

Crime Victims Fund Report:

Past, Present, and Future



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Crime Victims Fund Report: Past, Present, and Future

Steve Derene
National Association of VOCA
Assistance Administrators

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Executive Summary

The Crime Victims Fund (the Fund) was enacted in 1984 as the centerpiece of the Victims of Crime Act (VOCA) to support state victim assistance and victim compensation programs and services to victims of federal crimes. Since its inception, \$6.7 billion has been deposited into the Fund, nearly all of which comes from the collection of federal criminal fines.

This report examines the trends of Fund revenues to assess the current and projected condition of the Fund, identify structural issues with the manner in which the Fund is used, and make suggestions to address those issues. The report provides historical information on amounts deposited into the Fund through various sources, how those deposits have been used, changes that have had an overall impact on Fund resources, and trends in revenues and expenditures that could result in severe reductions in current funding levels.

Although originally intended to support services and assistance to victims of all types of crime through state victim assistance and victim compensation programs, the Fund has been expanded to support other programs, including the Children's Justice Act, victim/witness coordinators in U.S. Attorneys' Offices, victim assistance specialists in the Federal Bureau of Investigation, victim assistance training and technical assistance, and replenishment of the Antiterrorism Emergency Reserve.

Since Fiscal Year (FY) 1996, after a period of relative stability from FY 1985 to FY 1995, annual Fund deposits have experienced wide fluctuations—a pattern of steep increases, followed by several years of declining deposits, followed by another jump in deposits. Average annual deposits since FY 1996 have been \$582 million, compared with average annual deposits of \$136 million between FY 1985 and FY 1995. Between FY 1996 and FY 2004, \$2.3 billion, or 45 percent, of deposits came from only 12 corporate defendants that paid fines of \$100 million or more. Without those 12 cases, the average annual deposits into the Fund since FY 1996 would have been \$324 million.

Because of how the Fund is allocated each year, the impact of fluctuations in annual obligations from the Fund is felt most directly on victim assistance formula grants and, to a lesser degree, on Office for Victims of Crime discretionary grants. Since FY 2000, Congress has imposed an annual cap on the amounts that can be obligated from the Fund “to protect against wide fluctuations in receipts into the Fund and to ensure that a stable level of funding will remain available for these programs in future years.”

Even though Congress has increased the cap each year, the increase has not always been enough to maintain funding for victim assistance formula grants. State victim assistance formula grants were reduced by \$9.3 million in FY 2001 and by \$30 million in FY 2003.

As a result of a few unusually large deposits, the number of VOCA victim assistance subgrants awarded by state VOCA assistance agencies has doubled. The subgrants support a wide range of direct services to victims of all types of crimes. The

ability to maintain those services and meet the needs of additional populations of victims could be jeopardized unless deposits into the Fund can be sustained at the levels experienced in recent years.

To address this problem, the following three-pronged approach is recommended to sustain adequate and needed support for victim services through the Fund:

- **Restructure fund allocations.** To address the structural inequity of state victim assistance grants absorbing the negative impact of insufficient funding, the allocation formula should be restructured so that a minimum amount of funds are made available for state victim assistance grants each year. This amount should be set at the average allocated for state victim assistance grants during the previous 3 years plus 5 percent.
- **Additional deposits.** Deposits into the Fund should be increased through continued efforts to improve the collection of criminal debts and by dedicating certain restitution payments. In addition, a set percentage (e.g., 10 percent) equal to all proceeds from False Claims Act revenues (other than restitution or amounts paid to whistleblowers) should be transferred annually into the Crime Victims Fund.
- **Supplemental deposits.** If increased debt collection and new revenue sources are still inadequate to meet annual Fund obligations, additional amounts necessary to make up for the deficiency should be transferred into the Fund from the proceeds of nonhealth care-related False Claims Act cases and from federal civil or administrative fines and other monetary penalties for violations of the law.

Foreword

The Crime Victims Fund (the Fund) was one of the first major sources of funding to support national efforts to assist crime victims, and it serves as a tremendous resource to facilitate victim service programs across the Nation. The growth and expansion of the Fund over the past two decades has been phenomenal and likely has far surpassed any expectations of members of the President's Task Force on Victims of Crime when they recommended more than 20 years ago that Congress "enact legislation to provide federal funding, reasonably matched by local revenues, to assist in the operation of federal, state, local, and private nonprofit victim/witness assistance agencies that make comprehensive assistance available to all victims of crime."

The reliance on the Fund by federal, tribal, state, and local governments as a source of stable funding to support their compensation and victim service programs cannot be underestimated. Each year, numerous tribes, every state and U.S. territory, and thousands of nonprofit community-based organizations rely on money deposited in the Fund to augment state, local, and private donations to fund vital services for nearly 4 million people victimized by crime throughout the United States. More than half of the victims served in any given year are victims of domestic violence, including many children who witness violence at home. Victims rely on a wide range of services and assistance, such as help with medical care and mental health counseling, support during criminal justice proceedings, and emergency financial assistance. During Fiscal Years 2001 and 2002, roughly 42 percent of the benefits paid to victims by state victim compensation programs covered medical and dental expenses.

The Office for Victims of Crime funded the National Association of VOCA Assistance Administrators to develop this report to highlight the Fund's contribution to the Federal Government's efforts to assist victims; document the efforts of U.S. Attorneys and other federal criminal justice professionals to hold offenders accountable for their actions by vigorously prosecuting criminal acts and collecting fines, penalties, and bond forfeitures to deposit into the Fund; and examine the challenges in administering the Fund and explore future challenges in meeting victims' needs. It is fitting that this report was crafted in time for the 20th anniversary of the passage of the Victims of Crime Act of 1984, as amended (42 U.S.C. § 10601 et seq.), and the 25th anniversary of the first observance of National Crime Victims' Rights Week.

I hope this report will offer policymakers, program administrators, and philanthropic organizations insight into this unique and dynamic funding source for supporting services and assistance to victims of crime.

Steve Derene

Executive Director

National Association of VOCA Assistance Administrators

The Crime Victims Fund

“VOCA remains the central source of federal financial support for programs and services to victims of all kinds of crime.”

For 20 years, the Crime Victims Fund (the Fund) has established and sustained a substantial and continually growing infrastructure of services and financial assistance for victims of crime. Over the past several years, victim advocates, victim service providers, and victims have expressed concern about the condition of the Fund. Although the Fund has seen dramatic growth during the past 5 years, congressional limitations on release of those funds, combined with the expanded use of the Fund, have made victim advocates apprehensive over the future ability of the Fund to sustain and enhance essential services to victims.

The purpose of this report is to examine trends of Fund revenues to assess the current and projected condition of the Fund, to identify structural issues with the manner in which the Fund is used, and to make suggestions to address those issues. The report provides historical information on amounts deposited into the Fund through various sources, on how those deposits have been used, on changes that have had an overall impact on Fund resources, and on trends in revenues and expenditures that could result in severe reductions in current funding levels.

Creation of the Crime Victims Fund

The Victims of Crime Act (VOCA) has served as the Federal Government's principal vehicle to support assistance to victims of crime since its enactment in October 1984.

Although the Federal Government has responded to the needs of crime victims at the federal, state, and local levels through various mechanisms, VOCA remains the central source of federal financial support for programs and services to victims of all kinds of crime.¹

The 1984 legislation arose from the work of the President's Task Force on Victims of Crime, which issued its report in December 1982. Among the task force's 68 recommendations to improve the treatment of crime victims was the creation of a federal Crime Victim's Assistance Fund that would have two primary purposes: (1) to provide financial support to state crime victim compensation programs and (2) to support victim/witness assistance programs in the federal, state, and local systems.

The task force was concerned that financial difficulties would cause the then-existing 37 state compensation programs to stop providing benefits to victims of federal crimes. It also considered the "substantial sums of money" the Federal Government makes available for state prisons and the education and rehabilitation of state prisoners. "If the federal government will step in to assist state prisoners," the task force report stated, "it seems only just that the same federal government not shrink from aiding the innocent tax-paying citizens victimized by those very prisoners the government is assisting."²

Recognizing the difficult federal fiscal environment, the task force sought funding sources that did not depend on tax-generated revenues. It recommended creating the Crime Victim's Assistance Fund that would consist of criminal fines, penalties, and forfeitures that were then being deposited into the Federal Government's general treasury. "Not only is it appropriate that these monies collected as a result of criminal activity be used to help victims," the task force said, "but this method of funding also ensures a program that is both administratively efficient and self-sufficient, requiring no funding from tax revenues."³

Unlike many other federal reports and studies, the task force's final report did not just sit on a desk. Within 22 months, the task force's core recommendations for federal support of state victim compensation and victim assistance programs, with some modification, became law.

VOCA created the Fund as a "separate account" in the U.S. Treasury with deposits coming from federal criminal fines (with some exceptions); the proceeds of forfeited appearance bonds, bail bonds, and collateral; special forfeitures of the collateral profits of crime proceeds retained in an escrow account for more than 5 years; and newly created penalty assessments on federal misdemeanor and felony convictions.⁴

Not more than 50 percent of annual Fund deposits were made available for state victim compensation grants, with each state receiving 35 percent of the state-funded benefits (excluding amounts for property damage) paid during the preceding fiscal year. The remaining amount of each year's Fund deposits was made available for state assistance grants, with up to 5 percent deducted to serve victims of federal crimes.

The formula allocating Fund deposits would be frequently modified in succeeding years with additional programs relying on the Fund for their support. The following programs now depend on Fund deposits for all or part of their financial support:

- Children's Justice Act grants to improve the investigation and prosecution of child abuse cases, including tribal child abuse cases.
- Federal set-asides to support:
 - Victim/witness coordinators in U.S. Attorneys' Offices (USAO).
 - Victim assistance specialists in Federal Bureau of Investigation (FBI) field offices.
 - Federal Victim Notification System.

- Discretionary grants by OVC to support national-scope training and technical assistance and services for victims of federal crimes.
- Formula grants to state victim compensation programs.
- Formula grants to state victim assistance programs that provide direct victim services.
- Antiterrorism Emergency Reserve for supplemental grants to assist victims of terrorism and mass violence, including OVC's International Terrorism Victims Compensation Program.

Fund Revenues

Summary of Fund Deposits

Mindful of federal budgetary pressures, Congress originally imposed a limit of \$100 million on the amount that could be deposited into the Fund; this limit was gradually increased and then eliminated beginning with deposits made in FY 1993. From FY 1985 to FY 2004, a total of \$6.7 billion has been deposited into the Fund.

Overall, annual deposits have increased nearly sixteenfold from a low in FY 1986 of \$62 million to a high in FY 1999 of \$985 million. Fund deposits have been marked by two distinct patterns. From FY 1985 to FY 1995, the Fund grew 2½ times with an average annual increase of 22 percent and only a few, relatively mild fluctuations from year to year. Since FY 1996, however, annual Fund deposits have taken a roller-coaster ride of steep increases followed by declines. In FY 1996, Daiwa Bank Ltd. of Japan pled

Crime Victims Fund Deposits (in \$)

FY	Deposits*	FY	Deposits*
1985	68,312,956	1995	233,907,256
1986	62,506,345	1996	528,941,562
1987	77,446,383	1997	362,891,434
1988	93,599,361	1998	324,038,487
1989	133,540,076	1999	985,185,354
1990	146,226,664	2000	776,954,858
1991	127,968,462	2001	544,437,015
1992	221,608,913	2002	519,466,480
1993	144,733,739	2003	361,341,967
1994	185,090,720	2004	833,695,013

Source: Compiled from Office of Justice Programs data.

*Statutory limit on deposits into the Fund was \$100 million in 1985; \$110 million in 1986–88; \$125 million in 1989–90; \$150 million in 1991–92; and removed from 1993 on.

guilty to bank fraud and paid a then-record \$340 million fine—more than the total deposits during any previous year—making the total yearly deposit almost \$529 million. This windfall was 2¼ times the previous year's deposits and was followed by two successive years of lower collections. The peak was reached in 1999 when nearly \$1 billion was deposited into the Fund, but this record high was followed by several years of lower collections. Deposits in FY 2004 jumped up to nearly \$834 million, suggesting this pattern may be repeated again.

Impact of Large Fines

The most striking and significant feature of post-FY 1996 deposits is the impact of a relatively few anomalous cases in which criminal fines of \$100 million or more were imposed and entirely or substantially paid off. According to the U.S. Sentencing Commission (USSC), more than 50,000 defendants have been ordered to pay criminal fines since FY 1996. Yet, payments made by only 12 defendants fined

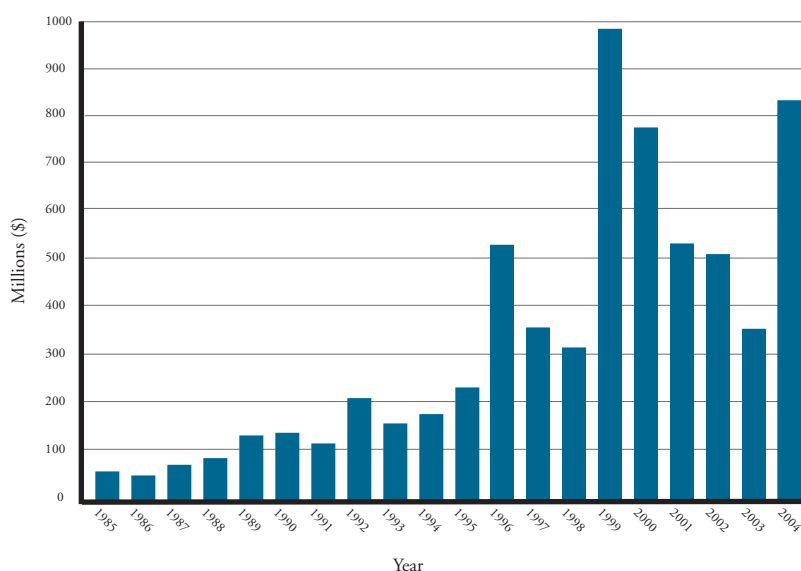
\$100 million or more accounted for \$2.3 billion—or 45 percent—of the \$5.2 billion deposited into the Fund since FY 1996, or 35 percent of all deposits since FY 1985.⁵

The 12 defendants are:

- FY 1996: Daiwa Bank Ltd. of Japan, financial fraud, paid a \$340 million fine.
- FY 1997: Archer Daniels Midland Company, price fixing in food additives, paid a \$100 million fine.
- FY 1998: UCAR International, part of a graphite electrode cartel, fined \$110 million to be paid in installments over 5 years (as of FY 2003, \$72.5 million has been paid).
- FY 1999: SGL Carbon AG, part of a graphite electrode cartel, fined \$135 million to be paid in installments over 5 years (as of FY 2003, \$51.3 million has been paid).
- FY 1999: F. Hoffmann-La Roche, part of an international vitamin cartel, paid \$500 million.

FY	All Fines			Without Large Fines			Large Fines Only		
	Deposits (in \$ millions)	%	Annual Average	Deposits (in \$ millions)	%	Annual Average	Deposits (in \$ millions)	%	Annual Average
1985–95	1,495	22	136	1,495	100	136	0	0	0
1996–2004	5,237	78	582	2,914	56	324	2,322	45	258
1985–2004	6,732	100	337	4,409	65	220	2,322	35	258

Crime Victims Fund Deposits



Source: Compiled from Office of Justice Programs data.

- FY 1999: BASF AG, part of an international vitamin cartel, fined \$225 million (paid in FY 2000).
- FY 2000: NMC Healthcare, health care fraud, fined \$101 million (paid in FY 2000 and FY 2001).
- FY 2001: Mitsubishi Corporation, part of a graphite electrode cartel, paid \$134 million.
- FY 2002: TAP Pharmaceutical, health care fraud, paid a \$290 million fine.
- FY 2004: Credit Lyonnaise, bank/insurance fraud, paid a \$100 million fine.
- FY 2004: Abbott Laboratories' CG Nutritionals, Medicaid/Medicare fraud, paid a \$180 million fine into the Fund.⁶
- FY 2004: Pfizer's Warner-Lambert Division, Medicaid fraud, paid a \$240 million fine.

The infrequency of paid criminal fines of this size is underscored by the fact that 5 of the 12 fines stemmed from just two investigations. Three defendants were involved in an international price-fixing cartel of graphite electrodes (used in making steel), and two were involved in an international vitamin price-fixing conspiracy. Together with other defendants in these cases (whose individual fines were less than \$100 million), the two series of related cases alone accounted for deposits totaling nearly \$1.3 billion, or 20 percent of all Fund deposits since FY 1996.

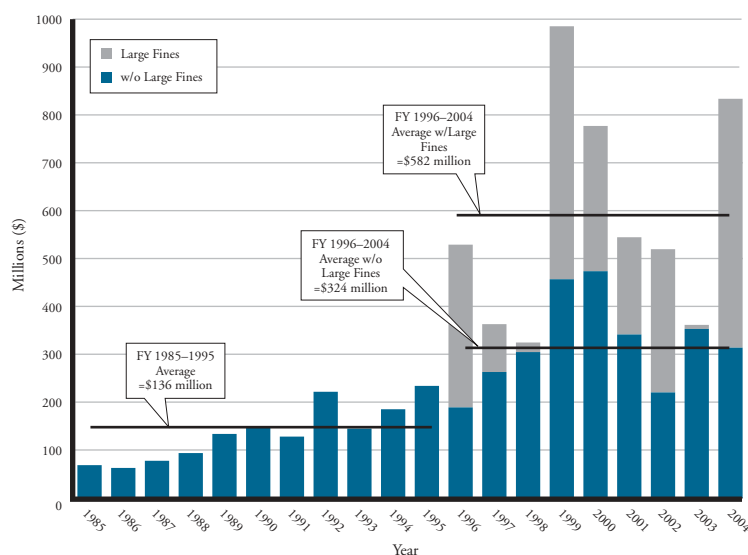
Another important factor is that the sentence in each case was the result of a negotiated agreement.⁷ Although the negotiated amount of the criminal fine was less than might have otherwise been imposed, the defendants' agreement meant that the large fines would actually be paid.

It is, however, impossible to accurately forecast the extent to which federal investigators and prosecutors will be able to consistently uncover and convict violations of a magnitude that will result in such large deposits into the Fund. The U.S. Department of Justice's (DOJ's) Inspector General, for instance, recently reported that the FBI used 20 percent fewer agents on white-collar crime investigations in FY 2003 than in FY 2000 because it had to focus on terrorism matters.⁸ This shift in investigative resources may indicate that fewer opportunities will exist to pursue cases that generate large Fund deposits.

Deposits made from FY 1996 to FY 2004 represent 78 percent of all deposits into the Fund from its inception—\$5.2 billion of the total \$6.7 billion in deposits. Average annual deposits jumped from \$136 million for FY 1985 to \$582 million for FY 1996 to FY 2004.

Had it not been for the payments from the 12 anomalous cases, however, Fund deposits during this later period would have averaged \$324 million. Although this average was still considerably larger than the pre-FY 1996 period,

Crime Victims Fund Large Case Deposits



Source: Compiled from Office of Justice Programs data.

Crime Victims Fund Revenue Sources (in \$)

Source	FY 2000	FY 2001	FY 2002
Special Assessments	5,848,756.58	6,411,279.05	7,046,817.16
Bond Forfeitures	5,055,369.34	3,597,095.95	4,419,934.18
Special Forfeitures/Collateral Profits ^a	0	0	0
Private Donations ^b	n/a	n/a	n/a
Criminal Fines	726,564,459.77	543,655,276.39	498,477,624.37
Total	737,470,585.69	553,665,652.39	509,946,377.71

Source: Fines, assessments, and bond forfeitures compiled from EOUSA Financial Litigation Unit data.

^aAlso commonly known as “Notoriety for Profit” or “Son of Sam” law.

^bAuthority to receive private donations became effective in FY 2002.

the financial support provided by these few cases became the foundation on which VOCA funding for victim services proliferated. For example, the number of VOCA subgrants awarded by state VOCA assistance administrators more than doubled—from 2,678 in FY 1996 to 5,629 in FY 2002—during this period.

Sources of Deposits

Nearly all of the deposits into the Fund are reported to and tracked by the Financial Litigation Units (FLUs) in the U.S. Attorneys’ Offices (USAO). As expected, criminal fines are the most significant source of revenue for the Fund.⁹

Special assessments. Special assessments were newly created as part of the original VOCA legislation to supplement the revenues going into the Fund from criminal fines and forfeitures. The current amounts of special assessments are:

- \$5 on individuals convicted of a Class C misdemeanor.
- \$10 on individuals convicted of a Class B misdemeanor.
- \$25 on individuals convicted of a Class A misdemeanor.
- \$25 on defendants other than individuals convicted of a Class C misdemeanor.
- \$50 on defendants other than individuals convicted of a Class B misdemeanor.
- \$125 on defendants other than individuals convicted of a Class A misdemeanor.
- \$100 on individuals convicted of a felony.
- \$400 on defendants other than individuals convicted of a felony.¹⁰

Special Assessments Collected

FY	Amount Collected (in \$)	Percentage of Fund Total
2000	5,848,757	0.79
2001	6,411,279	1.16
2002	7,046,817	1.38

Source: Compiled from EOUSA Financial Litigation Unit data.

Collecting special assessments has always been problematic because it involves numerous cases but a relatively small dollar amount in each case. For example, in FY 1987, special assessments represented 58 percent of cases collected by USAO but only 4 percent of the revenues.¹¹ Special assessments represent a minimal amount in terms of the total amount deposited into the Fund annually.

Bond forfeitures. Amounts posted as bond or as collateral to assure appearance in court are forfeited for failure to appear and are deposited into the Fund. As with special assessments, the amount collected represents a small percentage of total Fund deposits. The table on page 6 shows recent amounts collected by U.S. Attorneys.

Special forfeitures of collateral profits of crime—“Son of Sam” law. Under VOCA, a new provision was created that allowed federal prosecutors to ask the court to order an offender convicted of a violent crime to forfeit any or all of the proceeds received from the sale of the literary rights to his or her story about the crime. The proceeds are kept

Bond Forfeitures Collected

FY	Amount Collected (in \$)	Percentage of Fund Total
2000	5,055,369	0.69
2001	3,597,096	0.65
2002	4,419,934	0.87

Source: Compiled from EOUSA Financial Litigation Unit data.

in escrow in the Fund for 5 years, during which time the proceeds can be used to satisfy a judgment obtained by a victim of the crime (or, if ordered by a court, a victim of any other crime for which the defendant has been convicted) or to pay a fine or the costs of the defendant's legal representation (but not more than 20 percent of the proceeds).¹² After the 5-year period, the court may direct that any or all of the remaining proceeds be released from escrow and placed in the Fund.

According to the *United States Attorneys' Manual*, this federal provision and similar so-called "Son of Sam" state laws have, since 1991 when the U.S. Supreme Court struck down a similar New York law,¹³ "fallen into disuse because there is little doubt, if any, that they are inconsistent with the First Amendment."¹⁴ No amounts are known to have been deposited into the Fund as a result of the federal Son of Sam provision.

Private donations. The only source of revenue added in recent years is the authority for gifts, bequests, and donations from private entities and individuals to be deposited into the Fund. This was established as part of the USA PATRIOT Act,¹⁵ but to date, this authority has not been used. Although the new statute authorized donations to be deposited into the Fund, it did not contain the necessary authority to accept donations.¹⁶ However, two small donations totaling \$212, accepted under the Attorney General's authority, have been deposited into the Fund.

Criminal fines. The largest single source of deposits into the Fund is the collection of criminal fines. The VOCA statute directs that all fines "collected from persons convicted of offenses against the United States" shall be deposited into the Fund.¹⁷ The only exceptions are fines available for use by the Secretary of the Treasury for certain expenses in connection with the Endangered Species Act¹⁸ and the Lacey Act

Amendments of 1981¹⁹ and fines paid into the railroad unemployment insurance account,²⁰ the Postal Service Fund,²¹ the navigable waters revolving fund under the Federal Water Pollution Control Act,²² and county public school funds.²³

Under federal statutes, any defendant found guilty of an offense may be sentenced to pay a fine.²⁴ The statutes distinguish between fines for individuals and fines for organizations. Fines against individuals may be the largest of (1) the amount specified in the underlying statute; (2) up to twice the pecuniary gain from the offense or pecuniary loss to someone other than the defendant; (3) for a felony or misdemeanor resulting in death, not more than \$250,000; (4) for a Class A misdemeanor not resulting in death, not more than \$100,000; or (5) for a Class B or Class C misdemeanor or an infraction, not more than \$5,000.²⁵

Fines against organizations may not be more than (1) the amount specified in the underlying statute; (2) up to twice the pecuniary gain or loss; (3) for a felony or misdemeanor resulting in death, not more than \$500,000; (4) for a Class A misdemeanor not resulting in death, up to \$200,000; or (5) for a Class B or Class C misdemeanor or an infraction, up to \$10,000.²⁶

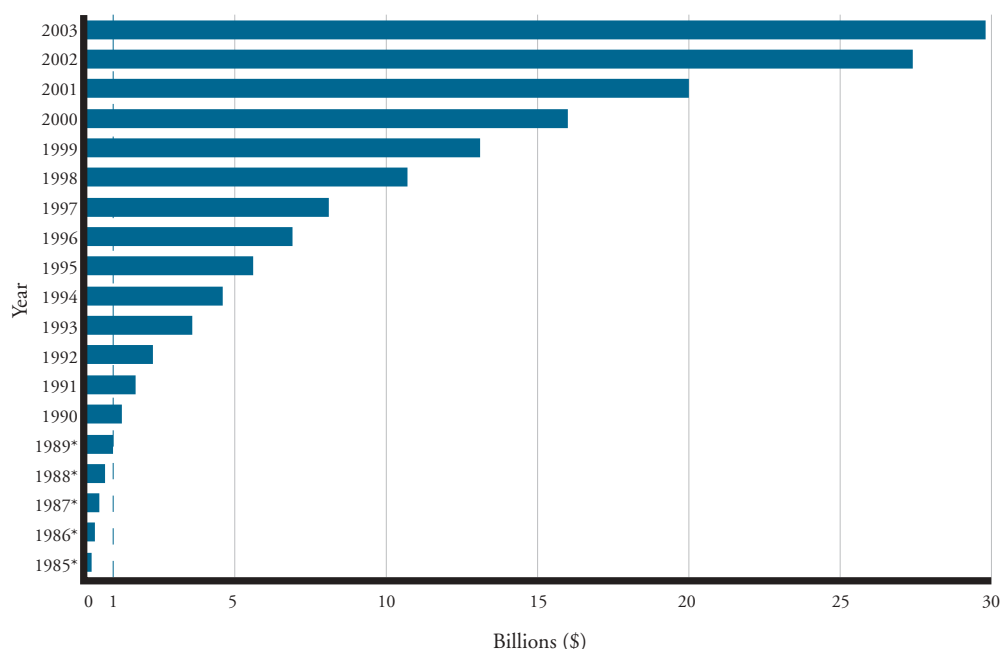
The table on page 7 shows the annual number and total amount of fines imposed since 1994.

From FY 1994 to FY 2001, criminal fines totaling more than \$54.6 billion were imposed on 67,327 defendants. However, a big difference exists between imposing a criminal fine and depositing it into the Fund.

Criminal debt collection. The total amount of outstanding criminal debt (i.e., criminal fines, restitution, and special assessments) has multiplied 105 times—from \$260 million in FY 1985 to \$29.8 billion in FY 2003.²⁷ Seventy-three percent of the outstanding criminal debt is owed to third parties as restitution whereas slightly more than 25 percent is owed to the United States, mostly for criminal fines and special assessments.²⁸

The most challenging step before a criminal fine can be deposited into the Fund, though, is the actual collection of amounts ordered to be paid. The Federal Government realized when it started the Fund that the effectiveness of its efforts to collect criminal fines would be the major determinant of how much would be available to support victim compensation and victim assistance services.²⁹

Criminal Debt Balance



Source: Compiled from EOUSA Financial Litigation Unit data.

*Balances for 1985–89 are less than \$1 billion.

Number and Total Dollar Amount of Federal Criminal Fines Imposed

FY	Number	Total* (in \$)
1994	8,020	194,267,255.78
1995	7,782	29,087,451,376.72
1996	8,000	14,101,657,756.98
1997	9,033	9,268,652,809.63
1998	8,515	121,433,680.76
1999	8,908	77,170,611.37
2000	8,727	249,612,667.14
2001	8,342	1,502,110,238.32
Total	67,327	54,602,356,396.70

Source: Compiled from U.S. Sentencing Commission datafiles from Federal Justice Statistics Resource Center, 1994–2001.

*Total amount of fine calculated by multiplying the frequency of fines by the mean amount of fines and may include the amount of court-ordered costs of supervision.

Congress and federal agencies have been struggling for a long time with problems associated with the collection, receipt, accounting, monitoring, and tracking of outstanding criminal debt. In one of many attempts to improve criminal debt collection, Congress, shortly after VOCA was enacted, directed that the first \$2.2 million collected above the then-existing ceiling on Fund deposits be made available to the courts to cover the administrative costs of receiving fines and restitution and the collection of unpaid fines and restitution.³⁰ When the VOCA allocation formula was revised in 1992, it increased the allotment for the courts to \$6.2 million from FY 1992 to FY 1995 and \$3 million thereafter.³¹ Those funds were intended by Congress to be used to establish a single national center to process fines, restitution, and assessments.

In 2001, the General Accounting Office (GAO) summarized the situation:

The collection of outstanding criminal debt has been a long-standing problem, with many of the problems that GAO has been reporting on since October 1985 still remaining. . . . In 1990, the Administrative Office of

the United States Courts began developing a centralized entity, called the National Fine Center, to record, track, and report on federal criminal debt. The National Fine Center was expected to automate and centralize criminal debt processing for the 94 districts throughout the country and provide a management information system to replace the existing fragmented approach for receiving payments and to alleviate long-standing weaknesses in accounting for, collecting, and reporting on criminal monetary penalties imposed on federal criminals.

However, an independent consulting firm concluded that the task of developing a National Fine Center, involving several agencies in two branches of government, proved to be more complex than expected and that the needs of the districts could not be met through a centralized approach. Thus, with the consent of the Congress, the centralized approach was terminated. As a result, the criminal debt collection process continues to be fragmented, involving both judicial and executive branch entities in 94 districts throughout the country.³²

A total of \$25.2 million from the Fund was transferred to the Administrative Office of the United States Courts to fund the National Fine Center (NFC), \$21 million of which was returned to the Fund when the project was terminated.³³

The GAO report notes four factors that contribute to the growth in uncollectible criminal debts: (1) the nature of the debt (which makes writing off truly uncollectible criminal debts extremely difficult)³⁴; (2) the Mandatory Victim Restitution Act (MVRA) of 1996 (which requires that full restitution be ordered regardless of the defendant's ability to pay and gives responsibility to collect restitution to the U.S. Attorneys' Financial Litigation Units); (3) terms and payment schedules set by judges; and (4) state legislation (that, in certain instances, limits some collection tools).³⁵

Although judges cannot take into consideration a defendant's ability to pay when ordering full restitution under

the MVRA, they may do so when imposing criminal fines. Judges may thus be reluctant to impose a large criminal fine on top of the required full restitution. Furthermore, when both a large restitution order and a criminal fine are ordered, full payment of the restitution order statutorily takes precedence over the criminal fine, which also has an impact on the amount of fines ultimately collected.

The U.S. Department of Justice continues to make efforts to improve collections. In addition to the FLUs' efforts, DOJ has initiated programs to encourage debt payments, such as the following:

- **Inmate Financial Responsibility Program.** Operated by DOJ's Federal Bureau of Prisons (BOP), the Inmates Financial Responsibility Program (IFRP) was started in 1985 to encourage inmates in federal correctional facilities to pay off their financial obligations. The program operates in all 96 BOP institutions. Although payments made by inmates are in nominal amounts, with minimum payments of \$25 per quarter, the program has generated a total of \$45.5 million from FY 1996 to FY 2002.³⁶
- **Crime Victims Fund Awards.** The day-to-day job of collecting the bulk of the criminal debts that are deposited into the Fund rests with the attorneys, investigators, and staff of the FLUs in each U.S. Attorney's Office as well as those who work for the U.S. Probation Offices and BOP. Without their aggressive efforts and commitment, the resources that enable the Federal Government to support programs and services for crime victims would be greatly diminished. Their work often requires great diligence, perseverance, and attention to detail. Attorneys and investigators must identify and track down assets that may have been transferred or intentionally hidden. It can be arduous work that is not frequently recognized or appreciated outside DOJ. To acknowledge the special efforts that have enhanced the Fund, OVC has established the Crime Victims Fund Awards, which are presented every April during National Crime Victims' Rights Week.

Overview of Crime Victims Fund Services

“The number of individuals receiving victim services funded by VOCA victim assistance grants has increased from 1.8 million in FY 1995 to 3.6 million in FY 2002.”

The Fund now provides financial support for eight programs. The programs, and the method of calculating how much of the Fund they receive, are briefly described below.

Children's Justice Act

The Children's Justice Act (CJA) was enacted in 1986 to improve investigation and prosecution of child abuse cases at the state and local levels. Under the current VOCA allocation, CJA grants are allocated the first \$10 million distributed from the Fund, plus 50 percent of the previous year's deposits over \$324 million (the amount deposited in FY 1998), with a maximum of \$20 million. Of the amount available each year, 85 percent is transferred to the U.S. Department of Health and Human Services (HHS) for grants to states to develop and operate programs to improve the handling of child abuse and neglect cases, particularly cases of child sexual abuse and exploitation, in a manner that limits additional trauma to child victims.³⁷ Fifteen percent of each year's CJA allocation is retained by OVC for grants to Indian tribes for similar purposes. Amounts not obligated by HHS by the end of the fiscal year are reallocated for state victim assistance grants.

USAO Victim/Witness Coordinators

Every U.S. Attorney's Office has victim/witness coordinators whose duties include consulting with victims, providing victims with notices and information, advising victims of violent crime of their right to make an oral statement at sentencing and presenting information to the court, ensuring victims and witnesses have a secure waiting area during court proceedings, and informing victims about their right to restitution orders.

Children's Justice Act (in \$)

FY	Amount	FY	Amount
1987	2,812,786	1996	10,000,000
1988	5,228,383	1997	10,000,000
1989	5,230,808	1998	10,000,000
1990	9,783,000	1999	10,000,000
1991	10,140,000	2000	10,000,000
1992	10,000,000	2001	20,000,000
1993	10,000,000	2002	20,000,000
1994	10,000,000	2003	20,000,000
1995	10,000,000	2004	20,000,000

Source: Compiled from Office of Justice Programs data.

When Congress terminated the NFC in 1997, it designated that \$12 million of unobligated NFC funds transferred back to the Fund be used to support 93 victim/witness coordinators for FYs 1998 and 1999.³⁸ Then, as part of the FY 2000 budget process, congressional appropriators created a new statutory provision authorizing “such sums as may be necessary shall be available for the United States Attorneys’ Offices to improve services for the benefit of crime victims in the federal criminal justice system.”³⁹ Congress thus made permanent the use of the Fund to support the 93 victim/witness coordinators and expanded it to cover the cost of “77 victim witness work years from pre-1998 allocations.” Congress stated that it “expects that appropriate sums will be made available under this provision in succeeding fiscal years to continue this program at the current level.”⁴⁰

USAO Victim/Witness Coordinators (in \$)

FY	Amount
1998/1999	12,000,000
2000	14,390,000
2001	14,390,000
2002	18,134,000
2003	18,316,908
2004	20,613,963

Source: Compiled from Office of Justice Programs data.

FBI Victim Assistance Specialists

FBI victim assistance specialists are assigned to divisions and field offices to help victims involved in the investigation of federal crimes. Among their duties are notifying victims of important case developments and proceedings and providing victims with information and referrals to local services, including state crime victim compensation programs, counseling, shelters, and support groups.⁴¹

Congress continued to set aside Fund monies for federal personnel in FY 2001 by further expanding it to support victim services provided by the FBI. In its explanation, congressional appropriators indicated the set-aside would support 112 victim assistance specialists at a cost of \$7.4 million and specified that—

[t]hese services are to be limited to victim assistance as described in the Victims of Crime Act and shall not cover non-victim witness activities such as witness protection or non-victim witness management services, paralegal duties or community outreach.⁴²

Sharp drops occurred in FY 2002 and FY 2004 in the set-aside needed for FBI victim assistance specialists because significant funds remained unspent from previous years.

FBI Victim Assistance Specialists (in \$)

FY	Amount
2001	7,400,000
2002	1,947,974
2003	10,410,486
2004	1,871,656

Source: Compiled from Office of Justice Programs data.

Federal Victim Notification System

Victims of federal offenses receive notifications, primarily through USAO, the FBI, and BOP, for the release or detention status of an offender, pending judicial proceedings or the offender’s placement in a pretrial diversion program, the filing of charges against a suspected offender, the scheduling of court proceedings, the outcome of proceedings, and the imposed sentence, including restitution information. Under the federal victim notification system (VNS), victims who are registered in the program may call a toll-free phone number for information on a defendant’s status and current court information.

Initial funding of \$8 million for the federal VNS came from amounts transferred back into the Fund from the defunct NFC. In FY 2002, Congress once again expanded the federal set-asides to include support for VNS. It directed that the remaining \$1.5 million from the NFC funds be supplemented with \$3.5 million from the Fund to support the \$5 million annual estimated cost of VNS.⁴³ The funds are used to maintain the system and expand its use and availability to other federal agencies.

After amounts for CJA grants and the federal set-asides are determined, funds available for OVC discretionary grants and victim compensation and victim assistance formula grants are based on a percentage of the amount remaining under the annual limit of total Fund obligations.

Federal Victim Notification System (in \$)

FY	Amount
1998	8,000,000
2002	5,000,000
2003	5,141,843
2004	5,141,843

Source: Compiled from Office of Justice Programs data.

OVC Discretionary Grants

OVC receives 5 percent of the amounts remaining after amounts are allocated for CJA and the federal set-asides.⁴⁴ At least half of the allocation must be used to support national training and technical assistance efforts, and no more than half can support services to victims of federal crime by eligible assistance programs.⁴⁵

Under the statutes, OVC's Director may use the funds for demonstration projects, program evaluation, compliance efforts, training and technical assistance services to eligible crime victim assistance programs, fellowships and clinical internships, and to carry out programs of training and special workshops for the presentation and dissemination of information resulting from demonstrations, surveys, and special projects.

In carrying out this mission, OVC provides financial support for various victim assistance and training and technical assistance initiatives, including—

■ Services to American Indians and Alaska Natives.

OVC provides grants to federally and nonfederally recognized tribes to provide direct victim services, ongoing training and technical assistance, and collaboration with state VOCA assistance administrators. Among the

activities are biennial Indian Nations conferences, an American Indian/Alaska Native Victim Assistance Academy, outreach to American Indian victims and survivors of drunk-driving crashes, and adaptation of a specialized sexual assault advocate/counselor curriculum for American Indian communities.

■ Collaboration between faith-based and victim assistance communities.

The projects are intended to improve the response of faith-based practitioners to crime victims by supporting services, networking with secular services, and training members of the faith community to be responsive to victims' needs. Specific projects include collaboration in urban communities, protocols for community-based grief centers, professional education, and law enforcement chaplaincy programs. A special effort is being made to assist grassroots community-based victim efforts through the Helping Outreach Programs to Expand project.

■ Public education and awareness.

OVC's efforts to generate greater awareness about victims' needs and rights among victims, survivors, and the general public include support for National Crime Victims' Rights Week and various community awareness projects, a nationwide public awareness and education campaign, the OVC Resource Center that serves as the primary source of victim information, and the Oral History Project to begin recording interviews with key contributors to the victims' rights movement.

■ Victims' rights initiative.

OVC has focused efforts on helping victims secure compliance with their legal rights in the federal and state criminal justice systems through its support of the National Crime Victim Law Institute and other legal clinics that assist victims in enforcing their rights. Other activities under OVC sponsorship include providing educational materials and training state legislators on victims' rights legislation, developing a judicial training curriculum, and supporting a nationwide Victims' Rights Education Project to develop public educational materials describing core victims' rights and how to assert them.

■ Training, education, and technical assistance.

To continually improve the quality and professionalization of the victim services field, OVC uses its discretionary funds to provide a wide range of training opportunities for victim service providers. This includes the National Victim Assistance Academy, a Professional Development Institute, a Web-based basic victim advocacy course, the National Youth Education Project, and the Web-based Victims of Crime With Disabilities Resource Guide. OVC also provides technical assistance to state VOCA assistance administrators and state crime victim compensation managers.

OVC Discretionary Grants (in \$)

FY	Amount	FY	Amount
1994	5,066,722	2000	13,965,187
1995	4,466,722	2001	13,965,184
1996	6,537,218	2002	25,104,438
1997	14,575,994	2003	28,170,473
1998	10,607,744	2004	31,541,891
1999	9,436,154		

Source: Compiled from Office of Justice Programs data.

State Victim Compensation Formula Grants

State victim compensation programs are designed to reimburse victims of violent crime for their out-of-pocket expenses resulting from the crime. Medical and dental costs represent the largest category of expenses paid by compensation programs; economic support (lost wages or loss of support) was next, followed by mental health and funeral/burial expenses.

State compensation programs have aggressively publicized the program's availability and have trained advocates to assist victims in applying for benefits. Programs have also expanded the types of victimizations eligible to receive compensation and the types and amounts of benefits offered. This is seen in the growth of the number of compensation claims paid (see table below) and the total amount paid, state and VOCA funded (see table at right).

Each state compensation program now receives a VOCA grant equal to 60 percent⁴⁶ of its state-funded compensation benefits paid during the second preceding year; the total amount of the grants may not exceed 47.5 percent of the annual Fund allocations remaining after the CJA and federal earmarks. If 47.5 percent of the remaining amount is insufficient to award each state a 60-percent grant, each state grant is reduced by an equal percentage. Amounts not used for state compensation grants are "rolled over" to the amount available for state victim assistance grants. As state-funded crime victim compensation benefits increase and as VOCA has been amended to award a greater percentage to state compensation grants, fewer funds are available for state victim assistance grants.

State Victim Compensation Benefits

FY	Number of Claims Paid	Amount Paid (in \$)	Average Amount (in \$)
1998	117,704	265,522,894	2,256
1999	120,434	296,816,091	2,465
2000	134,258	314,932,606	2,346
2001	146,156	361,380,615	2,473
2002	157,667	448,348,350	2,844

Source: OVC VOCA Nationwide Performance Reports.

State Victim Compensation Grants (in \$)

State-Funded Benefits		VOCA Grants*	
FY	Amount	FY	Amount
35 percent grants			
1984	67,505,000	1986	23,629,000
1985	80,845,000	1987	28,296,000
1986	114,782,000	1988	38,301,000
40 percent grants			
1987	112,303,000	1989	44,922,000
1988	118,106,155	1990	46,846,000
1989	130,198,291	1991	48,773,000
1990	143,721,046	1992	53,336,000
1991	184,215,512	1993	68,500,000
1992	151,707,487	1994	60,680,000
1993	161,657,179	1995	64,663,000
1994	209,637,830	1996	83,843,000
1995	185,603,331	1997	74,242,000
1996	168,559,734	1998	67,428,000
1997	167,410,577	1999	66,966,000
1998	203,435,473	2000	81,374,000
1999	226,693,960	2001	90,677,000
2000	234,896,202	2002	93,957,000
60 percent grants			
2001	274,886,876	2003	164,933,000
2002	310,270,776	2004	186,162,466

Source: Compiled from Office of Justice Programs data.

*Grant amounts may reflect adjustments and corrections from previous years and thus may not equal the stated percentages.

State Victim Assistance Formula Grants

Of the total Fund amount allocated each year, 47.5 percent remaining after the CJA and federal set-asides plus any amounts not used for state victim compensation grants are available for state victim assistance grants. In other words, state victim assistance grants receive whatever is left over after funds are allocated for the other programs. Furthermore, any other uses or restrictions on annual Fund obligations (such as governmentwide rescissions or unobligated carryovers) reduce the amount that would otherwise be available for state victim assistance grants.

Each jurisdiction receives a base amount (\$500,000 for states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands and \$200,000 for other territories), with the remainder of the allocation prorated based on population.

Fund amounts allocated for state compensation grants but not obligated because of the limit on individual state grants (i.e., 60 percent of state-funded benefits) are added to the allocation for state victim assistance grants. As total Fund allocations increased, rollovers have become an important component of state victim assistance grants. Whereas rollovers accounted for an average of 7 percent of each year's VOCA victim assistance grants from FY 1985 to FY 1996, they have averaged 36 percent of annual state victim assistance grants since FY 1997. However, as the total amounts of state-funded compensation benefits have continued to increase and as the VOCA compensation grant percentage has risen to 60 percent, less is available to augment the base state VOCA victim assistance allocation.

VOCA assistance administrative agencies in each state award subgrants to support direct crime victim service providers. The number of agencies supported by VOCA subgrants has increased as the amount of state grants has grown. In FY 1986, the first year of VOCA victim assistance grants, states awarded a total of 1,422 subgrants. By FY 2002, that figure had grown to 5,629 subgrants.

Although a wide disparity in the amount of individual subgrant awards remains, the average VOCA subgrant has increased from \$29,000 in FY 1986 to \$62,700 in FY 2002.⁴⁷

State Victim Assistance Grants (in \$)

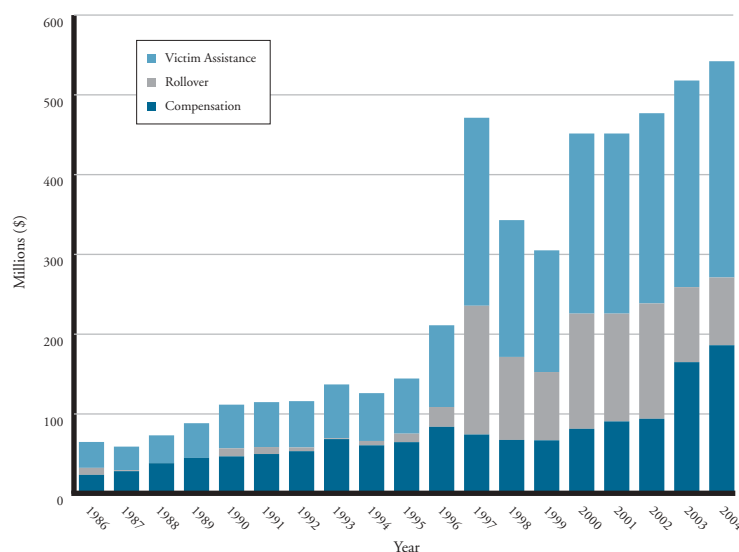
FY	Amount	FY	Amount
1986	41,270,000	1996	127,333,038
1987	30,772,000	1997	397,048,488
1988	34,886,000	1998	275,555,733
1989	43,492,000	1999	238,136,332
1990	64,818,500	2000	370,167,040
1991	65,062,500	2001	360,864,000
1992	62,734,000	2002	383,027,323
1993	68,500,000	2003	353,027,299
1994	65,428,000	2004	355,994,145
1995	79,760,998		

Source: Compiled from Office of Justice Programs data.

Similarly, the number of individuals receiving victim services funded by VOCA victim assistance grants has increased from 1.8 million in FY 1995 to 3.6 million in FY 2002. By far, the largest victim population that receives services are victims of domestic violence (52 percent), followed by victims of child abuse (12 percent) and adult victims of sexual assault (6 percent).

The types of services provided typically are crisis counseling, information and referral, support and advocacy during the criminal justice process, and followup assistance.

Compensation Rollover to Assistance Grants



Source: Compiled from Office of Justice Programs data.

Number of Subgrants Awarded

FY	Number of Awards
1995	2,535
1996	2,678
1997	3,722
1998	4,143
1999	5,063
2000	5,304
2001	5,468
2002	5,629

Source: OVC VOCA Nationwide Performance Reports and Reports to Congress.

Under the VOCA statute and federal guidelines,⁴⁸ states are required to use at least 10 percent of each annual grant to support services for victims of spousal abuse, sexual assault, child abuse, and “previously underserved victims of violent crimes.” Although most states are committed to sustaining this existing base of subgrantees to provide core services, additional funds are used to address unmet victim service needs. A survey conducted by the National Association of VOCA Assistance Administrators asked administrators to identify how they would use additional funds if available.⁴⁹ The most prevalent responses were services for (1) elderly victims, (2) victims residing in rural areas, (3) victims with limited English proficiency, (4) victims with disabilities, (5) minority populations, and (6) victims of property or financial crimes.

Replenishment of the Antiterrorism Emergency Reserve

In FY 1995, OVC was authorized to reserve \$20 million of Fund deposits as a “rainy day” fund to supplement state compensation and assistance formula grants in years when Fund deposits decreased.⁵⁰ In FY 1996, Congress increased the reserve to \$50 million and expanded its use to include supplemental compensation and assistance grants to assist victims of terrorism and mass violence.⁵¹ In FY 2000, Congress again increased the reserve maximum to \$100 million and further expanded its use to fund a new program to be operated by OVC to compensate victims of international terrorism.⁵²

The Emergency Reserve was restructured in FY 2001 by eliminating its use as a rainy day fund for state formula grants and limiting its use to funding OVC’s antiterrorism/mass violence supplemental grants and international victims of terrorism compensation programs.⁵³ The maximum size of the new Antiterrorism Emergency Reserve was set at \$50 million, which could be replenished with up to 5 percent of the balance, if any, in the Fund remaining after the other VOCA programs were funded.⁵⁴ Unless Congress, in its annual appropriations bill, specifically provides otherwise, any amounts used to replenish the Emergency Reserve are in addition to the annual limit on Fund obligations and thus do not reduce that year’s funding for the other VOCA-supported programs.

Managing the Fund: Trends and Issues

“The Fund and the programs it supports have proved to be major contributors in fulfilling the Nation’s commitment to meeting the needs of victims of crime.”

When Fund deposits reached nearly \$1 billion in FY 1999, Congress imposed a \$500 million cap on the total amount that could be obligated from the Fund for FY 2000. Congress said its rationale was “to protect against wide fluctuations in receipts into the Fund, and to ensure that a stable level of funding will remain available for these programs in future years.”⁵⁵

Unallocated amounts remain in the Fund for use in future years. When Fund deposits exceed the annual cap, the balance in the Fund grows. Beginning in FY 2002, however, Fund deposits were less than the cap, and thus the Fund balance began to be drawn down. With FY 2003 deposits of \$361.3 million and an FY 2004 cap of \$625 million (\$621.3 million after rescission), the Fund balance at the end of FY 2004 dropped to \$422 million.

Even though Congress has increased the annual cap by 3 to 9 percent each year, the increase has not always been enough to maintain funding for victim assistance grants. Because the amounts available for victim assistance grants (and, to a lesser degree, OVC discretionary grants) are calculated last, the lion’s share of insufficient caps is felt mainly by that program area. The table on page 16 shows that despite an increase in the overall VOCA cap, victim

assistance grants suffered two annual reductions in the past 5 years:

- In FY 2001, the Fund cap rose by \$37.5 million, an 8-percent increase, while the amount available for victim assistance grants declined by \$9.3 million, a 3-percent cut. Congress failed to consider the increase in CJA grants, the creation of a new set-aside for the FBI, and an increase in victim compensation grants.
- In FY 2003, the Fund cap increased by \$50 million, a 9-percent increase, yet victim assistance grants declined by \$30 million, an 8-percent reduction. The cap failed to incorporate the increase in victim compensation grants from 40 to 60 percent of state-paid benefits plus a 15-percent increase in the amount of benefits paid.

Impact of Funding Projections on Victim Assistance and Compensation Programs

Because of the Fund’s allocation formulas, the impact of fluctuations—both increases and decreases—falls most heavily on victim assistance formula grants. Following the first major spike in deposits resulting from the FY 1996 \$340 million Daiwa Bank fine, OVC began working closely with states to help them make the best uses of what,

Crime Victims Fund Cash Flow (in \$ millions)

Revenues	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004
Carryover	-	485.2	785.2	792.0	718.9	422.1
Deposits	985.2	777.0	544.4	519.5	361.3	833.7
	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Amount Available	985.2	1,262.1	1,329.6	1,311.5	1,080.2	1,255.8
Cap	500.0	537.5	550.0	600.0	621.3 ^c	
Fund Balance ^a	485.2	785.2	792.0	718.9	422.1	
Allocations	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	
Carryover/Reserve ^b	10.1	30.2	0 ^d	0 ^d		
Children's Justice Act	10.0	20.0	22.8	20.0	20.0	
U.S. Attorneys' Offices Victim/ Witness Coordinators	14.4	14.4	18.1	18.3	20.6	
FBI Victim Assistance Specialists		7.4	1.9	10.4	1.9	
Victim Notification System			5.0	5.1	5.1	
OVC Discretionary Grants	14.0	14.0	25.2	28.2	31.5	
State Victim Compensation Grants	81.4	90.7	93.9	164.9	186.2	
State Victim Assistance Grants	370.2	360.9	383.0	353.0	355.9	

Source: Compiled from Office of Justice Programs data.

^aReflects prior year recoveries, unobligated carryforward balances, and other adjustments.

^bUnobligated amounts allocated in previous years; FY 2001 includes amount of Emergency Reserve allocated "under the cap."

^cOriginal cap of \$625 million was reduced due to congressional rescission.

^dDoes not include \$68.1 million from Pub. L. 107-117 for the Antiterrorism Emergency Reserve used to respond to the terrorist attacks of September 11, 2001.

at the time, appeared to be a one-time windfall. OVC conducted regional roundtables with VOCA assistance administrators to help them develop effective strategies to use the funds. Strategies included expending the one-time influx of FY 1997 funds over a few years to ensure continuity in victim programs; funding automated victim notification systems and other one-time technological enhancements; and expanding services to assist underserved populations such as victims of gang violence, victims with disabilities, and victims living in rural areas.⁵⁶

The state victim assistance grant allocation for FY 1997 (based on the FY 1996 Fund deposits) represented an unforeseen tripling of each state's grant. Yet, the unanticipated funds were used effectively by state VOCA assistance administrators for additional victim services. The number of subgrants supporting local direct victim services during this period increased dramatically—more than doubling between

FY 1996 and FY 2002. Most state VOCA victim assistance administrators now attempt to stabilize the amount they make available each year to support local services.⁵⁷

Even with the relatively large amount of VOCA assistance funding, crime victims' needs still remain unmet. Despite the statistical reduction in crime rates in recent years,⁵⁸ substantial populations of crime victims are without adequate assistance services. One indicator of this is a comparison of the requests for funding by local service providers and the availability of VOCA victim assistance funds. During the states' 2002–03 funding cycle, 34 of the 56 VOCA assistance jurisdictions reported receiving 3,161 applications for VOCA victim assistance support, of which 2,530 received some, if not all, of the requested amount. The total amount requested was nearly \$230 million, of which only some \$185 million was available to be awarded.⁵⁹ For the

applicants in this sample, this represents a funding shortfall of \$45 million, or 20 percent of all requests.

Number and Amount of Subgrant Applications and Awards

	Number	Amount (in \$)
Applications Received	3,161	229,775,069
Subgrants Awarded	2,530	184,774,093
Difference	631	45,000,976

Source: 2003 NAVAA survey; 34 states responded.

According to a national advocacy organization, “Domestic violence, sexual assault and stalking programs are facing devastating funding shortfalls—anywhere from 15 to 75%—because of previous federal budget cuts, state budgetary crises and reduced donations from individuals. Many programs have been forced to reduce staff and cut back on victim services—some programs have been forced to close their doors.”⁶⁰ Although programs are striving to simply maintain their service levels, the need for services for additional victim populations—victims of identity theft and other economic crimes, human trafficking, and stalking, for example—continue to be recognized.

As noted, without the infusion of deposits from a handful of extremely large criminal cases, deposits into the Fund would not have kept pace with annual allocations. Recent average annual deposits would have been \$324 million without the large fines; if that rate continues, the Fund balance will decline and, within several years, be entirely depleted. At that point, there will be a significant impact on state victim assistance services and, to a lesser degree, state victim compensation programs.

The following scenarios illustrate the funding implications for state victim compensation and victim assistance formula

grants assuming three different levels of future Fund deposits. The first projection is for revenue levels of \$300 million, which is close to recent average annual deposits, not including the rare, large fines that exceed \$100 million. The \$500 million projection takes into account those large fines. The \$400 million projection is a midpoint or average level between the extremes of including the large fines and not including them. The scenarios are not predictions but simply a demonstration of the mathematics of the current allocation formula to illustrate the impact that various levels of deposits may have on state victim assistance and victim compensation formula grants in the coming years. They are based on the following assumptions:

- The FY 2005 congressional cap will be \$650 million and will continue to increase by \$25 million a year for as long as sufficient amounts are in the Fund, after which the total allocations will be based on however much is available.
- No new set-asides, earmarks, or other changes to Fund allocations will be made.
- The amounts for current federal set-asides will increase at a 4-percent annual rate.
- The Fund balance will not be used to replenish the Antiterrorism Emergency Reserve.
- Projections of future state compensation payouts assume a one-time drop in total state-funded benefits and then 7-percent annual increases in total compensation (state and VOCA funded).⁶¹

Under scenario 1, beginning in FY 2005, Fund deposits will equal \$300 million a year. It is assumed the cap will increase by \$25 million in FY 2006 but drop to \$531 million in FY 2007. Funding at that level would result in victim compensation and victim assistance grants of \$226 million each. This represents compensation grants of 59 percent of state-funded benefits. Because this is below the 60-percent statutory level, each state’s compensation grant would have to be prorated based on its state-funded benefits, according

Scenario 1: Crime Victims Fund Projections Assuming Annual Deposits of \$300 Million (in \$ millions)

	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Amount Available	1,256	906	531	300	300
Cap	650	675	531	300	300
Fund Balance	606	231	0	0	0
Compensation	174	200	226	116	116
Victim Assistance	385	391	226	116	116

Scenario 2: Crime Victims Fund Projections Assuming Annual Deposits of \$400 Million (in \$ millions)

	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Amount Available	1,256	1,006	731	431	400
Cap	650	675	700	431	400
Fund Balance	606	331	31	0	0
Compensation	174	200	230	173	157
Victim Assistance	385	381	374	173	157

to the VOCA statute.⁶² Although victim assistance grants will increase in FYs 2005 and 2006, those grants will drop to \$226 million in FY 2007, or 59 percent of the projected FY 2005 grants. Assuming Fund deposits continue to be \$300 million annually, by FY 2009, compensation grants would be 28 percent and assistance grants would be reduced to only 31 percent of the FY 2005 grants.

Under scenario 2, with Fund deposits maintained at \$400 million a year, the Fund balance would be entirely depleted by FY 2008, at which point state victim compensation and victim assistance grants would be \$173 million each; this represents compensation grants of 43.8 percent of state-funded benefits and victim assistance grants of 45 percent of the FY 2005 level.

With annual Fund deposits of \$500 million, as illustrated in scenario 3, the Fund balance would be completely drawn down by FY 2009, at which time state victim compensation and victim assistance grants would be \$208 million each. At that level, the compensation grants would represent 51 percent of state-funded benefits and victim assistance grants would drop to 54 percent of the FY 2005 amount.

The following table shows the state compensation grant percentages under the three scenarios:

Projections of State Compensation Grant Percentages			
(in \$ millions)	FY 2007	FY 2008	FY 2009
300	59.2	29.3	28.2
400		43.8	38.7
500			51

Although state victim assistance grants may increase slightly for 2 or 3 years, they will begin to experience sharp declines as illustrated on page 19.

The scenarios demonstrate that if annual deposits remain within a range of \$300 million to \$500 million a year, then sometime between FY 2007 and FY 2009, the accumulated Fund balance will have been entirely drawn down. At that point, the total amount available in the Fund will greatly diminish and state compensation and assistance grants will begin to suffer sharp reductions in annual funding.

Bearing in mind that Fund deposits since FY 1996 would have averaged \$324 million without just 12 large fines, the scenarios underscore the uncertain ability of the Fund to sustain the current funding level for state victim compensation and assistance grants.

It is again important to note that the above calculations are not predictions, but rather projections of potential funding patterns based on the current VOCA allocation formula. Although it is possible—even likely—that some extremely large fines will sporadically be deposited into the Fund in the future, their principle impact would be to briefly extend the time before the Fund balance is depleted. For example, the \$520 million deposited from three cases in FY 2004 extended by less than 1 year the time when the Fund balance would be depleted under the above scenarios. Unless large deposits occur on a reliably consistent basis, the Fund's ability to sustain the current level of funding for victim services, let alone its ability to meet the ever-growing needs of crime victims, is problematic.

As a result, attention must be given to two related, critical aspects of this problem: (1) restructuring the method of allocating annual Fund distributions to eliminate adverse, inequitable effects on state victim assistance formula grants and (2) supplementing Fund revenues as needed to avoid a severe diminution in the Federal Government's ability to provide ongoing financial support to state compensation and assistance efforts.

Scenario 3: Crime Victims Fund Projections Assuming Annual Deposits of \$500 Million (in \$ millions)

	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Amount Available	1,256	1,106	931	731	506
Cap	650	675	700	725	506
Fund Balance	606	431	231	6	0
Compensation	174	200	230	237	208
Victim Assistance	385	381	374	389	208

Recommendations

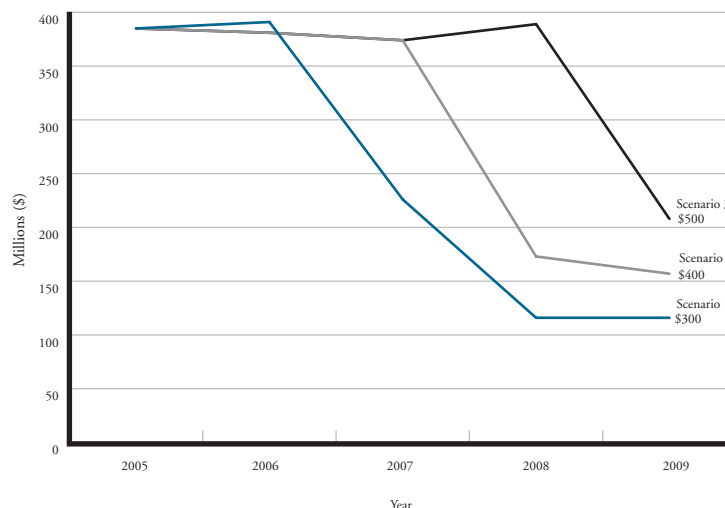
The Fund and the programs it supports have proved to be major contributors in fulfilling the Nation's commitment to meeting the needs of victims of crime. It has indeed become the Federal Government's premier program for victims of all types of crime, in all areas of our Nation.

Crime victimization can be an all-encompassing event, affecting a person's physical, emotional, financial, spiritual, social, and legal conditions. Although many unmet needs remain, VOCA has developed a substantial infrastructure of public agencies and private, nonprofit organizations dedicated to providing comprehensive, high-quality services.⁶³ As the Fund has grown, so have the demands on the programs that provide victim services to reach out to additional populations of crime victims, provide new and additional types of services, and extend services to otherwise unserved and underserved regions of the country.

As originally conceived, the Fund was intended to support state compensation and assistance programs. With CJA, it was extended to support criminal justice system changes in the handling of child abuse cases. More recently, victim assistance personnel in USAO and the FBI have been added to the Fund's responsibilities. The additional set-asides were possible because at the time it seemed that large ongoing balances in the Fund would be available. This is no longer the case.

Under the current VOCA allocation formula, the additional uses of the Fund are given precedence over the Fund's original purpose to support state compensation and assistance programs. If current trends continue, the Fund's ability to maintain support for state compensation and victim assistance programs is clearly in jeopardy. To adequately address this challenge, it is necessary to adjust the statutory method of allocating the Fund and to supplement the sources of deposits into the Fund—in other

Crime Victims Fund Projections for Victim Assistance Grants



Sources: Scenarios 1, 2, and 3 on pages 17, 18, and 19.

words, to address both the expenditure and the revenue sides of the VOCA equation.

A three-pronged approach is recommended to address the impending challenge of sustaining support for victim services through the Fund:

- To address the structural inequity of state victim assistance grants that absorb the negative impact of insufficient funding, the allocation formula should be modified so that a minimum amount of funds are made available for state victim assistance grants each year. The amount should be set at the average allocated for state victim assistance grants during the previous 3 years plus 5 percent.
- Deposits into the Fund should be increased through continued efforts to improve the collection of criminal debts and by dedicating certain restitution payments.
- If increased debt collection and new revenue sources are still not enough to meet annual Fund obligations, amounts from other revenues derived from violations of federal law should be transferred into the Fund to make up for the deficiency.

Restructure Fund Allocations

On the expenditure side, the basic problem is that nearly all of the adverse consequences of insufficient funding levels fall on the state victim assistance formula grants. As funding for the other VOCA program areas has been added or increased, amounts available for state victim assistance grants are reduced. Other demands placed on the Fund, such as governmentwide rescissions or unobligated carryovers, are taken entirely from victim assistance grants rather than equitably spread out among all VOCA program areas.

Several proposals have been introduced in Congress as alternatives to the use of annual congressional caps to stabilize funding without singling out state victim assistance grants (and hence the approximately 4,300 direct service programs that depend on the grants) to absorb insufficient funding levels.

In the 107th Congress, a “managed formula” was enacted to establish a minimal base level of funding for state victim assistance grants while avoiding the potential of wide fluctuations, a provision that was repealed 1 month later.⁶⁴ A somewhat similar approach was proposed in the 108th Congress that would have established the average of the previous 3 years as the base for state victim assistance grants.⁶⁵ The proposal addressed the potential problem of inadequate Fund amounts by prorating any shortfall among

OVC discretionary grants, victim compensation grants, and victim assistance grants. Both proposals sought a method to directly determine annual funding for state victim assistance grants, rather than depend on the amount “left over” after all the other Fund obligations were established.

Any proposal to establish a minimum level for state victim assistance grants should consider the normal increases in costs of providing services and the ongoing need to provide critical services to additional crime victim populations. Thus, the proposal incorporates a modest 5-percent annual increase in the base level for victim assistance grants (and for OVC discretionary grants as well). A 5-percent annual increase is less than the average increase in the programs since FY 2000 when the congressional caps were imposed.

Improve Criminal Debt Collections

Efforts to collect unpaid criminal debts can be improved. A recent GAO report identifies the progress the U.S. Department of Justice is making and additional steps that can be taken.⁶⁶ If the recommendations contained in this and previous GAO reports—recommendations with which DOJ generally agrees—are fully implemented and if sufficient resources are dedicated to this purpose, the amount of deposits into the Fund will undoubtedly be enhanced.

However, whatever improvements may be made in the current criminal fine collection system, they are unlikely to produce sufficient additional revenues to offset the impending shortfall in Fund deposits. For example, a 10-percent increase in collections would produce an additional \$35 million to \$50 million. In contrast, by FY 2009, anywhere from \$184 million to \$470 million in additional Fund deposits may be needed to maintain 60-percent state compensation grants and keep state victim assistance grants at their FY 2003 level.

Restitution

Although restitution payments to victims must remain a priority, several suggestions could enhance Fund deposits without diminishing individual restitution. Unlike criminal fines, which are meant to punish and deter criminal acts, restitution is intended to make victims “whole.”

Expanded community restitution. In drug cases in which no victims are identifiable, courts may now order the payment of “community restitution.”⁶⁷ It recognizes that even if no identifiable individuals are harmed, the community in which the drug trafficking occurs has been harmed. The concept should be extended to other types of criminal

activities (e.g., mass violence, bomb threats) in which no victims are identifiable but a substantial adverse impact has been made on the community. In those cases, courts should be authorized to order community restitution payments into the Fund.

Unclaimed restitution. Restitution payments for victims who cannot be located should also be deposited into the Fund. If any of those victims are later located, payments can be taken from the Fund.

Multiple victim cases. Under U.S. sentencing guidelines, restitution need not be ordered to the extent the court finds, from facts on the record, that (1) the number of identifiable victims is so large as to make restitution impracticable; or (2) determining complex issues of fact related to the cause or amount of the victim's losses would complicate or prolong the sentencing process to a degree that the need to provide restitution to any victim is outweighed by the burden on the sentencing process.⁶⁸

Rather than decline to order restitution in the event of too many victims, courts should be authorized to require that restitution payments be made into the Fund. This would be consistent with the policy established under the MVRA that allows victims to assign their interest in restitution payments to the Fund.⁶⁹

Transfer Revenues Derived From Law Violations

One of the original principles for the creation of the Fund, as articulated by the 1982 *President's Task Force on Victims of Crime Final Report*, was that criminals, not taxpayers, should pay to support crime victim programs.⁷⁰ The idea has served the victim service field well since VOCA was enacted. It is time to extend this premise to some noncriminal penalties for violations of the law, an approach that would be consistent with the principle that “the bad guys” should pay for victim services. Many providers, for example, offer assistance to clients who are involved in proceedings beyond the strict statutory definition of criminal conduct. Victim service providers may work with clients in certain civil proceedings (e.g., protective orders, supervision and visitation proceedings), administrative proceedings (e.g., probation and parole proceedings), and juvenile justice proceedings. Providers assist victims of many nonviolent offenses such as identity theft and financial exploitation. Just as some victim services expand assistance to victims involved in noncriminal situations, so should revenues derived from noncriminal case proceedings be used to support victim services. Revenues

from the following would be appropriate to supplement traditional Fund revenues to the extent needed to meet annual Fund obligations.

False Claims Act. The False Claims Act⁷¹ imposes civil liability on anyone who submits a false or fraudulent claim for a Federal Government payment. A person violating the False Claims Act is subject to treble damages plus civil penalties of up to \$11,000 for each claim. Under the “whistleblower” or “qui tam” provisions, an individual can bring an action on behalf of the Government and can share in the damages. In successful actions, the whistleblower may be awarded anywhere from 15 to 25 percent of the proceeds plus reasonable expenses.⁷²

DOJ reported that in FY 2002, \$1.2 billion was recovered in False Claims actions; the amount increased to \$2.1 billion in FY 2003. Since the Act was amended in 1986 to encourage whistleblower actions, more than \$12 billion has been recovered.⁷³

Pursuant to the Health Insurance Portability and Accountability Act of 1996, amounts equal to penalties and damages (other than funds awarded to whistleblowers, restitution, or otherwise authorized by law) obtained under the False Claims Act related to health care items and services are transferred to a special account in the Federal Hospital Insurance Trust Fund⁷⁴ to be used for activities designed to combat health care fraud and abuse. Of the \$2.1 billion recovered in FY 2003, more than 80 percent—\$1.7 billion—of the recoveries stemmed from health care fraud cases; in FY 2002, \$980 million of the \$1.2 billion recovered was related to health care fraud.

Penalties and treble damages awarded under the False Claims Act are meant to punish and deter and thus are intended to serve a purpose similar to criminal fines. Transferring a certain percentage (e.g., 10 percent) of all annual collections from False Claims Act cases would be an appropriate addition to the Crime Victims Fund. If additional amounts are necessary to meet the annual obligations of the Fund, then nonhealth care-related recoveries (other than whistleblower awards and restitution) from the False Claims Act into the Fund could be used to supplement current deposits.

Civil fines and monetary penalties. Many violations of federal law are treated as civil rather than criminal offenses. Just like criminal fines, the purpose of the sanctions is to enforce federal law and punish violations. At

least 80 federal agencies have authority to seek civil penalties.⁷⁵ Amounts for a violation may range from \$100 to millions of dollars. As described by GAO,

Civil monetary penalties are one method by which agencies enforce federal laws and regulations, with penalty assessments and collections totaling hundreds of millions of dollars per year. Dozens of federal agencies are currently authorized to levy such penalties for violations involving such issues as public health and safety, environmental protection, securities transactions, and international trade.⁷⁶

The Securities and Exchange Commission, for example, reported collections of civil penalties totaling \$43 million in FY 2000, \$44 million in FY 2001, and \$101 million in FY 2002.⁷⁷ The Bureau of Industry and Security in the U.S. Department of Commerce collected \$1.3 million in FY 2000, \$2.5 million in FY 2001, and \$5.3 million in FY 2002.⁷⁸

Although some civil penalties are dedicated for specific uses,⁷⁹ consideration should be given to depositing some civil fines, forfeitures, and other monetary penalties for violations of law into the Fund.

Conclusion

Assistance to crime victims has been provided, beginning at the community level, for 30 years and has evolved into a partnership of nonprofit organizations, local and state governments, and the Federal Government. Funding for victim services comes from various sources, and it is incumbent on all sectors to contribute to the financial viability of the essential ones. Some suggestions made in this report for the Federal Government may be applicable to other levels of government. Since 1984, the Fund has served as a foundation for the Federal Government's support of crime victim services—primarily through state compensation and assistance programs—and as a model that some states followed in developing their own victim funding mechanisms.

As the original limit on Fund deposits continued to increase and then was removed in FY 1993, programs dependent on the Fund were able to expand at a moderate pace. Beginning in FY 1996, a handful of unusually large criminal cases fueled a dramatic explosion in the annual Fund deposits that, in turn, triggered a significant growth in the programs. Since FY 2000, Congress has imposed a cap on annual Fund obligations, created set-asides to support specific federal victim assistance programs, and changed the formula by which the Fund is distributed. Although the intent of the caps has been to stabilize VOCA funding, and the caps have prolonged the availability of the funds, the rate at which Congress has increased the annual cap on Fund obligations has not always kept pace with the ever-increasing need to serve victims. Indeed, support for state VOCA victim assistance programs has actually been reduced twice in recent years.

As the balance in the Fund continues to diminish, the Fund's ability to provide adequate support for the programs dependent on it will be seriously eroded. Additional sources of revenue for the Fund must be sought out, particularly those that are derived from sanctions for violations of law. Without additional revenues into the Fund, benefits provided by state victim compensation programs and direct services provided through state VOCA victim assistance programs will suffer severe reductions in essential federal financial support.

Notes

1. The Victim Witness Protection Act, enacted in 1982, established rights for victims of crime involved in the federal criminal justice system but did not provide any additional resources to support services to victims. Other major sources of federal financial assistance for victim services are intended to address specific types of victimizations, such as the Violence Against Women Act and the Family Violence Prevention and Services Act, or specific types of services, such as the Byrne Formula Grant Program and the Juvenile Justice and Delinquency Prevention Act.
2. President's Task Force on Victims of Crime, December 1982, *President's Task Force on Victims of Crime Final Report*, Washington, DC: U.S. Government Printing Office, 43–44.
3. Ibid., 44.
4. Pub. L. 98-473; title II, § 1402, October 12, 1984, 98 Stat. 2170.
5. A criminal fine of \$160 million against Infineon Technologies for price fixing was agreed to in September 2004 but not paid during FY 2004.
6. CG Nutritionals paid a total criminal fine of \$200 million, of which \$20 million was deposited into the Postal Service Fund.
7. Only Mitsubishi Corporation went to trial, but following the conviction, it entered into a sentencing agreement with the Federal Government.
8. Office of the Inspector General, September 2004, *The Internal Effects of the Federal Bureau of Investigation's Reprioritization*, Washington, DC: U.S. Department of Justice, 56.
9. Minimal amounts are deposited by other entities such as the U.S. Department of Defense.
10. 18 U.S.C. 3013.
11. Office for Victims of Crime, April 1988, *Report to Congress*, Washington, DC: U.S. Department of Justice, 12.
12. 18 U.S.C. 3681.
13. *Simon and Schuster, Inc. v. Members of New York State Crime Victims Board*, 502 U.S. 105, 123 (1991).
14. *United States Attorneys' Manual*, Title 9, Criminal Resource Manual, "1104 Summary of Special Forfeiture Statute," www.usdoj.gov/usao/eousa/foia_reading_room/usam/title9/crm01104.htm, and "1105 The First Amendment Problems of 'Son of Sam' Laws," www.usdoj.gov/usao/eousa/foia_reading_room/usam/title9/crm01105.htm. Accessed February 1, 2005.
15. Pub. L. 107-56. A similar provision was included in the Senate Judiciary Committee's substitute amendment (S. 2423) of the original legislation but not included in the final enacted version.
16. H.R. 3036, introduced in the 108th Congress, would authorize the Director of the Office for Victims of Crime to accept donations for deposit into the Fund.

17. 42 U.S.C. 10601(b)(1).
18. 16 U.S.C. 1540(d) provides that the Secretary of the Treasury may pay from sums received as penalties, fines, or forfeited property for rewards and incidental expenses for temporary care of endangered fish, wildlife, or plants.
19. 16 U.S.C. 3375(d) provides that the Secretary of the Treasury may pay from sums received as penalties, fines, or forfeited property for rewards and incidental expenses for temporary care of illegally taken fish, wildlife, or plants.
20. 45 U.S.C. 359 contains criminal penalties for making false or fraudulent reports and for requiring employees to make the employer's contribution into the railroad unemployment insurance account. All fines and penalties for violations are to be credited to the account.
21. 39 U.S.C. 404(a)(8) allows the U.S. Postal Service to use half of penalties and forfeitures for violations of postal laws for rewards. The other half goes into the Postal Service Fund, which is used to operate the U.S. Postal Service.
22. 33 U.S.C. 1321 provides that certain persons in charge of a vessel or offshore facility who fail to notify proper authorities about the discharge of an oil or other hazardous substance may be subject to a criminal fine and imprisonment under the Federal Criminal Code (Title 18).
23. 18 U.S.C. 3613.
24. 18 U.S.C. 3571(a).
25. 18 U.S.C. 3571(b)(1)-(7).
26. 18 U.S.C. 3571(c)(1)-(7).
27. The FY 1985 amount was reported in General Accounting Office, June 1994, *Restitution, Fines, and Forfeitures: Issues for Further Review and Oversight*, Washington, DC: General Accounting Office, appendix I. FYs 2002 and 2003 data were compiled by the EOUSA Financial Litigation Unit.
28. Executive Office of United States Attorneys, *United States Attorneys' Annual Statistical Report, Fiscal Year 2003*, tables 12A and 12B, www.usdoj.gov/usao/reading_room/reports/asr2003/03_STAT_Report.pdf. Accessed February 1, 2005.
29. See, for example, note 2 above, President's Task Force on Victims of Crime, *President's Task Force on Victims of Crime Final Report*, 45, and *Congressional Record*, 1984, 98th Congress, letter from Attorney General William French Smith dated March 6, 1984, § 2636-37.
30. Pub. L. 100-690.
31. Pub. L. 102-572.
32. General Accounting Office, July 2001, *Criminal Debt: Oversight and Actions Needed to Address Deficiencies in Collection Processes*, Washington, DC: General Accounting Office, www.gao.gov/new.items/d01664.pdf, 9 (footnotes omitted), Accessed February 1, 2005.
33. Office for Victims of Crime, October 1997, *Report to Congress*, Washington, DC: U.S. Department of Justice, 66.
34. Most criminal debts remain in force for 20 years plus the period of incarceration and can be written off only when the statute of limitations expires, the offender dies, or the court cancels or remits the debt. 18 U.S.C. 3613.
35. See note 32 above, General Accounting Office, *Criminal Debt*, 32-39.
36. Federal Bureau of Prisons. This amount includes restitution as well as special assessments and criminal fines.
37. 42 U.S.C. 5106c.
38. House Report 105-405 § 109.
39. Pub. L. 106-113.
40. House Report 106-479 § 119. The House Report indicated that the FY 2000 cost for the 93 coordinators would be \$6,383,000 and \$7,552,000 for the pre-1998 77 victim/witness work years. Congress reiterated this intent in the FY 2001 appropriations by stating, "In addition, the conference agreement assumes that funding will continue to be provided to the U.S. Attorneys to support the current number of victim witness coordinators in fiscal year 2001, as was provided from the Fund in fiscal year 2000." House Report 106-1005 § 114.
41. Federal Bureau of Investigation, Office for Victim Assistance, FBI Resources for Victims of Crime, www.fbi.gov/hq/cid/victimassist/fbiresources/resources.htm. Accessed February 1, 2005.

42. House Report 106-1005.

43. Senate Report 107-42, § 111.

44. The allocations have changed frequently over the years. Originally, up to 5 percent of the amount available for state victim assistance grants was deducted for services to victims of federal crimes either through grants or reimbursement to other federal agencies (Pub. L. 98-473). In 1986, the amount was lowered to 1 percent of all Fund deposits and was broadened to enable the use of not more than half of these funds for training and technical assistance and not less than half for services to federal victims (Pub. L. 99-401). In 1988, the allocation was increased to 5 percent (Pub. L. 100-690) but reduced to 3 percent in 1994 (Pub. L. 103-322). In 2001, the allocation was again increased to 5 percent (Pub. L. 107-56).

45. This, too, has changed. The first formulation required that no less than half had to be used for training and technical assistance and no more than half for services to federal victims (Pub. L. 99-401). This may have been inadvertent because within a few months Congress reversed it (Pub. L. 99-646). In 2001, it was restored to the original formulation (Pub. L. 107-56).

46. Compensation grants were originally based on 35 percent of the previous year's state-funded payouts (Pub. L. 98-473). This was increased to 40 percent in 1988 (Pub. L. 100-690) and 60 percent in 2001, effective in FY 2003 (Pub. L. 107-56). "Preceding year" refers to the year before the year in which Fund deposits are made, not the year of the distribution. Thus, state compensation grants distributed in FY 2003 are based on state-funded benefits paid during FY 2001.

47. Office for Victims of Crime, VOCA Nationwide Performance Reports, www.ovc.gov/fund/vocareps.htm. Accessed February 1, 2005.

48. Victims of Crime Act, 42 U.S.C. 10603(a)(2)(A) and (B), and Victims of Crime Act Victim Assistance Grant Program, 62 *Federal Register* 77, April 22, 1997, 19614.

49. The survey was conducted in 2003; 41 state VOCA assistance administrators responded.

50. Pub. L. 103-322.

51. Pub. L. 104-132.

52. Pub. L. 106-386.

53. Pub. L. 107-56.

54. Pub. L. 107-117. The use of the reserve as a "rainy day" fund was eliminated because, with the imposition of congressional caps, the unobligated Fund balances carried forward for use in future years essentially served the same function. To the extent necessary and available, Fund balances are drawn on to make up for any shortfalls between the annual deposits and the congressional cap. For example, the cap for FY 2003 was set at \$600 million, but the previous year's deposits were only \$519 million. Thus, \$81 million from the Fund balance was drawn on to meet Fund obligations.

55. House Report 106-479. The cap was roughly half—\$500 million—of the amount in the Fund.

56. See note 33 above, Office for Victims of Crime, *Report to Congress*, 12.

57. Survey conducted by the National Association of VOCA Assistance Administrators (NAVAA) in 2003. Responses were received from 41 of the 56 state VOCA administrators, although not every question was answered by each respondent.

58. See, for example, Bureau of Justice Statistics, Criminal Victimization, www.ojp.usdoj.gov/bjs/cvictgen.htm. Accessed February 1, 2005.

59. A number of states may only fund continuation projects and may instruct subgrantees on the amount they may request. Thus, they would not show any differences in the number and amount applied for and awarded. Those are not included here. These figures are only a rough indication of unmet needs; some grant applicants may have been denied funding for reasons other than a lack of enough money.

60. StopFamilyViolence.org, Full Funding to Stop Violence Against Women!, www.stopfamilyviolence.org/sfvo/sfvo_budgets.html. Accessed February 1, 2005. See, also, for example, the Massachusetts Coalition Against Sexual Assault and Domestic Violence, Jane Doe Inc.'s Save Massachusetts Rape Crisis Centers Campaign, 2003, which reported that "the state's Fiscal Year 2004 Budget eliminates 75% of public funding for rape crisis centers

and sexual assault services in Massachusetts. The Conference Committee budget cuts these funds from approximately \$2.5 million to \$800,000.”

61. This assumption is based on a significant reduction in benefits paid by California and an increase by Texas in FY 2003. The two states typically account for one-third to nearly one-half of all compensation benefits paid. The 7-percent annual increase is less than the historic annual average increase, but it reflects the financial problems many states now face.

62. 42 U.S.C. 10602(a)(2).

63. See, for example, Newmark, Lisa C., Judy Bonderman, Barbara Smith, and E. Blaine Liner, 2003, *The National Evaluation of State Victims of Crime Act Compensation and Assistance Programs: Trends and Strategies for the Future*, Washington, DC: Urban Institute.

64. Pub. L. 107-56, eff. October 26, 2001; repealed Pub. L. 107-77, eff. November 28, 2001.

65. Senate Bills 22 and 805 would establish a 3-year average minimum amount for OVC discretionary grants and state victim assistance grants; if amounts were not available to meet this funding level, then OVC discretionary grants, state compensation grants, and state victim assistance grants would be reduced accordingly.

66. General Accounting Office, March 2004. *Criminal Debt: Actions Still Needed to Address Deficiencies in Justice's Collection Processes*, Washington, DC: General Accounting Office, www.gao.gov/new.items/d04338.pdf. Accessed February 1, 2005.

67. 18 U.S.C. 3663(c). Sixty-five percent of any amounts distributed are to be paid to the state VOCA victim assistance agency and 35 percent to the state agency designated to administer federal substance abuse block grant funds. There does not appear to be a significant amount of community restitution ordered or paid.

68. U.S. Sentencing Commission, 2003, *Federal Sentencing Guideline Manual*, § 5E1.1(b)(2).

69. 18. U.S.C. 3664(g)(2).

70. See note 2 above, President's Task Force on Victims of Crime, *President's Task Force on Victims of Crime Final Report*, 44.

71. 31 U.S.C. 3729.

72. 31 U.S.C. 3730(d)(1).

73. U.S. Department of Justice, December 16, 2003, “Justice Department Recovers Over \$1 Billion in FY 2002,” press release, and November 10, 2003, “Justice Dept. Civil Fraud Recoveries Total \$2.1 Billion for FY 2003; False Claims Act Recoveries Exceed \$12 Billion Since 1986,” press releases, Washington, DC: U.S. Department of Justice.

74. Pub. L. 104-191, title II, § 201(k)(2)(C)(iv), eff. August 21, 1996.

75. General Accounting Office, March 2003, *Civil Penalties: Agencies Unable to Fully Adjust Penalties for Inflation Under Current Law*, Washington, DC: General Accounting Office.

76. *Ibid.*, 1.

77. Securities and Exchange Commission, Annual Reports, 2000–2002.

78. Bureau of Industry and Security, *Bureau of Industry and Security Annual Report Fiscal Year 2002*, Washington, DC: U.S. Department of Commerce, www.bxa.doc.gov/News/2003/AnnualReport/chapter3p.pdf. Accessed February 1, 2005.

79. For example, a \$34 million civil penalty against Colonial Pipeline Company, the largest civil penalty a company has paid in U.S. Environmental Protection Agency history, will go into the United States' Oil Spill Liability Trust Fund, which underwrites nationwide oil spill cleanup activities. See www.epa.gov/compliance/resources/decrees/civil/cwa/colonialcd.pdf, accessed February 1, 2005. Section 308(a) of the Sarbanes-Oxley Act (“Fair Fund” provision) authorizes the Securities and Exchange Commission to add civil penalties collected in enforcement cases to disgorgement funds for the benefit of victims of securities law violations.