

Testimony of Kent Burbank  
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Before the Committee on the Judiciary  
United States Senate

On "Fulfilling Our Commitment to Support Victims of Crime"

*April 13, 2011 at 10 am*

Good morning, Mr. Chairman and honorable Senators. My name is Kent Burbank. I am the Director of the Victim Services Division of the Pima County Attorney's Office in Tucson, Arizona.

Thank you for giving me the opportunity to speak to you today during National Victims' Rights Week about the importance of fulfilling our nation's commitment to adequately support victims of crime. Thirty years ago, in April 1981, President Reagan proclaimed the first National Victims' Rights Week, so it is apt that this year's theme is "Honoring the Past, Reshaping the Future." It is important that we reflect both on the accomplishments of those who struggled to make today's reforms a reality, and also on the work ahead of us to ensure that their legacy and their vision is fulfilled.

First, I would like to tell you more about the Victim Services Division ("Victim Services" or "The Division") of the Pima County Attorney's Office ("PCAO"). Victim Services responds to the needs of crime victims, witnesses, and their families by providing on-scene crisis intervention services as well as advocacy throughout the criminal justice process. In addition, Victim Services administers crime victim compensation. The Division has been providing outstanding and innovative services to crime victims since 1975. It was one of the first programs of its kind in the nation to assist victims and witnesses at the scene of the crime and it pioneered many of the intervention techniques now used worldwide. The Pima County Attorney's Office was also one of the first in the nation to see the need for dedicated advocacy services for victims throughout the criminal justice process.

When this program was created in the mid-1970s, there were few if any services for crime victims. Crime victims were treated the same as other witnesses. There were no on-scene crisis intervention services and few specialized community resources for these victims. In the criminal justice system, victims were afforded none of the basic rights we now take for granted, such as the right to be present in the courtroom for the duration of the trial and the right to confer with prosecution before a plea is offered. PCAO Victim Services broke new ground and helped pave the way for a series of decades-long improvements that have culminated in Arizona being one of the leaders in the nation in promoting and defending victims' rights and legal, financial and social assistance to crime victims.

Today, under the leadership of Pima County Attorney Barbara LaWall, the Division has **28 staff** and **more than 120 volunteers** who ensure that victims continue to receive the highest level of services possible. The Division has three main areas of work:

On-scene crisis intervention. At the request of law enforcement, we respond directly to the scene of the crime to work with the victim immediately, providing crisis intervention services. Staff and volunteer advocates provide this advocacy 24 hours a day, every day of the year. Our highly trained advocates are skilled at providing crisis intervention services to victims who have just experienced one of the most devastating and traumatic events in their lives and who are at their most vulnerable. Whether the crime is a homicide, sexual assault, domestic violence, or burglary, our goal is to address these victims' most pressing needs, help them begin to access their own coping skills, plan for their ongoing safety, connect them to community resources that they may need in the days and weeks to come, and put them on the road to recovery.

Criminal justice system and court advocacy. All victims in felony cases and many misdemeanor cases are assigned a specific advocate in our office who will walk side-by-side with them throughout the criminal justice process from the moment of arraignment through sentencing and even appeals. The criminal justice system is often overwhelming to victims and makes victims feel as if they have entered a foreign land where the customs and language are unknown and unfamiliar. Victim advocates are the critical guides who help victims navigate this new territory. The job of these advocates is to help meet the social, financial and legal needs of the victims. Advocates provide crime victims with emotional support, inform them about their victims' rights, connect them with community services, assist them in applying for crime victim compensation and restitution, ensure that the prosecutor is aware of any concerns or issues they may have, and accompany the victims to hearings, trial, and sentencing of the defendant.

Crime Victim Compensation. In Arizona, the crime victim fund is decentralized and administered at the county level by each county attorney's office. Thus, our Division is responsible for ensuring that crime victims in Pima County have knowledge about and access to these funds to assist them on their road to recovery. Our staff administers and oversees the funds, while award decisions are made by a community board made up of local volunteers. This program provides limited financial support to victims of crime. It is a fund of last resort after other sources have been exhausted and covers certain expenses such as medical costs, counseling, loss of wages, funeral expenses and crime scene clean-up.

Our programs serve victims from any type of crime, such as homicide, sexual assault, assault, domestic violence, stalking, child abuse, robbery, theft, burglary, home invasion, DUI, etc. On-scene, we also serve some non-crime victims in crisis, including survivors of expected deaths and suicides. In 2010, the Victim Services Division served 7,967 crime victims as well as 1,129 other community members in crisis, providing them with more than 37,000 services, such as crisis intervention, emotional support, criminal justice system information, court accompaniment, assistance with orders of protection, and information about victim compensation and restitution.

As the population of Pima County has grown to approximately one million residents and has expanded farther from the center of Tucson, the need for Victim Services has continued to

increase and change. The ability to reach victims who live on the outskirts of Tucson or in the rural communities became increasingly difficult. Additionally, the municipal courts and prosecutors' offices in the smaller outlying municipalities, such as Oro Valley, Marana and Sahuarita, were unable to afford to provide victim advocacy. In response, through a federal grant administered under the Violence Against Women Act ("VAWA"), the Pima County Attorney's Office developed a rural victim services program, opening three satellite offices to better serve the needs of victims in these outlying communities. We have employees in each of these communities who have developed their own pools of dedicated local volunteers to provide advocacy services to victims both on-scene and in the courts.

As a leader in the development of crisis intervention services to victims, our advocates also have significant experience in responding to large scale incidents of terrorism and mass casualties. Our Victim Services staff and volunteers have been called out to work with victims of natural disasters including hurricanes in Florida, and victims of terrorism including the Oklahoma City bombings and the September 11<sup>th</sup> attacks.

The Pima County Attorney's Office also leverages the skills of community volunteers. Since its inception, the Victim Services Division has trained community members to serve as crisis and court advocates. All staff and volunteer advocates go through extensive training in crisis intervention and criminal justice advocacy. These volunteers enable us to maintain 24-hour coverage in Tucson and surrounding communities. In 2010, the Victim Services Division trained and utilized 158 community volunteers to provide crisis and advocacy services to crime victims throughout Pima County. These volunteers donated approximately 33,000 hours last calendar year or an average of 200 hours per volunteer – at a value of approximately \$600,000 in donated services.

In addition to the donated volunteer labor, the Division's work is supported by County general funds as well as federal and state grants, including both direct and state pass-through funds allocated under the Victims of Crime Act ("VOCA") as well as VAWA. Without these funds, the services we offer would be drastically curtailed or even eliminated. The Pima County Attorney's Office has absorbed more than 10% in budget cuts over the past several years due to the downturn in the economy and a resulting reduction in the local tax base. Pima County Attorney Barbara LaWall has always prioritized Victim Services and has done everything in her ability to protect its resources and minimize the impact of any cuts. However, it likely will be impossible for her office to absorb any additional cuts without making reductions in critical personnel and services.

On January 8, 2011, the nation watched in horror as news of the shooting of Representative Gabrielle Giffords at her "Congress on the Corner" event unfolded. The havoc created by one man's senseless shootings left six people dead, 13 injured, over 100 witnesses in shock, and a community stunned.

Within less than one hour of the shootings, more than 35 Victim Services staff and volunteers were deployed to the crime scene and four hospitals where they worked with the victims, witnesses, and family members. A Victim Services volunteer advocate, Suzy Burros, had been at the shopping center when the shootings occurred and was able to immediately begin ministering to some of the

victims and survivors. She contacted an on-call staff advocate, who immediately dispatched staff and volunteer crisis advocates to the scene. In less than 30 minutes, a command center along with a team of advocates was established at the Safeway complex. As this team relayed to me the names of the victims who were being transported to four hospitals in Tucson, I deployed additional staff and volunteer advocates to those locations, and within minutes, a second command center was set up at University Medical Center.

I was at the crime scene along with Pima County Attorney Barbara LaWall for most of the day coordinating communication among the various agencies and ensuring that their advocates did what they were trained to do. Providing a rapid response to mass casualty events, such as this shooting, requires the ability to quickly deploy a large number trained personnel and then closely coordinate their efforts across the various deployment sites. Working as one team, with an established command structure and leaders, communication among the five sites was coordinated in an efficient manner to ensure that everyone knew exactly what was happening around town at all times, including as some victims later were transferred from outlying hospitals to University Medical Center.

The actions of the first Victim Services volunteer on-scene, Suzy Burros, were reported by the *New York Times*, in an article, *Following the Sirens, Ready to Help*, published on January 16, 2011. In part, the article said:

Ms. Burros followed a sheriff's car that day into the parking lot of Safeway, the same grocery store where she has shopped for 17 years. . . . As she stepped out of her car, someone said that lots of people had been shot. She was shaking as she rushed over. . . . Ms. Burros spent about an hour with a woman who had seen several of her friends who worked for Ms. Giffords get shot. The woman was shaking uncontrollably and screaming in grief. For Ms. Burros, this was not just another job — she lives only four blocks away. 'This was so close to home that I was having a hard time,' she said. 'But I wanted to help other people.' . . . 'I was there for people that were traumatized, and these were people that I knew,' Ms. Burros said. 'I just felt like I was there for somebody.'

At the scene, advocates provided crisis intervention service to victims, witnesses, and Safeway employees, while those who responded to the hospitals offered emotional support and resources to family, friends, and associates of the shooting victims. At times, they were called upon to deliver exceedingly difficult death notifications to the families of the murdered victims. Volunteer advocates also responded to Representative Giffords' office to work with community members affected by the tragic events.

Angela K. Robinson is the daughter of two of the January 8<sup>th</sup> shooting victims. Her mother, Mavy Stoddard, was shot but survived, while her father, Dorwan Stoddard, was shot and killed. Angela described how incredibly difficult the day of the shooting was for her and her family. She told how her sister raced to the scene of the shooting while talking on the phone with her Mom who was cradling her Dad as he lay dying on her lap. She detailed how difficult it was for her son, who arrived at the hospital a few minutes later to meet them, only to find his grandmother covered in blood, having been shot five times. Angela told me that "Victim [Services] provided

the trauma counselor to guide my precious loved ones not only thru grief and loss, but extreme violent trauma! Without this service, the wounds to all the countless victims of this vicious crime would be wading through anger and pain. Victim [Services] has allowed and supported us survivors in Tucson, and the Nation, to be able to pursue only good out of this degrading, senseless, selfish crime.”

In the days immediately following the shootings, a team of Victim Services volunteers called more than 120 witnesses to follow up with them. Pima County Attorney Barbara LaWall and several staff advocates, along with the FBI and the Pima County Sheriff's Department met with victims' families at their homes. The Victim Compensation unit of the Victim Services Division sent applications to all victims and witnesses and will process all applications submitted. Since then, our victim advocates have been working hand-in-hand with advocates from the FBI and the U.S. Attorney's Office, providing ongoing assistance to the victims with a myriad of needs. We will continue to work with survivors and next of kin of shooting victims as the long court process unfolds.

One of the shooting victim survivors, Suzi Hileman, who accompanied 9-year old Christina Green who was killed at the Congress on Your Corner event, said “I could not have managed to sit in the arraignment without Victim Services. You protected us in subtle but meaningful ways. You anticipated my fears and my tears and you had people surrounding me, meeting me, cosseting me and handing me tissues the second I needed them. You answered my questions and told me the truth.... You are my touchstone in an otherwise unwieldy and overwhelming process. I couldn't have done it without you.”

The Pima County Attorney's Office is fortunate to have received an Antiterrorism and Emergency Assistance Program grant that will provide us with the necessary funds to adequately meet all of the needs of the January 8 tragedy victims over the next several years as the federal and state cases move through the courts. Without these special VOCA funds, our resources would have been strained to meet the needs.

County Attorney Barbara LaWall led the community to coordinate all the victim funds that were set up in the first days after the tragedy into a single fund operated by a community board. Her leadership was lauded by the *Arizona Daily Star* in an editorial on February 17, 2011, which stated, “Barbara LaWall led the effort to provide a safe, centralized and transparent way for donors to contribute.” While we are grateful for the outpouring of support from the local and national community because the victim needs in this case are so great, we are also aware that not all crimes receive this level of national attention; thus, VOCA crime victim assistance funds are vital to ensuring that all victims who struggle to pay medical and counseling bills due to their victimization receive the financial support they need.

The economic downturn and recession that we have experienced over the past few years has had a dramatic impact on victims and victim services in Arizona and across the nation. State and local governments have been particularly hard hit because of declining tax revenues.

At the national level, we know that the economic recession and reductions in funding have created a crisis for most, if not all, of the newly founded legal clinics for victims. Since 2004,

when Congress passed the Crime Victims' Rights Act, which enumerated rights for victims of federal crime and included funding for the enforcement of these new rights, 11 legal clinics opened across the country. In their few years of operation, these clinics have shown great success in promoting and defending victims' rights. Unfortunately, according to Steve Twist, a fellow Arizonan and one of the pioneers in the victims' rights field, virtually all of the clinics will be closed by the end of this year without further action by Congress to support their work. This would be a tragic loss for victims and a huge step backward in the movement to secure victims' rights for all.

In Arizona, income tax declines have hit the state hard, while sales and property tax decreases have taken a significant toll on city and county governments. This has resulted in a significant decrease in state and local funding for victim services. The most significant cuts have come from the state appropriations to the Arizona Department of Economic Security for victim services, which declined from \$7.9 million in fiscal year 2008 to \$4.6 million in fiscal year 2010. This nearly \$3.3 million cut (-42%) in funds has had a horrific impact on domestic violence services and shelters throughout the state. Thus, now more than ever, continued or increased federal funding for victim services and victim funds is vitally important.

Over the past year, victim service agencies in Arizona have closed their doors because of the economic downturn and insufficient funding to maintain their services. One of the agencies that went under was the Gila Family Advocacy Center (GFAC) that served the largely rural Gila County in the central part of Arizona. The GFAC was established in 2007 with a grant from the Governor's Office for Children, Youth and Families after two years of planning. GFAC was still in its infancy stage when the recession hit. Reductions in revenue, including the loss of critical domestic violence funding from the Arizona Department of Economic Security, resulted in the closure of GFAC in April 2010.

Throughout the state, other victim service organizations have suffered significant budget cuts that erode and threaten their ability to effectively assist victims. Many governmental agencies, such as municipal police departments and prosecutors' offices, have had to weather large budget reductions. Often, these agencies do not have a large number of victim advocates to begin with, so the loss of even one position can have a significant impact. For example, due to the downturn in the economy, the Phoenix Prosecutor's Office lost two caseworker positions since 2009. One of the positions handled a caseload of 980 victims a month, which subsequently had to be transferred to another caseworker, resulting in the number of victim contacts inevitably being reduced by half. The other position was responsible for providing services to victims at initial appearances, within 12 hours of a suspect's arrest. These early victim services were critical to ensuring victim safety and ongoing engagement with the prosecution, which ultimately leads to higher conviction rates and perpetrator accountability. The loss of this position weakens these services and increases the workload of an already overburdened staff.

In Tucson, the economic recession has placed tremendous stress on an already overburdened victim services community. The Pima County Attorney's Office works in close partnership with other victim service agencies in the community to ensure that victims' needs are met. Our partner agencies have experienced significantly-increased victim needs, while their services have been reduced due to funding cuts.

Tucson has one primary domestic violence agency that serves the entire metropolitan area of nearly one million people. Emerge! Center Against Domestic Abuse was the result of a merger of two smaller domestic violence shelters. Since 2009, Emerge! has lost 24% of its funding for shelter services from the Arizona Department of Economic Security. More cuts are likely under the newly passed state budget for fiscal year 2012. In total, Emerge! has suffered a reduction of over \$850,000 in its overall operating budget, which for the current fiscal year is \$4.2 million. As a result, it has had to eliminate 14 shelter beds (10%) and lay off 18 staff members, including four managers. It anticipates losing an additional three or four staff members this year. Concurrent with these reductions, Emerge! has seen an increase in demand for its services. The community's needs have simply outstripped its ability to meet the demand due to the lack of funding. As a result, victims in need of a safe place to stay and critical advocacy services are falling through the cracks. These enormous reductions in state support have made the federal VOCA funds that Emerge! receives (\$234,614) all the more critical. These VOCA funds pay for 4.14 full-time equivalent ("FTE") Case Coordinators, 1.34 FTE Child and Family Case Coordinators, and 0.68 FTE Volunteer Manager.

Sarah Jones, Executive Director of Emerge! Center Against Domestic Abuse, said "It is known that domestic violence increases threefold during times of economic crisis. Given the state of our economy, our shelter beds are full, our phone lines are ringing day and night, and we're turning away an average of 10-12 women a week. Without continued funding from all levels, we are fearful we won't be able to meet the safety needs of our most vulnerable community members."

The Pima County Attorney's Office also works closely with the Southern Arizona Center Against Sexual Assault (SACASA), which among other services, operates a 24 hour bilingual crisis hotline and hospital response for forensic exams for recent sexual assault victims. SACASA's \$1.46 million annual budget is made up of about 65% federal dollars, most of which come from VOCA and VAWA funds. SACASA has seen significant decreases in support from Pima County and the City of Tucson, which has impacted its ability to provide services. Montserrat Caballero, SACASA's Director, said "Federal cuts to victim services would be devastating to the agency. Programs would have to close and staff have their hours reduced or be let go. The needs of victims would go unmet."

Ms. Caballero summarizes the bleak situation by saying, "It cannot be overstated how much the economic downturn impacted victims of crime. State and local revenues have dwindled and many local resources are gone. Police departments are understaffed and unable to respond to the crime of sexual assault as a priority unless imminent danger is apparent." She goes on to note that cuts to the state's Medicaid program have negatively impacted the ability of some survivors to get the medications they need for conditions, such as depression and anxiety, that are a direct outcome from their victimization. Housing foreclosures and cuts to shelter and transitional housing resources have forced many sexual assault survivors to sleep in cars or couch-hop to find a place to sleep. Sometimes survivors are re-assaulted because of unsafe housing conditions.

Federal victim compensation and assistance funds are critical to ensuring that victims across our nation receive the support and assistance they need to recover from the trauma they have

suffered due to no fault of their own. President Reagan and members of Congress recognized this when they created VOCA in 1984. In April 1982, just before the 2<sup>nd</sup> Annual National Victims Rights Week, President Reagan said that “the plight of the innocent citizen victimized by lawlessness deserves immediate national attention.... Too often their pleas for justice have gone unheeded and their wounds – personal, emotional and financial – have gone unattended.”

In Arizona in 2010, \$1.3 million in VOCA victim assistance funds supported 16 governmental victim service agencies, including the Pima County Attorney's Office, as well as 31 nonprofit victim service organizations. Collectively, these agencies served a total of 83,007 victims in 2010 providing them with over 869,090 services, including crisis intervention, shelter, counseling, criminal justice support, and court advocacy. Additionally, the Crime Victim Compensation Program provided direct financial support to 41,663 crime victims to help offset some of their medical expenses, mental health counseling, loss of income, and funeral costs in 2010. The Crime Victim Compensation Program's total 2010 budget of \$3.7 million was comprised of \$2.4 million in state funds and \$1.3 million in federal VOCA funds.

Federal funding is also vital to ensure that the crime victim services field remains strong and promotes the development and adoption of uniform best practices across the nation to ensure that all victims receive the highest level of services and that communities are fully prepared to handle any mass casualty or large scale incident that may occur. Of course, this is precisely the work that is being undertaken by the Justice Department, Office of Justice Programs' Office for Victims of Crime's Vision 21 Initiative. The Vision 21 Initiative is designed to help transform Victim Services for the 21<sup>st</sup> Century by analyzing the role of the crime victim field, building the field's capacity to serve crime victims, and addressing both the enduring and emerging challenges that face the field.

Moreover, at the local level, during these troubling economic times, communities need to be able to count on the continued support of federal victim compensation and victim assistance funds provided through VOCA and VAWA. As indicated earlier, crime victims are suffering greater needs and placing greater demands on already overburdened victim service agencies that have no choice but to scale back their programs and services due to funding cuts. Any reductions in federal support will cripple these organizations and likely result in many programs closing their doors, leaving victims with nowhere to turn. In fact, this is precisely the time when the federal government should be increasing funding to victims and victim service organizations.

The simplest and easiest way to do so is by increasing the VOCA cap. VOCA funds come entirely from fines, fees and other assessments on federal criminals and, thus, are not a burden on taxpaying citizens or a drain on tax revenues. Each year, the VOCA cap is set below the actual revenues that are generated from these federal crimes. Increasing this cap would immediately result in more funds flowing to victim service organizations and victims throughout the nation. This is the right, fair, and compassionate thing to do during these difficult and trying economic times. It also makes financial sense. If these funds from criminal activity do not go to support these pressing victim needs, state and local communities will likely end up paying for the costs in other indirect ways, such as higher unemployment claims, Medicare or Medicaid enrollments, community mental health services, etc. Rather than shift the burden onto other strained systems



and resources that rely on taxpayer funding, it would make sense to use the funds paid for by criminals to meet these unmet needs.

In Arizona we are fortunate to benefit from one of the most robust sets of Victims' Rights statutes in the nation. Enshrined in our Arizona Constitution in 1990 by the will of the voters, Arizona rights and protection for victims of crime have been further defined and expanded in subsequent years. Fortunately, many states have followed suit and we now have a patch work of different laws and protections for victims across the nation. While this is certainly an advance over the days in which victims were left uninformed about proceedings, excluded from hearings and courtrooms, re-victimized by being subjected to interviews by their perpetrators, and denied the ability to confer with prosecution regarding critical case decisions, there is still much work to be done. For, even in a state like Arizona with strong protections, we often fail to fulfill all of our constitutional promises to victims, such as the promise of a speedy trial. At the federal level, while patchwork protections are in place, they are just that: incomplete and inconsistent coverage for victims across the nation. From one state and jurisdiction to another, the rights afforded to victims shift with the changing political winds. This leaves victims exposed and vulnerable.

It is crucial that we finish the work that President Reagan started when he identified these gaps in rights and services and created his President's Task Force on Victims of Crime in 1982. One of the Task Force's recommendations was the adoption of a federal constitutional amendment for victims' rights. Over the past couple of decades since state victims' rights statutes have been enacted, we have learned valuable and important lessons. We know that these rights make a real difference in the lives of victims and afford them a measure of fairness, dignity and respect in a system that is often confusing and overwhelming and that is not necessarily in concord with their needs and concerns. We also know that these rights do not interfere or trample on the rights of the accused as they were so often forecast to do. Both the rights of victims and the rights of defendants can successfully co-exist harmoniously within the American criminal justice system. Thus, it is imperative that our nation reprioritize the passage of a federal constitutional amendment so that all victims across our nation receive the same set of rights and are uniformly treated with dignity, fairness and respect.

We owe the victims of the January 8<sup>th</sup> shooting, and all victims across the nation, our promise and commitment of the highest levels of support possible and a uniform set of victims' rights and protections.

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