Congress Responds Quickly to Victims of September 11 Terrorist Attacks

On September 11, 2001, the nation suffered horrific acts of terrorism as hijacked aircraft were crashed into the World Trade Center, the Pentagon, and a field in rural Pennsylvania. As the country began to absorb the enormity of its loss, Congress began work immediately to respond to the thousands of victims of these crimes.

On Friday, September 14, Congress overwhelmingly approved an emergency spending bill to provide $40 billion in emergency funding to respond to the terrorist attacks. The legislation, H.R.2888, sponsored by Representative C.W. Bill Young (R-FL) provides

New Federal Compensation Program for Victims of the September 11 Terrorist Attacks

As part of the Airline Transportation Safety and System Stabilization Act (Public Law No. 107-42), Congress created a new compensation program for those victims of the September 11 attacks who agree not to file a civil suit for damages sustained in those attacks. The program is restricted to those physically injured or killed in the attacks or the immediate aftermath, including the personal representatives of the estates of those killed. While details are still being worked out, it appears the program will be run through the Civil Division of the United States Department of Justice. The United States Attorney General will appoint a Special Master to hear and determine claims.

Benefits payable
There are no compensation limits contained in legislation, although punitive damages will not be allowed. The compensatory damages payable under this program will go far beyond what it allowed under existing crime victim compensation programs, and are intended to be...
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$10 billion to President Bush immediately. Another $10 billion is to be made available 15 days after the Office for Management and Budget submits a detailed plan for the use of those funds. The remaining $20 billion may be obligated only as part of an additional emergency appropriations bill. No less than half of the money is designated for disaster recovery and assistance.

That same day, Congress passed a law to expedite payment of public safety officer benefits for those killed or injured in the line of duty in connection with the rescue or recovery efforts relating to the terrorist attacks. Introduced by Representative Jerrold Nadler (D-NY), H.R.2882 requires the Director of the Bureau of Justice Assistance to authorize payment of such benefits within 30 days of receiving certification from the officer’s employing agency. The lump sum benefit under this program is $175,000, in the case of death.

The Air Transportation System Stabilization Act, sponsored by Representative Don Young (R-AK), was signed by the President on September 22, 2001. Among other provisions, the Act created a government-sponsored fund for victims who were injured, and the estates of those killed, who choose not to sue the airlines. Victims will have two years to file a claim before a Special Master for their economic and noneconomic losses, including pain and suffering. Punitive damages may not be awarded. The amount of compensation paid to a victim or survivor must be reduced by the amount of collateral source compensation that person is entitled to, including life insurance, pension funds, and other government payments. In the alternative, it also creates a Federal cause of action for damages for victims who choose to sue the airlines for the terrorist crashes of September 11, 2001. All cases must be brought in the United States District Court for the Southern District of New York, and all damages arising out of such claims are limited to the airline’s insurance coverage (For more details, see “New Federal Compensation Program for Victims of the September 11 Terrorist Attacks.”)

Several resolutions were also adopted in the wake of the terrorist acts. On September 12, 2001, the House passed a resolution to permit the use of the rotunda of the Capitol for a prayer vigil in memory of the September 11 victims. H.Con.Res. 223 was sponsored by Representative Robert Ney (R-OH). A concurrent resolution to condemn bigotry and violence against Arab-Americans, American Muslims and Americans from South Asia, sponsored by Representative David Bonior (D-MI), was passed by the House on September 15 and the Senate on September 26 (H.Con.Res.227).

The House of Representatives also voted in favor of a resolution authorizing funds for Capitol-flown flags to be given to each surviving victim and the family of each victim killed in the September 11 terrorist attacks. H.Res. 239, sponsored by Representative Robert Ney (R-OH), was adopted on September 15. The Clerk of the House of Representatives is charged with issuing regulations to implement the resolution.

Other Legislation
As we go to print with this edition of the Pipeline, numerous other bills and resolutions pertaining to the victims of the September 11 terrorist attacks are pending, including:

Benefits
The Victims of Terrorism Relief Act of 2001 passed the House on September 13. Sponsored by Representative William Thomas (R-CA), H.R.2884 would extend the same income and estate tax relief currently provided to members of the armed services killed while serving in a combat zone to all victims who die as a result of wounds or injuries sustained in the recent terrorist acts. If adopted, such victims would be exempt from income taxes for the taxable year of death and the prior taxable year. It would also provide a reduction in Federal estate taxes for those victims. Congress also expressed its understanding that existing provisions in the law would authorize an extension of time limits for filing and paying taxes for those persons affected by the terrorist acts, and that the IRS would exempt from taxation certain disaster payments made by government agencies in response to the terrorist acts. The bill was sent to the Senate and is expected to be considered quickly. Similar measures were introduced by Senator Jim Bunning (R-KY) (S.1423), Senator George Allen (R-VA) (S.1433), and Senator Larry Craig (R-ID) (S.1440).

A bill to provide for the expedited payment of certain benefits for public safety officers who were killed or suffered a catastrophic injury as a direct and proximate result of a personal injury sustained in the line of duty in connection with the terrorist attacks, S. 1422, was introduced by Senator Hillary Rodham Clinton (D-NY).

The Displaced Workers Relief Act of 2001, H.R.2946, introduced by Representative Alcee Hastings (D-FL), and the Displaced Workers Assistance Act of 2001, H.R.2955, introduced by Representative Richard Gephardt (D-MO), would provide assistance to airline industry employees who lose their employment as a result of the terrorist attacks.

H.R. 2961 would authorize the Administrator of the Small Business Administration to make loans under section 7(b)(2) of the Small Business Act to small business and certain other business concerns that suffered substantial economic injury as a result of the terrorist attacks. Representative John LaFalce (D-NY) sponsored the measure.

A concurrent resolution to express the sense of Congress that children who lost a parent or guardian in the terrorist attacks of September 11 should be provided all necessary assistance, services, and benefits and urge Federal agencies to give priority to providing for those children was introduced by Representative Sheila Jackson-Lee (D-TX). (H.Con.Res. 228).

Recognition
Several measures were introduced to recognize the passengers and crew of United Airlines Flight 93. Senator Arlen Specter (R-PA) introduced S.1434 to authorize the President to award posthumously the Congressional Gold Medal to those passengers and crew, and Representatives Cliff Stearns (R-FL) and Tom Tancredo (R-CO) introduced similar bills in the House, (H.R.2916 and H.R.2917). Representative Marge Roukema (R-NJ) also introduced a bill, H.R.2821, to award a Congressional Gold Medal to one of the passengers, Jeremy Glick. A concurrent resolution honoring the
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passengers and crew of hijacked United Airlines Flight 93 was introduced by Representative Ernest Fletcher (R-KY). (H.Con.Res.232)

In the Senate, a concurrent resolution to express the sense of Congress that the Public Safety Officer Medal of Valor should be awarded to public safety officers killed in the line of duty in the aftermath of the September 11 terrorist attacks, and urging that the limit on the number of such Medals of Valor be waived, was introduced by Senator Ted Stevens (R-AK). (S.Con.Res.66)

Concurrent resolutions expressing the profound sorrow of Congress for the deaths and injuries suffered by the first responders as they endeavored to save innocent people in the aftermath of the terrorist attacks were introduced by Senator Don Nickles (R-OK), and Representative J.C. Watts (R-OK). (S.Con.Res.73 and H.Con.Res.233)

Concurrent resolutions calling for a National Day of Remembrance to remember those who lost their lives as a result of the terrorist attacks, and to honor the United States people who displayed heroism and courage during and after such attacks were introduced by Representatives Albert Wynn (D-MD) and William Clay (D-MO). (H.Con.Res.230 and H.Con.Res.235)

A resolution to honor New York Mayor Rudolph Giuliani, the emergency responders and law enforcement officers, and the residents of New York City for their valiant efforts in responding to the terrorist attack, was introduced by Representative Carolyn Maloney (D-NY). (H.Res.243)

Funding An amendment was added to the Senate Treasury Appropriations bill on September 19 to allow the sale of unity bonds to raise funds to assist in the recovery and relief efforts following the terrorist acts. That amendment, S.Amdt.1574 to H.R.2590, was introduced by Senator Tim Johnson (D-SD).

A provision to authorize issuance of a special commemorative postage stamp in order to provide financial assistance to the families of emergency relief personnel killed or permanently disabled in the line of duty in response to the September 11 terrorist attacks was also added to the Senate Treasury Appropriations bill on September 19. Senator Hillary Rodham Clinton (D-NY) sponsored the amendment, S.Amdt.1583 to H.R.2590.

A House bill would allow taxpayers to designate a portion of their tax refunds, and to make other contributions, for the benefit of victims of the September 11 attacks, and for counter-terrorism efforts. Representative Joel Hefley (R-CO) introduced H.R.2938.

Many members of Congress expressed the belief that these are only the first steps in responding to victims of these terrorist attacks and the nation. The National Center for Victims of Crime applauds the swift, bi-partisan response by Congress, which once again demonstrated that support for our nation’s victims of crime unites us all.

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comparable to the damages that could be recovered in a civil suit. The following damages are payable:

Economic losses, defined to include "any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for such loss is allowed under the applicable State law" and

Noneconomic losses, defined to mean "losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service) hedonic damages, injury to reputation, and all other noneconomic losses of any kind or nature." Noneconomic losses are not restricted by applicable State law.

Unlike awards from civil lawsuits, damage awards under this program must be reduced by the amount of collateral source compensation the claimant has received or is entitled to. "Collateral source" is defined to include life insurance, pension funds, death benefit programs, and payments by any Federal, State, or local governmental entity.

Timing All claims must be filed within two years after the date the implementing regulations are complete. The Special Master must review, make a determination, and notify claimants in writing of the determination within 120 days after the claim is submitted. Awards must be paid within 20 days after the date the Special Master determines the amount of compensation due the claimant.

Procedures Claimants will be able to submit claims electronically. Claimants may be represented by an attorney and may present witnesses or documentary evidence. The claims must include a description of the physical harm suffered or information confirming a person’s death, information detailing economic and noneconomic losses, and information about other sources of compensation the victim has received or is entitled to receive. Final regulations for this program must be written by December 21, 2001, and will include claim forms, procedures for hearings, and procedures to assist claimants.

Meanwhile, the development of regulations to implement the International Terrorism Victim Compensation Program, passed as part of the Victims of Trafficking and Violence Protection Act of 2000 (Public Law No. 106-386), has been put on hold. That compensation program was not specifically defined to include noneconomic losses, and the limits on compensation for economic losses are still unclear.

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The States’ Response to Terror Victims

In the aftermath of the terrorist attacks of September 11, the Governors of New York, New Jersey, Massachusetts, Connecticut, and California issued a series of Executive Orders to respond to the wide array of challenges facing victims and survivors. State legislatures, some out of session, convened to approve legislation providing support for victims. Businesses and state agencies also have established policies to expedite payments, services, and other assistance to help disaster victims. The concerns of victims and their families range from immediate needs, such as accessing cash and other assets of a deceased or missing loved one, to long-term issues, including how to pay for a child’s college education. This response by state lawmakers will help prevent additional hardships facing victims by removing procedural obstacles and filling the gaps in services.

Compensation Changes

Within days of the attack, New York Governor George Pataki issued an Executive Order lifting the cap on the size of emergency financial awards that can be made from the state’s Crime Victims Assistance Fund to World Trade Center attack victims. These funds are available for immediate expenses resulting from the crime. The Order also suspended for victims of the attack the limit on the amount that can be provided for burial expenses. Counseling costs, usually restricted to direct victims and their families, are now to be available to witnesses and others involved in the tragedy such as firefighters, police officers, and rescue workers. Lastly, the governor directed the New York State Crime Victims Board to review and pay claims in an expeditious manner.

California Governor Gray Davis signed legislation September 25 that amends the state compensation guidelines to provide assistance to family members of victims. The new law allows the state compensation board to make payments to grandparents, grandchildren, in-laws, and other California resident family members, to be determined by the board, who have suffered a pecuniary loss as a direct result of the attacks, regardless of the direct victim residency. In addition, county boards of supervisors may be reimbursed for group mental health counseling for trauma victims in their communities. Members of California’s search and rescue teams dispatched to New York can be compensated for mental health counseling, not exceeding $10,000, under the new law.

In recognizing the increase in hate and bias crimes against Arab-Americans since the terrorist attacks, Governor Davis also announced that hate crime victims may now receive compensation for medical/dental expenses, wage or income loss, mental health counseling, and home security installation.

Tuition Assistance

Several states are creating programs to ensure that children and other family members of those injured or killed in the attacks. The “World Trade Center Memorial Scholarship” program, created by a bill introduced by Governor Pataki, would pay tuition for children and spouses of victims — including those who live out of state or residents of other countries — to attend any State University or City University of New York. The proposal would also extend the current scholarship program available to families of police officers and firefighters to the families of Emergency Medical Services personnel who are killed on the job. In addition, the tuition benefit would be made available to families of workers who are seriously or permanently disabled in the recovery efforts. Massachusetts Acting Governor Jane Swift announced a program similar to New York’s. Under her proposal, spouses and children of those who died in the attacks will be given fee waivers for any of the state’s universities and colleges. Connecticut Governor John G. Rowland and New Jersey Acting Governor Donald DiFrancesco have proposed similar initiatives.

Insurance, Banking, Financial, and Estate Matters

New York Governor George Pataki announced several measures to assist families of victims of the World Trade Center attack with financial issues and estate-related matters. One Executive Order allows families to gain access to needed cash and other assets in a victim’s bank account by submitting an affidavit to the bank. The Governor announced that New York State’s life insurance companies will now accept affidavits in place of death certificates and the Worker’s Compensation Board will award benefits to dependents of “missing” victims, relieving the families of having to prove their family member is deceased to receive payments. Under the Executive Order, filing fees and public notice requirements related to estate matters are waived for families of those who are missing or deceased as a result of the attack. The Executive Order also allows families to file estate disbursement proceedings in any county they choose, as opposed to the county where the deceased lived, as previously required. Finally, the Governor and the Mayor of New York extended certain tax deadlines for individuals and businesses.

In a large anti-terrorism bill, New Jersey Acting Governor Donald DiFrancesco is proposing measures to cut property taxes for victims’ families and to help families of those who are still missing obtain death certificates.

Unemployment Assistance and Aid for Displaced Workers

The states also have been quick to respond to businesses and individuals affected by the terrorist attack. By Executive Order, Governor Pataki suspended the normal one week waiting period for those filing unemployment insurance claims as a result of the attack and announced that New York City residents may apply for Disaster Unemployment Assistance. Virginia Governor Jim Gilmore also announced that self-employed workers, not usually eligible for unemployment benefits, could apply for Disaster Unemployment Assistance and lifted the waiting period for workers affected by the Pentagon attack. California Governor Gray Davis followed suit and directed the Employment Development Department to waive the waiting period specifically for airline employees who are affected by layoffs due to the reduced air travel after the attacks. In the months and years to come, victims of these horrific crimes will be coping with many hardships. Their emotional trauma, sense of grief, loss, and physical injuries might fade from the public eye, but their reality will remain. These actions taken by our nation’s governors, complimented by the support and resources of the federal government, ensure that victims will be able to have hope for their future and faith that they will be granted the tools needed to rebuild their lives.
Federal Response to Victims of Trafficking Takes Shape

A new federal regulation to implement the Trafficking Victims Protection Act of 2000 (P.L. 106-386) provides a remarkable demonstration of multiple governmental agencies reviewing their interactions with a class of crime victims, and creating a more humane response that not only minimizes the additional trauma suffered by those victims, but can also improve the ability of law enforcement to fight crime.

On July 20, 2001, Attorney General John Ashcroft announced that the Department of Justice and the Department of State were issuing a regulation that instructs federal, law enforcement personnel, immigration officials, and State Department officials to provide victims of trafficking with legal protections and other assistance as their cases are investigated and prosecuted. Federal officials are to identify victims of severe trafficking in persons, including those transported for forced prostitution and forced labor. Victims will be informed of their rights, provided information about pro bono and low-cost legal services, and given access to translators. Victims of such severe forms of trafficking who are in custody will be protected. Victims will also be provided access to medical assistance, domestic violence and rape crisis centers, and other victim service organizations will be provided. In addition, officials may allow victims who cooperate with prosecutors to remain in the U.S. The CIA estimates that 50,000 people are trafficked into the United States each year, many for purposes of forced prostitution.

The new regulation implements not only the Trafficking Victims Protection Act, but also the basic right of crime victims at the federal level to be treated with fairness and respect. (42 U.S.C. § 10606). In addition to reducing the trauma sustained by victims of trafficking, federal officials expect that providing support, protection, and translation services to those victims will make them better able to cooperate in the investigation and prosecution of traffickers. The ability of officials to waive deportation of those victims also removes a major obstacle to cooperation by persons often in the United States illegally.

"Human trafficking victims are often too young, too frightened, too trapped in their circumstances to speak for themselves," noted Attorney General Ashcroft. "By setting high standards of conduct for federal officials in meeting the needs of these victims, we hope to be the victims’ voice, to lessen the suffering, to prosecute those who commit these crimes to the fullest extent of the law.


Federal Legislation

<table>
<thead>
<tr>
<th>BILL DESCRIPTION</th>
<th>STATUS</th>
<th>SPONSOR, DATE INTRODUCED</th>
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<tr>
<td>Amy Robinson Memorial Act</td>
<td>Referred to House Education and the Workforce Committee.</td>
<td>Rep. Martin Frost (D-TX) 5/16/01</td>
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<td>Child Protection/ Alcohol and Drug Partnership Act</td>
<td>Referred to the following committees: House Ways and Means Committee, Senate Finance Committee</td>
<td>Rep. Charles Rangel (D-NY) 5/17/01 Sen. Olympia Snowe (R-ME) 5/7/01</td>
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<td>Domestic Violence Shelter Coordination Act</td>
<td>Referred to House Judiciary Committee.</td>
<td>Rep. Robert Andrews (D-NJ) 8/1/01</td>
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<tr>
<td>DNA Database Completion Act</td>
<td>Referred to House Judiciary Committee.</td>
<td>Rep. Robert Andrews (D-NJ) 7/13/01</td>
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<tr>
<td>Gun Show Background Check Act</td>
<td>Referred to Senate Judiciary Committee.</td>
<td>Sen. Jack Reed (D-RJ) 4/24/01</td>
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<tr>
<td>Judicial Improvement and Integrity Act</td>
<td>Referred to Senate Judiciary Committee.</td>
<td>Sen. Patrick Leahy (D-VT) 8/2/01</td>
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New Legislation of the 107th Congress

Established in 1994 by the Violence Against Women Act, the National Center for Victims of Crime (NCVC) promotes the healing of domestic abuse survivors and the prevention of domestic and gender-based violence. The NCVC provides technical, training, and informational support to the victim service fields and conducts the annual national survey on crime victims’ use of justice system services. The NCVC works to protect the rights of crime victims, ensure the delivery of comprehensive victim services, and encourage the development of effective and comprehensive policies and programs to serve victims. The NCVC also conducts research and disseminates information about crime victims and their needs. The NCVC’s Public Policy Program focuses on the development of federal, state, and local policies that are fair to all crime victims. The NCVC provides legislative expertise and responds to federal, state, and local policymakers to ensure that victims’ rights and services are protected and expanded. The NCVC produces and disseminates extensive information on legislation, legislative updates, and federal budgets. The NCVC also develops and participates in national coalitions and collaborates with federal, state, and local victim advocates. The NCVC’s annual national report on crime victims’ use of justice system services, the Criminal Justice Statistics, provides comprehensive data on the use of the nation’s justice system by crime victims. The NCVC also develops the best practices manual, the National Center for Victims of Crime’s Guide to Practitioner Standards, a comprehensive resource for the victim service community. The NCVC is a 501(c)(3) nonprofit organization with its headquarters in Washington, D.C.

United States Attorney General John Ashcroft signs regulation implementing the Trafficking Victims Protection Act of 2000. Joining him is Representative Christopher Smith (R-NJ), chief sponsor of the bill.
### Bill: Juvenile Crime Control and Delinquency Prevention Act

**H.R. 1900**

Amends the Juvenile Justice and Delinquency Prevention Act of 1974 to allow block grants to be used for programs that treat juveniles with mental health problems and those who have experienced violence; Allows funds to be used for establishing and maintaining school violence hotlines.

**Passed House 9/20/01.**

Rep. James Greenwood (R-PA)

### Bill: Juvenile Crime Prevention and Control Act

**S.1165**

Reauthorizes, as part of a large juvenile crime bill, the Juvenile Justice and Delinquency Prevention Act, Community Prevention Grant Program, Juvenile Justice Accountability Block Grant Program, and the Violent Crime Reduction Trust Fund. Incorporates the Gun Show Background Check Act, S.767.

**Referred to Senate Judiciary Committee.**

Sen. Joseph Biden (D-DE)

### Bill: Local Law Enforcement Enhancement Act

**S.625**

Enables the federal government to assist state and local law enforcement in investigating and prosecuting hate crimes; authorizes grants to states to offset the expenses associated with the investigation and prosecution of hate crimes; creates funding to support state and local programs designed to combat and prevent hate crimes committed by juveniles; and creates a federal offense for crimes based on actual or perceived race, religion, color, national origin, gender, sexual orientation, and disability.

**Passed Senate Judiciary Committee 7/26/01.**

Sen. Edward Kennedy (D-MA)

### Bill: Personal Pictures Protection Act

**H.R.1655**

Prohibits anyone from posting sexually explicit photographs of another person on the Internet without that person's permission and with the intent to embarrass or cause emotional distress to that person.

**Referred to House Judiciary Committee.**

Rep. Mark Green (R-WI)

### Bill: SAFE Grant Act

**S.1391**

Establishes grants for proposed or existing Sexual Assault Forensic Examiner (SAFE) programs. Authorizes $10 million for each fiscal year 2002-2006.

**Referred to Senate Judiciary Committee.**

Sen. Charles Schumer (D-NY)

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### Action on the Violence Against Women Office Act

Language creating a permanent Violence Against Women Office within the Department of Justice (DOJ) was added to the 21st Century Department of Justice Appropriations Authorization Act, H.R.2215, by Representative Tammy Baldwin (D-WI). The VAWO Act, H.R.28, was originally introduced as a free-standing bill by Representative Louise Slaughter (D-NY). Two similar bills have been introduced in the Senate by Senator Joe Biden (D-DE), S.570, and Senator Paul Wellstone (D-MN), S.161. The DOJ Authorization bill passed the House of Representatives on July 23, 2001 and now goes to the Senate Judiciary Committee for consideration.
When crime victim advocates talk about the pressing need for more funding, one of the projects at the top of their wish list is a crime victims’ needs assessment. The State of Rhode Island recently completed a thorough victims’ rights needs assessment, making surprising discoveries about the implementation of crime victims’ rights, and clearly charting a direction for the future. Rhode Island’s experience demonstrates the value of such a project to those working to ensure rights for victims of crime and strengthening the criminal justice system.

The needs assessment consisted of three parts: a survey designed to document the extent of victims’ involvement and level of satisfaction with services offered through the criminal justice system; an analysis of victims’ legal rights and the agencies responsible for implementing those rights; and an assessment of the agencies’ effectiveness from the point of view of a crime victim entitled to those rights and services.

How it was funded
The Rhode Island Needs Assessment was completed for approximately $75,000, supported through formula grants under both the Victims of Crime Act (VOCA) Victim Assistance and Edward J. Byrne Memorial grant programs. The VOCA Victim Assistance Grant Guidelines specifically authorize the expenditure of grant administrative funds on state or regional surveys and needs assessments.1 The legislated program purposes of Byrne Fund formula grants include “Programs to provide assistance … (other than compensation) to victims of crime” and “Programs to improve the criminal and juvenile justice system’s response to domestic and family violence, including spouse abuse, child abuse, and elder abuse.”

What the assessment discovered
Many of the findings of the assessment concerned crime victim notification. For example:

■ The majority of crime victims were not being notified of pre-arrest rights, with the exception of domestic violence victims who were routinely notified of their rights;
■ With the exception of domestic violence victims, most victims of misdemeanors were not notified of hearings after arraignment or of court dispositions, or of their rights to participate or to request restitution;
■ Felony crime victims generally received notice of court proceedings, but fewer than half were satisfied with the notices of postponed proceedings;
■ Domestic violence victims received better advocacy and services in District Court, where misdemeanor offenses and some preliminary proceedings are held, than in Superior Court, where the most serious cases are heard;
■ Most victims did receive notification of parole hearings and releases, but few received notice of a final, non-parole release.

The assessment also found that every agency within the criminal justice system had to construct a separate victim file, with each file relying on the contact information as initially provided to the police, thereby becoming increasingly outdated. In one county surveyed, 30% of the original victim notification letters were returned as undeliverable because victims had moved from the address listed in the police report.

Other findings
With the exception of domestic violence victims, the criminal justice system had not taken significant steps to accommodate or encourage victims to participate;
■ Special services were regularly provided to child victims of abuse, and to victims of domestic and sexual abuse;
■ Little redress was available for violations of victims’ rights;
■ Almost 40% of felony crime victims were not satisfied with explanations regarding court processes, case outcome, and available services; and
■ Victims’ financial losses from crimes were routinely ignored by the criminal justice system, with the majority of felony victims not receiving an order of restitution from a convicted offender, and few victims informed of the right to crime victim compensation.

The assessment also found that at many points in the system, multiple agencies had a responsibility to provide rights to a victim, while at other points, no identified agency was charged with implementing a certain right. The assessment revealed some conflicts in the law that prevented the implementation of a victims’ right. For example, although the law provided victims a right to be protected from harm, bail statutes limited the ability of judges to consider the dangerousness of most defendants when ruling on pretrial release.

Rhode Island’s Next Step
The needs assessment brought to light a variety of structural weaknesses in Rhode Island that operate to deny victims their rights. The assessment report also included a number of concrete recommendations to improve procedures to facilitate victims’ rights. For example, to improve crime victim notification, the report recommended the police incident report be changed to include a third party who can be contacted in an attempt to locate the victim. It also recommended that a separate agency be established for purposes of accurate and timely victim notifications as provided by law.

The report expresses the hope that the findings will prompt an effort to address those weaknesses, resulting in “a quantum leap forward in providing each and every crime victim his or her rights and services guaranteed by the state Constitution and statute.”13 As a first step to follow up, the state is organizing a committee of involved criminal justice and victim service department heads to take steps to implement changes recommended by the report.

Other needs assessments
While Rhode Island’s needs assessment was on a statewide scale, other states have conducted local assessments. The Illinois Criminal Justice Information Authority is completing work on an Evaluation of the Cook County Victim-Witness Assistance Program Project, which will examine whether victims are being notified of their rights and whether the program is providing services guaranteed under the Illinois Victims Bill of Rights. That report is also expected to produce information that can be used to re-examine policies and procedures to improve the consistency of crime victim services.

Denver recently completed its own victim services needs assessment as part of its federal Victim Services 2000 grant project through the Office for Victims of Crime. This assessment focused on general service trends, using an agency survey, client satisfaction survey, and victim focus groups. Rather than illuminating the gaps and strengths in the provision of victims’ rights, the assessment looked at the provision of services, impediments to appropriate referrals, and a continuing inability to adequately reach minority victims. Similar needs assessments are also expected from the other sites of the Victim Services 2000 project, including the State of Vermont and Medina County, Ohio. Pennsylvania is also undertaking an assessment of the “Use, Non-Use, and Efficacy of State Victim Services Programs.” That project is expected to be completed in 2002.

Future efforts
Releasing more money from the Victims of Crime Act Fund (VOCA) Fund, capped by Congress for the previous two years and slated to be capped again this year, and increasing the percentage of funds that can be used for administrative purposes would make it possible for other states to undertake victim needs assessments.

A well-constructed needs assessment can help a state discover what its doing well, as well as what the impediments are, to help it steer a course to make victims’ rights and services a reality.

For more information about the Rhode Island needs assessment, contact Joseph L. Persia, Rhode Island VOCA Administrator at or via e-mail at JoeP@dg.doa.state.ri.us. For a copy of the OVC Bulletin, “Denver Victim Services 2000 Needs Assessment,” contact the OVC Resource Center at 800-627-6872 or view the report online at www.ojp.usdoj.gov/ovc/publications/bulletins/dv_10_2000_12_.

2 42 U.S.C. 3751 (2001)
State Victims’ Rights Amendments: Organizing Support

Victim Policy Pipeline presents the second installment in a three-part series of interviews on state crime victims’ rights constitution—al amendments with Steve Siegel, director of program development at the Denver District Attorney’s Office and president of the Colorado Organization for Victims Assistance, and Ed Stout, executive director, Aid for Victims of Crime, Inc., and president of the Missouri Victim Assistance Network (MoV A). Both Steve and Ed were heavily involved in efforts to secure crime victims’ rights amendments in their states, which were both adopted by the voters in 1992.

In the last issue, we examined their experiences in drafting the language of their amendments. Here, we discuss their methods of garnering grassroots support for their victims’ rights amendments. The next issue of Victim Policy Pipeline will conclude this series with a look at the important work that followed the adoption of the Colorado and Missouri amendments.

**PIPELINE:** How would you describe the importance of grassroots organizing when working for a victims rights amendment?

**STOUT:** Absolutely essential. Grassroots organization was the force behind our success. It brought to life the word “constituents.” Our grassroots supporters wrote letters to the editor and held their own press conferences and rallies. They kept the issue in the public eye, so that when it finally got on the ballot, the general public was informed . . . without mounting any kind of funded public awareness campaign.

**SIEGEL:** I agree. People need to start working on a grassroots organizing strategy the minute they begin thinking about passing a constitutional amendment.

**PIPELINE:** What type of plan did you have for organizing your state?

**SIEGEL:** In Colorado, Bob Preston was the chairperson for the effort from the non-profit community. I was the chairperson from the criminal justice community. We also had a former state legislator, who served as our staff person. Then we had a collection of active supporters as a sort of kitchen cabinet, or brain trust, for our effort. We identified a criminal justice professional and a non-profit community professional in every one of our 22 judicial districts who were the point people for strategy, public awareness, etc. We also created an enormous resource manual to help train people about the amendment.

**PIPELINE:** Do you credit this type of organization with your success in getting a victims rights amendment?

**STOUT:** It was absolutely essential. We were confident that once we got the amendment on the ballot, it would pass. But to get it through the political process, we needed public awareness to turn out large numbers of informed supporters for the hearings. In Missouri, hearings are announced anywhere from 20 to 36 hours in advance. We had to have people who were such strong supporters of the amendment that when they found out about a hearing at 10 o’clock at night, they’d hop in their cars the next morning and drive the three to five hours to get there. This was very important to our success. We would have 150 to 200 supporters come to a hearing. Legislators would walk in and do double takes, because they simply were not used to seeing so many people at their hearings. That kind of ability to turn out a group over night was a big part of our success in moving the amendment through the legislature.

**SIEGEL:** Well, we were lucky to have had more advance warning of hearings, but our statewide organization also helped us mobilize supporters to attend.

**PIPELINE:** Was it difficult to get the support of your legislature?

**SIEGEL:** In Colorado, we had significant support from the leadership in both houses. In the end, the vote in our legislature was unanimous minus one. Our support was from legislators on both sides of the aisle.

**STOUT:** We, too, had great support from the speaker of the house and the president of the senate. And I encourage other groups to look at the politics of their state. This is not a liberal or conservative issue and it’s not a Republican or Democrat issue, but you’ve got to be able to ride the political waves of your state. And in our case, the Democrats controlled both the house and senate, while the Republicans held most other statewide offices. The Democrats decided they wanted to make the victims rights constitutional amendment a campaign banner, to be able to say “the Democrats did this.” We had support from Republican legislators as well, but my point is that a victims rights amendment is an issue that can be championed by either party.

**PIPELINE:** Did either of you identify target groups out in the community to go after other than interested people like criminal justice officials and victims groups? Did you target women voter groups?

**SIEGEL:** Our field people focused on Kiwanis Clubs, book clubs, schools and city councils — any place they could get on the agenda.

This "how-to" book had everything the advocates could need, from the history and the rationale for the amendment, to how to work with the media.

**STOUT:** In Missouri, I co-chaired the amendment task force with Mike Inso, an elected prosecutor. He knew the political process and was in charge of moving the amendment through the legislature. I was the community organizer. We divided the state into sections and had leaders who we trained in everything from understanding the amendment, the point-counter point, how to write a press release, how to mobilize volunteers, how to circulate petitions, etc. We also developed a big training manual, and I know we got some of the materials from Colorado.
I would say that we didn’t target any particular groups but we just felt the more we got the word out the more successful we were going to be. As with any crime victims’ group, funding is low. What we have is people power, and we spent our energies educating as many groups as we could. We spoke to any group with stationery on which they could write letters of support. We had letters from across many sectors — a local traffic safety program, Boy Scouts, crime prevention council, a retirement club, the Wam-Bam Square Dance Club, National Council of Jewish Women, several individual prosecutors, a hospital, the YWCA. I distinctly remember getting a petition from a bowling team that circulated the petition during bowling games; another came in from a women’s sewing circle. All these communications of support were copied and circulated throughout the legislature.

**PIPELINE:** Did either of you have strong support of the criminal justice system?

**SIEGEL:** Early on, we had organized prosecutor support for the amendment: we had signatures on a statement in support of the amendment by the 22 elected prosecutors. Overall, we had excellent support from our criminal justice system, and that was really helpful.

**STOUT:** We tried early to secure the support of our prosecutors’ association, but they did not respond. Later, toward the end of the process, when they realized the amendment was going to pass and after extensive negotiations with them about the wording of the amendment, they became supportive. I should note we did have several individual prosecutors who were supportive and they allowed our victim/witness staff to help in our efforts. We did not make a deliberate attempt to round up support from criminal justice groups. We felt going to the general public would be far more productive, and it was.

**PIPELINE:** In Colorado you mentioned you had a paid staff person for the amendment effort. So you must have done some fundraising.

**SIEGEL:** That’s correct. We did enough fundraising to have one staff position. We had both a 501(c)(3) and a (c)(4), so we could raise money both for education and for our political efforts. Because of our support from the criminal justice system, we did have many individuals from criminal justice agencies essentially “on-loan” to the amendment effort. That kind of thing really kept us from having to raise a lot of money. Most of our dollars were used to produce materials for education purposes.

**STOUT:** We did no fundraising. Most of the work was done through volunteers throughout the state. If we needed materials, we got them donated — for example, special binders for the training manual for volunteers, printing of materials by a non-profit group or printer, etc. If a volunteer group in one part of the state needed something to do their own voter education, they hustled their own goods and services.

**PIPELINE:** Did you have a media strategy?

**SIEGEL:** We had a pro-active media strategy that involved organizing meetings of amendment supporters in each area with editorial boards of the local papers. And often the editors would be very moved by the meeting with crime victims, and then they would follow the typical path and call the prosecutor in the jurisdiction and say, “Are these people for real or are they nuts?” In our particular case, that was an easy phone call because the prosecutors had signed their names in support of the amendment. That prosecutor support really made our lives a lot easier.

**STOUT:** We borrowed Colorado’s idea of training people to write letters to the editor and write guest editorials. We told people, if you have a friend who’s a reporter, call them up and get a story about your group and what you’re working on. It was a very grassroots oriented media campaign. We also approached newspapers and tried to get their editorial boards to endorse it. In reality, we didn’t care if they supported it or opposed it. Our approach to public awareness was straight out of the 1960s: “There is no such thing as bad publicity!” For example, we approached the editorial board of the St. Louis Post Dispatch. They just could not grasp the concept of a victims’ rights amendment and so they wrote a big editorial opposing it. And they got bombarded with letters from the general public asking, “how could you oppose this?” Of course that is what we wanted to happen, and that was helped by our community education efforts.

**PIPELINE:** It is an enormous undertaking for a state to pass a constitutional amendment. Do you think it was worth it?

**SIEGEL:** I don’t think there is any question that it was worth it. The criminal justice system can put victims through hell again. And, in a way, the constitutional amendment supports the basic tenets of crisis intervention and victim advocacy — safety and security, ventilate and validate, predict and prepare — by integrating those things into the criminal justice process.

**STOUT:** When you think about the different social movements in our country — civil rights, women’s movement, disabled, Native American movement, etc. — there is a common thread. At one point in their history, they were told by our laws and by society: “You don’t exist! That is why we can ignore you!” The victims movement shares that common thread. In the eyes of the law, victims have not existed. They frequently go unseen and ignored. When I started work as Executive Director of Aid for Victims of Crime here in St. Louis, 20 years ago, there was no such thing as a victim impact statement, no state funding for victim services, no such thing as restorative justice within corrections, no such thing as victim compensation, and God forbid a victim should want to testify before a Parole hearing. With each law, with each new amendment, another step is taken and the public is that much more aware that crime victims are people, they have been violated and they have rights and they cannot be ignored. That is why it is still crucial to the victims’ movement for states that don’t have victim rights amendments to join the growing list of states that are standing up for victim rights.
State Bills of Note

Arizona enacts unpaid leave for crime victims law. On May 4, Arizona Governor Jane Dee Hull signed into law a bill that provides employment protection for crime victims who take leave to attend court proceedings. Under the new law, employees may not lose seniority or be fired because they exercise the right to be present at certain criminal justice proceedings, including the trial and pretrial release, plea negotiation, sentencing, and parole hearings. Employers are not required to compensate employees for time off and have discretion to determine if a victim must use accrued paid vacation time, personal leave, sick time, or unpaid leave to attend such proceedings. The law applies to employers who have 50 or more employees. “Crime victims in Arizona no longer have to choose between putting their jobs at risk and exercising their rights,” said Donnalee, a victim advocate in the Arizona Attorney General’s Office. “Arizona continues to be a leader in affording crime victims the rights they so badly deserve and need. It is our hope that this important legislation in Arizona will start a trend nationally to protect crime victims in the workplace.”

Missouri establishes Office of Victims of Crime. Missouri Governor Bob Holden recently signed a bill that establishes an Office of Victims of Crime within the Department of Public Safety. The Office will be responsible for developing a plan to respond to the needs of victims of catastrophic crime; and report to the governor on the feasibility of establishing a statewide automated victim notification system. The bill provides partial funding for the Office by increasing the surcharge on each state criminal court filing.

Connecticut adopts law requiring judges to inform crime victims of their rights. On May 31, Connecticut Governor John G. Rowland signed legislation that seeks to ensure crime victims are notified of the rights guaranteed to them under the state constitution. The new law requires Superior Court judges to advise victims of their rights at the beginning of each day’s arraignment. Under the law, judges must read a scripted announcement of victims’ rights, including the rights to: be treated fairly and with respect throughout the criminal justice process, to speak with the prosecutor, to object to or support any plea agreement, to be notified of and attend court proceedings, and to restitution. James Papillo, J.D., Ph.D., Connecticut’s statewide independent crime victim advocate said of the new law, “The simple act of providing such advisement of rights in open court will bring to the fore, not only to the judge but also to all the professionals within the courtroom, the fact that crime victims in Connecticut have legal rights and play an important role in our criminal justice system.”

Office for Victims’ Rights established in Alaska. On July 5, Alaska’s Governor Tony Knowles signed a bill creating a state Office of Victims’ Rights to assist crime victims in obtaining their legal rights. The Office has the power to receive and investigate complaints of crime victims regarding denial of their rights. The new law also makes a number of changes regarding the collection of restitution, including authorizing the state to collect restitution on behalf of crime victims, permitting the attachment of certain state payments to the offender to satisfy a restitution order, and requiring the awarding of attorneys’ fees and collection costs for the civil enforcement of restitution orders. The bill increases the amount of compensation that may be paid to a crime victim to $40,000, or up to $80,000 in the case of a homicide victim with two or more dependents or two homicide victims with a common dependent. In a statement supporting the bill and the establishment of the Office of Victims’ Rights, Alaska Senate President Rick Halford said, “The state spends millions of dollars on attorneys for the prosecution and defense of criminals. It’s time to give the victims the professional help they need to stand up for their constitutional rights.”

Enforcing the Rights of Crime Victims

With legal rights for crime victims established in every state, enforcement of those rights is critical if they are to be meaningful. It has become increasingly clear that states need a variety of measures available to victims and their advocates to ensure compliance with victims’ rights laws. Enforcement measures include:

Complaint resolution process

Several states have created a designated entity to receive, investigate, and attempt to resolve crime victim complaints. In some states, this may be an ombudsman or victim advocate; in others, it may be a committee or board. Experience in those states has shown that the majority of calls from crime victims are resolved by providing information or referrals. However, many go on to the formal complaint and investigation stages. The ability to impose consequences on offending agencies or officials following an investigation that results in a finding of a violation varies between states.

Legal standing

Legal standing for crime victims and, on their request, prosecutors or other officials, is an important component in making victims’ rights a reality. Legal standing gives victims the right to ask the court to rule on an issue of victims’ rights. Without legal standing to enforce rights, there is no effective means for a victim to assert his or her rights during the criminal justice process, when time is often of the essence.

Routine monitoring

Complaint resolution processes and legal victim standing can help an asserted crime victim resolve a violation of rights. In contrast, routine monitoring provides a way to uncover and stop ongoing violations of rights, without relying on a crime victim initiating a complaint. Such monitoring can include regular examination of an agency’s policies and procedures, review of staff training regarding victims’ rights, and regular measurement of crime victim satisfaction.

Internal checks

For some violations of rights, there is no effective remedy. For example, if a victim was not informed of the right to be heard before a plea agreement is entered, and a plea has been accepted by the court, no remedy can return to the victim the ability to have input in the disposition of the case. The only effective response is to prevent such violations from occurring. Including a check within the law, to ensure that rights have been provided before a case can proceed, can prevent violations.

The National Center has a Policy Packet entitled, “Enforcing Crime Victims’ Rights,” which details each of the above approaches. This packet includes examples of statutes, interviews with professionals involved in victims’ rights enforcement, talking points, and other materials. Members can download these materials at the members-only section of www.nvc.org. Others may call the Public Policy Department at (202) 467-8748 or e-mail policydept@nvc.org and ask for the Enforcing Crime Victims’ Rights Policy Packet.