Membership in the National Center for Victims of Crime gives you a national voice and a ready resource base.

Our three membership levels include:

Membership
$50 annually. Benefits of Membership include:
- NETWORKS (quarterly magazine) Forum for emerging issues, innovative programs, key court decisions, and new resources.
- Victim Policy Pipeline (quarterly newsletter) In-depth coverage of federal/state policy and legislative developments related to crime victims.
- Priority access to the most current crime and victim-related research, and to the National Center’s comprehensive legislative database of more than 30,000 state and federal statutes related to crime victims.
- 10% discount on all National Center publications including groundbreaking reports, training manuals, and award-winning posters.

MembershipPlus
$75 annually. In addition to all benefits listed above, MembershipPlus includes:
- The Strategies for Action Kit Media and public awareness strategies, camera-ready posters, and current statistics to promote crime-victim issues during National Crime Victims’ Rights Week and throughout the year.
- E-mail Updates and Action Alerts (bi-weekly) Breaking news about critical legislation, upcoming conferences, and funding opportunities.
- Access to the Members-Only section of www.ncvc.org. Instant access to current and archived publications, an on-line forum for members, public policy updates, and much more.
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$150 annually. In addition to benefits received at the MembershipPlus level, members will receive:
- Victim Advocate (quarterly journal) Useful articles, case studies, and practical tips relating to civil remedies for crime victims.
- Crime Liability Monthly Up-to-date summaries of civil cases involving victims of crime.

For more information, call the National Center membership desk at (703) 276-2880 or visit our website at www.ncvc.org.

The mission of the National Center for Victims of Crime is to forge a national commitment to help victims of crime rebuild their lives.
Payment of Sexual Assault Forensic Exams

It would be unthinkable for burglary victims to receive a bill for fingerprinting. Equally unimaginable would be charging survivors of homicide for crime scene evidence collection. Victims of sexual assault, however, have historically been burdened with the costs of medical forensic exams performed primarily to gather evidence. The Violence Against Women Act (VAWA), passed in 1994, included a provision specifically aimed at preventing this practice.

VAWA 94 recognized that sexual assault victims should be treated no differently than other crime victims, and shouldn’t be held

Federal Funding for Victims of Crime: VOCA AND VAWA IN 2001

The single most important action Congress can take to help victims of crime is to provide funding to support the services and compensation programs that help those victims rebuild their lives. Many of the state-level programs that serve crime victims rely on federal grant programs established under the Victims of Crime Act (VOCA) and Violence Against Women Act (VAWA) for a major portion of their funding.

While those programs have improved the lot of crime victims across the country, too many victims remain unserved. Basic victim services—such...
responsible for the costs of evidence collection needed to apprehend and prosecute their offenders. Under this law, state eligibility for Grants to Reduce Violent Crimes Against Women (STOP grants) hinges on a state designating an entity to pay for the exams, whether it be state victim compensation programs, law enforcement agencies, or prosecutors’ offices.

In order to receive the available federal funding, most states have enacted laws designating responsibility for payment of the costs of forensic exams to specified entities. The majority of states have chosen to have hospitals and clinics perform the exams without charging the victim, with these entities then applying for reimbursement.

Despite these federal and state legislative efforts, the National Center hears from sexual assault victims and service providers throughout the country that victims are still being billed for forensic exams. The most common problems cited and possible solutions to each are discussed below.

**Inefficient billing procedures.** Laws in eighteen states designating a payment source for forensic exam costs specifically prohibit victim billing. However, sexual assault victims frequently receive bills for forensic exam costs as a result of inefficient claims processing. Hospital emergency room staff, who are often not aware that another entity is responsible for payment, may handle the bills for forensic exams routinely, sending the bills directly to the victim or her/his insurance company. Training of hospital staff regarding proper billing procedures for forensic exams should be required.

**Insurance coverage.** Some states require that coverage be sought from a victim’s insurance plan before the state will bear the cost of the forensic exam or related treatment. The submission of claims for forensic exams to a victim’s insurance company raises privacy concerns for victims, as information relating to the sexual assault may then be available to future employers and others with access to their insurance records. If insurance companies are to cover such evidentiary expenses, provisions must be made to ensure confidentiality for the victim.

**Delays in claims processing for victims who are billed in error.** VAWA provisions authorize billing of victims for forensic exams, provided that victims are directly reimbursed within ninety days. While some states meet this time frame for reimbursement, others can take up to two years to reimburse victims. In order to expedite payment and meet the ninety-day limit for reimbursement, special claims processing procedures must be developed.

**Maximum payment caps.** Many states place limits on the total amount reimbursable for a forensic exam that are much lower than the actual exam costs. While the actual cost for a forensic exam can often reach $1,200 or more, the statutory cap for payment can be as low as $200 to $300. In a number of these states, providers are required to accept this reduced amount as payment in full. In other states, hospitals and providers must either look to other sources for payment of the remaining balance or absorb the difference. States need to assess their payment caps and come up with ways to more fairly compensate exam providers for their services so that improperly billing victims becomes a less attractive remedy.
Payment conditions. In a number of states, payment for the exam is conditioned on the victim’s reporting of the crime and subsequent cooperation with the investigation and/or prosecution of the case. Both of these conditions can cause problems for sexual assault victims. A rape victim who is forced to make a decision about reporting the offense while in the emergency room may forego the exam, thereby making prosecution more difficult if she wishes to file a report at a later date. A victim who consents to having an exam and then decides not to report the crime, or later is unable or unwilling to continue to cooperate, may be held responsible for the exam expenses. Victims should suffer no financial consequences for choosing not to report the crime or pursue criminal prosecution. There should be no such conditions imposed on victims before states incur the costs of forensic exams.

Campus sexual assault. College students who are raped or sexually assaulted on campus face special issues in obtaining payment for forensic exams. Many campus health clinics are not equipped to perform sexual assault forensic exams, forcing victims to travel to an off-campus location where they may be responsible for the costs of the exam and related testing. When the law requires that the victim’s insurance be applied first, student victims covered under their parents’ health insurance are faced with the choice of notifying their parents or finding the money to pay for the exam themselves. Campus health centers should either provide sexual assault exams for student victims or arrange for such services in collaboration with community health-care facilities and local victim services.

Date rape drug testing. The use of drugs such as Rohypnol (flunitrazepam) and GHB (gamma-hydroxybutyrate) to incapacitate victims in order to sexually assault them has increased in recent years. Collection of evidence in these types of cases can be difficult. The testing is expensive, and, in most jurisdictions, the urine samples needed to detect traces of the drugs are not routinely included in standardized rape kits so valuable evidence is often lost. Rape kits should be updated to allow for drug testing in cases in which drug-facilitated rape is suspected, and both law enforcement officers and medical professionals should be trained to recognize the signs of drug-facilitated sexual assault.

Evidence collection problems. Problems related to evidence collection techniques and the handling of the resulting evidence are often reported. Victims in some jurisdictions complain about the insensitive manner in which evidence is collected. The improper handling of analyzed rape kits by prosecutors and others has resulted in the destruction of evidence. A few states, such as Connecticut and Illinois, have established programs to train hospital personnel in the correct use of sexual assault evidence collection kits.2 Having sexual assault nurse examiners (SANEs) perform forensic exams may also have a positive effect. Not only are these nurses trained to be sensitive to sexual assault victims, they also receive special training in proper evidence collection and handling procedures. In further response to such problems, the Paul Coverdell National Forensic Sciences Improvement Act was enacted in 2000 to provide federal funding for states to improve procedures for testing DNA samples, hire and train personnel, and modernize laboratory equipment in order to enhance the quality and timeliness of DNA testing and related forensic science services.3 States should

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as rape crisis centers, domestic violence shelters and programs, and victim assistants in law enforcement and prosecutor offices—are unavailable in many rural areas. Many jurisdictions cannot afford the automated notification systems that would ensure prompt notice to victims when perpetrators are released or escape. Programs are unable to serve non-English-speaking victims of crime because they have no money for interpreters and can’t translate basic information into other languages. Many crime victims with disabilities still have no meaningful access to services.

Crime victim advocates have been hopeful that more resources would soon be available. Deposits into the Victims of Crime Act (VOCA) Fund recently topped $1 billion. The Violence Against Women Reauthorization Act of 2000 (VAWA II) authorized higher funding levels for proven programs and created new programs to combat domestic violence, stalking, and sexual assault.

Unfortunately, advocates’ hopes for increased funding have not been realized. While record amounts have been deposited into the VOCA Fund, the amount available to states and programs has been capped for the past two years. While VAWA II authorized higher levels of funding for programs to address violence against women, appropriations levels have remained steady. The National Center for Victims of Crime and victim advocates nationwide look to this year’s budget process for improved funding for VOCA and VAWA grant programs.

**VOCA Fund**

The VOCA Fund was created by Congress in 1984 to provide federal support to state and local programs that assist victims of crime. The Fund is derived entirely from fines and penalties imposed upon offenders at the federal level, and the bulk of the money is distributed to the states through a formula grant. The state money is split between crime victim compensation programs, which pay many of the out-of-pocket expenses victims incur, and grants to victim services such as victim assistants in law enforcement and prosecutor offices, rape crisis centers, domestic violence shelters and programs, crime victim service centers, and other direct victim services. Under the VOCA formula, states have four years to spend a given year’s distribution, which makes it possible for them to plan for the most effective use of this money and to provide some predictability in funding over a period of several years.

For the past two years, the amount of money available to the states has been capped at approximately $500 million, despite collections of over $1 billion. Removing the cap on the VOCA Fund and allowing that money to be put to the purpose for which Congress originally intended would make a tremendous difference to crime victims throughout the country.

A new member of Congress is trying to do just that. Representative Rob Simmons (R-CT) has introduced legislation to require that each year’s deposits into the VOCA Fund be fully obligated the following year. The bill, H.R. 1092, was greeted with enthusiasm by victim service providers nationwide, and continues to garner support in Congress.

Recently created earmarks for federal positions out of the VOCA Fund have also caused concern. In FY 2000 and FY 2001, earmarks for victim/witness coordinators in U.S. Attorneys’ offices and victim assistants at the Federal Bureau of
Investigation were added to the VOCA statute. Although many of these positions already existed, the VOCA Fund provided a convenient source to offset the costs of those federal positions. While those positions are important, they should be funded as part of agency budgets rather than taken from the VOCA Fund.

The President’s Budget for FY 2002 proposes capping the VOCA Fund at $575 million next year. Attention now turns to the Commerce, Justice, and State Appropriations subcommittees to see whether they propose higher or lower caps, or propose additional earmarks of federal positions from the Fund.

**VAWA II**

When the Violence Against Women Act of 2000 (VAWA II) was passed, it was hailed nationwide as a landmark measure, providing much needed funding for proven grant programs and for important innovations. Unfortunately, appropriations levels fell far short of amounts authorized under the Act. Timing may explain much of last year’s disparity between authorization and appropriations levels for VAWA programs—by the time VAWA II was adopted in the fall of 2000, the appropriations process for FY 2001 was well entrenched.

Among the biggest disappointments for supporters of VAWA II was the lack of appropriations for a pilot program to provide transitional housing for victims of domestic violence. Those who work with domestic violence victims report that while they can provide emergency shelter for temporary safety and respite, such programs are designed to be short-term. Following a stay in a shelter, too many women are faced with the choice of becoming homeless or returning to their abusers. For women with children, their choice is often dictated for them. The pilot program to provide transitional housing for domestic abuse victims was an acclaimed element of VAWA II.

Unfortunately, the authorized funding was not appropriated, so this program is not currently underway.

Nationwide, sexual assault programs continue to be financially strapped. Basic rape prevention programs are unavailable in many counties. VAWA II increased the authorization for Rape Prevention and Education to $80 million, but only half of this amount was appropriated for FY 2001. An expansion of Rural Domestic Violence and Child Victimization Grants was also contemplated at an authorization level of $40 million, but was only funded at $24 million in FY 2001. Many other programs are similarly underfunded.

The President’s FY 2002 budget proposed full funding for many VAWA programs, especially those funded through the Department of Justice. Those include the STOP Grants, Rural Domestic Violence and Child Victimization Grants, Grants to Encourage Arrest, and other programs. Unfortunately, the proposed funding levels for programs funded through the Department of Health and Human Services, such as Rape Prevention and Education and shelter programs, are far lower than authorization levels. The matter is now in the hands of congressional appropriations committees.

Congress made a promise to continue efforts to end stalking and sexual and domestic violence when it passed the Violence Against Women Reauthorization Act of 2001. The appropriations bills for FY 2002 will demonstrate whether or not Congress intends to keep its commitment.
Incoming Freshmen to Watch in the 107th Congress

HOUSE OF REPRESENTATIVES

Adam Schiff (D) California - District 27
Representative Schiff is an ex-federal prosecutor with an agenda centered around combating youth crime. Among other victims’ rights issues he addressed as a state senator, Mr. Schiff pioneered groundbreaking anti-stalking legislation. Rep. Schiff has also successfully sponsored legislation, now California law, to stop third parties from profiting by selling crime memorabilia.

Hilda Solis (D) California - District 31
Congresswoman Solis has built an impressive record of support for victims of domestic violence. Among her numerous accomplishments as a state legislator, Ms. Solis has helped create laws to ensure unemployment benefits for victims of domestic violence that are forced to leave their jobs, to allow prosecutors to introduce evidence of defendants’ prior acts of domestic violence, and to increase funding for shelters and services for victims of domestic violence.

Rob Simmons (R) Connecticut - District 2
Rep. Simmons is the first, and as of now, only incoming Congressman to introduce federal legislation to aid victims of crime. Rep. Simmons’s proposed bill ensures that the amounts in the Victims of Crime Fund are fully obligated, funds that will directly aid victims of crime.
Incoming Freshmen to Watch in the 107th Congress

HOUSE OF REPRESENTATIVES

Mike Rogers (R) Michigan - District 8
Congressman Rogers, an ex-FBI agent, proposed numerous laws as a state senator to curb crime over the Internet. Cyberstalking and crimes against children are focal points that he believes should be addressed on the federal level.

Mike Rogers

Mike Ross (D) Arkansas - District 4
Representative Mike Ross, while a state senator, successfully sponsored a bill that gave crime victims the right to be notified of the pending release of inmates for work assignments. Mr. Ross worked in the state senate on behalf of children and youth and is outspoken on zero tolerance for weapons in school.

Mike Ross

SENATE

Jean Carnahan (D) Missouri
Senator Carnahan has shown continual support for victims of crime, frequently speaking on behalf of victims of domestic violence as well as raising funds for rape and abuse crisis services. Mrs. Carnahan is also an advocate for gun control and was a participant in the Million Mom March.

Jean Carnahan
## New Legislation of the 107th Congress

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<td><strong>H.R.284</strong> <em>(No short title)</em></td>
<td>Allows victims of gender-motivated workplace violence to sue their employer if the employer’s business is in or affects interstate or foreign commerce, the violence was committed on the employer’s premises, and the employer’s negligent conduct resulted in the crime. Enables a victim to receive compensatory and punitive damages, as well as any other relief the court finds appropriate.</td>
<td>Referred to House Education and the Workforce Committee and the Judiciary Committee</td>
<td>Rep. Carolyn Maloney (D-NY) 1/30/01</td>
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<td><strong>S.410</strong> <em>(No short title)</em></td>
<td>Enables programs receiving civil legal assistance grants to use such funding to provide legal services to victims of dating violence.</td>
<td>Referred to Senate Judiciary Committee</td>
<td>Sen. Michael Crapo (R-ID) 2/28/01</td>
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<td><strong>Bryan’s Law</strong> H.R.401</td>
<td>Requires colleges and universities to inform a resident student’s parents if he or she is reported missing. Mandates campus police or security authorities to conduct an investigation concerning the student’s whereabouts and to notify parents within 24 hours if the student is not located.</td>
<td>Referred to House Education and the Workforce Committee</td>
<td>Rep. Robert E. Andrews (D-NJ) 2/6/01</td>
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<td><strong>Comprehensive School Safety Act</strong> H.R.1216</td>
<td>Provides grant money to state educational agencies to assess the incidence of crime committed on school campuses and at school-related functions and to create and implement comprehensive school safety plans.</td>
<td>Referred to House Education and the Workforce Committee</td>
<td>Rep. Joe Baca (D-CA) 3/27/01</td>
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<td><strong>Hate Crimes Prevention Act</strong> H.R.74</td>
<td>Amends the federal hate crime statute to set penalties for crimes committed because of a person’s actual or perceived race, color, religion, national origin, gender, sexual orientation, or disability. Authorizes funds for the Treasury and Justice Departments to hire additional personnel to respond to alleged violations.</td>
<td>Referred to House Judiciary Committee</td>
<td>Rep. Sheila Jackson-Lee (D-TX) 1/3/01</td>
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<td><strong>Know Your Caller Act</strong> H.R.90</td>
<td>Prohibits telemarketers from tampering with an individual’s caller identification service and allows individuals whose caller identification service is tampered with to bring a civil action in state court.</td>
<td>Passed House Energy and Commerce Committee on 2/28/01</td>
<td>Rep. Rodney Frelinghuysen (R-NJ) 1/3/01</td>
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<td><strong>Matthew’s Law</strong> H.R.259</td>
<td>Directs the United States Sentencing Commission to amend the federal sentencing guidelines to provide sentencing enhancements for crimes of violence against a child under 13.</td>
<td>Referred to House Judiciary Committee</td>
<td>Rep. Randy (Duke) Cunningham (R-CA) 1/30/01</td>
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| **Right Start Act of 2000**  
S.18  
H.R.265 | Includes (as part of a larger bill to promote early learning and provide tax relief to families for child care) victim-related provisions that extend coverage under the Family and Medical Leave Act to victims of domestic and dating violence. Allows employees to use their leave time to seek medical attention, attend court proceedings or obtain legal services, participate in safety planning, and receive counseling and services from domestic violence programs. Grants employees the right to take such leave to address domestic or dating violence that involves a son, daughter, or parent. | Referred to:  
Senate Health, Education, Labor, and Pensions Committee  
House Education and Workforce; Ways and Means; Government Reform; Administration | Sen. Tom Daschle (D-SD)  
Rep. Rosa L. DeLauro (D-CT)  
1/22/01  
1/30/01 |
| **School Safety Hotline Act**  
H.R.899 | Allows Juvenile Justice and Delinquency Prevention grants and Safe Schools and Communities grants to be used to establish and maintain school safety hotlines for parents and students to report suspicious, threatening, or violent behavior in or around schools. | Referred to House Education and the Workforce Committee | Rep. Tom Tancredo (R-CO) 3/6/01 |
| **Suzanne’s Law**  
H.R.202 | Prohibits law enforcement agencies from imposing a waiting period before accepting reports of missing persons under the age of 21. | Referred to House Judiciary Committee | Rep. John Sweeney (R-NY) 1/3/01 |
| **Victims of Crime Fairness Act of 2001**  
H.R.1092 | Removes the current cap imposed on the Victims of Crime Act (VOCA) Fund and requires that each year’s deposits into the Fund are fully obligated for the following fiscal year. | Referred to the House Judiciary Committee | Rob Simmons (R-CT) 3/19/01 |
| **Violence Against Women Civil Rights Restoration Act**  
H.R.429 | Permits victims of gender-motivated violence to sue their attackers in federal court in cases in which there is a connection to interstate commerce. Authorizes the Attorney General to bring an action for equitable relief against a state, political subdivision of a state, official, agent, or employee of the state if evidence exists that there is a pattern of discrimination in the investigation and prosecution of gender-based crimes. | Referred to House Judiciary Committee  
| **Violence Against Women Office Act**  
S.570 | Creates a permanent Violence Against Women Office within the Department of Justice which is separate from any other division or component of the Department. Requires the director to be appointed by the President and confirmed by the Senate. | Referred to Senate Judiciary Committee | Sen. Joseph Biden (D-DE) 3/20/01 |
| **Violence Against Women Office Act**  
H.R.28  
S.161 | Creates, by statute, a permanent Violence Against Women Office within the Department of Justice. Requires that the director of the VAWO be appointed by the President and approved by the Senate. | Referred to:  
House Judiciary Committee  
Senate Judiciary Committee | Rep. Louise McIntosh Slaughter (D-NY)  
Sen. Paul Wellstone (D-MN) 1/3/01  
1/24/01 |
continue to expand the use of SANEs and other specially trained professionals to ensure sensitive treatment of victims and correct handling of evidence.

**DNA sample analysis backlog.** A related concern is the delay in processing rape exam kits. In many states, the backlog of samples awaiting DNA analysis is already unmanageable. The DNA Analysis Backlog Elimination Act of 2000 provides federal funding to states to enable labs to hire the additional personnel needed to eliminate the backlog and decrease the processing time. State and federal policymakers should continue to find ways to address this backlog.

Even though most states have adopted laws to prevent sexual assault victims from being charged for the collection of evidence, the problem persists. If states are to provide meaningful assistance to sexual assault victims and hold offenders accountable, they must carefully examine their policies regarding forensic exams.

For additional information, including a comparison chart of state laws on this issue, visit our website at www.ncvc.org, contact the National Center’s public policy department at 703-276-2880, or e-mail iknecht@ncvc.org.

1 Alaska, California, Connecticut, Delaware, Florida, Indiana, Kansas, Kentucky, Maine, Maryland, Minnesota, Mississippi, Nevada, New Hampshire, Oregon, Pennsylvania, Washington, and West Virginia

2 CT Code § 19a-112a and Ill Code § 410-70/6.4.

3 Pub Law No. 106-561.

4 Pub Law No. 106-546.
State Victims' Rights Amendments: Drafting the Language

Victim Policy Pipeline begins a three-part series of interviews on state crime victims’ rights constitutional amendments with Steve Siegel, director of program development at the Denver District Attorney’s Office and president of the Colorado Organization for Victim Assistance, and Ed Stout, executive director, Aid for Victims of Crime, Inc., and president of the Missouri Victim Assistance Network (MoVA). 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 this issue, we examine Colorado’s and Missouri’s experiences in developing the language of their victims’ rights amendments. Later editions of Victim Policy Pipeline will look at specific strategies to garner support for their amendments, and the important work that followed the adoption of their amendments.

PIPELINE: How did advocates in your state begin thinking about a victims’ rights constitutional amendment?

SIEGEL: Well, at that time, Colorado was already heavily involved at the national level in discussions about state and federal constitutional amendments. In that context, we had Bob Preston [a homicide survivor and activist who led the charge to pass constitutional amendments in Florida and Colorado] and other advocates give us guidance on what they had already done in their states, and it was attractive and exciting, and inspired us in Colorado to begin working on an amendment.

STOUT: In Missouri, a number of us were also involved in discussions on amendments at the national level. Our state network, Missouri Victim Assistance Network (MoVA), approved a resolution at its annual meeting in 1988 to formally explore the development of a victims’ rights amendment. I would agree that one of the things most helpful to us in Missouri was to be able to call on Bob Preston and other people who had already passed amendments in other states, whom we could learn from.

PIPELINE: What groups were at the table when you started talking about an amendment?

SIEGEL: We brought a rather broad-based, multi-disciplinary group together, so we had prosecutors, victim advocates, crime victims, non-profit service providers, legislators, and folks from the Division of Criminal Justice. It was a pretty big table. Despite that diversity, we had a significant meeting of the minds on the constitutional language. Even when we got into the implementation discussions, the concerns

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that were raised were brought up in a pretty civil tone. People were generally willing to listen to each other as we discussed things like prosecutor workload, what to do about jurisdictions that weren’t computerized yet, and other barriers to implementation.

**STOUT:** MoVA developed an active committee of crime victims and victim advocates. The prosecutors’ association was invited to participate in this stage, but chose not to do so, though we did have a few prosecutors who supported us, notably Mike Insco, then prosecutor from St. Joseph, Missouri. But we did not have the multidisciplinary group that Colorado had. In retrospect, it might have been good for us to do that, but at the same time, given the political tenor in the state, I don’t know that we could have interested them.

**PIPELINE:** How did you begin to develop the language for your amendment?

**SIEGEL:** We knew we wanted broad, constitutional-looking language for our amendment. There was a broad agreement that we wanted to leave the details to the implementing legislation.

**STOUT:** In Missouri, we decided to focus first on identifying the problems victims were experiencing, and afterwards began to consider how an amendment might address those problems. Perhaps this is why we opted for the longer form of victims’ rights amendment.

**PIPELINE:** Did you develop the implementing legislation at the same time as the amendment?

**SIEGEL:** Yes. Because we were leaving the details of the victims’ rights to the implementing statutes, we wanted to create both at the same time.

**STOUT:** In Missouri, we were focused on the details of our amendment. We did not even talk about enabling legislation at the time.

**PIPELINE:** So your states chose opposite styles of amendments: Colorado has a short amendment with broad language, while Missouri has a long list of rights. How do each of you feel about that choice in retrospect?

**SIEGEL:** We think our version of the amendment has worked very well. By leaving the details to the implementing statutes, we’ve been able to easily correct any omissions. For instance, we originally left out conspiracy cases in the list of crimes for which victims had rights. But we’ve had the flexibility to get statutory fixes for any problems.

**STOUT:** In Missouri, we’re still happy with the type of amendment we chose. For us, and our focus on resolving the problems victims were having at that time, we still think this was the best approach. The only thing we would like to have included is some enforcement language, but I don’t know if we could have gotten that through the legislature.
MISSOURI CONSTITUTION  

*Article I, Section 32, Crime victims' rights.*

1. Crime victims, as defined by law, shall have the following rights, as defined by law:

   (1) The right to be present at all criminal justice proceedings at which the defendant has such right, including juvenile proceedings where the offense would have been a felony if committed by an adult;

   (2) Upon request of the victim, the right to be informed of and heard at guilty pleas, bail hearings, sentencings, probation revocation hearings, and parole hearings, unless in the determination of the court the interests of justice require otherwise;

   (3) The right to be informed of trials and preliminary hearings;

   (4) The right to restitution, which shall be enforceable in the same manner as any other civil cause of action, or as otherwise provided by law;

   (5) The right to the speedy disposition and appellate review of their cases, provided that nothing in this subdivision shall prevent the defendant from having sufficient time to prepare his defense;

   (6) The right to reasonable protection from the defendant or any person acting on behalf of the defendant;

   (7) The right to information concerning the escape of an accused from custody or confinement, the defendant’s release and scheduling of the defendant’s release from incarceration; and

   (8) The right to information about how the criminal justice system works, the rights and the availability of services, and upon request of the victim the right to information about the crime.

2. Notwithstanding section 20 of article I of this Constitution, upon a showing that the defendant poses a danger to a crime victim, the community, or any other person, the court may deny bail or may impose special conditions which the defendant and surety must guarantee.

3. Nothing in this section shall be construed as creating a cause of action for money damages against the state, a county, a municipality, or any of the agencies, instrumentalities, or employees provided that the General Assembly may, by statutory enactment, reverse, modify, or supercede any judicial decision or rule arising from any cause of action brought pursuant to this section.

4. Nothing in this section shall be construed to authorize a court to set aside or to void a finding of guilt, or an acceptance of a plea of guilty in any criminal case.

5. The general assembly shall have power to enforce this section by appropriate legislation.

**CONSTITUTION OF THE STATE OF COLORADO**

*Article II, Section 16a. Rights of crime victims.*

Any person who is a victim of a criminal act, or such person’s designee, legal guardian, or surviving immediate family members if such person is deceased, shall have the right to be heard when relevant, informed, and present at all critical stages of the criminal justice process. All terminology, including the term "critical stages", shall be defined by the general assembly.
PIPELINE: Colorado’s amendment is silent on enforcement. It doesn’t specifically provide for or prohibit enforcement. When you drafted the amendment and implementing legislation, did you create the enforcement mechanism at the same time?

SIEGEL: Yes, as part of the original package we included a Victims’ Rights Subcommittee of the Governor’s Victims Coordinating Committee to enforce the rights of victims. It has turned out to be even more successful than we thought it would be. [See Victim Policy Pipeline, Spring 2000 Issue, for more information about enforcing victims’ rights in Colorado.]

PIPELINE: A couple of states include a definition of “victim” in their amendment. Do either of you advise that approach?

STOUT: Missouri did not include a definition in our amendment, and we still think that was a wise decision. If you put a definition in the constitutional amendment, it’s nearly impossible to change it later. If the definition is statutory, you can come back and improve on it later.

SIEGEL: I agree. I think that the definitions of “victim” and “crime” should be in the statutes, so that you can amend it as needed without having to go through the constitutional process again.

PIPELINE: Missouri’s amendment specifically includes victims of juvenile offenders. Do you recommend that for other states?

STOUT: Yes. We included it in our amendment because at that time we were hearing complaints from victims of pretty serious juvenile crimes, crimes that were just as violent, just as serious, just as deadly...
as crimes committed by adults. We wanted to make sure that, when we were talking about victims’ rights, a victim is a victim, a crime is a crime, no matter the age of the perpetrator. So we just felt that including victims of juvenile offenders was an absolute essential.

**SIEGEL:** In Colorado, we specifically included victims of juvenile offenders in our implementing legislation, and I strongly recommend that.

**PIPELINE:** As you know, the criminal justice system continues to evolve, with the creation of new courts, new diversion and sentencing procedures, and new release schemes. Do you think the language of your victims’ rights amendments will encompass such new developments?

**SIEGEL:** That’s the basis on which we chose the broad amendment language and specific statutory language, so that as these things come up we can incorporate them. For example, our amendment refers to victims’ rights at “critical stages.” We certainly didn’t envision that term to include the restorative justice process. But now we can write a rather quick statutory fix to encompass that as these programs proliferate around our state.

**STOUT:** Missouri’s amendment provides that the victim has the right to be informed, present, and heard at those stages of the justice process where the accused has those rights and, if the accused has those rights in restorative justice proceedings or new types of court, then the victim would too. Furthermore, and more importantly, our amendment has helped change attitudes in the criminal justice system. As an example, our state department of corrections has a legislated restorative justice program—one of the best such programs in the country. They are having victim panels in the correctional institutions and providing for victim involvement in the process. There is a recognition that these new procedures just won’t be effective if the victim is excluded.

**SIEGEL:** As I described earlier, it was extremely helpful for us in Colorado to have people working with us who had already passed constitutional amendments, to give us guidance. They should look at what has already been done in other states.

**STOUT:** I agree. People who are just getting started should know that there are people out there that they can call on, who have done this, who can pass on the lessons they learned in the process. I also want to make the point that, while it takes a lot of effort to develop a victims’ rights amendment, it’s worth it. In Missouri, we say: “A definition of justice that excludes the victim is a definition of injustice!” A state victims’ rights constitutional amendment is an important step to affirm and ingrain this idea in society.

**Next issue:** Mobilizing Support for a Victims’ Rights Amendment

The National Center for Victims of Crime can provide contact information for other experts on this issue. Call our public policy department at 703-276-2880 for information.
Sexual Violence: Current Challenges and Possible Responses

The following is a brief overview of sexual assault issues confronting the nation—drug-facilitated rape, campus sexual assault, male sexual assault, and police responses to victims—and current efforts to address these problems.

**Drug-Facilitated Rape**

Sexual assaults that are facilitated by the use of incapacitating drugs present a plethora of obstacles to investigators and many barriers to justice for victims. These drugs move quickly through the body and are not easily detectable. A victim must present at a facility shortly after being administered a drug (usually between four and seventy-two hours, depending on the substance) for testing to detect its presence. Because these drugs cause a victim to suffer a mild case of amnesia and to be drowsy for long periods of time, it is often too late to go to the hospital for effective testing once victims regain consciousness and their presence of mind.

Disseminating vital information to the public on the prevalence of drug-facilitated sexual assault and how to protect oneself is crucial to preventing victimization. Informing the public about what to do in the event that they or someone they know may have been drugged and raped will help victims find justice by preserving crucial evidence. For example, victims can save vomit or urine for drug testing. Unexplained bruises on hands and knees after a period of amnesia are indicative of falling down and may signal that a person was drugged. Youth, elderly, and underserved populations need to be included in the development of any successful awareness campaign.

In addition, many states have classified these drugs as dangerous and having no lawful purpose for possession. Lawmakers in many states have also successfully passed legislation to hold offenders accountable by increasing penalties in rape cases in which drugs have been used to incapacitate a victim.

**Campus Sexual Assault**

Sexual assaults on college campuses are of increasing concern to the entire campus community, victim advocates and service providers, legislators, and the general public. Campuses are microcosms of the larger community, and many of the same issues and barriers to victim services and justice in society at large also exist in a campus setting. However, campuses also face distinct issues that call for specialized attention.

Sexual assault victims on campuses face several obstacles to having a forensic exam performed. One of those barriers is simply the location of the service provider. Many campus health centers do not perform forensic exams, forcing students to go to a facility off-campus where they may be required by state law to use their insurance. In most cases, students are still covered under their parents’ insurance plans, so if a student does not wish to tell her parents about an assault, she may end up paying for the exam herself or not having one at all. Bringing Sexual Assault Nurse Examiners (SANE) programs to college campuses could improve students’ access to these exams. With on-campus SANEs available, exams would be provided for under the college health plan and students...
could stay on campus to receive this important care. Bringing these services to campus communities will help reduce unnecessary stress associated with the justice process.

Campuses should evaluate their judicial procedures, clearly delineate the code of conduct and policies for handling infractions, and ensure that campus-wide awareness campaigns inform the campus community of their responsibilities under the code. Campaigns should also include prevention information, in particular for incoming freshmen. Because one in three females and one in five males has been sexually assaulted by their 18th birthday, campuses should be prepared to discuss repeat victimization with incoming students.

Bringing the community, including rape crisis centers, police, and prosecutors, to the table will help determine the most appropriate response to sexual assault allegations on campus and how to support victims. Institutions may want to consider applying for Violence Against Women Act STOP grants or Grants to Reduce Violent Crimes Against Women on Campus in order to form multidisciplinary teams to create a campus and community-wide response to victimization. Colleges and universities should consider creating statewide intercollegiate coalitions or consortia to facilitate information-sharing on sexual assault issues particular to the campus community.

Lastly, the incidence of sexual violence on campus remains unknown because the majority of numbers are coming from public safety offices and campus police reports, not counseling centers and victim services. We must find a way to discover the actual number of sexual assaults on campuses without jeopardizing confidentiality in order to truly address the issue and support victims.

**Male Sexual Assault**

Traditionally, sexual violence has existed in the public mind as a crime committed by a man against a woman. In fact, some state laws support that notion by the statutory definition of rape.

This idea permeates our society and serves to alienate, isolate, shame, and humiliate male survivors of sexual violence. Studies have shown that male victims experience many of the same lasting emotional consequences after sexual assault that women do. Male victims may have intense feelings of inadequacy and self-blame because they were not able to protect themselves from the attacker. Men raped by men may find their sexuality questioned, by themselves and by society. Male-on-male rapes are often gang-related; these attacks may result in severe injury to the victim. Male sexual assault victims may be humiliated and ignored by police and the justice system, and may not get the services they need.

Efforts to respond to male sexual assault victims must be fundamentally supported by a concerted public awareness campaign to reduce the stigma surrounding the crime, akin to those that have raised awareness of domestic violence. Society, and in turn, male victims, must be shown that rape is a crime of power and control, not sex, whether the victim is female or male. Public awareness campaigns should include information on resources and services for male victims. Victim service agencies should include information about male victims in all of their outreach events, materials, and literature. Even though sexual assault crisis centers offer services to

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men, this is not widely known, and male victims are less likely to search out these services than women.

Law enforcement officers need training on responding to male victims, in particular on how to recognize the reactions that are especial to them, so that victims are not alienated by officers’ disbelief and insensitivity. Protocols for law enforcement and medical personnel are crucial to assure that male rape victims receive the medical care and legal attention they deserve. In addition, state laws that are not gender neutral should be amended to give all victims an equal opportunity at justice.

**Police Response to Victims**

A supportive and validating response from law enforcement can have a very positive impact on victims’ short- and long-term emotional state, and can bolster a sense of fairness and justice in the system. Victims who experience a positive police response may be less likely to blame themselves, forego medical treatment, and drop charges, and more likely to cooperate with the investigation and prosecution of the case.

Reports from the field convey that in some jurisdictions, law enforcement responses to rape victims range from insensitive to disdainful. Insensitivity to victims from law enforcement is one issue that needs to be addressed. In some jurisdictions, it has been noted that police routinely dismiss sexual assault cases as unfounded—even without investigation. Victims report that they have been forced to take polygraph tests, and in some cases, have been charged with false reporting if police feel they are lying.

States should consider instituting mandatory training for law enforcement on the proper response to victims. Training should cover not only sensitive treatment of victims but also how to recognize the signs of Post-Traumatic Stress Disorder (PTSD) and the varying reactions victims will present (e.g., not making eye contact, forgetting details) and where to refer victims for counseling, support, and medical treatment. Victims should be made aware of their rights as crime victims, including how to receive information about their case and how to apply for compensation. Law enforcement should be informed of the variations in the dynamics among acquaintance rape, stranger rape, gang rape, same-sex rape, and incest.

Statistics show that the rate of false reporting for sexual assault is no higher than that of other crimes. Therefore, policies and protocols must prohibit polygraphing sexual assault victims. In addition, police department administrations must continuously review the handling of sexual assault cases to ensure that they are being treated as serious crimes, instead of being labeled as unfounded and not worthy of investigation. Polygraphing victims, charging them with false reporting, and shelving or dismissing cases all inhibit victims from coming forward and lead to a lack of trust in the justice system, not only by victims, but by the community as a whole. Sexual assault victims deserve to be believed and trusted just as other victims of crime are.

Communities have been successfully addressing many of the aforementioned issues by creating Sexual Assault Response Teams (SARTs)—a collaboration between sexual assault nurse examiners, law enforcement, and patient/victim advocates to improve the response to sexual assault victims. Where SARTs have been
developed, response times by police, nurses, and advocates have been reduced, as well as victims’ length of stay in the hospital. SARTs have improved evidence collection and documentation. This coordination of interagency services should be replicated across the country. Advocates may want to consider applying for federal grants, such as Grants to Reduce Violent Crimes Against Women (STOP grants) to support the formation of SARTS in their communities.

**Statute of Limitations**

Recently, lawmakers have expanded the list of crimes for which DNA samples are collected from convicts. These criminals’ DNA profiles are entered into many state databanks and the national electronic database known as CODIS. Investigators can use these databases to search the pool of suspects for a match to forensic crime scene evidence. Recent improvements in the collection and evaluation of DNA evidence, including the speed at which results are available, are encouraging investigators to revisit criminal cases that previously had no potential suspects. As state labs work on reducing the backlog of forensic evidence they hold, new leads for cold cases may surface.

However, in many states, the prosecution of these cases may be inhibited by the running of the statute of limitations. Regrettably, in some cases, even though a perpetrator may be identified through CODIS, charges may not be brought because the statute of limitations has expired.

One creative way that prosecutors have circumvented the statute of limitations issue is by using the specific DNA makeup of an unknown perpetrator to file a “John Doe” indictment. This indictment allows the case to remain active because a specific perpetrator has been identified, just as is done with a perpetrator’s name or fingerprints. Granting prosecutors the ability to issue these warrants, in particular in states in which a DNA evidence backlog exists, would give hope to victims whose offenders have been identified only by DNA profile. States should also consider eliminating the statute of limitations for sexual assault. Doing so would remove one barrier that sexual assault victims face in their quest for justice.

While our country currently faces many challenges and obstacles to eradicating sexual assault and securing justice and services for victims, there are many positive advancements to report. States’ movement to eliminate the statute of limitations for sexual assault, improvements in DNA-evidence analysis, and the increase in public awareness campaigns have bolstered the anti-sexual assault movement. Thanks in part to the federal funding provided by the Violence Against Women Act of 1994, model programs and unprecedented multidisciplinary teams have been created. The duplication of these efforts across the country will continue to improve the treatment of rape victims and, in turn, will have a significant impact on the elimination of sexual assault.

If you would like more information on any of the topics covered here, or are interested in pursuing legislation, call the National Center’s public policy department at 703-276-2880 or e-mail ncvc_public_policy_dept@ncvc.org.