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Department of Justice

STATEMENT

OF

LOIS HAIGHT HERRINGTON
ASSISTANT ATTORNEY GENERAL
OFFICE OF JUSTICE PROGRAMS

BEFORE

THE

SUBCOMMITTEE ON JUVENILE JUSTICE
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

CONCERNING

S. 1156, CHILD VICTIM WITNESS PROTECTION ACT OF 1985

ON

NOVEMBER 19, 1985

- 1 -

Mr. Chairman, I am pleased to testify before you today on S. 1156, "The Child Victim Witness Protection Act of 1985." I am very appreciative of the personal commitment that you and Senator Denton have demonstrated to not only the victims of child abuse, but to the victims of all violent crime. Your leadership has kept public attention focused on these serious subjects.

I would also like to advise you of the Administration's support for the objectives of this legislation and then address the specific provisions of S. 1156.

As you know, this Administration has demonstrated a strong commitment to both preventing child abuse and bringing the full force of the criminal justice system to bear against the perpetrators of crimes against children. First, the President's Task Force on Victims of Crime and, later, the Attorney General's Task Force on Family Violence examined the treatment of children by the criminal justice system and made recommendations to improve the system's response to child victims.

In 1984, the Administration proposed landmark legislation to provide Federal financial assistance to State crime victim compensation and crime victim assistance programs. Under Senator Thurmond's outstanding leadership, Congress enacted the Victims of Crime Act of 1984 which accorded a priority to programs serving victims of child abuse. In addition, the Department of Justice has established, for the first time, an

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Office for Victims of Crime (OVC) whose express function is to provide financial and technical assistance to victims of crime -- especially child victims.

OVC has awarded several significant grants in the area of child victimization. A grant to the National Association of Attorneys General (NAAG) focuses specifically on the issues addressed by S. 1156. NAAG is developing model legislation for the States on a number of criminal justice reforms principally benefiting child crime victims, including the admissibility of hearsay evidence at preliminary hearings, the need to expedite proceedings involving child victims, and the extension of statutes of limitations in child sexual assault cases.

The Office has also awarded a grant to the American Bar Association to develop model statutes, one of which would permit access by businesses and other organizations to the sex offense criminal history records of prospective employees and volunteers whose work would bring them into regular contact with children. We have also recently approved an award to the ABA and NAAG to begin the very important job of implementing their model statutes. We expect that these two well-respected organizations, representing not only the legal profession but every State Attorney General in the country, will be very successful in this endeavor.

The Office has also awarded grants to the National Sheriffs' Association and the National Association of State Directors of Law Enforcement Training for program development and training to

improve law enforcement's ability to respond to child victimization.

I should also note that the Illinois Attorney General's Office has been awarded a grant to design a hospital medical and evidentiary protocol for the treatment of child and adult sex abuse victims. We believe that this grant will result in a model investigative protocol that can be used nationwide.

In addition, the Bureau of Justice Assistance has recently awarded a grant to the National Council of Juvenile and Family Court Judges for the purpose of training juvenile judges how to best handle child abuse cases. The Office of Juvenile Justice and Delinquency Prevention has also just granted \$650,000 to the National District Attorneys' Association to establish a national resource bank for prosecutors needing information on techniques and procedures to use in child abuse cases. OJJDP also provides funds to the Federal Law Enforcement Training Center to train state and local officers to handle child exploitation cases.

We have also sponsored two symposia on child abuse. Our grant funds supported the National Conference on Sexual Victimization of Children put on by the Children's Hospital of Washington in April, 1984 and a national symposium on child molestation entitled "Protecting Our Children: The Fight Against Molestation", in October, 1984. I am particularly proud of this event because it was held in the Great Hall of the Department of

Justice and brought top professionals in law enforcement, medicine, psychiatry and victims services together to focus on the needs of child crime victims.

We must, however, recommend against enactment of S. 1156 at this time for several reasons. First, the problem of improving the treatment of child victims in the courtroom may not require an additional expenditure of \$10 million in Federal financial assistance. We believe that a most effective way to improve the justice system's response to child victims and witnesses involves educating the criminal justice system about the problem and amending those State laws and procedures that too often serve only to victimize the children again. That is why we have invested our grant funds in the development of the model legislation I alluded to earlier. The procedural changes in question are not expensive and, in some circumstances, would likely save the States money. We believe that the development of such legislation is a far more cost-effective way of reaching the goals of S. 1156.

In addition, we believe that the Victims of Crime Act already provides the States adequate authority and funding to finance the necessary courtroom reforms. As I noted earlier, the Act requires the State to accord "priority" to programs serving victims of child abuse, (as well as programs serving victims of spouse abuse, and sexual assault). Under the statute, those programs may include "assistance in participating in criminal justice proceedings." The program guidelines proposed by my office assure that the States will provide substantial funding to child abuse programs.

In its first year, the Act produced \$68 million for the Crime Victims Fund. Those funds are just now being awarded to State victim compensation and assistance programs. It is, therefore, simply too early to predict the impact of the Act on the proceedings that are the subject of S. 1156, especially when the Crime Victims Fund reaches its \$100 million cap. It may well be that the Victims of Crime Act as presently being implemented will accomplish the ends you seek without a \$10 million set-aside. Accordingly, we do not believe that a further earmarking of funds for this issue is warranted at this time.

We are also opposed to raising the \$100 million cap on the Crime Victims Fund that was set by Congress in the Victims of Crime Act only last year. The cap was imposed as the result of an amendment introduced by Senator Thurmond in the Senate Judiciary Committee. The Chairman's rationale in proposing the cap, and ours in concurring with it, was that it struck the proper balance between the needs of crime victims and the needs of the General Fund of the Treasury, where any excess over \$100 million is to be deposited. We believe that the cap should be retained for the reasons it was imposed in the first place. Federal spending must be restrained in the face of our \$200 billion deficit and, again, we must see how far our \$100 million program goes. It may well prove sufficient.

Finally, we would like to point out some technical problems in the fund distribution provisions of S. 1156. Section 4 of the bill would make available another \$10 million in the Crime Victims Fund to finance the purposes of the legislation. Under

new section 1404A(b)(2), each State would receive \$200,000 plus any amounts remaining from the \$10 million, distributed on a population basis. As defined in the Victims of Crime Act, however, "State" includes all territories and possessions of the United States. The 57 jurisdictions included in this definition could not, mathematically, each receive \$200,000 (or more) from the allotted \$10 million. Even if "State" were defined to mean only the 50 States, there would never be any remainder left over to be distributed on a population basis.

I want to ensure that our opposition to particular provisions of this legislation does not obscure the fact that your Committee and the Administration are united in our determination to stop the criminal victimization of our Nation's children. I hope that we can continue to work together to produce laws and programs that will keep our children safe from these terrible acts and bring the full weight of the law to bear against their abusers.

Thank you. I will be pleased to respond to any questions you or members of the Committee may have.

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