S. HRG. 101-939, Pt. 1

WOMEN AND VIOLENCE

HEARING

BEFORE THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

SECOND SESSION

ON

LEGISLATION TO REDUCE THE GROWING PROBLEM OF VIOLENT CRIME AGAINST WOMEN

JUNE 20, 1990

Part 1

Serial No. J-101-80

Printed for the use of the Committee on the Judiciary

U.S. GOVERNMENT PRINTING OFFICE

33-686 WASHINGTON : 1990

For sale by the Superintendent of Documents, Congressional Sales Office
U.S. Government Printing Office, Washington, DC 20402

S521-3

COMMITTEE ON THE JUDICIARY

JOSEPH R. BIDEN, JR., Delaware, *Chairman*

EDWARD M. KENNEDY, Massachusetts
HOWARD M. METZENBAUM, Ohio
DENNIS DECONCINI, Arizona
PATRICK J. LEAHY, Vermont
HOWELL HEFLIN, Alabama
PAUL SIMON, Illinois
HERBERT KOHL, Wisconsin

STROM THURMOND, South Carolina
ORRIN G. HATCH, Utah
ALAN K. SIMPSON, Wyoming
CHARLES E. GRASSLEY, Iowa
ARLEN SPECTER, Pennsylvania
GORDON J. HUMPHREY, New Hampshire

RONALD A. KLAIN, *Chief Counsel*
DIANA HUFFMAN, *Staff Director*
JEFFREY J. PECK, *General Counsel*
TERRY L. WOOTEN, *Minority Chief Counsel and Staff Director*

CONTENTS

OPENING STATEMENTS

	Page
Biden, Chairman Joseph R., Jr	1, 6
Thurmond, Hon. Strom	19
Grassley, Hon. Charles E	20
Metzenbaum, Hon. Howard M	21

CHRONOLOGICAL LIST OF WITNESSES

Panel consisting of: Nancy Ziegenmeyer, Des Moines, IA, accompanied by William Olson, counsel; and Marla Hanson, New York, NY	22
Panel consisting of: Linda Fairstein, chief, Sex Crimes Prosecution Unit, New York County District Attorney's Office, New York, NY; Helen R. Neuborne, executive director, Legal Defense and Education Fund, National Organization for Women, New York, NY; and Roni Young, director, Domestic Violence Unit, Office of the State's Attorney for Baltimore City, Baltimore, MD	45

ALPHABETICAL LIST AND SUBMITTED MATERIAL

Fairstein, Linda:	
Testimony	45
Prepared statement	51
Hanson, Marla:	
Testimony	27
Prepared statement	29
Neuborne, Helen R.:	
Testimony	57
Prepared statement	61
Olson, William: Testimony	37
Thurmond, Senator Strom: Written questions to witnesses	80
Young, Roni:	
Testimony	79
Prepared statement	91
Response to questions	83
Ziegenmeyer, Nancy:	
Testimony	22
Prepared statement	24

WOMEN AND VIOLENCE

WEDNESDAY, JUNE 20, 1990

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The committee met, pursuant to notice, at 9:44 a.m., in room SD-226, Dirksen Senate Office Building, Hon. Joseph R. Biden, Jr. (chairman of the committee) presiding.

Present: Senators Biden, Metzenbaum, Thurmond, Grassley, Specter, and Wilson (ex officio).

OPENING STATEMENT OF CHAIRMAN BIDEN

The CHAIRMAN. We will begin the hearing. We have members of the committee and the Senator from California, Senator Wilson, who will be sitting in on this hearing as well. We will follow the committee's normal procedure, and that is that members of the committee will be the ones that will be asking questions.

Let me say publicly what I said to several of the witnesses privately before I make my opening statement, assuming I can find the book that I left somewhere around that has an opening statement in it, and that is that the purpose of today's hearing is completely nonadversarial.

We fully understand—as much as anyone can who has not undergone it themselves—the trauma that some of the people who will testify have undergone. We fully understand the difficulty of recounting, regardless of how many times it has been done before—a horrible tragedy that some of the women who will testify today have undergone.

It is not an easy thing. Any of you who have had a tragedy occur in your life or your family—a severe loss that you have suffered—will understand this. Imagine sitting before these lights, with all of us sitting up here like we are a bunch of judges looking down on a witness table, with a number of people scribbling notes, including us. Imagine what it would be like to have to recount one of the most frightening or sorrowful days in your life. No matter how many times you have done it, it is a very difficult thing to do.

And I want the witnesses to know that, although we cannot totally appreciate that, we have some sense of how difficult it is. We are truly grateful that you are willing to come and testify for us. You have come in order to help us, hopefully, draft a meaningful piece of legislation—one that I have already introduced, but we are here to hear your suggestions as to whether it should be changed.

It may not be correct the way I have introduced it. Some of it may be wrong, none of it may be wrong, but that is the purpose of

today's hearing. If we look at what is happening in society, there are several things that come across very clearly, at least to me.

One of them is no matter how much we say we have changed as a society, there is something terribly wrong when, over the last 15 years, violence against young men in America has dropped by 12 percent, while violence against young women in America has increased 50 percent. Something is wrong.

I am not going to attempt to be an armchair psychiatrist or psychologist today and try to psychoanalyze society and why this is happening. The only thing I can say is I know it has happened, and it is not getting better; it is getting worse.

I personally think there are several things that have to be done in order to be able to, at a minimum, change that God-awful trend that exists in society. There is violent sexism. We are not talking in this hearing today merely about the sexism that exists in society that is so sophisticated that it does not give a woman a job, but gives a man a job. That is a serious flaw in our national psyche.

We are talking about violence, violence that is directed against women for the sole reason that they are women, not because they happen to be there, not because they happen to be the bank teller between the criminal and the vault. It's because they are women.

You know, just since I have introduced this bill, which has created a bit of a furor—furor may be the wrong word—a good deal of discussion already, and I only introduced it yesterday. I hear commentators on television and in the press saying, "Well, will this stop violence against women by making it a civil rights violation?"

The answer is no, that is not my intention. My intention in making this a civil rights violation is to change the Nation's attitude. I know of no circumstance under which the Nation has concluded that there is a serious problem where that problem has not been reflected in legislative form. I know of none.

Reducing the drunk driving level from .1 to .08 blood alcohol does not stop drunk driving, but it does say society is tired of it. We are going to make it tougher. So what happens is it generates discussions at cocktail parties. It generates discussion in carpools. People start to say, "My God, this isn't what we thought it was. It is all right for old Harry to go out and have four beers because he is just a jolly good guy, and get in his car. No more.

So I don't expect that making this a civil rights violation will solve this problem. People will not say, "I was thinking of committing a crime of violence and raping that woman, but now that it is a civil rights violation, I won't do it because I may be sued in Federal court."

But it does say—not unlike what President Kennedy said about the need to deal with the civil rights of black Americans—there is a need for the national psyche to acknowledge that there is something horribly wrong. The law should reflect that attitude.

There is a second practical reason for the civil rights remedy. I want women to be able to get into the best court system in the world, with the most educated judges in the world and with a set of rules and regulations and a degree of sensitivity that is uniform. So when she does conclude after the criminal matter is settled that she wishes to pursue the civil matter, she has the best, most honest, most even, most uniform chance of succeeding.

So part of what I have in mind here is to heighten public awareness and to change as a priority in America this notion of violence against women. I still think we have some arcane notions—notions that are changing, I hope. And that is that it is all right for a man, in anger, to grab his wife's arm and put it behind her back while they are arguing. It is never all right—never, ever, under any circumstances.

One of the things we have to change is the attitudes about rape. I don't know how to do it unless we start to discuss it. I don't know how many times I read statistics and studies where juror after juror says, "Well, maybe the woman invited it."

Consider this: I walk from here out across the Mall to the Capitol waving two $1,000 bills like this in front of everyone for all to see and someone comes and grabs them out of my hand and runs. The young woman or man who grabbed the two $1,000 bills that I was waving and flaunting in front of the public cannot say in court, "By the way, he invited it—Biden was walking down the street waving two $1,000 bills." They cannot use that as a defense.

So even if a woman, no matter how suggestive, no matter how she was dressed, no matter what she was doing, walked in the most promiscuous, inviting manner from here to the Capitol across the way, no one under any circumstance has any right for any reason to violate her physically. And it should be no defense to say she invited it. Yet, I will bet you that there are some in society hearing me today who are saying, "Biden, you are crazy. Why should it be no defense for robbery and be a defense for rape?"

The third point I would like to make is that if we don't prioritize this crime against women, it is going to get worse, and we can't afford for it to get much worse.

It seems to me—again, from my experience here over the years—that unless we start to say enough is enough, not much begins to happen. Something may happen if we start to point out those charts—as I pointed out, the change in the rates of assaults since 1974 against young male victims versus young female victims; and the number of murders since 1974, older males down 5.6, older females up 29.9. What reason can there be for that? We as a society have to change.

I would very briefly like to suggest that one of the reasons for this particular hearing is to look at not only the growing problem, but the proposed solution that I have put forward. Again, I am not suggesting the solution I have put forward is the totality of the solution. Parts of it may be wrong. That is why I have asked some of the experts to come today, as well as some of the victims.

But let me very briefly explain how we will proceed. First, with the help of two very courageous survivors of violent crime, we will take a look at the staggering human impact of crime on those who survive the crimes. Second, with the help of three distinguished legal experts, we will look at the role the Federal Government can play in this fight.

I have a number of questions for the witnesses, many of which are focused on the legislation that I introduced yesterday—the Violence Against Women Act of 1990. I will not take the time here to explain in detail each aspect of this comprehensive legislation. The bill contains many significant legislative proposals—too many to

summarize at this time. But I would like to make some general points about the legislation and what I am trying to achieve.

The bill has three broad but simple goals. The first goal is to try to make streets a little bit safer for women; the second goal is to make their homes a little bit safer; and, the third goal is to protect their civil rights.

To meet the first goal, there are some very practical suggestions that we know from experience work. Title I of the bill provides significant new resources for State and local law enforcement agencies. It grants $200 million for 40 areas in the country found by the Justice Department to be the most dangerous for women. In addition, it grants $100 million for the remainder of the States. These grants will significantly boost the number of police officers on the street and prosecutors in the courts, and police and prosecutors targeting violent crime against women.

Title I also helps prevent street crime against women by providing very basic things like lights and cameras in public transit areas, and by punishing those crimes more severely by doubling the penalties for rape and aggravated rape tried in Federal courts.

To meet the second goal, making homes safer for women, the legislation confronts the growing crisis of millions of women each year who are the victims of violent crimes in their own homes. While we often call it "domestic violence," that term connotes something more benign than street violence, but it is far from tame.

One million women every year require medical attention for injuries inflicted by abusing spouses. My proposal provides new laws, encourages new policies, and adds new funds to help in the fight against domestic violence. For example, the bill protects women who flee from their abusers by making protective court orders issued in any State legal in every State. This way, when a woman crosses a State line, she does not lose the benefit of a judge-issued order aimed at keeping her abusive spouse or lover away from her, which is the case now.

In addition, the bill uses Federal grant programs to encourage States to treat domestic violence as a crime and not as a quarrel by encouraging States to arrest abusive spouses. The data are clear. In many States, that does not occur. The arresting officer comes in; the woman is clearly the victim of violence and has been beaten, but there is no arrest made. In almost all of those States the officer has the power to be the complaining witness filing the complaint. We want that to happen. So a condition of getting this money will be: Pass some laws in your own State making it a priority to arrest these people. This part of the bill also includes increased funding for shelters that house battered women, and for funds for training prosecutors and court personnel in handling spouse abuse cases.

Finally, and perhaps most importantly, the third goal of this bill, as I said, is to declare that sex crimes violate a woman's federally protected civil rights. For too long, we have ignored the right of women to be free from the fear of attack based on their gender. For too long, we have kept silent about the obvious.

Ninety-seven percent of all sex crimes in this country are sex crimes against women. We know this; indeed, we assume it, but we ignore the implications. A rape or a sex assault should be deemed a

civil rights crime just as hate beatings aimed at blacks or Asians are widely recognized as violations of their civil rights.

Creating a civil rights remedy can never blunt the pain that the survivor of a sex crime feels, but it does say that we as a nation, as a whole nation, will not tolerate crimes perpetrated against women simply because they are women.

In conclusion, I want to thank all of our witnesses for appearing here today. I look forward to all the help they can give me and other Senators here in understanding this growing and troubling problem. I stand ready for advice and seek advice on how we can better deal with this problem.

[The prepared statement and attachments of the chairman follow:]

STATEMENT OF SENATOR JOSEPH R. BIDEN, JR.
HEARING ON VIOLENCE AGAINST WOMEN
JUNE 20, 1990

TODAY, THE COMMITTEE HOLDS ITS FIRST HEARING ON LEGISLATION TO REDUCE THE GROWING PROBLEM OF VIOLENT CRIME AGAINST WOMEN.

IN A FAMOUS 1941 ADDRESS, FRANKLIN ROOSEVELT IDENTIFIED "FOUR ESSENTIAL HUMAN FREEDOMS." HE INCLUDED AMONG THAT LIST THE "FREEDOM FROM FEAR."

THE QUESTION THAT PROMPTED ME TO CALL THIS HEARING WAS THIS: DOES A WOMAN IN THIS COUNTRY ENJOY THAT ESSENTIAL HUMAN FREEDOM?

-- THE FREEDOM TO WALK DOWN A STREET AND NOT FEAR THAT SOMEONE WILL FOLLOW HER, OR ROB HER, OR PERHAPS EVEN RAPE HER --

-- THE FREEDOM TO WALK IN GROCERY STORE PARKING LOTS; TO JOG IN PUBLIC PARKS; OR TO RIDE IN CITY BUSES.

I SUSPECT THAT MANY WOMEN IN THIS COUNTRY TODAY WOULD SAY THAT THEY DO NOT.

I AM SAD TO SAY THAT THE STATISTICS SHOW THAT THESE FEARS MAY WELL BE JUSTIFIED. VIOLENT CRIME AGAINST WOMEN IS A SERIOUS PROBLEM IN AMERICA. EVERY 6 MINUTES, A WOMAN IS RAPED IN THIS COUNTRY; EVERY 18 SECONDS, A WOMAN IS BEATEN.

AND, AS TRAGIC AS THESE FACTS ARE, THERE IS A TRUTH EVEN MORE TROUBLING: VIOLENCE AGAINST WOMEN IS NOT ONLY WIDESPREAD -- IT IS GROWING.

DURING THE LAST TEN YEARS, FOR EXAMPLE, THE RAPE RATE HAS RISEN 4 TIMES FASTER THAN THE NATIONAL CRIME RATE. ASSAULTS HAVE REACHED AN ALL-TIME HIGH AGAINST YOUNG WOMEN -- RISING 50 PERCENT OVER THE LAST DECADE-AND-A-HALF, WHILE DURING THE SAME PERIOD, THE RATE FOR ASSAULTS AGAINST YOUNG MEN HAS ACTUALLY DECLINED.

THESE FIGURES ARE SHOCKING, BUT THEY DO NOT EVEN TELL THE WHOLE STORY. THE NEED FOR URGENT ACTION BECOMES CLEARER STILL WHEN WE REALIZE THAT MANY, MANY SERIOUS CRIMES AGAINST WOMEN ARE NEVER EVEN REPORTED. EXPERTS ESTIMATE THAT LESS THAN HALF OF ALL RAPES ARE EVER REPORTED TO THE POLICE. EVEN MORE CRIMES IN THE HOME ARE LEFT UNREPORTED -- EVEN THOUGH ONE-THIRD OF THEM QUALIFY AS FELONY RAPES OR FELONIOUS ASSAULTS.

THAT'S WHY I HAVE CALLED THIS HEARING -- TO LOOK AT THE GROWING PROBLEM OF VIOLENT CRIME AGAINST WOMEN AND TO DETERMINE WHETHER LEGISLATION I INTRODUCED JUST YESTERDAY -- THE FIRST COMPREHENSIVE BILL GEARED SPECIFICALLY TO COMBATTING VIOLENT CRIME AGAINST WOMEN -- CAN HELP SOLVE THIS GROWING PROBLEM.

FIRST, WITH THE HELP OF TWO VERY COURAGEOUS SURVIVORS OF VIOLENT CRIME, WE WILL TAKE A LOOK AT THE STAGGERING HUMAN IMPACT OF CRIME ON THOSE WHO SURVIVE.

SECOND, WITH THE HELP OF THREE DISTINGUISHED LEGAL EXPERTS, WE WILL LOOK AT HOW THE FEDERAL GOVERNMENT CAN PLAY A ROLE IN THE FIGHT.

I HAVE A NUMBER OF QUESTIONS FOR OUR WITNESSES, MANY OF WHICH ARE FOCUSED ON THE LEGISLATION THAT I INTRODUCED YESTERDAY -- THE VIOLENCE AGAINST WOMEN ACT OF 1990.

I WILL NOT TAKE TIME HERE TO EXPLAIN IN DETAIL EACH ASPECT OF THIS COMPREHENSIVE LEGISLATION -- THE BILL CONTAINS MANY SIGNIFICANT LEGISLATIVE PROPOSALS, TOO MANY TO SUMMARIZE AT THIS TIME. BUT I WOULD LIKE TO MAKE SOME GENERAL POINTS ABOUT WHAT THIS LEGISLATION TRIES TO ACHIEVE.

THE BILL HAS THREE BROAD, BUT SIMPLE, GOALS: TO MAKE STREETS SAFER FOR WOMEN; TO MAKE HOMES SAFER FOR WOMEN; AND TO PROTECT WOMEN'S CIVIL RIGHTS.

TO MEET THE FIRST GOAL, TITLE ONE OF THE BILL PROVIDES SIGNIFICANT NEW RESOURCES FOR STATE AND LOCAL LAW ENFORCEMENT AGENCIES. IT GRANTS $200 MILLION TO THE 40 AREAS IN THE COUNTRY FOUND BY THE JUSTICE DEPARTMENT TO BE THE MOST DANGEROUS FOR WOMEN. IN ADDITION, $100 MILLION IS EARMARKED FOR THE REMAINING STATES.

THESE GRANTS WILL SIGNIFICANTLY BOOST THE NUMBER OF POLICE OFFICERS ON THE STREETS AND PROSECUTORS IN THE COURTS -- POLICE AND PROSECUTORS TARGETTING VIOLENT CRIMES AGAINST WOMEN.

TITLE ONE ALSO HELPS PREVENT STREET CRIME AGAINST WOMEN BY PROVIDING GRANTS FOR LIGHTS AND CAMERAS IN PUBLIC TRANSIT, AND PUNISHES THESE CRIMES MORE SEVERELY BY DOUBLING THE PENALTIES FOR RAPE AND AGGRAVATED RAPES TRIED IN FEDERAL COURT.

TO MEET THE SECOND GOAL -- MAKING HOMES SAFER FOR WOMEN -- THE LEGISLATION CONFRONTS THE GROWING CRISIS OF MILLIONS OF WOMEN EVERY YEAR WHO ARE THE VICTIMS OF VIOLENT CRIMES IN THEIR OWN HOMES. WHILE

WE OFTEN CALL THIS "DOMESTIC" VIOLENCE, IT IS FAR FROM "TAME" -- ONE MILLION WOMEN A YEAR REQUIRE MEDICAL ATTENTION FOR INJURIES INFLICTED BY ABUSING SPOUSES.

MY PROPOSAL PROVIDES NEW LAWS, ENCOURAGES NEW POLICIES, AND ADDS NEW FUNDS TO HELP IN THE FIGHT AGAINST DOMESTIC VIOLENCE.

* FOR EXAMPLE, THE BILL PROTECTS WOMEN WHO FLEE FROM THEIR ABUSERS, BY MAKING PROTECTIVE COURT ORDERS ISSUED BY ANY STATE VALID IN THE 49 OTHERS. THIS WAY, WHEN A WOMEN CROSSES A STATE LINE, SHE DOES NOT LOSE THE BENEFIT OF A JUDGE-ISSUED ORDER AIMED AT KEEPING HER ABUSIVE SPOUSE AWAY FROM HER.

* IN ADDITION, THE BILL USES FEDERAL GRANT PROGRAMS TO ENCOURAGE STATES TO TREAT DOMESTIC VIOLENCE AS A CRIME, NOT A QUARREL, BY ENCOURAGING STATES TO ARREST ABUSIVE SPOUSES.

* IT ALSO INCLUDES INCREASED FUNDING FOR SHELTERS THAT HOUSE BATTERED WOMEN, AND FUNDS FOR TRAINING PROSECUTORS AND COURTS IN HANDLING SPOUSE ABUSE CASES.

FINALLY, AND PERHAPS MOST IMPORTANTLY, THE THIRD GOAL OF THIS BILL IS TO DECLARE THAT SEX CRIMES VIOLATE A WOMAN'S FEDERALLY PROTECTED CIVIL RIGHTS.

FOR TOO LONG, WE HAVE IGNORED THE RIGHT OF WOMEN TO BE FREE FROM THE FEAR OF ATTACKS BASED ON THEIR GENDER. FOR TOO LONG, WE HAVE KEPT SILENT ABOUT THE OBVIOUS -- 97 PERCENT OF ALL SEX ASSAULTS IN THIS COUNTRY ARE AGAINST WOMEN.

WE KNOW THIS; INDEED, WE ASSUME IT, BUT WE IGNORE THE IMPLICATION: A RAPE OR SEX ASSAULT SHOULD BE DEEMED A CIVIL RIGHTS CRIME, JUST AS "HATE BEATINGS" AIMED AT BLACKS OR ASIANS ARE WIDELY-RECOGNIZED AS VIOLATIONS OF THEIR CIVIL RIGHTS.

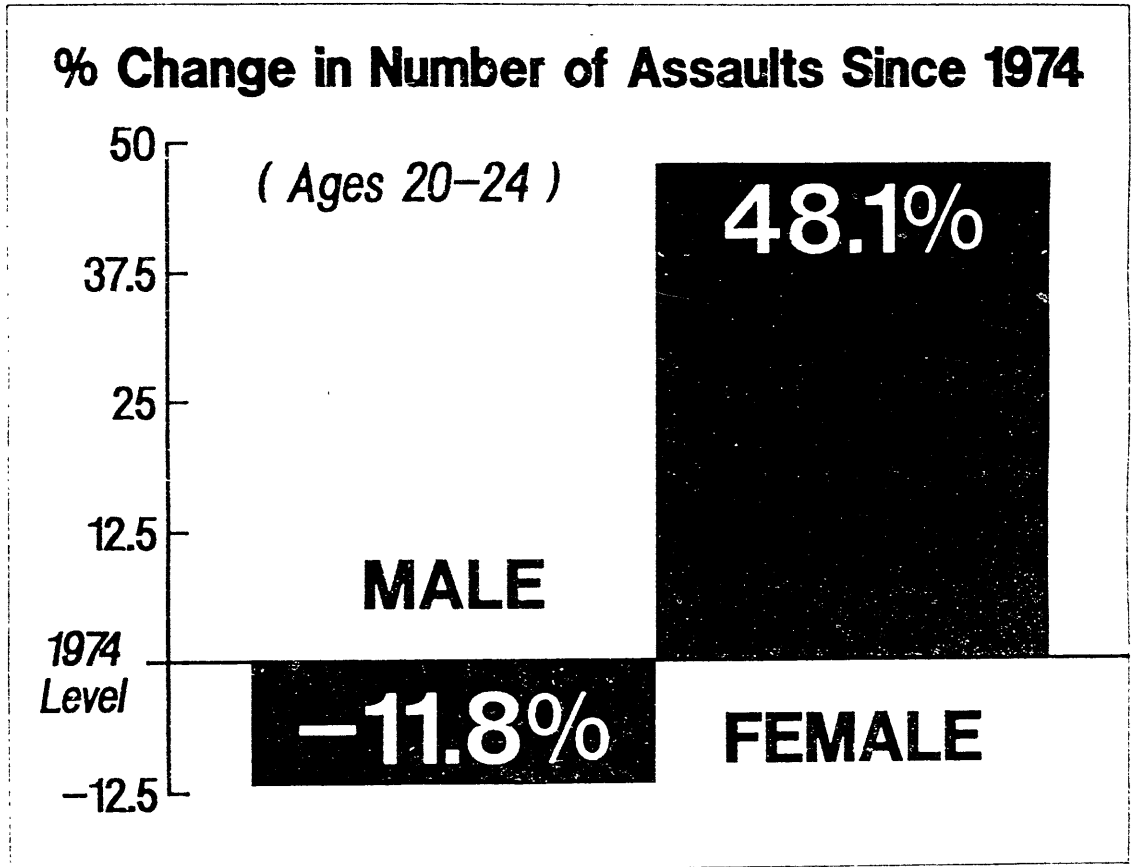
CREATING A CIVIL RIGHTS REMEDY CAN NEVER BLUNT THE PAIN OF A SURVIVOR OF A SEX CRIME; BUT IT DOES SAY THAT WE AS A NATION -- AS A WHOLE NATION -- WILL NOT TOLERATE THESE CRIMES PERPETRATED AGAINST WOMEN SIMPLY BECAUSE THEY ARE WOMEN.

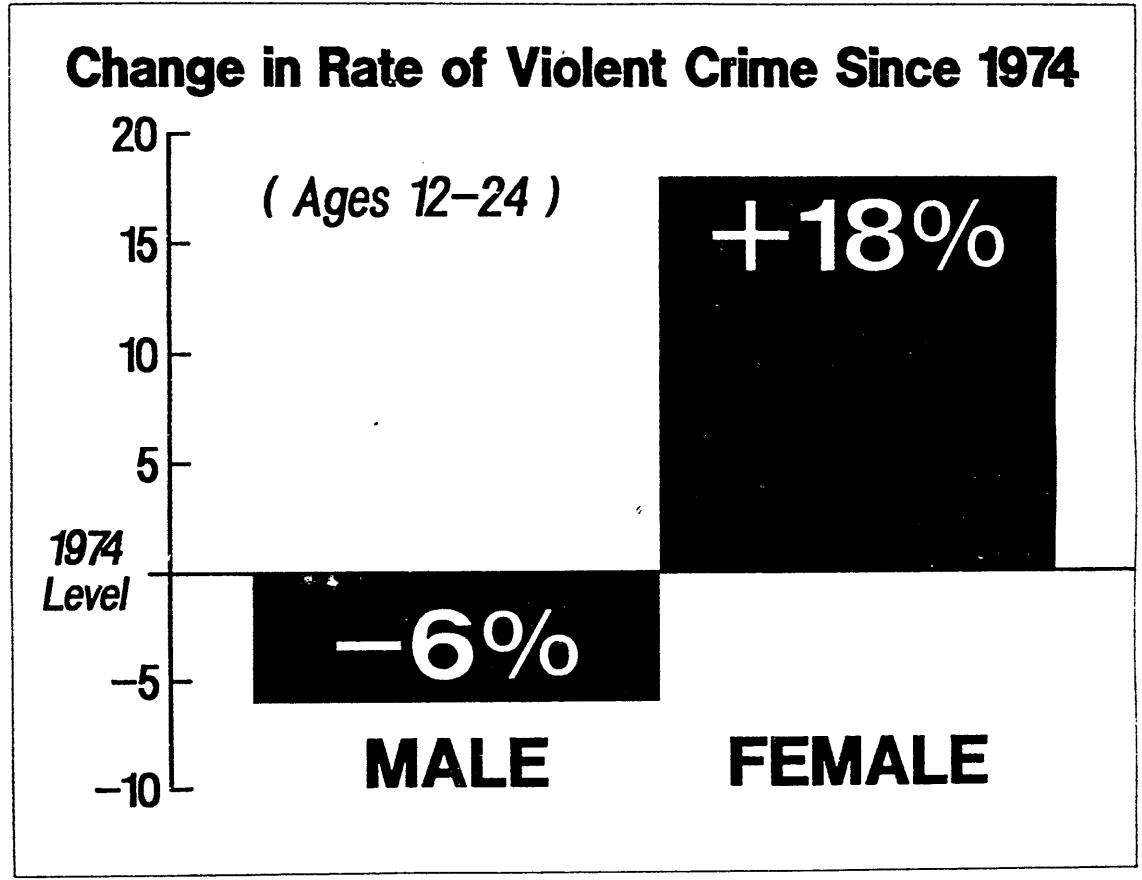
IN CONCLUSION, I WANT TO THANK ALL OF OUR WITNESSES FOR APPEARING HERE TODAY, AND I LOOK FORWARD TO ALL THE HELP THEY CAN GIVE ME AND OTHER SENATORS HERE TO UNDERSTAND THIS GROWING AND DISTURBING PROBLEM.

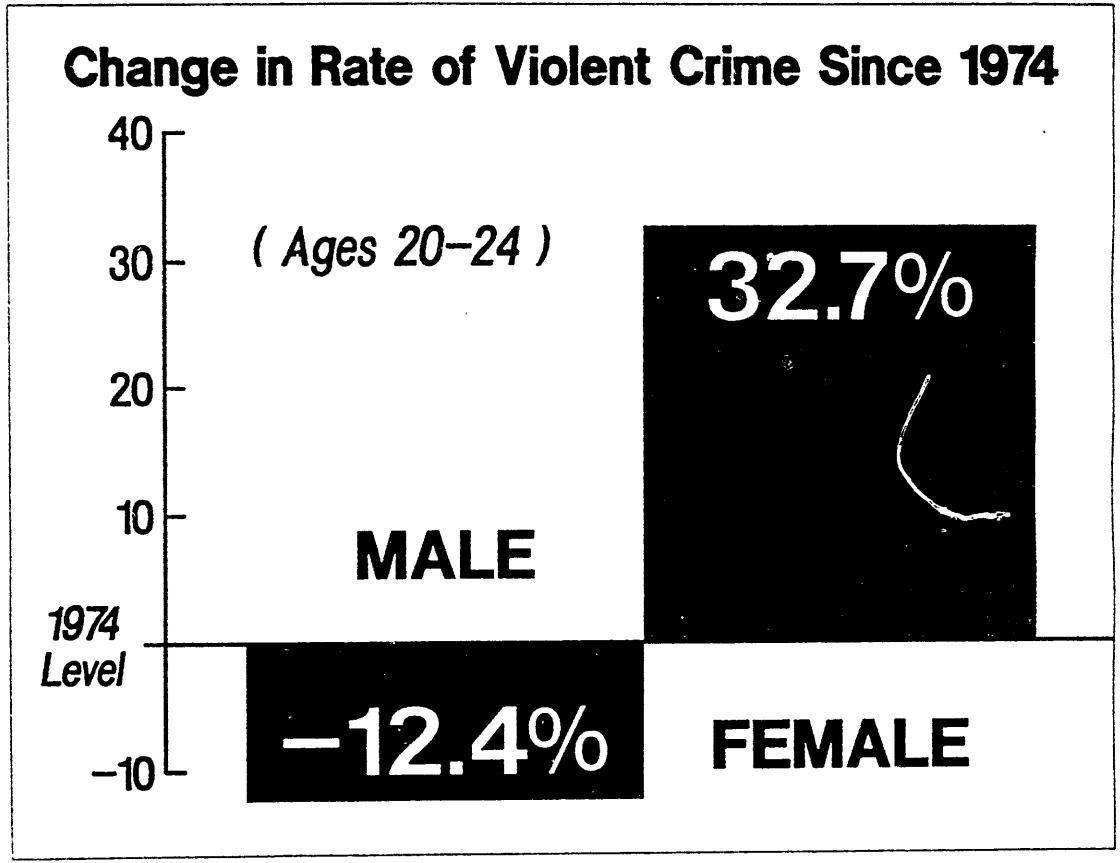
TEN FACTS ABOUT VIOLENCE AGAINST WOMEN

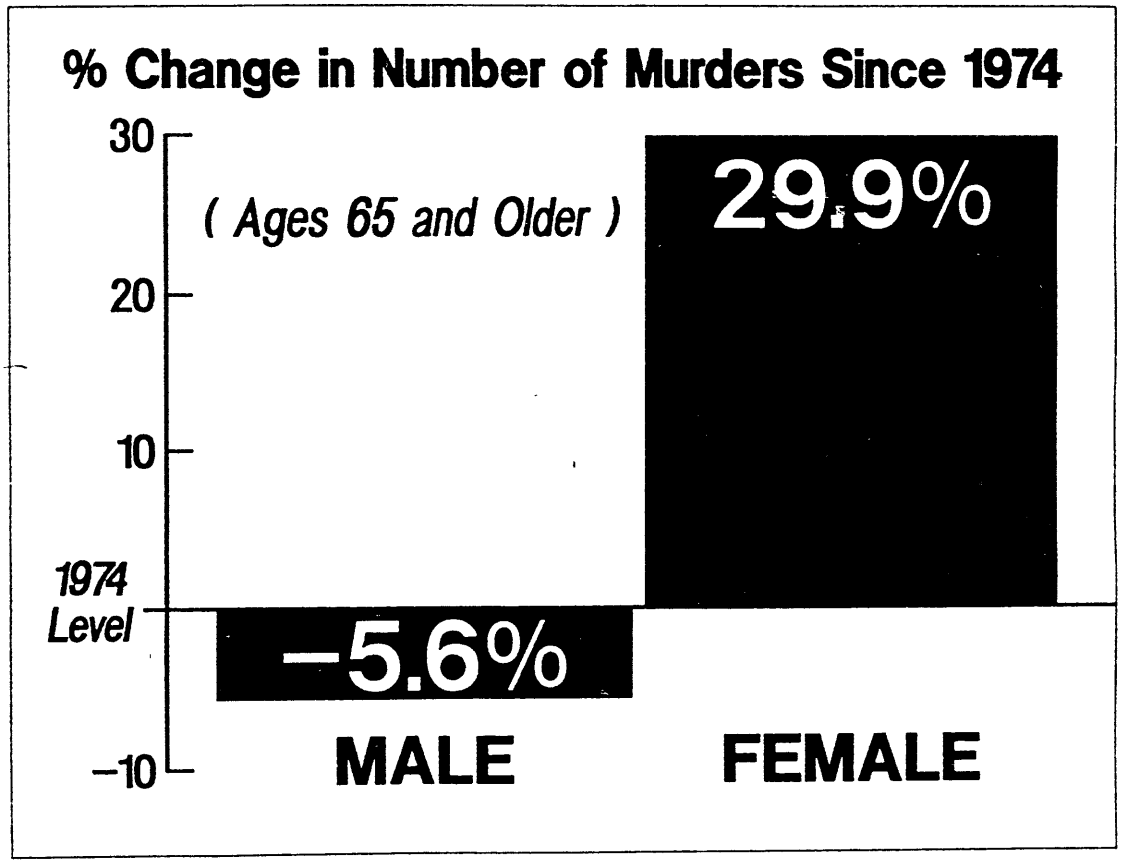
- The most serious crimes against women are rising at a significantly faster rate than total crime: during the past 10 years, rape rates have risen nearly 4 times as fast as the total crime rate.
- Every hour, 16 women confront rapists; a woman is raped every 6 minutes.
- Every 18 seconds, a woman is beaten; 3-4 million women are battered each year.
- Since 1974, the rate of assaults against young women (20-24) has jumped almost 50 percent. For young men, it has decreased.
- Three out of four women will be victims of at least one violent crime during their lifetimes.
- A woman is 10 times more likely to be raped than to die in a car crash.
- Only 50 percent of rapes are ever reported; of those reported, less than 40 percent result in arrests.
- One third of all domestic violence cases, if reported, would be charged as felony rape or felonious assault.
- Each year, more than one million women seek medical assistance for injuries caused by battering.
- The crime rate against women in the United States is significantly higher than in other countries -- the United States has a rape rate which is 13 times higher than England's, nearly 4 times higher than Germany's, and more than 20 times higher than Japan's.

6/18/90


% Change in Number of Assaults Since 1974
(Ages 20–24)
50
37.5
25
12.5
1974 Level
–12.5
48.1%
MALE
–11.8%
FEMALE


Change in Rate of Violent Crime Since 1974
20
15
10
5
1974 Level
−5
−10
(Ages 12–24)
+18%
−6%
MALE
FEMALE


Change in Rate of Violent Crime Since 1974
40
30
20
10
1974 Level
–10
(Ages 20–24)
32.7%
MALE
–12.4%
FEMALE


% Change in Number of Murders Since 1974
30
20
10
1974 Level
−10
(Ages 65 and Older)
29.9%
−5.6%
MALE
FEMALE

VIOLENCE AGAINST WOMEN -- BILL OUTLINE

TITLE I -- SAFE STREETS FOR WOMEN

A. FEDERAL SEX CRIME LEGISLATION

1. Doubles penalties for rape and aggravated rape;
2. Creates new penalties for repeat sex offenders;
3. Requires and expands victim restitution in sex crime cases.

B. HIGH INTENSITY VIOLENCE AREAS

1. Authorizes $300 million in law enforcement grants -- $200 million to the 40 most dangerous areas in the country for women and $100 million to all 50 states;

2. Grants include funds to increase prosecution rates (notoriously low) by training police and prosecutors; setting up special units of police, prosecutors, and victim advocates to target violent crimes against women.

C. PUBLIC TRANSIT: LIGHTS & CAMERAS

Earmarks capital improvement grants from mass transit funding to increase lighting and camera surveillance at bus stops, stations, and adjacent parking lots.

D. NATIONAL COMMISSION ON VIOLENT CRIME AGAINST WOMEN

Modeled on the AIDS Commission, this group will help focus attention on increasing crime rates against women.

TITLE II -- SAFE HOMES FOR WOMEN

A. INTERSTATE ENFORCEMENT

1. Creates federal penalties for spouse abusers who cross state lines to continue abuse or to violate an existing "stay away" order;

2. Requires states to enforce the "stay away" orders that other states issue, as long as the order meets certain minimum criteria.

B. **ARREST**

1. Bars grants to states and localities that discriminate against spouse abuse by having a policy that discourages or prohibits arrest of abusing spouses.

2. Provides grants to states and localities, encouraging arrests of abusing spouses.

C. **FUNDING/GRANTS**

1. Doubles funding for battered women's shelters;

2. Authorizes $25 million in law enforcement grants including funds for prosecutors and courts to develop special units devoted to spouse abuse.

TITLE III -- CIVIL RIGHTS FOR WOMEN

A. SEX CRIMES AS "BIAS" OR "HATE" CRIMES

1. Defines gender-motivated crimes, like rape, as "bias" crimes, depriving victims of equal rights.

B. CIVIL RIGHTS

1. Creates a civil rights remedy, allowing victims of sex crimes to bring a civil rights case and, if gender-based animus is proven, recover compensatory and punitive damages;

2. Modeled on longstanding civil rights laws, (42 U.S.C. secs. 1981-1985) protecting blacks from race-based attacks;

3. Rectifies inequity in current law that provides a civil rights remedy for gender crimes committed in the workplace, but not if committeed on the street or in the home;

4. Limited to gender-motivated crimes.

The CHAIRMAN. Let me now yield to the Senator from South Carolina, Senator Thurmond.

OPENING STATEMENT OF SENATOR THURMOND

Senator THURMOND. Thank you, Mr. Chairman. Today, we will hear testimony regarding a very important matter, violence against women. Our Nation is facing a violent crime epidemic. The number of violent crimes has continued to rise to the point where now there is a violent crime committed every 20 seconds. I repeat, every 20 seconds a violent crime is committed.

Unfortunately, women account for a significant number of our Nation's victims. According to the Department of Justice, there were over 92,000 forcible rapes reported in 1988. That translates into one rape every 6 minutes—I repeat, one rape every 6 minutes. In addition, women accounted for almost 3,000 murder victims in 1988.

These disturbing statistics are not the only evidence of the seriousness of this problem. The simple fact that our daughters and wives fear walking down city streets alone or entering their homes at night reminds us of the reality of violent crime.

It is clear that steps must be taken to address the violent crimewave that confronts our Nation. Justice demands that vicious acts against women be dealt with by enacting tough criminal penalties which harshly punish perpetrators and deter these violent crimes.

Mr. Chairman, the Senate should shortly continue debating a comprehensive anticrime measure which takes major steps toward our goal of eliminating violent crime. The bill includes a comprehensive Federal death penalty provision which will establish constitutional procedures for its implementation and which is very similar to a bill I introduced, S. 32. In addition, it will reform habeas corpus procedures to eliminate much of the unnecessary delay and abuse in death penalty cases. These provisions and additional amendments should be adopted to enhance our efforts against violent crime.

Despite the desperately needed step the crime bill will take, the Judiciary Committee has recognized that significant attention should be given to the growing rate of violence against women. This hearing will focus on various legislative proposals specifically geared toward combating violent crime against them. Any legislation which seeks to make our streets and homes safer for women certainly merits thorough, serious consideration by this committee.

The witnesses we will hear from today will provide us with testimony which should prove valuable in our efforts to address this growing problem. For these reasons, I look forward to today's testimony.

I might say, of course, what we do here at the Federal level should not and would not interfere with what is done by the States. We are considering legislation at the Federal level.

Thank you, Mr. Chairman.

[Pause.]

Senator THURMOND. Go ahead.

OPENING STATEMENT OF SENATOR GRASSLEY

Mr. GRASSLEY. This is very unusual that you have three Republicans and no Democrats, so we take advantage of it.

First of all, let me say that I have two purposes for being here. Naturally, as a member of the committee, I am here because I have to make decisions on this legislation, and so I do have views on the legislation that I want to express in my opening remarks.

But I am also proud to have a constituent here who is going to testify. So I want to introduce to the committee Ms. Nancy Ziegenmeyer of Des Moines, IA. Nancy was the victim of a most brutal rape. Yet, she has found very remarkable courage to tell her story not only to this committee, but she has already told it many times to the American people.

Nancy related her story in the Des Moines Register, which printed a series of articles recounting her ordeal from the rape and through the subsequent trial. If you were to read this story, as I did, I am sure that you would be angered, outraged, sickened, and saddened all at once.

The concluding words of Nancy Ziegenmeyer are still fresh in anybody's mind who would read it, and these words printed were, and I quote, "The person that I was on the morning of November 19, 1988, was taken from me and my family. I will never be the same for the rest of my life."

Of course, those words are most compelling. They seem to capture everything that is so brutal about rape. One day, a stranger invades your life, violates all that is most private and sacred, and leaves a person changed and scarred forever. Rape not only affects the victims, as I am sure we will be told and as Nancy's story tells, but it also touches the victim's family and friends.

As a fellow Iowan, I am proud and, of course, humbled by the courage exuded by Nancy. Somehow, she has found the fortitude to overcome this violent act of inhumanity against her, and she has done so by reaching out to help others who have suffered similar fates.

In Nancy's story, there was a recurring theme that the legal system drained her, and I quote, "They keep doing it over and over." It wasn't fair to the victim to have to put her life on hold waiting for the trial, and yet the newspaper stories recount the trauma of that.

In this regard, I believe it is time to turn our focus not only on the perpetrators of crime, but also on the victims. This hearing will help to accomplish this goal. I believe it is time our system paid more attention to the due process rights of victims. That is why I plan to offer an amendment to the crime bill that will provide victims the opportunity to communicate very formally to the courts through what is called a victim impact statement. Such statements will go a long way to help reestablish some needed balance in the criminal justice system between a convicted defendant and the victim of his heinous crime.

Moreover, we must focus on implementing tougher punishment on criminals. Today, we hear more and more talk of getting tough on crime. I think we all agree that getting tough on the crime means getting tougher on criminals.

I expect that these witnesses will have no problem whatsoever in convincing this Senator, and hopefully most Senators, that we need to inflict harsher punishments on criminals, but we must also direct more compassion towards victims.

So I look forward to hearing not only Nancy's testimony, but the testimony of everybody today.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Metzenbaum of Ohio.

OPENING STATEMENT OF SENATOR METZENBAUM

Senator METZENBAUM. Mr. Chairman, I come to indicate my appreciation and support for your leadership in this area. I am a cosponsor of the legislation, but I think that once again here in the Halls of Congress you have indicated a sensitivity to a very challenging problem that should have had our attention at an earlier point, and you have my pledge of support to work with you to move this legislation forward at the earliest possible time.

The CHAIRMAN. Thank you.

Senator METZENBAUM. I think it has a sense of urgency, and sometimes you wonder why didn't we do it yesterday; why are we waiting until today.

The CHAIRMAN. Thank you, Senator.

Now, our first panel of witnesses will be Nancy Ziegenmeyer, who has been referred to, and Marla Hanson. Would you please both come to the table, Ms. Hanson and Ms. Ziegenmeyer? And let me reiterate two things. One is that this is not an adversarial proceeding, just assume, if you can, that you are telling us your story, any portion of your story you wish to tell us, as if we were sitting in your living room. Block out the lights.

And if at any point you decide you don't want to talk any more, just nod and I will start talking with Senator Thurmond and we will move on. And I mean this sincerely: This is not for any reason other than to get, as a consequence of your experience, your input as to how we could make the process better, when a violent crime occurs again—and God knows it will happen to someone—how we can make the process more accommodating for the victim.

Ms. Ziegenmeyer is a wife and mother, as Senator Grassley has indicated, who is a rape victim and who has had the courage to tell her story publicly. Ms. Hanson is a model and aspiring film maker who was brutally attacked in New York, and she is now an advocate of victims rights.

There is much more to say about each of these courageous women, but I will leave it at that and move to asking you, Ms. Ziegenmeyer to tell us anything you would like to tell us in any way you would like to tell it to us.

Now, would you introduce the gentleman to your right?

Ms. ZIEGENMEYER. Bill Olson, my attorney.

The CHAIRMAN. Mr. Olson, as Ms. Ziegenmeyer's attorney and friend, at any time at all during her testimony—and I want this as informal as possible—at any time during her testimony, if you would like to add or fill in, or whatever she would like you to do in terms of participation, you are welcome to do.

Mr. OLSON. Thank you.

Senator THURMOND. Mr. Chairman, Senator Wilson is very interested in this subject. He is here. Would it be possible to let him make a brief statement?

The CHAIRMAN. No. I think we are going to keep the policy of no opening statements and no questions except for committee members. He is welcome to sit here and participate, though, and be here.

Ms. Ziegenmeyer, if you would begin.

Senator METZENBAUM. Would you bring the mike a little closer, please?

The CHAIRMAN. Yes, that is the hard thing, Nancy. You have got to pull that darned old mike right up sort of in your face, and you can put your papers on top of the bottom of it, maybe. And if it gets in your way, forget the mike and just do it any way you want, OK?

STATEMENT OF A PANEL CONSISTING OF NANCY ZIEGENMEYER, DES MOINES, IA, ACCOMPANIED BY WILLIAM OLSON, COUNSEL; AND MARLA HANSON, NEW YORK, NY

Ms. ZIEGENMEYER. OK, thank you. I would like to thank the members of this committee for inviting me to speak. I hope you will understand my nervousness. Though I have made many public appearances in the past few months, to me, this one is of much greater significance.

The CHAIRMAN. We are flattered, but there is no need for you to think that. I am sure the places you have been before have been equally or more important than where you are now, but thanks.

Ms. ZIEGENMEYER. When I received your invitation, I knew that I would not just be speaking for myself, but also on behalf of thousands of others who have had their lives changed by this violent crime. I had my doubts about my ability to contribute to your consideration of the legislation now pending, but my family and those who have been supportive of me during these difficult times assure me that my contribution can be meaningful, and I will do my best to answer your questions.

On November 19, 1988, I was abducted by a stranger from a parking lot in the city of Des Moines and raped. I had gone to Des Moines to take an examination to become a real estate agent. My assailant was apprehended, tried, and convicted of the crime of kidnaping in the first degree. He is now serving a life prison sentence in the State of Iowa.

The daily psychological impact of the rape upon me personally and my family has been greater than I would have ever imagined. For instance, during my assault the assailant told me after going through my purse that he had seen pictures of my children, he knew where I lived, and he promised retaliation if I reported the crime. As a result, even in my community, a place where I have grown up and spent my whole life, I often fear for my safety and the safety of my family.

In unfamiliar surroundings, the problem is significantly worse. Traveling and staying in lodging away from my home causes me great fear. And, of course, I will not become a real estate agent.

The prospect of going into an unoccupied building with a stranger is terrifying to me.

While laws and textbooks may offer definitions of rape, I trust that you will not define rape without some consideration of the trauma experienced by the victim. I am aware that there are Federal grants which now fund many rape crisis centers in our country. I am grateful for the existence of such centers, as I am sure are countless other victims who have benefited from them.

As I participated in the system which prosecuted and convicted my assailant of his crime, I had the assistance of such a counselor. She was not, however, trained in any of the legal processes which were involved each time a delay or another continuance occurred. I had to educate myself as to the significance of each development. I wish I had had the benefit of an advocate who could have spoken to the system and spoken to the system on my behalf.

However, as I said, I had the strong support of my husband, my family, and friends. This support allowed me to speak out as I have. My assailant tried to take away the control I had over my own life. I am determined that he will not succeed.

I will try to answer any questions you may have, and hope that my appearing here today will help you understand even more the feelings of the victim as a person who has been injured.

Thank you.

[The prepared statement of Ms. Ziegenmeyer follows:]

Statement of Nancy Ziegenmeyer to the Senate Judiciary Committee

June 20, 1990

I would like to thank the members of this committee for inviting me to speak. I hope you will understand my nervousness. Though I have made many public appearances in the past few months, to me this one is of much greater significance. When I received your invitation I knew that I would not just be speaking for myself but also on behalf of thousands of others who have had their lives changed by this violent crime. I had doubts about my ability to contribute to your consideration of the legislation now pending, but my family and those who have been supportive of me during these difficult times assure me that my contribution can be meaningful and I will do my best to answer your questions.

On November 19, 1988, I was abducted by a stranger from a parking lot in the city of Des Moines and raped. I had gone to Des Moines to take an examination to become a licensed real estate agent. My assailant was apprehended, tried and convicted of the crime of kidnapping for which he is now serving a life prison sentence in the state of Iowa..

The daily psychological impact of the rape upon me personally and my family has been greater than I would ever have imagined. For instance, during my assault the assailant told me, after going through my purse, that he had seen pictures of my children, knew where I lived, and promised retaliation if I reported the crime. As a result, even in my community, a place I've spent my whole life, I often fear for my safety and the safety

of my family. In unfamiliar surroundings, the problem is significantly worse. Traveling and staying in lodging away from my home causes me great fear. And, of course, I will not become a real estate agent -- the prospect of going alone into an unoccupied building with a stranger is terrifying. While laws and text books may offer definitions of rape, I trust that you will not define rape without some consideration of the trauma experienced by the victim.

I am aware that there are federal grants which now fund many rape crisis centers in our country. I am grateful for the existence of such centers as I am sure are countless other victims who have benefited from them. As I participated in the system which prosecuted and convicted my assailant of his crime I had the assistance of such a counselor. She was not, however, trained in any of the legal processes which were involved each time a delay or continuance occured. I had to educate myself as to the significance of each development. I wish I had had the benefit of an advocate who could have spoken to me about the system, and spoken to the system on my behalf.

However, as I said before I had the strong support of my husband, family and friends. This support has allowed me to speak out as I have. My assailant tried to take away the control I had over my own life. I am determined that he will not succeed. I will try to answer any questions you may have and hope that my appearing here today will help you understand even more the feelings of the victim as a person who has been injured. Thank you.

The CHAIRMAN. Thank you very much, Ms. Ziegenmeyer.
Ms. Hanson.

STATEMENT OF MARLA HANSON

Ms. HANSON. Four years ago when I became a victim of an assault, what puzzled and distressed me most about the whole ordeal was when I realized I was suffering more from the stigma of victimization than from the actual violation. I am not trying to minimize the attack; it was as horrible as you might imagine.

My landlord masterminded a razor attack to my face to end my modeling career. I met him—when I moved out of my apartment, I asked for my rent deposit back. He refused to give it back, and when I pressed him he finally said he would. I met him after a modeling assignment rather late one night, around midnight, in a restaurant that occupied the bottom floor of my building.

He said he had the money for me in cash, but he didn't want to give that much cash to me in the bar because it might look wrong, so he asked me if I would step outside. So I did, thinking that I would step outside, get the money, go into my building and up to my apartment. Instead, he had two men waiting for me who grabbed me and began to cut my face.

I was lucky. I got away, ran back to the restaurant. The police were there within 2 minutes. They caught the men at the same time and I was able to identify them the same night. They were convicted and sentenced to the maximum, along with my landlord, of 5 to 15 years.

But in the scope of things, those cuts to my face that night became almost insignificant, except as a reference point. They healed, of course, leaving scars, but it wasn't the scars that hindered the continuance of my modeling career so much as what they represented—violence.

And it was not so much the trauma of the attack that night that has haunted me in the end, but, as I said, it is the stigma of victimization. From the moment the press seized upon my story to the trials of my attackers, I felt as though I was caught in a Kafkaesque world beyond any grasp of reason.

It had never occurred to me to feel ashamed at being attacked. I was, I think, at first embarrassed at not being able to control my situation, but it never occurred to me to blame myself for my own attack; that is, until the courts, the press, and society began to insinuate and to question if I were the architect of my own suffering.

The term "victim" implies innocence, but it seems in this society the term "innocence" implies some sort of guilt, and nowhere is that attitude more apparent than in our current judicial system where it has become a common practice for defense lawyers to blame victims for their own assault and suffering, or at least destroy a victim's credibility and dignity before the trial process is over.

Not only do I find this kind of attitude disgraceful and cruel, but also incredibly ignorant because I feel that by blaming the innocent victims for their own suffering, we are, in fact, excusing the crimes, and thus inviting more crime.

In order to begin to deal with the issue of violent crime in America, we must try and understand it, but I think in trying to understand crime we have also begun to excuse it by misplacing it on the innocent victims. This bill, I think, is a positive step in changing people's attitudes, in recognizing that there is a problem with violence, especially against women.

I thank you for the opportunity for allowing me to share my experience and be a part of this.

[The prepared statement of Ms. Hanson follows:]

Testimony
of
Marla Hanson

"It's as if the media were sometimes saying, 'Yes we all know how bad it is out there, there's nothing new to add.' Newspapers back pages are now routinely filled with stories of children shot by stray bullets amid drugs; and people of all ages stabbed, slashed, or shot for necklaces, dollars, jackets, sneakers, and loose change, killed for their cars, raped and thrown from rooftops, dragged to their deaths by robbers driving vans. Lesser assaults--muggings, punchings, stompings, burlaries--have long ago ceased to be newsworthy."

Jon Katz, Seven Days

Violence, it seems, has become an inescapable part of everday life here in America. Recent statistics from the Department of Justice show that there are six million victims of violent crime a year. That makes the casualties of individual violence more than ten times the amount of the total casualties of the vietnam war. The media has saturated us with not only the statistics of crime, but also with the sordid details of crime. You can't pick up a newspaper, turn on the television or go to the theater without seeing violence of some sort. But somehow POST and DAILY NEWS headlines like; 3 BAT WIELDING BASHERS GO ON RAMPAGE, fail to invoke any of the horror the victims must have felt at the hands of those men on that night, but instead give off an almost comic tone. It seems we're all aware of the violence surrounding us, but somehow it doesn't seem quite real. Total Recall and some of the headline stories in the POST might almost be interchangable. Thus the statistic of six million victims a year remains only a statistic...until one of those six million is you, or someone you love. Then suddenly it becomes a human tragedy.

Three years ago, when I became the victim of an assault, what puzzled and distressed me most about the whole ordeal, was realizing that the stigma of being a victim was actually worse than the assault itself.

I'll be honest, those few moments of violence and the resulting cuts to my face are not something I would want to relive. But in the scope of things they became almost insignificant. Except as a reference point. The physical wounds themselves healed, leaving scars of course, but it was not the scars that hindered the continuance of my

modeling career. It was instead, (so I was told) the violence they represented. Just as it was not so much the assault that haunted me in the end, but, as I said, the reputation of being a victim. My victimization seemed to become this *thing* that was always there even when it wasn't spoken about. People became uncomfortable in my presence. It changed the way they looked at me, even my own family and friends. Either people didn't speak to me as a result, or they felt a strong need to say something about it. Either way it created an awkward atmosphere.

Three days after the attack, while I was still recovering in the hospital, I was besieged with phone calls and letters from people around the country. There was an obvious outpouring of sympathy and concern for me, but at the same time, beyond the sympathy, there seemed to be an underlying element of blame, and even anger. At first it was subtle. Coming in comments like; "Well, what were you doing in a bar at 12:00 at night in the first place?" Or; "I told you something like this would happen if you moved to New York." And; "It was in your karma, this was something you chose for yourself as a means of growth." Not exactly the most comforting words. But after receiving some press notoriety and a gift from a stranger of $20,000, the anger and blame became more outright. People started making comments like; "I'd get my face cut for twenty grand." There was even a rumor circulating that I had staged the whole thing for publicity. But the one I heard most frequently, the one that enraged me the most, was..."I'm sure this is the best thing that ever happened to you, huh?"

I realized in a very short time, that even through their sympathy, the public was secretly viewing me as the architect of my own suffering.

Instantaneously there was this overwhelming guilt that sprang up inside me. I guess at not being able to defend myself, at not being able to control the circumstances surrounding me. But shame was something that I never thought of feeling. It surrounded me from the outside, forced on by others, until it slowly seeped inside of me mingling with the guilt I already felt. The combination became paralyzing.

The plight of the innocent victim is at the heart of the issue of violent crime. Society's tendency to misplace the blame onto the victims only serves to perpetuate the cycle of violence. By saying I somehow deserved to be cut because I was in a bar at midnight, or because I was wearing a short skirt (an insinuation during my trial) is in reality excusing the crime. This kind of attitude also has devastating effects on victims who are already in a state of trauma. The liberal attitude of viewing the criminal as the victim has, as we are seeing now, not helped to solve the

issue of violent crime, but only perpetuated the problem. We must not confuse Understanding with Excusing. While it is true most criminals are victims of some sort, that does not excuse their actions, but only helps us to understand the root of them. Society must begin to place the blame for crime where it belongs--on the criminals.*

Nowhere is this attitude of *innocence really means guilt*, more apparent than in our own Judicial System where it has now become common practise to shift the focus of the jury away from the facts of the trial by blaming the victim, or in some way tarnishing their character and credibility.

This practise I find not only disgraceful, but also unbelievably cruel. The psychological violence I endured throughout the trial of my attackers was far more traumatizing to me than the attack on the street. And I have heard this same sentiment expressed by almost every other victim I have come in contact with, that is every victim that has come in contact with the judicial process.

From the moment the press seized upon my story, through the trials of my attackers, I felt as though I had stepped into a kafkaesque world beyond any grasp of reason. I felt like a walking version of THE TRIAL, by Franz Kafka where the protagonist awakes one morning to find himself being arrested and eventually put to death for a crime of which is never defined. One defense attorney, namely Alton Maddox, in his opening statement to the jury began by saying, "let me tell you about a woman named Marla Hanson who was after every man in this city who had a woman, who preyed on men and their relationships with women." When the prosecutor objected the judge remarked, "...even though we may live in the 20th century, some people still have a feeling that it's improper, low even, to make a pass at another woman's man, and the point counsel is making, I think, is that someone who would do that, is a person who is utterly selfish and self interested and therefore, at least in part, that person should not be believed and it's as simple as that...I can't say that it's an inappropriate attack because it deals with what she would be prepared to do in her own self interest. I will allow the it." He goes on to say " The evidence is going to show you that Marla Hanson, a girl out of Texas, has a lot of racial hang-ups, racial stereotypes, not any different from the Manhatten D.A.'s office and the New York Police Department. She immediately began to think she was about to be raped, immediately began to think about all the stereotypes she had brought from Texas about black men." He then went on to make the very serious charge that myself, the DA and the entire New York City Police Department were involved in a massive coverup, a "frame up" he called it, that we had an agreement of silence until we could corroborate our stories, the 48 hour rule he called it. He then went out to the press after the trial and declared that

before the end of the trial he would have Marla Hanson behind bars.

To me these accusations were too absurd to defend, they even boarderlined on comical. But noone else seemed to think so. They press reported it as if it were real news and nothing out of the ordinary. "Every man in this City?" I'd been on a few dates in those first eight months in the City, but three million men? That's physically impossible... Anyway, he then went on to try and make it into a racial issue. The only problem there is that my landlord, Steven Roth, was already convicted of masterminding the attack. He's white. He also was able to conveniently sidestep the taped confessions of the two attackers. The court had ruled they, along with my identification within minutes of the attack, were inadmissable because of some improper police procedure, but throughout the trial he relentlessly baited me on those two issues with questions like, "Isn't it true Miss Hanson that you were never involved in a police line up, that you never picked these two men out of a police line?" I was only allowed to say no, not to explain that I had already identified them on the night of the attack. The jury never got to know that they also had confessed that night and implicated Steve Roth as the one who hired them. Of course noone would actually confess to being the one who cut me, they all pointed fingers at each other, but noone denied being there on the scene, noone denied they bought razor blades, noone denied the attack, but Alton Maddox, none the less, made this flamboyant statement about a police coverup, and kept insisting that his client was this innocent man simply walking down the street who was unjustly accused. The evidence from the previous trial had already disproved that.

Throughout the trial it was insinuated that I was a prostitute of sorts and that I had loose morals. I was asked intimate details about my sex life. I was taunted about having thought I might be raped. The question of my clothing persisted for over twenty minutes during cross examination. Wasn't it true that I was barely dressed that night...that I didn't have too much covering the lower part of my body? There were sexual overtones throughout the trial, even though I was not raped.

Because I was merely a witness and not the accused, I was not allowed to defend myself to the jury. Outside the courtroom the judge issued a gag order, saying that if I talked to the press he would call a mistrial. The shame and humiliation were terrible enough, but the viciousness of the trial made me wonder if I was in America.

Like a helpless child I kept looking to the judge for help, but because the court records were not made available to me until after the trial, I didn't know his attitude towards

me. At the sentencing of Steve Roth, when I asked that justice be served, the answer I received was a refute from the judge who blasted both my lawyer and me, he said for publicly criticizing the handling of this case.

So in the end, even though the three men were convicted and sentenced to the maximum, I couldn't feel as though the story had a happy ending. I was unable to say I thought justice was served. Like I said before, I felt more violated by the court proceedings, than by the actual assault. I spent over a year of my valuable time, time I could have spent rebuilding my career or recovering emotionally from the trauma, cooperating with the system. I did it because I felt it was my duty as a citizen, and because I knew they were guilty and deserved to be behind bars. Contrary to popular belief, few if any victims feel vindicated at the end of the trial process. I know I didn't.

The message being sent out by the courts is a dangerous one. One that weakens our faith in our institutions, that says the innocent are not protected, that says even though the accused are assumed to be innocent until proven guilty, the victims do not have that same civil right, but are guilty until they can prove their innocence. The consequence of this message is that it inhibits people from coming forward and participating in the process, resulting in the crimes going unpunished and we all suffer the consequences. But the people that suffer most are the victims, mostly minority, mostly black, and most often women.

I was excited when presented with this bill because, even though it does not deal with the victimization that occurs during the trial process as in my own case, it addresses the issue of crime against women very directly. Stiffer sentences and fines for repeat offenders will act as a deter and keep these criminals off the streets for longer periods of time. Mandatory restitution should be paid to all victims of violent crime, period. Criminals should finally understand that they have to pay for their crimes.

I look forward to the hearing and participating in moving along this bill.

Thank you for the opportunity of sharing my thoughts.

Marla Hanson

The CHAIRMAN. Thank you. Let me begin with you, Ms. Hanson. How were you blamed? You said you were the victim, but I think your phrase was "I was blamed." How were you thought by others to have some blame in this?

Ms. HANSON. It started from the minute the press got a hold of my story. In fact, the first day in the hospital I started getting hundreds of phone calls from strangers, phone calls like people would call me up and say, well, what were you doing at the bar at 12 at night in the first place? Well, didn't you know that guy was weird? Why are you renting an apartment from a guy that you obviously knew was weird?

That said to me that I was to blame because I was at a bar at 12 at night. I mean, that was subtle, but that continued on. Every press article—they tore across the countryside digging up details about my life, printing them in the paper. Almost every article ended with a question mark. What did she do to deserve this, as if anything I did would merit this kind of attack to my face.

I found that disturbing, but what was most disturbing was the investigation and the court proceedings that followed. The investigation, to me, was like an interrogation.

The CHAIRMAN. The investigation by the police officers and by the district attorney's office?

Ms. HANSON. Yes, they had done research on me. They confronted me with facts about my life and said, true or false. They demanded to know intimate details about my sex life, about everything about my life. They wanted skeletons, they said, out of the closet. And thinking that the prosecutor was my lawyer and that this was privileged information, I shared everything I could think of, only to find out later that the prosecutor was not my lawyer, that this information was not privileged. It was turned over to defense lawyers; that is required by law. And then it was turned over to the press, and you can imagine how violated I felt at that.

That was only the beginning. During the trial process, and especially in the second trial, a lawyer named Alton Maddox, whom I think some of you are familiar with—runs with Al Sharpton—started his opening statement by saying let me tell you about a woman who preyed on every man in this city, who preyed on men and their relationships with women; let me tell you about a girl named Marla Hanson, a girl out of Texas with a lot of racial hangups; let me tell you about—he said something about a 48-hour rule, that the police, the prosecutor, myself, and the entire New York City Police Department were involved in a massive coverup.

And then at the end of the trial, he went to the press and said before the end of the trial, I will have Marla Hanson behind bars. Those were his exact words. I mean, that is obviously blame. He went on throughout the trial to humiliate me time after time and insinuate that I was some sort of prostitute and a woman of loose morals.

He made fun of the fact that I thought I was about to be raped, made it into a racial issue because the two men were black. But he forgot that my landlord was white and already convicted of masterminding the attack.

Then we spent at least 20 minutes in the trial on the fact that I was wearing a miniskirt, and he opened the question by saying is it

true that on that night you were barely dressed, and, well, isn't it true that you hardly had anything on; well, you were wearing a miniskirt, weren't you, as if that in itself was inviting the crime.

And then at one point in the trial he stood up and said this here is a circus and I am the ringmaster and all I need is a whip to bring this "lying bitch" to order. At that point in the trial, I think that was the first time I cried throughout the whole proceeding. It seemed that everywhere I turned I was being blamed for being the architect of my own suffering.

The CHAIRMAN. Ms. Ziegenmeyer, did you have any similar experience during the process of feeling this sense of blame, after having reported the crime, either from your neighbors, your friends—I heard you on the television this morning that you even felt it with your husband initially or with the court or the system?

Tell us about how you perceived people viewing you, whether it is, as I said, from your neighbors to those who were your, quote, "lawyers," the prosecutors.

Ms. ZIEGENMEYER. Well, first, I would like to start out by saying that in my attack it was what has been called real rape, as opposed to simple rape. I did not know my assailant, but 70 to 80 percent of attacks that happen, the assailant is known. So it was a little easier in my case because I did not know him.

My family never blamed me. The police officer never blamed me; he was very receptive. As a matter of fact, when he took my statement and asked me questions, every answer I would say "he made me," and finally the police officer said to me, Nancy, you don't have to keep telling me that he made you; we know he made you.

And even after all the publicity on my case, I didn't suffer a lot of the stigma. No one wrote to me and said what were you wearing, why were you there, were you drinking. So I didn't experience personally the stigma that goes along with the rape.

The law enforcement officers were wonderful. The prosecutor was very overworked and couldn't explain a lot of what was happening to me, and that was probably one of the most frustrating things to me.

The CHAIRMAN. I thought I read somewhere in the story done by Geneva Overholzer of, I think, the Des Moines Register, that you were at one point asked whether or not you resisted or attempted to escape. And you apparently attempted to escape from the automobile on two occasions, and you were asked why you didn't attempt to escape on a third occasion. Can you tell us about that?

Ms. ZIEGENMEYER. When he initially opened my car door and pushed his way in, I tried to get away from him and was unsuccessful. And then as he started driving my car away, I tried to unlock the door on the passenger side where he had laid me down in the seat and jump out of the car, but I was also unsuccessful at that point. At that point, he told me to stop fighting or he was going to kill me and so I stopped fighting.

The CHAIRMAN. But during the court trial, were you questioned as to why you didn't attempt to get out a third time? Maybe I misunderstood the article.

Ms. ZIEGENMEYER. No, I was not questioned as to the third time.

The CHAIRMAN. All right. I mean, I think it is bizarre. I was under a misunderstanding from reading the article that at some

point your credibility was challenged by suggesting that you obviously weren't sincere if you didn't try a number more times.

Ms. ZIEGENMEYER. I believe what you are referring to there—the man convicted in my case was also tried in October 1989 in another kidnapping charge in which the victim did not get out of the car, and he was found not guilty of that charge.

The CHAIRMAN. I know you are not a legal expert, although going through the system surely begins to make you more of an expert than you ever would want to be, and we are going to hear from a second panel of experts. But as a survivor, what do you feel is the kind of statement that should be coming from the Federal Government? One of the things that we are trying to do in the Violence Against Women Act is to make it a policy of the country that rapes are hate crimes committed against women, crimes of violence directed disproportionately at one group based on their gender. That is why it makes a civil rights violation.

Now, I am sure there are some men and women who suggest that it does not make sense to take 51 percent of the population and put them into a category where they are subject to the protection of civil rights laws that heretofore were thought of as only being available to minorities, and should be available to minorities.

Do you think that rape should be put in the category of a hate crime? Do you think that it is something that warrants special attention, or do you think that it is somehow, as one woman recently said to me when I introduced this legislation—that making it a civil rights violation is indirectly demeaning to women by suggesting that they can't handle themselves, they can't handle themselves like men can, and putting them in a category of a minority implies that they are not equal to men? Do you have any of those feelings? Can you speak to that at all?

Ms. ZIEGENMEYER. Well, as far as gender-based hate crime against women, I think that that is probably true that the majority of rapes and sexual assaults that occur are against women. I don't think that we should allow ourselves to forget about the men that are being raped.

[Witness conferring with counsel.]

The CHAIRMAN. By the way, while you are talking, this would cover men who were raped as well—sex-based crimes. So—that relatively smaller percentage of men who are the victims of rape, whether it is in a prison cell or wherever, who are sodomized—this would cover them as well. It would make it a violation of their civil rights.

Please, go on.

Ms. ZIEGENMEYER. Well, the violation of the civil rights—I feel very unequipped to answer that question exactly.

The CHAIRMAN. Thank you. Is there anything either of you would like to say based on what I have asked you before I turn it over to another of our colleagues to speak? There is nothing formal about this, again. Are there any loose ends to what I have asked you that you would like to speak to?

Ms. HANSON. I don't think so. I think that the "blame the victim" attitude is what this bill is addressing, and you are seeking to say that this is a problem and turn it around, not that this is a solution, but it is the beginning of a solution. And I think that al-

ready—it was 1986 when I was attacked—already I see the attitude across the country beginning to change, and that is exciting.

Mr. OLSON. Senator.

The CHAIRMAN. Yes.

Mr. OLSON. When Nancy was raped, she came to me, and I had been her attorney for a long time, not just when she became a little better known. About the time she became well known, I succeeded as a defense attorney in obtaining the acquittal of a fellow who, had he been convicted, would be on the chart. And my own client smelled my participation in that, even though my name wasn't publicized with the acquittal.

And what is difficult, I think—and Marla said it, too—is it is hard for them as victims to understand that the right of confrontation, the right to confront your accusors, will not be excised from the Constitution soon, nor should it be. And I don't think there is anybody there to take their hands and thoroughly brief them ahead of time, let them know what the system might expect of them. I think they feel "had" after developments occur in the system.

In Iowa recently, in the Quad Cities in Davenport, a notorious arrest of a 15-year-old victim who filed a complaint against a male assailant, and then when she refused to testify, the judge jailed the victim for contempt. Well, there is a logic to that, but for one who is a victim it is hard to figure out.

Nancy sort of went through this self-educating, and I sense that Marla did, too. But after you realize what the system is all about and that this right of confrontation means you get dragged out in the arena, they feel bruised again. And as a defense attorney, I sense that. So how we handle that in legislation like you have got, I don't know.

The CHAIRMAN. The Senator from South Carolina.

Senator THURMOND. Thank you, Mr. Chairman.

Ms. Ziegenmeyer, I want to congratulate you for coming here and testifying. I know it took a lot of courage to do this, and we commend you.

Ms. ZIEGENMEYER. Thank you.

Senator THURMOND. The vicious act perpetrated against you will remain, of course, in your memory, and I am sure forever. In your prepared statement, you mentioned that one troubling aspect of this incident was the judicial system's failure to educate you about the developments in the prosecution of your assailant.

In your opinion, what steps do you believe Congress can take to enhance our judicial system's response to this problem? Of course, we are dealing here with a Federal law, but at the same time it is important, I think, to get an answer from you on this particular point.

Ms. ZIEGENMEYER. Well, I strongly feel that if there had been a victim witness coordinator, someone that worked right in the prosecutor's office with the prosecutors that, as I said, could speak to me on behalf of the system, but also to the system on behalf of myself, I think that is very, very important.

It was very hard because I didn't understand a lot of the words that they were using to me when they would call and tell me about the continuances. A lot of times when the continuances would

happen, they were so busy that they were unable to call me and tell me. One of the continuances—I had to find out through a newspaper reporter that there had been a continuance.

So I think it is very important in the grants and the training of prosecutors that we also train victim witness coordinators and victim advocates to be right in the prosecutor's office to help take some of that edge off of the trauma that the victim is experiencing because of the system.

Ms. HANSON. May I add something to that?

Senator THURMOND. Yes, ma'am.

Ms. HANSON. I would like to go one step further. I think that I was kept abreast throughout the process of what was going on. I felt violated because the prosecutor—her hands were tied to protect my rights as a human being during the court process. Her job was to prosecute the case, and I was left without any legal representation during the process.

When the defense lawyer started saying the comments—you know, let me tell about a girl out of Texas with a lot of racial hangups—the prosecutor did object and the judge said, no, I will allow that. I think that witnesses and victims deserve to have their own representation, a lawyer, like the defendant has, to represent their interests in the trial, someone who can participate in the proceedings. And when there was a violation of that person's civil rights, they could object and be heard.

Senator THURMOND. Both of these crimes, I believe, were committed under State law and the defendant was tried under the State law, is that correct?

Ms. ZIEGENMEYER. Yes.

Ms. HANSON. Yes.

Senator THURMOND. Now, what do you think the State could have done to better protect women from vicious acts?

Ms. HANSON. To—excuse me? What was the question?

Senator THURMOND. What do you think the State could have done to better protect women from vicious acts of the kind you suffered?

Ms. HANSON. Well, my case was unusual because it was someone I knew and someone who masterminded an attack. It wasn't a random attack like Nancy's. I think that my biggest complaint was during the court process that I felt more abused than on the street. I don't think there is anything they could have done to prevent the crime, but I think that they could have prevented a lot of psychological and emotional abuse to me during the court process.

Senator THURMOND. Are there more precautions the State could have taken in either one of these cases to prevent such crimes?

Ms. ZIEGENMEYER. I can't see that there would be. You know, I think that where you would want to start is the training of the law enforcement officers to maybe know a potentially dangerous area and maybe work that area a little bit harder than they would a different area, but that would be the only prevention that I could see would be effective.

Senator THURMOND. Then after the crime was committed, what could the State have done that would have been of more relief to you and more assistance to you that was not done?

Ms. ZIEGENMEYER. Well, I agree with Marla as to the fact that I would have liked to have had my own attorney. I, as Marla did, thought when I first entered the system that the county prosecutor was my lawyer, but I quickly learned that the crime that had been committed against my body and my person was a crime against the State. It was no longer a crime against me, and that was frustrating; that was very frustrating to me. I became just a witness for the State of Iowa and a case number. That is all I was, and it was frustrating.

Senator THURMOND. They didn't make you feel like it was not only a crime against the State, but a crime against you, too, and pursue it from that standpoint, also?

Ms. ZIEGENMEYER. Right, right. It was a crime against the State; it was no longer a crime against me. I was just a person that the State of Iowa needed to convict this man.

Ms. HANSON. I think that one point in the bill I found very exciting was the mandatory restitution. I think one thing that could really help victims is knowing that they have means to pull their lives back together. I was lucky, in that a stranger came and gave me a trust fund of $20,000. I was able to pay my medical expenses and move to a new apartment, enroll myself back in school, with that money. Otherwise, I don't know what I would have done. I had no insurance.

The Victims Compensation Board took 2 years to make a judgment on my case, and then denied it. They did, however, award my lawyer out-of-pocket expenses. He took me down to the trial every day and was by my side. But then they taxed me on that as income on my tax records. I found that astonishing. There is really no money there for victims.

But, in contrast, when someone is convicted of a crime, their food, board, and clothing is paid for—medical expenses, psychiatry, and education. And victims are left with nothing, no means at all to pull their lives back together, and that is odd. Not that these services shouldn't be given to criminals, but shouldn't they also be given to the victims? Shouldn't these criminals work to pay restitution for the crimes that they have chosen to commit? Why should a victim be punished for something that they didn't choose to participate in?

Senator THURMOND. Did either of you choose to institute a civil suit against the perpetrator?

Ms. HANSON. Yes, I did.

Ms. ZIEGENMEYER. No, I did not.

Senator THURMOND. Did you recover in that suit?

Ms. HANSON. No. I won, I think, the Guinness Book of World Records' largest judgment ever, $78 million, but these three men had no money. So the judgment——

Senator THURMOND. You did get a judgment?

Ms. HANSON. Yes, but I didn't receive any of the judgment. They have no money.

Senator THURMOND. I see, because they are worthless financially?

Ms. HANSON. Right.

Mr. OLSON. Senator, Ms. Ziegenmeyer did press a prefiling claim against another party here, and she did recover, without the need for litigation, some small amount.

Senator THURMOND. Against the perpetrator?

Mr. OLSON. No. It was a premises liability claim.

Senator THURMOND. I see.

Ms. HANSON. I just had a thought on your first question, what the State could do to prevent a crime. It just occurred to me that the man who actually cut me was on probation for another crime. And I don't know what it was, but I got a letter from his probation officer saying that he had over 150 cases himself to deal with and could not possibly keep track of all the men he was assigned to, and that he wanted me to know that this man was out on probation and that I should sue the State or the city.

I chose not to sue the State or the city because I thought that would defeat the purpose of advocating for further victims rights and working with the city to change things. But I think probation is an area—there was a big article in the Times yesterday about that, that the State is bogged down—or every State is bogged down with this huge number of parolees and the probation officers can't possibly handle them.

Ms. ZIEGENMEYER. Senator, that is very true because the man who raped me was also on parole, but not only was he just on parole, he worked for a private agency contracted by our department of human services and he was counseling troubled kids when he raped me.

Senator THURMOND. Since the act was committed against either one of you ladies, has either State taken any steps to provide any compensation in cases of this kind, or other steps that would aid a person who was handled as you were and raped as you were?

Mr. OLSON. Senator, Iowa has a wide variety of laws already enacted for victim relief. We have victim impact statements under Iowa law. There is a victim compensation act in place. The fund is meager; the recoveries are small there. So the tools are there under our law. It is just that they realistically mean little. That was my concern about the restitution. It looks great on paper, but in most instances the prospects for recovery are small.

Senator THURMOND. Since you have advised with her and you are her attorney, not in this case when she was raped, as I understand it, but as her attorney, do you have any suggestions of anything the State should do after a crime of this kind is committed?

Mr. OLSON. I have taken to what I hope is good arguing with Nancy from time to time. She, for instance, found it hard to believe that because she was the victim in this case that she would not, as she would in a civil action, have the ability to marshal legal resources and bring them to bear against her perpetrator. She found it hard to understand why an overworked prosecutor might make decisions that didn't seem consistent with aggressive prosecution of her case. She wanted more control. She couldn't have it and didn't understand why.

And I feel that the more of these good arguments we have had, the more she has come to understand how the State versus John Doe has to be the way we prosecute criminals and punish. And I guess if we just had those people there, the victim advocate, the

one who could be the best system-oriented friend of the victim and help them through it, explain it to them—they can't have things their way, even the victims. But not knowing is a kind of torture.

And Nancy would share that with me, and I would explain it to her. But I know a lot of victims who are afraid of attorneys or don't have their own attorneys, and they just go it alone. And I think it is the experience of it which makes it difficult, not the way the system is.

Ms. ZIEGENMEYER. Well, another thing that I found very frustrating—in the case of the other woman—he was tried for kidnaping in October 1989. The county attorney told me that if they got a conviction in this Indianola woman's case that they didn't have to try my case because if they had gotten the conviction of kidnaping in the first degree, he was going to prison without parole anyway, so the State didn't have to try the case with me.

And I said to the prosecutor, I haven't gone through these months and months and months of hell for you to tell me that now I cannot sit in that courtroom and point at that man and tell the whole world that that is the man who raped me. They assured me that if they got a conviction that they would go ahead and try my case. But they didn't get a conviction in the first trial and so they had to try my case.

Senator THURMOND. Thank you very much.

The CHAIRMAN. Senator Metzenbaum, and before you begin, Senator, I am told by staff that there will be—this is for purposes of explaining to the witnesses—there will be a vote on the Senate floor in about 10 minutes or less. And you will hear some buzzers ring and you will see some of us get up and leave to go vote. It is not out of disrespect. We will vote. The Senator will continue his questioning, if it occurs during his period, and then he will recess the hearing until we come back. I am just speaking of understanding the process, so you understand what we will be doing.

Senator METZENBAUM. I just want to say that you two women have a lot of guts, because it takes a lot of guts to come before a Senate committee and before the whole world and tell your story. As a father of four adult daughters, I say to myself would my children have the courage to come here and testify as you have.

Ms. Ziegenmeyer, I think you have tremendous courage to be here as a married woman and talk about this matter.

Ms. ZIEGENMEYER. Thank you.

Senator METZENBAUM. In some respects, I think you were treated, I don't want to say better, but I guess that is a word to say; your personal reputation was not insulted in the courtroom.

Ms. Hanson, as I sat here and listened to your describing the trial, and as one who has practiced law for many years himself and who recognizes the need for lawyers to be strong advocates, I also recognized what I think are the bounds of propriety.

It seems to me what you are really saying is that the defendant was on trial, but that the defendant's attorney, and maybe aided and abetted by the police and the prosecutor, was using information that you had given them, thinking that it was confidential, to smear you and to put you on trial.

And I have said to the chairman, who is the main author of this legislation, that I think maybe there ought to be some limits as to

what defendants' counsel may do with respect to smearing the reputation of the prosecution witness. I think he has a right, or she has a right to raise certain questions.

Ms. HANSON. Can I add something?

Senator METZENBAUM. Please do.

Ms. HANSON. I think that I understood the need to—I mean, it is the law that you have to turn over that information to defense lawyers. I understood that. I felt violated that I wasn't told. But in the course of the trial, I didn't feel that it would have taken away from that man's defense to limit the defense lawyer's bashing my credibility.

There was no reason for him to humiliate me and call me a racist, a prostitute, and involved in a massive coverup. Those are very serious charges that went ignored from the judge. I thought it was outrageous and my mouth dropped open, but I looked around and the press didn't seem to think it was anything out of the ordinary. Nobody said anything about it.

And I thought that in no way would I diminish his rights if I asked for at least the same rights during the trial process. I spent a year-and-a-half of my time. I thought it was my duty to come forward and to participate in the court proceedings, but at the end of the trial I was never thanked for that time. And I felt, even though those men were convicted, that justice wasn't served. And I agree, I think there should be limits to defense lawyers questioning and bashing a witness' credibility for no reason at all.

Senator METZENBAUM. If you had to do it again and make a choice as to whether you would be willing to be the prosecution witness, might you have concluded just to say it is over, it is done with, there is nothing I can do about it, and say I am not willing to participate in the prosecution?

Ms. HANSON. I have thought about that, and I certainly wouldn't look down on anyone else who chose not to participate in the court process. But I feel if I had to do it over again, I would go through the same thing again because I have to live with my actions and I knew I was innocent and I felt good about what I did. I didn't feel ashamed about anything that I had done, and so I would do it again.

Senator METZENBAUM. Has it hurt you in the community, or what has been the impact in your own personal life with the entire incident?

Ms. HANSON. I think the main impact is that I couldn't model again, although I tried. Like I said in my statement, in my personal statement I turned in, the scars—it wasn't even the scars that hindered my modeling career. It was what they represented, which was violence. All my big accounts canceled me.

You know, the scars don't show up in pictures, but when people see me, my face represents violent crime and people don't want to see that; they don't want to deal with that. So I couldn't model after that, and it wasn't really the crime; it was the press and everything surrounding it that caused the most suffering to me.

I have flashbacks sometimes. I think it has changed the way I look at the world forever. It is not a safe place any more, and I think that I have gained a lot of perspective on it in the last 4 years. But it is one of those things that you never get over. It is

always there, and you never know when something is going to trigger a memory and cause you to be, I guess, paralyzed.

I mean, some days I wake up and a sound or a noise or a smell or a sight triggers a memory and I just become completely paralyzed. I can't function that day. And I have learned that that is part of living through a trauma and that those days I just have to get through and then the next day might be better. It has had devastating effects on me, and I think long-term effects.

Senator METZENBAUM. What was the landlord's motivation, if you know?

Ms. HANSON. I don't know. There was a lot of speculation that it was because I said I wouldn't go out with him. He did ask me out several times and I said no. It could have been that he hated models. He was a makeup artist and he always used to complain about girls making a living off their faces. He thought that was despicable and that no one should be able to make money off their looks.

Or it could have been that I demanded my security deposit back. He was taking advantage of—there were four models living in the apartment, myself and three other girls, and he retained his own set of keys and repeatedly came in the apartment. He was overcharging all of us, and when I found out what he was doing, I said I have to leave and you have violated our agreement, so I want my deposit back. And he became very angry, so it may have been that I confronted him on that. I don't know.

Senator METZENBAUM. You are spunky.

Ms. HANSON. Thank you.

Senator METZENBAUM. Thank you very much, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Grassley.

Senator GRASSLEY. Mr. Chairman, glaringly absent from the Hate Crimes Statistics Act—which was just passed and signed by the President—is any reference to gender. Crimes motivated by gender are not counted. I point out that the crime of forcible rape is listed in the act as a hate crime.

I would like to know how you feel about the absence of counting gender crimes in the Hate Crimes Act.

Ms. HANSON. I think there are definitely—I felt that a lot of my violation was simply because I was a woman. Because I modeled, this man cut my face so I couldn't model anymore. In the court proceedings, I don't think I would have endured nearly the abuse had I been a man. I thought the judge was a misogynist. He repeated insinuating things and said things about my character and the fact that I was a model and that he didn't believe me. And I think that gender should be included in that because I think that that was the source of most of my suffering.

Ms. ZIEGENMEYER. I agree with Marla. It should be included. Had I been a male sitting in my car reading my notes to take a test, I don't think the man would have pushed his way into the car. So I think that is very important. I think a rapist or a potential rapist doesn't seek out women who look like they can defend themselves or beat him up. I think they prey on women who look defenseless and look like they could take advantage of them.

Ms. HANSON. Can I add something?

Senator GRASSLEY. Yes.

Ms. HANSON. I don't think that it would in any way make women feel they were being—what was the word—looked down upon. I mean, the statistics prove that women are more vulnerable to crime, and I don't think it would be a sexist thing to include gender in the bill.

Senator GRASSLEY. One short question, Nancy. Were you able to give a victim impact statement, and how did the ability or inability to do that make you feel?

Ms. ZIEGENMEYER. Yes, I was able to give a victim impact statement. I felt that it gave me power back over my life. I was finally able to put in writing and say everything that I felt, and say exactly what Bobby Lee Smith did to my life and the members' of my family's lives, and this was something that he was able to also read.

And at first I was really apprehensive about the fact that he could read it, but after I thought about it I was very glad that he could because maybe then finally he would understand what he had done to my life.

Senator GRASSLEY. Did you have apprehension about the victim impact statement law in Iowa or was it the ability to recoup money that you had apprehension about doing much good?

Mr. OLSON. I think that to a victim, the prospect of obtaining restitution looks good. The guy who hurt me may have to pay me back and the judge may make him do that. But I think it is a given that in most instances there is—if not judgment-proof, the perpetrators and assailants are nearly that. They also have other obligations of their own. Nancy's assailant had five kids—a lot of misery spread around.

It looks good on paper. It looks good to have a law for restitution, but as to the efficacy of the remedy, I just had sincere questions.

Senator GRASSLEY. Well, does Iowa's impact statement operate fairly well?

Mr. OLSON. Well, it does. It does not, though, as in most jurisdictions, have an impact on sentencing. For felonies in Iowa—for instance, Nancy's assailant was convicted of a class A felony, the worst kind of crime you can commit. The judge must pronounce a sentence, an indeterminant term not to exceed the life of the defendant.

So there really wasn't much impact that that statement had on the judge's sentencing decision. That is peculiar to Iowa. But I think it did help Nancy purge emotionally. It didn't have much impact on the outcome, though—no impact, actually.

Senator GRASSLEY. Thank you.

The CHAIRMAN. Thank you. I might point out that one of the purposes of the bill—and it is so stated in the bill and the money is provided in the bill—is to provide money for prosecutors and for police in order to have an advocate there for the victim. I might also add we are about to hear from a witness who is just such an advocate. Many of the district attorneys' offices around the country have organized such units.

And I want to set one thing straight, if I heard it correctly, Ms. Hanson. It sounds like you had more trouble from the judge than

you had from the prosecutor attempting to defend your interest or the police at this point. Is that a fair statement?

Ms. HANSON. That is fair, yes.

The CHAIRMAN. Well, I want to thank you both very much for taking the time.

Senator WILSON. Mr. Chairman.

The CHAIRMAN. Yes.

Senator WILSON. Before you excuse the witnesses, each of them made a statement that I would like to pursue just a little bit.

The CHAIRMAN. You are out of order, Senator. Only members of the committee will pursue questions here.

Senator WILSON. May I put one through the Chair?

The CHAIRMAN. I will be happy to if you submit one in writing.

I thank the witnesses very much for their being here and I will call the next panel.

Ms. HANSON. Thank you.

Ms. ZIEGENMEYER. Thank you.

The CHAIRMAN. On our next panel is Linda Fairstein, who heads the sex crimes prosecution unit of the Manhattan District Attorney's Office, and is a very well known prosecutor who has tried a number of important cases, including the Robert Chambers case. Ms. Helen Neuborne is the director of the NOW Legal Defense and Education Fund, a group devoted to furthering the rights of women in the United States. Roni Young is the director of the domestic violence unit of the State's attorney's office in Baltimore.

I want to thank all of you very much for being here. Your testimony is eagerly awaited, and I would like to suggest we start in the order you were called with your statements.

STATEMENT OF A PANEL CONSISTING OF LINDA FAIRSTEIN, CHIEF, SEX CRIMES PROSECUTION UNIT, NEW YORK COUNTY DISTRICT ATTORNEY'S OFFICE, NEW YORK, NY; HELEN R. NEUBORNE, EXECUTIVE DIRECTOR, LEGAL DEFENSE AND EDUCATION FUND, NATIONAL ORGANIZATION FOR WOMEN, NEW YORK, NY; AND RONI YOUNG, DIRECTOR, DOMESTIC VIOLENCE UNIT, OFFICE OF THE STATE'S ATTORNEY FOR BALTIMORE CITY, BALTIMORE, MD

Ms. FAIRSTEIN. Thank you, sir. I thank you for your invitation to appear here today to testify about the prosecution of sex offenses and the proposed Federal legislation to combat violence against women.

You have just heard two very eloquent and powerful statements from survivors of violence crime, so I don't need to make you more aware that I consider the crime of rape as resulting in the most violent and intimate violation of its victim or survivor both physically, emotionally, and psychologically.

It is an offense, as you have heard, which radically alters the life of its victim both in the trauma experienced during its occurrence as well as in the very lengthy recovery process which inevitably follows and in those cases which result in part of the criminal justice process.

It is still a fact, and a very sad one, I think, that sexual assaults remain the most underreported cases within the criminal justice

system. This is true despite the fact that during the last two decades, in almost every State across this country, significant legislative changes were enacted for the purpose of increasing the ability to successfully prosecute sex offenders.

Among these improvements were the elimination of archaic and unjust corroboration requirements, which existed for absolutely no other category of crime, as well as the limitations placed on the cross-examination of survivors about their previous sexual history. The elimination of that section, interestingly enough, as Marla spoke to today in her case, which was not a sexual assault—we only recently came to realize in New York that we overlooked and our legislators overlooked a very significant problem, which is the fact that in other violent crimes against women there is not such a limitation on the cross-examination.

The CHAIRMAN. I am glad you spoke to that because I was about to ask that question when you finished your statement. It seems somewhat bizarre in a case where someone's face is slashed, whether or not they had a miniskirt on or had anything on or had on, you know, a dress that had a train 20 miles long. I mean, what the heck relevance would it have?

Ms. FAIRSTEIN. There is no relevance at all.

The CHAIRMAN. But at any rate, I am glad you spoke to that.

Ms. FAIRSTEIN. Well, Marla Hanson has become very involved in helping with other victims of other violent crimes, to help our legislation reexamine—and there is new legislation pending to change the law in regard to such cross-examination both in crimes like Marla's and in murder cases in which victims' prior sexual history can be explored still.

Even with these modifications, victims remain reluctant to report crimes of sexual assault to law enforcement agencies. While some of that reluctance is attributable to fear of reprisal by the assailant or embarrassment because of cultural attitudes, victims, I think, most often still cite their lack of confidence in the criminal justice system, both prosecutorial and police agencies, as the primary reason for their decision not to report.

The manner in which rape cases are investigated and prosecuted has a profound influence on the enormous number of women who are victimized by sex offenders. That is why I am particularly so pleased to see this legislation and to see the proposals for innovative police and prosecutorial investigative training and technique implementation.

In 1974, the New York County District Attorney's Office established a sex crimes prosecution unit, which was the first of its kind in the country to be created exclusively to investigate cases of rape, sodomy, and sexual abuse. I did not create or have anything to do with the idea to create the unit, which is why I am comfortable bragging about it.

Robert Morgenthau, who is the district attorney of New York County, understood that sex offenses pose very unique problems, certainly, for the survivors of the crimes, but as well for the lawyers who must argue the cases. And he acknowledged that special training and investigative techniques would not only improve the low conviction rates, but might also ease the experience of the survivors in the courtroom.

Mr. Morgenthau has devoted extraordinary resources to this area of victimization, more than any other prosecutor I am aware of throughout this country. He expanded the unit from its original designation of 2 lawyers to a complement that is now 14 to keep up with the increasing volume of reported sexual assaults, and created as well a companion bureau of another at least 10 lawyers to prosecute cases of domestic violence and child abuse. Those crimes have many of the same sensitive issues involving witnesses and very complicated evidentiary problems.

As a result, our sex crimes unit quickly accomplished both goals that it had undertaken. We were able to obtain convictions in cases which had been previously designated impossible to take to trial, and victims, I think, were quick to respond to their better treatment throughout the court process.

I can't underscore enough what Ms. Hanson said today about the problem of the "blame the victim" defense. Nancy Ziegenmeyer, as she knows, was fortunate to not have that be an element of her crime, as many stranger assaults are not. But in almost every instance in which the victim and assailant are known to each other, there is the trend—and it has only increased—for the defense to place the blame, or make the jury perceive that the victim is in part responsible for what happened.

The CHAIRMAN. The trend has increased?

Ms. FAIRSTEIN. Yes, it has. There was the celebrated murder case that I was involved with in 1986, in which the defense blamed the 18-year-old victim for being the agent of her own death.

Senator Metzenbaum asked before leaving—he asked Ms. Hanson what has become of her in the community, and I would add that she did not mention that she herself, like some of the survivors of crimes which our office has prosecuted, and like Nancy Ziegenmeyer, has become very involved as a spokeswoman and advocate for victims of violent crime, which is, I think, helping to convince the public much more than any of us who clinically work in the field and describe what their experiences have been.

She has undertaken a very important role and, like other advocates, themselves the survivors of crime, participates by coming to court proceedings with victims and families undergoing a similar experience. A lot of these women have taken these devastating experiences and turned them for other people into a very positive role, and I can't tell you how important that is. I hear other victims currently expressing their gratitude for these women.

Our victims range in age from infants several months of age, who are, of course, too young to speak, but whose bodies often bear the most irrefutable evidence of sexual assault in the form of sexually transmitted diseases. Our oldest victims have been women in their eighties and nineties.

Their needs as participants in the criminal justice system are very different, as both Nancy and Marla have described, from the needs of other crime victims going through the process. This bill recognizes that their needs are different and does something, for the first time that I am aware of on any level, to provide to States and local municipalities the financial resources to develop programs and to train the personnel to meet the special needs of these crime victims.

Not a month goes by that our unit does not receive inquiries from prosecutors, victims, and advocates who represent every jurisdiction in the country. We have assisted in training quite unofficially assistant DA's from Maine to Alaska, and are aware that there are not even a handful of district attorneys who have been able to devote the necessary attention to the issues created by these cases, and certainly that they do not have the financial resources to create effective units.

There are exciting breakthroughs in this area of prosecution, like the science of DNA or genetic fingerprinting, which represent not only an invaluable investigative tool in rape cases, but also hold great promise for the creation of data banks to store information about convicted rapists which may be useful in solving the enormous number of serial rapes, since these offenders are acknowledged to be the most recidivist of any kind of criminal.

But police and prosecutors must first learn how——

The CHAIRMAN. Say that again. Convicted rapists are acknowledged to be——

Ms. FAIRSTEIN. To have the highest recidivist rate of any criminal. Released to parole, they will rape again.

The CHAIRMAN. For the record, that means they are likely to go out and repeat the crime of rape, more than a robber, more than a burglar, more than——

Ms. FAIRSTEIN. That is correct, that is correct.

In order for us to use techniques like DNA, we as prosecutors must be able to understand the science well enough to know when to employ it, and then to be able to communicate to a jury of laymen. In addition, the testing process itself costs more in an individual case than $2,500 per case, in which we are attempting to submit the DNA for analysis by private laboratories.

Therefore, we are being forced at this point to pick and choose among cases to selectively use it because we don't have the funding to pay for it.

The CHAIRMAN. Excuse me again for interrupting, but DNA is one of the most conclusive bits of evidence as a prosecutor you could possess; is that not correct?

Ms. FAIRSTEIN. That is absolutely correct.

The CHAIRMAN. And yet you have to make judgments based upon when you will seek that evidence because the test costs so much money?

Ms. FAIRSTEIN. Exactly.

The CHAIRMAN. When a woman comes in alleging rape, you cannot put yourself in a position of in every case submitting to a private laboratory the material for testing; is that correct?

Ms. FAIRSTEIN. That is absolutely correct, and in many jurisdictions DNA has never been used in a rape case for exactly that reason. I would add that the FBI, of course, has an excellent staff and unit which can perform these tests. They have been forced to limit themselves because of volume to murder cases, and I am only aware of one rape case that they have been able to undertake. But there is the technology available.

Advances like DNA technology are tragically overshadowed by the many problems still presented to survivors. In many States and cities, victims themselves are required to pay for the medical atten-

tion they receive after an assault, a cost which, even if it is just emergency room treatment of $75 to $150, effectively excludes hundreds of thousands of women from care which they so desperately need.

It should not surprise any of you at this point in time to know that sexually transmitted diseases have always been a side effect of sexual assault. Now, however, women are exposed through rape to the deadliest of those diseases, AIDS. In large urban areas, a staggering number of assailants are intravenous drug abusers or State prison parolees and, as you may know, the State prison population has an unusually high HIV-positive population.

We are besieged with calls from rape victims concerned about their exposure to the AIDS virus, to whether or not their assailants can be tested—the answer in New York is that the assailants cannot be tested; who will pay for their own tests and medical treatment following such exposure. We now have brand new in 1990 the fact that—it is very controversial in the medical community, but there are some people in the community who believe that AZT, taken prophylactically, taken within, say, 4 hours after an assault, is a prophylaxis against developing the HIV antibody.

So there are women who are actually making a decision to take a highly toxic drug, which will have consequences on their own health, which will affect the possibility of childbearing, perhaps, in the future, within 4 hours after a sexual assault. And there is literally no one to give them guidance about this kind of issue. AIDS, then, has added a completely new dimension to the crime of sexual assault.

Rape crisis advocates who do some of the most important work in this field are most often unpaid volunteers. Many are themselves survivors of sexual assault. I agree wholeheartedly with Nancy and Marla that there is a true need within the system for advocates working with victims and prosecutors. Prosecutors can be the best prosecutors they are and they will not always be the victim's advocate, and that is clear, as Nancy uses an example, in a case where a prosecutor may make a decision that a plea is a more appropriate resolution to a case than a trial and the victim doesn't agree with that. So there is certainly a role for advocates.

I receive calls from victims in other States, one as recently as 2 weeks ago who was attempting to enlist my aid to speak to her local prosecutor. Although more than 200 rape cases have been reported in her county over the past 2 years, not a single matter had proceeded to trial.

The CHAIRMAN. Not one of the matters?

Ms. FAIRSTEIN. Not one. Unless these cases are aggressively investigated and prosecuted, women all over this country are denied justice every day, and until police and prosecutors learn how to conduct thorough and creative investigations, the myths which persisted for so many decades about the impossibility of convicting these offenders will continue to cripple the law enforcement agencies that don't learn better.

District Attorney Morgenthau's commitment to these issues of crimes against women has given us a marvelous perspective, and I think it is with our knowledge of what can work in this field, given the resources that we hope to get from you, we have witnessed in

our courts a far more humane and dignified treatment of survivors of sexual assault with absolutely no erosion of the defendant's legal rights.

We need your help and we think that women across this country need your help, and we would offer to do anything that we can contribute from our experience and knowledge to help you in your effort.

Thank you.

[The prepared statement of Ms. Fairstein follows:]

Testimony of Linda Fairstein
Assistant District Attorney, New York County
June 20, 1990

Thank you for your invitation to appear today to testify about the prosecution of sex offense cases and proposed federal legislation to combat violence against women.

As you are well aware, the crime of rape results in the most violent and intimate violation of its victim or survivor - physically, emotionally and psychologically. It is an offense which radically alters the life of its victim, both in the trauma experienced during the occurrence of the crime as well as in the lengthy recovery process which inevitably follows.

It is still a fact, however, that sexual assaults remain the most under-reported cases within the criminal justice system. This is true despite that fact that during the last two decades, in almost every state across this country, significant legislative changes were enacted for the purpose of increasing the ability to successfully prosecute sex offenders. Among these improvements were the elimination of archaic and unjust corroboration requirements (which existed for no other category of crime), and the limitations placed on the cross examination of survivors about their previous sexual history. Even with these modifications, victims remain reluctant to report crimes of sexual assault to law enforcement agencies. While some of that reluctance is

attributable to fear of reprisal by the assailant or embarrassment because of cultural attitudes, victims most often cite their lack of confidence in the criminal justice system - prosecutorial and police agencies - as the reason for their decision not to report. The manner in which rape cases are investigated and prosecuted has a profound influence on the enormous number of women who are victimized by sex offenders.

In 1974, the New York County District Attorney's Office established a Sex Crimes Prosecution Unit, which was the first of its kind in this country to be created exclusively to investigate and prosecute cases of rape, sodomy and sexual abuse. Robert Morgenthau, the District Attorney of New York County, understood that sex offenses pose unique problems for both survivors and the lawyers who argue their cases, and acknowledged that special training and innovative investigative techniques would not only improve the low conviction rates but would also ease the experience of the survivor in the courtroom. Mr. Morgenthau has devoted extraordinary resources to this area of victimization, expanded the Unit to keep up with the increasing volume of reported sexual assaults, and created a companion bureau to prosecute cases of domestic violence and child abuse (which have the same issues involving traumatized witnesses and complicated evidentiary problems). As a result, the Unit quickly accomplished both goals it had undertaken - we were able to obtain convictions in cases which had previously been impossible to take to trial; and victims

were quick to respond to their better treatment throughout the court process.

During the past fifteen years of our existence as a specialized Unit, my colleagues and I have learned a great deal about this unique category of crime. Among our lessons have been the fact that although there are two broad distinctions in kinds of offenses - those which involve assaults by individuals not known to the victim, and those by acquaintances - once the legal elements of the crime are committed by the assailant - once he has subjected his victim to sexual intercourse by forcible compulsion we can not accord the victim of one incident any less respect as a witness than we would another; we have learned that the damage inflicted by the sex offender is not measured by the physical injury a woman sustains - in fact - such injury occurs in less than one-third of all sexual assaults, since victims are often wise to submit to threats of violence when the assailant has the means to take their lives - and rather, that the survivor's injury is incapable of assessment in physical terms like a visible scar might be; and we have, unfortunately, learned that in the very small fraction of cases in which women have lied or fabricated stories to charge an individual, skilled and experienced investigators can identify those incidents at the earliest stages and dismiss them from the system - a method which has given our Unit greater credibility with the Courts, and which has made it possible for legitimate victims to be met with the respect they are due in the courtroom.

Our victims range in age from infants, several months of age - who are too young to speak, but whose bodies often bear the most irrefutable evidence of sexual assault in the form of sexually transmitted diseases - through elderly women in their 80's.

Not a month goes by that we do not receive inquiries from prosecutors, victims, and advocates who represent every jurisdiction in the country. We have assisted in training assistant district attorneys from Maine to Alaska, and are aware that there are not more than a handful of district attorneys who have been able to devote the necessary attention to the issues created by these cases, nor do they have the financial resources to create effective units. The calls I get most frequently are from prosecutors about to start the trial of a complicated sex offense - usually their first one - who are seeking guidance for everything from the voir dire process through the examination of expert medical witness.

Exciting breakthroughs like the science of DNA or genetic fingerprinting represent not only an invaluable investigative tool in rape cases but also hold great promise for the creation of data banks to store information about convicted rapists which may be useful in solving the enormous number of serial rapes (since these offenders are acknowledged to be the most recidivist of any kind of criminal). But police and prosecutors must learn how to use DNA

and to understand the science well enough to present it to a jury of laymen. In addition, the testing process costs more than two thousand dollars when performed by private laboratories, and therefore prosecutors are forced to limit their requests for such evidence to just one or two cases a year. In many jurisdictions, DNA testing has never been utilized because the price is prohibitive. (The F.B.I., of course, has an excellent staff which can perform these tests.)

The advances, like DNA technology, are tragically overshadowed by the myriad problems presented to survivors. In many states and cities, victims are required to pay for the medical attention they seek after an assault - a cost which, again, effectively excludes hundreds of thousands of women from care which they so desperately need. It should not surprise any of you to learn that sexually transmitted diseases have always been a side-effect of sexual assault. Now, however, women are exposed, through rape, to the deadliest of those diseases: AIDS. In large urban areas, a staggering number of assailants are intra-venous drug abusers or state prison parolees. We are besieged with calls from rape victims concerned about their exposure to the AIDS virus, whether their assailants can be tested, and who will pay for their own tests and medical treatment following such exposure. AIDS has added a completely new dimension to the crime of sexual assault.

Rape crisis advocates, who do some of the most important work in this field, are most often unpaid volunteers. Many are themselves survivors of sex offenses. I spoke to a woman who counsels victims in another state two weeks ago who was attempting to enlist my aid in speaking to her local prosecutor. Although more than two hundred rape cases had been reported in their county over the past two years, not a single matter had proceeded to trial. Unless these cases are aggressively investigated and prosecuted, women all over this country are denied justice every day. And until police and prosecutors learn how to conduct thorough and creative investigations, the myths which persisted for so many decades about the impossibility of convicting these offenders will continue to cripple law enforcement agencies.

District Attorney Morgenthau's commitment to these issues of crimes against women has given us a marvelous perspective. With our increased knowledge and awareness of the special needs of survivors of sex offenses and how to meet those needs, we have witnessed in our Courts a far more humane and dignified treatment for them, with no erosion of the defendant's legal rights. We need your help - women everywhere need your help. We offer to you our assistance in your plan to combat violence against women.

Thank you.

The CHAIRMAN. Well, this is just the first of many calls by this committee where we will ask you to help us on this legislation. I should note that I think you are absolutely correct that the district attorney in New York, Mr. Morgenthau, is probably, if not the most respected district attorney in the Nation, one of the most. He never ceases to amaze me, both in terms of his longevity, and in terms of his ingenuity and innovation.

When people are at a place that long, the tendency is to stultify, not to change, but he is always talking about and implementing—not just in this area, in other areas, the drug area and other areas—some real change. I publicly compliment him. He is a nonpartisan, longstanding, long-serving public servant who never ceases to amaze me. I think you are lucky to have him.

Ms. FAIRSTEIN. I certainly am.

The CHAIRMAN. Ms. Neuborne.

STATEMENT OF HELEN R. NEUBORNE

Ms. NEUBORNE. Thank you, Mr. Chairman and members of the committee. Thank you for the opportunity to speak this morning. I am Helen Neuborne, executive director of the NOW Legal Defense and Education Fund.

I am here today to confront the fact that an epidemic of violence directed against women is depriving half of America's citizens of their most basic civil rights. The time is long overdue to recognize that the millions of women and girls who each year become victims of rape, domestic violence, and many other crimes are being attacked and killed because of their sex.

Just as a democratic society cannot tolerate crimes motivated by the victim's membership in a minority racial group and must pass special laws to combat such oppression, so too we must put into place effective laws to prevent and redress violent crime motivated by the victim's sex. I commend you, Senator Biden and members of the committee, for your attention to this problem.

Because of gender-based violence, American women and girls are relegated to a form of second-class citizenship. Every 15 seconds, a woman is beaten by her husband or boyfriend. Every 6 minutes, a woman is forcibly raped. One-fifth to one-half of American women are sexually abused as children, most of them by an older male relative. Although there are also male victims of these crimes, their numbers are few. The ordeal of gender-motivated crime is borne overwhelmingly by women and girls.

Even women who have not themselves been victims pay a high price for being a female. They must routinely take precautions to protect themselves from the omnipresent threat of sex-based violence. An interesting anecdote, really, is a law school professor at the University of Kentucky who begins her section on discussion of rape in her criminal law class by asking each male student to tell the class what he does on a daily basis to protect himself from sexual assault. The response is always a puzzled silence.

She then asks the same questions of the female students, each of whom has an immediate answer. I don't go to a certain shopping mall because its parking lot is badly lit. I don't come to campus to use the libraries at times when there won't be many people

around. I sleep with my windows locked, no matter what the weather. One year, a woman student even reported that the likelihood of assault had led her to always carry a loaded gun. The men in the class were amazed to learn that the fear of sexual assault is a daily reality for their female colleagues, and in many ways conditions their lives.

Obviously, men fear crime, too, but women have to fear virtually all of the crimes directed at men, plus all of those directed exclusively or primarily at women. A man presumably would have had little to fear upon entering Big Dan's Bar in New Bedford, MA, a few years ago. A woman, as we know, was brutally gang-raped, and then assumed of having brought the attack on herself by merely having gone there.

When a woman is attacked for being in a place where men are safe, it is just as much a bias-related crime as the recent racially motivated murders in Bensonhurst and Howard Beach.

Our society frequently fails to recognize the sex bias that underlies the commission of many crimes, but such cases are all too common. Nearly a third of female homicide victims are killed by their husbands or boyfriends. It is not a coincidence that Carol Stewart, a pregnant woman killed by her husband, the jogger raped and beaten in Central Park last April, engineering students murdered in Montreal, and the dozen women who have been beaten by their husbands while I have been speaking to you this morning are all women.

One commentator has gone so far as to say that there is a war against women being carried out in the streets and homes of America. Half of our society is paying the price for sex-based prejudice in bruises, in blood, in lost and shattered lives.

Crimes such as rape and domestic violence impose enormous economic costs that directly and adversely affect the national economy. Domestic violence has been estimated to cost employers between $3 to $5 billion annually due to absenteeism in the workplace.

In a survey of abused women, over 9 percent reported taking time off from their jobs because of domestic violence, with 19 percent of those who were severely assaulted spending time away from work. One company we know of, du Pont, actually developed a program, Senator, to deal with the domestic violence issue because it was becoming so common in the workplace.

Harassment on the job by batterers, as well as the burden of time spent waiting to appear in court, reduce a battered woman's ability to maintain or secure employment. In addition, medical costs related to domestic abuse are estimated at over $100 million a year.

Federal leadership is urgently needed to ensure that women's rights are no longer eroded by gender-based violence. While State laws should provide both criminal and civil remedies for violent acts such as rape and domestic violence, those remedies are entirely inadequate.

In the majority of States, men are still immune from prosecution for raping their wives unless they are living apart or they have

filed for separation or divorce. Several States even have statutes exempting cohabitants and dating companions from rape laws altogether. Intrafamily immunity doctrines prevent women from suing and receiving civil damages for injuries inflicted by their husbands.

But statutes and case law are only part of the problem. The application and enforcement of State laws are also deeply flawed. Many State task forces that have been set up to investigate gender bias in the courts—and I think you heard that here today, Senator—have found that although domestic violence legislation provides adequate statutory protections for the victims, judicial enforcement of those protections is often influenced by a common law heritage and cultural stereotypes that treat wives as the property of their husbands, sanction wife abuse, and assume that the victim provoked the violence. Again, as that was so eloquently stated by Marla Hanson, that is exactly the kind of comment that she heard from the judge in her situation.

Rape cases are also often viewed from the wrong end of the telescope, with the complainant rather than the defendant being put on trial, and we know of numerous instances where that happens.

In short, despite many advances and reforms, the State criminal and civil justice systems remain hampered in their ability to prevent or redress the infringement of women's civil rights. Federal action is needed, not to take the place of the States' efforts in this area, but to reinforce and strengthen them with consistent, clear national policy.

That is one of the most important roles the Federal Government can play, is to enact legislation recognizing that violence motivated by gender is a violation of civil rights. Civil and criminal Federal civil rights remedies would give victims of gender-motivated crime numerous advantages over the current system.

Federal judges, appointed for life, and thus insulated from local political pressures, may have less potential for bias. Through their control of jury selection, Federal judges may be able to screen out jurors who harbor irrational prejudices against, for example, rape victims. A civil claim under Federal civil rights law would face a lower burden of proof than a State criminal proceeding.

Moreover, Federal legislation creating a civil remedy could sidestep the obstacles I have described earlier that are imposed by State tort law, such as intrafamily immunity; also, unrealistic statutes of limitations that don't allow women to sue at a later point even though the beating took place earlier while they were still involved in the marital relationship.

Deprived of privileges routinely enjoyed by most men—the ability to be safe in their homes, to walk freely on the streets, to travel alone without fear of attack—women find their options in life sharply reduced. The dramatic progress made in recent years toward achieving legal equality and eliminating various forms of discrimination will be nothing but empty promises if women must jeopardize their physical safety in order to seek out the opportunities that are now open to them at home, at work, school, or in the community.

Again, as Nancy Ziegenmeyer stated, she will no longer attempt employment in a particular area, in real estate, because she fears

walking into an empty house. This is clearly as a result of this crime.

Federal civil and criminal civil rights legislation would be of immeasurable value, Senator, in increasing awareness that violence based on sex is one of the most powerful and destructive types of discrimination that American women face today.

Thank you.

[The prepared statement of Ms. Neuborne follows:]

Legal Defense and Education Fund
99 HUDSON STREET • NEW YORK, NY 10013 • (212) 925-6635 • FAX: (212) 226-1066

STATEMENT OF

NOW LEGAL DEFENSE AND EDUCATION FUND

ON VIOLENCE AGAINST WOMEN

Before the

Committee on the Judiciary

United States Senate

United States Congress

Presented by

HELEN R. NEUBORNE,
Executive Director

and

SALLY GOLDFARB,
Staff Attorney

June 20, 1990

33-686 0 - 90 - 3

Mr. Chairman and members of the Committee, thank you for the opportunity to speak with you this morning. I am Helen Neuborne, Executive Director of the NOW Legal Defense and Education Fund. With me is Sally Goldfarb, a NOW Legal Defense and Education Fund staff attorney.

The NOW Legal Defense and Education Fund is a national non-profit public service organization devoted to eliminating sex discrimination and achieving equality for women. Since its founding as a separate organization in 1970 by leaders of the National Organization for Women, NOW LDEF has worked for equal opportunities in the workplace, the schools, the courts and the family.

Violence Against Women

We are here today to confront the fact that an epidemic of violence directed against women is depriving half of America's citizens of their most basic civil rights. The time is long overdue to recognize that the millions of women and girls who each year become victims of rape, domestic violence and many other crimes are not selected at random, nor are they singled out because of their individual circumstances; rather, they are exposed to terror, brutality, serious injury and even death because of their sex. Just as a democratic society cannot tolerate crimes motivated by the victim's membership in a minority racial group, and must pass special laws to combat such oppression, so too we must put into place effective laws to prevent and redress violent crimes motivated by the victim's sex. We commend Senator Biden and the members of the Committee for your attention to this problem.

Because of gender-based violence, American women and girls are relegated to a form of second-class citizenship. Every 15 seconds, a woman is beaten by her husband or boyfriend.[1] Every six minutes, a woman is forcibly raped.[2] One fifth to one half of American women were sexually abused as children, most of them by an older male relative.[3] Although there are also male victims of these crimes -- and they need and deserve the same legal protections as female victims -- the fact remains that their numbers are few. The ordeal of gender-motivated crime is borne overwhelmingly by women and girls.

Even women who have not themselves been victims pay a high price for being female: they must routinely take precautions to protect themselves from the omnipresent threat of sex-based violence. One anecdote will illustrate the pervasive effect of gender-based crime on women's lives. A law school professor at the University of Kentucky[4] began the section on rape in her criminal law course by asking each male student to tell the class what he does on a daily basis to protect himself from sexual assault. The response was a puzzled silence. She then asked the

same question of the female students, each of whom had an immediate answer: "I don't go to a certain shopping mall because its parking lot is badly lit"; "I don't come to campus to use the library at times when there won't be many people around"; "I sleep with my windows locked no matter what the weather." One woman even reported that the likelihood of assault had led her to always carry a loaded gun. The men in the class were amazed to learn that the fear of sexual assault is a daily reality for their female colleagues and in many ways conditions their lives.

Obviously, men fear crime in many contexts. But women have to fear virtually all of the crimes directed at men, plus all those directed exclusively or primarily at women. What's more, women's fears are well-founded. While a given situation may not appear threatening to men -- and indeed, may not be threatening to men -- it may be perilous indeed for a woman. A man presumably would have had little to fear upon entering Big Dan's Bar in New Bedford, Massachusetts a few years ago. A woman, as we know, was brutally gang-raped and then was accused of having brought the attack on herself by merely having gone there.[5] When a woman is attacked for being in a place where men are safe, it is just as much a bias-related crime as the recent racially-motivated murders in Bensonhurst and Howard Beach.

Furthermore, violence directed at women because of their sex is not limited to rape, sexual assault, and spousal battering. Our society frequently fails to recognize the sex bias that underlies the commission of many other types of crimes. The recent fatal shooting of Carol Stuart by her husband in Boston serves as an example. Among all the discussion about the racial implications of the ensuing police investigation,[6] few observers pointed out the simple fact that this case involved an apparently well-adjusted, middle class man who decided to get rid of his pregnant wife by murdering her. Such cases are all too common. Nearly one third of female homicide victims are killed by their husbands or boyfriends.[7] Moreover, men frequently begin or intensify physical violence against their wives or lovers during pregnancy.[8] Thus, Charles Stuart's heinous crime was not a unique aberration. It was actually part of a social pattern -- a pattern that is founded on a deep-seated and widespread view that women's lives are worth less than men's.

Gender-based crimes are not limited to people who know each other. Let's not forget the man who entered a University of Montreal engineering classroom last December carrying a note expressing his vicious hatred of women. He then methodically separated the women from the men, sent the men out into the corridor, and massacred fourteen of the women.[9] Similarly, the brutal beating and rape of a female jogger in Central Park last April, which the news media repeatedly characterized as an expression of racial and class hostility, was far more clearly an expression of hostility based on sex.[10]

In short, it is not a coincidence that Carol Stuart, the Central Park jogger, the murdered Montreal engineering students, and the dozen women who have been beaten by their husbands while I have been speaking to you this morning, are all women. One commentator -- author Howard Fast -- has gone so far as to say that there is a "war against women" being carried out in the streets and homes of America, a war in which the primary weapon is violent, often fatal crime.[11] Half of our society is paying the price for sex-based prejudice in bruises, in blood and in lost and shattered lives.

Inadequacies of State Law

Federal leadership is urgently needed to ensure that women's rights are no longer eroded by gender-based violence. While state law should provide both criminal and civil remedies for violent acts such as rape and domestic violence, those remedies are, unfortunately, riddled with inadequacies.

Women seeking redress in the state legal systems face numerous obstacles. For example, in the majority of states, men are still immune from prosecution for raping their wives, unless they are living apart or divorce or separation papers have been filed.[12] Several states even have statutes exempting cohabitants and dating companions from rape laws.[13]

Intrafamily immunity doctrines in ten states prevent women from receiving civil damages for injuries inflicted by their husbands.[14] In some states, strict statutes of limitations require a girl who is a victim of incest to bring suit against her attacker within a few years -- which is virtually impossible for an emotionally and economically dependent young person -- or else lose forever the chance of pursuing a civil legal remedy.[15]

Statutes and case law are only part of the problem. The application and enforcement of state laws are also deeply flawed. In a recent trial in Florida, for example, an accused rapist was acquitted by jurors who felt that the way the victim was dressed showed that she was "asking for" the sexual attack. The defendant was later convicted of a different rape.[16]

For the past decade, the NOW Legal Defense and Education Fund has directed (in cooperation with the National Association of Women Judges) the National Judicial Education Program to Promote Equality for Women and Men in the Courts. Through this program, we have helped found and advise official task forces investigating gender bias in the courts in over half the states. Our work with these task forces has given us a unique perspective on the gender bias affecting the rights of female crime victims in state courts.[17]

So far, thirteen of the state task forces have issued official reports, and they are unanimous in finding that sexist biases affect their states' legal systems, to the grave detriment of women. A typical finding is that of the New York task force, which reported:

> The Task Force has concluded that gender bias against women litigants, attorneys and court employees is a pervasive problem with grave consequences. Women are often denied equal justice, equal treatment, and equal opportunity. Cultural stereotypes of women's role in marriage and in society daily distort courts' application of substantive law. Women uniquely, disproportionately and with unacceptable frequency must endure a climate of condescension, indifference and hostility.[18]

Gender bias, which pervades the administration of justice, is particularly glaring with respect to cases involving violence against women.

State task forces have found that although their states' domestic violence legislation provides adequate statutory protections for the victim, judicial enforcement of those protections is often influenced by a common law heritage and cultural stereotypes that treat wives as the property of their husbands and sanction wife abuse. State courts show little understanding of the circumstances under which battered women survive and the ways in which the cycle of violence, economic dependence, lack of support from family and community, and fear of the batterer combine to keep women in these situations. The Maryland Special Joint Committee on Gender Bias in the Courts cited a judge who said he did not believe a petitioner's story of her husband's holding a gun to her head "because I don't believe that anything like this could happen to me."[19]

Instead of focusing on why men batter and what can be done to stop them, many judges and court personnel ask battered women what they did to provoke the violence. Several state task forces have cited judges who disbelieve female petitioners unless there is visible evidence of severe physical injury, trivialize domestic violence complaints by their demeaning and sexist comments ("Let's kiss and make up and get out of my court"), and tell the victim seeking relief in criminal court that this is merely a domestic problem that belongs in family court. The New York task force found that in some communities judges shunt victims back and forth between police and family court until they give up seeking protection.[20]

Although initial orders of protection are granted with greater frequency than they were in the past, violators are rarely punished in any meaningful way. In several well-publicized cases, women who had obtained civil protection orders in court were then murdered by the same men who had been ordered to stay away from them, because of inadequate police enforcement and judges' unwillingness to jail men for violating such orders.[21]

As with domestic violence cases, rape cases also are often viewed from the wrong end of the telescope, with the complainant rather than the defendant being put on trial. Her dress, demeanor, conduct, associations, and lifestyle rather than his threats and use of force become the focus. One judge testified before the New York task force,

> [W]hile the overt snickering and insensitivity to victims which characterized the manner in which sex crimes were handled not so long ago have moderated, there are still all too many instances of the woman victim being put on trial with an underlying insensitivity permeating the courtroom.[22]

Judicial insensitivity to rape was disturbingly evident in a case that the National Organization for Women brought to the attention of the New York Commission on Judicial Conduct, which censured the judge involved. A man wearing a stocking mask broke into a woman's apartment and raped her. The police arrested him passed out drunk, lying in her bed. In response to community complaints about the minimal sentence the judge intended to impose, the judge stated to the press:

> As I recall [the defendant] did go into [the victim's] apartment without permission...He was drunk, jumped into the sack with her, had sex and went to sleep. I think it started without consent, but maybe they ended up enjoying themselves...It was not like a rape on the street...People hear rape and they think of the poor girl in the park dragged into the bushes. But it wasn't like that.[23]

This case is not an aberration. In a recent series of Wisconsin cases, one judge called a five year old victim "an unusually sexually promiscuous young lady"; another told a complainant he would dismiss her case if she did not stop crying on the witness stand; and a third sentenced a 19-year-old defendant to only 90 days in jail for four felony sexual assault charges involving two 15-year-old girls, after the judge had commented during sentencing on the defendant's "good looks...physical build...and pleasing personality" and stated

that "[the defendant] could have had the pick of the flock; unfortunately he spread it around." These cases were decided in 1982, 1984, and 1987, respectively. A California judge held in 1986 that a working prostitute could not be considered a rape victim. Also in 1986, a Pennsylvania judge declared a suspect not guilty of attempted rape and aggravated assault despite a police witness to the attack, and stated to the defendant in open court, "This was an unattractive girl and you are a good-looking fellow. You did something...stupid." Just last year, A New York judge gave close to the minimum sentence to a career criminal who raped and sodomized a 20-year-old student during a four-hour attack. The judge later explained, "There was no physical injury in this case" and commented on the victim's "incredibly bad judgment" in going to the defendant's apartment.[24]

Although evidence suggests that courts are treating stranger-rape cases with greater seriousness and sensitivity than in the past, non-stranger rape, now understood to be the majority of rapes, is still minimized and trivialized. As Justice Rosalie Wahl, chair of the Minnesota Task Force on Gender Fairness in the Courts, stated, "Judicial procedures for handling 'acquaintance rape' promises to be one of the major upcoming issues with which the legal system must learn to deal effectively and with fairness to the victim."[25] Another remaining problem is judges' failure to understand the difference between vigorous cross-examination that protects the defendant's rights, and improper questioning that entails sex stereotyping and harassment of the victim.

In short, despite many advances and reforms, the state criminal and civil justice systems remain hampered in their ability to prevent or redress the infringement of women's civil rights. Federal action is needed -- not to take the place of the states' efforts in this area, but to reinforce them.

The Need for Federal Action

Deprived of privileges routinely enjoyed by most men -- the ability to be safe in their own homes, to walk freely on the streets, to travel alone without fear of attack -- women find their options in life sharply reduced. The dramatic progress made in recent years toward achieving legal equality and eliminating various forms of discrimination will be nothing but empty promises if women must jeopardize their physical safety in order to seek out the opportunities that are now open to them at home, work, school, or in the community.

The NOW Legal Defense and Education Fund strongly urges the enactment of federal legislation to combat gender-related violence. The bill under consideration today is an important and valuable first step, but it does not go far enough and needs further refinement. We offer the following comments on the need for federal legislative action:

Civil rights protection

Perhaps the most constructive role that the federal government can play in the effort to combat crimes against women is to enact legislation recognizing that violence motivated by gender is a violation of civil rights.

Currently, American women are being attacked and killed because they are women. Aware of the reality of race-based violence,[26] the Reconstruction Congress passed the forerunner of 42 U.S.C. §1985(3) to provide a civil remedy against private individuals who deprive citizens of their civil rights,[27] as well as a parallel criminal statute now codified at 18 U.S.C. § 241.[28] Similar legislation is needed today to protect citizens from sex-based violence.

With civil and criminal federal civil rights remedies in place, victims of gender-motivated crimes would enjoy numerous advantages over the current system, which affords only state law remedies. Federal judges, insulated from the local political pressures experienced by elected and appointed state and local judges, may have less potential for bias. Through their control of the jury selection process, federal judges may be able to screen out jurors who harbor irrational prejudices against, for example, rape victims. In criminal prosecutions arising under a federal civil rights law, victims of sex-based violence would have the advantage of access to the resources of the Federal Bureau of Investigation and representation by U.S. Attorneys. A civil claim under federal civil rights law would face a lower burden of proof than a state criminal proceeding. Moreover, federal legislation creating a civil remedy could sidestep obstacles imposed by state tort law, such as intrafamily immunity and unrealistic statutes of limitations. Factors like these help to explain the traditionally higher rate of success in cases of racial violence that are tried under federal civil rights laws rather than in state court.

There are ample grounds for federal legislation on this subject, including the Commerce Clause.[29] Crimes such as rape and domestic violence impose enormous economic costs that directly -- and adversely -- affect the national economy.

Statistics on abused women from the 1985 National Family Violence Resurvey by the Department of Criminal Justice show that those who were severely assaulted (victims who were kicked, bitten, punched, choked, burned, beaten or had weapons used against them) spent twice as many days in bed as other women; reported being in poor health three times as often as other women; had twice as many headaches, four times the rate of depression, and five and a half times more suicide attempts.[30] Among abused women surveyed, 9.3% reported taking time off from

their jobs because of domestic violence, with 19% of those who were severely assaulted spending time away from work.[31]

Harassment on the job by the batterer, as well as the burden of time spent waiting to appear in court, reduce battered women's ability to maintain or secure employment.[32]

On a national level, domestic violence has been estimated to cost employers between 3 to 5 billion dollars annually due to absenteeism in the workplace.[33] Recent studies have documented the loss of concentration and overall work performance among women victims.[34]

Medical costs related to domestic abuse are estimated at $100 million a year.[35] The economic impact of domestic violence is also felt by government agencies assisting the victims.[36]

Just as with domestic violence, the high rate of rape and other street crimes impairs women's ability to seek and maintain employment. The threat of street crime[37] deters those who are most vulnerable, usually women, from moving freely within the community. The likelihood of crime on certain modes of public transportation[38] also acts as a barrier to mobility, particularly for those women who have no alternative to public transportation because of economic constraints. If women are in fear of becoming crime victims in the streets or on public transportation, their employment opportunities are reduced. For example, many women refuse high-paying night jobs because of their inability to travel to and from work safely. Thus, the high incidence of crimes against women has significant economic impact on the lives of women and, consequently, on interstate commerce.

Alternative grounds for federal legislative authority include Congress's explicit power under Section 5 of the Fourteenth Amendment to enact laws enforcing the equal protection clause.[39] Although Congress chose to limit the coverage of 42 U.S.C. § 1983 to action taken under color of state law, and to limit § 1985(3) to conspiracies, there is nothing to prevent Congress from now passing a new statute that forbids private, individual interference with the enjoyment of the constitutional equality guarantee.[40]

The enactment of civil rights legislation would convey a powerful message: that violence motivated by gender is not merely an individual crime or a personal injury, but is a form of discrimination, an assault on a publicly-shared ideal of equality. When half of our citizens are not safe at home or on the streets because of their sex, our entire society is diminished.

Currently, sex bias is so pervasive a part of our culture that many people are not even aware of the extent to which it underlies violent crimes against women. Federal civil and criminal civil rights legislation would be of immeasurable value in increasing awareness that violence based on sex is one of the most powerful and destructive types of discrimination that American women face today.

- Substantive federal law on rape and sexual assault

Congress should ensure that federal criminal statutes on rape and other sexual crimes[41] fully reflect the most up-to-date understanding of the nature of these crimes and their impact on victims. Although excellent legislation enacted in 1986 substantially reformed these statutes, further fine-tuning is needed. Increased penalties for these crimes, while commendable, are not sufficient. We urge the Committee also to consider changes designed to improve reporting and conviction rates. Such changes might include eliminating the current rape shield law exception that permits admission of evidence of prior sexual contact between the victim and the accused in order to show consent.[42] This exception perpetuates the myth that a woman who consents to sex with a particular man must remain sexually available to him and forfeits the right to refuse future sexual activity. Similarly, we urge consideration of such measures as clarifying the admissibility of expert testimony on Rape Trauma Syndrome; explicitly providing an evidentiary privilege for confidential disclosures by a victim to a rape counselor; and lengthening the statute of limitations for prosecution of child sexual abuse, in recognition of the fact that many victims are so dependent on their abusers and so psychologically vulnerable that they are unable to report the abuse until many years later.

The NOW Legal Defense and Education Fund stands ready to provide technical assistance to the Committee and its staff to develop such legislation. Ensuring that federal rape law is exemplary in every respect not only will be of immeasurable benefit to rape victims who come under federal jurisdiction, but also will serve as a model to states that have lagged in making their laws responsive to women's needs.

- Federal laws on domestic violence

As with rape, federal law should embody a comprehensive, effective statutory scheme to combat domestic violence. This scheme should include both criminal sanctions and civil remedies, such as provisions for granting and enforcing ex parte civil orders of protection. Currently, federal law provides no specific protections for victims of domestic abuse in federal territory.

Some states already have comprehensive domestic violence laws on the books. By learning from their experience in drafting and enforcing such laws, Congress can devise an ideal federal scheme. For example, Congress should follow the lead of states whose domestic violence legislation covers not just spouses, but also present and former cohabitants, the two parents of a child, and other intimate partners.

Aside from domestic violence laws applicable to federal territories, federal legislation should also provide remedies for the infringement of rights that is implicit in all gender-based domestic abuse. Toward this end, we support increasing federal funding for shelters for domestic violence victims and establishing a federal statutory basis for interstate enforcement of protection orders.

Encouragement of mandatory arrest policies deserves a prominent place in the federal effort to combat domestic abuse. The failure to enforce orders of protection once they have been granted is perhaps the weakest link in the legal safeguards now available to battered women.[43] A controlled study conducted by the Minneapolis Police Department showed that when police respond to a report of family violence by arresting the abuser, there is a significantly lower likelihood of subsequent abuse than if the police mediate the dispute or order the batterer to leave the home for eight hours.[44] Of course, laws or policies that provide for arrest are meaningless unless they are adhered to; therefore, rather than focusing exclusively on arrest laws or policies, we recommend that any federal legislation on this subject be tied to actual state and local arrest statistics.

Despite the meritorious aspects of the bill being considered today, we are deeply concerned that it makes interstate travel a prerequisite for federal penalties for domestic violence. This limitation will exclude all but a few women from the statute's reach. Domestic violence, like rape, should be treated as a federal civil rights violation. As discussed above, there is ample basis for federal legislative jurisdiction over this issue even in the absence of interstate travel.

- Funding and other incentives to states and localities

Federal incentives to improve state and local law enforcement are a much-needed and valuable component of any effort to fight violence against women. Many state and local criminal justice systems are so overburdened with drug cases that resources for other crimes, including violent crimes against women, are virtually unavailable.

We also enthusiastically support grants to improve security in public transportation. We would encourage making similar grants available to reduce crime in other public places where

women are often victimized, such as college campuses and public housing. Moreover, in addition to the "carrot" approach of providing targeted funding, we encourage the Committee to consider the "stick" approach of penalizing states and localities that fail to take appropriate steps to protect against sex-based crime in places and programs that are financed in whole or in part with federal funds.

- Data-gathering and public education

As noted earlier, our society suffers from many "blind spots" with respect to recognizing the gender bias underlying crimes against women. Record-keeping on such crimes is sadly deficient. Sexual assaults and intrafamily violence are severely underreported. This is hardly surprising since our legal system often fails to classify such attacks as crimes, as in the case of marital rape, or labels them as crimes but makes them virtually unprosecutable, as in the case of date rape.

Traditional methods of crime reporting are deceptive. For instance, the U.S. Bureau of Justice Statistics found that half the incidents of domestic violence classified as "simple assaults" actually involved bodily harm at least as serious as that inflicted in 90 percent of all rapes, robberies and aggravated assaults.[45]

To the best of my knowledge, national statistics are not even kept on the percentages of victims of many crimes who are female. In a shocking omission that should be rectified immediately, the recently-passed Hate Crimes Statistics Act excludes gender-based crimes from its reporting requirements.[46] Gathering and publicizing statistics on crimes against women is a necessary step in the federal government's effort to stem the tide of gender-based violence.

- Judicial education

Through our leadership of the National Judicial Education Program to Promote Equality for Women and Men in the Courts, the NOW Legal Defense and Education Fund has repeatedly demonstrated the need for, and the effectiveness of, judicial education to combat sex bias in the courts. To give just one example, at a program on race and gender bias in the courts presented by the Oregon Supreme Court in 1983, a NOW LDEF attorney distributed an article about rape that included FBI statistics about the incidence of rape, the small percentage of rapes that are reported, and the great difficulty of having a rape case proceed to trial and conviction.[47] Subsequently, she received a note of thanks from the Oregon Supreme Court, together with an opinion that relied on these statistics to repudiate the notorious Lord Hale jury instruction, which declares that rape is a crime easy to charge and difficult to defend so the female complainant must

be examined with extra caution.[48]

Because myths about rape, domestic violence, and violence against women are so deep a part of our social conditioning, judges need extensive information and training in all these areas. Judicial education is a necessity in both the federal and state courts. Recently, a Congressionally-authorized, blue-ribbon panel of judges, lawyers and members of Congress released the most comprehensive examination of the federal court system ever undertaken. One of the Federal Courts Study Committee's recommendations was as follows:

> Studies in many state systems reflect the presence of bias -- particularly gender bias -- in state judicial proceedings. Although we have confidence that the quality of the federal bench and the nature of federal law keep such problems to a minimum, it is unlikely that the federal judiciary is totally exempt from instances of this general social problem...
>
> We believe education is the best means of sensitizing judges and supporting personnel to their own possible inappropriate conduct and to the importance of curbing such bias when shown by attorneys, parties, and witnesses. To this end, we ask the Federal Judicial Center and circuit conferences to continue and expand their education efforts in this important field.
>
> Judicial education should not, however, end with orientation or yearly circuit conferences but should be a life-long process and pursuit. We should never underestimate the power of informal peer pressure. The federal judiciary is a relatively small and collegial body; individual judges can and should make the aspiration of "equality under law" a living reality.[49]

Congress should effectuate this recommendation through legislation requiring that gender bias, as manifested in cases involving violence against women, be addressed as a critical concern in the continuing judicial education curricula of federal, as well as state, judges.

Conclusion

Despite many advances, victims of rape and domestic violence remain unable to overcome the lingering obstacles blocking their path to justice. New avenues of redress must be opened to them.

The time is ripe for a consistent federal policy on violence against women, comprising civil and criminal civil rights

remedies, as well as preventive measures such as funding, training and public education. The NOW Legal Defense and Education Fund looks forward to working with you on legislation to meet this need. Thank you very much for the opportunity to appear before you and for your attention to this pressing social problem.

ENDNOTES

1. "NCADV Statistics May 1988," National Coalition Against Domestic Violence Newsletter 1 (Feb. 1990), citing Bureau of Justice Statistics, Preventing Domestic Violence Against Women, Special Report (Aug. 1986).

2. Federal Bureau of Investigation, Uniform Crime Reports for the United States 6, 13-15 (1987).

3. P. Hawkins, Children at Risk 58 (1986) (former Senator Hawkins summarizing testimony on child sexual abuse received by U.S. Senate Subcommittee on Children, Family, Drugs and Alcoholism); D. Russell, Sexual Exploitation: Rape, Child Sexual Abuse, and Workplace Harassment 180-94 (1984); Summit, "Recognition and Treatment of Child Sexual Abuse" at p. 117-18, in Coping With Pediatric Illness (C. Hollingsworth ed. 1983).

4. Professor Carolyn S. Bratt, who recounted this anecdote to Lynn Hecht Schafran, Esq. of the NOW Legal Defense and Education Fund.

5. "The Shame in New Bedford and Dallas," N.Y. Times, Mar. 28, 1984, at p. A25.

6. See, e.g., Carlson, "Presumed Innocent," Time, Jan. 22, 1989, at p. 10.

7. Center for Disease Control, Violence Epidemiology Branch, cited in Harvard Law School Battered Women's Advocacy Project, Training and Resource Manual (1989).

8. The Battered Woman, ACOG [American College of Obstetricians and Gynecologists] Technical Bulletin, Jan. 1989, at p. 1,2, and sources cited therein.

9. Pitt, "Montreal Gunman Had Suicide Note," N.Y. Times, Dec. 8, 1989, at p. A9; "Gunman Kills 14 Women at Montreal University," N.Y. Times, Dec. 7, 1989, at p. A23.

10. A study of the coverage of this rape by the American Jewish Committee's Institute for American Pluralism together with the Center for Media and Public Affairs revealed that of the 406 items studied from four New York newspapers and six evening television news programs, there were only six references to the problem of violence against women. "The Media and the Central Park Rape," American Jewish Committee, New York Chapter Newsletter (Winter 1990).

11. Fast, "Commentary," N.Y. Observer, Jan. 8, 1990, at p. 4.

12. National Center on Women and Family Law, Marital Rape Exemption (1987).

13. Id.

14. L. Karp & C. Karp, Domestic Torts 528-30 (1989).

15. See, e.g., Lindabury v. Lindabury, 552 So. 2d 1117 (Fla. Dist. Ct. App. 1989).

16. Goldschmidt, "Rape Victim's Attire At Issue in Bill," Binghamton (N.Y.) Press and Sun Bulletin, Gannett News Service, May 9, 1990.

17. Material in the following paragraphs is drawn from the following sources: Schafran, Documenting Gender Bias in the Courts: The Task Force Approach, 70 Judicature 280 (1987) [hereinafter Documenting Gender Bias]; Schafran, Overwhelming Evidence: Reports on Gender Bias In the Courts, Trial 28 (Feb. 1990) [hereinafter Overwhelming Evidence]; Report of the New York Task Force on Women in the Courts, 15 Fordham Urban Law Journal 11 (1986-87) [hereinafter Report of the New York Task Force].

18. Report of the New York Task Force, supra, at p. 17-18.

19. Overwhelming Evidence, supra, at p. 30.

20. Documenting Gender Bias, supra, at p. 283-84.

21. Schmitt, "Family Violence: Protection Improves but Not Prevention," N.Y. Times, Jan. 17, 1989, at p. B1.

22. Documenting Gender Bias, supra, at p. 284.

23. In the Matter of Judge John J. Fromer, Determination of the New York State Commission on Judicial Conduct, October 25, 1984, p. 2.

24. Citations to all cases available from the NOW Legal Defense and Education Fund.

25. Overwhelming Evidence, supra, at p. 30.

26. E. Foner, A Short History of Reconstruction 195 (1990).

27. Griffin v. Breckenridge, 403 U.S. 88, 95-102 (1971).

28. See generally G. Gunther, Constitutional Law 974-77 (10th ed. 1980).

29. U.S. Const. art. I, § 8. Basing federal legislation on the Commerce Clause would eliminate the need to make animus an element of the offense.

30. M. Straus & R. Gelles, Physical Violence in American Families: Risk Factors and Adaptations to Violence in 8,145 Families 426 (1990).

31. Id. at 157.

32. Conversations with Kristian Miccio, Director and Attorney in Charge, Sanctuary for Families, Center for Battered Women's Legal Services, and Beverly Sowande, New York Women's Bar Association, Committee on Battered Women (June 12, 1990).

33. Porter, "Help Is Available for Battered Women," Washington Star, Nov. 1, 1979.

34. See Freudenheim, Employers Act to Stop Family Violence, N.Y. Times, Aug. 23, 1988, at p.1. Learned helplessness and depression, typical characteristics of the battered woman's syndrome, may contribute to the deterioration of victims' employment performance. Learned helplessness, a feeling that the victim cannot control the events in her life with the batterer, often generalizes to other areas of the victim's life. Depression results in decreased motivation, loss of emotional and physical energy and a lowered initiation of voluntary actions. C. Ewing, Battered Women Who Kill 20-21 (1987).

35. See note 33, supra.

36. For example, in 1989, 2,686 domestic violence victims received employment assistance services from agencies of the State of New York. Conversation with Sheila Campbell, Department of Social Services, Division of Children and Family Services, Office of Community and Program Development for the State of New York (June 13, 1990).

37. In 1988, New York State reported 4,638 forcible rapes, 837 attempted rapes, 60,440 robberies occurring on highways, streets or alleys, and 42,791 street assaults. Correspondence from Division of Criminal Justice Services for the State of New York (June 13, 1990).

38. In 1989, a total of 16,906 felonies were reported on the New York City subway system, including 20 homicides, 27 rapes, 1,184 assaults, 2,472 robberies against women, and 3,932 incidents of grand larceny against women. Conversation with Al O'Leary, New York City Transit Police (June 13, 1990).

39. Katzenbach v. Morgan, 384 U.S. 641 (1966). See generally Dorsen, Bender, Neuborne & Law, Political and Civil Rights in the United States 423-44 (Law School Edition) (4th ed., Vol. II 1979). The equal protection clause of the Fourteenth Amendment was intended to embody an affirmative guarantee of equal state protection of the lives, liberty and property of all people as against attack by private third parties. See Brief of Amici Curiae NAACP Legal Defense and Educational Fund, Inc. and American Jewish Congress at p. 3-4, 10-29, 22a-67a, South Carolina v. Gathers, 109 S. Ct. 2207 (1989) (quoting extensive legislative history).

40. See United States v. Guest, 383 U.S. at 745, 781-84 (Brennan, J., concurring in part and dissenting in part).

41. 18 U.S.C. Chapter 109A.

42. 28 U.S.C. § 412(b)(2)(B).

43. See note 21, supra.

44. Sherman, "The Specific Deterrent Effects of Arrest for Domestic Assault," 49 American Sociological Review 261, 266-68 (1984). Unfortunately, arrest of the abuser is not a panacea. Once arrested and charged, the perpetrator may be released on bail and if still in the acute phase of the battering syndrome, may return to batter the victim again, even if a restraining order has been issued. C. Ewing, Battered Women Who Kill 15-16 (1987). Judges may be reluctant to jail batterers once convicted, so the assailant is likely to receive probation and return to the home. Id. at 16. If the perpetrator is jailed, the victim often loses her sole means of financial support. For all these reasons, many attorneys working with battered women recommend adoption of policies encouraging or mandating arrest together with other forms of support for victims of abuse, such as increased availability of safe housing, economic security and swift sentencing.

45. Bureau of Justice Statistics, Preventing Domestic Violence Against Women 1, 3, Special Report (Aug. 1986).

46. See generally Pellegrini, "Rape Is a Bias Crime," N.Y. Times, May 27, 1990, at p. E13.

47. Berger, Man's Trial, Woman's Tribulation: Rape Cases in the Courtroom, 77 Columbia Law Review 1 (1977).

48. State v. Bashaw, 296 Or. 50, 52-55 nn.2-6, 672 P.2d 48, 49-50 nn.2-6 (1983). The Lord Hale jury charge was standard in rape cases throughout the country until well into the 1980's. See Marr v. Florida, 494 So. 2d 1139 (Fla. 1986); Nebraska v. Willis, 223 Neb. 844, 394 N.W.2d 648 (1986); Arabian, The Cautionary Instruction in Sex Cases: A Lingering Insult, 10 Southwestern University Law Review 585 (1978).

49. Report of the Federal Courts Study Committee 169-70 (Apr. 2, 1990).

The CHAIRMAN. Thank you very much.
Ms. Young.

STATEMENT OF RONI YOUNG

Ms. YOUNG. Thank you, Mr. Chairman.

The CHAIRMAN. Ms. Young, would you mind again—I hate to ask you, but pull that microphone very close. You almost have to speak directly into it.

Senator THURMOND. Mr. Chairman, I have another appointment I have got to go to. I want to take this opportunity to thank all these witnesses for coming here today, and we appreciate your testimony. I will read yours; I haven't had a chance to hear yours.

I just have a couple of questions for each one, if they will answer them for the record.

The CHAIRMAN. They will be submitted for the record, and I ask you to respond in writing.

[The questions of Senator Thurmond follow:]

Full Committee Hearing, June 20, 1990, Violence Against Women

Questions from Senator Thurmond to Linda Fairstein, Helen Neuborne and Roni Young.

QUESTIONS FOR LINDA FAIRSTEIN - CHIEF, SEX CRIMES PROSECUTION UNIT, DISTRICT ATTORNEY'S OFFICE, NEW YORK, NEW YORK:

1. Ms. Fairstein, in your prepared statement you discuss the significant impact DNA fingerprinting can have upon sexual assault investigations and prosecutions. From your experience, how can DNA fingerprinting be utilized better than it is today?

2. It is clear from your testimony that you are committed to addressing the special needs of survivors of sex offenses. In your opinion, what can our Nation's courts do to ensure that women victims are treated with more sensitivity in court?

QUESTIONS FOR HELEN NEUBORNE - EXECUTIVE DIRECTOR, NOW LEGAL DEFENSE AND EDUCATION FUND, NEW YORK, NEW YORK:

1. In your prepared statement, you discuss several inadequacies within State judicial systems which impact upon women victims. You cite these inadequacies as some of the reasons for expanding Federal civil rights protections for women. Please discuss how such a step would remedy these inadequacies within State judicial systems, if at all.

2. Ms. Neuborne, you note that Federal legislation creating a civil remedy could sidestep State law. Could you please discuss what types of crimes would be covered under the Federal statute for which the States do not offer remedies?

QUESTIONS FOR RONI YOUNG - PROSECUTOR, STATE'S ATTORNEY'S OFFICE, BALTIMORE, MARYLAND:

1. Ms. Young, as Director of Baltimore's Domestic Violence Unit, you are in a position where you can provide great assistance to victims of domestic violence. The DVU, as you testified, provides special services to victims of domestic violence to ensure their protection and to enhance prosecution. Please discuss whether other communities in the State of Maryland enjoy the benefits of a DVU and, if not, why not?

2. You note that Baltimore City's DVU is in dire need of additional resources. Please discuss whether the State of Maryland has provided you with any of these additional resources. In addition, where would your funding priorities be if additional resources were allocated?

OFFICE OF THE STATE'S ATTORNEY
FOR
BALTIMORE CITY
206 THE CLARENCE M. MITCHELL, JR. COURTHOUSE
BALTIMORE, MARYLAND 21202

STUART O. SIMMS
STATE'S ATTORNEY

PHONE: 396-3133

July 18, 1990

Honorable Joseph R. Biden, Jr.
Chairman
United States Senate
Committee On the Judiciary
Washington, D.C. 20510-6275

Dear Senator Biden:

Thank you again for the opportunity to testify at the June 20th Judiciary Committee hearing on Women and Violence.

In response to Senator Thurman's follow up question regarding the existence of domestic violence units, several other communities in Maryland have one or two person units which provide similar but limited services in guiding a victim through the criminal justice system. These units often make recommendations about the cases to the prosecutors. However, none of them have specially assigned and trained attorneys to prosecute domestic violence cases.

Many communities in Maryland and the United States in general do not recognize domestic violence as a criminal matter. Domestic Violence occurs in large numbers among all ages, races, localities, and socio-economic backgrounds. Many communities in Maryland are small with one or two prosecutors for the entire county and a small number of support staff.

As to the second inquiry, the Domestic Violence Unit is funded entirely by the City of Baltimore. The City of Baltimore, while recognizing the prosecution of Domestic Violence cases as priority, is fiscally unable to provide additional funds. The State of Maryland has been requested to provide additional funds in the past to no avail. However, the Office of the State's Attorney for Baltimore City will continue to request funding from the state in the future in hopes that with heightened awareness of the prevalence of the problem state officials will make this issue a statewide priority.

If additional resources were allotted to the unit it would be used for the salaries of additional staff. This staff would allow the unit to prosecute cases throughout the city instead of only six (6) out of the nine (9) districts. Additional staff could also provide a prosecutor for the circuit court level where the felony cases are tried. The funds could also be used to provide us with a computer to handle the massive amount of letters, files and statistics maintained by the office.

If there are additional questions, please do not hesitate to contact us.

Sincerely,

Roni Young
Director
Assistant States's Attorney
Domestic Violence Unit

RY/lg

The CHAIRMAN. Now, before you begin, Ms. Young, that buzzer that was supposed to go off 20 minutes ago in 10 minutes has gone off, which means that in about 7 or 8 minutes, we will have to vote. I will leave it up to you: We can either recess now and have a chance to go vote and come back, or I will have to interrupt you in about 7 or 8 minutes because physically it takes about 6, 7 minutes to get over to the floor.

Do you have a preference? I assume you would rather be uninterrupted.

Ms. YOUNG. Yes, I would.

The CHAIRMAN. Well, why don't we recess for about 10 minutes, because it will take me that long to get over and back, and then we will pick up with your statement.

[Recess.]

The CHAIRMAN. The hearing will come to order, please. I thank the witnesses for their indulgence, and particularly you, Ms. Young. Would you please proceed now at whatever pace you would like and as long as you would like.

Ms. YOUNG. Thank you, Mr. Chairman. I am a prosecutor in Baltimore City. I am the director of the domestic violence unit. We handle the misdemeanor domestic violence cases in six out of the nine districts in Baltimore City, and I will talk about that a little bit later.

I would like to first tell you of the problems that we face in Maryland and Baltimore City. I have some statistics; I have included some in my written testimony. These are some other statistics. In 1989, there were reported—and keep in mind, these are reported—14,781 spousal assaults in the State of Maryland; in Baltimore City, 2,492 spousal assaults.

Also, in 1989, in Baltimore City, there were 3,739 common assaults in the categories of spouse, paramour—that is, live together boyfriend and girlfriend—and 666 aggravated assaults in that category. The police report in Baltimore City 30,000 annual calls for domestic disturbances.

The CHAIRMAN. That is an important number to me, 30,000 calls for domestic disturbances in Baltimore City.

Ms. YOUNG. That is right.

The CHAIRMAN. Yet, there were how many—do you have any notion of how many arrests flowed from those calls?

Ms. YOUNG. Unfortunately, we are unable to keep those types of statistics. I extracted as many statistics as I could. They do not keep statistics, and that is a big problem throughout the country, about crimes against women. Misidentification is a very big problem that we face daily. We have to go through our own assessment of these cases. I mean, they stand out like sore thumbs to us, but unfortunately they are not labeled, as they are supposed to be, domestic assault, domestic violence, for even our unit to prosecute these misdemeanor cases, much less the domestic arsons that may not be labeled as a domestic homicide even though the arson resulted in a death, the juvenile cases that I understand through talks with my colleagues, a tremendous number of their docket is made up of these types of battery assaults between boyfriend and girlfriend.

This does not include the rape statistics. We have a special unit in Baltimore City, a rape unit similar to Ms. Fairstein's. This also doesn't include the other felony charges, which we are not tracking at this time. You know, you have got the robberies, the more serious assaults.

In our unit alone, we handled almost 3,000 misdemeanor cases. As of the end of May, we have handled over 1,600 cases, and like I said, this is only six out of the nine districts in Baltimore City. This is only misdemeanor cases that we have received or been able to investigate and get that information.

The CHAIRMAN. Excuse me. Is the Baltimore City police officer, under the law, able to be the complainant?

Ms. YOUNG. Yes, they are.

The CHAIRMAN. OK, thank you.

Ms. YOUNG. They make misdemeanor warrantless arrests. They make officer-observed warrantless arrests, and that is how I get half my caseload. But these figures, again, are just the tip of the iceberg. There was a figure for 1989 of 9,035 common assaults in the acquaintance category. I dare say that a lot of the domestic violence cases—there was a relationship, but it was not noted on these reports.

These statistics were garnered from police actually marking that there was a relationship between these parties. Like I said, there is a problem with identifying these cases as such. I have a theory, as yet untested, that half of the cases making up the criminal dockets, I believe, in this country are domestic-related cases. I think the other half are substance abuse-related crimes, but I really believe that is the reality of what we are facing today.

These domestic violence victims have no other services in Baltimore City other than the House of Ruth, which provides shelter, counseling, as well as legal representation for civil matters. And I am saying that our unit works alone in providing the specialized services that they need. My unit consists of myself, another attorney, two paralegals, a secretary, two electric typewriters, and a copy machine.

We do a lot more than prosecute these thousands of cases. We provide training, we provide advocacy throughout the system because we end up being their voice to the police department, to parole and probation. We spend a lot of time with these victims.

I went into a lot of detail in my written testimony of all of the steps and all of the paperwork, the letters, the phone calls, the contacts, that we try to make prior to trial, the contacts that we make out in the hall to give them the type of service that leads to the prosecution of these cases and protects these victims.

Why should the Federal Government get involved? Senator, I would first like to echo your opening comments. We need your leadership and support. This legislation sends a powerful message through the community that this violence will not be tolerated throughout this Nation. Without leadership from the top, the individuals at the bottom will not buy into this as a priority.

Domestic violence has evolved through a longstanding cultural tradition. We are not so far from the rule of thumb. The rule of thumb goes back to old English common law where the judges struggled with how to prevent injuries to wives. They were being

battered by their husbands, so they came up with this rule that, OK, you can beat her as long as the stick is no thicker than your thumb. That is where this comes from.

This is culturally entrenched in our society, and it takes massive legislation to counter what activity has been so long given permission by the law. It takes a massive effort like this to service these types of victims. These victims, I would characterize as prisoners of war. They have been so psychologically and physically scarred, they are not going to be able to come up and testify at a hearing like this. They are in a state quite often of learned helplessness. Without units such as myself, without measures as are stated in this legislation, they are unable to come forward at all.

It takes, as others have said, a coordinated, consistent effort to fight these crimes because if there is one chink in the armor, it places a woman in grave danger, and I would like to speak to that very briefly.

We can mandate mandatory arrest. The police can make the arrest, but if this defendant is released on his own recognizance or given a low bail, because we are not keeping statistics that he is a known abuser—if we are not contacting this victim to ask her, is your life in danger, is he threatening your life, he is released and he murders her.

Judges can put these abusers in jail, but if the parole and probation departments do not contact these victims when they are being released, as in the case of Elise DeBianco—her husband was released on a day furlough and he went out and murdered her. These victims are placed in grave danger if there is one chink in the armor. We need consistent, concerted efforts on the part of everyone throughout the criminal justice system, especially. The stakes are high. As I said, we are looking at murders.

Now is the time to do it. I see the momentum gaining throughout the States, throughout the localities. I brought with me a copy of Baltimore City's Policies and Procedures on Domestic Violence. These are guidelines for everyone from the police department through parole and probation, including the judges, State's attorneys, court commissioners, and the like.

These policies were enacted last year, signed off on by heads of all of the departments. We are trying to do the same thing in conjunction with Baltimore County. But until we have legislation such as yours saying that this is a priority, the tops can buy into this, but all of the people it takes for these policies to be enforced will not buy into it.

It took 5 years for us to put this together. We are having a great difficulty now even monitoring it because we don't have the computer system to identify these cases and follow up what is happening to them. Are these policies being followed?

The best thing that I can say and the most encouraging thing that I can say about this legislation is these crimes are what I call preventable. These homicides are preventable homicides, unlike a lot of crime today. This legislation can make a big difference.

There is a window of time, statistics have shown; between five or six times in these domestic homicides, police will respond to this home. If the proper action is taken, an arrest, a prosecution done when this violence begins—these are the kinds of cases that I see,

the first punch, the first slap, the first grab. I take them very seriously because I know down the road it quite often results in homicides.

If we take those strong measures, it will prevent these homicides. We must see the connection between the homicide rate, we must see the connection between child abuse. Don't be misled and think that if a person is beating on their wife, they are not beating on their children.

We must see the connections between the psychological damage not only to the victim, but the children in that home. What are they? They are not only turning out when they grow up to be abusers or victims themselves, but they are turning out to be other types of criminals as well because they are deeply scarred by the effects of these types of crimes.

I would like to talk to you a little bit about what our unit attempts to do. We were established in 1983, by then State's attorney Kurt Schmoke, now the mayor of our city. We were expanded recently in the past few years under the leadership of Stuart Sims, the current State's attorney.

We are unique in that we were started so long ago. We are unique in that we only focus on these domestic violence cases, in particular. The key to our success—and I say we have success because we have a steady 40- to 45-percent prosecution rate, but I think our success is in that we light a lot of candles. We spend a lot of time with the victims explaining to them what domestic violence is, to begin with, because many victims do not consider themselves as victims of domestic violence. They don't understand the dynamics, they don't understand the nature of it being a recurring crime increasing in severity.

We spend a lot of time educating them first. Then we educate them about the criminal justice system and request their input into what we can do to make them safe. We also relieve them of the responsibility. There is this notion that these cases are just domestics and that the victim has the right to come in and drop charges. This sets off a vicious cycle of misperceptions within the system.

The police, the State's attorneys, the judges all feel that these victims are going to come in and waste their time. You know, they want to help. They mean to do well, but they indulge in this victim-blaming. The victim is very suspicious of the system for the same reasons, and it just goes on and on. We try to break that cycle with this information.

We continually ask for input by the victims at every stage of the procedure. We tell them what we are going to recommend. When we are in the midst of plea bargain, we take them out in the hall and say this is what the plea is; what do you think of this; how is this going to serve you.

But we also relieve them of the responsibility, and when I say this, these are the State's cases. It helps when we can tell a defendant, I don't care whether she begs me all night long, I am not going to drop these charges; these are the State's charges, you have committed a crime against her and the community and you are going to be held responsible for it. Then her fears of retaliation are lessened because the weight is thrown back on the State at that point.

The CHAIRMAN. I think that is a very important point, and that is why I push in this legislation for the State to take a more active role in initiating the charges.

Ms. YOUNG. Right.

The CHAIRMAN. In my experience as an attorney a hundred years ago in the criminal justice system, you find that the victim who is the victim for the first time in a domestic violence case will maybe bring charges—and many don't—and then, unless things have changed so drastically in 20 years—and they may have—you will find many cases of a lover or a husband going back and pleading and begging and promising——

Ms. YOUNG. That is correct.

The CHAIRMAN. The woman is being tormented and confronted not just with the fear that if she doesn't drop the charges she will be hurt, but with pleas that the family will be ruined, the kids will be, and so on and so forth. And she ends up succumbing to the pleas as well as the danger.

Ms. YOUNG. That is correct.

The CHAIRMAN. The notion that you have emphasized here that you relieve the woman of that responsibility, I would think would lead to a significant—if that were done across the Nation—a significant attitudinal change in what people would likely do and not do.

Ms. YOUNG. Well, that is true. The victims are—once they know that they don't have that power, they are very cooperative. And when they know that I am going to be sensitive, me and staff, to their needs as well, that I am not just going to railroad them into a trial, railroad the defendant into jail—you know, maybe counseling, maybe probation is the answer in the case. When they know that I am going to consider that, there is a whole different domestic violence victim that no one has ever—you know, this is not the standard victim. They become empowered, and that is what this legislation does; it empowers women. It doesn't demean them because these drastic measures are needed.

These are frustrating cases. They need a lot of patience and professionalism. This type of legislation addresses the fact that they are crimes; they are not private family matters. And we need to be professional; we need to make mandatory arrests and not leave it up to the whims of the victims.

You see stranger/stranger crimes; they don't ask someone unconscious on the street do you want to arrest them. They do that in domestic violence cases. Do you want us to arrest them? The mandatory arrest is definitely needed. I have victims all the time saying, well, I called the police four or five times, not knowing that they can initiate charges on their own, or even if they did, because of what you have to go through—sit and wait at a commissioner's office day in and day out just to get the charges filed—and for what reason? If the police didn't respond properly, what is going to happen when I get to court? And I am not going to dump on police because these attitudes are pervasive throughout the system.

This bill excites me because it could provide much-needed support to units such as the one that I am involved with in Baltimore City. It could create new units to support the work we are doing. Like I say, we train police, we train other State's attorneys, we train parole and probation. We are constantly on the phone. We

are doing clerk's jobs. We are doing everybody's work, and there is not enough time in the day.

This legislation will provide for much-needed training. I feel that that is a big key. Once they know the facts—people are very ignorant about the realities of domestic violence, about the dynamics. They are much more sympathetic, much more willing to buy into what needs to be done to eliminate this crime if they have that knowledge.

There is the need, again, for mandatory arrest in these cases. The interstate enforcement of stay-away orders is very important to me personally. That is like one of the No. 1 requests we get from victims—just have him stay away from me. Many times, they have to leave the jurisdiction. Interstate enforcement of these orders would provide them with much needed protection, as it recognizes the fact that this is one of the most dangerous times. When victims try to leave their abusers, that is when many of the homicides occur. So this is a very important piece of the legislation.

The provision for a commission to create national policies and procedures also excites me. Like I said, it took us 5 years just to put this together in Baltimore City. We are doing another agreement with Baltimore; we have been working on that for another year. And when I say we, I am talking about a task force that is made up of a number of members, but as in most committees, we are talking two or three people that are doing most of the work.

The CHAIRMAN. I know what you mean.

Ms. YOUNG. I would just like to close and urge the committee to give a favorable report to this legislation. I would just like to say that I am buoyed by the fact that we are discussing this issue today because I know, somehow, some way, help is on the way, and we can eliminate domestic violence by the year 2000.

[The prepared statement of Ms. Young follows:]

OFFICE OF THE STATE'S ATTORNEY
FOR
BALTIMORE CITY
206 THE CLARENCE M. MITCHELL, JR. COURTHOUSE
BALTIMORE, MARYLAND 21202

STUART O. SIMMS
STATE'S ATTORNEY

PHONE:
396-3133

June 18, 1990

Senate Judiciary Committee

Statement of Roni Young, Director, Domestic Violence Unit
Office of the State's Attorney for Baltimore City
Regarding Senate Bill - Violence Against Women

An estimated 3 to 4 million American women are battered each year by their husbands or partners.

The Federal Bureau of Investigation reports that 30% of female homicide victims are killed by their husbands or boyfriends. Six percent of male homicide victims are killed by their wives or girlfriends.

In Baltimore City there were 13 homicides committed between family members in 1988, which make up 5.6% of the total, in 1989 - 23 or 8.8% and so far in 1990 - 8 or 8.8%.

In the boy/girlfriend category in 1988 there were 25 or 10.7%, in 1989 there were 14 or 5.3% and in 1990 thus far 5 or 5.5% of all homicides in Baltimore City.

The Maryland Battered Spouse Report for 1989 reports that there were 14,781 spousal assaults reported to the Maryland State Police, of that total, 2,492 were reported to the Baltimore City Police Department (BCPD). The BCPD also reports that it responds to approximately 30,000 domestic disturbance calls a year which are not reduced to a written report. Many of these calls are disposed of by referral to other agencies such as the Domestic Violence Unit (DVU). During 1989, there were 2,120 Petitions for Protections filed under the Protection for Domestic Violence Act.

I have made an attempt to extract the above information from local records. Statistics regarding crimes against women are not being kept in Baltimore City. There are many juvenile cases, sex offenses, attempted murders, domestic arsons, etc. occurring daily in Baltimore City that are not identified as domestic violence.

In Baltimore City, other than the House of Ruth (a battered women's shelter which also provides legal representation in civil cases and counselling programs), the DVU of the Office of the State's Attorney is the only resource for many victims of domestic violence. From January to May, 1990, we have already processed 1,630 cases and made untold numbers of referrals.

The DVU of the State's Attorney's Office was established in October, 1983. At that time, one prosecutor and one paralegal were assigned to the Unit to handle domestic violence cases. An office policy of vigorous prosecution of domestic violence cases was established. The Director of the DVU met with all Baltimore City criminal justice agencies to establish procedures for the processing of domestic violence cases and to insure a cooperative and coordinated effort.

In April, 1984, the DVU began special handling of domestic violence cases in Eastern and Northwestern District. All of the criminal justice agencies agreed to cooperate in identifying cases and scheduling them on designated days. In August, 1986, Northeastern District was added. In September, 1986, a second prosecutor was assigned to the DVU to handle cases in Western and Northern Districts. In December, 1986, using money from the Crime Victims' Services Program, a paralegal was hired to work with the second prosecutor. In June, 1987, the DVU began handling cases in Southwestern District. At present, the DVU covers six of the nine criminal district.

The purpose of the DVU is to provide special services to victims of domestic violence. Victims of domestic violence are in need of special services because of the dynamics of their victimization. In a violent relationship, the assailant controls the victim by use of physical and emotional abuse over a period of time. As a result, the victim may find it difficult to use the legal system as a tool for protection. The purpose of the DVU is to empower victims to use the legal system to end the violence in their lives. This goal is achieved by providing them with information, support and encouragement.

For those victims who are involved in criminal cases, the specific purpose of the DVU is to insure the victim's protection from further assaults by enhancing prosecution. By providing the victim with sensitive support services and adequate information prior to trial, the victim will remain cooperative with prosecution. With the victim's cooperation, the benefits of the criminal justice system can be maximized. For those clients who are not already involved in the criminal justice system, the purpose is to provide protection and to empower them to use these resources.

The DVU also provides systems advocacy regarding specific cases. This service includes contacting criminal justice system personnel or other agencies on behalf of the victim. This is a service to the victim and helps to educate and sensitize members of the criminal justice and social service systems.

Another purpose of the DVU is to make the criminal justice system more responsive to the needs of victims of domestic violence. Historically, the criminal justice system has not been responsive to domestic violence cases because of the belief among many criminal justice system personnel that domestic violence is a private family matter. The Unit conducts ongoing training with other agencies about the dynamics of domestic violence and effective policies and procedures for handling domestic violence cases. Through this training, the DVU assists in the coordination of a network of service for victims.

Domestic violence is defined as violence between adults who are or have been in an intimate relationship. The client population falls into two categories: victims who have cases in one of the districts handled by the DVU and victims who are referred to the DVU for information or support. Referrals are made from a variety of sources such as police, judges and social service organizations.

During the past two years, the DVU has provided service to over 7,000 victims of domestic violence.

The services being provided by the DVU include:

- supportive counseling and empathic listening to meet the victim's emotional needs regarding criminal prosecution or use of the legal system.

- referral to other services such as shelter, social services and community or mental health agencies for ongoing counseling,

- information about how to obtain criminal and civil legal remedies.

- preparing victims and witnesses for court.

- court accompaniment.

- obtaining documentation of the crime, i.e., medical records, police reports.

- advocacy on behalf of the client within the legal system.

- communication with other agencies on behalf of the client.

The DVU's victim/witness prosecution services are provided in several stages. The domestic violence cases emanating from the six participating criminal districts are identified and sent to the DVU. Through cooperative agreement, the cases are identified by the police, commissioners and court clerks. The DVU paralegal immediately sends a letter to the victim requesting that he/she contact the Unit to schedule and interview. The victim should receive a letter within a few days of the defendant's arrest. The initial letter includes an information and referral sheet. The police report of the incident and the defendant's criminal record are then ordered.

The paralegal conducts an in-person or telephone interview with each victim. If the victim does not respond to the letter he/she is called, if there is a telephone number available. During the interview, the facts of the case and the victim's testimony are reviewed. A history of the defendant's prior violent behavior, contact with the criminal justice system and substance abuse is obtained. The victim is provided with detailed information about court procedure and the trial process. The victim is requested to identify needs for protection and expectation of the criminal justice system.

In the course of the interview, the victim's emotional needs regarding the prosecution are addressed through empathic listening and supportive counseling. If the victim is ambivalent about prosecution, this issue is discussed.

As a part of the interview, the paralegal identifies and obtains any documentation of the incident, such as medical records, photographs and estimates to repair property damage. If injuries are still visible, the paralegal photographs the injury. If there are witnesses to the crime, the paralegal gets the names and addresses, summonses them and interviews them.

During the interview, the paralegal also identifies any other services needed by the client, i.e., legal representation, social services or ongoing counseling, and makes the appropriate referrals. If there is a need for systems advocacy, the paralegal performs that function or refers it to the prosecutor, if appropriate.

At the end of the interview, the victim is told to contact the DVU if there are any problems prior to trial or if he/she feels a need to discuss the case further. The intake and interview notes are compiled and typed by the paralegal and provided to the prosecutor.

Prior to the trial the prosecutor contacts the victim. The purpose of this contact is to provide additional support to the victim and to deal with any lingering issues.

On the day of the trial, the prosecutor meets the victim at court. The testimony of the victim is again reviewed. Emotional support is provided to the victim. The prosecutor insures that the victim understands the court process and keeps the victim aware of any plea negotiations. At the dispostion stage, the prosecutor advocates that the sentencing meets the victim's needs for protection. After the case is over, the prosecutor insures that the victim has understood the process and the disposition. While in court, the prosecutor protects the victim from intimidation and coercion by the defendant.

Court accompaniment and support is provided by volunteers. The function of the volunteers is to provide emotional support to the victim. Additionally, the volunteer helps to provide information about the court process. The volunteer also insures that the victim is not intimidated or coerced by the defendant. In some instances, court accompaniment is provided by the paralegals.

After court, the victim is sent a follow-up letter. The letter includes the disposition, information about what to do if there are subsequent problems and a telephone number to contact a probation agent, if one has assigned. The victim is also asked to complete a questionnaire evaluating the DVU.

If there has been an order to counseling as a condition of probation, our unit notifies the counseling agency. This notification includes the name of the judge, prosecutor and a copy of the statement of charges.

After the court process is over, many victims call to discuss the disposition or to report continuing problems or new offenses. The appropriate support and information services are provided. If there has been a violation of supervised probation, the victim is directed to contact the probation agent. If the probation is unsupervised, the DVU schedules and conducts a Violation of Probation hearing. If there has been a new offense, the victim is advised to file additional criminal charges. If the victim needs other services, the appropriate referrals are made.

Services are now also provided to many victims who do not have cases pending in one of the six districts handled by the DVU. These clients are referred through a variety of sources such as police, commissioners, judges, social services and community groups. Services to these clients are provided by paralegals, prosecutors and volunteers. Most services are provided by telephone counseling. Some clients walk into the DVU office.

Services to these victims, who either call for assistance or walk into the DVU, include supportive counseling, information about how to obtain criminal charges, information about the criminal justice system, information about other legal resources, referrals to other agencies for legal representation or continuing counseling, and systems advocacy.

Our plan is to provide the same services to all victims of domestic violence who have cases in any of the nine police districts in Baltimore City.

The DVU works extensively to promote community efforts to coordinate public and private efforts to aid victims of domestic violence. DVU staff members work consistently with police officers, commissioners, judges, clerks, counseling agencies and social service agencies to provide coordinated services to victims.

DVU staff also provide systems advocacy for victims of domestic violence. This service involves contacting criminal justice and community agencies on behalf of the client. The advocacy promotes coordinated and complete services for the victim and helps educate the community about the issue.

The Director of the DVU is a member of the Mayor's Domestic Violence Coordinating Committee (DVCC). The purpose of the DVCC is to insure that efforts to address domestic violence are consistent and cooperative within the community and the criminal justice system. The DVCC has met with all the criminal justice agencies to develop policies and procedures for handling domestic violence cases. In 1989, these policies were published by the Mayor's Office and signed by the heads of criminal justice agencies. The DVCC also monitors the existence and provision of shelter and counseling services to victims of domestic violence.

The DVU works consistently with the House of Ruth and the Domestic Violence Legal Clinic to provide coordinated services to victims of domestic violence. When a defendant is ordered to counseling at the House of Ruth, the DVU sends the Abuser's Counseling Program the relevant background information and a copy of the statement of charges. Referrals are consistently obtained from and made to the House of Ruth Hotline and Legal Clinic. Consultations about clients are regularly made between the House of Ruth and the DVU staff.

The Director of the DVU regularly provides training and technical assistance to groups and individuals. Sixteen hours of training is given to each Academy Class at the BCPD. In 1988, over a forty-eight week period, the DVU, in conjunction with the House of Ruth, provided in-service training on domestic violence to Baltimore City Police Officers. The Unit has also provided training to commissioners, parole and probation agents, judges, lawyers and social workers. DVU staff regularly does speaking engagements with community and religious groups. In addition, other professionals, such as lawyers, judges and social workers, often call the DVU for consultation and advice about clients.

Since April, 1984, the DVU has expanded greatly. With the expansion of the Unit, the number of clients requring victim/witness prosecution preparation services has increased. In additon, the number of referrals for information has increased due to the Unit's exposure with police and other criminal justice personnel. During the past two years, the DVU has provided direct services to over 7,000 victims of domestic violence.

Unfortunately, due to the lack of staff, the DVU is currently unable to handle cases in the Central, Southern and Southeastern Districts of the city. The BCPD and the State's Attorney's Office report large numbers of domestic violence cases in areas not served by the DVU. In Southern District alone, there are a reported 50 cases per week in which victims need special services.

Additionally, also due to lack of staff, the DVU is unable to provide special services to victims in cases where the defendant is charged with a felony, or where the defendant requests a jury trial at the district. These cases are held at the Circuit Court level. It has been our experience that some defendants will request a jury trial simply to get the case away from the DVU or in an attempt to prolong the case in hopes that the victim's resolve to testify may weaken. Without the special services of the DVU, victims are more vulnerable to intimidation and manipulation by the abuser.

This bill would provide funds necessary for additional staffing and equipment.

We hope to expand our unit and hire at least three new staff. To be fully functioning to all Baltimore City residents the DVU needs two additional prosecutors, one to handle the three districts not currently served by our Unit, and one prosecutor to provide services when a jury trial is requested or the defendant is charged with a felony. A third paralegal is needed to assist the additional prosecutor assigned to the District Court. The paralegal would provide a variety of necessary victim services, including providing support and information to victims, being involved in all stages of case preparation, and providing court accompaniment.

The DVU has a massive paperflow. In recent months, we have increasingly seen a need for a computer. We have files for every case and a card filing system for each victim and defendant. The system is antiquated and cumbersome, and having a computer would be of great benefit to victims. It would allow us to immediately access information about each case, victim and defendant, including any prior contact with our Unit. This would assist us in working with the victim as well as advocating fully for her/him. A computer would also free up staff time to provide more services to victims.

Grants provided by this bill would provide funds for other components of the criminal justice system to create special units. These units will be able to target the elimination of these crimes. These units could also provide support for the DVU in our prosecution efforts as well as relieve us of many of our referral and training duties.

This legislation recognizes the disturbing reality of violence against women. It also provides the needed resources to effectively combat crimes that result in preventable homicides and scar our families and society throughout future generations.

The CHAIRMAN. Well, I thank you very much, and I compliment you on your optimism. Optimism coming from someone who is unaware of what they confront is one thing. Optimism coming from someone who is fully aware of what they confront is another thing, and I compliment you.

Ms. Fairstein, let me ask you to begin with, you have been involved in a number of widely publicized cases involving violent crimes against women—the Robert Chambers murder trial, to mention just one, and more recently as a witness in the Central Park jogger case.

As I am sure you know, the public and the press have focused considerable attention on these cases, understandably perhaps, because of their horrifying brutality. What I believe the public should understand, however, is that while these cases may be unique to the extent of their dramatic details, they are only the tip of the iceberg. Rape happens every day—we have heard it mentioned here today how often it happens. We also know that rape and other violent, sex-related crimes are up significantly in the last 15 years.

Now, you deal with these cases every day. You are in contact with prosecutors across the country dealing with these cases. Based on your experience, I would like you to tell me how big you think the sexual assault problem is in this country. Is it growing because women are emboldened, because of the efforts of spokespersons for victims like Ms. Hanson and others, to report the crimes? Is it growing because, in fact, in terms of real numbers, there is an actual increase in the number of these assaults?

I don't expect you have a—I am not looking for empirical data, but what does your instinct tell you? What does your experience tell you?

Ms. FAIRSTEIN. My sense is that it is a combination of exactly both of those things. There is certainly an increase in reporting, and I think, as you said in your introductory remarks, one of your purposes is just to get people to talk about this crime. As you know, for decades, if not centuries, people didn't talk about this crime. It didn't happen to nice people; it didn't happen to our sisters and mothers and daughters. And until it did, we didn't talk about it. So I think it is very important for people to understand how pervasive it is and that it happens every day, and it happens both in the home, as Roni has said, and to and between strangers.

So I think that there is a tremendous increase in reporting, but I think also that there is an escalation in the occurrence of the crime itself. And I can take, for example, something that we see in New York, as I am sure many of the other large urban areas do; the problem is crack-related.

I have been a prosecutor for 18 years and I have seen many of the drug vogues pass through, but the kind of violence that has been associated with a lot of the crack traffic has, again, escalated dramatically, and much of it involves violence against women.

Many of the women have nothing to do with the persons who are using the drugs, trafficking in them, high on them, and therefore become violent and assault——

The CHAIRMAN. Is it violence against women that we would categorize as a sex-related crime or violence against women that is simply the kind of violence both sexes experience? I want to make

that issue clear because part of this legislation relates to the civil rights aspect of sex-based violence.

For example, if you happen to be a woman against whom violence is committed, just like if you are a man standing in the street and indiscriminately knocked to the ground or shot in a crossfire or whatever, that is not what we are talking about here. There is no distinction between the man or the woman standing in the crossfire of a drug war.

Ms. FAIRSTEIN. Correct.

The CHAIRMAN. But has the violence increased as it pertains to sex-related assaults?

Ms. FAIRSTEIN. Yes; I am not talking about the addict who steals from a man or a woman in order to get money to buy the crack.

The CHAIRMAN. Right.

Ms. FAIRSTEIN. But, for example, a lot of the women who are addicted to drugs and are in areas that make them more vulnerable to any kind of violence become victims, often, of sexual violence, and then it becomes crack-for-sex, where law enforcement people often tend to disregard the complaint because, again, you get the attitude, she was asking for it, she is an addict, she was there at that time of day or night.

So I have just seen an escalation on all fronts. That is one front that I have seen a tremendous increase in. I think there is much more reporting, but there is much greater occurrence of violence against women.

The CHAIRMAN. For any of you, do you have any notion as to why that is the case? I am going to convene several other panels at a later date to bring in some of the psychiatrists and psychologists and social commentators to try to get a sense of—get this discussion and debate going a little bit—how to begin to deal with the deeper rooted concerns and, at least, to educate me. Hopefully, it will be somewhat educational. I did not, for example, realize the origin of the term "rule of thumb." I was unaware of that.

I just wonder, though—although you are not psychiatrists or psychologists or social commentators—in your experience, based upon the people whom you see and you are involved with, do you have any notion or reason why you think this violence is occurring.

Linda just indicated part of it is drug-related. That may be one of the potential increases, particularly crack cocaine. Is there anything anecdotally or from your observations as to why you think it is occurring more, if you think it is occurring more?

Ms. YOUNG. I really think that it is being uncovered more, personally. There may be an increase due to other factors, but I just think it is being reported. It is a long tradition. We can go back to ancient times when a woman who spoke ill of her husband—they engraved her name with a brick and knocked her teeth out as punishment. I mean, this has been ingrained in our society, and I think just now women are coming forward due to, in large part, the efforts of the media to expose that it is all right, that you are not out there isolated by yourself, you are not the only one that this is occurring to.

Ms. NEUBORNE. I think one of the other issues is sort of a combination of women's empowerment and feeling that it is right and appropriate for them to be independent, equal partners in a rela-

tionship out in the community, perhaps working. And what we know about domestic violence is that it is a power play. It is really the man asserting power over his property, basically—his wife or spouse.

And there is no doubt that the more she asserts herself either verbally or indeed physically by going out into the workplace, his response may indeed become more violent. And so I think you are seeing a lot more, again, of that domestic violence sort of reaching out and spilling over into the workplace because it may be one of the bones of contention, one of the things that sets off the man. Again, he no longer has power over a woman who has an independent life of her own, and we believe that this power play is what leads to the violence.

The CHAIRMAN. My instinct is that part of the increase is, clearly, reporting and the empowerment of women to believe that they not only they have the right, but the obligation, to come forward and indicate that they are no longer willing to be victims.

Ms. NEUBORNE. Right.

The CHAIRMAN. Also, I assumed that part of it is because women find themselves in much larger numbers in the workplace, in circumstances and places where they otherwise would not be. You are not likely to be in a parking garage at 11 at night if you are in the traditional circumstance of 1940 where you are at home.

But the vast majority of women, many women on my staff—this bright woman sitting back behind me to my right who handles this issue—I mean, she will work here until 11, 12, 1 at night working on issues and have to walk to a parking lot.

But then I looked at some of the statistics, and the vast majority of rape that occurs occurs during the day in the home—even rape with strangers. I am not talking about date rape, I am not talking about rape by an acquaintance, I am talking about rape that is by a total stranger.

So I am a little perplexed, and I keep coming back to thinking—and, again, I am giving you a view that is not based on any hard data at this point—that much of it relates to women feeling more empowered and angered and outraged, and hopefully thinking that there may be an increasing opportunity to ventilate this rage. That leads me to my second question.

If you would like to comment on that——

Ms. NEUBORNE. I think you are absolutely right. I think when we talk about reporting, I think we don't even know the reality of obviously, historically, what went on before women reported. I mean, there is no way of going back, except to do the kinds of studies we do where we ask were you a victim of a crime and did you not report it. That is where we get our statistics from now, so there is a vast amount of prior conduct that wasn't reported.

But I would just say that I think that, again, when you talk about empowering women, I think there is an enormously greater conflict now and a backlash both in the home, but within society generally, against women who feel empowered, who are asserting themselves to be equal partners in society, and there is a lot of backlash.

That is my sense of the Montreal murders, if you remember, where they took the men out of the room and lined up the women

and shot them. And I think that kind of hating women and hating the power that women now have to be independent and function independently is generating a backlash.

Ms. YOUNG. I am sure that is a part of it, but that does not explain the many victims who are doing everything they can to appease their batterer—I mean, are really prisoners in their own home, are walking on eggshells, are beaten in their sleep. Those are a lot of the victims that I do see where, sure, the battering occurs maybe because she either said something or did something that he did not want her to do. The circumstances are not her necessarily attempting to empower herself.

The CHAIRMAN. It is not necessarily that she picked up a briefcase and went out and made more money than he did and he still working——

Ms. YOUNG. And the problem is the victims don't fit the—I mean, the stories I hear about the batterers, I can tell them about their batterer, and this is all races, all socioeconomic groups. The victims do not fit a mold by any means. You know, many of them are very dependent, very financially, as well as emotionally, dependent.

All of them, I would say, if they are still in a relationship, are emotionally dependent. Some of them are economically—some of them are the breadwinners. There is also another group of victims that don't even have a relationship with this batterer anymore, and that is a very interesting point.

I see a lot of cases where they have a child in common, have not had a relationship with this man for years. But because of the contact with the child and because of his need to control her, even though he may have a wife or another girlfriend, whom he probably batters on as well, he still has this possessive interest. She is still his woman even though the relationship ended, and if they get into a conflict, she will get battered as well.

The CHAIRMAN. How important is it for the victim in terms of her recovery, her emotional recovery as well as her physical recovery—how important is it that the system allow her the opportunity to participate in, be a part of and bring to fruition the effort to deal with her assailant? How important is that?

For example, I was thinking a moment ago when our first witness testified that she was told—and I can see a prosecutor telling her this, with a thousand priorities of equal consequence, saying that the man who raped you, if he is convicted in that trial in courtroom nine, is going to go to jail forever, without probation and without parole, or be put to death in some cases in some States—very rarely.

And if that occurs, the State is not going to spend $20,000, $50,000, $100,000, whatever dollars, in effort and time in sending him to jail with a minimum mandatory life imprisonment, no probation, no parole, twice, and so we are going to drop your case.

Now, that is a very logical—if you look at it in terms of a cost-benefit analysis, a very logical position for a prosecutor to take. Quite frankly, if they took another one, they would probably be fired. Yet, on the other hand, the question is, How important is it in the catharsis—how important is it for the woman to go through the process once she has chosen to initiate the process?

Ms. FAIRSTEIN. I think you have identified, obviously, a very serious part of it. From my experience, very few women come to me like a Nancy Ziegenmeyer and want that moment in court to point at the offender. More often, if you can do something, and I don't mean dropping the case, but fashioning a plea that will still have serious consequences, I probably hear more of that.

This is a newer confidence that I am delighted to see, and we often wish we had that kind of courage and fortitude going into the process. What we see more frequently, however, is after someone who has been more reluctant to participate has gone through with it, what is very satisfying for us and for my colleagues, I think, is to hear the victim say I am very glad I did go through with it, I am very glad that I had that opportunity to look him in the eye and to have my day in court and to see that justice was done, because I think more people come to the process not anticipating that it will work for them, which is, I think, one of the nice things about the units that are successful.

Most people come to us not thinking that the system is going to be successful. There are so many myths about the prosecution of these cases.

The CHAIRMAN. We are off in an area that you cannot, again, give me absolute data, but how often when a victim comes to you—how often do you read, from anything from their body language to the precise words that they utter—that they start off with the perception that this isn't going to be fair to them, that it is not going to work for them, but they are so damn mad, they are going to do it anyway?

I mean, how often do they walk in with that attitude, as opposed to walking in with the attitude that I have been wronged, I know you are going to take care of it, I know the system is going to work for me?

Ms. FAIRSTEIN. The former more than the latter. I must say—and, again, Nancy described what she and I have discussed at other times as being a little bit of an exception. A lot has to do, I think, with how the person is met by everybody before they get to me—their own support groups.

I mean, Nancy's husband and family and friends were wonderful to her. Marla can speak to this as well. They are victims who have been victimized and hear the blame-the-victim reaction first from the people who should be—forget police and prosecutors, but the people who should be supportive of them.

You know, women who are raped say when they get home and tell their mothers, their mothers say, well, what were you doing out at that hour. You know, the police aren't going to care about this; I will take you to the doctor and you will be better by tomorrow, you will forget about it. You know, it doesn't go away that way.

So I find that when the police have been appropriately responsive to the victim and when our people have, she remains with us with a very good attitude. But if she has been anywhere along the way, whether it is by her support people or the first cop or prosecutor who asks her the wrong question or doesn't explain why a piece of information is necessary, we lose her.

Ms. NEUBORNE. I would add that I think there are a lot of levels at which we can vindicate an individual's rights, or a woman's rights here, and I think that is a very important piece, given the way society treats many of these crimes. There is an important statement that has to be made about the woman being innocent and not in any way contributing to what happened. She needs that validation, if not in a court, perhaps in a civil damages award.

And one of the things that we are concerned about is the availability of civil damages awards and, you know, the statutes that don't allow that. The fact that there are statutes of limitations that preclude, either in a domestic violence, or another example is a child sexual abuse situation where a victim will come to grips—perhaps they either couldn't or wouldn't go forward at some particular time, and we could give you the variety of reasons why they don't. But at the point that they do confront it and want to deal with it, the system gives them no redress.

I think there is an enormous frustration and an inability to just get beyond the pain and the injury that you have suffered. So I think there is an important statement that needs to be made for a victim.

The CHAIRMAN. Is that why you are so supportive of my effort to make it a civil rights violation?

Ms. NEUBORNE. Well, I think that is a very big piece of it because that will allow vindication of rights for certain numbers of people. It also makes a very strong statement about it being a bias-related crime as a civil rights measure. But I think the States are not uniform and many States do not allow——

The CHAIRMAN. It also lets you get into Federal court.

Ms. NEUBORNE. Exactly. Well, it allows you to get into Federal court, and for some of the reasons I described earlier why that is important, where we see a hope for more impartiality, where we know there are extra resources. Again, with a national focus on an issue like this, it says to a victim that you have been wronged, it was bias-related, and we are going to ensure that you can state that you were innocent, that you have been wronged. That is what civil rights violation, of course, would do.

The CHAIRMAN. One of the things I would like to try to get at—and, again, I am not quite sure how to frame the question—is celebrated coverage and docudramas that have followed certain cases—the one in Rhode Island, the gang rape, for example, that was made into a movie—because of that exposure and for other reasons—I am not suggesting it is good, bad, or indifferent—but what I am trying to get at is this: Does the average young woman between the ages of 15 and 30 even if she weren't a victim herself, assume that if she ever became a victim, she is in trouble?

Do you understand what I am trying to say? Is the mind set out there among women that: "God forbid, if I am ever raped, I know what will happen, I will have to identify every man or boy I had a relationship with, I will have to discuss whether or not I was wearing a short skirt, a long skirt, underwear, no underwear, a slip, whether or not I was at a place that was viewed as reputable or not reputable, whether or not I should have known my boyfriend or the person I was with was good, bad, or indifferent?" I mean, is that at a conscious level of young women now who are not victims?

Ms. YOUNG. When you talk about—we talked about the system blaming victims. I think women are raised to take on blame for a lot of things. They are raised to be caretakers, they are raised to feel responsible for many things that they have no responsibility for.

I think what you are describing is true, and that if they become victims, they blame themselves for the rape, for the domestic violence. And some of them may have done things that, like you said, they are afraid may come out and may make them look like it was their fault, and that is a big part of it.

It is easy for a system to blame this person, and women are growing up to take the blame; they are growing up with that mind set. It is very easy for them to buy into the victim mentality. It is very unfortunate the way women are being raised today, and they are unaware that they can do nothing to stop it and they need to turn to others, and they need to have alternatives, like you said—civil remedies, Federal remedies, State remedies—to be able to address this.

The CHAIRMAN. I do not take issue with what you say because you all know more about this than I do. What I was getting at was a slightly different point, not whether or not they would take the blame, but whether or not there is a consciousness out there that they would become victims in a courtroom, that they would be subjected to unfair treatment.

I thought that when Ms. Hanson was asked the very question I was about to ask her by Senator Metzenbaum—"If you knew before you went in what would happen, would you have gone through with it?" The one thing I was going to ask her is, "Would you have been completely candid with the prosecutor?" "When the prosecutor said to you, how many relationships have you had, would you have said, let me think now, or would you have said two, one, none?"

When asked if you—and all the things that a prosecutor has to ask because they don't want to get surprised, which is a double-edged sword—would you have leveled, or would you have even gone forward? What I am trying to get at is——

Ms. YOUNG. I think they are very suspicious of the system, and rightly so.

Ms. NEUBORNE. I think you are assuming a kind of a sophistication that says that not only would I not go forward, but I know why I wouldn't go forward. And I think that unfortunately—I mean, let me start from saying that I have two daughters, both young women who are out in the world, and they work and they travel.

As a parent, you talk to your daughters, you know, about being watchful if they are alone and what time they are out, and discussing living alone in apartments and things like that. And so we do this because we know as adults or as parents that we need to help our children protect themselves. That is a terribly negative thing. We do that to protect them, but we know that what we are doing at the same time is somehow building in—and, clearly, I don't think I did it consciously—some sense that they will be wrong if they are some place where I suggested it might not be smart for them to be.

The CHAIRMAN. Be careful if you are man who has an independent wife who suggests that.

Ms. NEUBORNE. OK. But I think when you talk about how the system is going to respond, we are in a tension. There is still a lot of underreporting, and the underreporting is because you know that you will become a victim twice, once in the injury and once the way the system treats you.

And yet I think the system has properly tried to reach out through victims advocates and others to say we will help you through the system and it is important. So there is a tension as to whether you are willing to go through the process even knowing that it might hurt you personally.

And we need to make the system better because there should never be the second injury by the system. And it is outrageous that people would harbor any of these thoughts that they are going to be victimized or that somehow their conduct contributed to it.

So I think the answer is, yes, young women feel it. Some may be willing to go ahead anyway, but we need to offer them whatever protection and whatever other options in terms of resolutions of these issues that would be satisfactory to them.

The CHAIRMAN. Well, it wasn't merely an idle inquiry. The answer to that question would imply a lot for us here because it goes to the underreporting issue. If the underreporting comes from cultural biases that have been built in, lack of support systems—not merely the husband or boyfriend, but the mother who says what were you doing there at that hour, the girlfriend who says why would you have gone out with him anyway, why didn't you take more precautions—if that is the reason, then legislatively there is not a lot that I can do except raise the issue and not come up with specific resolutions.

But, if on the other hand, it is as a consequence of a woman saying, "I know what is going to happen, I know if I go down now and report the fact that—." I spend a lot of time on campuses speaking, and date rape is a big problem and an increasing concern of women on campuses, and I think for good reason.

But a woman says, "Well, I am not going to go report that because I know what will happen. The first thing is if it ever gets to court, I will have to tell the whole world everybody I ever knew, I will have to tell the whole world what my private habits are. I will have to tell the whole world. Therefore, I don't want to do that."

That, I can attempt to deal with by passing legislation; for example, like the State of Florida just did, and say that clothing is never relevant. You cannot raise in a court trial whether or not you had a miniskirt on, or whether you had nothing on, or whether you had a bridal gown on. I mean, it is not relevant. So we can do things like that, and that is the reason why I am inquiring into this area—an area that doesn't lend itself to much precision.

Ms. FAIRSTEIN. Well, I think also what I like a lot about the legislation and why it does address this is the fact that in many cases there is legislation in place. I mean, in New York; for example, when victims come—and I don't think they are necessarily negative, but they are concerned about their prior sexual history is going to be revealed.

There is a law in place, not, unfortunately, in Marla's case, not in a case like the Chambers homicide because the victim tragically was dead and so the defense was allowed to take great liberties with what they wanted the public to perceive her sexual history to be.

But one of the things that a prosecutor who is trained to deal with these issues can raise on the first meeting is to ask what her concerns are about why she might be reluctant to go through, and to explain to her what things will not be an issue at her trial and the fact; for example, that if a stranger has raped her in New York State, nothing about her previous sexual history is a proper subject for inquiry.

And I can answer that question as I do when I get a phone call from a hospital from an advocate who is saying this woman is trying to decide whether to report and she won't report if it is going to open up her personal life. And I say just give me a run-down. Well, this guy broke through her window last night. She had never seen him before, and they proceed to tell the story.

I can answer that question at that point in time, and so if there are people trained to do that, you can put some of those fears to bed before they even get into the system.

The CHAIRMAN. That is a thoughtful answer.

Ms. FAIRSTEIN. So I think that goes directly to the training of law enforcement personnel. I mean, a first cop who responds should be able to answer that kind of question: As I say when I lecture to cops and advocates and victims groups, we have a 24-hour call system. You call one of us and you can have that kind of question answered, rather than not reporting.

I would rather get involved from the first moment of a report on a case than have somebody decide for reasons, and then find out, as we all hear, gee, 5 years ago I was a victim of a crime and I didn't report it because I was afraid "xyz" would happen. So I think the legislation is there to deal with that kind of problem.

Ms. NEUBORNE. I think the legislation also deals with the bigger issue of the underlying gender bias because a lot of the underreporting is this sense that nobody will believe me, or whoever they touch in the system, whether it is the police officer or the nurse in the hospital—let us focus on what is in the court environment because that is where the legislation focuses, on training judges. If there were more training, if there were more understanding of the bias in our attitudes about these crimes that we continue to express verbally, even if the law protects ultimately the woman and the law won't necessarily allow that evidence in court—we all walk around with these biases and the people on the front lines have those same biases.

That message is getting out, and if we can change that message both through the legislation as a statement, but also through the training components of the legislation, then, again, more people will feel comfortable coming forward because they won't be rebuked even informally at those first comments that they are going to hear. And they will have some courage to go forward in the system knowing from day one that they are innocent.

The CHAIRMAN. Well, that is one of my purposes. But let me give you a criticism of my approach; I am sincerely seeking constructive

criticism. There are those who, I suspect, do not share my view at all about making this a civil rights violation. I am doing it in large part for the purpose that you just stated. But how would you respond, being an advocate for one of the leading women's organizations in the country, to the following criticism that is directed at me because of this—I don't mean me personally, but directed at this approach—and that is that the legislation is overprotective, that creating a civil rights remedy is a paternalistic gesture toward women that unfairly singles them out?

Ms. NEUBORNE. Well, I would say this is definitely not paternalistic legislation. This is not special treatment for women. This is equal treatment for women because what we have is a system that denies women the equal opportunities of the law. It denies them the remedy they are entitled to.

First of all, the legislation is and can be drafted in a gender-neutral way so that it can be for any crime based on sex, any violent crime based on a person's sex or gender, whether that is male or female. What you have heard and what is true is that the overwhelming number of victims are women. It is not inappropriate to direct resources and resolve problems that target a large number of people in our population. It is an appropriate use of limited resources.

But I do not believe it is paternalistic because I think it is very clear from what you are hearing that women are not receiving equal treatment in the courts because of the bias in the courts, because of the way the laws have been drafted, because of the absence of remedies in a whole number of situations that we have laid out, and I could relate even more of the situations where women are not entitled to equal treatment. So I think it is very clearly a question of equality and justice, and not a paternalistic approach.

The CHAIRMAN. I am in the unusual position here of trying to build a case against my own bill because I want the record to reflect—I want it to be an honest record. I think some people may be reluctant to come forward and criticize my legislation because they would view it as putting them in a position of being "antiwomen."

And there may be some very legitimate criticisms here. One of them that I received when I was preparing this legislation was the following: They said to me, "Joe, why women? If you are going to make women able to qualify under the Civil Rights Act, why not the elderly? The elderly are victims. They are preyed upon by pursesnatchers, they are preyed upon by junkies, they are preyed upon by, in many cases, as we are finding out, being abused by their children. Why not do that?"

And if you do that, Joe, then what you have essentially done is made every criminal violation in America a civil rights violation. You have essentially taken everything out of the control of the States and you have diluted the major and primary impact and rationale for the civil rights laws in the first place. How do you respond to that?

Ms. NEUBORNE. I think the civil rights law was designed to address issues of systematic bias within the system that were not being addressed in other ways, and that is why we looked for a Federal court remedy to address concerns about race and ethnic

majority because we saw and we believed that there were systematic biases against, and treatment of them based on their race.

I think you can say the same things about women. There is evidence of systematic bias against women and a nonresponsive system addressing that. I mean, there is a history of Federal legislation to correct biases against women in employment and in education. I mean, these are all brought about because we have acknowledged and are aware of the fact that without these laws, women are mistreated; women are not given the equal opportunities that are entitled to.

And I think that we see the same thing in a gender-related crime, that it is a systematic crime of bias against women. And while there is crime against elderly and crime against children, I don't think you see that kind of same bias. They have more of a random pattern. What is more, the State systems that are in place are addressing that.

You are not hearing from elderly victims that judges laugh at them or say that, you know, what were they doing. I mean, there is not that skepticism or that disbelief or you are somehow involved in your own victimization; that you have done something wrong. That is the issue we are looking to address both in Federal legislation and in the creation of a civil right because we are trying to undo a history of bias that doesn't exist elsewhere.

The CHAIRMAN. You are a very good advocate. I may need you on the floor of the Senate.

Let me ask another question. There seems to me to be an anomaly in the law. Title VII of the Civil Rights Act suggests that if, in fact, a woman is sexually assaulted in the workplace, she may sue for damages for a violation of her civil rights. Yet, if she walks out into the parking lot and is sexually assaulted in the parking lot by a stranger, she does not qualify under the Civil Rights Act.

Ms. NEUBORNE. Well, I think it is indeed an anomaly, and while it may have been appropriate at the time to address the needs of women in the workplace on a specific basis, I think it is appropriate for us to broaden it so that women have freedom of movement throughout the community.

Their ability to work is much more than simply their ability to sit in the workplace not harassed. If they can't get to work, if they can't work in a place that has night hours or that they have to travel to on public transportation alone—if these fears are going to permeate their lives; if, as Nancy said, she will no longer become a real estate broker because she is fearful of being alone in a building, I think we need to confront these issues and see that the discrimination and the bias against women and the impact of crimes against women go way beyond what we first identified as being a workplace issue.

So while it was appropriate to address that and ensure that neither Government nor private parties impeded someone's ability to work, I think we need to broaden that, and we do have, I think, the grounds for it in the commerce clause.

The CHAIRMAN. I have another question for you, Ms. Fairstein, and then for you, Ms. Young, if I may. I have provided for a significant amount of resources here. You know the process well. This is an authorization. Were this bill to pass, it would substantively

change the law as it relates to the way certain crimes are treated, and it would substantively change the law as to what remedies were available to victims.

There is another piece of the law that I find very important, as well. It provides an authorization, which must then become an appropriation—that is, resources—for training people within the criminal justice system to sensitize them to provide, if you will, a more hospitable environment—and I am a computer illiterate, but they talk about user-friendly computers—well, a woman-friendly environment in the court system.

But there is another piece of this bill, and the other piece deals with the ability of States and local jurisdictions to use these resources specifically for areas that would increase the safety of women on the street—that is, different kinds of lighting on buses and in bus terminal areas, bus stop areas. It is a way to figuratively and literally illuminate the environment within which women find themselves more today than they did 10, 20, and 30 years ago, so as to diminish the ability of an assailant to follow through on his act of sex-related violence.

Please be critical; these are not intended to be softballs. Is there, in your observation, any real benefit to, for example, changing the lighting system in parking facilities and bus stops? Do you think that would have any impact on diminishing crime?

Ms. FAIRSTEIN. In terms of street crime committed by strangers, I think obviously even if it saves a couple of women from being assaulted, it is going to have an impact. But, certainly, limited to that kind of street assault——

The CHAIRMAN. I am only talking about street crime. I have no notion that it will in any way impact upon domestic violence or crimes where you have a relationship, tenuous as it may be, between the victim and the victimizer.

Ms. FAIRSTEIN. Yes. Well, those crimes are crimes, I think, of vulnerability on the part of the victim and opportunities that the assailant has, and they are most often areas where there are no witnesses, where the victim is alone and vulnerable, usually less well-lighted and more remote—train stations, entrances and exits from train stations, bus stops. Areas in and around our housing projects in a city like New York are dreadful areas for victims. There is always one elevator that isn't working, and the victims go up a staircase that is not lighted or a defendant has concealed himself behind a stairwell.

So the amount of incidents that occur in public places at odd hours—I mean, women who work as night cleaning help in office buildings, or administrative aides and secretaries that come and go at awful hours on public transportation in the city—and anything that we can better light, better patrol, better safeguard will certainly reduce the volume of crimes of violence.

Ms. YOUNG. I would concur. I would just like to add that many women are prisoners in their own homes. They can't even walk the dog at certain hours of the day. They can't walk down to the convenience store. And there are a lot of complaints, and I think that would address that and give them more mobility in that area.

If you would like some criticism, Senator, I have two minor criticisms of the bill. First of all, it states "spouse." I spoke to your as-

sistant about that and they said that that can be tailored to reflect what I see in many of my cases. Seventy percent are unmarried, and I think that is important to address.

Also, you spoke to, before these young women become victims, what can we do. I would like to see training in the communities. We got a Federal grant to provide information to victims, and to prevent victims, to tell them what their rights are in the criminal justice system, to break down these misconceptions. I would like to see some more prevention measures included in the bill.

Ms. NEUBORNE. I would also like to add one comment, something I would like to see broadened in the bill, Senator, and that is the underlying grounds in domestic violence. The bill states that people who travel in interstate commerce on an order of protection—in other words, that protection order could be——

The CHAIRMAN. Travel with them.

Ms. NEUBORNE. Right, in interstate commerce. I think that there is a broader base for the jurisdiction, using the commerce clause generally, for all domestic violence. Again, all of the violent assaults we have seen—women need to be free to move about wherever in the community there are economic impacts.

And the analogy to the civil rights legislation is that the courts are very willing to see even a tenuous link to commerce as sufficient to allow a civil rights remedy for a bias-related crime. That is how they handled the cases when we have discussed race in terms of mobility of blacks and other minorities in their use of public facilities and in their ability to be equal participants in the community and the society.

And I think that commerce clause jurisdiction has the same underlying value for all women, whether they are in a domestic violence situation, because many of them either can't work or don't because they are battered or fearful about leaving the home, or, again, all of the issues about safety in the street. I think it covers women very broadly.

The CHAIRMAN. Well, I thank you both for those constructive pieces of criticism. As this process goes on, to the extent you have additional suggestions, I am anxious to hear them. As you know, nothing like this has ever been attempted before; nothing like this has ever been introduced before, nothing this comprehensive has been put forward before. That is the good news.

The bad news is that when you attempt something this comprehensive to deal with such a pervasive problem, you sometimes make mistakes. So I want very much to diminish the prospect that I am making a mistake in terms of not bettering the environment for women to be and feel safe, the environment for women to pursue their rights within the court system, and the environment for women and young girls like my daughter and others to grow up with the feeling that society has concluded that the rule of thumb is to cut the thumb off, figuratively speaking. I want to make sure that we no longer subscribe as a nation to the idea that sexual assaults that are gender-based and, in fact, the most virulent expression of bias against women in our society should be hidden—that is something that will no longer be tolerated.

I am always reluctant as a Federal official, as a U.S. Senator—I think one of the mistakes we make—is to overpromise. We put for-

ward pieces of legislation and we advertise them as the cure. We suggest that they are going to end or stop or eliminate whatever the grievous thing that is taking place in society is.

I want to state for the record that I have no illusions that this legislation is going to stop violence against women. But I have a hope, a sincere, heartfelt hope, that it will begin the process of making the Nation face the fact that women, by a factor of four or five to one, are more likely to be victims of violence than men; that women at this moment, for cultural reasons, for legal reasons, for a whole host of reasons, do not feel as free, do not feel as inclined—because of the biases that have been imposed—to be able to pursue their rights once victimized.

And if this does nothing else other than force that debate and that consciousness to a new level, then I will deem it to have been a success. I hope it can do more. I hope, further, that when we finish these hearings—the process of pursuing this through what you all know as professionals is an arduous legislative trek, ending ultimately on the desk of a President to sign or not sign—I hope we will not be in a position where 2 years from now I am still pursuing this issue. I hope we can move it more rapidly than is usually the case. That is my hope. It is at this moment not an expectation, but a hope.

I would point out one of the things I have found very encouraging. I have approached this in a slightly different way. Again, you are professionals and you know the process. Usually, what happens is a piece of legislation is introduced. If it is of this magnitude, cosponsors are sought, press conferences are held, and then the hearing process begins.

I have deliberately done this the other way. I have deliberately done it without advertising to anybody that this was going to occur, putting this in the Record yesterday, making it known to the press what was being done, but beginning this process of hearings and hopefully gaining constructive criticism, so that the ultimate vehicle we finally debate on the floor of the Senate is one that has been tested.

But notwithstanding that, there has been significant unsolicited, if you will, support from my colleagues and from leading advocacy groups around the Nation. I keep getting handed as we move along more and more Senators who want to be cosponsors of this legislation, and also organizations that would like to be noted as being in support of it. So I am hopeful.

Your testimony here today, coupled with that of the victims, coupled with what I suspect will ultimately end up to be additional hearings to flesh out the details of the legislation, will leave us, God willing, with a piece of legislation that will, in simple basic terms, make women feel that they have increased their prospects of not having to deal with fear. It is that simple.

I have confidence. I am like you, Ms. Young. In a different context, when I was speaking to some physicians who had—I had already undergone one procedure and I was going to have to repeat it, and I made the comment—when the press asked me what about this second procedure I had to undergo, I said, "Oh, it is a piece of cake."

And the particular physician, the neurosurgeon, saw me some time later and he was very upset with me because many of his colleagues around the country had called him and said why would you tell him that that was such a piece of cake. And he said, "If you think it is such a piece of cake, Joe, why don't you do it?" He said, "Do you know what your problem is?" And we had been talking about whether certain maladies are congenital or hereditary. "Do you know what your problem is?" He said, "Your problem is you are a congenital optimist."

Well, I suspect that I am, and I think all of you are as well. But I am optimistic about the prospects for support for this legislation, and I am optimistic that it will be, at a minimum, a positive, helpful step on the road to putting women in a position where fear is something that is no longer a pervasive part of their lives even after they seek help from within the system.

So I thank you very, very much for coming today. And, with your permission, I will call on you as this goes on for your advice and for your advocacy if you continue to think that this is a wise route for us to go.

I thank all of you for being here today, and the hearing is adjourned.

[Whereupon, at 1:01 p.m., the committee was adjourned.]

○

33-686 (120)