

Senator Jon Kyl

UNITED STATES SENATE COMMITTEE ON THE JUDICIARY

Fulfilling Our Commitment to Support Victims of Crime

13 April 2011

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

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

Pima County Attorney's Office Response:

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

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

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

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

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

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

Pima County Attorney's Office Response:

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

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

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

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

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

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