



Department of Justice

STATEMENT OF

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BEFORE THE

SENATE JUDICIARY COMMITTEE

AT A HEARING ENTITLED

**“RENEWING AND STRENGTHENING THE VIOLENCE AGAINST WOMEN
ACT”**

PRESENTED

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Testimony of Lisa O. Monaco
Deputy Attorney General
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Introduction

Thank you, Chairman Durbin, Ranking Member Grassley, and members of the Committee for the opportunity to speak to you today about the Violence Against Women Act (VAWA), and the enormous impact it has had in combatting domestic violence, dating violence, sexual assault, and stalking. This important piece of legislation remains vital to ensuring the safety of American communities, and we urge Congress to reauthorize it.

The opportunity to support VAWA's reauthorization is particularly significant for me, as I began my career as a staff member of this Committee, led by then-Chairman Joseph Biden. My job included responding to letters from people who wrote to this body about a variety of issues. One issue that came up again and again was the violence that too many people—mostly women—suffered at the hands of their intimate partners, the epidemic of sexual assault and stalking throughout this country, and the lack of accountability for these crimes. The statistics this Committee documented in its 1993 report were deeply troubling: over 60 percent of rape reports did not result in arrests; a rape case was more than twice as likely to be dismissed as a murder case and nearly 40 percent more likely to be dismissed than a robbery case; less than half of the individuals arrested for rape were convicted of that offense. And over one-half of all convicted rapists served an average of only 1 year or less in prison.¹

Long before VAWA, survivors and advocates worked tirelessly to form a nationwide movement to end violence against women and to support the rights and dignity of survivors. They started domestic violence shelters and rape crisis centers; lobbied state legislatures to outlaw marital rape and allow victims of domestic violence to obtain orders of protection against their abusers; fought against common rape myths and stereotypes; urged local law enforcement to take violence against women seriously; organized on college campuses for safety for survivors and accountability for offenders; and formed dynamic victim-centered service organizations, many of which still exist today. In many ways, these local grassroots efforts brought the reality of violence against women into the country's consciousness and paved the way for federal action.

It was against this backdrop that Congress passed the landmark Violence Against Women Act in 1994, the first comprehensive federal legislation to address violence against women, including domestic violence, sexual assault, and stalking. Through this action, Congress signaled that ending violence against women is a national priority, and the crisis deserves the weight of the federal government's leadership and resources.

VAWA, and the programs supported through its funding, are as critical as ever. Based on the most recent available data, as many as one in three women are subjected to domestic violence,

¹ Senate Report No. 103-138, at 42 (Sept. 10, 1993).

dating violence, sexual assault, or stalking at some point in their lives, and the rate is even higher for women of color, lesbian and bisexual women, and transgender people.² And while COVID-19 created an extraordinary emergency for all Americans, it laid bare the particular vulnerabilities of a number of communities, including survivors of domestic and sexual violence, and challenged us to redouble our efforts to support their safety. During the pandemic, VAWA-funded programs have been a lifeline to victims whose other support disappeared and provided much needed assistance to overburdened communities.

Congress's continued appropriations over the past several years have enabled this important work to continue. A reauthorized VAWA must address gaps in the current statutory structure, and it must continue to invest in, and expand, strategies that advance access to safety, justice, and economic stability for victims and survivors. Coming full circle from where VAWA began, now-President Biden and his Administration strongly support reauthorization of VAWA, and the President's FY 2022 budget has requested a historic investment of \$1 billion in total funding for VAWA programs. The Department of Justice (the Department) urges Congress to build upon the bipartisan previous VAWA authorizations of 2000, 2005, and 2013, and fully fund the President's request.

About the Office on Violence Against Women

The Department's Office on Violence Against Women (OVW) assumes the day-to-day work of implementing VAWA, and I am proud to represent those dedicated employees here today. OVW was created to administer VAWA and subsequent legislation. Today, the office leads the federal government's efforts to reduce violence against women and administer justice for and strengthen services to victims of domestic violence, dating violence, sexual assault, and stalking.

Currently, OVW administers four formula grant programs and 15 discretionary grant programs. These programs provide funding to support and improve victim services, legal assistance, law enforcement and prosecution services, and court practices, as well as training and technical assistance to an array of professionals and organizations. OVW maintains close relationships

² Black, M.C., Basile, K.C., Breiding, M.J., Smith, S.G., Walters, M.L., Merrick, M.T., Chen, J., & Stevens, M.R., National Center for Injury Prevention and Control, Centers for Disease Control and Prevention, *The National Intimate Partner and Sexual Violence Survey (NISVS): 2010 Summary Report* (2011), available at https://www.cdc.gov/violenceprevention/pdf/NISVS_Executive_Summary-a.pdf; see also Smith, S.G., Zhang, X., Basile, K.C., Merrick, M.T., Wang, J., Kresnow, M., Chen, J., National Center for Injury Prevention and Control, Centers for Disease Control and Prevention, *The National Intimate Partner and Sexual Violence Survey (NISVS): 2015 Data Brief – Updated Release* (2018) at 2, 8, available at <https://www.cdc.gov/violenceprevention/pdf/2015data-brief508.pdf> (43.6% of women experience sexual violence victimization in their lifetime; over 1 in 3 are subjected to sexual victimization, physical assault or stalking by an intimate partner in their lifetime); National Center for Injury Prevention and Control, Centers for Disease Control and Prevention, *NISVS: An Overview of 2010 Findings on Victimization by Sexual Orientation*, available at https://www.cdc.gov/violenceprevention/pdf/cdc_nisvs_victimization_final-a.pdf; Sandy E. James, Jody L. Herman, Susan Rankin, Mara Keisling, Lisa Mottet, & Ma'ayan Anafi, The National Center for Transgender Equality, *The Report of the 2015 U.S. Transgender Survey*, (2016), available at <https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf>; Brown, T. N. T., & Herman, J. L. (2015). *Intimate partner violence and sexual abuse among LGBT people: a review of existing research*. Los Angeles, CA: The Williams Institute, available at: <https://williamsinstitute.law.ucla.edu/wp-content/uploads/IPV-Sexual-Abuse-Among-LGBT-Nov-2015.pdf>.

with grantees, assessing their needs and challenges in real time, learning from their successes and struggles, supporting training and technical assistance to maximize the effectiveness of their activities, and designing new initiatives to address emerging issues in the field. As the research demonstrates, VAWA funding supports evidence-based practices that save lives and help communities across America respond to domestic and sexual violence.

The Department of Justice's VAWA 2021 Priorities

Through this reauthorization, we must build upon what we have learned in the years since VAWA was first enacted and address areas of continuing challenge in our communities. VAWA was originally conceived as a bill to improve the way that law enforcement, prosecutors, and courts respond to violence against women, with an emphasis on supporting a coordinated community response. Before VAWA, far too often, law enforcement officers routinely treated domestic violence as a private family matter and viewed sexual assault victims with skepticism. VAWA marked a commitment to listen to survivors when we make changes to criminal justice responses, so that these changes reinforce, rather than undermine, their safety, autonomy, and healing. We must take a holistic view and seek to improve the training and the tools available in each step in the process—from the investigators and their forensic tools to the interactions with prosecutors, victim advocates, and the court system.

We must continue to equip police and prosecutors with the knowledge, skills, and resources needed to provide survivor-centered and trauma-informed responses to victims who seek help from the criminal justice system.

We must find new ways to reach and improve services for underserved populations, including culturally specific communities, LGBTQ victims, individuals with disabilities, immigrant survivors, older adults, and victims in rural communities, among others.

We must support tribes in their efforts to protect women in their communities from epidemic levels of domestic and sexual violence.

We must renew our efforts to reduce homicides through federal firearms laws, including addressing gaps in the current system that allow some offenders to slip through the cracks.

And, as with each VAWA reauthorization, Congress should enhance the Department's ability to identify and study innovative approaches to meeting survivors' needs and promoting justice.

VAWA Funds Lifesaving Services and Promotes Justice for Survivors and Their Families

Perhaps VAWA's widest influence is felt through its multiple grant programs that provide federal financial assistance to a broad range of nonprofits and government agencies that respond to domestic and sexual violence. In every state and territory, VAWA recipients are delivering lifesaving services to victims and their families, holding offenders accountable through criminal justice responses, improving the response of the civil and criminal justice systems, and training their community partners on evidence-based practices. Funding for VAWA programs allows grantees to serve hundreds of thousands of victims annually, providing critical services like

hotlines and victim advocates, temporary housing for victims and their children, and legal assistance that improves survivors' access to and experience with court procedures like custody arrangements and protection orders. Each reauthorization of VAWA has added new programs and initiatives supporting evidence-based practices that save lives and help communities across America respond to domestic and sexual violence.

Since VAWA was reauthorized in 2005, however, funding for its grant programs has not kept pace with demand from applicants. Funding for many of VAWA's flagship programs has remained stagnant over the past decade, and the pandemic has only heightened the need for additional funding across these programs. President Biden's FY 2022 Budget thus includes a historic investment of \$1 billion in total funding for VAWA programs, nearly double the FY 2021 level. The Department strongly supports this request, and this infusion of funding will be critical to meeting today's needs and enabling a comprehensive approach to combating the scourge of domestic and sexual violence.

For example, the President requested an additional \$185 million for the *STOP (Services*Training*Officers*Prosecutors) Violence Against Women Formula Grant Program*. This program is the cornerstone of VAWA, reaching every state and territory with its coordinated, multidisciplinary approach to developing effective law enforcement and prosecution strategies as well as victim advocacy and services in cases involving domestic violence, sexual assault, dating violence and stalking. By requiring that 30% of funds be allocated for victim services, of which at least 10% must be distributed to culturally specific, community-based organizations, the STOP Program serves as a model for supporting coordinated community responses. Allocating STOP funds for law enforcement agencies, prosecutors, courts, and victim services ensures collaboration among community agencies and elevates survivors' voices in the criminal justice system. Funding through STOP grants is also available to improve the technology that investigators can use to identify and document evidence of these crimes.

The President also requested an additional \$27 million for the *Improving Criminal Justice Responses to Sexual Assault, Domestic Violence, Dating Violence, and Stalking Grant (ICJR) Program*, which similarly provides funding for a coordinated community response to these crimes. The program supports a combination of victim services and specialized law enforcement and prosecution units, training and policy development focused on criminal justice agencies and courts, and multi-disciplinary teams, such as Sexual Assault Response Teams.

Likewise, the President requested an additional \$30.4 million for VAWA's *Grants to Indian Tribal Governments Program*, which promotes justice for American Indian and Alaska Native women by providing funding to Indian tribal governments to strengthen tribal justice interventions, including law enforcement, prosecution, courts, probation, and correctional facilities, as well as services for victims.

Commitment to Civil Rights and Supporting Population-Specific Organizations

The Department strongly supports the 2021 VAWA Reauthorization retaining one of the most groundbreaking provisions of the 2013 VAWA Reauthorization—the addition of a non-discrimination provision that prohibits discrimination in VAWA-funded programs on the basis of

race, color, national origin, sex, disability, religion, sexual orientation, or gender identity.³ Women of color, people with disabilities, and LGBTQ people are disproportionately impacted by domestic violence and sexual assault,⁴ and these groups face unique barriers in finding services that are accessible and culturally appropriate for their needs. With the addition of a non-discrimination provision, Congress took a leap forward in our efforts to ensure that victims everywhere can access services at VAWA-funded programs, and sent a clear message that the federal government expects VAWA-funded organizations to be a safe haven for all victims and survivors.

This non-discrimination provision applies to all VAWA-funded recipients—states, tribal governments and organizations, units of local governments, and non-profits, including faith-based organizations. And since the non-discrimination provision went into effect, faith-based organizations that serve victims of domestic and sexual violence have continued to provide lifesaving services to victims, alongside their secular counterparts. OVW has funded training and technical assistance projects designed to help grantees build partnerships with faith-based leaders and organizations to address domestic violence and sexual assault, and to provide training to domestic violence and sexual assault organizations to better serve victims of faith.

The Department is committed to ensuring that all victims can access services free from discrimination. This commitment was echoed in the President’s FY 2022 budget with increases to population-specific programs, including \$20 million for historically Black colleges and universities (HBCUs), Hispanic-serving institutions, and tribal colleges and universities through the Campus Program; \$10 million to establish a National Deaf Services Line; \$2 million to support transgender survivors; separate appropriations of \$20 million for the Culturally Specific Services Program and \$6 million for the Underserved Populations Program; and \$5 million to build the capacity of community-based organizations to successfully manage federal grants. We look forward to working with Congress to address discrimination against vulnerable and protected groups and ensure meaningful access to services that meet their needs.

Expanding Special Domestic Violence Criminal Jurisdiction for Tribes

Recognizing tribal criminal jurisdiction over a broader range of crimes committed by non-Indians in Indian country is a crucial step in ensuring that all victims of crime have access to justice and perpetrators are held accountable. Prior to the reauthorization of VAWA in 2013, tribes could not prosecute domestic and dating violence committed by non-Indians against Native American victims on tribal lands. In part because of this gap in tribal jurisdiction, Native American women have suffered some of the highest rates of violence at the hands of intimate partners in the United States. A leading National Institute of Justice analysis of 2010 survey data collected by the Centers for Disease Control and Prevention found that more than half (55.5%) of

³ Codified at 34 U.S.C. 12291(b)(13).

⁴ See, e.g., Centers for Disease Control and Prevention. (n.d.). *An Overview of Intimate Partner Violence in the United States — 2010 Findings*, available at: <https://www.cdc.gov/violenceprevention/pdf/ipv-nisvs-factsheet-v5-a.pdf>; Harrell, E. (2017, July). *Crime Against Persons with Disabilities, 2009-2015 – Statistical Tables*. (NCJ 250632). Washington, DC: Bureau of Justice Statistics, U.S. Department of Justice, available at: <https://www.bjs.gov/content/pub/pdf/capd0915st.pdf>; Centers for Disease Control and Prevention. (n.d.). *NISVS: An Overview of 2010 Findings on Victimization by Sexual Orientation*, available at https://www.cdc.gov/violenceprevention/pdf/cdc_nisvs_victimization_final-a.pdf.

American Indian and Alaska Native women have experienced physical violence by an intimate partner in their lifetimes. Among these victims, 90% have experienced such violence by an intimate partner of a different race and ethnicity.⁵

In VAWA 2013, Congress recognized and affirmed tribes' inherent power to exercise "special domestic violence criminal jurisdiction," or SDVCJ, over certain defendants, regardless of their Indian or non-Indian status, who commit acts of domestic violence or dating violence or violate certain protection orders in Indian country.⁶ For the first time in decades, tribes therefore could prosecute non-Indian perpetrators of domestic violence and dating violence in tribal courts. In recognizing this tribal jurisdiction, Congress required that participating tribes provide protections for a criminal defendant's rights and civil liberties.

The Department moved swiftly to implement the law's initial pilot project structure in 2013. That pilot laid the foundation for the 28 tribes that voluntarily exercise SDVCJ today. The National Congress of American Indians has documented the impact of these implementing tribes and reports that, as of March 2021, there have been 130 convictions of SDVCJ defendants, many of which involved defendants with long histories of violence and abuse. This fact alone underscores how VAWA has helped empower tribal nations to obtain justice and address significant gaps that previously existed in access to justice for Native American victims.

Through our consultations with tribal leaders, however, we know that there is more work to do. Between the years 2016 and 2020, most of the tribes that testified about SDVCJ at the Department's annual Violence Against Women Government-to-Government Tribal Consultation advocated that SDVCJ be expanded to include non-Indian perpetrators of sexual assault, sex trafficking, and crimes against children and law enforcement officers, among other crimes. One common theme from tribal leaders has been that domestic violence incidents often involve attendant crimes that should be prosecuted concurrently. Of equal importance, many tribes have advocated for expanding SDVCJ to include non-Indian defendants who commit sexual assaults on tribal lands, including those who do not maintain "substantial ties" to the tribe.⁷ Finally, tribes have noted that prior reauthorizations of VAWA left a gap by failing to recognize tribal criminal jurisdiction over crimes committed by SDVCJ defendants during and after their arrests by tribal authorities.

The Department strongly supports measures to bridge these critical gaps in tribal criminal jurisdiction over non-Indian offenders. An expansion of SDVCJ would allow participating tribes to hold accountable non-Indian perpetrators of sexual violence, sex trafficking, domestic violence against child victims, stalking, elder abuse, and assault against law enforcement officers when they commit such crimes on tribal territory. We pledge to work with Congress to build on

⁵ Andre B. Rosay, U.S. Dept. of Justice, Nat'l Inst. of Justice, Violence Against American Indian and Alaska Native Women and Men: 2010 Findings from the National Intimate Partner and Sexual Violence Survey (May 2016) 21, 26, available at <https://www.ncjrs.gov/pdffiles1/nij/249736.pdf>.

⁶ Codified at 25 U.S.C. § 1304.

⁷ VAWA 2013 provides that a participating tribe may exercise SDVCJ over a non-Indian defendant only if the defendant resides in the tribe's Indian country, is employed in the tribe's Indian country, or is a spouse, intimate partner, or dating partner of a member of the tribe or an Indian who resides in the tribe's Indian country. See 25 U.S.C. § 1304(b)(4)(B). These requirements are commonly referred to as "substantial ties."

the tribes' effective implementation of SDVCJ, address significant co-occurring crimes, and expand access to justice for indigenous victims.

Reducing Homicides Through Enforcing Federal Firearms Laws

VAWA not only supports state, tribal, and local criminal justice initiatives through funding; VAWA and subsequent legislation also created federal offenses that prohibit interstate domestic violence, stalking, violations of protection orders, and possession of firearms by domestic abusers.⁸ Although domestic violence, dating violence, sexual assault, and stalking are ordinarily prosecuted at the state level, these federal tools allow United States Attorneys to prosecute abusers who cross state lines or use instrumentalities of interstate commerce. These tools are essential to enable the federal government to protect victims and hold offenders accountable as they travel in pursuit of their victims.

There are, however, gaps in the current system that limit federal prosecution for some offenders. For decades, the Gun Control Act has prohibited persons subject to certain protection orders or those convicted of qualifying misdemeanor crimes of domestic violence from possessing firearms.⁹ This provision is critically important to prevent domestic violence homicides by keeping firearms out of the hands of domestic abusers.¹⁰ Currently, however, those provisions apply only when the abuser is a spouse, former spouse, or similarly situated to a spouse, shares a child in common with the victim, or cohabitates or has cohabitated with the victim. We know that abuse in dating relationships is no less dangerous—allowing this “boyfriend loophole” to persist leaves countless numbers of victims unprotected, and we urge Congress to close this gap in the coming reauthorization.

The Department also urges Congress to resolve uncertainty around whether “misdemeanor crimes of domestic violence” include local and municipal misdemeanors. In recent years, several courts have issued adverse rulings preventing federal prosecutions based on misdemeanor domestic violence convictions under municipal ordinances—which are available in 33 states to prosecute domestic assault—based on the failure of the statute to specifically mention municipal ordinances.¹¹

We hope that Congress will act to allow many United States Attorneys' Offices to prosecute domestic violence offenders convicted under municipal ordinances that essentially mimic state offenses when those offenders violate the federal firearms prohibitions, which is particularly important in jurisdictions that use only municipal ordinances to prosecute domestic violence assault. The Department looks forward to working with Congress to correct these and other gaps in the federal response to domestic violence in order to prevent offenders from slipping through the cracks and provide U.S. Attorneys the tools they need to keep victims safe.

⁸ See 18 U.S.C. §§ 2261, 2261A, 2262, & 922(g)(8)-(9).

⁹ See 18 U.S.C. § 922(g)(8)-(9).

¹⁰ According to one study, in domestic violence situations, the risk of death is five times greater when a gun is present. Jacquelyn C. Campbell, et al., “Risk Factors for Femicide in Abusive Relationships: Results from a Multisite Case Control Study,” *American Journal of Public Health* 93 (7) (2003): 1089–1097, 1092, available at <https://ajph.aphapublications.org/doi/full/10.2105/AJPH.93.7.1089>.

¹¹ See, e.g., *United States v. Pauler*, 857 F.3d 1073 (10th Cir. 2017); *United States v. Enick*, No. 2:17-cr-00013-BLW, 2017 WL 2531943 (D. Idaho June 9, 2017).

New Approaches to Achieving Justice and Healing for Survivors

Although VAWA has succeeded in improving criminal justice responses, there is more work to do. Despite VAWA's focus on holding offenders accountable through the criminal justice system, many who experience domestic and sexual violence are reluctant to seek a criminal justice response. According to the Department's data, only 23% of victims of rape or sexual assault and 49% of victims of domestic violence report their assaults to the police.¹² Some victims of domestic violence have reported fearing that police intervention would make the situation worse by failing to hold the offender accountable, escalating their danger, or triggering retaliation from their partner.¹³ Some fear engagement with law enforcement and fail to report because of distrust of the criminal justice system.¹⁴ The Department takes this reticence very seriously and is committed to finding survivor-centered solutions that build on VAWA's quarter century of success in this area and on the Department's continuing efforts to help law enforcement agencies improve their policies, protocols, and training to promote bias-free and effective responses to domestic and sexual violence.

For example, in 2015, the Department issued *Identifying and Preventing Gender Bias in Law Enforcement Response to Sexual Assault and Domestic Violence*,¹⁵ a guidance document that was aimed at helping law enforcement agencies identify and prevent sex discrimination in their investigation of and response to these crimes. The leadership of the Department continues its commitment to helping law enforcement agencies improve their policies, protocols, and training to promote effective responses to domestic and sexual violence. The importance of having investigating agents and prosecutors trained on appropriate trauma-informed interactions with survivors cannot be overstated.

In recent years, there has been growing interest in expanding the response to gender-based violence to include restorative justice practices. As described in the Department's FY 2022 budget request, "[r]estorative justice is a growing practice in both the criminal and social justice fields that seeks to repair and address the harm experienced by victims, as well as any harm done to their community."¹⁶ In the context of gender-based violence, it is a "strategy for addressing underreporting of sexual assault, domestic violence, and dating violence, by offering victims an option for remedying harm while responding to their concerns about how they will be treated by the criminal justice system."¹⁷ OVW has been exploring how this framework could be effectively applied to domestic and sexual violence. While we continue to study the potential benefits of this approach and others, the Department is committed to continuing to incorporate the views and voices of diverse survivors, including what they say they need for justice, safety,

¹² U.S. Dept. of Justice, Bureau of Justice Statistics, *Criminal Victimization, 2016* (December 2017), available at https://bjs.ojp.gov/content/pub/pdf/cv16_sum.pdf.

¹³ National Domestic Violence Hotline, *Who Will Help Me? Domestic Violence Survivors Speak Out About Law Enforcement Responses*, Washington DC, (2015), available at <http://www.thehotline.org/wp-content/uploads/sites/3/2015/09/NDVH-2015-Law-Enforcement-Survey-Report.pdf>.

¹⁴ *Id.*

¹⁵ <https://www.justice.gov/opa/file/799366/download>.

¹⁶ U.S. Dept. of Justice, FY 2022 Budget Request: Addressing Inequities in the Criminal Justice System 3 (2021), available at <https://www.justice.gov/jmd/page/file/1398821/download>.

¹⁷ *Id.*

and healing, as we make progress in carrying out our commitment to eliminate domestic violence, sexual assault, dating violence, and stalking.

Conclusion

I appreciate the time and attention of the many members of Congress, current and former, who have contributed to this important legislation, and I look forward to continuing that work with this Committee and answering your questions today.