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CRIME VICTIMS' ASSISTANCE PROGRAMS

HEARINGS
BEFORE THE
SUBCOMMITTEE ON JUVENILE JUSTICE
OF THE
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE
NINETY-EIGHTH CONGRESS
FIRST SESSION
ON
PROBLEMS FACED BY THE INNOCENT VICTIMS OF VIOLENT CRIME
AND WHAT FEDERAL ASSISTANCE MAY BE APPROPRIATE

SEPTEMBER 20 AND 28, 1983

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CONTENTS

OPENING STATEMENTS

Specter, Hon. Arlen, a U.S. Senator from the State of Pennsylvania, chairman, Subcommittee on Juvenile Justice.....	Page 1, 51
---	---------------

CHRONOLOGICAL LIST OF WITNESSES

TUESDAY, SEPTEMBER 20, 1983

Heinz, Hon. John, a U.S. Senator from the State of Pennsylvania.....	3
Herrington, Hon. Lois Haight, Assistant Attorney General for Justice Assistance, Research and Statistics, U.S. Department of Justice, Chairman, President's Task Force on Victims of Crime.....	9
Melton, Wanda, Annapolis, Md.....	22
Babb, George, Washington, D.C.....	27
Bass, Chiquita, Washington, D.C.....	29
Carrington, Frank, executive director, Victims Assistance Legal Organization, chairman, Victims Committee, American Bar Association, vice chairman, Advisory Board, National Institute of Justice, U.S. Department of Justice.....	31

WEDNESDAY, SEPTEMBER 28, 1983

Booth, Doris, Harpers Ferry, W. Va.....	53
Wright, April, Washington, D.C.....	62
Geraldine, Potomac, Md.....	64
Armstrong, Robert W., director, Division of Crime Victims' Compensation, Industrial Commission of Virginia, Commonwealth of Virginia, Richmond, Va.....	77
Young, Marlene, A., Ph.D., J.D., executive director, National Organization for Victim Assistance, Washington, D.C.....	82
Whetstone, Gloria, Philadelphia, Pa.....	94

ALPHABETICAL LISTING AND MATERIALS SUBMITTED

Armstrong, Robert W.: Testimony.....	77
Prepared statement.....	81
Babb, George: Testimony.....	27
Bass, Chiquita: Testimony.....	29
Booth, Doris: Testimony.....	53
Addenda to testimony.....	56
Prepared statement.....	58
Carrington, Frank: Testimony.....	31
Prepared statement.....	35
Victims Rights: A New Tort?—Five Years Later, by Frank Carrington.....	41
Geraldine: Testimony.....	64
Prepared statement.....	72
Heinz, Hon. John: Testimony.....	3
Prepared statement.....	6

(III)

	Page
Herrington, Hon. Lois Haight:	
Testimony	9
Prepared statement	14
Melton, Wanda:	
Testimony	22
Prepared statement	25
Wright, April: Testimony	62
Whetstone, Gloria: Testimony	94
Young, Marlene A.:	
Testimony	82
Prepared statement	88

APPENDIX

Testimony of Wayne Lapierre, director, Governmental Affairs Division, National Rifle Association, Institute for Legislative Action	99
--	----

CRIME VICTIMS' ASSISTANCE PROGRAMS

TUESDAY, SEPTEMBER 20, 1983

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

The subcommittee met, pursuant to notice, at 9:32 a.m., in room 226, Dirksen Senate Office Building, Hon. Arlen Specter (chairman of the subcommittee) presiding.

Staff present: Bill Bowman, counsel; Stephen Johnson, counsel.

OPENING STATEMENT OF HON. ARLEN SPECTER, A U.S. SENATOR FROM THE STATE OF PENNSYLVANIA, CHAIRMAN, SUBCOMMITTEE ON JUVENILE JUSTICE

Senator SPECTER. Good morning, ladies and gentlemen. The hour of 9:30 having arrived, we shall begin the hearing on the Federal assistance to State and local victims' assistance programs.

We have a distinguished array of witnesses today.

Our hearing today will focus on the enormous problems faced by the innocent victims of violent crime. For too long the forgotten participants in our criminal justice systems, these victims have in recent years been murdered, raped, robbed, and assaulted at staggering rates. As if to add insult to injury, the physical and emotional injuries suffered by these innocent victims and their families are often compounded by enormous financial losses for medical bills, lost wages, rehabilitation expenses, counseling expenses, and funeral expenses.

Consider these facts. In 1982, according to the FBI's Uniform Crime Report, a violent crime occurred every 25 seconds in this country. Murders left the families and friends of over 21,000 persons devastated. Seventy-seven thousand women reported that they were forcibly raped. Over half a million people were robbed, 650,000 were victims of aggravated assault, and almost 3.5 million burglaries occurred. These crimes alone thus accounted for almost 5 million victims of violent crime. And each of those victims, I suggest from my experience as district attorney of Philadelphia, will carry the physical, emotional, or financial scars of this victimization for many years to come.

Today we will hear from just three of these many victims. One man has been shot six times and is now paralyzed from the waist down. Unable to work, he finds himself with no money at all for rent, physical therapy, pain medication, or even to pay for his rented wheelchair. A woman who was shot through the shoulder has amassed over \$100,000 in medical expenses, is unable to work,

is chronically in severe pain, and will live the rest of her life with a partially paralyzed arm. And a woman from an inner-city Washington, D.C., neighborhood has had her house broken into eight separate times over the past few years—on one occasion the intruder attacked her in her bed, and on another her sister was raped.

Perhaps nothing we can do will solve the hurt, the shock, and the sense of violation these victims and others have suffered. Yet if we as a people can have the conscience and dedication to assure that these victims will not be victimized a second time—this time financially—then we will have made an important start. Money to help pay medical bills for those without insurance, funeral expenses, lost wages, and counseling and rehabilitation expenses can go a long way toward getting these victims on their feet again.

I am greatly encouraged by the response of the States to this problem. Beginning with California in 1965, 36 States and the District of Columbia now have victim compensation programs. The majority (24) have been instituted in the last 6 years. At a cost of approximately \$44 million a year, these programs have provided funds and hope to those innocent victims who had no place else to turn.

At the same time, I sound a note of caution. The programs do not operate in all States. Some programs are seriously underfunded. Some programs have overly-stringent eligibility requirements and redtape. Some programs do no advertising so that victims are unaware of their existence. As a result, most programs make awards to only a fraction of those eligible, and the States are anxiously looking to other possible funding sources to keep victim compensation alive and well.

I believe that there is a role for the Federal Government in the field of victim compensation. Currently there is no compensation at all available for the victims of purely Federal crimes. Moreover, many States will compensate only victims of crimes who live in that State; visitors from one State who are victimized in another are simply out of luck. The Federal Government now provides aid to many parts of State and local criminal justice systems—surely the victims of crime are as deserving as the perpetrators.

The issue of assistance to victims of crimes is one of the most important facing our Nation. Although the crime rate has reportedly declined slightly in the last brief period of time, over the course of the last quarter of a century violent crime has been on the increase in the United States, and there are overwhelming numbers of victims of homicide, rape, robbery, and burglary. Crime has been the No. 1 domestic issue now for more than two decades.

I personally saw these problems daily during some 14 years in law enforcement, 8 years as district attorney of Philadelphia. I know firsthand the tremendous problems which victims face.

Today's hearing will focus on what Federal assistance may be appropriate, and that puts the matter within the jurisdiction of this subcommittee. We are privileged to have a distinguished array of witnesses led by the senior Senator from Pennsylvania, Hon. John Heinz. Senator Heinz has provided unique leadership in the area of assistance to victims with the legislation he cosponsored with Senator Laxalt on victim protection, which passed last year and was

signed into law by the President, the Omnibus Victims Protection Act of 1982.

Senator Heinz has proposed S. 704, which would provide additional assistance and compensation to victims of violent crime.

We have, in addition, Hon. Lois Herrington, Assistant Attorney General in the Office of Justice Assistance, Research and Statistics. And we have three victims of crimes: Wanda Melton, Mr. George Babb, and Chiquita Bass; and then Mr. Frank Carrington, executive director of the Victims Assistance Legal Organization.

So without further preliminaries, it is my pleasure to call on my colleague, Senator Heinz.

STATEMENT OF HON. JOHN HEINZ, A U.S. SENATOR FROM THE
STATE OF PENNSYLVANIA

Senator HEINZ. Mr. Chairman, thank you.

First, let me ask unanimous consent that my entire statement be placed in the record.

Senator SPECTER. Without objection, it will be.

Senator HEINZ. Second, Mr. Chairman, let me say it is a pleasure to appear here today.

Mr. Chairman, let me quite sincerely commend you on this hearing, it is going to mean a lot to victims of crime across this country. You could have no more distinguished witness on your agenda than Lois Herrington who is seated behind me.

Mrs. Herrington has been the chairman of the President's Task Force on Victims of Crime, and having had, during the course of last year and part of the year before, the opportunity to work with her on the Victim and Witness Protection Act that we did enact last year, I can tell you that she has been the motive, and the driving force in this area. She is a credit not only to her convictions, but more importantly, I think she is a great credit to the President who selected her, appointed her, and has backed her 100 percent.

The reason that is significant—and you were kind enough to mention this, Mr. Chairman—that if it had not been for the President and his commitment, Senator Laxalt's, and Lois Herrington's commitment, we would not have been able, here in the Congress, to present to the President in October of last year, 1982, not just a bill on victim and witness protection, but the only significant legislation to ever pass the Congress and be signed into law to protect victims and witnesses for as long as I have served in the Congress, which is now in excess of 11 years.

It has been talked about a lot, but this is the first time anything significant has taken place.

I am appearing here today, as chairman of the Special Committee on Aging. The reason is that the fear of crime, and the impact of a crime have especially traumatic effects on older Americans.

But beyond that, what is not so widely recognized, is the negative impact of a victim's experience after the crime has occurred. The President's Task Force on Victims of Crime in its report to the Congress early this year concluded that the treatment of victims by our criminal justice system has been careless and shameful.

In many cases the criminal receives more consideration and fairer treatment than the innocent person that he has victimized.

To borrow from the words of the task force, "Innocent victims of crime have been overlooked, their pleas for justice have gone unheeded, and their wounds, personal, emotional, and financial, have gone unattended."

We need to do a good deal more than the legislation that we passed last year. We have still failed, in particular, to address the financial impact of a crime. It can be devastating, especially to an older person on a fixed income.

Some say that restitution should be required from all criminals and that will take care of the problem. If we simply make the criminal pay for the consequences of his crime, we will have done enough. But sadly, relatively few criminals are caught and convicted, which I know the former district attorney—Senator Specter—will appreciate.

Fewer still can be made in each instance to pay restitution. To address this problem, 38 States plus the District of Columbia have established crime victims compensation programs. Unfortunately, virtually all of these State compensation programs are experiencing financial difficulties.

Many States are being forced to limit the amount of their compensation awards; others do not advise victims of their existence for fear of depleting available resources or of overtaxing numerically inadequate staff.

In addition, because of the funding problems in many States, victims may have to wait months before their compensation claim can be processed. That is why, Mr. Chairman, earlier this year I introduced, S. 704, the Crime Victim Assistance Act of 1983. It would establish a Federal crime victims assistance fund to help States compensate victims of crime.

It would provide technical support for those remaining States which decide to establish victims compensation programs. In addition, the legislation would provide much needed financial support for State victims and witness assistance programs.

I believe this kind of support is essential if we are to fully implement the provisions of the Victim and Witness Protection Act passed last year.

Revenue is always an issue, and revenue for these purposes will be generated from sources related to the commission of the crime, such as increased fines, criminal forfeitures, improved collection procedures, and a specific one-time compensation fee to be levied at the time of sentencing on all Federal crimes.

It will not require a single penny of new revenue from the taxpayer.

Mr. Chairman, let me note from hearings that we have held in the Aging Committee, and that have been held by the Judiciary Committee as well, we have found the economic consequences of a crime against an elderly person are especially severe. If the home of the senior citizen is burglarized, they rarely have invested in the kind of insurance which is a fallback for younger people. Over half of the robberies of people over 65 result in injury, many of them serious. This injury, as an elderly victim testified last year, can wipe out every penny of life savings, or for that matter, leave the victim mentally and often physically deeply impaired. When victimized, statistically the elderly lose 23 percent of a month's

income, and it is a low income to start with. For those below the poverty level, if the proceeds from their social security check are taken, they lose 100 percent, and this is quite common.

For all victims, a criminal act can leave them paying for medical expenses, therapy, and possibly funeral expenses, all on their own. Compensation programs vary from State to State, but most compensate for medical, counseling, and therapy expenses associated with the crime. Most of these programs also reimburse for lost wages, loss of support to dependents, and funeral expenses.

Another important function of many of these State programs is their referral and linkage to other victim assistance services.

I believe, Mr. Chairman, that it is time for the Federal Government to insure the availability of adequate funds to support these programs so that necessary financial reimbursement to crime victims can be made.

I would only close by noting that without the cooperation of victims with our criminal justice system, we would have no effective deterrent to crime in this country. The victim is the principal witness against the criminal. As long as we treat our victims as second class citizens, we will be providing a first class opportunity for criminals, and that is not something anyone desires.

I thank you, Mr. Chairman

Senator SPECTER. Thank you very much, Senator Heinz, for that very cogent testimony and for the innovative thinking that you have provided. Your leadership on the Committee of the Aging, which you chair, has been widely noted, and it is to your credit that you have moved into the field of assistance for victims. That kind of leadership is really extraordinary and quite commendable.

When enough of us in the U.S. Congress focus on this issue, I think we can have the kind of legislative advances you have proposed. So, we thank you very much.

Senator HEINZ. Mr. Chairman, thank you very much. I commend you for taking such a great interest in this subject.

Senator SPECTER. Thank you, Senator Heinz.

[The prepared statement of Senator Heinz follows:]

PREPARED STATEMENT OF SENATOR JOHN HEINZ

Mr. Chairman, I am pleased to appear before you today to testify on behalf of crime victims across the nation. It is always a pleasure for me to be in the distinguished company of Lois Herrington, who was Chairman of the President's Task Force on Victims of Crime. The excellent work of the President's Task Force has given us here in the Congress a course of action, a legislative mandate to move forcefully to respond to the needs of victims of crime.

As Chairman of the Senate Special Committee on Aging, I know, as you do, that the fear of crime and the impact of an assault have an especially traumatic impact upon older Americans. What is not so widely recognized is the negative impact of a victim's experience after a crime has occurred.

The President's Task Force on Victims of Crime, in its report to the Congress earlier this year, concluded that the treatment of victims by our criminal justice system has been careless and shameful. In many cases, the criminal has received more consideration and fairer treatment than the innocent individual he has victimized. In the words of the Task Force, "Innocent victims of crime have been overlooked, their pleas for justice have gone unheeded, and their wounds -- personal, emotional, and financial -- have gone unattended."

Last year, the Congress took an initial step toward sensitizing the criminal justice system to these needs when it passed the Victim and Witness Protection Act of 1982. That bill, which Senator Laxalt and I introduced in April of 1982 was signed into public law by the President last October. It is the first major federal legislation which recognizes the rights and needs of victims. The swift passage of this legislation has given hope to crime victims and their families across the country. Many

victims advocacy groups are now working for passage of parallel legislation at the state level.

But we need to do more. The financial impact of a crime can be devastating, especially to an older person on a fixed income. Some say that restitution should be required -- simply make the criminal pay for the consequences of his crime. But sadly, relatively few criminals are caught and convicted, and fewer still can be made to pay restitution. To address this problem, 38 states plus the District of Columbia have established victims compensation programs. Unfortunately, virtually all of these state crime victims compensation programs are experiencing financial difficulties. Many states are being forced to limit the amount of their compensation awards. Others do not advise victims of their existence for fear of depleting available resources or overtaxing numerically inadequate staff. In addition, because of the funding problems in many states, victims may have to wait months before the compensation claim can be processed.

Mr. Chairman, early this year I introduced S. 704 -- the Crime Victim Assistance Act of 1983 -- which would establish a federal crime victims assistance fund to help states compensate victims of crime. It would also provide technical support for those remaining states which decide to establish victims compensation programs. In addition, the legislation would provide much-needed financial support for State and Federal victim's and witness assistance programs. This support is essential if we are to fully implement the provisions of the Victim and Witness Protection Act passed last year.

Revenue for these purposes will be generated from sources related to the commission of the crime -- such as increased fines, criminal forfeitures, improved collection procedures, and a

specific one-time compensation fee to be levied at the time of sentencing on all Federal crimes. It will not require a single penny of new revenue from the taxpayer.

The economic consequences of crime are severe on the elderly. If their homes are burglarized, they rarely have invested in insurance which is often a fall-back for younger, working individuals. Over half of robberies against persons over 65 result in injury. This injury, as an elderly victim testified last year, can wipe out life savings or leave a victim mentally or physically impaired. When victimized, the elderly lose, on average, 23 percent of a month's income. Those below the poverty level can lose 100 percent. For all victims, a criminal act can leave them paying for medical expenses, therapy, or possibly funeral expenses on their own. Compensation programs vary from state-to-state, but most compensate for medical, counseling, and therapy expenses associated with the crime. Most of these programs also reimburse for lost wages, loss of support to dependents and funeral expenses. Another important function of many of these programs is their referral and linkage to other victim assistance services. I believe that it is time for the federal government to ensure the availability of adequate funds to support these programs so that necessary financial reimbursement to crime victims can be made.

Without the cooperation of victims, the criminal justice system would collapse. Last year we began to recognize their needs. I believe this year it is time we complete our responsibility by enacting comprehensive victims compensation legislation. Thank you.

Senator SPECTER. I now call on Hon. Lois Herrington. Senator Heinz, to the extent that you wish to do so, you are welcome to join the panels.

Senator HEINZ. Thank you very much, Mr. Chairman, but I have two other hearings.

Senator SPECTER. You do have a few other things to attend to, I realize.

Welcome, Assistant Attorney General Herrington. We are delighted to have you here and look forward to your testimony. Your full statement will be made a part of the record, and it is our custom to request summaries so that we can focus to the maximum extent possible on questions and answers.

STATEMENT OF HON. LOIS HAIGHT HERRINGTON, ASSISTANT ATTORNEY GENERAL FOR JUSTICE ASSISTANCE, RESEARCH AND STATISTICS, U.S. DEPARTMENT OF JUSTICE, CHAIRMAN, PRESIDENT'S TASK FORCE ON VICTIMS OF CRIME

Mrs. HERRINGTON. Thank you, Mr. Chairman. I should be very happy to summarize.

I really appreciate this opportunity to appear before your subcommittee today, and I am anxious to give you the views of what we learned when I chaired the President's Task Force on Victims of Crime.

I also want to thank Hon. John Heinz who testified before for his very gracious words. I think he is extremely modest about the tremendous input and his sincere commitment to victims of crime and what he started when he and Senator Laxalt created the Victim and Witness Protection Act. They did an outstanding job, and it really set the Federal Government in a leadership role in this area.

I would like to tell you just a little bit briefly about what we learned. We did six hearings across the United States. We listened to the victims of crime themselves. We listened to the police, to the judges, to the district attorneys. We listened to those who worked in the victim-witness field. We listened to those in education, to the doctors and to the nurses on how they treat victims and what their perceptions were.

The bottom line is we found out that the treatment of victims is pretty much a national scandal. And the victims told us that they felt that the criminal justice system was formulated to serve the lawyers, and to serve the defendants, and to serve judges, that they were either ignored, or mistreated, or blamed.

And as one of the victims said to us so eloquently, you know, blaming victims is like analyzing the cause of World War II and saying, what was Pearl Harbor doing in the middle of the Pacific, anyway? It is so insidious, that blame.

The innocent victims who cooperated and who testified before us said that they would never do this again. They said they would tell their friends, and their loved ones, and anybody that they cared about and could talk to, do not get involved in the system; cut your losses. It is not worth it. You lose your job. It is expensive. It is harassment. And nobody cares about you in the long run.

And this is not only unjust, but it is foolish, because if we do not have the cooperation of these victims, if they do not cooperate, we

cannot hold the criminal accountable. And as we know, victimization is not a momentary thing; it goes on sometimes for 2, 3 years following. There is a lot of psychological trauma that is involved, and we forget that in our system.

We think the person has just been victimized and then that is the end of it. But it is a long process and it is a very long healing process.

We find out that this is a very multifaceted problem. And we made recommendations addressed to the ministry, and to the mental health community, and to hospitals, and to schools. We made recommendations to the parole board, the bar associations, and then for the police, and the district attorney, and the judiciary.

And one thing of note that we found very interesting and somewhat rewarding, because I think it goes to some training that has happened with the police, most of the victims said the police treated them the very best. And a lot of victims said, we have no quarrel with how we were treated by the police. They were sensitive and they were caring. It was when the rest of the system got involved that it started to fall apart.

We made 68 recommendations to the President. Those recommendations were in three major areas. No. 1, protect the victim. No. 2, make the system more responsive to the victim. And No. 3, try to ease the crushing physical and financial burdens and psychological trauma that resulted from the crime.

And, for instance, just let me give you a couple of examples on protecting the victims, some of the recommendations that we made were that the addresses and phone numbers of the victims should not be given out to the defendant; that the victims should have an opportunity, if they chose to be present at the bail hearing, to tell the judge exactly the threats that the defendant made to them and their family; and also that there be separate waiting rooms for the victims and witnesses so that they did not have to sit next to the defendant or the defendant's family while they were waiting to testify.

Examples of how the system could be more responsive, and, keeping in mind at all times that these are the people that the system was designed to protect, these injuries are the ones that the system was designed to redress. And, as Senator Heinz said so accurately, there would not be a criminal justice system without their injury to redress; and keeping in mind also that victims need help, whether or not the criminal is apprehended.

So to make the system more responsive, No. 1, we felt it was very important that the victims be notified at all stages what is going on with their case. If nobody is apprehended, let them know that. If somebody is apprehended, let them know. If they are coming to court, let them know. If they are out on bail, let them know. They have a vital concern and especially when you get to violent-crime victims. They are vitally concerned to know what is going on.

We also felt very strongly in the continuance area where cases were continued time and time again without anybody asking the victim if that was all right with them; I mean, the defense attorney could have a dental appointment and the case was continued. The judge has to speak before a bar association; the case is continued.

But for the victim, they want that case over as fast as they can. They want to put it behind them. They want to get on with their lives. But nobody ever asks them, do they want the case continued.

We found the average case went about a year to a year and a half for violent crimes with the victim being called to the courthouse maybe three to four times along the way. Each time they would rev themselves up, get ready to testify, have their family there with them, only to be notified that the case had been continued.

We felt that there were many ways the system could be a lot more responsive and considerate to the victim.

And the final thing in assisting the victim to recover from their burdens—the financial, psychological, and physical burdens—we felt that especially in the financial restitution, and then also we made recommendations for compensation. And when the victim said to us, why should the defendant get to drive his car to the probation appointment when the victim had to sell theirs to pay for their medical bills.

We felt that the return of the property was very important to the victim. They wanted their property back right away, and, of course, in the case of the elderly, that became a real issue.

So we made these 68 recommendations to the President. And now what we are doing in the Department of Justice is attempting to implement those recommendations. We have established training packages right now to train the law enforcement, to train the prosecutors, and I am very excited about the new training program that is going to be in November for the Judicial College in Reno. I think this is the first time that the judges have ever received training on victim's issues.

And as many of the judges told us along the way, we did not discuss victims when we were in law school. That issue never came up; we only discussed the criminal. So this is a whole new education process, and I am very pleased about this.

We are also developing training packages for the hospitals and for the doctors. They treat victims of crime sometimes very, very poorly. Sometimes they blame them as if it was their own fault.

One nurse told one victim when she came in and had been raped in her home in the wee hours of the morning—the man had broken in—"I do not let my daughter out this late at night." And the woman felt just at a loss to say, it was my home; it was broken into. It is just an assumption they have to blame the victim.

So we feel a lot of training has to be done on this. Also in the cases of education, we think in our law related education classes we teach them beautifully how to beat the rap. We do not teach them the responsibility of being a citizen and what it means if you victimize somebody. Pretend like it is your mother, or your sister, or your father, or somebody you love, and does that crime have the same perspective?

We also looked into forms of model legislation, and we are drafting those for the States to use if they want to follow. State after State has come to us and said, we do not know what to do. Tell us what to do. Tell us what you saw. Tell us what is working at places.

So we are drafting the model legislation to have it prepared for anybody that wants it. We also have established a Federal clearinghouse so that we will not have the duplication of our resources that we have seen so much in the prior years. And this will be a clearinghouse for all victims' issues.

Already within our Department we have stopped some real duplication of money and even grants that have gone out when we can lump them all together and have them answer more than one question.

We are drafting legislation, which is now under consideration in the Department of Justice—and I am not at liberty to discuss it—except the fact it does address the issues of compensation and victim-witness assistance, which were very strong recommendations from our task force.

We have an in-house victim-witness program which I am very proud of and which we hope will set as a replica for the rest of the Government. We have gotten volunteers within our agency to respond to anybody that is victimized that works there and that will help them, take them to court, notify their creditors. And I am very pleased about this because it is kind of—you know, we take care. It is like a family a little bit. You take care of who works for you, and if each one of our Federal Government agencies replicated this, we would have a lot less problems, certainly within the Federal Government agencies.

We also helped in drafting the guidelines for the Victim-Witness Protection Act, and I think they are excellent. I am really pleased. I think the victims are very pleased. We have talked with a lot of their groups. They are very pleased with the guidelines. They feel they are very fair, and I think it is very important that the Federal Government get their house in order and that the U.S. attorneys follow these guidelines.

And as you know, yesterday the Family Violence Task Force was announced by the Attorney General. That was one of the recommendations of the task force. I am very excited about this. We feel this is an area that has been undertreated and underplayed in our system for a long time, and to get a specific study in this area where the motives are different; the solutions differ greatly.

So these are all the things that we have going on at the present time. I would like to tell you that I think that almost all the programs within the Department I work, in OJARS, the Office of Justice Assistance, Research, and Statistics, one way or another impact on victims. And that has been a very exciting thing to watch. As you know, as a former-prosecutor, whatever you do, if you are going to put them away earlier or if you are going to make them more accountable, that is helping the victims; the same in the drug program; sting, they get their property back; crime prevention. You can certainly help prevent crime.

These all—everything that we do in one way or another will help the victims of crime. And that is what it is all about.

So as a former prosecutor, I can assure you, Mr. Chairman, that I have been profoundly affected by my experience with the Task Force on Victims of Crime. It is my sincere hope that our report and its recommendations will lead to effective action at every level of Government and the private sector.

In my role, as we implement the State and local assistance program now pending in the Senate, I will do everything in my power to represent the interests of victims of crime and to encourage the implementation of the kinds of measures that will provide for these victims what we seek for all: balancing the criminal justice system.

And I look forward to working with the subcommittee. And I will be pleased to answer any questions that you might have.

Senator SPECTER. Mrs. Herrington, thank you very much for that very informative testimony. I think your work on behalf of victims is enormously important, and you have gone to the heart of the issue, that the system has not here before concerned itself with victims as it should have.

I would be interested in your views on the proposed legislation Senator Heinz has introduced for Federal assistance and compensation to victims of crime. So far only the States and the District of Columbia have gotten involved in paying damages to victims which the defendants customarily cannot afford. They are judgment proof. What is your view on that subject?

Mrs. HERRINGTON. Well, you know, the task force did make a recommendation that they felt some compensation at the Federal level would be appropriate. One of the things that I think was most impressive to us when the victims said to us time and time again, you know, the taxpayer—it was an innocent taxpayer that was victimized. I pay for the upkeep of the prisoner. I pay for his housing, his support, his job rehabilitation. I pay for his medical bills, his psychological treatment. I pay for the public assistance for his family if they are on welfare, and I pay for his attorney and his attorney on appeal. But I, as a victim, receive nothing.

I have to pay my own medical bills; I have to pay everything. I have to pay my own psychological help, and I am the one that was innocently victimized. So we made a recommendation in the task force that we felt very strongly about that there should be some leadership role in this area for the Federal Government to use.

But, as I told you, there is a bill pending now in the Justice Department which directly addresses this problem. And I think I would be a little ahead of myself if I commented in any specificity, other than to tell you that I think it is a very important issue.

Senator SPECTER. Well, thank you very much, Mrs. Herrington. We shall await the time when you can make those disclosures to us, because we will be very much interested in your views.

When do you anticipate that you will be able to tell us the details of your proposal?

Mrs. HERRINGTON. I cannot tell you that at this time. I do not think it will be a long time, but I cannot give you a specific date on that. I am sorry.

Senator SPECTER. Well, we shall stay in touch, then. Thank you very much.

Mrs. HERRINGTON. Thank you.

Senator SPECTER. Thank you for coming.

[The prepared statement of Mrs. Herrington follows:].

PREPARED STATEMENT OF LOIS HAIGHT HERRINGTON

Mr. Chairman:

Thank you for the opportunity to appear before this Subcommittee to discuss issues of interest to you from my perspective as the former Chairman of the President's Task Force on Victims of Crime.

As you know, the Task Force was established by President Reagan in April 1982. During its existence, we met in Washington D.C., Boston, San Francisco, Denver, St. Louis and Houston. We interviewed about 200 witnesses, nearly 60 of whom were victims of crime. We interviewed professionals both in and out of the criminal justice systems. We were able to bring together the experience of victims observers around the country.

Based on the data provided by this special group, we tried to point the way for much needed action. We hope the work of the Task Force has helped focus public attention on the innocent victim the system has ignored or ill-treated for so long. I am encouraged by the new signs of interest and activity among local groups, by what I see in the media and by the proposals recently introduced in the Congress. It appears that the focus is beginning to shift from exclusive concern for the rights of the accused to a long overdue concern for the victim.

In the final report produced by the Task Force, we articulated three major areas of concerns. In our view, we must protect the victim of crime, we must make the systems into which they are involuntarily drawn responsive to them, and, very importantly, we must help them recover from the often crushing physical, financial, and psychological burdens which the crime in its aftermath has imposed. In setting out the recommendations, we

divided them into areas of responsibility. Victims' needs are complex and multifaceted. Our recommendations had to be addressed to a broad spectrum of society. The police, the courts, the lawyers, and Federal, State and local legislatures must become more committed to just treatment of victims. But so must education systems, ministers, and health care professionals; so must the average citizen who believes it can never happen to him. We tried to make our recommendations specific, while leaving sufficient flexibility to accommodate local practices. Many of the Task Force recommendations are still under review and accordingly, are not necessarily endorsed by the Department.

As you know, 50 percent of violent crime goes unreported every year. In no small measure, this failure to report is caused by victims' fear of retaliation by the criminal, and fear of further victimization by the very system designed to protect them. In order for the criminal justice system to dispense justice, we must have the cooperation of those upon whom the criminal preys. If we are to be given that cooperation, we must assure the victim that his courage in coming forward will not be rewarded by future harm. For example, the addresses and telephone numbers of victims and witnesses must be kept confidential. Before ordering this information to be turned over to counsel for defense, the judge should determine there is a legitimate need for its revelation. Lawyers should be prohibited from disclosing this information to defendants or their associates or the media. Those citizens willing to come forward should not be subjected to the terror of broken windows, slashed tires, direct physical attack, or the intimidation of the threatening phone call in the night. When the victim is intimidated, this new crime must be taken seriously, and punished accordingly. Those who threaten the victim should not be released to intimidate them further or commit new crimes while awaiting trial for old ones. Failure to sentence for crimes of

intimidation only encourages a criminal to try it. He may win by scaring the victim out of testifying, but even if he is unsuccessful, his efforts are worth a try if he pays no price for terror tactics. Again, it is the victim who pays the price.

One of the ironies we discovered during the course of our hearings is that on top of the cruel burden inflicted by the criminal act itself, the victim is usually the most poorly treated client of the criminal justice system. Time and again, the Task Force was presented with evidence showing that the victims of crime are victimized twice, first by the criminal and then by the criminal justice system.

A victim's court experience should not be a continuation of the victimization on the street. He should not have to wait to testify in the same room as the defendant and his friends. Court procedures should be modified with regard to preliminary hearings so the victim need not lose time at work, or be grilled by hostile counsel to repeat the facts that the victim has already provided to police investigators. If he seeks counseling to help cope with the burden of victimization, these sessions should be confidential not only for rape victims, but for any victim who seeks the care of professionals to meet the new stress.

Our judicial system was designed to be the fairest on earth, but it has lost that balance which was the foundation of its wisdom. Somewhere along the way we have lost the simple truth that the system is supposed to be fair and protect those who obey the law while punishing those who break it. Somewhere along the way, this system began to serve the lawyers and judges and defendants, leaving the victim out in the cold. This imbalance eats away at the integrity of the system itself. We must restore the protection of the courts to the powerless victims who look to the system as their last hope for justice, and who are so often sorely disappointed.

The first major change is one of attitude. The system is not insensitive because those who staff it are evil, but because they are often unaware of the nature and depth of the victim's problems. Judges and lawyers must recognize it is the suffering of these victims which has put the whole system in motion. Victims are people to be treated with compassion and respect, not numbers or pieces of evidence. Judges frequently have no personal experience with the reality of victimization. Every new judge should go through a practical period of instruction during which they ride along with the police and see victims at the scene of the crime. Such exposure will help jurists appreciate the human reality of victimization like visiting generals, judges routinely tour the local jails. They should equally be exposed to the front lines where victims are beaten and raped, and robbed, and where 22,500 die each year at the hands of their fellow citizens.

The National Institute of Justice is now planning a major sensitivity training project for State court judges. We expect to announce the details within the next few days. The Task Force strongly believed that judges should not reach their decisions in isolation, informed only by the agreements of defendants, lawyers, prosecutors and probation officers who may be uninformed, overworked, or both. At every stage of the proceeding where the defendant has a right to be present and heard, victims are entitled to no less. In deciding on bail, the judge's ruling may have a very real impact on the victim's safety. In deciding if the defendant is dangerous or likely to flee, who is more qualified to inform the court than the victim who suffered the defendant's blows, or heard his threats, or looked down the barrel of his gun?

In ruling on continuance requests and setting the dates for

hearings, the judge does his best to accommodate the defendant and his lawyer. The victim should be entitled to the same courtesy. Most victims are very interested in a speedy trial and want to put it all behind them. In the continuance sweepstakes, the defendant is the winner. Drawing it out as long as possible so the victim will move, become ill, or die, get fed up, or refuse to cooperate is always in the defendant's favor. The right of the victim to speak at the sentencing of the defendant should be guaranteed. In deciding what punishment is appropriate for the defendant's conduct, the judge must understand what the consequences of that conduct have been. The judge will listen to the defendant, his lawyer, his family, his friends, his counselor, and a number of others who seek lenient treatment for him. Simple justice requires that the victim be allowed to tell the court about the impact of the defendant's lawlessness on the victim and his family. In fashioning a fair sentence, the judge considers the defendant's childhood, employment; military history; his psychological state, and expressions of remorse. If fairness is truly the goal, however, the court must also consider the suffering of the victim, the loss of his job, the loss of things he has worked a lifetime for, the extent of the physical, psychological, and financial scars which the defendant chose to impose on the victim who had no choice at all.

It is in the trial that the inequities of the system are often most apparent. The defendants hear every word of testimony. Victims, on the other hand, are ushered in, often put on trial themselves, and then ordered out, prevented from hearing the trial upon which the jury will decide the truth about one of the most significant events of their lives. Victims should have the right to be present during the entire trial.

Equally important, the victim should not have to face the legal gauntlet alone. Testifying can be a harrowing experience. Witnesses often need the support provided by family members or loved ones. Yet, these important sources of support may be excluded from the hearing and subpoenaed as witnesses by the defense. Sometimes these individuals are truly prospective witnesses, but it's not uncommon for the defense to subpoena such a person to make the testifying process even more intimidating for the victim.

In the opinion of the Task Force, judges should be required to order restitution in every case, absent the most compelling circumstances. It is simply unfair that victims should have to liquidate their assets, mortgage their homes, or sacrifice the health and education of their children while the offender escapes responsibility for the financial hardship he has imposed. It is not just that the victim should have to sell his car to pay bills while the defendant drives to his probation appointment. Restitution should be ordered regardless of whether a defendant is placed on probation or sent to prison. It is senseless that a judge should have to choose between restraining and properly punishing a violent offender and making the victim economically whole.

The whole area of sentencing must be reformed. The sentencing should be clear and definite. The systems of good time and work time should be exclusively earned and kept to a minimum. Parole should be abolished. Until these much needed reforms are accomplished, however, parole hearings should be conducted in public. The essence of responsibility is accountability. It is impossible to hold bureaucrats accountable for decisions they reached in secret. The victims should be notified when parole release hearings are to take place, and should be allowed to be

heard in person or through counsel, and should be notified before any defendant is released from custody.

We should make sure that property seized from victims as evidence is returned in the earliest possible time. The victim's property belongs to the victim, not the system. When a criminal takes it, the victim should not have to wage a battle against the bureaucracy to get it back or to wait months or years for its return.

The Task Force viewed these changes to the system as vitally necessary, and recommended a wide variety of legislation to accomplish that. The Task Force also recommended a system of Federal assistance to support State compensation programs. In my position as Assistant Attorney General for Justice Assistance, I have asked my staff to examine the alternatives and draft appropriate legislative proposals. Because the proposals are now undergoing the development and review process within the Administration, I am not now at liberty to discuss details. However, some administrative actions have already been taken.

Within the Office of Justice Assistance, Research and Statistics, I have created an Office for Victims of Crime. This new Office will implement the recommendations of the Task Force including the creation of a National Resource Center for Victims Assistance, the development of model State legislation, and the preparation of victim training materials for judges, prosecutors, and law enforcement personnel. We expect this Office to work closely with State and local governments, Federal agencies, and the various public interest groups and citizen organizations involved in helping victims of crime.

Yesterday, Attorney General William French Smith announced the formation of a nine member Task Force on Family Violence to

advise him on specific steps which can be taken to improve services to the victims of domestic violence. It will examine the nature of family violence, especially its effects on children, spouse abuse, and mistreatment of the elderly. The Task Force and will submit its report to the Attorney General within six months after holding at least six public hearings across the country.

As a former prosecutor, I can assure you, Mr. Chairman, that I have been profoundly affected by my experience with the President's Task Force on Victims of Crime. It is my sincere hope that our report and its recommendations will lead to effective action at every level of government and by policymakers in every segment of society which bears on the treatment of victims of crime. In my role, as we implement the state and local assistance program now pending in the Senate, I will do everything in my power to represent the interests of the victims of crime and to encourage the implementation of the kinds of measures that will provide for these victims what we seek for all - justice.

I look forward to working with the Subcommittee and will be pleased to respond now to any questions you may have.

Senator SPECTER. At this time I would like to call the three victims together, if you will come forward, Ms. Melton, Mr. Babb, and Chiquita Bass.

Ms. Wanda Melton, we have you first on the list, so let us proceed to hear you first.

Preliminarily, let me say we very much appreciate your coming today. We know the trauma, the pain, and the suffering you have sustained as a victim of crime, and that it is not easy to come forward, but your sharing with us—and this applies to each of you—is enormously helpful to the Senate and to the Congress to try to formulate programs which will lead to improvements in the future.

So the difficulty I know you face in presenting your testimony, I think is well worth it.

STATEMENTS OF WANDA MELTON, ANNAPOLIS, MD.; GEORGE BABB, WASHINGTON, D.C.; AND CHIQUITA BASS, WASHINGTON, D.C.

Ms. MELTON. Thank you.

I have prepared a written testimony, which I have before me, but I am going to try to tell you in my own words what I, as a victim, feel that I have been through.

Ms. MELTON. I am 31 years old. On February 22, 1981, I was shot by a sniper in Annapolis, Md. I was in a car with three other people. We had been to dinner, we had just gotten into the car, and were leaving when a person walked out with a musket rifle and shot two of us.

My girlfriend was taken to Anne Arundel General Hospital, where she had a lung removed and two ribs removed. She was in a coma for 5 weeks with a 50-50 chance of living. She did make it, and is doing very well today, considering.

I was taken to Anne Arundel General Hospital where I was stabilized and then taken to Shock Trauma in Baltimore where I spent 3 months.

The night of the accident I never lost consciousness. I was awake the whole time. It took me a while to piece it together. I was aware of the explosion. I was aware of Nancy slumping over the steering wheel; and I was aware of the police lights and paramedics and everything going on. I was aware that something terrible had happened; I just didn't quite know the extent of it.

I felt like it would be OK: John Wayne gets shot all the time and he gets back on his horse and rides off into the sunset. Little was I to know what was ahead of me.

I spent 3 months in Shock Trauma. I underwent five major operations. At one point, they were ready to amputate my arm and were minutes away from the operation. Luckily, I did have the clot break and they were able to save the arm.

I was left with a partially paralyzed arm. Right now I attend physical therapy three times a week. I see a doctor weekly. My medical expenses right now probably are around \$100,000. My hospital bill was in the sixties. And since then—this happened 2½ years ago—I still see a doctor weekly. I still go to physical therapy, and will continue to go for many years.

I am under the impression that this could continue for quite some time. They have no idea because of the nerve damage that was done, how long this will continue. Of course, financially, things have certainly changed. Before the accident I was a horse trainer, a bartender, a waitress, secretary, and typist—all those neat things that require the use of both arms.

I was very proud of the life I had and what I had accomplished. Those things have certainly changed. The first thing I realized is that you have to sell things, to survive. It is unbelievable that there is no aid for you at the time of the injury when you need it. Now, 2½ years later, I still get bills in the mail that have not been paid for. And in my opinion I have had no victim compensation whatsoever.

Senator SPECTER. Ms. Melton, I see that you have had a hospital bill of \$70,000, physical therapy of \$4,000 to date, other expenses related to your injury of \$5,000, and lost wages in the neighborhood of \$18,000.

Are those close to the figures which you have sustained in losses?

Ms. MELTON. Those are pretty close, yes.

Senator SPECTER. How much money do you owe at the present time, if you would not mind answering?

Ms. MELTON. That is probably pretty hard to say. I am going to guess at about between \$30,000 and \$40,000.

Senator SPECTER. Is there any program available to you as a citizen of Maryland to obtain any State assistance?

Ms. MELTON. Well, unfortunately, I heard that there were many programs, but every time I applied, I just kept getting rejected for one reason or another.

And there is Maryland Criminal Injuries Compensation Board, which supposedly does help the victim, but it has been 2½ years, and they have not done anything about my lost wages and they have not compensated me. They have started paying some of the medical bills. The doctors are being taken care of. But they have not helped me directly.

Senator SPECTER. I am advised that there is a victims' compensation law in Maryland, but it does not appear to be working well in your case.

Ms. MELTON. No, it does not appear to be working. They have treated me very poorly. They have made me feel guilty. They have lied to me. The program is a joke. It really is. To me, it has been more psychologically damaging than anything else. It has been devastating to me the way they work.

Senator SPECTER. Well, perhaps we can give you some assistance on that. We certainly would be willing to try.

Ms. MELTON. I certainly hope so.

Senator SPECTER. What is your outlook for the future, Ms. Melton, considering all the problems which you have had?

Ms. MELTON. Well, I feel like as long as I am carrying the financial burden and seeking psychiatric treatment, I do not feel that I can pull my life together as well as I would like to. There is nothing more that I would like than to go back to work and, carry on a normal life. But what employer is going to let me take off three times a week to go to physical therapy and seek doctor treatment and deal with that. You know, it is hard enough to get a job when

everything is going your way. I feel that certainly something has definitely been taken from me that cannot be given back.

Senator SPECTER. Well, we certainly sympathize with your situation. As I say, we would be pleased to be of assistance to you with the Maryland authorities. And I commend you for keeping your chin up, as you are, under very extraordinary difficulties, as the victim of a senseless shooting, and fighting back.

Ms. MELTON. Well, I could never have done it without the help of my friends and family.

Senator SPECTER. Well, thank you very much for your testimony.

Ms. MELTON. You are very welcome.

[The prepared statement of Ms. Melton follows:]

PREPARED STATEMENT OF WANDA MELTON

I would like to introduce myself. My name is Wanda Melton. I live at 617 Chesapeake Avenue, Annapolis, Maryland and have been an Annapolitan all my life. I am 31 years old and have been employed since the age of 15. I have always enjoyed working, most of the time holding down two or three jobs at one time. I enjoyed saving money, making investments, buying real estate, and feeling financially secure. I have trained horses, had my own stable, gave lessons, galloped race horses, sold real estate, have been a bartender and a waitress, and most recently, a personnel manager for a local restaurant. I have been a secretary, typist, bank teller, clerk and had other part time jobs. I loved living and was proud of the things I had accomplished in my life.

On February 22, 1981, my life and world were torn apart and shattered and that nightmare continues daily. My friend, Nancy Walton, and I were leaving her home with two friends in a car that Saturday night. We heard a loud explosion. As I later learned, both Nancy and I had been shot with a revolutionary musket rifle by a 21 year old alcoholic, later identified as David Alan Summerall. We had never met this person before and there was no reason for him to shoot at us. We happened to be in the wrong place at the wrong time. Nancy was taken to Anne Arundel General Hospital in Annapolis, had major surgery and was in a coma for five weeks. She had a lung and several ribs removed.

I cannot tell you the nightmare of that evening. I never lost consciousness but it took time to piece together what happened. I certainly remember seeing Nancy slumped over the steering wheel and realizing that I was alive but paralyzed in certain areas. I also remember the pain. I was taken to Anne Arundel General Hospital to be stabilized and transferred hours later to the University of Maryland Shock Trauma Unit in Baltimore. At the Shock Trauma Unit and at the University Hospital I underwent six operations in three months. The musket had ripped through the brachial plexes of the left arm which is a major network of nerves controlling all movement of the left arm and hand. The main artery had been blown up by the musket so they had to do three major artery transplants. The arteries were taken from both legs. After the third transplant and the artery still was not working due to clotting, they decided to amputate the left arm. Minutes before the operation, the clot broke and they were able to save the arm. But because of the extensive nerve damage, I was left with a paralyzed left arm and much chronic pain. Two more operations were performed, including a sympathectomy, to try to reduce the pain. Nothing worked.

I was released on May 22, 1981, and returned home to Annapolis where my friends and family learned to give me shots for pain and take care of me. I was very weak and bedridden for quite some time. I have returned to the hospital twice since my release and stayed approximately two weeks each time. I must go to physical therapy three times a week and see a psychiatrist weekly for pain control. I have been on heavy medication off and on since the shooting but to this day, must contend with the pain and with no pain medications.

Because of the operations and lengthy stay at the hospital, my bill was approximately \$65,000. That figure does not include pathology, radiology, psychology, therapy, transportation, nursing, and other miscellaneous bills. If you were to take into account lost wages, as I have not been able to return to work, I'm sure this nightmare has cost well over \$130,000. At this point, the Maryland Criminal Injury Compensation Board has paid part of the hospital and doctor bills, but due to the chronic pain, I experience and the psychological damage, I do not know when I will be able to return to work. To take it one more step, if at some point I am able to return to work, what will I do?

All of my previous employment required the use of both arms. In addition to the partially paralyzed arm, I was left with a heat sensitivity problem because the autonomic nervous system was destroyed in the arm. Therefore, I have to be in a carefully controlled temperature 24 hours a day. If I get overheated, I have increased pain. There is no medication that alleviates this problem and no surgery that can repair the autonomic nervous system. The technical name for this is causalgia.

My financial situation has certainly changed since the accident. I was forced to sell everything I owned to meet day to day living expenses and medical bills. I had to take substantial losses on investments I had due to being pressured to pay bills. I had no medical insurance at the time so I had no compensation whatsoever during my hospital stay and thereafter. My friends and family supported me physically, financially and emotionally.

Time and time again I applied for different types of help and kept getting turned down. The first year out of the hospital I sat home and spent hours composing different letters to agencies, political people and important names trying to get some recognition of rights and compensation for the victim. I talked to many people who seemed genuinely concerned but were unable to help.

The Maryland Criminal Injury Compensation Board which supposedly helps innocent victims has been a joke to me. It has been 2 1/2 years since the shooting and I am still seeking compensation from them. They have given me so many promises and nothing has happened. Unfortunately, my injuries are unusual and appear never ending and they don't seem to be able to handle my case. They could certainly never replace the value of my arm to me but any help from them would be appreciated. I realize that these things take time but the victim needs help immediately to rebuild their shattered lives. Paying the medical bills is a start but the day to day expenses I incur because of my problems are extensive. The hours and hours I spent on therapy, in pain, seeing doctors, and trying to put my life back together are incredible. My life seems to be built around my medical problems and I don't even know who I am anymore. All the hobbies and sports I used to be involved in are no longer available to me. All my past experience on jobs are worth nothing because I can no longer work at the same things. My life has totally turned around and I am forced to live this life. I have no choice. I must live with this nightmare forever.

It is time for our government to take an interest in victims! It seems so unfair to me that the person who commits a crime actually has more rights than the victim. The person who did this to Nancy and I was tried and found guilty of two counts of assault with intent to murder. He was given two 30 year sentences to be served concurrently. He has been in jail two and one half years and to my understanding has already applied for parole. Although I understand that being in prison is its own hell, I feel that I have been through my own hell as well. The prisoner certainly doesn't have to worry about a roof over his head, where his next meal is coming from or doctor bills. But the victim certainly does because right now, there is no way to seek and get financial help immediately when you need it.

It is my hope that the Federal government will please step in and help the innocent victim. We need rights, understanding and support to pull our lives back together, especially when we are left with permanent injuries.

I know that this letter is bitter at times and I'm sure that others have suffered more than I, but for two and one-half years I have tried to tell my story to different people to get some help for victims. I feel that if the Federal government doesn't step in and help, no one will be able to help.

Senator SPECTER. Mr. Babb, we thank you for coming. I know the difficulty of your being here. Let me say for the record that you are appearing here in a wheelchair. We look forward to your testimony.

STATEMENT OF GEORGE BABB

Mr. BABB. My name is George Babb. I am a Guyanese national. I came to this country on the 14th day of April, 1982. I came with the agreement of the Guyanan and American Governments.

My wife is an employee with the Canadian Embassy here, and under the reciprocal agreement between America and Guyana, I was allowed to come into this country and accept employment.

I was doing so as an auto body refinisher. I had plans to further my studies in business administration. I had an application in with the University of the District of Columbia. On February 10, 1983, all my plans that I had for America, for my native land, and for my entire life, were shattered with six bullets, four in my back and two in my right hand.

One of the bullets in my back bludgeoned my spine; the medical term they call it is at T-12, T-10 or something like that. At this moment I am crippled from the waist down. And I was an active person involved in a lot of sports, soccer, cricket. I would go, you know, to parties. And since this happened, everything just went.

On several occasions I just feel suicidal. I just feel what is the sense of living? I cannot go to the bathroom and work as a normal human being anymore. I have to catheterize myself. I cannot have a bowel movement. I do not know when I am having a bowel movement; just when I look and I watch the colostomy I would see it going off.

Senator SPECTER. As I understand it, the shots were fired by the relative of a person whom you knew for absolutely no reason?

Mr. BABB. That is right.

Senator SPECTER. Six shots fired into you by a person who apparently was on some form of drugs?

Mr. BABB. I heard so. But in my mind I doubt it very much.

Senator SPECTER. But you did not know the man or have any grudge or grievance with him, and he did not have any motive to shoot you?

Mr. BABB. No, none whatsoever. I was just involved with her casually.

This night in question, we went to a party, and it was snowing. So when I got back she told me, it is snowing; it is very cold outside. Have you ever experienced this before? I said, no. Where I come from is a tropical country and there is Sun all year around. I do not know what it is like.

So I got up about 5 o'clock. And I looked through the window. And I saw the snow falling. It was really something new to me. It fascinated me because I never saw snow before. I did not know what it looked like. I just saw it in movies and things.

So I was looking through the window. The next thing I heard was pop. So I look around. When I looked around, I saw this individual, Mr. Eugene Smith, with a gun in his hand, and he continued to shoot.

I was in total shock. I kept looking at him and he just kept shooting. So I called out to this young lady. I called her by name and I said, look what this fellow is doing to me.

She ran downstairs and started screaming, "Oh my God, oh my God, oh my God." The next thing I knew I fell to the ground. And I was conscious all the time.

I asked her to call the police or call the ambulance, to get me some assistance. She did so. I lay there on the floor, and the ambulance came, gave me some oxygen, and they took me to the Washington Hospital Center where I spent 4 months. And I had five or six different operations. They removed a kidney, my bladder.

My lung was punctured, and I spent 2 weeks in intensive care. I was on the critical list.

Senator SPECTER. According to the information I have, the effects of the shooting have left you a permanent paraplegic with no control over your bodily functions.

Mr. BABB. That is correct.

Senator SPECTER. You have explained the colostomy and the catheter, and you are unable to have sexual relations?

Mr. BABB. That is correct.

Senator SPECTER. You are unable to do any work?

Mr. BABB. That is correct. The kind of work I used to do. I cannot function in that field anymore because I need my legs.

Senator SPECTER. Is there any hope at all for improvement on these ailments?

Mr. BABB. Well, unfortunately I did not receive any medical care, like getting training, physical therapy or occupational therapy. It was never given to me because I have no insurance, no money.

Senator SPECTER. I understand that your hospital bill is in the range of some \$200,000.

Mr. BABB. That is correct. It could be more because at this present moment, there are other bills.

Senator SPECTER. And you need physical therapy 5 days a week.

Mr. BABB. Yes.

Senator SPECTER. And you are not getting it because of lack of funds?

Mr. BABB. Right.

Senator SPECTER. And you need medication but you have no money?

Mr. BABB. That is correct.

Senator SPECTER. And you need counseling?

Mr. BABB. That is correct.

Senator SPECTER. And the wheelchair that you are on at the moment is rented and you are 2 months behind in your rent.

Mr. BABB. Three months at \$64 a month.

Senator SPECTER. Is there any compensation available to you from the District of Columbia from the victims compensation program?

Mr. BABB. Well, I submitted an application, and they replied that they reviewed my case.

Senator SPECTER. You are a resident of the District of Columbia?

Mr. BABB. Yes.

Senator SPECTER. And there is a District of Columbia victims compensation law?

Mr. BABB. Yes.

Senator SPECTER. Well, as I said to Ms. Melton, we would be pleased to be of assistance to you. What I intend to do is to write to the authorities and summarize the testimony which each of you has given, and to see if we can be of some assistance to you in expediting the processing of your applications.

Mr. BABB. I appreciate that very much. What I would like to say to the committee is what Wanda Melton and the other speakers said about the delay in the action of these different systems, like the crime victim compensation, and the redtape.

You have already suffered physically, mentally, emotionally, you name it. And instead of getting some sort of assistance on an immediate basis, they just keep delaying, stretching your problems, or stretching your feelings.

So, you always get a flashback. If something could be done, you would kind of tend to forget. You would just forget the issue. But when you have to think about it all the time—like the 17th I have to go to court.

You know, it reminds you of what happened; it just reminds you of it. And, personally, I do not want to think about it anymore.

I do not like to remember it. And you have to come and explain what happened. I mean, it is a part of the process. But in my situation, like many other crime victims, as long as you have to keep remembering about it, it takes a big hunk out of you. It stresses you all the time because you cannot sleep properly and you cannot eat properly. It just disarranges you. You cannot function as you would like to. You just keep remembering it and thinking about it.

But I think that if some action could be taken in the near future—anyone who should suffer from my calamity, this young lady's calamity or any calamity—think that some strong action should be taken: look into it, make it a No. 1 priority for these victims; not just give them money but see that they are taken care of and get them back mobile and functioning as a normal person again.

Senator SPECTER. Mr. Babb, you raise a very good point about the desirability of not being compelled to repeat the incident again and again and again as all the Federal actions are taking place. And one thing that we can do for you is we can provide you with a copy of your testimony today which you could have available. If people ask you about the incident you could say to them that it gives you a great problem to recite the incident; here is a brief statement which you gave before a Senate subcommittee. And you can quote me as asking them to take this in place of having you go through the personal trauma of repeating it. We will make that available to you. That we can put in your hands promptly.

And we will help you to the extent that we can, Mr. Babb, with the application.

Let us turn to you, Ms. Bass, if we may, Chiquita Bass. We appreciate your being here and look forward to your testimony.

STATEMENT OF CHIQUITA BASS

Ms. BASS. Thank you, Mr. Chairman.

I have been asked to testify in order to present to you a brief synopsis of my own experience as a victim of crime. This task, though for a good purpose, is, of course, quite difficult because again I am a victim. It requires one to relive the hell of personal defeat and abuse and the experiences of invasion and violation.

I was born here and raised in Washington, D.C., and I have attended Dunbar High School and Howard University. I have twin sons aged 13, and I own a home in the Shaw area of Washington, D.C., and I have lived there for 8 years.

Shaw is an inner-city neighborhood where family life for hard-working citizens is often made difficult by robbers, rapists, burglars, and drug dealers. Two years have passed now since the last time that I or a family member was either robbed, molested, raped, attacked, or assaulted in my own home. It has happened eight times. And that is about once every 6 months.

After awhile one starts anticipating what is going to happen next, and if so, when, and that has made me a victim. In one of the break-ins, I was asleep in my bed at 3 a.m. when a man broke into my second floor bedroom and attacked me in bed.

When my roommate came into the room, she too was attacked. Fortunately, the two of us were able to get the upper hand and we escaped only with cuts and bruises and a cracked bridge. Only a short time before, my sister who lived in the country previously, had visited me and while I was at work a man broke in and proceeded to rape, sodomize, and attack her for 4 hours.

For every break-in the police would come into my house and fingerprint the house with black gooey junk that hardly ever brings a criminal to justice, but which excellently stands as a reminder every time. It has happened every 6 months, eight times, and that made me a victim. It became difficult to sleep at night, particularly after the rape of my sister and after the guy broke into the second floor bedroom window and attacked me.

But soon I found out that a little beer at night helped me sleep, and that made me an alcoholic, and that made me a victim.

During that 5-year period I had good jobs. I lost them all because I could not be counted on as being dependable for various reasons, coming to court, unable to sleep, unable to function; that made me a victim.

The last attack proved fruitful. The police arrested a man shortly after he broke into my house and attacked me and another woman who came to my aid. But it took more than a year of going back and fourth to court before the case went to trial. I had to go to court about 10 times, and being away from work an excessive amount of time as the result of this case cost me another job.

But finally, a trial and a verdict and a conviction and time.

There are many other factors that are involved in crimes, injury to me, which are too numerous to list, and we do not have the time to go into them all.

I feel for my fellow victims here as they have physical damages that have been done to them that incapacitates them on a physical level. Mine, after being robbed eight times, is all emotional. I forget the \$2,000 worth of jewelry or the \$600 worth of equipment or the monetary things that become of no interest to me. I care not for those things. But the damages that have been done to me emotion-

ally, I can never forget. I can never undo those things. And his going to jail will not even compensate, and I do not know what will compensate that; only that if there is anything I can ever do for victims of crime to be a vocalist, to be someone who can come out and stand and try to emphasize what this does to victims.

What to do? Provide compensation for victims of crime, particularly for emotional counseling and the costs of stolen property. I would recommend possible tax incentives for owners of abandoned property to improve and secure them. Several of the burglaries of my house were made possible due to access gained through the abandoned house next door. I had to spend \$250 of my money to board up the house next door and hence make my home safer.

We are only three of many thousands of people who are crying out to you, Mr. Specter and the Congress and the President, to help us. There must be something that can be done.

Thank you for your time.

Senator SPECTER. Thank you very much, Ms. Bass, for your very, very thoughtfully and well prepared statement. It certainly portrays an extraordinary sequence of some eight break-ins. You live in constant fear and have sustained some injuries.

Let us turn now to Mr. Frank Carrington, who is the executive director of the Victims Assistance Legal Organization, and chairman of the Victims Committee of the American Bar Association, and a member of the Attorney General's Task Force on Violent Crime, and a member of the President's Task Force on Victims of Crime to see where we might go to respond to the kinds of problems which have been outlined.

Certainly the problems are even more extensive than Mr. Carrington's credentials are impressive, and those credentials are very impressive indeed.

Mr. Carrington, what can we do to respond to the kinds of problems which have been outlined by these three victims?

STATEMENT OF FRANK CARRINGTON, EXECUTIVE DIRECTOR, VICTIMS ASSISTANCE LEGAL ORGANIZATION, CHAIRMAN, VICTIMS COMMITTEE, AMERICAN BAR ASSOCIATION, VICE CHAIRMAN, ADVISORY BOARD, NATIONAL INSTITUTE OF JUSTICE, U.S. DEPARTMENT OF JUSTICE

Mr. CARRINGTON. First of all, Mr. Chairman, thank you for those kind words. I reciprocate them. Your period of time as a district attorney in Philadelphia made you a household word in our profession; and your contributions to the criminal justice system are legendary, including and perhaps most importantly, this series of hearings.

What can we do? The question, I think, can be broken down, first of all, into what can be done in the public sector; that is, the Government; and what can be done in the private sector as my testimony will address, which I request to be put in the record.

Senator SPECTER. It will be, Mr. Carrington, in full.

Mr. CARRINGTON. Mrs. Herrington covered what the public sector is doing. People like yourself, like your colleagues Mr. Heinz and Mr. Laxalt, the administration, particularly Mr. Meese are doing

almost as much in this administration and the Congress, that can humanly be done.

The question I would like to address is what is going on in the private sector, which is the area within which I deal. I have listed for you in my testimony the names of three organizations that operate strictly in the private sector: the National Organization for Victim Assistance, which is an umbrella organization of all of the some 2,000-plus victim advocacy organizations; the Victims Committee of the American Bar Association, which I happen to chair; and the Victim Assistance Legal Organization, which is a clearing-house of information for lawyers who are filing lawsuits on behalf of victims.

Mr. Chairman, that brings me to what I consider, after perhaps 10 years in the private sector dealing with victim's concerns to be one of the most important things that could arise. This is the concept of victims rights litigation. Now, as soon as I say it, although I know that you personally understand it, to most people it sounds very dry, technical, legalistic. It is not at all.

It simply means that the victims of crime are going into the civil courts—not the criminal court where they are a witness—to vindicate their rights.

Now, this breaks down into two levels. A victim can always sue the perpetrator of the crime, if the perpetrator is caught; usually not a difficult lawsuit to win. But in most of the cases, you have a totally uncollectable defendant. And so you may have gone through a legal process, suing the person who actually committed the crime, to get a judgment, but with no way of collecting it.

Now, with regard to third party lawsuits, the classic example in this area is the *Connie Francis* case; she was raped in a motel in Long Island. The perpetrator gained entry simply by jiggling a lock on the sliding glass doors; he went in, raped her, he tortured her. It was a horrible experience. She was just beginning a comeback on her career. She couldn't sue the perpetrator who was never caught, but rather the motel chain, because her legal theory was that their negligence in not having a secure door lock put the perpetrator in a position to victimize. As you are well aware, she recovered \$2.5 million.

There is another area: negligent release of prisoners by parole boards; and there have been some quite successful victim lawsuits in this area. When a parole board is guilty of absolutely gross negligence in release—and by gross negligence I do not mean letting out a third offense check forger who then murders somebody; that would not be gross negligence.

The cases that have been decided have involved situations where no reasonable person could possibly differ that this individual should not have been released, usually in about a third of his sentence. Then he rapes and murders, mutilates, whatever. Some courts have held parole boards could be held liable.

Senator SPECTER. Have there actually been recoveries against officials on parole boards?

Mr. CARRINGTON. Absolutely. In *Payton v. United States*, the recovery on a cause of action was held by the fifth circuit, sitting en banc, to be stated against the Bureau of Prisons.

Senator SPECTER. Against the Bureau but not individually against the official?

Mr. CARRINGTON. Usually, the lawsuit is filed against the entity, depending on sovereign immunity problems.

Senator SPECTER. But do you know of any time there has been a recovery from an individual?

Mr. CARRINGTON. Not any case where an individual had to pay out of his own pocket, even for gross negligence. I think that would be unfair. Usually, like in California, Michigan, and New York, there is indemnification from the State. Now, if you have a case of totally willful criminal misconduct for example, I believe a former Governor of Tennessee had been accused of actually selling paroles—then I can see recovery against the individual.

Otherwise, I think recovery should be from the State. But even so, I believe that this kind of recovery has in it the potential of preventing future lawsuits; if a motel chain knows that it can be sued for gross negligence in failing to provide security, hopefully it will clean up its act and provide security. The same with the parole boards; they will be a little more careful of who they inflict back on society.

Senator SPECTER. Would you say that they would be more careful if the judgment or some part of it came from the individual as opposed to the governmental unit which he or she represents?

Mr. CARRINGTON. I think they probably would be more careful, but you want to be fair in this kind of thing. I think it would have to be such an egregious case that it involved criminal misconduct before it would be fair to hold an individual personally responsible.

Senator SPECTER. We are on that subject on modification of the Federal Torts Claims Act, and my view is that there ought to be personal liability for willful and malicious conduct. It is insufficient to have the Government pay the damages when you are trying to stop really reprehensible action. It is the individual who acts, not the Government.

Mr. CARRINGTON. Right. I helped draft the particular amendment to the Federal Tort Claims Act that was in the Heinz-Laxalt bill; we did confine it to gross negligence. In that case, provided that we are talking about conduct by a private party that would be held criminal, I agree with you: The individual should be held liable.

But in the ordinary case of negligence or gross negligence, I think that the message will get through if the Government is held liable.

Senator SPECTER. With respect to the issue of judgments against criminal defendants, we passed legislation in Pennsylvania in the early seventies, which I had recommended, that enabled the judge in a criminal case as part of the judgment of sentence to impose financial liability on the defendant. There has been an adjudication in that case, and there is no reason why the judge in the case cannot, as part of the sentence, impose a money judgment if the defendant can pay it. Sometimes, on rare occasions, a defendant is solvent and can afford to pay. That is a rarity.

Mr. CARRINGTON. If you recall the classic case in your jurisdiction, the Walton case, where Walton blinded his victim with a shotgun blast in the face and the judge, instead of sentencing him to the penitentiary, sentenced him to make restitution. Then he

would not make restitution and appealed the restitution case. It was in Philadelphia.

So, the problem, Mr. Chairman, is restitution from the perpetrator is a good concept. There is no question about that. But I believe human nature being what it is, defendants will promise anything to get a light sentence, but then when it is time to make payment a couple of months down the road, then it is going to be like a husband paying child support: "Well, I will try to make it next week."

So, while the concept is good, I think I agree with you, that the requirement has to be absolutely tough, to have teeth in it.

Senator SPECTER. And beyond the issue of compensation from the defendant himself, do you think that there ought to be Federal legislation which would provide some financial assistance as Senator Heinz has proposed?

Mr. CARRINGTON. Absolutely. We have heard dramatic testimony today. I was not quite clear whether all of the victims were Federal victims, although I assume the two District of Columbia residents would be. Yes.

Senator SPECTER. Well, Senator Heinz' proposal is that there ought to be some Federal assistance to the State programs which are insufficiently funded.

Mr. CARRINGTON. Right. Subvention of the States is the second layer. The first is that the Federal Government should definitely compensate Federal crime victims. The second tier of that would be Federal subvention; that is, assistance to the States, and I wholeheartedly endorse both and have so stated in my written testimony.

Senator SPECTER. Mr. Carrington, thank you very much for appearing here today. Your testimony has been very, very helpful.

Mr. CARRINGTON. Thank you, Mr. Chairman.

Senator SPECTER. That concludes our hearing. Thank you ladies and gentlemen.

[Whereupon, at 10:32 a.m., the committee was adjourned.]

[The prepared statement of Mr. Carrington follows:]

PREPARED STATEMENT OF FRANK CARRINGTON

Mr. Chairman: My name is Frank Carrington and I reside at 4530 Oceanfront Avenue, Virginia Beach, Virginia 23541.

I am an attorney-at-law specializing in cases involving the rights of crime victims and I also serve as the Executive Director of the Victims Assistance Legal Organization (VALOR).

By way of personal background, I hold a law degree (L.L.B.) from the University of Michigan Law School (1960), and an L.L.M. from the Northwestern University Law School (1978). I am a member of the Bars of the Supreme Court of the United States and the states of Virginia, Illinois, Colorado (Inactive), and Ohio (Inactive).

My professional career has, for the past ten years, been devoted almost exclusively to the rights of victims of crime; to wit: Executive Director of the Victims' Rights Center of Americans for Effective Law Enforcement, Inc. and its successor-organization in this area, The Victims' Assistance Legal Organization, Inc. (VALOR). I have served as Chairman of President-Elect Reagan's Advisory Task Force on Victims of Crime; as Assistant Director for Policy Coordination (Criminal Justice) of the Reagan/Bush Transition Team; as a member of the Attorney General of the United States Task Force on Violent Crime and as a member of President Reagan's Task Force on Victims of Crime.

I currently serve as Chairman of the Victims Committee of the American Bar Association and as Vice-Chairman of the Advisory Board of the National Institute of Justice, United States Department of Justice.

Mr. Chairman, if I may take the liberty of saying so, I am personally and professionally delighted at your demonstrated interest in crime victims. Your background as the District Attorney of the City of Philadelphia and your contributions to the criminal justice system while holding such office, have made you, in effect, a "household word" among criminal justice professionals.

Additionally, I take the liberty of commending you on the appointment of Mr. William Bowman as your Counsel in these matters; as the former head of major violators branch of the Office of the United States Attorney for the District of Columbia, he, if anyone, should know, from firsthand experience, about the plight of the victims of crime.

MR. CHAIRMAN: Mr. Bowman asked me to present, in this testimony, an overview of my perception of what is happening to victims of crime in the private sector of our criminal justice system, based on my experience as has been described above. Since my predecessor-witness is the Honorable Lois H. Herrington, Assistant Attorney General of the United States, under whom I had the honor of serving when she was Chairman of the President's Task Force on Victims of Crime, I will attempt to couch this statement in terms that do not duplicate hers. After consultation with Ms. Herrington's office and with Mr. Bowman, I am advised that she will address the Subcommittee on matters pertaining to crime victims compensation, the findings of the President's Task Force on Victims, and the initiatives currently being undertaken by the current administration with regard to victims' rights, these areas being within her sphere of expertise and experience.

I will, then, confine my testimony to victims activities currently transpiring in the private sector, deferring to Ms. Herrington on public sector victim issues. I do feel, however, that I would be remiss were I not to express both personally and on the behalf of the Victims' Assistance Legal Organization (hereinafter VALOR) gratification and gratitude over the initiatives that have been undertaken on behalf of crime victims by the current Administration. To name but a few issues that have been addressed by the Administration and which are relevant to these hearings, it should be noted that the Attorney General's Task Force on Violent Crime, commissioned by the Honorable William French Smith, Attorney General of the United States, and co-chaired by a bi-partisan team of criminal justice leaders, the Honorable Griffin B. Bell, former Attorney General of the United States under President Carter and the Honorable James R. Thompson, Governor of Illinois, took testimony on and made specific recommendations concerning victims of crime, the ones most germane to the subject of these hearings being:

Recommendation 62. The Attorney General should establish and promulgate within the Department of Justice, or support the enactment of legislation to establish, Fair Treatment of Victims of Serious Crimes, at 88.

This, as you are aware, has been accomplished through the Omnibus Victims and Witness Protection Act of 1982 (S.2420) which was authored by Senator Paul Laxalt (R.-Nev.) and Senator John Heinz (R.-Pa.), your colleague in the Senate from the state of Pennsylvania. I am assuming that Mrs. Herrington will address this issue.

Recommendation 64. The Attorney General should order that a relatively inexpensive study of the various crime victims compensation programs and their results, at 91.

As you are also aware, such a study was ordered by the Attorney General and was completed by Abt Associates, Cambridge, Massachusetts. Mr. Bowman advises that the Subcommittee Staff is in possession of this study which certainly makes a compelling case that crime victims' compensation can and does work at least at the state level. Aside from stating that VALOR completely supports the concept of federal compensation for victims of federal crimes and the concept of federal subvention of state crime victims compensation, if the latter should be economically feasible, I will again defer to Mrs. Herrington's testimony on the subject.

Returning briefly to the subject of the Reagan Administration's initiative in the area of crime victims, I submit that the mere fact that a Task Force on Victims of Crime was convened by the President of the United States, for the first time in the history of this country, lends ample credence to the fact that crime victims—their plight and their rights—are now being considered at the highest level of our government; the fact of your personal interest and that of the Subcommittee at the national legislature level only buttresses this contention. Mr. Bowman has advised that the Subcommittee has studied copies of the Final Report of the President's Task Force on Victims of Crime, and since Mrs. Herrington was the Chair of that Task Force and, in her present capacity as Assistant Attorney General of the United States will be overseeing the implementation of the Task Force's recommendations, I will, once more, defer to her testimony.

The thrust of my testimony will involve initiatives on behalf of victims that have been taken in the private sector with particular emphasis on victims legal rights beginning with a short description of the major national organizations that are active in that field; and, since I am in close contact with all of these organizations, I feel safe in saying that they would be more than happy to work with you, with Mr. Bowman, and with the Subcommittee on matters of mutual interest, just as they did with the Staffs of Senators Heinz and Laxalt on the Omnibus Victims and Witnesses Protection Act of 1982.

The National Organization for Victims Assistance (hereinafter NOVA) 1757 Park Road, N.W., Washington, D.C. 20001, is a national-not-for-profit "umbrella" organization for the 2,000-plus victim advocacy and assistance groups currently active in this country; it is an invaluable resource center for those interested in victims' causes.

The Victims Committee of the American Bar Association, 1800 M. Street, N.W., Washington, D.C. 20036, deals with victims issues as they are perceived by and affected by the legal community and the organized bar. The Committee has published monographs on such legal/victims issues as third-party litigation, intimidation of victims and witnesses, the role of the Bar in treatment of crime victims and victims of arson; all of these are available, at no cost, from the Committee. As Chair of the ABA Victims Committee I can state that our resources are at the disposal of the Subcommittee or yourself if we might be able to assist you.

The Victims Assistance Legal Organization, Inc. (VALOR), Suite #4, 210 Laskin Road, Virginia Beach, Virginia 23451, is a national not-for-profit public interest law firm which serves as a clearing-house of legal information for attorneys involved in lawsuits on behalf of crime victims. VALOR is currently headquartered in Virginia Beach, Virginia; in late 1983 it will move its day-to-day operational activities to the McGeorge School of Law, Sacramento, California, although the Virginia Beach office will still remain in operation.

Mr. Chairman, I will devote the rest of this testimony to calling the

attention of the Subcommittee to a private sector area of victims advocacy, which, while it has received relatively little publicity (except in cases of extremely high-visibility victims) is, nevertheless, one of the brighter spots on the horizon insofar as vindicating the rights of actual crime victims and preventing future victimization.

I refer, Mr. Chairman, to the area of third-party victims' rights litigation. The words sound highly technical and legalistic, but, as a matter of fact, the concept of third-party victims' rights litigation is very easy to define. Place yourself, hypothetically, in the position of the survivors of a rape/murder victim; further assume that the rapist/murderer has been apprehended, tried and convicted of the crime and has been given a lengthy prison sentence (or even the death penalty). What are your legal rights in the civil courts to redress the wrongs to the victim and yourself?

Assuredly you can sue the perpetrator in civil court for assault and battery or wrongful death (usually an easy enough case to win); but what have you accomplished insofar as collecting from the incarcerated defendant or of vindicating the rights of the deceased victim? Realistically speaking, nothing.

Suppose, however, that the perpetrator was at liberty to victimize because he had been released from a prior sentence for a similar crime long before he should have been so released; or suppose that the assailant had gained access to the victim through the negligence of a third party in failing to exercise a legal duty to protect against criminal victimization (innkeeper, landlord, owner or operator of premises) and, hence, was placed in a position to commit the crime. If the victim, or his or her survivors as the case may be, should recover from the negligent third-party, usually a collectable defendant (the government in cases of negligent release; corporate entities in cases of negligent failure to provide proper security) then not only have the individual victims' rights been vindicated, but, of more importance, the negligent third-parties may well be motivated to take precautions to prevent future such lawsuits, if for no other reason from a realistic evaluation of their own enlightened self-interest, consequently preventing future victimizations. If civil suits of this

nature have the potential to prevent such future victimization, then, I submit, Mr. Chairman, that they should be encouraged.

Coincidentally, during the week that I was preparing this testimony, I was also writing an article for TRIAL MAGAZINE, the house-organ of the Association of Trial Lawyers of America on the subject of third-party victims' rights litigation. Since this article does not differ substantially from what I would have written in this prepared statement, and since the article is annotated with citations to court cases in which crime victims prevailed in third-party actions, I respectfully request leave of the Subcommittee to have this article reprinted herein as an integral part of this testimony.*

Finally, on this subject, lest the idea of third-party accountability to crime victims be considered to be some sort of radical departure from traditional legal principles, I would respectfully advise the Subcommittee that a provision in the Senate version of the Omnibus Victims and Witnesses Protection Act of 1982, which would have allowed the United States Parole Board to be sued for gross negligence in the release of federal prisoners who subsequently, and foreseeably, victimize others, was passed unanimously by the Senate of the United States.

MR. CHAIRMAN: In brief recapitulation, this testimony has been presented to advise you about victim-related activities heard from Mrs. Herrington about such activities at the Executive Branch level; you, personally are taking a leadership role at the national legislature level together with leaders such as your colleagues Mr. Laxalt, Mr. Heinz and others in a generally bi-partisan effort to alleviate the plight of the victims of crime.

* The article in question, which I have permission of TRIAL MAGAZINE to reprint herein, is a semi-final edited form, and is attached hereto in this form. By the time that I have the opportunity to review this testimony the article will also be in final form, ready for reproduction herein as a finished product.

Be that as it may, and at the risk of repeating myself, I do feel safe in stating that, those of you who are on the policy-making level have a vast reservoir of support from those of us in the private sector who have been working towards a mutual goal.

If this testimony has in any manner reinforced this proposition then it has served its purpose. I remain, Mr. Chairman, at the behest of the Subcommittee to elaborate on any of the points discussed herein or to answer any further questions,

VICTIMS' RIGHTS: A New Tort?—FIVE YEARS LATER

By Frank Carrington*

"Railroad Rapist" Victim Wins 1.7 M (July, 1983) 1/
\$10,300,000 Verdict—Attack in Dormitory Results in Burns (December, 1982) 2/
\$2,500,000 Verdict—Child Raped by City Employee (August, 1982) 3/

Verdicts, settlements and awards to crime-victims/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 of 1978, this author published in Trial Magazine an article entitled victims' Rights: A New Tort?, 4/ in which it was 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 for the publication of

* Frank Carrington is an attorney in private practice in Virginia Beach, Virginia specializing in victims' rights cases and is the Executive Director of the Victims' Assistance Legal Organization (VALOR). He was a member of President Reagan's Task Force on Victims of Crime and currently chairs the Victims Committee of the American Bar Association. He has written a book on "Victims' Rights Litigation" to be published in late 1983 by Michie/Bobbe-Merrill, law book publishers, Charlottesville, VA.

a full-length legal textbook on the subject, ^{5/} speculation is at an end. This writer is convinced, and the evidence bears out the fact that this new specialty has come into its own—a "new tort" has indeed materialized, which should be of considerable interest to the trial bar.

Although this development has come about without a great deal of fanfare, has, nevertheless, transpired.^{6/} The purpose of this article is to document the development of victims' rights litigation and to suggest to trial attorneys and other interested parties that the time is now ripe for more or less full and formal recognition of this as a specialty area in the field of tort law.

In so doing, a threshold question arises: What is the justification for considering victims' rights litigation to be a separate and distinct specialty area? Isn't it just a part of the broader-gauged area of personal injury law? The answers to these questions is definitional. If we define "specialty" (or "sub-specialty") as an area of law which presents issues that differ substantially from those which arise in other areas, then victims' rights litigation qualifies beyond any doubt.

The reason for this is that, in many if not most third-party victims actions, the litigator is confronted with three legal doctrines militating against recovery which are so deeply entrenched in our civil law system that it can safely be stated 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 generally adverse tort law rules.

Two of these doctrines hindering recovery apply almost exclusively to victims' rights cases. They are: the "duty-at-large" rule which holds, in cases in which victims are suing law enforcement or correctional officials for failure to protect from or to prevent crimes, that such officials have a duty to protect or prevent which runs only to the public at large and not to individual plaintiffs, unless counsel can, based on the given factual situation, 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/}

Similarly, in third-party cases against private persons (landlords, innkeepers, owners and operators of premises, carriers, employers and so on), victims' attorneys run up against the "intervening and superceding force" doctrine which holds that the criminal act of a third person insulates the defendant from liability, unless, as in the case with 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 cases in which governmental negligence is alleged—that sovereign immunity, either absolute or qualified, bars the lawsuit completely ^{9/} (unless, of course, the government has waived tort immunity).

These doctrine—the "big three" when it comes to frustrating attorneys seeking redress for crime victims in the civil courts—could concededly lead to a "why bother; the-deck-is-stacked-against-me-anyway" attitude on the part of victims' attorneys. But then the question must inevitably arise: What about the super-large jury verdicts and awards evidenced by the three cases noted at the beginning of this article (and hundreds of others like them, nationwide ^{10/}) in which victims have indeed prevailed in third-party lawsuits?

The answer to this 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. of the U.S. Court of Appeals for the District of Columbia Circuit, ruling in favor of the plaintiff, the widow of a murder victim, who sued the killer's common-law wife for "civil conspiracy" and "aiding and abetting" in unlawful activity (burglary ring) leading to the wrongful death of her husband:^{11/}

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 no 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/}

This theory has been adopted by a number of courts which have found for victims in third-party actions by designating exceptions to, or even overruling, the common-law doctrines of non-liability noted above. It is the contention of this writer that the cases to be discussed herein indicate a discernable trend in favor of victim/plaintiffs, one that should be recognized, carefully studied and fostered by the personal injury bar.

The basis of justification of this contention is that the writer, as Executive Director of 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, has been in contact with literally hundreds of such lawyers who have been kind enough to furnish information about their cases for dissemination to other attorneys similarly situated. Additionally, research over the past five years for a forthcoming book on victims' rights litigation (see note 5 to this article) 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; and, in one landmark ruling, the Arizona Supreme Court simply abolished that rule on public policy grounds. This case is Ryan v. State of Arizona, ^{14/} in which 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 routinely cited as the principal authority for that doctrine. ^{16/}

With regard to the "intervening and superceding 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, in suits against the government for negligence in handling parolees ^{17/} and mentally disturbed prisoners ^{18/} liability has been found based on the duty to use care in undertaking custody of such persons; and, in suits against private parties it has been 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 presses ^{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 no matter what the circumstances, ^{24/} others have gone to great lengths to define the parameters 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, sitting en banc, 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 twenty 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 when he was released. 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 Whisenant's release were "discretionary acts" and hence immune under the act.

The Fifth Circuit, sitting en banc, on appeal, held that plaintiffs 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 Whisenant'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.

* * * * *

"One tree doth not a forest make," and one or two cases allowing recovery for victim/plaintiff would not, in and of themselves, create a new legal area. The fact of the matter is, however, that in a very large, and increasing, number of cases, courts have looked beyond the more traditional doctrines tending to deny recovery to victim/plaintiff in favor of far more flexible interpretations.

The principal complaint relayed to this writer by victims' litigators is that nowhere in the legal literature is there any central research source dealing with victims' legal rights, as such; there is no key-number on the subject and neither Am. Jur. or C.J.S. list a topic-heading for victims rights in their indices. The author's forthcoming book on victims' rights litigation mentioned above has been written in an attempt to fill this void. But, such books are merely vehicles for correlating the existing law; it is the trial lawyers, "in the trenches," as it were, who actually make the law in any given field.

To summarize, from the foregoing, it is submitted that: (1) Victims' rights litigation has developed to an extent sufficient to warrant it being considered as a separate specialty in the field of personal injury law; and (2)

that it is a rewarding area of practice, not only financially for the litigator, but because it vindicates the rights of a most deserving clientele—the victims of crime.

FOOTNOTES

- 1/ New York Daily News, July 16, 1983.
- 2/ Verdict Reports, Jury Verdict Research, Inc., Solon, Ohio 44139, Vol. 20, Issue 12, May 17, 1983. The burns were caused by acid thrown by a rejected suitor.
- 3/ ibid, Vol. 20, Issue 24, August 9, 1983.
- 4/ 14 Trial 39 (June, 1978); 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/ Victims' Rights Litigation by Frank Carrington and Linda J. Duggan, to be published in late 1983 by Michie/Bobbe-Merrill law book publishers, 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.
- 7/ See, e.g., Wanen v. District of Columbia, _____ A.2d (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, S.Ct. , L.Ed. 2d (19) (State "blanket immunity" statute did not violate the civil rights, 42 U.S.C. #1983, or 14th 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, Nat'l L.J., Feb. 11, 1980, at 26, col. 1.
- 10/ A large number of these are collected and reported in Carrington and Duggan, op. cit. supra., note 5.
- 11/ Halberstam v. Hamilton, F.2d (D.C.Cir. 1983); see: Stuart M. 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 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, Esq., 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, Esq., New York, who writes a column on victims' rights for the New York Law Journal; Stephen Friedman, Esq., Maryland; Robert Lewis, Esq., Virginia who won Semlar v. Psychiatric Institute in the Fourth Circuit, see note 18; Karl Koepke, Esq., Orlando, Florida; Phillip Conboy, Esq., Chicago; David Glickman, Esq., Los Angeles; Noel Fidel, Esq. and Frank Lewis, Esq., Phoenix, who won the landmark Ryan v. State of Arizona case discussed in text; Camille Le Grand, Esq., San Francisco; and George W. Nicholson, Esq., Office of the Governor of California, Sacramento.
- 12/ F.2d at
- 13/ Suite #4, F. & M. Bank Bldg., 210 Laskin Road, Virginia Beach, VA 23451, telephone (804) 422-2692, after hours (804) 428-1825. VALOR will move

- its day-to-day operational activity in late 1983 to the McGeorge School of Law, University of the Pacific, Sacramento, California, telephone: (919) VIC-TIMS. The Virginia Beach office will also remain open.
- 14/ 134 Ariz. 308, 656 P.2d 597 (1982).
- 15/ 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, op. cit. 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.).
- 18/ Semlar v. Psychiatric Inst., 538 F.2d 121 (4th Cir. 1976) (Negligent release in violation of a court order of mentally disturbed prisoner who upon release sexually molested and murdered plaintiffs' 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.).
- 1/ Taylor v. Centennial Bowl, 65 Cal. 2d 114, 416 P.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 on the part of common carrier to passenger who was raped at an inadequately lighted train station.).
- 23/ Tobin v. Slutsky, 506 F.2d 1097 (2nd Cir. 1975) (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/ 679 F.2d 475 (5th Cir. en banc 1982)

CRIME VICTIMS' ASSISTANCE PROGRAMS

WEDNESDAY, SEPTEMBER 28, 1983

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

The subcommittee met, pursuant to notice, at 9:30 a.m., in room 226, Dirksen Senate Office Building, Hon. Arlen Specter (chairman of the subcommittee) presiding.

Staff present: Bill Bowman, counsel; Jordana Zubkoff, staff assistant.

OPENING STATEMENT OF HON. ARLEN SPECTER, A U.S. SENATOR FROM THE STATE OF PENNSYLVANIA, CHAIRMAN, SUBCOMMITTEE ON JUVENILE JUSTICE

Senator SPECTER. Good morning, ladies and gentlemen.

The hour of 9:30 having arrived, we will commence this hearing on Federal assistance to State crime victims' assistance programs.

Today is the second in a series of hearings on the important topic of assistance to the innocent victims of crime. Last Tuesday, on September 20, we heard firsthand of the enormous financial costs that often accompany the physical injuries suffered by these innocent victims at the hands of violent criminals.

One man was shot six times for no apparent reason and is now paralyzed from the waist down. Unable to continue his work as an auto body repairman, he finds himself with no money at all for rent, physical therapy, occupational therapy, or pain medication. He was 2 months behind in his rent on his wheelchair. Another woman, shot through the shoulder by a Revolutionary War musket, has amassed over \$100,000 in medical expenses, is unable to work, is chronically in severe pain, and will live the rest of her life with a partially paralyzed arm. A woman from an inner city Washington, D.C., neighborhood has had her house broken into eight times over the past few years—on one occasion the intruder attacked her in her bed, and on another her sister was raped.

These victims' suffering was an eloquent cry for compensation. Perhaps nothing we can do will solve the hurt, the shock, and the sense of violation these victims and others have suffered. Yet if we can assure that these victims will not be victimized a second time—this time financially—then we will have made an important start. Money to help pay medical bills for those without insurance, funeral expenses, lost wages, and counseling and rehabilitation expenses can go a long way toward getting these victims on their own again.

Today's hearing will focus on a different group of victims—women. We have today three women who have been victims of sexual assaults. They are from West Virginia, Maryland, and the District of Columbia. They range in age from 23 to 66. What they have in common is that each was the victim of a savage and de-

grading attack. And while none has permanent physical injuries as apparent as the paralyzed man in a wheelchair, each of these innocent victims has permanent emotional scars every bit as debilitating. Any plan to compensate victims of crime should cover the expenses of counseling just as it would any other legitimate medical expense.

In addition, a woman from Philadelphia will tell us about the repeated beatings she received from her husband over 11 years and the financial problems she faced when she left him.

For financial reasons, only one of the four women sought counseling. The woman from West Virginia was raped in Virginia—she was not eligible in either State for compensation. Surely this is not a good reason to deny benefits.

As I said last Tuesday, I am greatly encouraged by the response of the States to this problem. Beginning with California in 1965, 38 States and the District of Columbia now have victim compensation programs. At a cost of approximately \$44 million a year, these programs have provided funds and hope to those innocent victims who had no place else to turn.

At the same time, I sound a note of caution. The programs do not operate in all States. Some programs are seriously underfunded. Some programs have overly stringent eligibility requirements and redtape. Some programs do no advertising, and victims are unaware of their existence. As a result, most programs make awards to only a fraction of those eligible, and the States are anxiously looking to other possible funding sources to keep victim compensation alive and well.

I believe that there is a role for the Federal Government in the field of victim compensation. Currently there is no compensation at all available for the victims of purely Federal crimes. Moreover, many States will compensate only victims of crimes who live in that State; visitors from one State who are victimized in another are simply out of luck. The Federal Government now provides aid to many parts of State and local criminal justice systems—surely the victims of crime are as deserving as the perpetrators.

I am now preparing legislation to provide Federal assistance. A fund consisting largely of fines imposed and forfeitures can make grants to States that compensate all victims of violent crimes, including purely Federal crimes and out-of-State victims. My distinguished colleague, Senator Heinz, is a recognized leader in this field, and my legislation I hope will improve on the bill he has already introduced to reach even more deserving, innocent victims.

In addition to the victims, we are also fortunate to have with us today Robert W. Armstrong, director of Virginia's Division of Crime Victim Compensation, who can explain to us the operation and problems facing a State victims compensation plan, and Marlene A. Young, executive director of the National Organization for Victim Assistance (NOVA).

At this time, I would like Doris Booth, Harpers Ferry, W. Va.; April Wright, Washington, D.C., and Geraldine, last name not disclosed, from Potomac, Md., to step forward to the witness chairs, and we shall begin.

Mrs. Booth, let us begin with your testimony.

I note for the record, from your summary which has been provided to me, you have had a distinguished career, including being an antiaircraft gunnery instructor in World War II, and at the time that the assault occurred involving you, you were working at Dulles Airport.

We welcome you here, and look forward to your testimony.

STATEMENTS OF A PANEL OF VICTIMS OF CRIME CONSISTING OF DORIS BOOTH, HARPERS FERRY, W. VA.; APRIL WRIGHT, WASHINGTON, D.C.; AND GERALDINE (LAST NAME WITHHELD), POTOMAC, MD.

Mrs. BOOTH. I am Doris Booth, and the background is as the Senator has said, I was in World War II as an antiaircraft gunnery instructor in the Navy.

Senator SPECTER. We are going to need you to speak up just a little bit, Mrs. Booth, if you would.

Mrs. BOOTH. I have worked in legal offices, and also in management. Most recently with the Government at Dulles Airport, in the Postal Service.

On my way home from work at night, July 4, 1980, a car came up beside me, and people leaned out of it, and said, "Pull off, pull off, there is something wrong with your rear wheel."

Senator SPECTER. I am sorry, somebody pulled up alongside of you and said pull off the road?

Mrs. BOOTH. Yes. And thinking that, oh, these nice young men, if I am having a flat tire, they are probably going to help me fix it. So I pulled off the road, and too late to realize that that was not what the problem was at all.

I tried at first to fight them.

Senator SPECTER. How many were there?

Mrs. BOOTH. Two. But it was 3 a.m., and there was not any other traffic.

Senator SPECTER. Where were you at the time that you pulled off the road?

Mrs. BOOTH. I was just west of Leesburg, on Route 7. I had just come out of Leesburg, as a matter of fact, and on my way to West Virginia where I live.

We had an altercation on the side of the road, and then when I realized I was overpowered, there was nothing I could do, I had to do what they said.

Somebody—somewhere along the line I had an idea that if you kick a rapist in the groin, that takes his mind off of it. But I had on some old bowling shoes with soft soles, and it did not work.

Senator SPECTER. Did you resist and struggle with your assailants?

Mrs. BOOTH. I tried at that point, but the one man that was really attacking me banged my head on the side of the bank.

Senator SPECTER. Have your assailants been apprehended?

Mrs. BOOTH. Yes, the one has.

Senator SPECTER. Was he tried and convicted?

Mrs. BOOTH. Tried and sentenced to 71 years in the penitentiary.

Senator SPECTER. Were there other charges pending against him, in addition to the charge of rape against you?

Mrs. BOOTH. No, not that I know of, at the time.

Senator SPECTER. And how about the other assailant?

Mrs. BOOTH. The other assailant, I could never identify. I only saw him from the waist down. I was—

Senator SPECTER. Was the man who was convicted your principal assailant?

Mrs. BOOTH. Yes, he was. I was able to draw a pencil sketch of him. I am an artist, and that led to his apprehension, and then we had a wonderful prosecutor at the time, that clinched the whole case by other things.

I was left in a field off the road, my clothes were ripped off, and I was left there for dead. I thought I was dead. I was 63 years old at the time.

I first wanted to go home, but I instead went back to the Leesburg jail, and drove in behind it, and just sat in the car, and blew the horn, because I did not have any clothes on, and the jailer, a State trooper, and one of the deputies came out, and a city policeman. The jailer went back and got me a pair of jail pants and a blanket to cover me, and the others just determined the jurisdiction, and then took me to the hospital.

When I got to the hospital, the hospital personnel could not have been nicer. The police could not have been nicer, for that matter.

When I got to the hospital, within 30 minutes Irene Wodell, from the victim witness program in Loudoun County, and a special investigator came to the hospital. Irene brought me a housecoat to put on, and they stayed with me and held my hand.

The hospital personnel could not have been nicer, and they could not have been more professional. They had complete professional gathering of all of the forensic evidence that was required. I had a bad time with it, because I do not remember anything about the preliminary hearings. I do not remember the courtroom or anything else, although I have been in it dozens of times since. Irene was there with me, to help me through the court proceedings.

My family came, some of my family came from California to be with me. I had so much help out of victim witness. It was about 6 months before the trial, and the same help, all that time I had contact with the court, contact with the victim-witness program, and it was at least 2 months that I had—I could not go back to work.

I went back to work in—oh, I guess it was November, October or November, and I finally had to retire.

Senator SPECTER. So you were not able to perform your duties at work?

Mrs. BOOTH. I was not able to do anything, to go past the scene of the crime, going to work and coming from work every day, and I could not do it. I got two or three speeding tickets, because when I would get to Leesburg, down on the—

Senator SPECTER. But no matter how fast you drove, you had to pass the scene?

Mrs. BOOTH. I had to pass the same place, and I had to remember it. I still do.

Senator SPECTER. And what injuries have you sustained, up until the present time?

Mrs. BOOTH. Well, I already had an arthritic problem, a problem with my neck, it is very bad, and my back, it is much worse than it

was at that time. I sustained quite a bit of beating during this whole thing, both of the men were raping me, threatening to kill me, and threatened to blow my head off.

Senator SPECTER. Did they have weapons?

Mrs. BOOTH. I did not see one. And I did not ask them for the registration number.

Senator SPECTER. How do you feel at the present time?

Mrs. BOOTH. I am very nervous. I am still nervous. Working with the victim-witness program has been the best therapy I could have gotten, I suppose. I have tried to establish a victim-witness program in West Virginia, where I live.

At the time I was a resident of West Virginia.

Senator SPECTER. I understand you were not eligible for Virginia victims' compensation because you resided in West Virginia.

Mrs. BOOTH. That is right. There was nothing that Virginia could do for me, as far as reparation or restitution was concerned, because I was not a resident.

Senator SPECTER. But the crime occurred in Virginia?

Mrs. BOOTH. The crime occurred in Virginia. I worked in Virginia, but I lived in West Virginia.

Senator SPECTER. That sounds to me like an unfair situation, where compensation would depend upon residency.

Mrs. BOOTH. I think there should be national reciprocity between States for the victims of crimes that happened within one State, who happen to be residents of another.

Senator SPECTER. Mrs. Booth, I understand that you are now beginning yourself a victims-assistance program in West Virginia.

Mrs. BOOTH. Yes, that is true.

Senator SPECTER. Tell us a little bit about what you are doing.

Mrs. BOOTH. Well, I am in the process of getting established on a tricounty basis, which means that we will have to go for nonprofit corporation status. This will be drawn up this month, hopefully.

I have the cooperation of the Shenandoah Womens' Center, who is already set up on a tricounty basis, working with victims of rape, and battered wives and children.

The program I am trying to set up will be based on the Loudoun County one, where we will also be working with the courts, with the police, the judiciary, and so on, to take people through the court system, and explain to them what they have got to face as far as either victims or witnesses are concerned, to be sure that they are apprised, as well as the police officers, and other people who have to come into a court on a case, so that everyone knows when they are expected, and when they are not needed, and this saves the prosecutor's office, it saves the police force's, and the witnesses in general, a great deal of time and trouble, where they do not have to come into the court, unless they are actually needed to testify.

This is one of the main things, but the other is to cooperate with the Womens' Center, in working with victims of violent crimes.

Senator SPECTER. Mrs. Booth, I certainly compliment you on undertaking this activity in the face of what you have gone through. It is a very worthwhile endeavor.

Mrs. BOOTH. Well, I have lost a very good job. I am trying to operate on about 20 percent of my former income, and it is not the

easiest thing in the world, but it is good therapy. I was not able to get any psychotherapy, or anything through—

Senator SPECTER. I understand you did not get that kind of counseling, simply because you could not afford it?

Mrs. BOOTH. I could not afford it, no. There was no provision. If I had been a resident of Virginia, there would have been a provision to cover that.

Senator SPECTER. Well, thank you very much, Mrs. Booth. We very much appreciate your testimony, and your help on this important problem.

[An addenda to the statement of Mrs. Booth follows:]

ADDENDA TO TESTIMONY BY DORIS WESTALL BOOTH

I am not certain how to express myself without having to overstate, in time allowed for my statement. Thus, at the hearing I kept thinking . . . "I only have FIVE minutes?" And, so, I was hampered by an inability to be concise, rather than to fully bring out the impact of the criminal attack upon my life. At the time of the attack, I was secure in my well-paying Government job; my salary was adequate to my needs. I had my home (which is NOT paid for); two paid for cars; an excellent credit rating; no dependent children. In other words, I was "saving up" for my old age, enjoying life in general. Occasionally being able to help others, both financially as well as emotionally, perhaps even spiritually. I was never a lonely old recluse, though I prefer the seclusion of my little house, I would go out to California every other year to visit my children and grandchildren; on the odd years they would come back to visit me. We tend to run up horrendous telephone bills in the meanwhile.

My physical disabilities, if one could consider such minor things, only consist of hypertension, a tendency to hypoglycemia and arthritis, a bit of hearing loss and changes in eye-sight. My health insurance people keep track of these things and I simply refill the necessary prescriptions and otherwise ignore most of it. These are only small acknowledgements of the 'aging process'.

Since the trauma of the attack, my life is so completely changed that it is almost impossible to recall the security I formerly felt. My combined income from both Social Security (which I paid into from the very beginning of the program) and my Government Retirement (into which I also paid my dues) are about twenty per cent of my earnings at that time. I have not applied for Welfare, Food Stamps, nor even finished filling out the forms for Medicare-Medicaid . . . I still have my Insurance coming out of my retirement check . . . and need to drive about 150 miles round trip to keep with the doctor I prefer. Perhaps these are a last feeble effort to maintain my sense of independence.

I am not a person who feels that the Federal Government should take on the responsibility for reparations and restitution for the ills of this world. I cannot see, on the other hand how we can handle restitution and reparations for inter-state crimes against victims, unless it is handled by the Federal Government. Yet, this is a very crucial need for those who have found themselves criminally victimized while travelling anywhere within the United States, regardless of their residency in one State or another . . . we also pay Federal Taxes! Perhaps a federal levy in the state courts for crimes against people, could be instituted for the payment of criminal activity against citizens from outside the state in which the crime occurred? A mandatory charge, based on the Victim Witness Statement, which would, regardless of the local costs, be instituted? It should be a part of the fines and court costs now imposed upon the criminal.

I shall probably never recover myself financially, from this traumatic experience, however, for as long as my savings last (a couple of months?) and my strength of purpose holds out, I shall continue my efforts in hoping to improve the plight of the Victims of Crime. I have appeared on several National and local TV Programs; I am often interviewed by newspapers, both local and national; I have been on local radio stations; I have been received and am always available to speak to any groups (in-

cluding the Senate) who are interested in the problems and the possible solutions. Anything I can do to spotlight the plight of the Victims of Crime, and the unrecognized aftermaths of victimization cannot be considered of minor importance in our fight for the Rights of Victims in the State of West Virginia as well as Nationally. Your Committee is to be commended for its interest in this problem, I hope that you experience success in the passage of any bills that deal with the problems attendant to victimization.

[The prepared statement of Mrs. Booth follows:]

PREPARED STATEMENT OF DORIS BOOTH

MY NAME IS DORIS BOOTH, at 66½ years of age I have a lot of background. Born and raised in the South, I was educated both in private and public schools, endured the hardships that were the lot of most of us during the Depression, went to work at a pretty early age, became a John Powers model in New York, and during WWII, joined the Navy. I was an anti-aircraft gunnery instructor in the Navy, which was pretty rare, and fascinating work. I married and had three children, divorced, went, finally, to college, worked three or four jobs at the time and raised my children. All of them are leading successful lives in their fields. I have beautiful grandchildren as well. I have every reason to brag endlessly about my family. I worked for about ten years as a legal secretary, leg-man, process server, etc., and most recently was, for 13 years, in the U.S. Postal Service.

It was the night of the Fourth of July, 1980, I had been required to work overtime at my job with the Postal Service AMF, at Dulles Airport, which put me out on the highway, en route home at 3:00 a.m. rather than midnight, as usual.

Even in winter storms I never felt insecure. I would meet the Frito-Lay man coming east on the road in bad weather, and in a bad snow storm he would relay information to me as to whether I could get up the mountain or not. On this night I decided to stop at the Seven-Eleven in Leesburg. Two men in a red car followed me out of the 7 - 11 parking lot to the bypass. When we got onto the bypass, they suddenly drove up beside me and the one on the passenger side leaned out and shouted "pull off, pull off the road, there is something wrong with your rear wheel!!" Having had recent tire trouble I thought to myself, "These nice young men will probably help me change that tire," so I pulled off, got out of my car, and looked at a perfectly good tire. Too late, I got their message.

An hour or more later, having been beaten, robbed, raped, forced to commit oral sodomy and left for dead in a field, I came foggily to, searched around the weeds for a lost shoe, in spite of the fact that my clothing had been ripped off, found the shoe, and got into my car, which by some miracle still had the keys in the ignition (they wiped off all fingerprints).

With every intention of going home, taking a number of baths, gargling, brushing my teeth ten times, I got mad. At 63 years old, I had done nothing to provoke this attack. I am grey haired, unglamorous, I had had on a pair of slacks, and an old bowling shirt -- hardly a sexually provocative outfit! So instead of going home, I turned the other way and went into Leesburg, to the jail, and sat outside and blew my horn until people came out to find out who was making such a racket at nearly 4:30 in the morning. The jailer, a town policeman, a state trooper and two sheriff's deputies appeared. The jailer went back in, after I explained that I had no clothes and couldn't get out of the car, and brought me out a pair of jail pants and a blanket.

The hospital emergency room people were most kind and considerate, especially Dr. Trinidad, yet most professional in their gathering and keeping "clean" the forensic evidence that is necessary in a rape case. Within thirty minutes of my arrival at the hospital, both special investigator Ed Lacy from the Sheriff's department and Irene Wodell from the victim witness program were there, Irene bringing me a housecoat to put on. Irene had, I found out later, been working to almost midnight in her office, only to have to come out from her home in the country to aid me. I am eternally grateful to Irene Wodell for her wonderful attention and help in getting me through the most traumatizing experience in my life. She kept in constant touch with me, and was always ready with cheerful solid advice and help.

At the trial the defendant was sentenced to 71 years in the penitentiary.

I was a "basket case" for a month or two before I could go back to work. I did try to pick up the pieces, and work as usual. Unfortunately, every day I drove to work I had to pass the "scene" in daylight, and every night coming home, I had to pass the "scene". And every car that came up behind me at night seemed to have the same headlight pattern as the attackers' car. I was in a constant panic from any lights in my rear view mirror.

I found myself speeding through Leesburg, and more than once got speeding tickets. On one occasion, when my foot was glued to the floor on the gas pedal, I was stopped nearly 5 miles outside of Dulles on route 28. I wonder if the trooper who stopped me has ever recovered. I had hysterics, I handed him my identification, but I cried all the time he was writing the ticket, and then couldn't stop.

A month or so later, I could no longer handle things, so I reluctantly put in for retirement from my secure government job of 15 years. I had fully expected to work another five years; after all, I was only 63. Maybe go for 7 more? Who knows? I still don't really consider myself old, although I did, there, for a while.

I have grievous financial problems, which have come about only because this unforeseen "lightning" struck me, this awful experience hit me and temporarily knocked me out emotionally, intellectually and financially. This is the ultimate effect that the victim must experience. Life is no longer a familiar road, life is a threatening road to travel, there is danger behind every bush and tree, there is still the threatening glare of headlights behind my car, friend or foe? Recently, three years later, on my way home from Leesburg very late a car came up, stopped, and moved again. I wondered if it was about to follow me up the land and corner me. I was frightened. I cut out my lights before I hit my driveway, in case they were following. I sat, quivering in the car with the doors locked until I was sure that they had not followed. Only then did I dare get out, unload several packages and scoot into my house. Didn't I have a "burglar alarm" I could set off if they did follow? Sure, and outside lights all over the place, and neighbors around who would respond? ~~Yet I was frightened. I will always be frightened, I~~ guess. Probably all those people wanted, was directions to someone else's house. These are the residue of victimization. This is the aftermath of having been victimized. Perhaps I should have learned, in the many years I lived in New York City, that one never trusts one's fellow man. I resent this because I was raised in the South. I really miss, not trusting my fellow man!

The best, the most positive thing that has come out of this harrowing change in my life, has been the turn of events that has led me to become a volunteer to the Loudon County Victim Witness Program. Through Irene Wodell and this wonderful County program, that has been cited by the Commonwealth of Virginia and nationally as a truly great pilot program, I have learned a lot, I have grown a lot, and hopefully I can get a program going in West Virginia, based on Irene Wodell's Victim Witness Program, which is so successful. It has been the best therapy I could have personally found in the three years in which I have been associated with her.

It has always been my ambition to institute in West Virginia, where I live, patterned on the successful one established in Loudon County, Virginia. We need to work out a reciprocity between states that will enhance the whole victim witness conception, for instance to be able to transport victims to safe houses across adjacent state lines, or to make reparations to out-of-state victims, when they have been victimized away from their resident state. Obviously this must be Federally funded. We need to set up national guidelines for the treatment of victims for the forensic examinations performed in all hospital emergency rooms for forensic processes of all kinds, for the protection of both victims and witnesses from harassment or threats, and for enhancing the respect shown both victims and witnesses, in order to make them more comfortable about aiding the police and prosecutors. We need to enlist the aid of all law abiding citizens against the unlawful. We need to make this enlistment of cooperation and aid more attractive.

In West Virginia, I have been conducting meetings involving the law enforcement, judicial, medical, and social members of the community. I am highly gratified by the response I have had in the tri-county area. Currently, with the help and cooperation of the Shenandoah Womens' Center, and others, I am setting up a non-profit corporation to serve the tri-county area. Personally, I have placed myself on a 24-hour emergency call basis, with the local police forces and the hospital, for whatever crisis may arise. I need office space in the court house or nearby, I need to recruit volunteers, I need printing and publicity and stationery and office supplies. I have requested a small sum from the county commissioners for "seed money" for organization. I will go to the community churches, civil clubs, and "knock on all doors" for such support as is needed. Federal assistance would help.

This is only a part of what is needed on a national basis. We need legislative changes in many states. The President's 1982 Task Force Study on Victims of Crime made many recommendations that are needed nationally, but it will take a concerted effort by all 50 state legislatures to improve the lot of the victim.

Senator SPECTER. Let us turn now to Ms. April Wright.
Ms. Wright, I understand that you had a very terrifying experience, having been abducted at gunpoint while walking to a bus stop.

Will you tell us, in your own way, just what happened to you, please?

STATEMENT OF APRIL WRIGHT

Ms. WRIGHT. I was walking along before Davis Drive on my way to the bus stop.

Senator SPECTER. That is in Washington, D.C.?

Ms. WRIGHT. Yes; it is. It is in Fort DuPont Park.

Senator SPECTER. That is in the southeastern part of the District of Columbia?

Ms. WRIGHT. Yes. And it was raining that day. It was about 2:30 in the afternoon, matter of fact. And it was cold, and I was walking along the street, and there was a man who appeared to be using the woods as a bathroom. So I crossed the street, and when I crossed the street, I turned back around and I noticed that he was coming across the street toward me with a gun, and I remember the first thing I thought was, boy, this is not going to be my day.

He took me back across the street, and led me down into the woods, and when we got to the base of the hill, he took my purse. He went through my purse, and then he tied my hands, and we walked a little further into the woods, and he noticed that I was wearing rings, and he took my rings. And at the time I was wearing necklaces that were not seen, because I was wearing a turtle-neck. And we kept going deeper into the woods, until we got to a point where there was somewhat of a clearing, and he did not let me see him the whole time that we were walking through the woods. He had me go in front of him, and he, you know, he told me that he wanted me—excuse me, to take off my clothes, so that he could make a getaway.

And, unfortunately, that is not the way it went. I am sorry, this is very, very hard for me.

Senator SPECTER. I can understand that. Perhaps I could help you.

Just to summarize it.

According to the information which is provided to me, he forced you at gun point, robbed you, forced you to take off your clothes in the rain, forced you to commit oral sodomy on him, raped you, kept the gun on your head, then returned a few seconds later and raped you again, is that essentially what happened?

Ms. WRIGHT. Yes.

Senator SPECTER. What we are most concerned about, Ms. Wright, is not the event itself, which is obviously a terrifying one, but what has happened to you since, what injuries you sustained, and what is an appropriate governmental role to provide compensation for you.

Would you like to pause for a minute and take a glass of water? I know it is a very difficult situation for you.

Ms. WRIGHT. You know, right after the incident happened, I thought I was fine.

Senator SPECTER. You thought you were fine?

Ms. WRIGHT. Yes, I went along the next day like nothing happened, and this went on for quite some time, until I unfortunately had—started getting flashbacks. I think if it were possible for me to have gotten counseling, I would have, but I could not afford it.

Senator SPECTER. Was your assailant tried and convicted?

Ms. WRIGHT. Yes, he was.

Senator SPECTER. And sentenced, I understand, to 30 years to life?

Ms. WRIGHT. Yes.

Senator SPECTER. What injuries have you sustained, Ms. Wright, which have remained with you up until the present time?

Ms. WRIGHT. I think right now it is very hard for me to become deeply involved in a relationship. It is hard to explain. I can still have boyfriends, it is not like I am afraid of men. But it is something that just sits in the back of your mind, that you never forget, and every once in a while, it will come back up, and when it does, it is hard for me to explain to someone that I am getting a flashback from something that happened 2 years ago.

Senator SPECTER. Where were you working at the time this incident occurred?

Ms. WRIGHT. I was working for Guest Quarters Hotel, which is a hotel—they have several hotels across the country.

Senator SPECTER. And did you lose time from work?

Ms. WRIGHT. No. I thought I was fine. I really did.

Senator SPECTER. Have you lost any time from work, up until the present time?

Ms. WRIGHT. Due to illness, yes.

Senator SPECTER. But not due to this incident?

Ms. WRIGHT. No, I tried to—I tried to keep it under control.

Senator SPECTER. You were single at the time this happened, and I believe you are still single?

Ms. WRIGHT. Yes.

Senator SPECTER. Do you think, as best you can tell, that this incident will have any impact on your interest in marrying?

Ms. WRIGHT. I do not know. That is hard to say, because I did not think that it would have any impact on me now. As far as being in the court is concerned, but when you think about it, and you think about what happened, it is just—it is very hard to explain. It is more than you can imagine.

Senator SPECTER. Did you receive any compensation, as a victim of violent crime under the District of Columbia Victims' Compensation law?

Ms. WRIGHT. No.

Senator SPECTER. What is your opinion as to what ought to be done by way of providing compensation to victims, if you have any ideas on that subject?

Ms. WRIGHT. First of all, compensation for time off from work, not necessarily within the next 2 weeks after the crime, but maybe they can compensate you for time off, and help you to get counseling, even quite some time after the incident has occurred.

I know that I had a friend who was involved in the same type of incident, and the same thing happened to her. She thought she was fine, until about year later, when everything started getting to her,

like it is getting to me. I did not even think I would have flashbacks.

I considered myself a pretty steady person, pretty strong, and I think I am kind of shocked that I really could not tell you what happened.

Senator SPECTER. Well, your experience is certainly a terrifying one. It is not unlike what Mrs. Booth has described. There is not much you can do when you are waiting for a bus and someone walks up to you and sticks a gun at your head.

I thank you very much for your testimony, Ms. Wright. It is very helpful, and I am sorry for the circumstances that require you to repeat it. But I think it is very useful, and although the record will not show your tears, we saw them. I think your testimony will have an effect, and be beneficial to other people, and be worth the effort.

Our next witness is, first name only, Geraldine, and we are withholding the last name at the request of Geraldine.

According to the information provided to me, you were abducted for 3 hours, and assaulted. Why do you not tell us what happened to you, in your own way, if you would, please?

STATEMENT OF GERALDINE

GERALDINE. I wanted to say that the reason I request my last name be withheld, is because in my work I have a lot of public exposure, and the people who knew me when this happened in 1978, would know what happened, but people I meet subsequently, I do not want to explain to them what happened.

I am a suburban housewife from Potomac, Md. I am married to a naval officer, who is kind enough to be with me today. I am a mother of three children, age 18, 17, and 14. I am employed by Montgomery County Public Library System, I am in charge of coordinating the children's programs for the 19 libraries. I have worked with Montgomery County Libraries since 1971.

On August 31, 1978, I reported to the Sherwood Public Library in Montgomery County, to do my American Indian storytelling program. I was met by a man I believed to be a custodian, who pointed a gun at me, and led me to a section of the library, where he bound me, and asked me to lie face down on the floor, next to another woman who worked for the library, who had also been bound. Then, at gun point, he led us to his car, threatened to kill us if we spoke a word, and took us in his car.

We drove around for about an hour, then he pulled over near a clearing, took me out of the car, and at gun point, led me to a clearing. He left the other woman in the car, having blindfolded her, in addition to having bound her hands and feet.

Senator SPECTER. Did you know the other woman?

GERALDINE. No, not before that day. Before going to the library, I asked who might be there to unlock the library for me because the library was just opening.

Senator SPECTER. But she was in the library?

GERALDINE. Yes, she was a library employee.

Senator SPECTER. So the man who approached you and her, apprehended the two of you together, at the same time?

GERALDINE. No. He approached her probably about 9 a.m. I reported approximately 9:15 a.m. My instructions were that there would be a library worker there to let me in. Instead I see this man let me in and I assumed he was a janitor, and that seemed appropriate to me.

In fact, after she had let him in at approximately 9 a.m. he bound her. So she was out of sight when I entered the library. He brought me around to where I could then see her.

Senator SPECTER. He was alone?

GERALDINE. Yes. He he kidnaped us both in his car, having bound us both, at gun point. The other woman and I were in the car with him throughout the morning.

At one point, as I was saying, he had me come out of the car, and led me up a little incline, in a clearing. He changed my rope and tape bindings for handcuffs, he handcuffed my wrists. One part of the handcuff was attached to a boat trailer in the clearing. At that point he raped me.

Senator SPECTER. When he was doing that, where was the other woman, if you know?

GERALDINE. She was in the car, blindfolded and bound.

Senator SPECTER. What injuries did you sustain as a result of this assault?

GERALDINE. Well, if money speaks, to date, \$31,000 in therapy. I suppose I feel a little defensive when asked to explain my injuries, because an explanation of the impact of rape and kidnaping—being under someone's control for 3 hours—is difficult to quantify. It is difficult to relate to, if you have not experienced it.

I, like the other witness, consider myself a strong person going into the incident, and am a stable person. I had a lot of support, and returned to work within 1 week after the assault. I think I should have the courtesy to answer your specific question, even if it annoys me.

Again, I say I feel a little defensive, because the—one of the sources of my—

Senator SPECTER. You do not have to answer the question in any special way. Just any way you feel up to it.

GERALDINE. OK. Thank you.

I guess what I am trying to say is that I sustained considerable injury, not apparent to the eye which is difficult to explain to the insurance company. Gratefully, I am a full time employee, my husband is a full time employee, and I guess we would be called middle-class people, who have insurance.

Well, even with the insurance—

Senator SPECTER. Did your insurance cover you for this?

GERALDINE. The insurance has covered 80 percent of the family's therapy, most of the marriage therapy, and, because I fought and fought, the individual therapy has been covered by workmen's compensation. This was only after I convinced them that although they could not see any injuries, that I needed therapy in order to cope with what had happened to me, and that I needed that therapy on an extensive basis. I had 4 years of individual therapy, and I think that is one of the reasons I can be here today.

Each year, workmen's comp has required me to justify, with wording like "Is it not time that you get on with your life?"

Senator SPECTER. Did you lose time from your work?

GERALDINE. I figured this out in preparation for the testimony. A minimum of \$6,000 in pay, in a sense, has been given to me. That is the amount of work I have lost. A combination of pretrial hearings, which, of course, I needed to attend—there were three trial postponements—the week of the trial, and time spent in therapy.

Senator SPECTER. Was your assailant apprehended?

GERALDINE. The assailant was apprehended at the scene of the crime, I was able to mouth words to a bank teller, when I was being robbed of everything in our family's bank account. As a result, the bank teller called the police. After a high speed car chase, in which I thought perhaps I would lose my life, he was apprehended. After 1 year of trial delays, he was sentenced to life in prison.

Senator SPECTER. I understand that he compelled you to write a check for the balance of your account.

GERALDINE. Yes, I had my checkbook in my purse. I think we always are conscious of not carrying cash, but he read the checkbook, and forced me at gun point to write a check for the balance in our checking account.

Senator SPECTER. And then compelled you to go to the bank?

GERALDINE. Yes, he asked me which was the nearest branch, so he could cash the check, and oddly, I was ecstatic, because I supposed that the bank teller may have the background to believe me when I was mouthing the words, "help" and "police", and motioning with my hand that the man had a gun.

All morning long I had been seeking help, being too afraid for my life and the other woman's to say anything. I was motioning to people at intersections, all morning long, and no one responded.

A gas station attendant did put in a call to the police, and the bank teller did put in a second call to the police, and so they sent a car to investigate. I think of the people who are victims of crime, who have no insurance; even though I have insurance, I guess I could say I was very well prepared for a disaster.

The insurance, as I mentioned, only pays a portion, and there is tremendous paperwork and justification, required for continued counseling. They did not seem to understand that if, as happened to me, a fellow librarian is murdered, and raped, that this might take some further therapy, and bring up a lot of feelings for me. They do not understand that. That was too many years after the assault.

Senator SPECTER. I see from the records that your individual therapy amounted to \$10,000, your marriage therapy to \$2,000, and your family therapy to \$12,000. Are those figures correct?

GERALDINE. Yes.

Senator SPECTER. Did you receive any compensation under any State compensation law for victims?

GERALDINE. I was never notified by Montgomery County or Maryland State victims compensation program. I later discovered, through reading, that there was such a thing in some States, and when I inquired, it was explained to me that those programs were only for victims of serious crime.

Senator SPECTER. Did somebody have the audacity to tell you that you were not covered by a program for serious crime?

GERALDINE. I found that astounding. I have since read about State requirements—

Senator SPECTER. Who said that to you?

GERALDINE. A person in the Victims Serious Unit of Montgomery County.

Senator SPECTER. Did they want you to be victimized further, by being murdered?

GERALDINE. Yes; that was my sarcastic response. I was amazed. I later found out that what they were referring to is, my case was not brought to their attention because the assailant was not officially considered a repeat offender, a serious offender. He had had previous convictions but they did not add up to the gravity that qualified him a major offender, and that is why I was not contacted.

Senator SPECTER. Did you ever make an application for victims' assistance?

GERALDINE. I never heard of it.

Senator SPECTER. Have you made no inquiry at all, even up to the moment?

GERALDINE. At this point, I have not made a personal claim, because I have the Workmens' Compensation, CHAMPUS, and the Prudential Insurance coverage.

Senator SPECTER. We will give you a hand, if you would like us to, to see if you may be covered by any of the State laws on the subject. I do not know, as I sit here, and it may be that the statute of limitations has passed. But if you would like us to give you assistance in that, you certainly have been victimized by about as serious a crime as you can have. Kidnapping, rape, burglary, robbery, not to mention a number of other incidental offenses here.

GERALDINE. I will take advantage of that. It has been a financial burden to our family. The amount that is not covered and the peripheral expenses which I would never claim in a specific State or county program, but are realities of any victim. Anyone who has experienced the trauma has peripheral expenses. For instance, today, I am going to have my husband take me out to lunch after I have gone through this. There are many things. You are in a weakened condition.

My assault was in 1978. Am I still worried about it? There is not one day that goes by that I do not remember being raped. I remember reading a quote from Maya Angelou that gave me a little bit of strength. She said she was raped when she was elementary school age, and she was in her fifties at the time she made this quote. She said, "not a day goes by that I do not remember that I had been raped."

This does not mean that we are dwelling on it. So this is difficult. This morning it took—it will take me at least 2 weeks to recover from some of the symptoms that I experienced when I do something like this. Before I do something like this, I ask a lot of questions. I want to be sure I am speaking to a forum that has the power to change. So it is a privilege to be here, because you do have the power to change, to prevent other victims from experiencing the difficulty I have experienced.

I would comfortably refer to the difficulties I have had with the therapy as being harassment; 5 years of harassment.

I will be happy to answer questions, but, in conclusion, what I wanted to say, to be sure to remember to say, is, I really do think that the Senate has an opportunity to help victims, and to make the way a little easier. They cannot prevent the rapes happening, but you can help the victims in two important ways.

One, they can do a lot for us emotionally, by just acknowledging our existence. The kind of legislation that you have been proposing would do that. It would acknowledge the trauma that we experienced, and if you acknowledge us, and you look us in the eye and you say "Yes, this happened to you. No, it was not your fault." You are giving us the respect that is the antithesis of rape.

You can help us financially with the physical and emotional healing, you can hear us, this would be new. You can hear the psychological wounds that we are talking about, that cause a tremor in my voice today, that caused me to shake and snap at my children this week, in preparation for this hearing this morning, and you can help victims who do not have the insurance that I had available to me, when they need it.

You can encourage insurance companies, compensation boards, and workmen's compensation units not to put a timetable on healing. The mind, unfortunately, does not heal according to a timetable. This is not common knowledge amongst sophisticated, educated people in 1983. They expect it to. They want to clear their files.

If we have an anniversary response, they do not understand it has been a year, what is our problem? I remember hearing another victim say there is no limit to the amount of money spent on the psychiatric care of a criminal. Should not victims be given similar consideration?

I thank you again for this opportunity, and I welcome any questions.

Senator SPECTER. Thank you. Thank you very much for your testimony.

When I say that the experience of testifying is a horrendous one, I note that you had laughed momentarily. There is a very heavy air over the hearing, I think everyone in the room would agree, caused by the experiences that you three have gone through and testified about.

We do appreciate your having come here, and I recognize it is a very difficult matter to recount what has happened to you.

I was district attorney for Philadelphia for 8 years, and assistant DA for 4 years before that, and prosecuted many cases involving rape. There we had the responsibility to bring out the facts in very great detail, which we do not have to do here, because in the course of a criminal prosecution it is necessary to have a very elaborate statement as to what happened, in order to persuade a jury that the rape occurred, and to get a conviction. We do not have to do that here, fortunately.

But I know to the extent you have testified, it is a very difficult matter. I know that full well, and we appreciate your doing it. This subcommittee does have the power to formulate legislation which goes to the full committee, and ultimately to the full Senate. The Congress has the power to act in this matter. And when they look you in the eye and recognize what has happened to you, that it is not your fault, of course it is not your fault. You cannot be more

the victim of external forces, whether you have a gun at your head, as April Wright did, or whether you had hoodlums abduct you on the side of the road, as Doris Booth did, or as in your case, when somebody comes in and kidnaps you. It cannot be considered your fault at all.

I would like just one further inquiry. You have been very helpful in the testimony you have given in response to earlier questions, and without crying. I note that you have had marriage therapy on the sheet, and you say your husband is going to take you to lunch, and of course, he ought to take you to lunch, and not just today, but how have you been able to put your life together, and I ask this from the point of view of trying to assess damages that you have even at this moment, some 5 years after the event?

How have you been able to put your life together, and your relationship with your children, your coworkers, and perhaps most importantly of all, for obvious reasons, with your husband?

GERALDINE. Well, first of all, I had to swallow my pride. I believed that people who needed psychotherapy were to be regarded with compassion, but I seriously believed that at some point they had been weak, and had given in to it. I did not understand that depression was like the flu. You wake up and cannot imagine one reason for living.

So, I had to swallow my pride when I got myself to a therapist. I felt it was some indication of weakness on my part. In fact, I want to recommend my therapist to my fellow witnesses. It has taken so much time out of my life to rebuild my life, but what is the choice. What are the options?

I had responsibility, because I do have a family, to continue my life, and to try to assimilate this experience. I needed to disregard much of my personality, the beliefs that I had, the trust that I had going into the experience, all of that was gone for me. The veneer that all of us have when we know that when we take a plane, it will not crash. That same kind of a veneer that this will not happen to us is stripped of a victim, and so the victim then is exposed. What I had to do, and victims need to do, is rebuild a new way of looking at your life. You do not need to change everything about you, but you have a long process where, for a time being you just have to be honest and say, for instance, "I cannot go to work by myself." My husband came to work with me, although I was a supervisor. He sat in the library while I worked, for a week.

And then you move on. You have to know what the milestones are for yourself. Last week was the first time I had returned to the general area where I was assaulted. That is 5 years since the assault, but I knew I was ready to do that, and I wanted to meet a friend for lunch.

So, I have had to spend a lot of time thinking, I have had to spend a lot of time crying. I am 10 pounds lighter than I used to be. I do a lot of jogging, and other things for emotional release. Part of my healing has been testifying before people like you, who have expressed a sincere interest in what happened to me, not because you are curious, but because you want to prevent some of the anguish that follows an incident, a trauma like this.

For 1 year, I did not know where I was, although I was going to work. I was so worried I would forget my child's birthday. I asked

my children, the first year, about the rape. I let them know that they could talk about it. They were 13 and 14 years old, my sons were approaching puberty, my daughter was 11. They had no questions then. Let us not talk about it, Mom. Just do not talk about it.

So all those modern things you hear about bringing it up will take care of it are not necessarily true. They could not cope with talking about it.

Three years later, though they had no questions, I began to see wild behavior on the part of one of my children. Someone who had been thoughtful and kind, told me I was so straight, I made him sick. I know adolescents reject their parents. In family therapy we found out he was trying to destroy himself through alcohol. My son who was 16 years at that time, felt that he should have done something to protect me from the rapist.

How could he have allowed me to be raped? I cannot speak for my husband, or my sons, but I hear from them that same kind of thing, that they could not keep this from happening to me, and they have had to deal with the anguish over the years.

So, through the family therapy, they did have reactions to the rape, they had them in 1978, 1979, et cetera, but they did not express those reactions. Who was asking? People do not ask that kind of thing. They ask about the victim.

So there has been a lot of spillover. The children have felt that they cannot burden me with some of their problems, because look at how many problems I have. So I have not been as available to them as I might like. Even the advocacy work that I do—because I think it is very important—as I say has side effects. I might have snapped at them a bit this week, because I am nervous.

So, it just takes a lot of time, and a lot of hard work, and patience. When I say the mind cannot heal in a timetable, it is a hard lesson for me to learn, because I am one of those achiever types. Thinking I will go get therapy for 1 year, and that is it. I was very embarrassed to be in therapy. It was only because I was frightened that I was having a nervous breakdown or something that I continued, and it was only because I realized that my marriage was in such difficulty, after I had 2 or 3 years of therapy, and I made these adjustments, which you must make, I was a different person.

When one member of a relationship changes, there is a lot of adjustment by the other members. So my husband and I have had working sessions, because we want to keep our marriage together. I cannot even imagine letting this creep who raped me wreck my marriage, and so we put that time in. There are weeks when I have three therapy appointments. That is 8 hours out of my week. That kind of investment in the end is worth it. It has definitely helped me. It tears me apart to think that some victims have not had access to therapy.

Senator SPECTER. Thank you very much for that very poignant testimony.

I am sorry only that more people could not have heard it, but I shall repeat your story.

GERALDINE. I want them to read it. You are going to have them read what we said today, I hope.

Senator SPECTER. Well, it is sometimes difficult to compel, to lead a horse to the record, but they can read it, and I can tell it, and have some captive audiences from time to time.

I am scheduled to have lunch with about 20 of my colleagues today, and I only have 3 minutes to speak—we share a better part of an hour—but I will do my best to recount what I have heard this morning, in the course of the time that I have at lunch today with my colleagues, and I shall repeat it. Beyond that, it will be available as a permanent part of the record, and I will recommend that others read it, but I cannot guarantee you that.

GERALDINE. I remember just one more comment. When Mr. Bowman called me, because I realized I get upset when I do these things, I was reluctant. When he elaborated, and said, this will allow more victims to have access to the therapy they need, when they need it. It was "God bless Senator Specter." This is something that has not been addressed.

Senator SPECTER. Thank you very much, ladies. Thank you.
[The prepared statement of Geraldine follows:]

PREPARED STATEMENT OF GERALDINE

MY NAME IS GERALDINE, and I would prefer not to use my last name because of the public nature of my job. I live in Potomac, Maryland, I am married to a Naval officer and I have three children, aged 18, 17, and 14. Since 1971, I have worked as a librarian in Montgomery County.

The woman in charge of the Sherwood Library asked me to tell Native American legends at the library on August 31, 1978. She was going on vacation and would appreciate the help. I was pleased on two counts: I could help her and I could share my stories with some new children.

When I arrived at the Library at 9:15 a.m. I was met by a 26 year-old man. I thought he might be a maintenance man until he pointed a small gun at me, grabbed my arm, and led me behind the circulation desk, where he forced me to lie down next to another woman, lying face down, already bound. He then tied my wrists and ankles with rope and tape. He forced us to his car. Still tied up, we rode around for a while. He took us to a clearing where he led me at gun point to a boat trailer. He handcuffed me to it, then raped me. He took the money from our purses. In doing so he found my checkbook, and forced me to write a check for the balance in my family's bank account. The assailant threatened to kill me if I spoke a word. He asked whether my children were at home and displayed three bullets on the dashboard of his car. Late in the morning I mouthed the words "Help" and "Police" to a drive-in bank teller, who then called the police. Following a high speed car chase during which I feared I would lose my life, he was apprehended and arrested. After one year of the defense's delays, my assailant was found guilty of first degree rape, kidnaping, and robbery and sentenced to life in prison.

I was examined at Suburban Hospital following the rape. The police explained that they needed evidence. I later received a bill in the mail for the cost of the exam. Days later I was given painful shots to guard against infection from the rapist. This and subsequent gynecological problems I experienced as a result of the rape were embarrassing to me. Why couldn't they test the rapist?

The police believed there would be no trial, so I look forward to putting the terrible experience of August 31 behind me. Then, in December, 1978, I was informed there would be a trial on January 22, 1979. This date was cancelled. The trial was scheduled for April, then June,

then August, 1979. Each time I wondered at the lack of concern for the emotional cost to the victims. There was no family vacation date, no birthday, no field trip which avoided a time period anticipating or recovering from one of these trial dates! I performed 52 fewer story programs and lectures than in the previous year. How could I guess my mood or physical condition on a given date? My children heard endless "if I feel okays".

What happened between my arrival at the library and the arrest of the assailant is carefully documented in the court records. Almost anyone who reads the account can guess at the agony I experienced. So many family members and friends sympathized with me concerning those three hours. So many people consider the trauma to myself and my family to have been over in three hours! This has caused me immeasurable pain.

Much of the trauma I have felt was aggravated by my impatience with myself. Wasn't there something I could do to speed my recovery? I wondered if there would be a day when the assault would be evoked only in response to a direct stimulus such as reading about another rape and kidnaping. I still wonder when the daily reminders will cease. In ten years? Twenty?

I've tried and will continue to try the remedies others suggest. I did keep busy, I did continue with my responsibilities as a wife of a Naval Officer, as a mother of three children, as a librarian in charge of a children's section in a public library. I did not "dwell" on August 31. I avoided returning to the White Oak area. I screened books, movies, and television programs. But the memories seek me out through numerous associations.

What have I done to improve my emotional state and so recover from the original trauma and the physical ramifications? When I reported the incident to a Navy gynecologist, he referred me to a Navy psychiatrist. I had never been in therapy before. I was embarrassed and skeptical, but agreed to one session if my husband could accompany me. I felt I was strong enough to handle this trauma on my own. I always thought depression and mental illness resulted from a weakness of will. I was strong-willed and courageous and would not succumb! I returned to my full time job one week after the assault.

Five weeks later, I awoke about 5am. I felt suddenly depressed. I did not want to get out of bed. I did not want to count all the reasons for living. I felt exhausted by the weeks of observing my daily routine "in spite of everything". I just wanted to curl up in a ball, hide in my bedroom, and ignore everyone. I wondered how I could have become depressed. I had not given myself permission. I had not weakened or given in to feeling sorry for myself. I made another appointment with the Navy psychiatrist. It took me several sessions before I realized we were incompatible. I decided I was too analytical to be analyzed.

Still, I felt depressed. In November I called a crisis center requesting referral to a therapist who had experience with rape victims. I made an appointment to see this psychiatric social worker. I saw her once or twice a week from December, 1978, to April, 1983. Although I am grateful for the help therapy has given me, I resent the time it takes out of my work week.

All this time I've tried to accommodate people's reactions to my ordeal. Only two people have said something that helped ease my pain. One was another rape victim. The other is dying of a rare disease. All the hundreds of others have subconsciously asked me to take care of their needs. They beg me to present some assurance the same thing won't happen to them. "Were you in D.C.?", "Was it night?" Many people were too uncomfortable to say anything. They would face me and freeze. The burden was mine. I'd say, "I know you feel awkward. Thank you for your concern." This left me feeling exhausted.

It is impossible to calculate the emotional cost of the trauma I experienced. It has wreaked such havoc in my personal life. Since 1978 I have spent \$10,000 on individual therapy, \$2,000 on marriage counselling, and \$12,000 on family therapy. I have spent many hours of worktime in therapy, pretrial hearings, in the actual trial and sentencing. Even though my husband and I have full time professional jobs and are covered by insurance plans, there has been considerable financial strain. We often eat out to cheer ourselves up or to juggle our dinner hour in order to gather all five members of our family for therapy. Insurance plans cover part of the costs.

A crime victim may need therapy to rebuild his or her sense of self and to adjust to family and friends' reactions to the crime. A victim loses the veneer of trust which most people enjoy. She knows anything can happen since the assault actually happened. This trust is replaced by bitterness, self-pity, and isolation. These symptoms lessen with the passage of time yet are irreversible. One can never return to the person one was before the crime even though family members sometimes show by their behavior that they wish this would happen. It is no wonder that divorce often follows a rape. Only a long-term commitment of time and money can attempt to reassemble a life shattered by trauma into a new, workable shape. The effects of this are insidious, affecting each family member in a different way and at a different time.

The adjustments a victim makes in order to recover mean changes in her outlook and behavior. This effects all her relationships. Each person wonders where he fits into this changed person's life. Anger against the victim for so rearranging their lives is expressed in ways hurtful to the victim. It is so easy to lose sight of the real perpetrator of this misery...the assailant. The victim is blamed even by those who are sophisticated enough to know it was not her fault.

I feel a deep sadness that what happened to me has caused so much disruption in my family. It is very difficult to distinguish between guilt and this acknowledgement that I am the cause of this suffering. It is a small step to anger and self-pity...why must anyone have to endure this?

Of course there is no answer to this question. Rape and kidnapping happen. There will be future victims. You have an opportunity to ease their burden in two ways:

1. Emotionally- If you pass this legislation you will be acknowledging the victim's plight by enabling victims to receive the help they need as long as they need it. This kind of respect is the antithesis of rape.

2. Financially- You can help victims and their families by enabling them to get the physical and psychological healing they need when they need it. Present compensation programs are low in funds and high in eligibility requirements. Federal guidelines would force the states to offer real support to those without other resources.

Unfortunately, the human mind does not heal by a timetable. Not every victim will opt for therapy after the crime; but the opportunity must be there, immediately, and in the future when an anniversary date or other reminder require it.

Thank-you for this opportunity to testify today.

Senator SPECTER. I would like now to call on Mr. Robert Armstrong, director of the Virginia Division of Crime Victims' Compensation.

I understand that you have held this position since 1979. You are a graduate of Virginia Commonwealth University, and you have spent 14½ years with the Richmond Police Department.

We appreciate your being here, and we would like you to describe, if you could, the Virginia Victims' Compensation program.

STATEMENT OF ROBERT W. ARMSTRONG, DIRECTOR, DIVISION OF CRIME VICTIMS' COMPENSATION, INDUSTRIAL COMMISSION OF VIRGINIA, COMMONWEALTH OF VIRGINIA, RICHMOND, VA.

Mr. ARMSTRONG. Thank you, Senator. It is a pleasure to be here.

Virginia's program was founded on July 1, 1976. It was found that Virginia had a moral obligation to assist persons of violent crimes in our State, and try to relieve some of the financial suffering that they endured after becoming a victim of a violent crime. And on that date all the clerks of the courts in Virginia were directed, from that date forward, to collect, as additional court costs, an assessment to be forwarded to the State treasurer, and held for use for the compensation of crime victims only.

Senator SPECTER. So it is financed by a charge imposed during the criminal proceedings?

Mr. ARMSTRONG. It is a set fee, currently it is \$15 on certain classes of criminal convictions, and those classes of convictions are all six classes of felony and class 1 and 2 misdemeanors in the State of Virginia.

Senator SPECTER. Do the defendants customarily have the money to pay, even though it is only \$15?

Mr. ARMSTRONG. Unfortunately, yes, most of them do have the money to pay. Crime is profitable, it seems, and with the small number of crimes that we have in our State, 1982 statistics show that there were approximately 250,000 people, or 250,000 crimes reported in the State of Virginia, and of course a much smaller percentage of that was actually arrested and convicted.

Senator SPECTER. Has there been any effort made to impose, as a part of the judgment of sentence, a monetary award?

Mr. ARMSTRONG. Yes, sir.

Senator SPECTER. Is that done in Virginia?

Mr. ARMSTRONG. It is a current trend. It is just developing, I would say, as a more commonplace occurrence.

Senator SPECTER. Do you know of any case where it has been done?

Mr. ARMSTRONG. Yes, sir.

Senator SPECTER. Could you describe that case, as best you can recollect it?

Mr. ARMSTRONG. What they refer to is, a restitution order by the court, to the victim.

Normally, at the current rate, what the judges are doing is, in appropriate cases, they are ordering full payment of medical expenses. In some cases they are giving a blanket payment.

Senator SPECTER. What the judge does, after the defendant is convicted as part of the judgment sentence, is order the defendant to pay x number of dollars. Is that customarily followed with a provision that if the payment is not made, that there will be a certain elongated period of incarceration?

Mr. ARMSTRONG. That is correct. It is all related, condition of sentence, dollars for days, is what I refer to it as. They remove the number of days in prison for the number of dollars paid, and failure to comply with the court order, a show cause order would be issued and the person would be incarcerated.

Senator SPECTER. Has this funding that you described, \$15 per case, been sufficient to handle the claims which have been processed under your victims' compensation law?

Mr. ARMSTRONG. For the limited benefits that we provide, it has.

Senator SPECTER. But there has been no other appropriation by the Virginia Assembly?

Mr. ARMSTRONG. The very first year we ran out of funds, and \$150,000 supplemental funding was approved to offset this shortage, but since that time, we had been able to recover from that original year's deficit, and have had a surplus up until this year.

Senator SPECTER. You may proceed, Mr. Armstrong. I appreciate your specific answers to those questions.

Mr. ARMSTRONG. Currently Virginia has a maximum award, which went into effect on July 1 of this year, of \$12,500 in the aggregate. Prior to this date, our maximum award from the inception date of the program was \$10,000. From this maximum award, the following items are covered:

Medical expenses, or portions of medical expenses not covered by other sources; loss of wage, not covered by other sources; funeral or burial expenses up to \$1,500, not covered by other sources; and other reasonable out-of-pocket expenses, not covered by any other source.

Senator SPECTER. Would you include counseling as such a reasonable out-of-pocket expense, or is it included as a matter of interpretation of the statute?

Mr. ARMSTRONG. There is nothing specific in the Virginia statute which provides for psychological counseling for crime victims.

Senator SPECTER. Have any people tried to get compensated for that, to your knowledge?

Mr. ARMSTRONG. Yes, they have, and I would like to elaborate on what we have done with that.

Senator SPECTER. Please do.

Mr. ARMSTRONG. The actual wording of our statute says there must be a physical injury or death as a direct result of the crime.

Now, physical injury, as defined in the statute, does not actually relate to a mental injury. However, from my experiences, I was able to gain the cooperation of the State Industrial Commission regulating crime victims' compensation to agree that the mental injury was the direct result of the crime in a sexual assault instance. In many cases of sexual assault, the actual only physical injury is to the mind.

So we do allow, as policy, for compensation for therapy, for victims of sexual assault, in Virginia. But not for victims of nonsexual crimes.

Senator SPECTER. Well, that is an understandable distinction, although I would suggest to you that if someone is held up at gunpoint, the trauma and the psychiatric impact could be very substantial, maybe not as substantial as a rape, but that is hard to gauge.

Mr. ARMSTRONG. I do not disagree with that, at all.

Senator SPECTER. You may proceed, Mr. Armstrong.

Mr. ARMSTRONG. Thank you.

Some of the limitations on Virginia's programs include a \$100 deductible on all claims except for persons 65 years of age or older, for obvious reasons.

Another requirement is that the claimant must be a resident of the State at the time of the crime, or a full-time student at a college or university within the State, or a resident from a State which will reciprocate to Virginia residents.

There is no provision in our act for compensation of victims of violent crimes in Federal territory or on Federal property.

We, as I mentioned before, do pay for counseling for sexual assault victims only.

Our State maintains a financial hardship test for persons to qualify. It is a liberal test. However, the test does exist.

There is a detailed family exclusion clause, as we refer to a domestic clause, which excludes persons from filing a claim if they are victimized by a member of their family.

Our State does not provide reimbursement for legal or attorney fees, we do not pay for pain or suffering, and we do not pay for loss or damaged property.

Virginia had approximately 10,000 victims of violent crimes last year, and of this number, approximately 15 percent contacted our office. Of this 15 percent which contacted our office, approximately 16 percent of that number received compensation, but not all of the 16 percent were fully compensated for their losses. Some of these cases have greatly exceeded the maximum allowable awards, and although the assistance provided by our agency was helpful, it was still not enough to prevent financial ruin of the victim.

I have, unfortunately, had cases where the magnitude of the crime was so severe that the victims lost all of their provisions, their property, their finances, totally wiped out.

Some incidents, persons not only lost their personal belongings, such as their automobiles, their homes, they also lost their business, and their source of income.

This is a total summary of approximately what our program does provide, and does not provide, and if you have any questions, or would like me to elaborate on any particular issue, I would be more than happy to.

Thank you.

Senator SPECTER. One point I think would be worth elaboration, beyond the questions you have already answered, as you proceeded through, and that is the question about the financial hardship test for persons to qualify for an award.

What is the level of hardship which is imposed?

Mr. ARMSTRONG. The test we use is whether or not, without assistance, the victim can maintain his normal standard of living for himself and his family.

We take under consideration his assets and liabilities, potential earning capabilities, and then make a judgment based on all of that.

Senator SPECTER. So it is not a question of whether the person had x number of dollars in the bank, or x number of dollars annual income?

Mr. ARMSTRONG. No, sir, not actually.

Senator SPECTER. That is a pretty fluid standard, leaving a lot of discretion with the administrator.

Mr. ARMSTRONG. Yes, it is.

Senator SPECTER. You have a good administrator, though, do you not?

Mr. ARMSTRONG. I hope so.

Senator SPECTER. You are the man.

Mr. ARMSTRONG. Our program has only turned down, as far as my recollection goes, in the 5 years that I have been with the program, we have only turned down two people because of their failure to qualify under the financial hardship test, or being too affluent.

Senator SPECTER. Your testimony is very helpful, Mr. Armstrong. We thank you very much for coming.

Mr. ARMSTRONG. Thank you.

[The prepared statement of Mr. Armstrong follows:]

PREPARED STATEMENT OF ROBERT W. ARMSTRONG

Mr. Chairman, distinguished members of the Committee, I am Robert W. Armstrong, Director of Virginia's Crime Victim Compensation program and have been since January of 1979.

Virginia's legislature found that many innocent people suffer financial hardship as a direct result of being a victim of a violent crime and that the State has a moral obligation to assist these people. As a result of this awareness, Virginia passed legislation creating the Crime Victims' Compensation Program which became law on July 1, 1976. Beginning on this date, all the courts in the state were directed to collect an assessment in addition to the court costs on certain classes of crime and forward this money to the State Treasurer to fund the Crime Victims' Program.

The following are provisions provided for under the Virginia's Crime Victim Act:

There is a maximum award of \$12,500.00 which became effective July 1, 1983. Prior to this date, the maximum award was \$10,000.00. This maximum award is in the aggregate to cover the following expenses:

- 1) medical expenses or portions of medical expenses;
- 2) loss of wage compensation;
- 3) funeral or burial expenses up to \$1,500.00;
- 4) any other reasonable out-of-pocket expenses not covered by any other source, public or private.

The following are limitations within Virginia's Crime Victim Act:

- 1) \$100.00 deductible on all claims except for persons 65 years of age or older;
- 2) claimant must be a resident of state at time of crime or a full-time student of a college or university within the state or a resident of a state which will reciprocate to Virginia's residents;
- 3) there is no provision for compensation of victims of federal crimes;
- 4) does not pay for counseling except for sexual assault victims;
- 5) maintains a financial hardship test for persons to qualify for an award;
- 6) there is a detailed family exclusion clause;
- 7) does not pay for legal or attorney fees;
- 8) does not pay for pain or suffering;
- 9) does not pay for lost or damaged property.

Virginia has approximately 10,000 victims of violent crimes per year and of this number approximately 15% contact our office. Of this 15% which contact our office, approximately 16% of that number receives compensation. Not all of the 16% are fully compensated for their financial losses. Some of these cases have greatly exceeded the maximum award allowable and although the assistance provided by our agency was helpful, it was still not enough to prevent financial ruin of the victim.

This concludes my written presentation and I will now be happy to answer any questions the Committee may have.

Senator SPECTER. I would like to call now on Marlene Young, executive director of the National Organization for Victim Assistance.

I understand that Gloria Whetstone has arrived, and Ms. Whetstone, if you will step forward.

We thank you for joining us, Ms. Young, and if you will proceed.

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

Dr. YOUNG. Thank you very much.

I am the executive director of the National Organization for Victim Assistance, otherwise known as NOVA. It is my privilege and pleasure to be here.

It gives me special satisfaction to speak on this particular issue, on an idea that we in the victims' movement have dreamed of for many years, which is to provide some Federal leadership and support for victim services and compensation in the State.

I would like to thank you, Mr. Chairman, for holding these hearings, which gives us an opportunity to address this issue, as well as to acknowledge the leadership of the Reagan administration, which has served as a catalyst for seeing that some of these issues have come to the forefront in the last year, and to your colleagues, Senators Heinz, Laxalt, and Grassley, for introducing bills over the last year that have helped see the fruition of the idea.

In recognizing these individuals, I would also like to thank briefly the victim advocates, and the victims throughout the country that over the last decade have worked to see victim compensation and victim services established in the States. Because I think that their efforts, even though they have been to some extent marginal, have really been at the forefront, and you have seen the product here at the Federal legislature, as a result of what they have been doing.

I know that you have heard from a number of crime victims—Geraldine, Mrs. Booth, and others, today and last week—and I want to say that they draw upon a strength which I would hope that I never have to test, because I think their courage and their commitment is seen in the fact that they were brave enough to come forward and speak to you about the traumas that they have undergone, as well as what they see needed for other victims.

To us at NOVA, it is their pain, their rage, and their tragedies, which is the hidden truth of crime. It has remained hidden for several reasons.

I want to emphasize that it is hard for most of us to face that human suffering and that pain. In fact, I feel very strongly that that is the reason why victims of crime have indeed been ignored. It is frightening for us to see our own vulnerability in their tragedies, to hear through them our own nightmares, to experience degradation and horror through the tales of people who have been raped, and to face our own mortality in the tears of those whose loved ones have been murdered.

We do not want to acknowledge that the other side of human compassion is human fearfulness and suspicion, or that, on top of

the fundamental cruelty of crime, we add our own cruelties, that of ostracizing and stigmatizing the victim.

Even those of us who would like to help often do not know how. I think to emphasize that, I would like to bring to your attention a victim you heard from last week. Last week you heard from a victim by the name of George Babb.

As you know Mr. Babb was shot five times last February here in the District of Columbia and he is now a paraplegic. Mr. Babb's assailant will be sentenced in the near future, and the Probation Department has recommended, in its presentence report, that his assailant get probation.

I am not intending to offer my opinion on that recommendation, for I have not read the presentence report. But I leave it to you to consider the consequences of crime to the victim, and to think about that proposed sentence, at this time, and perhaps another time.

But I do want to tell you about Mr. Babb, because you did not hear the whole story last week. One of our board members was at this hearing last week. We had asked her to be here, to talk to victims after the hearing, because we know, as Geraldine indicated to you, that the trauma and the upset of having to testify, is sometimes so overwhelming that they need to have someone to reach out to, someone perhaps to support them afterward, and maybe provide some debriefing, so that they can get to talk about the consequences of the testimony.

Well, she talked with Mr. Babb, and found out he told the subcommittee only part of the story, and so Mr. Babb has, since last week, been a part of our caseload.

You see, Mr. Babb is a proud man who has been rendered penniless. He is poverty-stricken, and poverty may mean nothing to us in terms of the verbiage that is used, but unbeknownst to you, and until then, unbeknownst to us, the man who spoke to you last week had not eaten for 4 days, and it took 2 more days for him to have the courage to tell us.

Our staff member, who has been working with him since last week, spent hours trying to locate, in the District of Columbia, somebody who would provide food for him, or perhaps an emergency loan. The Compensation Board here in the District does have an emergency award procedure, but we gather it has not yet set up an administrative mechanism to dispense those funds quickly to someone who is starving, much less to someone who is disabled.

Mr. Babb needed someone to help fill out the application forms, and there was no one available until we went out to help him personally. That application is now filled out and filed, but he has yet to receive any funds. He has yet to receive the award.

Mr. Babb has no place to live. He is staying with an acquaintance, who happened to meet him at the hospital, and when she found out his circumstances, and found he had no place to go, offered him temporary shelter. When our staff member contacted the hospital to find out what was wrong, and why he was released without a place to go, she was told that Mr. Babb's story was not believable. Of course, they would never discharge anyone in his circumstances without providing ongoing services. And yet, to the

best of our knowledge, Mr. Babb has never received any ongoing services. Our staff member was told that once they had found his file at the hospital they would surely get back in touch with her, but we have not yet heard from them, even today.

Mr. Babb cannot dress himself, he cannot travel by himself; he cannot work. So my question to you is, what is Mr. Babb going to do now, today? Not a week from now, not 2 months from now, but how is he to live from day to day?

My organization is a national organization not equipped to give direct services. We are not designed for that, and we do not offer them as a part of our panorama of other services. But indeed we do carry direct-service caseloads, and have for the last several years, because we receive calls from victims like Mr. Babb across the United States in desperate circumstances.

In some lucky cases we are able to refer those victims to local agencies for help. But in far more cases, there are no services, and we can only hope that our calls—which sometimes seem antagonistic to local people—our repeated, daily calls will eventually beat through the resistance that the victims themselves encountered.

So to say that every day we are reminded of the casualties behind the crime statistics is an understatement. We live with it each hour, we live with it each moment, and we hear the sorrow, we hear the frustration, we hear the outrage, and most of all we see the poverty of circumstances that have left the victims like Mr. Babb unattended to and ignored.

I have become outraged that in this country, which is founded on the ideals of justice, freedom and dignity, we have failed so miserably to even address the deprivation of justice, freedom, and dignity which victims endure. So I come to you today to tell you that crime is a national problem. It is not confined to Peoria, Ill., Salem, Oreg., or Washington, D.C. It afflicts the entire Nation, and it does not discriminate according to State boundaries or economic class.

To me, it is the scope, the breadth, and the depth of that problem that is in itself an imperative, a demand for Federal response. For it is an indictment of us all that a citizen who is victimized by crime may be denied help because he is not a resident of a certain State, or he finds that the services that exist in another county or city do not exist where he lives.

I am aware that there are people who say that crime is a local problem, or a State problem, and they cite to you the fact that criminal law has long been left to the jurisdiction of States. But to me there is ample justification to offering a Federal response to victims, a justification that goes beyond the legitimacy of the Federal Government taking a leadership role in an area which the States have virtually abandoned. For it is clear that, for many crimes, the Federal Government has concurrent jurisdiction with the State, and it is further clear that the very basis of the Federal Criminal Code is founded on the fact that crime also is connected intrinsically to interstate commerce, transportation, and the like.

Hence, I consider it entirely appropriate for you to consider such Federal legislation as is in front of you and to consider subsidizing victim compensation programs and victim service programs.

I know that you have heard a lot in the last two hearings about the needs for victim compensation, and I would add my voice to

support those kinds of compensation programs, because they are the first important step, I think, to providing for victims of crime.

Creating a compensation program has been traditionally the first step taken by States to help crime victims, and logically so, for these programs reach out to the most severely injured, to those suffering the worst pain, the severely physically disabled, and to the surviving loved ones of murder victims. Federal subsidies will not only help those programs that do not have enough money to meet their annual budget, but will also help establish compensation programs in the 11 States that have yet to provide compensation.

But in addition to my support of compensation, what I would really urge, and commend to you in this legislation, is support of victim services, because victim services is that part of the broad range of victim assistance that has yet to be acknowledged and established on a State basis, to receive the legitimacy that it needs.

The fact that this legislation contemplates 50-50 split of available funds between compensation and services recognizes that important fact.

In supporting the general principles of this bill, let me emphasize some points that I think would help improve any final legislation.

First, I think that there should be some standards by which victim service programs are deemed to be eligible for funds. I know that there are a number of highly qualified programs throughout the United States that are providing quality services in spite of lack of personnel and other needed support.

Yet I would be less than candid with you if I did not admit that there were occasional incidents which cause me considerable concern about the quality of service programs in some jurisdictions.

For example, I find it abhorrent to learn that some programs will not provide services to some kinds of victims, even when there are no other available services there, and perhaps my revulsion is increased by such cases as Mr. Babb's. I feel that the kind of shifting around of victims from program to program, because they do not fit in preordained guidelines which would eliminate certain victims, is abominable.

Similarly, I find it frustrating that local services often get tangled up in what are called turf wars to the detriment of the victim. I feel that discussions of service jurisdiction, and who counsels whom, should be referred to a higher level, in a spirit of cooperation, and that these concerns should be kept separate from direct services. Otherwise, clients are ignored and torn in half.

And finally, having worked at a local and a State level, I would urge you to consider adding language to the legislation that would prohibit local and State governments from using the Federal funding as a bailout, and allow them to transfer existing funds from victim programs to other programs on the grounds that the Federal Government will now finance these services.

In saying that the Federal Government must assume some responsibility for victims of crime, we are not as saying that it should assume all of the responsibility for those victims. I do not see Federal aid as pushing aside State and local contributions or State and local responsibility—only adding its fair share.

Because of these concerns, I offer the following recommendations to you:

That any Federal funding be divided such that 50 percent is allocated to compensation programs and 50 percent to service programs;

That any legitimate victim or witness service be eligible to become a recipient program, but on the condition that the recipient will aid all victims of crime seeking help, unless alternative services are provided in that jurisdiction;

That the recipient show evidence of cooperation with the criminal justice system, as well as other service programs in its area;

That the recipient participate in planning and providing comprehensive victim services in the jurisdiction to include crisis counseling, case scheduling, notification, and information, supportive counseling in court, and assistance in attaining emergency aid as well as other forms of victim compensation, and;

That the State administrator use Federal dollars to promote that kind of cooperation and diminish the kind of dissention that may occur in some jurisdictions.

Further, that the recipient compensation programs be required to maintain the current level of effort such that the State does not reduce the current level of State contributions to funding the programs;

That the recipient compensation programs may not use any surplus funds as a back-door source of general revenues in their States, which has happened in a number of compensation programs over the last few years. Rather, that such funds should be used to develop victim services where they do not exist, and if the program has surplus funds which will be beyond the needs of compensation, or services in a jurisdiction, that any Federal funds should be returned to the Federal Treasury.

And finally, that the recipient service programs be required to maintain the current level of effort, such that any currently received funds, whether from private or public sources, must be maintained at least at its current level.

Mr. Chairman, these suggestions are made in the spirit of support for the principles of this legislation, and the hope that indeed the Congress will take such legislation seriously, because I cannot overemphasize the need for some response.

Those of us who have been working with victims over the last decade cannot help but become passionate in our concerns for a better and more compassionate response to victims. We cannot be any less serious when we listen to Mr. Babb and other victims who continue to suffer.

Some people would say that we cannot serve victims because we have no money. I suggest we must look to our hearts and our souls, rather than into our pocketbooks, for an answer to that question. We can generate money when the need arises, as long as the need is serious.

There have been some who have said that fair treatment for victims causes a problem to fair treatment of offenders. To them, I say, equality of treatment cannot be unfair, and our country has an obligation to respect the rights of all its citizens.

From my perspective, we earn our humanity by confronting the agonies of human suffering and searching for ways to diminish its pain. We earn it in battling all the odds to establish justice and freedom, and we earn it by remembering that in all men and women there is a heart and spirit which we have no right to destroy.

I thank you for holding these hearings, and joining with us today in making sure that we do not destroy that spirit in victims, and by seriously considering this legislation, and helping us to work to establish justice for all, even the victims of crime.

Senator SPECTER. Thank you very much, Dr. Young. We very much appreciate your being here, and your very cogent testimony.

I certainly commend you for what you have done for Mr. Babb. Last week, on those who were here, just as we did today, with Geraldine, the last name withheld, we had made an offer to be of assistance, and we will follow up with you, to see what can be done for Mr. Babb. We will be available to assist.

Dr. YOUNG. Thank you.

[The prepared statement of Dr. Young follows:]

THE PREPARED STATEMENT OF MARLENE A. YOUNG

Good morning, Mr. Chairman. My name is Marlene Young and I am the Executive Director of the National Organization for Victim Assistance, NOVA. It gives me special satisfaction to speak on an idea that we in the victims' movement have dreamed of from our beginning days a decade ago, but only now are presenting formally to a body of the United States Congress -- the need for federal leadership and support for victim services of every description.

I would like to thank you, Mr. Chairman, for holding these hearings and focusing attention on this critical subject. I would also like to thank the Reagan Administration -- especially Assistant Attorney General Lois Herrington -- as well as your colleagues here in the Senate, Senators Heinz, Laxalt, and Grassley, for serving as catalysts of change in response to victims of crime over the last year. The victims' movement is equally grateful to your distinguished counterparts in the House, notably Representatives Rodino, Fish, and Berman.

But most of all at this turning point in history, I would like to acknowledge and thank the thousands of victim advocates across this country who over the years have seen the need for victim compensation and victim services, and made them work.

You have heard from a number of crime victims both today and last week. They have drawn upon a strength which I, for one, hope never to test in myself. Their commitment to a more compassionate and just response to the victimized is seen in their willingness to come forward in these hearings to tell you about the urgent need for compensation and services. I suspect that all of us who have listened to their testimony heard their not only words, but also their terrible pain.

To us at NOVA, it is that pain, that rage, and that tragedy which is often the hidden truth of crime. It has remained hidden for several reasons.

It is hard for all of us to face human suffering and not turn away. It is so frightening for us to see our own vulnerability in the faces of the maimed; to hear our own nightmares in the memories of the raped; and to face our own mortality in the reality of the murdered. We do not want to acknowledge that the other side of human compassion is human evil. So to the fundamental cruelty of crime we add our own cruelties, by ignoring and stigmatizing the victim.

And even for those of us who would like to help, we have not known until recently what to do. We have not know how to say we are sorry,

we have not know how to provide care, we have not known how to help the victim, and so in frustration, we have turned away.

Last week this Committee heard from a victim by the name of George Babb. Mr. Babb testified about being shot five times here in the District of Columbia and who is now a parapalegic. Mr. Babb's assailant will be sentenced in the near future and the probation department, as I understand it, has recommended probation for the young man on the grounds that it was a first offense. Now, I do not intend to offer an opinion about that recommendation since I have not read the pre-sentence report -- I leave it to you to think about the issues of this crime and its punishment at another time. But, I do want to tell you about Mr. Babb.

One of NOVA's Board members was at the hearing last week. We had asked her to be here to be available to talk to victims who appeared here because we know from experience that the strain of testifying at government hearings can be overwhelming, and that victims may benefit from a word of support, perhaps a "debriefing", after their appearance. She talked with Mr. Babb and found out he had told this subcommittee only a part of his story. Mr. Babb has, since last week, been a part of our caseload.

You see, Mr. Babb is a proud man. But he has been rendered penniless. So, unbeknownst to you, the man who spoke to you last week had not eaten for four days. Our staff member who has been working with him since then spent hours trying to locate someone who would give him food or even an emergency loan. The compensation board here in Washington has emergency funds, but, we gather, has no administrative mechanism for dispensing those funds quickly to someone who is starving, much less to someone who is disabled. For Mr. Babb needed someone to fill out an application for emergency funds -- he can no longer write because of the nervous trauma in his hands. And even though that application has been filed, Mr. Babb still has not received the award.

Mr. Babb has no place to live. He is staying with an acquaintance who met him at the hospital, and when she found out that he had no place to go, she offered to give him temporary shelter.

When our staff member contacted the hospital, she was told that Mr. Babb's story was incredible -- of course they would never discharge someone in Mr. Babb's condition without providing on-going services. Yet to the best of our knowledge, Mr. Babb receives no such services. In fact, our staff member was told that as soon as the hospital located Mr. Babb's file, she would be called and told who the social worker was who was assigned to his case. Our staff member has not received such a call.

Mr. Babb cannot dress himself. Mr. Babb cannot travel by himself. Mr. Babb cannot work. What is Mr. Babb going to do? Now?

Our organization is a national umbrella group. We are not designed to give direct services, or to carry caseloads. Yet, unfortunately, we have carried caseloads for several years. We receive regular calls from victims all over the United States. Like Mr. Babb, many are in desperate circumstances. They have received no help in their communities. In some cases, where services exist, we can successfully refer them. In other cases, there are no services and we can only hope our calls can help move the mountains of resistance that the victims have encountered.

To say that we are reminded every day of the casualties behind crime's statistics is an understatement. We live with it each hour and each minute. So I bring to this hearing feelings of sorrow, frustration, and outrage. I am outraged that in this country, which expounds the highest ideals on earth in terms of justice, freedom, and human dignity, we have failed so miserably to even address the deprivation of justice, freedom, and dignity which victims often endure.

Crime is a national problem. It is not confined to Peoria, Illinois, Salem, Oregon, or Washington, D.C. It afflicts the entire nation, and it does not discriminate according to state boundaries or economic class. To me, the scope and depth of the affliction is in itself an imperative for federal response. To me, it is an indictment of our country when a citizen who is victimized is denied services because he is not a resident of a certain state or of a certain city or county.

I am aware that there are those who would say that crime is solely a state problem. They cite to the fact that criminal law has long been left to the jurisdiction of the state. But there is ample justification for a federal response to victims. That justification goes beyond the legitimacy of the federal government assuming a leadership role in an area which, until recently, has been virtually abandoned by the states. For it is clear that in many crimes the federal government has concurrent criminal jurisdiction with states, in spite of the fact that prosecution is regularly brought in state criminal courts. Further, the underpinnings of much of the federal criminal code is based on the fact that much of crime is intricably connected to interstate transportation, commerce, and the like.

Hence, I feel that it is entirely appropriate to consider legislation such as that before you which contemplates federal subsidies to both victim compensation programs and victim service

programs at a state and local level. For without federal involvement, the disparity of service and response will continue to compound the indignities and injustices suffered by victims.

I know that you have heard a great deal in these hearings on the need for victim compensation. I would add my voice to those who have urged federal support for victim compensation programs. For, compensation is the first important step to meeting the needs of victims. It has been traditionally the first step taken by the states, and it is logically the central concern of those victims, who perhaps suffered the worst pain -- the severely physically injured.

Federal subsidies will not only help those states which are currently having budgetary difficulties but also serve as an incentive for establishing programs in the eleven states which have yet to provide any type of monetary response to victims.

Despite my support of compensation, I am most anxious to acknowledge and commend this legislation for recognizing an equal need of many victims for services other than financial reimbursement. We know in our work that victims suffer not only financial and physical injuries, but that many face severe emotional trauma as well as long term stress as a result of the way the criminal justice system and society treats them. It is imperative to provide counseling and other support services to assist them in returning to an acceptable level of functioning. The fact that this legislation contemplates a 50/50 split of available funds between compensation and services recognizes two important facts. First, the majority of states have compensation programs and most of these are now solvent. Second, other services have been more difficult to establish and have yet to be legitimized in most states.

In supporting the general principles of this bill, let me emphasize some points which I think would improve any final legislation.

First, I think that there should be some standards by which victim service programs are deemed to be eligible for funds. I know that there are a number of highly qualified individuals and programs throughout the United States providing services to victims despite extraordinary odds. Yet, I would be less than candid, if I did not admit that there are occasional incidents which cause me serious concern in some jurisdictions. For example, I find it abhorrent to learn that some programs will not provide services to some kinds of victims -- even when there are no other available services in the area. Perhaps my revulsion at this is increased by cases such as Mr. Bab's.

Similarly, I find it frustrating that local service providers

at times engage in so-called "turf wars" to the detriment of the victim. I feel discussions of service jurisdictions and who counsels who should be carried on in a spirit of cooperation and at a level removed from direct services. Otherwise, the client may be ignored or torn in half.

Finally, having worked at a local and a state level, I feel that federal funding should not become a "ball-out" for state or local dollars. I would have grave misgivings if the federal leadership role should become a comprehensive federal subsidy. Local politicians are usually pleased to see federal funds become available in one area so that they can transfer their own local funds to another area. While I strongly support the thesis that the federal government has an obligation to be involved in providing services to victims of crime, that does not mean that the local and state governments should be relieved of their own responsibilities. It would be an anathema if federal subsidies in this area promoted a reduction in local and state funding.

Hence, because of these concerns, I offer the following recommendations as a basis for legislative action:

1.) That any federal funding be divided such that 50% is allocated to compensation programs and 50% is allocated to service programs.

2.) That any legitimate victim or witness services are eligible to become recipient programs, but on the conditions that:

a.) the recipient aid all victims seeking help unless alternative services are available;

b.) the recipient show evidence of cooperation with the criminal justice system and other service providers in the jurisdiction;

c.) the recipient participate in planning and providing comprehensive victim assistance in the jurisdiction, such assistance to include: crisis counseling, case information, notification and scheduling, supportive counseling in court, and assistance in attaining compensation and other emergency aid;

d.) that the state administrator use federal dollars to promote planned, comprehensive services throughout the state.

3.) That recipient compensation programs be required to maintain the current level of effort such that the state does not reduce the current level of state contribution to funding.

4.) That recipient compensation programs must not use any surplus funds as a back-door source of general revenues. Rather such funds should be used to develop victim services where they do not

exist. If the program has surplus funds beyond service and compensation needs, any federal funds should be returned to the U.S. Treasury.

5.) That recipient service programs be required to maintain the current level of effort such that any currently received funding whether from the private or public sector must be maintained at its current level.

Mr. Chairman, these suggestions are made in the spirit of support for the principles of this legislation and the hope that Congress will indeed take such legislation seriously. I cannot overemphasize the need for some response.

Those of us who have been working with victims over the last decade cannot help but become passionate in our advocacy for a better and more compassionate response to their agonies. There have been some who have suggested that we are too serious in our response. We cannot be less serious when Mr. Babb and other victims continue to suffer. There have been some who have said that we cannot serve victims because we do not have money. Rather it is up to us to look at our consciences and our hearts instead of the excuses of the pocketbook. There have been some who have said that fair treatment for victims flies in the face of fair treatment for the offender. Equality of treatment cannot be unfair and our country has an obligation to respect the rights of all citizens.

From my perspective, we earn our humanity by confronting the agonies of human suffering and searching for ways to diminish its pain. We earn it by attling in spite of all odds to establish justice and freedom. And, we earn it by remembering that in all men and women there is a heart and a spirit which we have no right to destroy. I would ask you to join with me today in this search for humanity -- by seriously considering this legislation and its consequences -- and helping us to establish justice for all -- even the victim.

Senator SPECTER. Ms. Whetstone, we very much appreciate your being here. I understand you had some problems with transportation, and we look forward to your testimony.

STATEMENT OF GLORIA WHETSTONE, PHILADELPHIA, PA.

Ms. WHETSTONE. Thank you.

My name is Gloria Whetstone. I would like to thank this committee for giving me the opportunity to be here.

I am a former battered woman. I do not have a prepared statement.

I want to share some of my experiences with you. I found out Monday about this hearing, and wanted to be a part of it and decided to come.

Senator SPECTER. We very much appreciate your coming, Ms. Whetstone. We know that it has not been easy for you, and if you tell us what happened to you, in your own way, we would appreciate it.

Ms. WHETSTONE. I am 32 years old, I am the mother of four children. I had been married for 13 years when I left. The last 8 or 9 of those 13 years were hell for myself and for my children. My husband was physically and verbally abusive.

For me, I stayed for various reasons. Once before I had left my husband, and had relocated for the last 3 years of our relationship. My husband had become very ill, in need of support, and because he was the father of my children, I took him back into my home. We had a verbal agreement that I would give him the support he needed until he was on his feet, and then he would leave.

Once my husband had gotten his health back, he informed me that he had no intentions of leaving our home, and that there was very little that I could do about it. So for the last 3 years of our relationship, I sought help, legal advice, in trying to remove him from my household. There was a lot of physical violence during the course of that. I obtained a scar over my right eye.

I have been beaten in the presence of my children, dragged, kicked around the house, verbally put down in the presence of my children.

One reason that I stayed is because this place was mine. I worked in the community school part time and I paid my rent. When I left my husband the first time, I left him with everything. So in the course of the time that we were separated, I had begun to accumulate household needs. They were mine. It was a problem, and did not seem fair for me to leave my apartment. It was hard to get this man out of my house, to legally remove him from my house.

My children went to a neighborhood school that I was employed in, and I did not want to uproot them.

Finally, the abuse had come to the point where not only was he abusing me, but he began to abuse my oldest son. We left our home. The morning that we left, we were between pay periods for me on my job, I got paid every 2 weeks. We lived from one paycheck to another.

When we left our home that day we had really nowhere in mind to go. I had \$1. My children and I walked the streets, until I came

upon a community legal service, that told me about a shelter that I could go to. Later on that evening my children and I entered the shelter. We stayed there for approximately 30 days, and in the course of the time that I was there, I continued to pay my bills for my apartment and my utility bills. I had every intention of returning home. I did receive the protection order, I did go back, with an eviction order. My husband was asked to leave the home. We waited until that evening to go back. I wanted to give him a chance to get out of the area.

When we did return home that evening, it was dark. I found out, once I entered the apartment, that my husband had taken every light bulb out of the house, and he was in the neighborhood. He was banging on the windows, he was trying to persuade the children to open it. He kept attempting to get in the house, I ended up having to nail the windows, we stayed that night in terror and in darkness. I was afraid to hand anybody money out of the door, afraid he would push his way in, or to go out myself, afraid that he would catch me and physically harm me.

I contacted the shelter, and they suggested that I come back. I found a police officer that morning when they had changed shifts, he literally searched the neighborhood for my husband, and found him hiding under a car. He arrested him. He told me that he could not hold him, because the order had not come over the radio, but he would detain him long enough for me to get away.

My children returned to the shelter. These are 30-day shelters. Women Against Abuse is the only domestic violence shelter in Philadelphia that offers a 30-day stay. So within the 30 days, I had to accumulate enough money to relocate. This came from family members and the money I was able to save from the shelter. I worked for the school board part time.

When you do not work, you do not receive an income. So it is very difficult. My children and I moved into our new home with two chairs, mattresses and box springs that people had given us, and for the next 2 years this is how we lived.

About 6 months after I left Women Against Abuse, I turned in a résumé. They had called me back as a relief worker. I worked there as a relief worker. About a year later I managed to get a 31-hour position that I worked, and this year my children and I have a living room set, which is a big deal. It has been a struggle.

I find being at the shelter, and being part of the staff, that a lot of women, for financial reasons, stay in abusive situations, or return to them solely because they are dependent upon male, or women feel financially that they cannot make it, when the children are to be in Catholic schools or private schools they feel that once they leave they cannot continue to provide for their children's education. Most women take a great deal of abuse for the sake of their children.

I find that without any assistance in starting over again, as far as furniture, and medical expenses, and things of that nature are concerned, women stay in this situation.

Job compensation for time lost is another problem. I can answer specific questions, if you have any for me.

Senator SPECTER. I see, on the summary, that there has not been a formal criminal prosecution brought against your husband, is that true?

Ms. WHETSTONE. No, it has not.

Senator SPECTER. Have you considered that?

Ms. WHETSTONE. I had not, with my situation. My children and I have relocated. My husband has no knowledge of where I am. I do not have any contact with him. My children, over the past 3 years, have spoken to him over the phone, he has asked to see them, I have made arrangements for him to visit them at my mother's, and he has not kept it.

Senator SPECTER. So he has not been able to find you, you say, for a 3-year period?

Ms. WHETSTONE. Yes, and as long as he has no knowledge of where I am, I feel reasonably safe. A lot of women are not as fortunate as I am, in having a third party to negotiate.

I think a lot of women go to court, end up in a situation where there is a custody hearing, and he has the right to see the children, visitation rights, but there is no guarantee of their safety, leaving that area, or taking the children there.

So a lot of women end up relocating, going through this financial burden, and then still living in fear.

Senator SPECTER. I am not suggesting that you initiate prosecution. I am just inquiring as to whether you had considered it.

I realize full well that there are lots of disadvantages to bringing criminal prosecution.

Has it been 3 years, you say, since your husband has seen you?

Ms. WHETSTONE. It has been 3 years.

Senator SPECTER. Have you made any effort to obtain compensation under the Pennsylvania Victims' Compensation Act?

Ms. WHETSTONE. I was not aware of the Compensation Act.

Senator SPECTER. That is something that we will take a look at for you, as well.

I do not know that it will be available under the circumstances, where there has not been any criminal prosecution initiated.

There was testimony earlier by the Administrator of the Virginia Victims' Compensation law, Mr. Armstrong, that compensation is not covered within a family relationship, and that is one of the factors which this subcommittee will consider, because there can be criminal acts, ranging anywhere from mayhem to murder, one family member to another.

But the testimony which you have provided to us this morning, Ms. Whetstone, is really somewhat different dimension, in that you have been the victim of violence, and you have been the victim of criminal contact. A husband is just as guilty of assault and battery, when he strikes a wife, as he is when he strikes a neighbor. And I can see the difficulties which you have, the kinds of help you need, perhaps cuts across a number of lines beyond victims' compensation, but your testimony has been very helpful.

We thank you very much for coming here.

Ms. WHETSTONE. Thank you.

Senator SPECTER. Ladies and gentlemen, that concludes our hearing.

We thank you very much, all of our witnesses, for being here today.

The hearing is completed.

[Whereupon, at 11:03 a.m., the subcommittee adjourned, subject to the call of the Chair.]

APPENDIX

TESTIMONY OF WAYNE LAPIERRE
DIRECTOR

GOVERNMENTAL AFFAIRS DIVISION

NATIONAL RIFLE ASSOCIATION
INSTITUTE FOR LEGISLATIVE ACTION

Mr. Chairman:

The National Rifle Association and its 2.6 million members are pleased to have the opportunity to present its views on the various proposals for federal involvement in victims assistance programs as outlined by the President's Task Force Report on Victims of Crime.

In its general terms the NRA has no quarrel with the thrust of the recommendations of the Task Force. There is one area, that of financing a victim assistance effort, that we must oppose. The President's Task Force recommended that the 10% excise tax collected upon the sale of handguns be utilized as a major funding base for the federal victims assistance effort. NRA objects to this proposal as nothing more than a slap in the face to the millions of American sportsmen, hunters and firearms owners who pay this tax. It imposes a collective guilt upon those of us who own firearms legitimately for the acts of the criminal element of society.

Currently the 10% excise tax on handguns is placed in what is known as the Pittman-Robertson Wildlife Conservation Fund. The loss of the Handgun Excise tax would cripple a program which has been the backbone of state fish and wildlife activities since 1939.

The Pittman-Robertson Wildlife Conservation Fund is financed by the excise taxes collected on the sale of firearms, ammunition and archery equipment. Funding of Pittman-Robertson for FY 1983 totals slightly more than \$107 million. These funds are 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 then utilize the money to acquire, develop and manage wildlife habitat for wildlife management research and for hunter safety programs based upon a 75/25 percent matching concept.

The fund's very existence would not have been possible without the active support and promotion by sportsmen. They willingly accepted being taxed once given assurances that the money would be exclusively used for the purposes mandated in the law. To use the funds for any other purpose would be a breach of faith with this constituency and cripple further efforts to expand the fund and its purposes.

Attached is a chart prepared by the Department of the Interior showing the FY 83 distribution of Pittman-Robertson funds to the respective states and territories, and a chart showing the loss the states would have to bear if the 10% excise tax was removed. The task force proposal would strip the handgun portion of this funding base away from Pittman-Robertson program resulting in a decrease of over \$30 million in available funding. The negative impact which such a loss would have upon state wildlife conservation efforts is incalculable.

This proposed "raid" upon our nation's wildlife conservation effort is premised upon several major misconceptions. The first is that there is little if any relationship between handguns and hunting or wildlife activity. This is patently false. There are more than 30 states which have specifically provided for big game handgun hunting seasons. Small game handgun hunting is permitted in all but one state (New Jersey). In 1980 over 1.3 million hunters utilized handguns to pursue game animals. Attached is a list of the types of handgun hunting allowed on a state-by-state basis.

The second major misconception is that handgun ownership is an important cause of criminal violence. It assumes that those purchasing handguns are collectively responsible for their criminal misuse. Again this conception is patently false. 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."

According to a U.S. Department of Justice Survey, one half of the handguns purchased in the country are for sporting and recreational

purposes. One quarter are purchased by law enforcement. One quarter are purchased by those who fear criminal victimization. The net effect of the task force proposal is to tax sportsmen, law enforcement officers and those who fear becoming victims of crime for the activities of our society's criminal element.

Proponents of this proposal incorrectly presume that the Pittman-Robertson funds are only for the benefit of hunters and not the public as a whole. Again this is incorrect. While more than 17 million law-abiding citizens of this country hunt, the Department's of Interior and Commerce estimate that more than 87 million other Americans engage in additional wildlife related activities including fishing and non-consumptive activities. Over 40% of this activity is conducted on state owned land, in a large part acquired and managed through the use of Pittman-Robertson funds. A major reduction in these funds will cripple the various states' ability to manage these facilities for benefit of all citizens who participate in wildlife related recreation.

The NRA and its 2.6 million members oppose any proposal diverting the excise tax collected on the sale of handguns from the Pittman-Robertson Wildlife Restoration Fund. The proposal to strip approximately one third of the funding base of Pittman-Robertson Wildlife Restoration funds is ill-conceived and detrimental to our nation's fish and wildlife resources. The entire funding transfer proposal is based upon misconceptions. If it is the will of Congress to create a Victim's Compensation Fund, we strongly suggest that utilizing the Pittman-Robertson Fund is highly inappropriate.

We thank you for the opportunity to present our views on this matter.

"Pittman-Robertson"
Final Apportionment for Federal Aid in Wildlife Restoration
Fiscal Year 1983

	Wildlife Restoration	Hunter Safety	Total
Alabama	\$ 1,488,153	\$ 455,699	\$ 1,943,852
Alaska	4,412,000	188,200	4,600,200
Arizona	2,077,342	318,383	2,395,725
Arkansas	1,599,830	267,735	1,867,565
California	3,582,847	564,600	4,147,447
Colorado	2,289,882	338,411	2,628,293
Connecticut	441,200	364,035	805,235
Delaware	441,200	188,200	629,400
Florida	1,461,392	564,600	2,025,992
Georgia	1,795,558	564,600	2,360,158
Hawaii	441,200	188,200	629,400
Idaho	1,811,959	188,200	2,000,159
Illinois	1,615,059	564,600	2,179,659
Indiana	1,344,284	564,600	1,908,884
Iowa	1,540,424	341,287	1,881,711
Kansas	1,739,964	276,836	2,016,800
Kentucky	1,335,355	428,916	1,764,271
Louisiana	1,662,630	492,471	2,155,101
Maine	1,024,157	188,200	1,212,357
Maryland	567,844	493,933	1,061,777
Massachusetts	441,200	564,600	1,005,800
Michigan	3,629,299	564,600	4,193,899
Minnesota	2,474,028	477,615	2,951,643
Mississippi	1,394,291	295,278	1,689,569
Missouri	2,147,087	564,600	2,711,687
Montana	2,589,113	188,200	2,777,313
Nebraska	1,530,786	188,200	1,718,986
Nevada	1,671,080	188,200	1,859,280
New Hampshire	441,200	188,200	629,400
New Jersey	468,310	564,600	1,032,910
New Mexico	2,060,153	188,200	2,248,353
New York	2,600,069	564,600	3,164,669
North Carolina	1,588,375	564,600	2,152,975
North Dakota	1,226,441	188,200	1,414,641
Ohio	1,762,655	564,600	2,327,255
Oklahoma	1,757,915	354,393	2,112,308
Oregon	2,379,639	308,402	2,688,041
Pennsylvania	3,862,670	564,600	4,427,270
Rhode Island	441,200	188,200	629,400
South Carolina	975,928	365,398	1,341,326
South Dakota	1,472,442	188,200	1,660,642
Tennessee	2,017,620	537,780	2,555,400
Texas	4,412,000	564,600	4,976,600
Utah	1,775,433	188,200	1,963,633
Vermont	454,711	188,200	642,911
Virginia	1,673,046	564,600	2,237,646
Washington	1,866,245	483,825	2,350,070
West Virginia	1,135,746	188,200	1,323,946
Wisconsin	2,608,530	551,203	3,159,733
Wyoming	1,828,107	188,200	2,016,307
Guam	147,067	—	147,067
Puerto Rico	441,200	—	441,200
Virgin Islands	147,067	—	147,067
Mariana Islands	147,067	—	147,067
Total	\$88,240,000	\$18,820,000	\$107,060,000

APPROXIMATE REDUCTION OF PITTMAN-ROBERTSON FUNDS TO THE STATES WITH THE LOSS OF THE
10% EXCISE TAX ON HANDGUNS. AMOUNTS SHOWN ARE BASED ON THE FY-1983 P-R APPORTIONMENT

	Wildlife Restoration	Hunter Education	Total State Loss	% of State Total FY-83 P-R Funds
1 CALIFORNIA	\$ 610,300	\$ 451,000	\$ 1,061,300	25.6
HAWAII	75,200	150,300	225,500	35.8
IDAHO	308,600	150,300	458,900	22.9
NEVADA	284,700	150,300	435,000	23.4
OREGON	405,400	246,200	651,600	24.2
WASHINGTON	317,900	386,500	704,400	30.0
GUAM	25,000	—	25,000	17.0
AMERICAN SAMOA	—	—	—	—
MARIANA ISLANDS	25,000	—	25,000	17.0
2 ARIZONA	353,900	254,300	608,200	25.4
NEW MEXICO	351,000	150,300	501,300	22.3
OKLAHOMA	299,400	283,100	582,500	27.6
TEXAS	751,600	451,000	1,202,600	24.2
3 ILLINOIS	275,100	451,000	726,100	31.3
INDIANA	228,900	451,000	679,900	35.6
IOWA	262,500	272,600	535,100	28.4
MICHIGAN	618,300	451,000	1,069,300	25.5
MINNESOTA	421,500	381,500	803,000	27.2
MISSOURI	365,700	451,000	816,700	30.1
OHIO	300,300	451,000	751,300	32.3
WISCONSIN	444,300	440,300	884,600	28.0
4 ALABAMA	253,400	364,000	617,400	31.8
ARKANSAS	272,500	213,800	486,300	26.0
FLORIDA	248,900	451,000	699,900	34.3
GEORGIA	305,900	451,000	756,900	32.1
KENTUCKY	227,400	342,600	570,000	32.3
LOUISIANA	283,200	393,300	676,500	31.4
MISSISSIPPI	237,500	235,900	473,400	28.0
NORTH CAROLINA	270,600	451,000	721,600	33.5
SOUTH CAROLINA	166,300	291,800	458,100	34.2
TENNESSEE	343,900	429,500	773,400	30.3
PUERTO RICO	75,200	—	75,200	17.0
VIRGIN ISLANDS	25,000	—	25,000	17.0
5 CONNECTICUT	75,200	290,800	366,000	45.5
DELAWARE	75,200	150,300	225,500	35.8
MAINE	174,700	150,300	325,000	26.8
MARYLAND	96,700	394,500	491,200	46.3
MASSACHUSETTS	75,200	451,000	526,200	52.3
NEW HAMPSHIRE	75,200	150,300	225,500	35.8
NEW JERSEY	80,000	451,000	531,000	51.4
NEW YORK	443,000	451,000	894,000	28.2
PENNSYLVANIA	657,900	451,000	1,108,900	25.0
RHODE ISLAND	75,200	150,300	225,500	35.8
VERMONT	77,400	150,300	227,700	35.4
VIRGINIA	285,000	451,000	736,000	32.9
WEST VIRGINIA	193,500	150,300	343,800	26.0
6 COLORADO	390,100	270,300	660,400	25.1
KANSAS	296,400	221,100	517,500	25.7
MONTANA	441,000	150,300	591,300	21.3
NEBRASKA	260,800	150,300	411,100	23.9
NORTH DAKOTA	208,900	150,300	359,200	25.4
SOUTH DAKOTA	250,900	150,300	401,200	24.2
UTAH	302,400	150,300	452,700	23.1
WYOMING	311,500	150,300	461,800	22.9
7 ALASKA	751,600	150,300	901,900	19.6
TOTALS	\$15,032,200	\$15,032,200	\$30,064,400	

HANDGUN HUNTING BY STATE

- Alabama.....Permit required to carry but legal for hunting. Subject to wildlife management area restrictions.
- Alaska.....Pistols using centerfire cartridges legal for big game. Any handgun may be used for unclassified and small game.
- Arizona.....Any centerfire handgun may be used for big game. Other handguns may be used for small game, predators or nongame species.
- Arkansas.....No minimum caliber but ammunition restricted to same as for rifles. Barrels must be 4' or larger.
- California.....Prohibited for upland game and waterfowl. Allowed for rabbit and squirrel except in L.A. County; .357 Magnum, .41 Magnum legal for bear and wild boar.
- Connecticut.....No handgun larger than .22 caliber for raccoon. Legal for all species except deer.
- Colorado.....Permitted for rabbits, squirrel, turkey (fall) and predators; .45 caliber or larger for deer.
- Delaware.....Not legal for game species but may be used for unprotected wildlife.
- Florida.....Legal for game and nongame animals; rimfire cartridges prohibited for deer and bear.
- Georgia.....Legal for deer, bear and small game. .22 caliber rimfire only for rabbit, squirrel and raccoon. Not legal for turkey. Legal caliber for deer are those with 500 ft/lbs of energy at 100 yards.
- Hawaii.....Prohibited in public hunting areas.
- Idaho.....Legal for hunting game and nongame animals, forest grouse and turkey.
- Illinois.....Prohibited for deer but legal for small game and unprotected wildlife.
- Indiana.....Not legal for deer but may be used for small game or unprotected wildlife. Permit required for transporting in vehicle or on person when off your own property or place of business.
- Iowa.....Permitted for small game, predators and unprotected wildlife.
- Kansas.....Illegal for deer but legal for small game and unprotected wildlife.
- Kentucky.....Permitted for small game and predators. Certain handguns permitted for deer.
- Louisiana.....Nothing over .22 caliber on all wildlife management units.
- Maine.....Permitted for big and small game, predators and unprotected wildlife.
- Maryland.....Permitted for hunting small game and predators or unprotected wildlife. .44 Magnum is legal for deer only in counties that allow rifle hunting. Must generate over 1,200 foot-pounds of muzzle energy.
- Massachusetts.....Illegal for big game hunting. Larger than .38 caliber prohibited on all species at night. Otherwise permissible on small game or unprotected species. Permit required for transport in vehicle.

- Michigan.....May be used for small game and deer except prohibited during deer season in south Michigan.
- Minnesota.....Not legal for protected animals including finishing shots, but may be used on predators or unprotected wildlife.
- Mississippi.....Legal for big and small game, predators and unprotected species.
- Missouri.....Deer may be taken using centerfire cartridge which fires an expanding type bullet weighing not less than 125 grains and develops no less than 350 foot pounds of energy at 50 yards. All pistols legal for upland game animals but not birds.
- Montana.....No caliber limitations.
- Nebraska.....Legal calibers for deer only are 144 Magnum, .41 Magnum, 357 Magnum and .44 Special, with Keith Magnum handload and .45 Colt with Keith Magnum handload.
- Nevada.....Legal for big game with 4 inches or more barrel length. May be used with .357 Magnum, .41 Magnum, 144 Magnum or .45 Magnum, and centerfire cartridge of .22 caliber or larger with overall load length of 2 inches or more.
- New Hampshire.....Permitted where rifle hunting is allowed.
- New Jersey.....Not allowed.
- New Mexico.....Centerfire using ammunition with a case length of 1.98 inches or larger.
- New York.....Centerfire used for deer and bear where rifles are permitted and in some areas restricted to shotgun. Certain areas require handguns no less than .35 caliber and no less than 4 inches barrel.
- North Carolina.....Centerfire handguns for deer and bear where rifles are permitted.
- North Dakota.....May be used for predators or unprotected wildlife, and for big game.
- Ohio.....Permitted for hunting small game, predators or unprotected wildlife with further restrictions on some wildlife management areas.
- Oklahoma.....Centerfire handguns chambered for a .24 caliber or larger, 100 grain or heavier, softnose bullet having overall cartridge length of 1 1/4 inches or larger. Minimum barrel length of 4 inches.
- Oregon.....Unlawful for some big game and game birds but is permitted for hunting predators, unprotected wildlife and deer, bear or cougar with appropriate tags.
- Pennsylvania.....Air pistols and automatic, semi-automatic loading pistols unlawful for wild birds or animals. Manually-operated revolvers legal for game.
- Rhode Island.....Not technically illegal but outlawed for practical purposes by restrictive handgun carrying policy.
- South Carolina.....Permitted for hunting big game, small game, predators and unprotected wildlife on game management areas only.
- South Dakota.....For big game must have expanding bullets with energy of 1,000 foot/pounds.

- Tennessee.....For big game. Revolvers or pistols chambered for and using the following calibers are .357, .41, .44 Magnum, .30 and .357 Herret and must have barrels of 4 inches or more. For small game (except migratory birds) handguns must use .22 caliber, rimfire ammunition. Rifles and handguns using centerfire ammo prohibited for small game on wildlife management areas, but legal for groundhogs and crows except during deer season. Juveniles under 18 may not hunt with handguns.
- Texas.....Legal, but all rimfire and .22 jetgun and rocket gun prohibited for deer, antelope, elk and aoudad sheep.
- Utah.....Legal for deer only. Illegal to use handgun with less than 500 foot/pounds of energy at muzzle and has a barrel less than 4 inches long.
- Vermont.....Permitted where rifle hunting is allowed.
- Virginia.....May be used for predatory or some nongame mammals and birds if .23 caliber or larger with 300 foot/pounds of energy. Handguns may be used for non-migratory game animals and birds except furbearers.
- Washington.....Prohibited for elk, deer, mountain sheep, mountain goat, bear and game birds except forest grouse.
- W. Virginia.....Any .22 caliber handgun, rimfire or centerfire, can be used legally for hunting small game if barrel is at least 4 inches long. To legally carry a handgun, a Class 1-A license (\$5.00) is required in addition to regular hunting license.
- Wisconsin......22 rimfire handguns only may be used for the same purposes as the .22 rimfire rifle.
- Wyoming.....Legal handgun calibers for trophy game are .41 Remington Magnum, 144 Remington Magnum, 144 Auto Magnum, 145 Winchester Magnum, and .454 Casull.

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