

Testimony of Jack Whelan, District Attorney  
Delaware County, Pennsylvania

Hearing before the  
U.S. Senate Committee on the Budget

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Good Morning, Senator Toomey,

My name is Jack Whelan. I am the District Attorney for Delaware County, Pennsylvania. In November 2011, I was elected as District Attorney and took office in January 2012, for a four-year term. From 1986-1991, I served as a Delaware County Assistant District Attorney, as a trial team leader. During that time, I prosecuted many defendants for capital offenses as well as for other felonies and misdemeanors. As a practicing attorney for 25 years, I led the firm of Whelan, Doyle & Pressman LLC in the area of civil litigation, municipal representation and decedent estates. Before becoming District Attorney, I served as Chairman of Delaware County Council, which oversees the county government operations that serve the 560,000 residents of Delaware County. I was first elected to a four-year term on County Council in 2005, was re-elected to a second four-year term in 2009 and took the oath of office in January 2010. As Council Chairman, I partnered with the District Attorney's Office on many crime prevention initiatives, such as the Senior Exploitation Unit and the Safe Schools Summit. In 2010, I helped establish the Delaware County Veterans Justice Initiative with the goal of establishing a Veterans Treatment Court to address the post-service needs of veterans who land in the criminal justice system.

I want to thank Chairman Enzi, Ranking Members Sanders, and you, Senator Toomey, for organizing this hearing.

Although the third smallest county by geographical area in the Commonwealth, Delaware County remains the fifth most populous county in the state with a population of more than 560,000. Delaware County can be described as a microcosm of the changing economic and human fabric which makes up most of the country. Delaware County is comprised of working

class and middle class communities, along with a section of upper class neighborhoods. The county also has an inner ring of older suburban communities that have seen a significant influx of immigrant populations, with accompanying cultural and language barriers. Upper Darby, which is the largest township by population in the Commonwealth, has more than 84 native languages that are spoken at the school district's Beverly Hills Elementary School. Delaware County is also home to the city of Chester, the only city in the county. With a population of more than 34,000, Chester today is half the size it once was in its economic and industrial heyday. What is now left is a city suffering from poverty, violence, drug dealing and a financially bankrupt school district, with one of the highest per capita murder rates in the country. With these types of challenges, comes the need for additional crime victims' support and services.

On a daily basis, the District Attorney's Office works closely with Delaware County's 42 separate municipal police departments on public safety initiatives to address the rise in homicides seen in the county. The Office of the District Attorney formed the Anti-Violence Task Force with the mission to provide collaborative programs and resources to assist the community in recognizing and reporting violent crimes.

Also, a review of demographic data shows that the number of Pennsylvanians who are over 65 years of age is rapidly increasing and the wave of seniors is expected to increase in Delaware County over the next ten years. It is a fact that as people get older, they may suffer from poor vision, mental lapses and confusion, physical limitations and isolation. All of these factors can make our seniors the perfect prey for criminals who will take advantage of them through financial exploitation and fraud or harm them through physical abuse or neglect. To combat the problem of rising crime against senior citizens in Delaware County, we created the Senior Exploitation Unit to solely investigate and prosecute those who cheat, abuse or deceive our older residents. Beginning in January 2012 and continuing since that date, the Office of the District Attorney expanded the Senior Exploitation Unit in an effort to better investigate crimes and raise awareness about the illegal schemes perpetrated against seniors and to provide these senior victims with access to services and assistance.

In September 2012, in partnership with Delaware County Council, the Office of the District Attorney formed the Delaware County Heroin Task Force to raise awareness about the epidemic of prescription drug and heroin abuse impacting the nation and the county. Our Task Force has been the driving force behind several opioid prevention and awareness initiatives that have received state-wide recognition, including the implementation of a countywide law enforcement naloxone program. As founder and chairman of the Heroin Task Force, I want to thank you, Senator Toomey, for your work fighting the scourge of opioid abuse, and for co-sponsoring the bipartisan National All Schedules Prescription Electronic Reporting (NASPER) Reauthorization Act, which prevents doctor shopping, and for leading the bipartisan effort to enact a "Patient Review and Restriction" program for Medicare to stop drug diversion and ensure at-risk beneficiaries receive appropriate treatment.

In spring 2015, the Office of the District Attorney assembled a committee that has a vested interest in domestic abuse and how domestic abuse related cases are addressed in the criminal justice system as well as Protection from Abuse (PFA) Court. From a law enforcement perspective, the committee is examining investigative techniques surrounding domestic abuse, from the original response call by the patrol officer, through each step in the criminal justice system.

Additionally, the Domestic Abuse Review Team (DART) is reviewing the law enforcement process of serving Protection from Abuse Orders from inception on through Magisterial District Court and the Court of Common Pleas, to review best practices and to implement change within the criminal justice system. The Delaware County District Attorney's Office recently announced plans to better identify and serve high risk victims of domestic violence in partnership with the Domestic Abuse Project of Delaware County through the implementation of a county-wide Lethality Assessment Program (LAP) for all police officers in Delaware County, a procedure that can help identify threats before violence occurs and save lives.

I want to thank you, Senator Toomey, for your efforts to protect the people of Pennsylvania from violent crime, and ensure victims of crime have the resources they need. As a father of four, I am grateful for your efforts to protect our children from child molesters and other predators infiltrating our classrooms. Last year, 459 teachers and other school employees were arrested for sexual misconduct with children, including 26 Pennsylvania educators. Your bipartisan Protecting Students from Sexual and Violent Predators Act takes two common sense steps: It requires schools that receive federal funds to perform criminal background checks on any employees or contractors who have unsupervised access to children, and it bans the terrible practice of "passing the trash"—where a school knowingly helps a child molester resign quietly obtain a new teaching job elsewhere. The Association of Prosecuting Attorneys, the Pennsylvania District Attorneys Association, and the National District Attorneys Association have endorsed this important bill.

I am pleased to join you in your effort to restore fairness to the Crime Victims Fund, and dramatically increase funds to victims of crime in Pennsylvania.

### **Crime in Pennsylvania**

Every year, we see too many people victimized by crime. In 2013—the last year for which we have complete data—Pennsylvania law enforcement received reports of 42,849 instances of violent crime, including 9,273 instances of child and student abuse, 3,774 rapes, and 23,719 aggravated assaults, and 263,240 reports of property crime such as burglary and car theft.<sup>1</sup>

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<sup>1</sup> Crime in the United States 2013, Table 5: Crime in the United States by State 2013, available at [http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2013/crime-in-the-u.s.-2013/tables/5tabledatadecpdf/table\\_5\\_crime\\_in\\_the\\_united\\_states\\_by\\_state\\_2013.xls](http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2013/crime-in-the-u.s.-2013/tables/5tabledatadecpdf/table_5_crime_in_the_united_states_by_state_2013.xls); Pennsylvania Department of

The year of 2014 was one of the deadliest in Delaware County, with the loss of 49 people at the hands of another. Six of the 10 women murdered in 2014 were killed in domestic incidents, an unusually high number for Delaware County which doubled last year, as compared to 2013.

In August 2014, 28 year-old Christina Corrigan-Belajonas was repeatedly stabbed by her husband and fatally shot in the head in front of their two sons, ages 4 and 5, at their home in Drexel Hill. He left her to die and fled to New York abandoning their sons at a CVS and later died of a self-inflicted gunshot wound while police were in pursuit.

In December 2014, Stephen Rozniakowski, an officer with the Colwyn Borough Police Department, allegedly shot and killed his former girlfriend, Valerie Morrow, 40, and wounded her 15-year-old daughter. According to the investigation, he became enraged after he found out Valerie, his former girlfriend, had purchased a new car with her husband. In the days before her death, he phoned her 60 times and sent her 20 emails while she was at work. The harassment continued and Valerie Morrow applied for a protection-from-abuse order in fear of her life. Just days later, Stephen Rozniakowski, wearing a bulletproof vest and armed with a .40-caliber handgun, kicked down the door of the Morrow's home in Glenolden, Pennsylvania and began firing, killing Valerie and wounding her daughter. The shooting occurred hours after he was served the order and days before he was due in court in a separate stalking case involving a Montgomery County woman.

These are just two tragic stories of the domestic related homicides that have occurred in Delaware County. As a prosecutor, I see the devastating effects of domestic related crime first hand and far too often. Many of the cases we prosecute are heartbreaking and frustrating.

We believe lives can be saved through the two-pronged intervention approach of Lethality Assessment Protocol (LAP) in which first responders to domestic violence calls conduct a research-based lethality screening to determine if there is a high risk of the victims being seriously injured or killed, and if necessary, immediately connecting victims with advocates for support and safety information. While several police departments already have LAP pilot programs underway, including Norwood Borough, Collingdale Borough and Marple Township, the Domestic Abuse Project of Delaware County, is providing training for officers with the goal to have every responding officer trained in conducting the assessment and implementing the protocol. The lethality assessment is an easy and effective tool that helps identify threats before violence occurs. With practices like this in place, we will definitely save lives.

We prosecutors know that we are just a part of the victim's path toward justice and healing. Putting offenders behind bars is a crucial to vindicating victims' rights, but it is only one part of a victim's long journey to recovery. Victims often need medical care for wounds from violent

crime, mental health counseling, repairs to their homes and other assistance. The Crime Victims Fund plays a crucial role in a victim's process of healing.

Since the Delaware County Domestic Abuse Project was established 36 years ago, it has grown to include help for battered men and children as well as women from all walks of life. The Domestic Abuse Project of Delaware County (DAP) offers free services to victims of abuse, including help navigating the legal system and obtaining protection orders. The group also provides emergency housing for victims and their children at several shelters at secure and anonymous locations. The Domestic Abuse Project of Delaware County (DAP) has provided assistance to 3,608 victims in the 2014 fiscal year alone during which DAP attorneys made 362 court appearances, 146 victims were assisted with temporary protection from abuse orders and 164 clients were represented for final Protection from Abuse orders. In addition, 3,211 nights of emergency shelter were provided to 56 women and 75 children.

We believe that the lethality assessment program will keep victims of domestic violence safe by encouraging more victims to use the support services available. Once trained, the police officer arriving on the scene of a domestic violence incident will assess the situation. If factors indicate danger exist, the officer will ask the victim a series of questions to identify the level of danger each victim has of being killed. Victims who answer yes to one of the first three questions are considered to be at high-risk. Victims who answer yes to four of the next eight questions are also considered to be in danger. LAP protocol then directs law enforcement to initiate the intervention and connect high-risk victims with the domestic violence hotline, where the victim will immediately be connected with services. The program originated in Maryland by a team of researchers who identified several factors that indicate an increased risk of homicide by an intimate partner. In Maryland, where every law enforcement agency participates in the program, domestic violence deaths have dropped by an average of 34 percent over the past five years.

When an innocent child is the victim of a sexual crime, it takes great courage to tell someone about the painful ordeal. In the past, the forensic process often resulted in the young victim having to recount the horrific incident to countless investigators and child welfare workers, causing them even more trauma. The victims and their families were often sent from one agency to another, from the police department to the hospital to children's social services to the therapist's office.

Since April 2015, young victims in Delaware County have been able to be served in one safe place, the Delaware County Children's Advocacy Center (DCCAC). The center is a neutral, child-friendly setting where the team of law enforcement officers and social service professionals can coordinate their response to child-sex-abuse cases. The new Center, at 100 W. Sixth St., Media, is operated by Family Support Line, an agency that has been serving young victims of sexual abuse for 25 years, providing abuse prevention programs and therapy sessions for the victims and their families. The multi-disciplinary teams are made up of law enforcement officers,

child protective service personnel, prosecutors, lawyers, advocates, mental health therapists and medical personnel. A specially trained forensic interviewer meets with the child in one room, equipped with video cameras, while the team can observe from a different room. Interviews are recorded reducing the number of times the child needs to be interviewed. The process is accredited by the National Children's Alliance. Information gathered in the forensic interview is used to help make decisions about protection, prosecution and treatment.

The Delaware County CAC is the result of two years of collaborative planning among several agencies. I would like thank you, Senator Toomey, for your strong support of the creation of CACs across the nation. In late April 2015, the Senate passed the Justice for Victims of Trafficking Act, which you staunchly supported and co-sponsored. This bill ensures that a portion of the funds confiscated from perpetrators of crimes are used those funds to set up CACs.

### **The Crime Victims Fund**

The Crime Victims Fund was created in 1984: It was approved by overwhelming, bipartisan votes in both the U.S. House of Representatives and the U.S. Senate, and signed into law by President Ronald Reagan.

The Crime Victims Fund is based on a simple idea: Money the government collects from those who commit crimes should be used to help those victimized by crime. Each year, criminal fines and penalties collected by the federal government are deposited into the Crime Victims Fund. The Fund receives no taxpayer dollars.

Under federal law, money deposited into the Crime Victims Fund may only be used to assist crime victims. DOJ disburses money from the Fund to various groups to provide services to victims of crime. The U.S. Justice Department makes some grants directly to victim service groups. The bulk of the money disbursed from the Crime Victims Fund goes to States for victim compensation and victim assistance services:

- Victim compensation is money paid directly to victims of crime to offset the costs of medical care, mental health counseling, loss of earnings, funeral costs, childcare, relocation expenses, and other direct effects of crime.<sup>2</sup>
- Victim assistance is money paid to victim service groups, including Child Advocacy Centers, rape crisis centers, and domestic violence shelters.

Federal statute recognizes that certain crimes are especially damaging to victims, and require extensive services. Accordingly, the statute creating the Crime Victims Fund designates three priority groups to receive services: victims of child abuse, victims of rape and sexual assault, and victims of domestic violence.

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<sup>2</sup> Pennsylvania Commission on Crime and Delinquency, Victim Services: Victims Compensation Assistance Program, available at <http://www.pccd.pa.gov/Victim-Services/Pages/Victims-Compensation-Assistance-Program-%28VCAP%29.aspx#.VWoR8kZUUDY>.

For the first 15 years, the Crime Victims Fund worked roughly as it should: Each year, the Crime Victims Fund disbursed what it brought in the prior year.

That changed in fiscal year 2000. Since then, each year, Congress has taken hundreds of millions of dollars that, under federal law, must go to victims of child abuse, domestic violence, sexual assault, and other crimes. Congress uses this money for other discretionary spending—despite the fact that federal law says money deposited into the Fund may only be used to assist crime victims through the Fund.

For example, from fiscal year 2010 through fiscal year 2014, the Crime Victims Fund collected \$12 billion, but gave crime victims only \$3.6 billion (or 30%). Congress used the \$8.4 billion difference for other, discretionary spending in the CJS Appropriations Bill.

At the same time, through a budget gimmick, Congress pretends the money is still in the Crime Victims Fund. It tells the American people that money Congress has already spent years ago, has not been spent, and is still sitting there in the Crime Victims Fund, available for victims.

This is troubling from a transparency standpoint: As a taxpayer, it is frustrating to know that every year, Congress is under-reporting the true size of the budget deficit by pretending money it has already spent is still there.

This is even more troubling for the standpoint of a victim advocate. The fact that Congress might make money available at some point years and years in the future is no consolation to victims who desperately need help now. A child who has been physically or sexually abused needs help now. A woman seeking medical and emotional support at a rape crisis center needs help now. A woman and her child seeking a bed at a domestic violence shelter, to escape an abuser, needs a place to stay now.

Unfortunately, year after year after year, victims have not received the help they need—and that federal law entitles them to—because Congress has diverted money from CVF.

### **Restoring Fairness to the Crime Victims Fund**

I am glad to have this opportunity to work with you to increase the amount of money released from the Crime Victims Fund.

I was pleased to see the Budget Resolution adopt your proposal to release over \$2.5 billion from the Crime Victims Fund for fiscal year 2016. This is more than three-fold the \$745 million released in fiscal 2014. Your Fairness to Crime Victims Act will provide a permanent, stable fix to the problem of Congress withholding funds. It will require that each year, Congress release from the Fund the average amount collected over the past three years

Your bill will make a concrete difference to the people of Pennsylvania. Under the Fairness for Crime Victims Act, Child Advocacy Centers, rape crisis centers, domestic violence shelters, and

other victim service groups in Pennsylvania will see funds more than quadruple—going from \$17 million in fiscal year 2014 to an estimated \$70 million in fiscal year 2016.

The release of additional funds from the Crime Victims Fund would provide invaluable, additional support to ensure that the medical, mental health, family counseling, and support services needed for the Delaware County Child Advocacy Center can operate effectively and expand and provide more services. It has been shown that CACs have resulted in more pleas for the prosecution and longer sentences for the perpetrators. Children and Youth Services, municipal, state and law enforcement and county prosecutors continually recognize the need for enhanced medical, mental health, and child and family advocate services for our most vulnerable victims of crime. Newly released funds from the Crime Victims Fund would allow for police trainings and hiring of additional forensically trained child interviewers and the permanent addition of trained family and child advocates at the Delaware County Child Advocacy Center.

Victims of domestic violence are in Delaware County Protection from Abuse (PFA) court on a weekly basis, with emergency PFAs seen daily in the court. From January to June 2015, alone, 863 PFA petitions have been filed in Delaware County. Delaware County Women Against Rape (WAR) and Crime Victim Services, and the Domestic Abuse Project effectively and efficiently provide a high level of services to victims of sexual assault and to victims of other serious crimes. This is reflected in the statistics included in the Delaware County Women Against Rape 2013-2014 yearly report. Nearly 2,000 victims and significant others were served through criminal justice court accompaniments, and Crime Victim Compensation Claims. Additionally, nearly 1,300 victims of other serious crimes were served by WAR in the same manner. Since 2001, the VOCA funded staff at the agency has assisted victims in receiving nearly \$2 million in awards from the crime victim compensation fund. Also, in the fiscal year 2013-2014, the agency presented 1,292 educational programs reaching 35,367 residents of Delaware County, the majority of whom were school children.

Additional Crime Victim funding would allow Delaware County Women Against Rape (WAR) to provide even more educational and prevention programs, and more comprehensive counseling and accompaniment services.

The potential increase of Crime Victim Funds would assist Delaware County in developing a Domestic Violence Specialty Court with intensive counseling, supervision and follow-up and result in a reduction in re-victimization.

Additional funds from the Crime Victims Fund will allow the Office of the District Attorney and the Domestic Abuse Project to accomplish the goals to expand training to all police officers in Delaware County by providing funding for programs and overhead costs for training such as building rental fees and materials, and funding for victim services. We believe that the lethality assessment program will keep victims of domestic violence safe by encouraging more victims to use the support services available and seek help before it is too late.



Additional Crime Victim funds to victims would allow Family Support and the Delaware County Child Advocacy Center to benefit in many different ways. This will allow the CAC to increase the number of children and families receiving specialized treatment services, support the advancement of skills for professionals in Evidence Based Treatments as recommended by the National Children's Alliance, and provide Family Advocate Services for parents whose children are being interviewed through the Children's Advocacy Center. Additional Crime Victim funds are critical in supporting the space and infrastructure which makes the Multi-Disciplinary Interview Team coordination, specialized interview and recording possible. If allowed, with a legislative language change, the CAC will be able to use Crime Victim funds for Forensic Interview services. Also, increasing funds is essential since we do not have a funding stream for law enforcement only cases, which is one third of the interviews handled by the CAC.

In conclusion, the release of additional Crime Victim Funds would further serve and protect the most vulnerable and neediest members of our community. Again, I would like to thank Chairman Enzi, Ranking Members Sanders, and you, Senator Toomey, for organizing this hearing and for allowing me to provide this testimony.