I keep a loaded .44 Magnum revolver under my pillow, and I'll use it if a bear attacks me or my companions. As far as park regulations go forbidding guns, I'd rather be a live law-breaker than dead or crippled by obeying the law and not having a gun. Besides, I doubt if there's a judge in the land who wouldn't be sympathetic if a person shot and killed an attacking bear in the park."

OUTDOOR LIFE is not winking at the law by presenting this viewpoint. This is a complicated personal matter and far from clear-cut. Camping in national parks that have a history of bear attacks is always a risk. Should a government agency have the right to prevent you from defending yourself in the event of a life-or-death struggle in which a gun might be the only possible defense? That is a question being asked more and more as bear incidents flourish in national parks.

But national parks aren't the only places where bears attack people, as demonstrated by the death of William May. There are hundreds of state parks and practically every national forest in the country has black bears. A black bear can be just as dangerous and unpredictable as a grizzly.

Take the case of Dr. Daniel Fredman who camped in

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HANDGUNS

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Arizona recently. About 2 a.m., a black bear crashed through the wall of his tent, grabbed his arm and began dragging him out of the tent. One of Fredman's companions quickly turned on a flashlight and pulled out a .357 Magnum revolver. He shot at the bear and it released Fredman's arm. The bear stood up and the man shot again, hitting it in the chest. The bear dashed out of the tent and ran off. It was killed the next day by a ranger. Fredman suffered severe injuries that required extensive surgery.

In this instance, there is no question that a handgun prevented a more serious injury or even death. Quick action by Dr. Fredman's companion, and the fact that a handgun was present, made a big difference.

A bear is an incredibly powerful animal. It has enormous teeth set in vicelike jaws, and its long claws can rip and tear with awesome strength. If a bear decides to attack a person, it loses its fear of man and goes to work with its teeth and claws. There is no man alive who can beat a bear in a one-on-one battle with his fists. A bullet is the only item that has the energy and the wherewithal to even the odds when an enraged bear is tearing at a helpless human.

Billy Stockton is my favorite outfitter. He is the most rugged woodsman I've ever met, and he guides hunters near Wise River, Montana, for bear and elk. If there is anyone around who has no fear of bears, it's Billy. On four different occasions Billy has had face-to-face encounters with bears and twice he physically wrestled with furious bears. Both times he shoved the muzzle of his .444 Marlin carbine into a bear's neck and won the deadly battle. Without the gun, he might be just a memory.

Billy is a tenacious man and uses his wits. In either struggle he might have dropped the gun, but he held tight and used it when he had the opportunity. Most of us would have lost control of the carbine in a close-in fight because a shoulder arm essentially requires the use of both hands and it's tough to hold on to. A handgun is much more effective for most of us in such instances because it more readily can be held at point-blank range.

Many knowledgeable outdoorsmen carry handguns whenever they're in bear country because they realize the firearms may be needed in a hurry. Several years ago, Idaho outfitter Norm Guth took then-president Jimmy Carter and his family on a float trip down the Salmon River. When making final arrangements, Guth asked a Secret Service agent if it would be okay to carry a handgun on his belt. The agent expressed surprise and turned Guth down.

"Why would you want to carry a handgun?" the agent asked.

"There's bears in the canyon and I thought it would be a good idea for extra protection," Guth responded.

The agent looked aghast and slapped Guth on the back. "You carry all the handguns you want, pal," the agent told Guth.

"Absolutely no problem."

I made a trip to Alaska last summer and I became an instant believer in the value of a handgun. During a wilderness float, we camped five nights along a river that looked like a bear corridor judging by the number of fresh tracks along the banks. Eight of us were armed with only a semi-automatic carbine and I kept thinking of the nice .44 Magnum revolver taking up space in my home in Utah. Nothing happened on the trip as far as bears go, but I would have slept better and quit looking over my shoulder so much while fishing if I had had my

Gun Possession in Parks and Forest Areas

According to a recent statement by a spokesman for the National Park Service, the use or display of firearms within the boundaries of a national park is prohibited. Possession of firearms must be declared at entrance stations and they must be sealed, cased or otherwise packed to prevent their use while in the park. If a firearm is subsequently used, the offender may be brought before a federal court and imprisoned or fined or both.

Though this statement supposedly determines the procedure for controlling use of firearms in national parks, what actually happens may vary. The regulation is strict but, at Yellowstone National Park, signs at entrances read: "All firearms must be unloaded." Sportsmen frequently drive up to a park entrance with an unloaded gun in the vehicle and drive right through the park without interference. In effect, the regulation defines what the park rangers can do in regard to firearms but, at Yellowstone at least, the regulation is not so strictly enforced.

At Great Smoky Mountains National Park in North Carolina and Tennessee, control of firearms is very strict. An official spokesman at park headquarters in Gatlinburg responded to our inquiry

by saying: "If anyone is caught with any kind of firearm inside the park, loaded or unloaded, the weapon will be confiscated and he will be brought up before a federal magistrate. If you have a firearm and want to enter the park, you must bring it to park headquarters, and we will keep it under lock and key until you leave the park."

To be on the safe side, it seems best to inquire of park personnel whenever you arrive at the boundary of any national park.

In national forests, as opposed to national parks, the situation is quite different. A spokesman for the U.S. Forest Service stated that possession of loaded firearms in national forests is legal, provided the firearm is possessed in accordance with applicable state laws. There are, however, a few very small areas within some national forests where possession of a loaded firearm is prohibited for special reasons. Prominent posters and signs identify these areas.

Regulations controlling the possession and use of firearms in state-administered parks, forests, nature preserves and other such areas vary considerably, and local law enforcement officers should be consulted to determine what practices are legal.

handgun strapped to my belt. The following week I fished out of Hamna Lake Lodge and was guided by Patty Reilly who carried a short-barreled shotgun in one hand and a fly rod in the other. Again I wished for my handgun, especially because prizzles had been harassing anglers in some of the areas we flew to in bush planes.

The caliber of handgun use is always a source of interesting debate when discussing protection from bears. Almost no one will argue against big powerful Magnums such as the .41 and .44, and even the less-potent .357. But many draw the line when it comes to popular calibers such as the .32, .38 and .22.

Jack Atcheson, a well-known hunting consultant from Butte, Montana, who has guided famous gun writers such as Jack O'Connor, Warren Page and Jim Carmichael, has definite feelings on the subject.

"I think everybody out in bear country should be armed," Atcheson said, "especially if it's an overnight trip. Bears are dangerous anytime but at night they lose their natural fear of man. When I'm camping, I want a good dependable flashlight and a gun that's powerful enough to kill a bear instantly. As long as I intend to defend myself, I'll use a firearm that has sufficient power. I rule out anything smaller than a .357 Magnum."

Some folks have another opinion and figure any gun is a good gun when a bear has made its mind up and is in the process of ripping you into little pieces.

When I was studying forestry in college, I worked one summer in Oregon's dense rain forest as a timber cruiser. I soon discovered the only way to travel in the incredibly thick vegetation was to occasionally get down on all fours and crawl through tunnels made by forest creatures. With my face just inches from the ground, I realized that plenty of bears were sharing those tunnels with me. Fresh droppings and tracks abounded.

Being a broke college student, I immediately went to a sporting goods store, dropped \$38 on the counter, and bought a nine-shot double action .22 Rimfire revolver along with a belt holster and two boxes of .22s.

For the rest of the summer the .22 went everywhere I did and, fortunately, I never came face to face with a bruin in one of those eerie dark tunnels. If I did, I had a plan. In the event the bear charged, I intended to stuff my gun-laden fist into his or her mouth and commence to blow its brains out. Ah, the wisdom of youth!

Bears aren't the only outdoor creatures that can do you in if you're unprotected. Wolves, cougars, bobcats and even raccoons have attacked people, but encounters with them aren't nearly as frequent as are those with poisonous snakes.

I recall an incident when I was working as a ranger naturalist on the Angeles National Forest in Southern California during my college years. I was leading a group of people down a nature trail and suddenly had a weird sense of foreboding as I was about to step over a log. My foot was poised in midair when I quickly decided to hold it there and take a look over the log. A rattler was coiled behind it and was within striking range of my foot. At that moment I wished that my .22 handgun was on my belt. I stared at the snake and was sure it

would strike, but I slowly eased my foot out of danger.

Not long ago I was looking for desert water holes in anticipation of a good dove shoot in Wyoming. I rounded a rock cornice next to a ledge and suddenly heard a rattler next to my foot. I froze and looked down to see the snake coiled within 12 inches of my leg. This time I had my .22 and drove a bullet into its head. Maybe I could have backed away as I did in California but then again maybe I couldn't. The handgun quickly resolved the problem and gave me the option of defending myself.

There's another good reason for having a handgun around and that's people—bad people who are intent on harming you or on making off with your property while you're enjoying the outdoors. Criminals lurk in camp areas looking for easy loot or just asking for trouble. Statistics show that crime rates are skyrocketing in many national and state parks. For the first time, national park rangers have begun carrying firearms on their belts and they're receiving much more police training than ever before. Murders and felonies are just as possible in the outdoors as in our biggest crime-ridden cities. A sad commentary but nonetheless true.


If you intend to carry a handgun outdoors, you should be aware of your state's rulings on such firearms, as well as those of every state you travel in. You could be in serious trouble, even if you unknowingly break the law. Ignorance of the law is no excuse in the eyes of the courts. If you live


in Pennsylvania, for example, and you intend to head for New England with a handgun in your possession, you'd better plan to somehow avoid New York state. The notorious Sullivan Law in New York, long considered to be a failure, will possibly land you in jail if you're found with an unlicensed handgun.

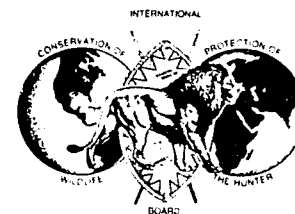
Don't even *think* about bringing a handgun into any part of Canada. A strict law there forbids importation or possession of handguns by foreigners.

What kind of handgun to buy? As long as you're using it to protect yourself, you'll logically want a gun that has the capability of shooting fast. If I'm in a wrestling match with an irate grizzly or if a lunatic is trying to beat in my camper door, I'd like a reliable firearm that will put big bullets out fast.

You take on an obligation to yourself and other people if you carry a handgun or any other kind of firearm. You must practice with it so that you can shoot it accurately, and you must keep it in good operating condition. There's no use in carrying a firearm if you can't hit what you're shooting at or if the gun or ammunition are so gummed up or corroded that they won't function.

Whether or not you carry a handgun outdoors for protection is your own personal choice. As for me, I like the idea of having some means of defending myself. There are too many things out there that I am no match for without a gun. I like to remember the motto I learned years ago when I was a Boy Scout: Be prepared. 

**Outdoor
Life** 



Safari Club International

STATEMENT SUBMITTED BY
THE SAFARI CLUB INTERNATIONAL
FOR THE HEARINGS ON
H.R. 3498 - "THE VICTIMS OF CRIME ACT"
BEFORE
HOUSE SUBCOMMITTEE ON CRIMINAL JUSTICE
March 22, 1984

DONALD E. SANTARELLI
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The Safari Club International is a worldwide organization of sportsmen dedicated to the conservation of wildlife, the protection of hunters' rights, and the preservation of sport hunting as a wildlife management tool and as a recreational pursuit.

The Safari Club International has over 70 chapters located in virtually every state and in several foreign nations. In addition to our active membership core of 15,000 sportsmen/conservationists, 24 state, regional and foreign sportsman organizations have affiliated with the Safari Club International reaching a network of more than one million sportsmen. Since its formation in 1971, the Safari Club International and its chapters have raised more than \$6.5 million for a broad range of wildlife conservation and management projects, such as anti-poaching programs, habitat preservation efforts, winter wildlife relief feedings, and wildlife research grants.

The compensation of innocent victims of crime, as intended by H.R. 3498 -- "The Victims of Crime Act," is a noble endeavor and one which most Americans would support. However, inasmuch as H.R. 3498 proposes to divert receipts derived from the Federal Aid in Wildlife Restoration Program away

from wildlife restoration projects and hunter education programs, the Safari Club International hereby expresses its strong and vigorous opposition.

Sportsmen have willingly and unselfishly paid more than one billion dollars for wildlife restoration projects, hunter education programs, and target range construction since the inception of the Federal Aid in Wildlife Restoration Program in 1937 and its levy of a federal excise tax on rifles, shotguns, handguns, shells and cartridges, and archery equipment. In 1982 alone, the Pittman-Robertson Program (as it is more commonly known) raised approximately \$120 million which was apportioned by the United States Fish and Wildlife Service to state wildlife agencies. It is the sportsmen of this nation who have consistently been in the forefront of wildlife conservation. Simply stated, the sportsmen and women of this country have "put our money where our mouths are" and have almost single-handedly underwritten this nation's exemplary legacy in wildlife management, restoration and conservation.

To transfer or divert the nearly \$30 million collected annually in excise taxes on pistols and revolvers, as proposed in section 301(b)(3) of H.R. 3498, (approximately \$22 million of which is committed to wildlife projects and the remaining \$8 million is invested in hunter education and firearms safety programs) would be a regrettable and sad expression of unappreciation by this Congress to the sportsmen

of this nation. More importantly, though, the stripping of such funds would serve to impair, if not undermine irreparably, the essential and worthy wildlife management and conservation programs conducted by the state wildlife agencies.

Receipts acquired under the Pittman-Robertson Program have enabled the states to purchase more than 3.5 million acres of land for wildlife and to buy easements on an additional 51 million acres. States have used these funds to develop marshes for waterfowl and watering sites for desert animals, and have restored various native species to their former habitats. Monies under the Pittman-Robertson Program are also used to support hunter education programs teaching hundreds of thousands of persons each year to learn proper firearms use and safety.

The Safari Club International was dismayed that among the recommendations of the recent White House Task Force on Victims of Crime was the suggestion that a Crime Victims Assistance Fund be underwritten in part by the excise tax on handguns under the Pittman-Robertson Program. The Task Force on Victims of Crime claimed that the Pittman-Robertson Program "continues to inure primarily to the benefit of hunting enthusiasts." Nothing could be farther from the truth and reflects an inexcusable lack of understanding of the true purpose and results of the Pittman-Robertson Program. The 54.5

million acres of purchased and easement lands acquired under the Pittman-Robertson Program represents the ongoing commitment of a generation of sportsmen to ensure adequate wildlife habitat and healthy wildlife populations for consumptive and non-consumptive wildlife users alike.

The Task Force also claimed that "there is little if any relation between handguns and hunting or wildlife activity." Contrary to this baseless rhetoric, law-abiding people do indeed buy handguns to hunt. In fact, the opportunity for handgun owners to enjoy the sport and challenge of hunting in this fashion has perhaps never been better than it is today. Forty-nine states allow handgun hunting for small game, and 37 states allow big game handgun hunting. The number of handgun hunters is growing each year and it is estimated that there are nearly 1.5 million hunters using handguns today. In fact, one of the Safari Club International's affiliate sportsman organizations is the Handgun Hunters Association which was founded in 1979 to promote the increasingly popular sport of handgun hunting.

In conclusion, it is unfortunate that in an effort to compensate victims of crime, H.R. 3498 contains a provision to strip the handgun tax receipts from the proven Pittman-Robertson Program. Such a diversion would eliminate nearly 25% of the Pittman-Robertson Program's funding.

Until such time as the provision to transfer the handgun

tax receipts from the invaluable Pittman-Robertson Program is deleted completely, the Safari Club International will vigorously oppose H.R. 3498 and any other similar proposals under consideration in Congress. The State fish and wildlife agencies simply cannot and should not be forced to withstand any reduction in funds whatsoever under the Pittman-Robertson Program.

In conclusion, it is the firm conviction of the Safari Club International that if H.R. 3498 were to pass with section 301(b)(3) intact, the State wildlife agencies would be crippled and hard-pressed to continue their extraordinary legacies in wildlife management, restoration, and conservation. Moreover, our nation's wildlife would be the victim -- and that would be a crime.

S A A M I
SPORTING ARMS AND AMMUNITION MANUFACTURERS' INSTITUTE, INC.
 POST OFFICE BOX 218 • WALLINGFORD, CONNECTICUT 06492 • (203) 265-3232

March 22, 1984

H. L. Hampton, Jr.
 Executive Director
 Donald Gregory
 Asst. Secretary-Treasurer
 Paul C. Eschrich
 Technical Advisor
 W. M. Bellemore
 Technical Consultant

STATEMENT
 OF THE
 SPORTING ARMS AND AMMUNITION
 MANUFACTURERS' INSTITUTE
 TO THE
 SUBCOMMITTEE ON CRIMINAL JUSTICE
 OF THE
 COMMITTEE ON THE JUDICIARY
 ON H.R. 3498

The Sporting Arms and Ammunition Manufacturers' Institute ("SAAMI") is a trade association of sporting arms and ammunition producers. A list of SAAMI's members is attached.

Section 301 of H.R. 3498 would divert the monies raised by the excise tax on pistols and revolvers from the Pittman-Robertson programs into a new Crime Victims Fund. The sporting arms and ammunition industry has long supported the Pittman-Robertson programs and the use of excise taxes on firearms and ammunition to support those programs. SAAMI opposes H.R. 3498.

DON W. GOBEL
 President

H. EUGENE BLAINE
 Vice President

The Pittman-Robertson programs were signed into law in September 1937. Initially, they were funded only by the excise tax on long guns and ammunition, and the monies were used to support state wildlife programs. In 1970, the excise tax on handguns also was dedicated to state wildlife programs and to new programs promoting hunter safety. The October 1970 statute authorized state wildlife agencies to use up to one-half of the receipts from the handgun excise tax for hunter education and target range construction and maintenance and the other half for wildlife restoration. A total of \$100 million is raised annually by the excise taxes to support these programs.

The Pittman-Robertson programs have been demonstrably effective. Large quantities of land have been acquired or put under easement by the states and developed to promote wildlife habitat. State research efforts funded by Pittman-Robertson funds have significantly furthered our knowledge of American wildlife and its needs. All citizens benefit from these programs.

The hunter education programs also have been remarkably successful. Approximately 750,000 persons per year attend courses in hunting safety and hunting ethics supported by Pittman-Robertson funds. In many states, despite a great increase in the number of hunters, the number of fatal hunting accidents has declined sharply.

The Pittman-Robertson programs contribute to law enforcement as well. In many communities accross the country, local law enforcement agencies utilize target ranges built with Pittman-Robertson revenues.

In sum, the monies raised under the Pittman-Robertson programs have greatly benefitted, and continue to benefit, the entire country, not simply hunters. The members of SAAMI, who directly pay a large part of the excise taxes, have always supported the Pittman-Robertson programs wholeheartedly.

H.R. 3498 would substantially curtail the Pittman-Robertson programs. Nearly one quarter (\$30 million annually) of the funds now allocated to these worthwhile programs would be eliminated. The Pittman-Robertson programs and their bases for support should remain intact.

Recently, legislation was introduced in both the House (H.R. 5124) and the Senate (S. 2423) to create a Crime Victims' Assistance Fund raised from criminal fines plus any profits the criminal made from his crime. The Pittman-Robertson programs would remain intact. If the Subcommittee determines that a victims' compensation fund is proper, SAAMI urges the Subcommittee to give careful consideration to this new funding proposal and reject proposals which would curtail the Pittman-Robertson programs.

Sporting Arms and Ammunition
Manufacturers' Institute

Membership

Browning Arms Company
Federal Cartridge Corporation
Harrington & Richardson, Inc.
Hercules Incorporated
Ithaca Gun Company
O.F. Mossberg & Sons, Inc.
Winchester Group
Olin Corporation
Remington Arms Company, Inc.
Smith & Wesson
Sturm, Ruger & Co., Inc.
Thompson/Center Arms



National Association of Crime Victim Compensation Boards

R-E-S-O-L-U-T-I-O-N

May 25, 1984

RECEIVED
MAY 29 1984

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Ron Zweibel, Chairman
Crime Victims Board
270 Broadway, Room 200
New York, NY 10007
(212) 587-5133

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Chas. W. "Butch" Wood (OK)
David Zwayer (OH)

WHEREAS, the membership of the National Association of Crime Victim Compensation Boards meeting in convention at Orlando, Florida has considered the text of proposed legislation pending before the Congress of the United States; and

WHEREAS, the membership being dedicated to aiding victims of crime recognizes that in providing such aid the physical, financial, emotional and psychological needs of the victims and their families must be met; and

WHEREAS, the membership desires to encourage the Congress of the United States to acknowledge the plight of victims of crime by providing financial assistance to the states through the establishment of a separate fund in the United States Treasury; and

WHEREAS, the membership believes that the best interests of the victims can be served by a system of disbursement from the proposed fund which treats the agencies providing aid to the victims with an equal recognition of their needs;

NOW, THEREFORE, the membership hereby adopts the following resolution:

BE IT RESOLVED THAT:

1. We propose that any Federal funds allocated to state compensation programs and to victim assistance programs, considering their complimentary functions and equally strong needs for adequate funding to provide adequate assistance to crime victims, should be on an equal distribution basis.

2. We propose that any Federal funds allocated to state compensation programs include in the distribution formula provision which would allow the states to recover up to fifteen percent of their administrative cost expended to process the claims of crime victims, pay compensation awarded to crime victims, and administer and monitor the funds provided by Congress to local victim assistance programs in an appropriate and timely manner.

Ronald A. Zweibel
Ronald A. Zweibel
President

ATTEST:

By: *Nola K. Capp*
Nola K. Capp, Secretary

450



JEFFREY M. WICE
Director

THE ASSEMBLY
STATE OF NEW YORK
OFFICE OF STATE-FEDERAL RELATIONS

444 North Capitol Street NW
Washington, D.C. 20001
(202) 624-5660
(518) 455-3713

June 6, 1984

Thomas Hutchison
Subcommittee on Criminal Justice
H2-362 House Annex No. 2
Washington, D.C. 20515

Dear Tom:

The New York State Assembly and Senate recently passed a resolution urging the U.S. Congress to continue efforts to provide federal support to state and local crime victim assistance and compensation programs.

A copy of this resolution is attached. I hope that this resolution is useful during Judiciary Committee consideration of legislation this year.

Sincerely,

Jeffrey M. Wice
Director

JW:sk
Enclosure

LOGGED 6/7/84

451

94875-01-4

LEGISLATIVE RESOLUTION commending the United States Congress for their efforts on behalf of federal and state victim compensation programs and urging their continued commitment to such aid

WHEREAS, Crime victims suffer medical, financial, and emotional injuries, many of them hidden and many of them inadequately redressed by society and its agencies of government; and

WHEREAS, New York State has been a national and international leader in fashioning policies and programs to respond to victims of crime with a greater measure of compassion, dignity, and justice; and

WHEREAS, The Legislature of the State of New York has in this very session enacted landmark reforms in the way crime victims are to be treated by the agencies of criminal justice in the state; and

WHEREAS, The Legislature of the State of New York has in this very session also enacted a substantial increase in funding for victim assistance programs around the state; and

WHEREAS, The Legislature of the State of New York fully appreciates that the State's commitments to the victims of crime, while far more generous than most of its sister states, is, nonetheless, insufficient to the victims' total needs; and

WHEREAS, The United States Congress, with support from the President, is forging a bi-partisan consensus to enact a self-limiting program of Federal aid to state victim compensation programs and local victim assistance programs; now, therefore, be it

RESOLVED, That this Legislative Body pause in its deliberations to commend the President, the Chairmen of the House and Senate Judiciary Committees, and the Ranking Minority Members of those committees for their conscious efforts to frame a responsible and much needed Federal program of support for State victim compensation programs and local victim assistance programs; and be it further

RESOLVED, That the Assembly and Senate of the State of New York welcome that offer of assistance in their ongoing efforts to fully meet the needs of crime victims; and be it further

RESOLVED, That the Assembly and Senate of the State of New York will work with the Executive Branch of government to insure that such Federal aid is spent wisely to supplement, not supplant, the State's commitment of resources to aid in the rehabilitation of victims of crime; and be it further

RESOLVED, That the Assembly and Senate of the State of New York urge the members of the New York Congressional Delegation to support the efforts to enact such a Federal program in this Session of Congress; and be it further

RESOLVED, That copies of this Resolution, suitably engrossed, be transmitted to The Honorable Ronald Reagan; the Majority Leaders of the United States House and Senate; and members of the New York Congressional Delegation.

RESOLEG

SHORT TITLE: Commending the United States Congress for their efforts on behalf of federal and state crime victim compensation programs

I

98TH CONGRESS
2D SESSION

H.R. 6059

To provide financial assistance to the States for the purpose of compensating and otherwise assisting victims of crime, and to provide funds to the Department of Justice for the purpose of assisting victims of Federal crime.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 1, 1984

Mr. FISH (for himself and Mr. GEKAS) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To provide financial assistance to the States for the purpose of compensating and otherwise assisting victims of crime, and to provide funds to the Department of Justice for the purpose of assisting victims of Federal crime.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Victims of Crime Assist-
4 ance Act of 1984".

5 TITLE I—CRIME VICTIMS' ASSISTANCE FUND

6 PART A—ESTABLISHMENT OF THE FUND

7 SEC. 101. There is hereby established in the United
8 States Treasury a separate account to be known as the

1 Crime Victims' Assistance Fund ("Fund") in which shall be
2 deposited, but not to exceed \$100,000,000—

3 (a) all criminal fines (as defined in section
4 401(a)(2) of this Act) collected by any officer of the
5 Federal Government;

6 (b) penalty assessment fees collected pursuant to
7 title II of this Act; and

8 (c) any money paid into the Fund pursuant to sec-
9 tion 103(b) of this title.

10 SEC. 102. Title 18 of the United States Code is amend-
11 ed by adding a new rule 32.2 to the Federal Rules of Crimi-
12 nal Procedure to read as follows:

13 **"Rule 32.2. Payment of Moneys Received From Sale of**
14 **Rights Arising From Criminal Act**

15 "(a) At any time after the filing of an indictment or
16 information against a defendant, and upon motion of the at-
17 torney for the Government, the court may order a person or
18 organization with whom the defendant has contracted for the
19 purpose of having his crime depicted in a movie, book, news-
20 paper, magazine, radio, or television production, or live en-
21 tertainment of any kind, or for the purpose of expressing his
22 thoughts, opinions, or emotions regarding such crime, to pay
23 in to the clerk of the court any money which would other-
24 wise, by terms of the contract, be paid to the defendant, his
25 representative, or any transferee of the defendant.

1 "(b) Prior to entering such an order, the court shall con-
2 duct a hearing, after notice to the defendant, the person or
3 organization with whom he has contracted, any other trans-
4 feree of proceeds under the contract and the victim, if any, of
5 the crime committed by the defendant, for the purpose of
6 determining whether such an order is warranted in the inter-
7 ests of justice or to redress the injuries suffered by the victim.
8 Each party notified shall be given an opportunity to speak to
9 the court."

10 SEC. 103. (a) Any person who has been charged with,
11 convicted of, pleaded guilty, or pleaded nolo contendere to a
12 Federal crime (hereinafter referred to as "defendant") who
13 contracts with a person for the purpose of having his crime or
14 alleged crime depicted in a movie, book, newspaper, maga-
15 zine, radio or television production, or live entertainment of
16 any kind, or for the purpose of expressing his thoughts, opin-
17 ions or emotions regarding such crime, shall file a copy of
18 such contract with the court adjudicating his guilt.

19 (b) If so ordered by the court after proceedings con-
20 ducted pursuant to rule 32.2 of the Federal Rules of Criminal
21 Procedure, the person with whom the defendant has con-
22 tracted shall pay in to the clerk of the court any money which
23 would otherwise, by terms of the contract, be paid to the
24 defendant, his representative, or any transferee of the defend-
25 ant. The clerk shall deposit such moneys in the Crime Vic-

1 tims' Assistance Fund for the benefit of and payable to any
2 victim of crimes committed by such person.

3 (c) Moneys deposited in the Fund under section 103(b)
4 of this title shall be used to satisfy any unsatisfied or partially
5 satisfied judgment rendered in favor of a victim or his legal
6 representative in any civil action brought by the victim that
7 is filed in any court of the United States within five years
8 after the first deposit of such moneys in the Fund, against a
9 defendant or his representative for damages arising out of the
10 crime committed by the defendant. If no such action has been
11 filed within five years after the first deposit of such moneys,
12 any money remaining in the account shall remain in the Fund
13 for distribution pursuant to part B of this title, subject to
14 section 103 (d) and (e) of this title.

15 (d) Moneys in the fund shall be paid to the defendant
16 upon an order of a United States district court judge for the
17 exclusive purpose of retaining legal representation at any
18 stage of the criminal proceedings brought against the defend-
19 ant. The total of all payments made from the Fund under this
20 subsection shall not exceed one-fifth of the total moneys paid
21 into the Fund with respect to the defendant.

22 (e) Upon dismissal of charges or acquittal of any defend-
23 ant, the court shall order the clerk to pay over to the defend-
24 ant all moneys paid in to the clerk with respect to the defend-
25 ant under section 103(b) of this title.

1 (f) The clerk shall, once every six months for five years
2 from the first date money is deposited in the Fund publish a
3 notice in the Federal Register and in a newspaper of general
4 circulation in the county or city where the offense was com-
5 mitted notifying victims that such moneys are available to
6 satisfy judgments pursuant to this title.

7 SEC. 104. (a) Title 18 of the United States Code is
8 amended by deleting the word "and" after subsection (4) of
9 section 4207 and adding a new subsection (5) to section
10 4207, to read as follows:

11 "(5) statements of the victim or his representa-
12 tive, which the Commission shall solicit at the parole
13 hearing, about the emotional, physical, psychological,
14 and financial impact the prisoner's criminal conduct has
15 had on his life. Such statements may be presented
16 orally, or in writing, at the discretion of the victim or
17 his representative; and".

18 (b) Title 18 of the United States Code is amended by
19 redesignating present subsection "(5)" of section 4207 as
20 subsection "(6)".

21 PART B—DISBURSEMENTS

22 SEC. 201. The Attorney General is authorized to make
23 annual grants and other payments from the Fund to States
24 for the purpose of compensating and providing other assist-
25 ance to victims of crime. Amounts in the Fund shall be avail-

1 able to the Attorney General, who shall distribute the funds
2 on the basis of the following criteria:

3 (a) in the fiscal year ending on September 30,
4 1985, 40 per centum, and in subsequent fiscal years,
5 45 per centum, to be available for distribution among
6 the States on the basis of the amount of money spent
7 by the State in relation to all States, for the compensa-
8 tion of victims of crime, including victims of exclusively
9 Federal crimes, during the preceding fiscal year: *Pro-*
10 *vided*, That no State shall receive more than 25 per
11 centum of the amount it spent for the compensation of
12 victims of crime, including victims of exclusively Fed-
13 eral crimes, during the preceding fiscal year;

14 (b) 45 per centum to be distributed among the
15 States on the basis of State population in relation to
16 the population of all States; and

17 (c) in the fiscal year ending on September 30,
18 1985, 15 per centum, and in subsequent fiscal years,
19 10 per centum, for distribution by the Attorney Gener-
20 al among Federal law enforcement agencies for the
21 purposes enumerated in section 204 of this title.

22 Distributions from the Fund shall be based on the amount
23 credited to the Fund during the previous fiscal year. In no
24 event shall any State of the United States or the District of

1 Columbia receive less than a total of \$100,000 under subsec-
2 tions (a) and (b) of this section.

3 SEC. 202. (a) Funds awarded under section 201(a) of
4 this title shall be expended by the State solely for the purpose
5 of providing financial compensation to victims of crime, sub-
6 ject to the provisions of 202(d) of this title. A State is eligible
7 to receive funds under section 201(a) of this title if—

8 (1) the chief executive of the State submits an ap-
9 plication to the Attorney General, prior to the receipt
10 of funds under this title, which—

11 (A) certifies the amount of money spent by
12 the State in the preceding fiscal year to compen-
13 sate victims of crime;

14 (B) certifies that the funds awarded under
15 section 201(a) of this title shall not be used to
16 supplant available State funds, but to increase the
17 amount of funds expended by the State to com-
18 pensate victims of crime; and

19 (C) contains such other information and as-
20 surances related to the purposes of this title as
21 the Attorney General may require;

22 (2) the State provides the same financial benefits
23 to victims of crime who are nonresidents of the State,
24 as are provided to victims of crime who are residents
25 of the State;

1 (3) the State provides the same financial benefits
2 to individuals who are victims of Federal crimes com-
3 mitted in the State as are provided to individuals who
4 are victims of State crimes; and

5 (4) the State provides compensation for mental
6 health counseling that may be required by eligible indi-
7 viduals as a result of their victimization.

8 (b) No portion of the funds awarded under section 201(a)
9 of this title may be used by any State for payment of adminis-
10 trative expenses related to the operation of the State victim
11 compensation program.

12 (c) Any funds which would be awarded to a State but
13 for the 25 per centum limitation imposed by section 201(a) of
14 this title shall, at the option of the chief executive of such
15 State, either be expended by the State under section 203 of
16 this title, or returned by such State to the Fund for redistri-
17 bution under section 201 of this title.

18 (d) Any funds awarded under section 201(a) which
19 remain unspent by the State in any fiscal year may be ex-
20 pended for the purposes of providing financial compensation
21 to victims of crime at any time over the next fiscal year. Any
22 funds remaining unspent at the expiration of that time shall,
23 at the option of the chief executive of such State, either be
24 expended by the State under section 203 of this title, or re-

1 turned by such State to the Fund for redistribution under
2 section 201 of this title.

3 SEC. 203. (a) Funds awarded to the State under section
4 201(b) of this title shall be expended by the State solely for
5 the purposes of providing services, other nonfinancial assist-
6 ance, and limited emergency financial assistance to victims of
7 crime, subject to the provisions of section 203(c) of this title.
8 The chief executive of the State shall appoint or designate an
9 official of a State executive agency as the State victim assist-
10 ance administrator ("State administrator"). The State admin-
11 istrator shall—

12 (1) certify that funds awarded under section
13 201(b) of this title shall not be used to supplant avail-
14 able State funds, but to increase the amount of funds
15 expended by the State for financial assistance to eligi-
16 ble recipient organizations for the provision of services,
17 other nonfinancial assistance, and limited emergency fi-
18 nancial assistance to victims of crime;

19 (2) award the money received from the Fund
20 under section 201(b) of this title to eligible recipient or-
21 ganizations in the State. The Administrator shall
22 award funds only to an eligible recipient organization
23 which—

1 (A) demonstrates a record of quality assist-
2 ance to victims consistent with the purposes of
3 this statute and available resources;

4 (B) to the extent practicable, promotes the
5 use of volunteers in its service delivery;

6 (C) demonstrates financial support from
7 sources other than the Fund;

8 (D) demonstrates an established commitment
9 from other locally available service providers to
10 provide the services that it does not provide, to
11 all victims of crime; and

12 (E) assures that it shall coordinate with
13 other public agencies and private organizations for
14 the purpose of providing services to victims of
15 crime;

16 (3) obtain assurances from eligible recipient orga-
17 nizations of compliance with the requirements of this
18 title; and

19 (4) administer, monitor, and evaluate the fiscal
20 and programmatic performance of organizations receiv-
21 ing funds under this section.

22 (b) An eligible recipient organization is a nonprofit orga-
23 nization, an agency of a State or local unit of government, or
24 a combination of such entities which provides one or more of

1 the following services to victims of crime as a group or to any
2 targeted category of crime victims—

3 (1) crisis intervention services;

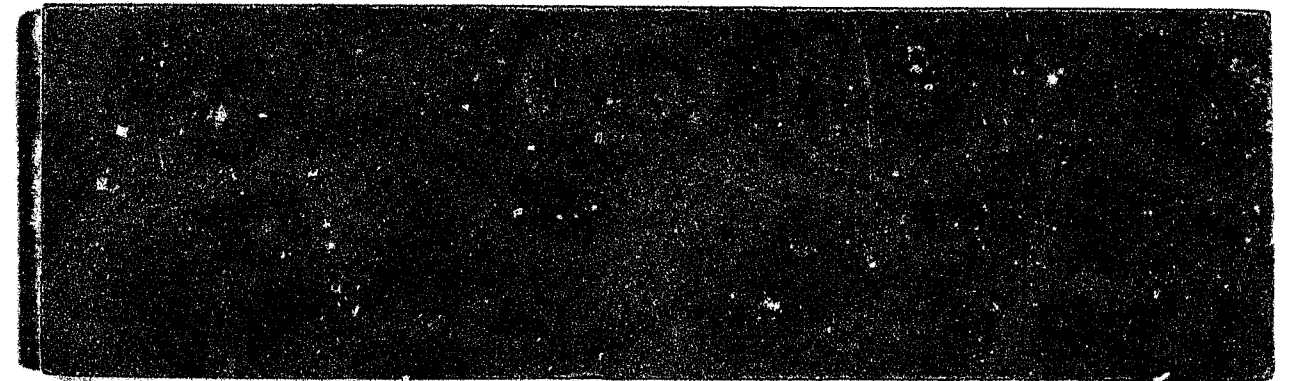
4 (2) assistance to victims in determining the status
5 of, and participating in criminal justice proceedings;
6 and

7 (3) assistance in securing victim compensation
8 benefits.

9 (c) All funds awarded to a State under section 201(b) of
10 this title may be used only for the purpose of providing finan-
11 cial assistance to eligible recipient organizations for the pro-
12 vision of services and other assistance to victims of crime.
13 Any funds awarded under subsection 201(b) of this title
14 which remain unspent by the State in any fiscal year may be
15 expended for the purposes of this section at any time during
16 the next fiscal year, at the expiration of which time any re-
17 maining unspent funds shall, at the option of the chief execu-
18 tive of such State, either be expended by the State under
19 section 202 of this title, or returned by such State to the
20 Fund for redistribution under section 201 of this title.

21 SEC. 204. (a) Funds awarded under section 201(c) of
22 this title shall be expended by the Attorney General solely
23 for the purpose of providing services and other nonfinancial
24 assistance to victims of Federal crimes, subject to the provi-
25 sions of section 204(e) of this title. The Attorney General

CONTINUED



1 shall appoint or designate an official of the Department of
2 Justice to be the Federal Victim Assistance Administrator
3 ("Federal Administrator") authorized to exercise the respon-
4 sibilities in section 204(c) of this title.

5 (b)(1) The President is authorized to establish a Federal
6 Victim of Crime Advisory Committee ("Committee") com-
7 prised of the Attorney General, the Secretary of the Treas-
8 ury, the Secretary of the Interior, the Federal Administrator,
9 such other Federal officials as he may deem appropriate, and
10 no less than two members of the public who have special
11 knowledge of the needs of victims. The Attorney General
12 shall serve as Chairman of the Committee.

13 (2) The Committee shall advise the Federal Administra-
14 tor about the victims assistance needs of the Federal Govern-
15 ment and recommend proposed uses of the funds received
16 under section 201(c) of this title to him. The Committee shall
17 also periodically recommend to the President other actions to
18 be taken by the Federal Government for the improved treat-
19 ment of victims of Federal crime. The Committee shall meet
20 semiannually and at such other times as the Attorney Gener-
21 al may designate.

22 (3) The members of the public appointed under subsec-
23 tion (b)(1) shall receive compensation for each day engaged in
24 the actual performance of duties vested in the Committee at
25 rates of pay not in excess of the daily equivalent of the high-

1 est rate of basic pay then payable under the General Sched-
2 ule of section 5332(a) of title 5, United States Code, and in
3 addition shall be reimbursed for travel, subsistence and other
4 necessary expenses.

5 (c) After consultation with the Committee, the Federal
6 Administrator shall annually distribute the funds received
7 under section 201(c) of this title among the Executive agen-
8 cies of the Federal Government having criminal law enforce-
9 ment responsibilities, for the purpose of improving assistance
10 to the victims of Federal crime. The funds may be expended
11 for activities such as—

12 (1) the establishment and maintenance of victims
13 assistance positions or units;

14 (2) the establishment and maintenance of services
15 such as crisis intervention counseling services, followup
16 counseling services, information and referral services,
17 and on-call systems for the victims of Federal crimes;

18 (3) the training of Federal law enforcement per-
19 sonnel (including court personnel) in the delivery of
20 victims assistance services;

21 (4) dissemination of information about Federal vic-
22 tims assistance services; and

23 (5) such other related purposes as the Federal Ad-
24 ministrator may deem appropriate.

1 The Federal Administrator shall seek to avoid duplicating as-
2 sistance already effectively provided by local organizations.

3 (d) The Federal Administrator shall be responsible for
4 overseeing Federal compliance with the guidelines for fair
5 treatment of Federal crime victims and witnesses required by
6 section 6(a) of the Victim and Witness Protection Act of
7 1982, Public Law 97-291. The Federal Administrator shall
8 also be responsible for coordinating victim assistance activi-
9 ties between the Federal government and State and local ef-
10 ferts. The Attorney General may direct the Federal Adminis-
11 trator to perform such other functions related to the purposes
12 of this title as he may deem appropriate.

13 (e) Any funds awarded under section 201(c) of this title
14 which remain unspent in any fiscal year may be expended for
15 the purposes of this section at any time during the next fiscal
16 year, at the expiration of which time any remaining unspent
17 funds shall revert to the Fund for redistribution pursuant to
18 section 203.

19 PART C—ADMINISTRATIVE PROVISION

20 SEC. 301. Within one year from the enactment of this
21 title, the Director of the Administrative Office of the United
22 States Courts shall submit a report to the Attorney General
23 setting forth the steps it has taken to (1) improve the accu-
24 rate accounting of collections of criminal fines, and (2) assure
25 that all collected criminal fines are deposited in the Fund.

1 The report may also set forth recommendations for future
2 action by the Federal Government that would best assure
3 collection of all criminal fines imposed by the courts.

4 SEC. 302. (a) Sections 701, 702, 703, 708, 709, and
5 710 of the Omnibus Crime Control and Safe Streets Act of
6 1968, as amended, are applicable to all recipients of funds
7 disbursed under this title.

8 (b) The Attorney General is authorized to establish such
9 rules, regulations, guidelines, and procedures as are neces-
10 sary to the exercise of his functions under, and as are consist-
11 ent with, the stated purposes of this title.

12 (c) No later than December 31, 1987, the Attorney
13 General shall report to the President and to the Committees
14 on the Judiciary of the Senate and House of Representatives
15 on the amount of funds collected from each source listed in
16 section 101 of this title, and on the effectiveness of the activi-
17 ties supported pursuant to sections 202, 203, and 204 of this
18 title. The Attorney General shall also set forth recommenda-
19 tions for legislation to improve the ability of the Department
20 of Justice to fulfill the purposes of this title.

21 (d) Deposits shall be made in the Fund pursuant to sec-
22 tion 101 of this title until September 30, 1988. No deposits
23 shall be made after that date without further authorization by
24 Congress. Amounts remaining unobligated in the Fund after

1 September 30, 1988, shall revert to the general fund of the
2 Treasury.

3 SEC. 303. This Act does not modify or repeal the provi-
4 sions contained in section 11(d) of the Endangered Species
5 Act of 1973 (16 U.S.C. 1540) or section 6(d) of the Lacey
6 Act Amendments of 1981 (16 U.S.C. 3375).

7 PART D—DEFINITIONS

8 SEC. 401. (a) As used in this title—

9 (1) “crime” means a criminal offense as defined
10 by Federal, State, or common law, or an act which
11 would constitute such an offense but for the fact that
12 the perpetrator of the act lacked capacity to commit
13 the offense, but does not include an offense prosecuted
14 in Indian tribal courts or Courts of Indian Offenses;

15 (2) “criminal fines” means all pecuniary punish-
16 ments imposed by a Federal court upon a person, a
17 corporation, or other entity convicted of a crime (in-
18 cluding all fines imposed for criminal violation of motor
19 vehicle and antitrust laws) and all money derived from
20 forfeited appearance bonds posted by Federal criminal
21 defendants, but does not include criminal fines imposed
22 by Indian tribal courts or Courts of Indian Offenses;

23 (3) “financial compensation” means payment of
24 money to victims of crime for expenses and losses aris-
25 ing out of the criminal incident that are compensable

1 under State law, including limited emergency financial
2 assistance;

3 (4) “fiscal year” means the period beginning Oc-
4 tober 1 of one calendar year and ending September 30
5 of the next calendar year;

6 (5) “population” means total resident population
7 based on data compiled by the United States Bureau of
8 the Census and referable to the same point or period in
9 time;

10 (6) “representative of the victim” means a parent
11 or legal guardian of a victim who is a minor, or a
12 parent, legal guardian, or spouse of a deceased victim;
13 and

14 (7) except with respect to the \$100,000 minimum
15 contained in section 201 of this title, “State” means
16 any State of the United States, the District of Colum-
17 bia, the Commonwealth of Puerto Rico, the Virgin Is-
18 lands, Guam, American Samoa, the Trust Territory of
19 the Pacific Islands, and the Northern Mariana Islands.

20 TITLE II

21 PENALTY ASSESSMENT FEES

22 SEC. 101. Whenever any person is convicted of an of-
23 fense in any court of the United States, the court shall
24 impose a penalty assessment fee on such person in the
25 amount of—

1 (a) \$25, if the defendant is an individual and the
2 offense is a misdemeanor;

3 (b) \$50, if the defendant is an individual and the
4 offense is a felony;

5 (c) \$100, if the defendant is a person other than
6 an individual and the offense is a misdemeanor; and

7 (d) \$200, if the defendant is a person other than
8 an individual and the offense is a felony.

○

END