

# ACKNOWLEDGMENTS

The Office for Victims of Crime is grateful to everyone whose time and talent contributed to this *Report to the Nation*. For sharing their experiences about services to victims of crime, we are grateful to VOCA administrators across the country. We would also like to thank Steve Derene, Executive Director of the National Association of VOCA Assistance Administrators, who provided important insights about the deposit trends of the Crime Victims Fund.

OVC would like to express special appreciation to the project team that collaborated to develop and produce the report: primary writer Shanelle Hunter, contributing writer Jamie Whaley, senior graphic designer Cheryl Denise Collins, editor Barbara Root, and project team leader Joy Davis.

Finally, we at OVC wish to express our heartfelt appreciation to Carolyn Hightower, former Principal Deputy Director, for her oversight of this project as well as previous reports generated by our office. Her wisdom and years of experience at OVC helped shape these reports.

## MESSAGE FROM THE DIRECTOR

Dear Colleagues,

Each year brings new challenges, expectations, and accomplishments, regardless of whether one is talking about an individual or a movement. This 2007 *Report to the Nation* highlights the leadership of the Office for Victims of Crime (OVC) in the victims' rights field from October 1, 2004, through September 30, 2006, and, by extension, the field's growth and evolution.

There has been significant growth in the field during my tenure as Director of OVC, which began with a series of victim roundtable discussions. These roundtables enabled me to hear firsthand from victims and victim advocates about the obstacles encountered in providing and accessing effective services. Participants identified many issues of concern—including the financial toll of crime and the extensive need for training on victims' issues—and uniformly supported the need for a constitutional amendment protecting victims' rights in the criminal justice system.

Although the field continues to see the need for such an amendment, the Crime Victims' Rights Act (CVRA) passed in 2004 represents a significant step in the pursuit of equal rights for crime victims. The CVRA identifies specific rights to which victims in federal proceedings are entitled, including the right to be reasonably heard at any public proceeding in the district court in matters pertaining to offender release, plea, sentencing, or parole. A subsequent decision by the Ninth Circuit Court upholding the right of victims to make victim impact statements at sentencing further recognized advances in public policy and the irrevocable place of victims' rights in the criminal justice landscape.

As OVC moves forward, we will continue the work begun not just in the 2 years documented in this report, but since the passage of the 1984 Victims of Crime Act. We will continue to expand and implement victims' rights and services, promote collaborative service relationships within communities, develop promising practices that meet the needs of underserved victims, raise public awareness of victims' issues, train service providers and allied professionals in how to work most effectively with victims, and set the agenda for future needs by identifying and responding to emerging areas of victimization.

As the parent of a murdered child, I know firsthand the pain, desolation, anger, and sense of vulnerability felt by crime victims. As Director of OVC, I fully support efforts to educate others about the experience of victimization—an experience that alters one's



life and challenges the human spirit—and to help those who have lost hope to find ways to cope with the tragic events that changed their lives. Our progress in leading this change has been significant, but much remains to be done. I invite you to share in our successes and join us in our mission to enhance our Nation's capacity to assist crime victims by changing attitudes, policies, and practices to promote justice and healing for all crime victims.

I also wish to express my gratitude for the leadership and support we have received from President Bush, former Attorney General Gonzales, Attorney General Mukasey, and the encouragement from the thousands of advocates and service providers in the field.

Sincerely,

**John W. Gillis**

*Director*

# INTRODUCTION

*The Office for Victims of Crime is committed to enhancing the Nation's capacity to assist crime victims and to providing leadership in changing attitudes, policies, and practices to promote justice and healing for all victims of crime.*

*—OVC's Mission*

## **Crime affects everyone.**

Virtually every American has been a victim of crime or knows someone who has been victimized. How we go about our daily lives is influenced by the ever-present threat of crime, as well as its reality, in our cities and towns. So the impact of crime on our family, friends, and our fellow citizens must be of critical concern to us all.

The Office of Justice Programs, Office for Victims of Crime (OVC), and the network of victim service providers we support are dedicated to serving victims of crime. Our goal is to help ensure that the rights of victims are upheld and to provide compassionate assistance and financial compensation to support victims on their return to physical, emotional, legal, and economic well-being. We cannot restore wholeness to those who have suffered, but we can provide services and other resources to help them move forward in their lives.

Established in 1988 through an amendment to the Victims of Crime Act (VOCA) of 1984, OVC is charged by Congress with administering the Crime Victims Fund, channeling funds for victim assistance and victim compensation throughout the United States to support thousands of programs and services that assist millions of crime victims every year. In addition to administering the Fund, OVC works to raise awareness of victims' issues, promotes compliance with victims' rights laws, provides training and technical assistance to service providers and allied professionals, and continually develops new resources to strengthen the field, often through innovative technology.

This *Report to the Nation* describes OVC's accomplishments in Fiscal Years 2005 and 2006 as we redoubled our commitment to help victims of crime rebuild their lives and restore their hope for the future.



# *The Crime Victims Fund*

- The Fund's Revenue Sources
- Beneficiaries of the Fund
- Forecasting the Fund's Future Stability



*OVC has administered the Crime Victims Fund for more than two decades, distributing \$7 billion to assist and compensate millions of Americans whose lives have been devastated by crime. In FYs 2005 and 2006, \$1.5 billion was deposited into the Fund to continue OVC's mission of fostering help and hope among victims. Of continuing concern, however, are the large fluctuations in deposits from year to year, as well as the Fund's reliance on a few extremely large criminal fines to replenish it in the foreseeable future.*



## THE FUND'S REVENUE SOURCES

The Office for Victims of Crime is charged by Congress with administering the Crime Victims Fund, the mechanism created by the Victims of Crime Act of 1984 to support thousands of direct-service programs throughout the country, victim compensation programs in every state and territory, and training and demonstration projects designed to improve service providers' response to federal crime victims. The Fund is unique in that it is composed primarily of fines, penalties, and bond forfeitures from convicted federal offenders, thus creating a self-sufficient source of support that does not depend on tax dollars. The makeup of the Fund underscores the philosophy that those who commit crimes should be responsible, in some measure, for alleviating the suffering of victims.

The Fund has developed into a powerful resource for supporting services to victims of crime, having grown more than tenfold since 1985, its first year of operation. Despite its apparent financial strength, the Fund is vulnerable to fluctuations in deposits and other factors that may affect its ability to ensure that critical programs and services are maintained from one year to another.

### Most Revenue Comes From Criminal Fines

Federal revenues deposited into the Fund are authorized to come from the following sources:

- Criminal fines, with exceptions for fines related to certain environmental, railroad unemployment insurance, and postal service violations.
- Forfeited appearance bonds.
- Special forfeitures of collateral profits of crime.
- Special assessments that range from \$25 on individuals convicted of misdemeanors to \$400 on corporations convicted of felonies.
- Gifts, donations, and bequests by private parties.<sup>1</sup>

According to a recent study of the Crime Victims Fund, an overwhelming 98 percent of annual Fund deposits come from criminal fines and 1 percent or less each comes from

<sup>1</sup>USA PATRIOT Act of 2001, Public Law 107-56.

appearance bond forfeitures, special assessments, and private gifts, donations, and bequests. No amounts are known to have been deposited from special forfeitures of collateral profits of crime.<sup>2</sup>

During FYs 2005 and 2006, Fund deposits totaled \$1.5 billion (figure 1). A significant feature of these deposits—and of deposits generally in the past decade—is the payment of a few extremely large criminal fines into the Fund. In fact, just seven defendants are responsible for 39 percent of the total deposits in this reporting biennium. This statistic demonstrates the Fund's reliance on a few major cases and its vulnerability to significant fluctuations in available funds on an annual basis.

### Congress Works To Stabilize Fund

From its inception in FY 1985 until FY 2000, all amounts deposited into the Fund were distributed the following year to support victim services. Since FY 2000, in response to large fluctuations in annual Fund deposits, Congress has delayed obligations on annual Fund deposits above a specified level to maintain a stable source of support for future victim services. The congressionally established amounts for obligations (caps) in FYs 2005 and 2006 were \$620 million and \$625 million, respectively.

**FIGURE 1.** Crime Victims Fund Cash Flow, FYs 2005 and 2006 (in \$ millions)

Income	FY 2005	FY 2006
Deposits	\$ 833.7	\$ 668.3
Total available funds*	1,305.1	1,360.1
<b>Amount Available for Allocation (the Cap)</b>	620.0**	625.0
<b>Expenditures</b>		
Children's Justice Act	20.0	20.0
U.S. Attorneys' victim/witness coordinators	14.8	21.9
FBI victim assistance specialists	7.9	8.7
Victim notification system	5.0	5.3
OVC discretionary grants	28.6	29.6
State victim compensation grants	169.6	143.3***
State victim assistance grants	372.8	395.9

\* In each fiscal year, amounts available for the Antiterrorism Emergency Reserve as well as carry-over funds from the \$68.1 million appropriated by Congress for the response to the September 11 terrorist attacks are reflected in this amount. In FYs 2005 and 2006, the amount available was \$52,408,776 and \$52,775,398, respectively.

\*\* Amount available after recision.

\*\*\* Reflects a correction based on an incorrect state payout.

<sup>2</sup>Steve Derene, 2005, *Crime Victims Fund Report: Past, Present, and Future*, Madison, WI: National Association of VOCA Assistance Administrators, p. 5.



## BENEFICIARIES OF THE FUND

During FYs 2005 and 2006, state, tribal, and federal victim programs received formula grants, discretionary grants, and set-asides from Fund amounts under the cap. Each allocation furthers OVC's mission of providing service to crime victims, from ensuring the right to be heard in court to providing access to emergency medical and psychological services. The main funding streams that support programs and services for victims include—

- **State victim assistance program formula grants** to support direct victim service providers.
- **State crime victim compensation program formula grants** to supplement state funds to reimburse victims of violent crimes for out-of-pocket expenses that result from the crime.
- **OVC discretionary grants** that fund training and technical assistance activities, program evaluations, national-scope demonstration projects, compliance efforts, fellowships, and internships.
- **Victim-witness coordinators** in U.S. Attorneys' Offices, who assist victims of federal crimes and inform them of a variety of issues, including restitution orders and their right to make oral and written statements at sentencing in accordance with the *Attorney General Guidelines for Victim and Witness Assistance*.
- **Federal Bureau of Investigation (FBI) victim specialists**, who keep victims of federal crimes informed of case developments and proceedings and direct them to appropriate resources.



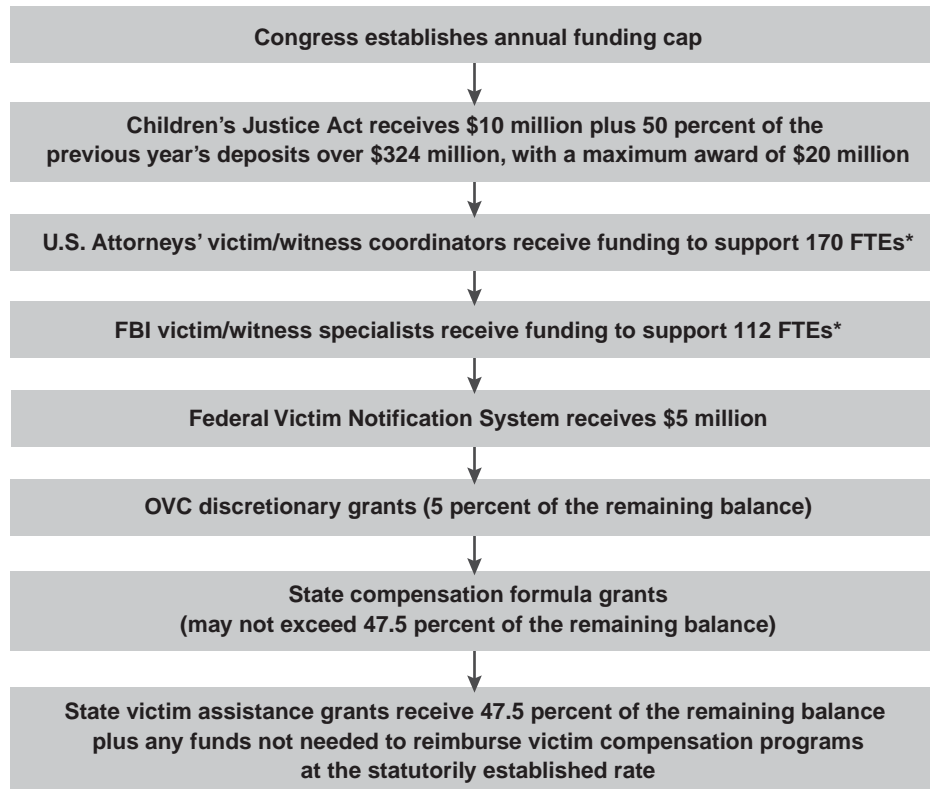


- **The Federal Victim Notification System**, which provides a means for notifying victims of federal crimes about the release or detention status of offenders, the filing of charges against suspected offenders, court proceedings and outcomes, and sentences and restitution.
- **The Children's Justice Act (CJA)**, which provides formula grants to states and discretionary grants to tribes for services and programs to improve the investigation and prosecution of child sexual abuse and neglect cases in American Indian and Alaska Native communities.

In addition, the VOCA statute allows amounts retained in the Fund after these program areas are funded to be used to replenish the Antiterrorism Emergency Reserve, which funds

emergency expenses and other services for victims of terrorism or mass violence within the United States and abroad (see Terrorism section).

The sequence in which the amount allocated for each program area is determined (figure 2) can have a significant impact on victim services funded by VOCA state victim assistance formula grants and, to a lesser degree, OVC discretionary grants. Because other program area allocations are calculated first, and the amount allocated for crime victim compensation grants is fixed by a formula, an increase in any of the other areas reduces the amount available for state assistance grants and OVC discretionary grants. Conversely, in FY 2006, the amount needed for compensation grants declined due to a drop in state-funded compensation benefits by several large states, increasing the amount available for state assistance grants and OVC discretionary grants.

**FIGURE 2.** Crime Victims Fund Allocation Process

\*Full-time employees.

## FORECASTING THE FUND'S FUTURE STABILITY

As noted, a few large criminal fines can have a substantial impact on current and future Fund deposits and, consequently, on the ability of victim programs to provide much-needed services to crime victims. Since FY 1996, deposits into the Fund have totaled \$5.9 billion, of which \$2.6 billion (44 percent) came from just 17 criminal defendants out of more than 50,000 defendants ordered to pay fines. Without the large fines, average annual Fund deposits would have dropped from \$591 million to \$331 million. The fluctuations caused by these cases prompted Congress to stabilize annual Fund obligations, creating a “rainy-day” balance for future services. This balance is drawn upon to supplement annual Fund deposits in years when deposits are lower than the cap (see figure 3).

The disposition of several recent cases is likely to contribute to the Fund’s stability in the near future. Three large cases involving price fixing among manufacturers of computer semiconductor memory chips resulted in plea agreements in which the defendants were ordered to pay large fines. Rather than pay their fines in lump sums upon conviction, these defendants are paying them in installments:

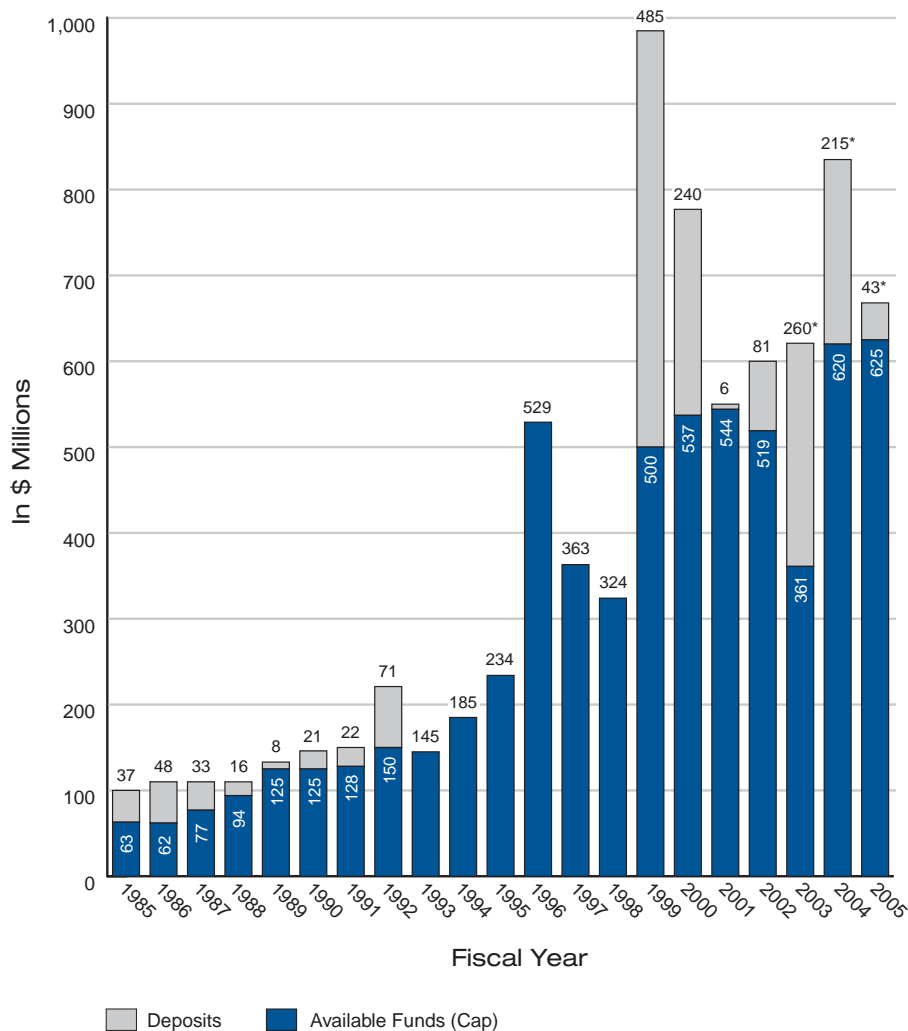
- Infineon Technologies, October 2004—\$160 million to be paid in five annual installments of \$27 million, with a final payment of \$25 million in FY 2009.
- Hynix Semiconductor, Inc., May 2005—\$185 million with an initial payment of \$10 million and five subsequent annual installments of \$35 million each through FY 2010.
- Samsung Electronics Company, December 2005—\$300 million to be paid in six annual installments of \$50 million each through FY 2011.

The annual installments from these cases will increase average annual deposits by approximately \$112 million over the next 5 to 6 years. Assuming defendants pay their fines as agreed, these installments will help even out deposits at a somewhat higher level.

Even with the major fines, average annual deposits into the Fund (\$591 million) are less than the most recent congressional cap (\$625 million). At this rate, the rainy-day balance will eventually



**FIGURE 3.** Crime Victims Fund Deposits and Funds Available for Distribution



\*Denotes that FY cap is reduced by congressional discretion.

Source: Compiled from Office of Justice Programs data.

be drawn down, raising concern about the Fund’s ability to sustain victim services and to meet the needs, in particular, of underserved groups such as victims of human trafficking, stalking, and other emerging crimes.

Consideration should be given to proposals to supplement Fund revenues from other sources, if deposits fail to keep pace with needed services. Proposed supplemental sources of revenue include proceeds from the False Claims Act, unclaimed restitution,

and civil fines and penalties. Supplemental revenues such as these are consistent with the intent of the original drafters of VOCA—that those who violate federal laws, rather than taxpayers, should contribute to the support of victim services.

This report demonstrates—sometimes in the words of victims themselves—the importance of maintaining a sound, secure Fund in order to continue serving the needs of crime victims throughout our Nation.



