

The Violence Against Women Act and Its Impact on Sexual Violence Public Policy: Looking Back and Looking Forward

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The Violence Against Women Act, the first federal legislation to comprehensively address violence uniquely targeted at women and their children, represents a key turning point in our nation's response to sexual violence, domestic violence, and stalking. Ten years after its passage, and on the eve of an anticipated reauthorization, those who have worked with the Act and the policy makers deciding its fate must address the remaining gaps, including the absence of dedicated funding to support core services for victims of sexual violence.

As this paper illustrates, the Violence Against Women Act (VAWA) has improved federal, state, and local responses to sexual assault by spurring changes in public attitudes, policy, and law. However, much remains to be done in order to more fully address the emergency and on-going needs of victims of sexual violence and their families. Additionally, while the VAWA initiated progress in strengthening the criminal justice system's response to sexual violence, it's clear that major service, funding, and policy gaps remain. If the VAWA aims to encourage victims to engage in the criminal justice system, there is a related responsibility to provide for the crisis, emergent, and on-going emotional healing, legal and economic needs of those same victims.

The Genesis of the Violence Against Women Act: A History of Activism and Legislative Action

Beginning in the late 1980's and intensifying during the early 1990's, advocates for victims of sexual violence, domestic violence and stalking mobilized to initiate federal legislation to address these crimes. During the 2000 Presidential election, when "tough on crime" messages played a central role in both nominees' campaigns, violence against women activists around the nation seized the opportune moment to push their vision forward.¹ National, state, and local organizations began to engage in coalition-building and to seek support for federal legislation. This group drafted legislation that would eventually become the first Violence Against Women Act.

This group, however, did not include significant representation from the sexual violence field. As noted in a recent article of the National Sexual Violence Resource Center:

"...by 1990 the anti-domestic violence community had achieved more cohesion than the anti-sexual assault programs and domestic violence had already built a national infrastructure. Therefore, as the idea of VAWA came to fruition in 1990, domestic violence entered the process with greater organization and strength."²

¹ "Ten Years of VAWA Strengthening Anti-Sexual Violence Work." The Resource. Newsletter of the National Sexual Violence Resource Center Spring/Summer 2004. Susan Lewis, Ph.D.

² Ibid.

Concurrently, the Senate Judiciary Committee, under the leadership of Senator Joseph Biden, initiated a multi-year review of the status of violence against women in America.³ In 1993, a report was issued, clearly outlining the Committee's rationale for introducing, and support for, the Violence Against Women Act. As Senator Biden noted in the Introduction section:

“The report I issue today culminates a 3-year investigation by the Judiciary Committee’s majority staff concerning the causes and effects of violence against women...Through this process, I have become convinced that violence against women reflects as much a failure of our Nation’s collective moral imagination as it does the failure of our Nation’s laws and regulations...Today, the majority staff releases findings of a 6-month investigation of State rape prosecutions. These findings reveal a justice system that fails by any standard to meet its goals – apprehending, convicting, and incarcerating violent criminals...”

Senator Biden also addressed the need to change national attitudes, not simply national legislation:

“More than any other factor, the attitude of our society that this violence is not serious stands in the way of reducing this violence. This attitude must change...The first step in altering our attitudes toward this violence is to understand the failures of our laws and policies in this regard. Our criminal laws must be judged by their effectiveness in responding to the injustices done to victims of violence...The knowledge that society and its criminal justice system offer no real protection has the potential to victimize all women, forcing them to remain in abusive family situations, or to circumscribe their lives, because of fear. The stakes are high. If we do not succeed, we risk the faith of over half our citizens in the ability – and the willingness – of our criminal justice system to protect them. And, what is worse, we condemn future generations to accept not only the possibility of violence but the reality of lives too often limited by the fear of violence.”⁴

The report concluded that, “a national coordinated response to the problem of violence against women is long overdue.”⁵ It took several years, but the Violence Against Women Act - initially introduced in January 1991- eventually passed in August of 1994.⁶ When it finally passed, it received nearly unanimous bi-partisan support and contained a combination of new federal criminal penalties and a myriad of grant programs to support both state and local criminal justice and victim services responses to violence against women.

Though the Act was intended to address domestic violence, sexual violence, and stalking, it did not specify an equitable distribution of grant funds for victim services among all three crime areas. The original VAWA did, however, create a new formula grant program for rape prevention and education, providing crucial financial support for rape crisis hotlines, victim counseling, training of allied professionals such as law enforcement and medical personnel, and

³ Refer to “The Response to Rape: Detours on the Road to Equal Justice.” A Majority Staff Report Prepared for the use of the Committee on the Judiciary, United States Senate, 103rd Congress, First Session. U.S. Government Printing Office. May 1993.

⁴ “The Response to Rape: Detours on the Road to Equal Justice.” Ibid. Page V.

⁵ “The Response to Rape: Detours on the Road to Equal Justice.” Ibid. Page 14.

⁶ The Act was signed into law as Title IV of the Violent Crime Control and Law Enforcement Act of 1994 (PL-103-322).

education programs in college and secondary schools. In the end, the original VAWA provided much needed grant funds to support a primarily criminal justice centered approach to responding to violence against women. However, while clearly addressing some of the needs of victims of sexual violence and those who work to assist them, this approach created a significant public policy gap by not including funding for basic services for victims of sexual violence.

Overview of the Original Violence Against Women Act (1995-2000)⁷

Fiscal Appropriations for VAWA I

During the first 5 years of the VAWA, over \$1.8 billion was appropriated for grant programs.⁸ This includes programs administered by both the U.S. Department of Justice and the Department of Health and Human Services. Through the STOP (Services*Training*Officers*and Prosecutors) Formula Grant Program alone, from 1995 to 2000, an excess of \$440 million was awarded to support 9,000 projects.⁹

Impact of VAWA I

As the original authorization period for the VAWA came to a close, indications that attitudinal and behavioral changes were occurring across the nation emerged. And, while little to no empirical evidence measuring the effectiveness of VAWA I is available, anecdotal evidence suggests that the original VAWA was a successful start. As a September 1999 report issued by Senator Biden stated, "...we have successfully begun to change attitudes, perceptions, and behaviors related to violence against women."¹⁰ The report also claimed that, "Five years after the Violence Against Women Act became law, it is demonstrably true that the state of affairs that existed before its enactment has changed for the better."¹¹

Overview of VAWA II

Beginning in 1997, sexual and domestic violence advocacy organizations and activists met to discuss strategies for continuing the VAWA and formed a committee to draft a new version of the bill.¹² Their effort resulted in a bill that identified necessary technical amendments, created new grant programs, and increased authorization levels for existing grant programs. During this round of legislative activity, the sexual violence field was more active in drafting the bill and

⁷ A summary of the content of the original VAWA is not included in this paper. For more information on the content of the original VAWA, refer to the U.S. Department of Justice, Office on Violence Against Women webpage at <http://www.ojp.usdoj.gov/vawo/regulations.htm>.

⁸ "Safer Streets, Safer Homes: The Success of the Violence Against Women Act and the Challenge for the Future." A Report from Senator Joseph R. Biden, Jr., September 1999. Page 5.

⁹ "Evaluation of the STOP Formula Grants to Combat Violence Against Women: 2001 Report." The Urban Institute. September 2001. Page vii.

¹⁰ "Safer Streets." Ibid. Page 5.

¹¹ "Safer Streets." Ibid. Page 9.

¹² "Ten Years of VAWA Strengthening Anti-Sexual Violence Work." Ibid.

gathering support for passage. As a result, the final version of the bill included a stronger focus on the needs of victims of sexual violence and those who work with them.

VAWA II received tremendous support from Congress. Introduced on January 19, 1999, it passed by nearly unanimous vote in the House of Representatives on October 6th (371-1) and unanimous vote in the Senate on October 11th. It was finally signed into law by President Clinton on October 28th.¹³ VAWA II authorized \$3.3 billion for fiscal years 2000-2005, representing a significant increase over the previous VAWA. One of the new provisions set aside 2% of funds from the STOP Formula Grant Program to provide funding directly to state sexual and domestic violence coalitions. In addition, funding for the first national resource center on sexual violence was established through the Rape Prevention and Education Grant Program.

Evaluations of the First Ten Years of the VAWA

As noted earlier, after the first five years of VAWA, empirical evaluations of the effectiveness of the Act were not available. However, after ten years, a small number of evaluations began to emerge. Unfortunately, due to the nature of grant funding provided through the Act – with an emphasis placed on local jurisdictions, state control through formula grants, and a variety of discretionary grant programs – the overall effectiveness of the Act remains difficult to measure.¹⁴ As of 1991, only two studies measuring the effectiveness of individual grant programs were available.¹⁵ Unfortunately, neither offers conclusions regarding the overall effectiveness of the Act.¹⁶

The evaluation of the STOP Formula Grant Program, however, provided empirical evidence that grant monies from the VAWA were disproportionately allocated to address domestic violence, a claim made by the sexual violence field for many years. The 2000 evaluation report issued by the Urban Institute found the following:

“An analysis of the (Subgrant Award Progress Report) data for 3,444 projects funded through STOP during the first five fiscal years (FY 1995-1999) of VAWA confirm the findings of earlier reports that less attention and STOP funding is devoted to sexual assault than to domestic violence...Nearly 93 percent of law enforcement and

¹³ Refer to Division B of the Victims of Trafficking and Violence Protection Act of 2000 (P.L.106-386). The New Violence Against Women Act. Salwa Nassar. National Center for Policy Research (CPR) for Women & Families.) <http://www.center4policy.org/violencel.html>

¹⁴ “Violence Against Women Act: History, Federal Funding, and Reauthorizing Legislation.” Congressional Research Service Report for Congress. Alison Siskin, Analyst in Social Legislation, Domestic Social Policy Division. Updated October 12, 2001. Order Code RL30871. Page 1.

¹⁵ Refer to 1) Martha R. Burt, Lisa C. Newmark, Lisa K. Jacobs, and Adele V. Harrell. *1998 Report: Evaluation of the STOP Formula Grants Under the Violence Against Women Act of 1994* (Washington, D.C.: Urban Institute, 1998) and 2) Neal Miller. *National Evaluation of the Arrest Policies Program Under VAWA*.

¹⁶ “Violence Against Women Act: History, Federal Funding, and Reauthorizing Legislation.” Congressional Research Service Report for Congress. Ibid.

prosecution STOP projects in the survey said their agency focused primarily on domestic violence, compared to 7 percent reporting a primary focus on sexual assault.”¹⁷

Positive Outcomes of the VAWA

While empirical evidence measuring the over-all effectiveness of the VAWA is scarce, clear markers of positive outcomes do exist.

Changes in Law

One of the driving concerns of sexual and domestic violence activists, along with the initial Congressional supporters of the Act, pointed to the deficiencies, insensitivities, and improper practices within all branches of the criminal justice system in regard to victims. For example, sexual violence activists highlighted law enforcement practices which questioned victims’ reports of rape, prosecutors’ unwillingness to file cases based on a “he-said/she-said” consent dispute, judges’ lenient sentences, and other similar practices which ultimately result in the decreased willingness of victims to bring complaints forward. The original Act, in response, included a number of laws to initiate changes within the criminal and civil justice systems. For example, VAWA doubled federal penalties for repeat sex offenders and enhanced federal penalties for sex crimes.¹⁸

In addition, a number of procedural changes were enacted in order to encourage, rather than deter, victims from filing complaints. Examples include clarification that law enforcement is responsible for payment for the collection of forensic evidence in rape exams, a prohibition against assessing charges for filing criminal charges against perpetrators or for serving protection orders, pretrial detention of defendants in federal sex offense and interstate domestic violence cases, the right for victims to be heard at pretrial release hearings, mandatory restitution for victims of sex crimes and interstate domestic violence and enforcement of restitution orders through suspension of federal benefits to offenders.¹⁹ The Act also established a form of “rape shield” in federal civil and criminal cases, clarifying that a victim’s past sexual history is generally not admissible.²⁰

Such changes in Federal legislation spurred similar changes on the state level. Examples include:

- All states have changed laws that treated date or spousal rape as a lesser crime than stranger rape.²¹
- Disparities between state penalties for rape by an acquaintance and by someone not known to the victim have narrowed.²²

¹⁷ “Evaluation of the STOP Formula Grants to Combat Violence Against Women: 2001 Report.” The Urban Institute. September 2001. Page xii.

¹⁸ “Safer Streets” Ibid. Page 21.

¹⁹ “Safer Streets.” Ibid. Page 60.

²⁰ “Violence Against Women Act: History, Federal Funding, and Reauthorizing Legislation.” Ibid. Page 3.

²¹ “Safer Streets.” Ibid. Page 16.

²² “Safer Streets.” Ibid. Page 22.

It is important to note, however, that among supporters of the VAWA, there is disagreement about the relative benefits of these legislative provisions. For example, injustices within the criminal justice system that disproportionately disadvantage people of color may be enhanced by these provisions of the VAWA.

Examples from Three States of the Positive Impact of VAWA Funding

The U.S. Department of Justice, Office on Violence Against Women's *Measuring Effectiveness Initiative* provides state-specific examples of the positive impact of the VAWA. The following descriptions of VAWA-funded projects and quotes from practitioners from three states provide examples of the data gathered through this initiative.²³

Connecticut

Connecticut Sexual Assault Crisis Services, Inc. (CONNSACS) is creating a systematic statewide response to the needs of Spanish-speaking victims of sexual assault. With VAWA funds, CONNSACS created the second 24-hour Spanish sexual assault statewide hotline in the country in FY 2002. Spanish Response Teams were created at the six largest rape crisis centers across the state, including Spanish-speaking Counselor Advocates.

“The Violence Against Women Act has changed the landscape for addressing sexual violence in Connecticut. We have forged new alliances, and have had the opportunity to develop innovative programs that enhance victim safety and offender accountability. Connecticut’s victims of sexual assault have benefited tremendously through this federal investment of resources.”

- Gail Burns-Smith, (past) Executive Director, CONNSACS

Florida

MUJER, a nonprofit victim services and advocacy organization, provides specialized services to Latino and migrant farm worker communities. Their project on rape and sexual assault and sexual assault prevention served 10,390 clients in FY 2002 by offering an approach addressing the major factors and barriers that contribute to social acceptance of sexual violence in the farm workers' community.

“Before the SANE program began, victims of sexual violence would wait eight hours or more to be seen by a doctor. For a woman who has been traumatized, eight hours was way too long to wait. As a result, many of them left without receiving medical attention. Now the wait time is down to 2.5 hours.”

- Priscilla Barnes, SANE Coordinator, Refuge House, Tallahassee

²³ Full-text excerpts taken from the *VAWA Measuring Effectiveness Initiative*, a cooperative agreement between the U.S. Department of Justice, Office on Violence Against Women and the Edmond S. Muskie School of Public Service Institute for Child & Family Policy at the University of Southern Maine.

New Mexico

The New Mexico Coalition Against Sexual Assault hosted the state's first sexual assault training for prosecutors and continues to provide regular training utilizing local and national experts. Training has been delivered to prosecutors from every Judicial District and to fourteen Tribal prosecutors.

“VAWA funds have opened the door to possibilities and hope where none existed before. In addition to improving services for victims, we have influenced legislation, protocols, training, and funding initiatives, and we hope to replicate successful projects throughout our state.”

- Sheila Allen, VAWA STOP Grant Administrator, Albuquerque

Concerns and Gaps after 10 Years of the VAWA

Although these examples provide clear evidence of the positive impact of the VAWA within the sexual violence field, significant public policy and funding gaps remain.

Consistent, dedicated funding for direct services for sexual assault victims has never been provided, either prior to or through the VAWA and a disparity of funding for core, basic services between sexual and domestic violence remains.

To date, the sexual violence field has not secured a source of funding exclusively dedicated to supporting the basic infrastructure of services and interventions used in the response to sexual violence victims, such as crisis intervention, hospital and court accompaniment, and on-going assistance and advocacy after an assault. Without this funding, local rape crisis centers struggle to provide core services, scramble to grab what funding they can, and continually fear that the funding they have secured will not be available in future years. A recent article published by the National Sexual Violence Resource Center stated that,

“Sexual violence is a unique aspect of violence against women, and those working in sexual assault advocacy often encounter difficulties obtaining adequate funding, even under the Violence Against Women Act. The very nature of sexual assault, cloaked in social stigma, denial and myths has served to minimize the perception of the crime’s prevalence and in turn has resulted in an ongoing struggle for adequate funding.”²⁴

In addition, although the VAWA does not specify an equitable distribution of funds among the three types of violent crime it addresses (sexual violence, domestic violence, and stalking) many activists within the field maintain that a legislative intent for parity exists. Chapter 5 of the 2001 Urban Institute STOP Program evaluation reported that sexual assault receives less money and has fewer freestanding service agencies than domestic violence.²⁵ And, perhaps most alarmingly, the report found that, “Staff of STOP-funded law enforcement, prosecution, and

²⁴ “Ten Years of VAWA Strengthening Anti-Sexual Violence Work.” Ibid.

²⁵ “Evaluation of the STOP Formula Grants to Combat Violence Against Women: 2001 Report.” Ibid. Page 69.

private nonprofit victim service projects constantly report that their communities have a less adequate response to sexual assault victims than to victims of domestic violence.’²⁶

The VAWA, while designating resources for allied professionals working to respond to sexual violence – including law enforcement, prosecution, and court personnel – highlights a significant public policy gap regarding the lack of funding for services for victims of sexual violence. And, while the VAWA clearly provides a degree of support for sexual violence programming, it has not provided an adequate vehicle for full support of local rape crisis centers.

The VAWA funded a national domestic violence hotline, yet funding for a comparable service to address sexual violence has not been provided.

The National Domestic Violence Hotline was launched in February 1996 through a grant awarded by the Secretary of Health and Human Services.²⁷ The hotline, which operates 24-hours a day, 7 days a week, provides callers with crisis intervention, general information about violence against women, and referrals to local programs and services. Currently, the hotline receives approximately 13,000 calls *per month*. In addition, operators can answer calls in both English and Spanish and have access to translation services in 139 languages.

A similar service to address the needs of victims of sexual violence has not been established.

The Rape Prevention and Education Grant Program, while providing valuable funding for prevention efforts, has never been fully funded at its authorization level.

The Rape Prevention and Education (RPE) Grant Program represents a strategic step towards strengthening national, state and local sexual violence prevention efforts by supporting increased awareness, education, and training and the operation of rape crisis hotlines by rape crisis centers, state sexual assault coalitions, and other public and private nonprofit entities. Unfortunately, funding for the program, while authorized at \$80 million per fiscal year, has remained at approximately half this level.²⁸

RPE grants provide the only dedicated federal funds to specifically support sexual violence prevention efforts. This funding is crucial to rape crisis centers and sexual assault prevention programs in communities and on college campuses across the United States. RPE funds also support national programs such as the National Sexual Violence Resource Center.

While many promising initiatives have been supported with RPE funds, appropriations have remained at approximately half the authorization level and have thus limited the impact of this valuable program. Full funding of the Rape Prevention and Education Grant Program would provide crucial support for on-going efforts to end sexual violence.

²⁶ Ibid. Page 71.

²⁷ The National Domestic Violence Hotline is based in Austin, Texas and is a project of the [Texas Council on Family Violence](#), the state coalition for Texas.

²⁸ Preventing Violence Against Women. August 14, 2001. United States Department of Health and Human Services press release. (<http://www.hhs.gov/news/press/2001pres/01fsdomesticviolence.html>)

The Violence Against Women Act, at its core, relies on a criminal justice response to sexual violence.

This narrow focus does not allow for maximum creativity in prevention, intervention and response efforts, nor does it respond to those victims who, for a number of reasons, choose not to engage in the criminal justice system. While advocates have lobbied long and hard to continue VAWA funding, there is recognition that a federal effort heavily focused on the criminal justice system misses the opportunity for a more holistic – and perhaps realistic – approach to preventing, responding to and ending violence against women. As Patricia Ireland, then President of the National Organization of Women, noted in her 1998 testimony in support of VAWA II,

“Law enforcement is not the only solution. A vast array of educational, intervention, training and research programs is necessary to effectively address the multi-faceted social problems of domestic violence and sexual assault.”²⁹

Many instances of rape are never reported, and a significant portion of those reported are never prosecuted or proven in a court of law. For example, a 2002 U.S. Department of Justice, Bureau of Justice Statistics report estimated that between 1992 and 2000, only 36% of rapes, 24% of attempted rapes, and 26% of sexual assaults were reported to police.³⁰ In addition, the 1997 FBI Uniform Crime Report estimated that over 50 percent of reported rapes in that year did not result in arrest.

Clearly, a large portion of sexual assault victims fall outside the scope of the criminal justice system. In recognition of this fact, any effort to address sexual violence must not exclusively or in the majority rely on a criminal justice system-based response to the crime.

General Gaps Identified by the Anti-Sexual Violence Field

One of the most recent attempts to quantify the gaps in our nation’s response to sexual violence occurred in June 2004 through a U.S. Department of Justice, Office on Violence Against Women (OVAW) focus group.³¹ The OVAW organized a focus group to gather in-pu from organizations and individuals actively engaged in anti-sexual violence work, with an emphasis on their perceptions about existing gaps in the field. A total of 208 respondents participated and the following general gaps were identified:

- Gap 1: Lack of appropriate attitudes and knowledge (public and professional)
- Gap 2: Lack of resources

²⁹ “Data and Demand Show Need for VAWA II.” Congressional Hearing Testimony. A Statement by Patricia Ireland, President, National Organization for Women. March 19, 1998. Found at <http://www.now.org/issues/violence/vawa/need.html> (8/19/04)

³⁰ “Rape and Sexual Assault: Reporting to Police and Medical Attention, 1992-2000.” U.S. Department of Justice, Bureau of Justice Statistics. August 2002. NCJ No. 194530.

³¹ Excerpted from a paper entitled *Information Gathering from Organizations on Collaborative Anti-Sexual Violence Work: Compilation of Feedback from Respondents*. Prepared for the National Sexual Violence Collaboration Meeting. June 9-10, 2004. Supported by Grant No. 2003-WT-BX-K007 awarded by the Office on Violence Against Women, U.S. Department of Justice

- Gap 3: Inadequate response to specific populations/type of sexual violence
- Gap 4: Problems with the justice system response
- Gap 5: Insufficient response to sex offenders

The Focus Group participants also identified the following needs to fill identified gaps:

1. Time and funding
2. Community education and prevention efforts
3. Training and information for responders
4. Increased attention to the needs of specific populations
5. Improved medical/forensic response
6. Facilitation of collaborative processes

Conclusion

Clearly, the Violence Against Women Act has positively impacted victims and those working to prevent and respond to such crimes. However, after ten years of implementation, gaps in public policy, legislation, and funding to address the needs of sexual violence victims remain. As the Congress contemplates reauthorization of the Act in 2005, an examination of, and response to, the gaps identified here must occur. In addition, national and state organizations dedicated to representing the needs of sexual violence victims must utilize a stronger presence in the national violence against women movement to ensure more focused attention to sexual violence.

Future public policy and legislative action must address the absence of funding to sustain the ongoing work of local rape crisis centers and state sexual assault coalitions.³² Such an effort would ensure that core services for victims of sexual violence are stabilized through consistent and adequate funding. In addition, programs such as the Rape Prevention and Education Grant Program must be funded at their authorization levels so as to ensure adequate resources for preventing these crimes. And, finally, the anti-sexual violence field must work creatively to create new grant programs and legislation un-tethered to a predominantly criminal justice-based approach. Whether these strategies are realized through future VAWA legislation or via alternate legislative vehicles, the history and success of the VAWA lays a strong justification for the pursuit of their implementation.

“In the end, the need for continuation of VAWA legislation should not be measured only by the growth and effectiveness of the work of our advocates and organizations; rather, its importance can be found in the impact of VAWA's legacy to the nation; a legacy that speaks of the profound need to confront violence against women and that demonstrates governmental commitment to a steadfast, funded concern for women's safety.”³³

³² Dual coalitions, addressing both sexual and domestic violence, are included in this group.

³³ “Ten Years of VAWA Strengthening Anti-Sexual Violence Work.” Ibid.