

**ASHLEY MOODY
ATTORNEY GENERAL
STATE OF FLORIDA**

**OFFICE OF THE ATTORNEY GENERAL
Office of Public Records**

Nicholas J. Weilhammer
Office of the Attorney General
State of Florida
The Capitol, PL-01
Tallahassee, Florida 32399-1050
Phone: (850) 414-3300
Facsimile: 850-487-1705
Nicholas.weilhammer@myfloridalegal.com

March 26, 2021

VIA E-MAIL

Austin Evers
(records@americanoversight.org)

Dear Mr. Evers:

Attached please find documents responsive to your public records requests for the following:

2) All email communications (including emails, email attachments, calendar invitations, and attachments thereto) sent by (a) any of the officials in the Florida Office of the Attorney General listed in Column A containing any of the following key terms:

[Column A: Florida Office of the Attorney General Officials

- a) Ashley Moody, Attorney General, or anyone communicating on her behalf (such as an assistant or scheduler)**
- b) John Guard, Chief Deputy Attorney General**
- c) Richard Martin, General Counsel [sic]**
- d) Lauren Schenone, Director of Public Affairs]**

Key Terms:

- i. Postmarked**
- ii. Boockvar**
- iii. Giuliani**
- iv. Tabas**
- v. 'John Gore'**
- vi. 'Justin Clark'**
- vii. 'Nathan Groth'**
- viii. Passantino**
- ix. Papatov**
- x. Langhofer**
- xi. Basile**
- xii. 'Brett Johnson'**

xiii. 'Eric Spencer'
xiv. Landry
xv. RAGA
xvi. MAGA
xvii. Trump
xviii. POTUS
xix. 'election fraud'
xx. 'election integrity'”

This office has compiled the responsive non-exempt public records materials, as of the date of the requests, and has attached the records to this email for production.

In connection with this response to your public records requests, please note the following:

- The home addresses, telephone numbers, social security numbers, dates of birth, and photographs of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors, and certain family information, is exempt under section 119.071(4)(d)2.f., Fla. Stat.
- Materials that were prepared by an agency attorney or prepared at the attorney's direction that reflect mental impressions, conclusions, litigation strategy, or legal theories of the attorney or agency prepared in anticipation of litigation are withheld as exempt from production pursuant to section 119.071(1)(d), Florida Statutes. The potential parties to any such criminal or civil litigation or adversarial administrative proceeding are the following: Environmental Committee v. EPA, Case No. 15-1239 (D.C. Cir.); North Dakota v. EPA, Case No. 15-1381 (D.C. Cir.).
- Written procedures that could facilitate the unauthorized modification, disclosure, or destruction of data or information technology resources are redacted pursuant to section 282.318(4)(e), Florida Statutes.

The attached documents will serve to complete your public records requests to this office.

Sincerely,

s/ Nicholas J. Weilhammer

Nicholas J. Weilhammer

Attachments: Records

From: [Charles Trippe](#)
To: [Teresa Mussetto](#)
Subject: FW: Glock v. Moore, 776 So.2d 243 (Fla 2001)
Date: Tuesday, November 17, 2020 9:53:00 AM
Attachments: [Glock v Moore.rtf](#)

-----Original Message-----

From: Westlaw@westlaw.com <Westlaw@westlaw.com>
Sent: Monday, November 16, 2020 12:53 PM
To: Charles Trippe <Charles.Trippe@myfloridalegal.com>
Subject: Glock v. Moore, 776 So.2d 243 (Fla 2001)

Charles Trippe sent you content from Westlaw.
Please see the attached file.

Item: Glock v. Moore
Citation: 776 So.2d 243
Sent On: Monday, November 16, 2020
Sent By: Charles Trippe
Client ID: OFFICE

Note: Judiciary to be cautious when dealing with clemency.

Westlaw © 2020 Thomson Reuters. No claim to original U.S. Government Works.

From: [Charles Trippe](#)
To: [Teresa Mussetto](#)
Subject: FW: Owens v. State, 316 So.2d 537 (Fla. 1975)
Date: Tuesday, November 17, 2020 9:53:00 AM
Attachments: [Owens v State.rtf](#)

-----Original Message-----

From: Westlaw@westlaw.com <Westlaw@westlaw.com>
Sent: Monday, November 16, 2020 12:47 PM
To: Charles Trippe <Charles.Trippe@myfloridalegal.com>
Subject: Owens v. State, 316 So.2d 537 (Fla. 1975)

Charles Trippe sent you content from Westlaw.
Please see the attached file.

Item: Owens v. State
Citation: 316 So.2d 537
Sent On: Monday, November 16, 2020
Sent By: Charles Trippe
Client ID: OFFICE

Note: Statute requiring 25 years to be served on capital felony before parole eligibility did not impinge on executive power of granting parole.

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From: [Charles Trippe](#)
To: [Richard Martin](#)
Subject: FW: Polk County amicus brief
Date: Tuesday, October 27, 2020 12:16:00 PM
Attachments: [image003.png](#)

FYI

From: Barbalich, Lauren <BarbalichL@ag.louisiana.gov>
Sent: Tuesday, October 27, 2020 12:14 PM
To: Wald, Sherri <Sherri.Wald@state.sd.us>; Kristi Johnson <Kristi.Johnson@ago.ms.gov>; Emory Smith <ESmith@scag.gov>; Charles Trippe <Charles.Trippe@myfloridalegal.com>; Schatz, Samson (OAG) <Samson.Schatz@dc.gov>; Kindall, Clare <Clare.Kindall@ct.gov>; Roysden, Beau <Beau.Roysden@azag.gov>
Cc: Lopez, Dave <Dave.Lopez@huschblackwell.com>; Murrill, Elizabeth <MurrillE@ag.louisiana.gov>
Subject: Polk County amicus brief

Liz wanted me to check in to notify about status of signers for the amicus brief we are filing in *Polk County v. J.K.J* (20-427).

Arkansas & Indiana are the current signers and many other states have inquired about status.

The Court due date is 11/2 (we originally thought it was 10/29), so we do have some wiggle room if you need additional time to decide.

Sincerely,



Lauren F. Barbalich
Paralegal to Liz Murrill, Solicitor General
Office of Attorney General Jeff Landry
Phone: (225) 326-6739
www.AGJeffLandry.com

The information contained in this transmission may contain privileged and confidential information. It is intended only for the use of the person(s) named above. If you are not the intended recipient, you are hereby notified that any review, dissemination, distribution or duplication of this communication is strictly prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message. To reply to our e-mail administrator directly, please send an e-mail to postmaster@ag.state.la.us.

From: [Charles Trippe](#)
To: [Amit Agarwal](#)
Subject: FW: Polk County amicus brief
Date: Tuesday, October 27, 2020 12:17:00 PM
Attachments: [image003.png](#)

Amit

FYI

From: Barbalich, Lauren <BarbalichL@ag.louisiana.gov>
Sent: Tuesday, October 27, 2020 12:14 PM
To: Wald, Sherri <Sherri.Wald@state.sd.us>; Kristi Johnson <Kristi.Johnson@ago.ms.gov>; Emory Smith <ESmith@scag.gov>; Charles Trippe <Charles.Trippe@myfloridalegal.com>; Schatz, Samson (OAG) <Samson.Schatz@dc.gov>; Kindall, Clare <Clare.Kindall@ct.gov>; Roysden, Beau <Beau.Roysden@azag.gov>
Cc: Lopez, Dave <Dave.Lopez@huschblackwell.com>; Murrill, Elizabeth <MurrillE@ag.louisiana.gov>
Subject: Polk County amicus brief

Liz wanted me to check in to notify about status of signers for the amicus brief we are filing in *Polk County v. J.K.J* (20-427).

Arkansas & Indiana are the current signers and many other states have inquired about status.

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Sincerely,



Lauren F. Barbalich
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From: [Charles Trippe](#)
To: [Rachel Kamoutsas](#)
Subject: FW: Sign-On Opportunity: CARES Act Extension
Date: Friday, November 13, 2020 4:41:00 PM
Attachments: [image004.png](#)
[image005.png](#)
[CARES Act Extension Packet.pdf](#)
[S. 4494 Text.pdf](#)

Let's discuss Monday

From: Ryan Greenstein <rgreenstein@naag.org>
Sent: Friday, November 13, 2020 4:37 PM
To: Ryan Greenstein <rgreenstein@naag.org>
Cc: Michael L. Rodgers <Michael.Rodgers@ohioattorneygeneral.gov>; Blake, Nathan [AG] <nathan.blake@ag.iowa.gov>
Subject: Sign-On Opportunity: CARES Act Extension

This message is being sent to all Attorneys General, Chief Deputies/Chiefs of Staff, and Executive Assistants:

If you'd like to sign-on to the attached letter, please return the response form to Ryan Greenstein by email at rgreenstein@naag.org or by fax at (202) 521-4052 by **12pm EST on Wednesday, November 25th**.

Please see the below attached:

1. Draft letter urging Congress to extend the deadline for eligible CARES Act expenses from December 30, 2020 to December 31, 2021
2. Dear Colleague letter from Attorneys General Miller and Yost
3. Response Form: Please return to Ryan Greenstein by email at rgreenstein@naag.org or by fax at (202) 521-4052 by **12pm EST on Wednesday, November 25th**.

Also attached is the text for Senate Bill 4494, the State and Local Coronavirus Relief Fund Extension Act.

If you have any questions about the letter or would like additional information on it, please contact Michael Rodgers of Ohio at 614-995-2273 or Michael.Rodgers@ohioattorneygeneral.gov or Nathan Blake of Iowa at 515-281-4325 or nathan.blake@ag.iowa.gov.

Please note that if you are interested in which states have signed on to this letter, you may check the real-time status at this website, **[please note the new site password below:](http://signons.naag.org/)**
<http://signons.naag.org/>

Password: [REDACTED]

Please do not share the password or draft letter with anyone not employed by an attorney general office.

Ryan Greenstein
Legislative Director and
Special Assistant to the Executive Director

National Association of Attorneys General

1850 M Street NW, 12th Floor

Washington, DC 20036

202.326.6262

rgreenstein@naag.org

www.naag.org



From: [Charles Trippe](#)
To: [Rachel Kamoutsas](#)
Subject: FW: Trump v New York
Date: Wednesday, October 28, 2020 10:58:00 AM
Attachments: [image001.png](#)
[Trump v. NY Amicus 10.27.20.doc](#)
Importance: High

Rachel

Please call me on this when you have a chance, no need to read brief now. Thanks.

From: Amit Agarwal <Amit.Agarwal@myfloridalegal.com>
Sent: Tuesday, October 27, 2020 3:59 PM
To: John Guard <John.Guard@myfloridalegal.com>; Richard Martin <Richard.Martin@myfloridalegal.com>; Charles Trippe <Charles.Trippe@myfloridalegal.com>
Cc: Christopher Baum <Christopher.Baum@myfloridalegal.com>
Subject: FW: Trump v New York
Importance: High

We'll review and follow up by tomorrow. Hard deadline appears to be 10 am Friday morning.

From: Murrill, Elizabeth <MurrillE@ag.louisiana.gov>
Sent: Tuesday, October 27, 2020 3:52 PM
To: Amit Agarwal <Amit.Agarwal@myfloridalegal.com>; Nicholas Bronni <nicholas.bronni@arkansasag.gov>; Andrew Pinson <APinson@LAW.GA.GOV>; tom.fisher@atg.in.gov; brian.kane@ag.idaho.gov; teri.nealis@ag.idaho.gov; Jeff Chanay <jeff.chanay@ag.ks.gov>; Dwight.Carswell@ag.ks.gov; Julie.Blake@ago.mo.gov; Dave Bydalek <dave.bydalek@nebraska.gov>; james.smith@nebraska.gov; eric.murphy@ohioattorneygeneral.gov; Frederick Nelson <frederick.nelson@ohioattorneygeneral.gov>; Emory Smith <ESmith@scag.gov>; Parkin Hunter <phunter@scag.gov>; Sherri.Wald@state.sd.us; Lynell.Erickson@state.sd.us; Kyle.Hawkins@oag.texas.gov; Kristi Johnson <Kristi.Johnson@ago.ms.gov>; Lindsay S. See <Lindsay.S.See@wvago.gov>; Stenehjem, Wayne K. <wstenehjem@nd.gov>; Melissa Holyoak <melissaholyoak@agutah.gov>; Mithun Mansinghani <mithun.mansinghani@oag.ok.gov>; Brent.davis@maine.gov; LaCour, Edmund <Edmund.LaCour@AlabamaAG.gov>; holly.lusk@maine.gov; ed.sniffen@alaska.gov; beau.roysden@azag.gov; Chad Meredith <chad.meredith@ky.gov>; toby.crouse@ag.ks.gov; john.sauer@ago.mo.gov; Payne, Julia <Julia.Payne@atg.in.gov>; Laura.lombardi@doj.nh.gov; 'ben.flowers@ohioattorneygeneral.gov' <ben.flowers@ohioattorneygeneral.gov>; masagsve@nd.gov; Andree Blumstein <andree.blumstein@ag.tn.gov>; Sarah K. Campbell <Sarah.Campbell@ag.tn.gov>; Lindsay S. See <Lindsay.S.See@wvago.gov>; 'bridget.hill@wyo.gov' <bridget.hill@wyo.gov>
Cc: Barbalich, Lauren <BarbalichL@ag.louisiana.gov>
Subject: Trump v New York
Importance: High

Friends,

Attached is an amicus brief in the *Trump v. New York* case that was expedited by SCOTUS and set for argument **Nov. 30**. This **brief is due Friday, Oct. 30** (this week), so the **deadline is Thursday**. **As long I hear from you sometime before 9 a.m. central time Friday**, I can still add your state to the brief but that's out deadline to send to the printer.

Liz



Elizabeth B. Murrill
Solicitor General
Office of Attorney General Jeff Landry
Direct: (225) 326-6766 Cell: (225) 456-7544
murrille@ag.louisiana.gov
www.AGJeffLandry.com

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From: [Charles Trippe](#)
To: [Rachel Kamoutsas](#)
Subject: FW: VOCA Letter Update
Date: Tuesday, November 17, 2020 1:25:00 PM
Attachments: [image001.png](#)
[image002.png](#)
[VOCA Amendments - NAAG Final .pdf](#)
[Hill+Blast++11-16-2020.pdf](#)

From: Ryan Greenstein <rgreenstein@naag.org>
Sent: Tuesday, November 17, 2020 9:20 AM
To: Ryan Greenstein <rgreenstein@naag.org>
Cc: Blundell, Shane E (AGO) <shane.e.blundell@state.ma.us>; jonbennion <jonbennion@mt.gov>
Subject: RE: VOCA Letter Update

This is being sent to all Attorneys General, Chief Deputies/Chiefs of Staff, and Executive Assistants:

As an update to the attached August 26th NAAG letter signed by all 56 attorneys general, over 1400 national, state, tribal, and local organizations signed the attached letter to Congress yesterday expressing support for the same three recommendations included in NAAG's August 26th letter. The NAAG letter was quoted and linked to in yesterday's letter.

As yesterday's letter also included additional requests that NAAG has not taken a stance on, NAAG declined to sign but will continue to coordinate with the lead organizations when engaging Congress to further our shared goals.

A complete list of organizations by state is available at the bottom of the letter.

Ryan Greenstein
Legislative Director and
Special Assistant to the Executive Director
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202.326.6262
rgreenstein@naag.org
www.naag.org



From: Ryan Greenstein
Sent: Monday, August 24, 2020 1:18 PM
To: Ryan Greenstein <rgreenstein@naag.org>
Cc: Blundell, Shane E (AGO) <shane.e.blundell@state.ma.us>; jonbennion@mt.gov
Subject: VOCA Letter Update

This is being sent to all Attorneys General, Chief Deputies/Chiefs of Staff, and Executive Assistants:

The attached letter was sent to the intended recipients this morning. It was signed by all 56 attorneys general. This is the only letter of 2020 to be signed by every attorney general so far.

Ryan Greenstein
Legislative Director and
Special Assistant to the Executive Director
National Association of Attorneys General
1850 M Street NW, 12th Floor
Washington, DC 20036
202.326.6262
rgreenstein@naag.org
www.naag.org



From: [Charles Trippe](#)
To: [William Stafford](#); [Elizabeth Teegen](#)
Subject: State legislative reports
Date: Wednesday, October 28, 2020 4:18:00 PM
Attachments: [House Staff Final Analysis.pdf](#)
[Senate Final Staff Analysis.PDF](#)

Charles M. Trippe, Jr.
General Counsel
Office of the Attorney General
Ashley Moody, Attorney General
State of Florida
PL-01, The Capitol
Tallahassee, Florida 32399-1050
Telephone: (850) 245-0209
Facsimile: (850) 487-2564

Please note that under Florida law email correspondence sent to this office, which is not confidential or exempt pursuant to chapter 119 of the Florida Statutes, is a public record made available upon request.

 KeyCite Yellow Flag - Negative Treatment
Distinguished by [Cherry v. State](#), Fla., April 12, 2007

776 So.2d 243

Supreme Court of Florida.

Robert D. GLOCK, II, Petitioner,

v.

Michael W. MOORE, Secretary,
Department of Corrections, State of
Florida, Respondent.

Robert D. Glock, II, Appellant,

v.

State of Florida, Appellee.

Nos. SC00-2432, SC00-2535.

|
Jan. 5, 2001.

Synopsis

Defendant was convicted in the Circuit Court, Pasco County, [Wayne L. Cobb](#), J., of first-degree murder, kidnapping, and robbery and was sentenced to death. Defendant appealed. The Supreme Court, [495 So.2d 128](#), affirmed. Defendant petitioned for postconviction relief after signing of death warrant. The Circuit Court, [Wayne L. Cobb](#), J., denied relief. Defendant appealed and petitioned for writ of habeas corpus. The Supreme Court held that: (1) trial court's adoption of state's proposed order summarily denying successive motion for postconviction relief did not violate due process; (2) 1999 report by the New Jersey Attorney General on racial profiling in traffic stops was not newly-discovered evidence on a 1983 traffic stop allegedly based on racial and drug profiling; (3) defendant had no right to present mitigating evidence in a second clemency proceeding initiated by the Governor; (4) denial of demands for public records after signing of death warrant was not an abuse of discretion; and (5) constitutional challenge to the heinous, atrocious, or cruel aggravator was procedurally barred.

Affirmed, and petition denied.

West Headnotes (14)

[1] **Constitutional Law** Post-conviction relief **Criminal Law** Decision or order

Trial court's adoption of state's proposed order summarily denying successive motion for postconviction relief did not violate due process; the defense attorney had notice that the trial court asked the state to prepare a proposed order, and the defendant submitted objections to the proposed order. [U.S.C.A. Const.Amend. 14](#).

[6 Cases that cite this headnote](#)

[2] **Criminal Law** Newly discovered evidence

A 1999 report by the New Jersey Attorney General on racial profiling in traffic stops was not newly-discovered evidence on a 1983 traffic stop allegedly based on racial and drug profiling and, therefore, did not warrant post-conviction relief; claims of racial profiling on the New Jersey Turnpike have existed for several years, nothing indicated racial or drug profiling in 1983, the defendant was a Caucasian passenger in a car driven by a Caucasian with an improperly displayed license plate, and showing racial or drug profiling would not have led to the suppression of evidence.

[5 Cases that cite this headnote](#)

[3] **Criminal Law** Time for proceedings

Any claim of newly discovered evidence in a death penalty case must be brought within one year of the date such evidence was discovered or could have been discovered through the exercise of due diligence.

[12 Cases that cite this headnote](#)

[4] **Automobiles** ➡ License plates and registration stickers, in general

An improperly displayed license plate provided probable cause for a traffic stop. [U.S.C.A. Const.Amend. 4](#).

counsel for the defendant did not violate due process. [U.S.C.A. Const.Amend. 14](#).

[3 Cases that cite this headnote](#)

[5] **Automobiles** ➡ Grounds

The violation of a traffic law provides sufficient probable cause to make a lawful stop. [U.S.C.A. Const.Amend. 4](#).

[9] **Pardon and Parole** ➡ Proceedings to obtain clemency

Defendant had no right to present mitigating evidence in a second clemency proceeding initiated by the Governor.

[4 Cases that cite this headnote](#)

[6] **Constitutional Law** ➡ Race, National Origin, or Ethnicity

The equal protection clause prohibits selective enforcement of the law based on considerations such as race. [U.S.C.A. Const.Amend. 14](#).

[1 Cases that cite this headnote](#)

[10] **Pardon and Parole** ➡ Proceedings to obtain clemency

The Supreme Court lacks the prerogative to second-guess the application of the exclusive executive function of granting clemency. [West's F.S.A. Const. Art. 4, § 8\(a\)](#).

[4 Cases that cite this headnote](#)

[7] **Arrest** ➡ Grounds for warrantless arrest in general

A law enforcement officer's reliance on a drug courier profile is immaterial to the arrest of a suspect that is otherwise reasonable and supported by probable cause. [U.S.C.A. Const.Amend. 4](#).

[11] **Constitutional Law** ➡ Pardon and parole

The principle of separation of powers requires the judiciary to adopt an extremely cautious approach in analyzing questions involving executive clemency. [West's F.S.A. Const. Art. 4, § 8\(a\)](#).

[2 Cases that cite this headnote](#)

[8] **Constitutional Law** ➡ Pardon and clemency
Pardon and Parole ➡ Proceedings to obtain clemency

Denial of clemency in a second proceeding initiated by the Governor and conducted without

[12] **Pardon and Parole** ➡ Pardon

The pardon powers expressed in the state constitution are peculiarly within the domain of the executive branch of government.

F.S.A. Const. Art. 4, § 8(a).

[13] **Records** 🔑

handgun. He then arrested both men for possession of handguns without permits. The police later identified the handgun from the glove box as the murder weapon.

The next day Puiatti and Glock individually confessed to the kidnapping, robbery, and killing. These initial confessions varied only to the extent that each blamed the other as instigator of the killing and each offered a differing sequence of who fired the shots at the victim. Each confessor admitted he had fired shots at the victim. Three days later, on August 24, Puiatti and Glock gave a joint statement concerning their involvement in the murder. In this joint confession, the appellants resolved the inconsistencies in their prior statements: they agreed that Glock initially suggested shooting the victim and that Puiatti fired the first shots and Glock fired the final shots.

Before trial, both appellants moved to sever their trials on the grounds that the state intended to introduce each appellant's individual confession. The trial court denied their motions. At trial, neither appellant testified in his own behalf, and the three confessions—the two individual confessions and the joint confession—were admitted in evidence. The appellants objected only to the introduction of the individual confessions. The trial court overruled appellants' objections, but, before admitting each individual statement, the trial court admonished the jury to disregard each defendant's individual confession as it tended to implicate the other.

The jury found each appellant guilty of first-degree murder, kidnapping, and robbery. In the penalty phase, Puiatti waived any reliance on the mitigating factor of no significant prior criminal history, but offered psychiatric testimony indicating he was under Glock's substantial domination. Glock claimed the application of the mitigating factor of no significant prior criminal history and introduced psychiatric evidence suggesting that he would not have participated in the crime but for his association with Puiatti. The jury, by an 11-to-1 vote, recommended imposition of the death penalty for both Puiatti and Glock.

The trial judge, in accordance with the jury recommendation, imposed the death penalty on both appellants, finding no mitigating circumstances and the following three aggravating circumstances: (1) the murder was committed to avoid arrest [section 921.141(5)(e), Florida Statutes (1983)]; (2) the murder was committed for pecuniary gain [section 921.141(5)(f), Florida Statutes (1983)]; and (3) the

murder was committed in a cold, calculated, and premeditated manner without any pretense of moral or legal justification [section 921.141(5)(i), Florida Statutes (1983)].

495 So.2d 128, 129 (Fla.1986),
481 U.S. 1027, 107 S.Ct. 1950, 95 L.Ed.2d 523 (1987).

Glock appealed his murder conviction and death sentence, but he did not appeal his convictions for kidnapping and robbery.² We affirmed on direct appeal.³ *247

495 So.2d at 128. Thereafter, Governor Bob Martinez signed a death warrant, setting execution for January 17, 1989, and Glock filed a rule 3.850 motion for postconviction relief in the trial court. The trial court summarily denied each of Glock's claims.⁴

537 So.2d 99 (Fla.1989). Glock appealed to this Court, and he also filed a petition for writ of habeas corpus and request for stay of execution. at 100.

As stated by this Court, Glock raised two principal claims: "(1) that the admission of codefendant Puiatti's confession violated 481 U.S. 186, 107 S.Ct. 1714, 95 L.Ed.2d 162 (1987), and

391 U.S. 123, 88 S.Ct. 1620, 20 L.Ed.2d 476 (1968); and (2) that trial counsel was ineffective in failing to obtain additional information from Glock's family to aid the mental health experts in showing deficiencies in Glock's personality that affected Glock's confession and presentation of evidence in the penalty phase." 537

So.2d at 101-02. This Court rejected these claims, affirmed the trial court's summary denial of the 3.850 motion, denied the petition for writ of habeas corpus, and denied the stay of execution.⁵ at 103.

Following this Court's 1989 decision, Glock sought relief in the federal courts by filing a petition for writ of habeas corpus, which the federal district court denied.

752 F.Supp. 1027, 1031 (M.D.Fla.1990).⁶ On appeal, the *248 Eleventh Circuit set aside the death sentence, finding that the trial court's jury instructions regarding the "heinous, atrocious and cruel" ("HAC") aggravator violated Glock's Eighth Amendment rights as interpreted by 505 U.S. 1079, 112 S.Ct. 2926, 120 L.Ed.2d 854 (1992).

36 F.3d 1014, 1027 (11th Cir.1994). Subsequently, the Eleventh Circuit reheard the case en banc and determined, based on an analysis of the principles announced in 489 U.S. 288,

109 S.Ct. 1060, 103 L.Ed.2d 334 (1989), that Glock was not entitled to the benefit of the retroactive application of 65 F.3d 878, 890 (11th

Cir.1995).⁷ The en banc Eleventh Circuit remanded the case to the Eleventh Circuit panel for consideration of Glock's other sentence-related challenges that the panel had not previously addressed. at 891.

On remand, the Eleventh Circuit panel determined that four of Glock's claims were meritless and affirmed the denial thereof, but remanded the case for an evidentiary hearing on the claim of whether Glock's attorney rendered ineffective assistance of counsel in failing to discover and present mitigating evidence.

84 F.3d 385, 386 (11th Cir.1996). The federal district court, on remand, referred the case to a magistrate, who held two days of evidentiary hearings during which Glock's counsel examined ten witnesses in order to elicit evidence that Glock claimed his trial counsel would have discovered during trial had counsel been constitutionally effective.

195 F.3d 625, 632 (11th Cir.1999), 531 U.S. 890, 121 S.Ct. 213, 148 L.Ed.2d 150 (2000). The magistrate issued a report and recommendation that the district court deny Glock's writ of habeas corpus. The district court adopted the magistrate's report and recommendation, and denied the writ. Glock appealed to the Eleventh Circuit, which affirmed the district court's denial. at 626.

Governor Bush signed Glock's death warrant on November 14, 2000, and execution was set for December 8, 2000. Glock thereafter filed an application for stay, which this Court granted, thereby staying execution to and including 6 p.m. on January 10, 2001. Execution was reset for January 11, 2001. On November 20, 2000, postconviction counsel served public records requests on a number of state agencies. On December 1, 2000, the trial court held a status hearing at which it ordered that Glock file his postconviction motion by December 4, 2000. Glock timely filed his motion and the trial court held a hearing on December 7, 2000, at which the court orally denied Glock's motion. The trial court entered its written order on December 18, 2000, and this appeal followed.

3.850 MOTION FOR POSTCONVICTION RELIEF

^[1] In his first claim on appeal, Glock contends that the trial court erred by adopting the State's proposed order, by failing to write its own order and by summarily denying relief without reviewing the record to determine whether Glock pled sufficient facts to warrant an

evidentiary hearing. As to the issue of the adoption of the State's order, this Court has rejected similar challenges where the defendant had notice of the request for proposed orders and an opportunity to submit his or her own proposal and/or objections.

25 Fla. L. Weekly S749, S750–51, 2000 WL 1424526 (Fla. Sept. 28, 2000); *249 640 So.2d 1077, 1078–79 (Fla.1994). In

for example, this Court held that the trial court's adoption of the State's proposed order denying a capital defendant relief on his 3.850 motion did not constitute a due process violation where the trial court signed the State's proposed order three days after defense counsel received a copy and the defendant had an opportunity to argue all of the issues in his brief and at a hearing. 640 So.2d at 1079. The Court explained that even though the defendant did not have the ability to file his own proposed order, his ability to raise objections negated any due process concerns.

648 So.2d 100, 104 (Fla.1994) (holding that verbatim adoption of State's proposed order on a capital defendant's 3.850 motion was not error because both parties stipulated to the filing of post-hearing memoranda, the State served its proposed order on defense counsel months before the trial court signed the State's order, and defense counsel filed an extensive response to the State's proposed order).

On the other hand, this Court has found a due process violation to exist when the defendant was not served with a copy of the State's proposed order or given an opportunity to file objections. 601 So.2d 1181, 1182 (Fla.1992); 622 So.2d 982, 983 (Fla.1993). In contrast to and in this case Glock's counsel had notice that the trial court asked the State to prepare a proposed order and Glock submitted objections to the State's proposed order.

The two cases cited by Glock, 25 Fla. L. Weekly S1097, 2000 WL 1752209 (Fla. Nov. 30, 2000), and 652 So.2d 344 (Fla.1995), are clearly distinguishable, because those cases concerned the State's preparation of a sentencing order.⁸ We thus find no error in this case as a result of the trial court's adoption of the State's proposed order summarily denying Glock's successive motion for postconviction relief. Further, we find no merit to Glock's assertion that the trial court failed to conduct a proper review of all the files and records in the case before summarily denying postconviction relief.

¹²¹ The gist of Glock's motion for postconviction relief is a claim of newly discovered evidence that Glock alleges bears directly on the denial of the motion to suppress, which arose from the circumstance of Glock being stopped on the New Jersey turnpike while driving the murder victim's stolen car. Glock's claim of newly-discovered evidence relates to an assertion that the stop was illegal because it was predicated on impermissible racial or drug profiling.⁹ He contends that "[n]ewly discovered evidence, released only within the last few days, establishes that the illegal stop by Trooper William Moore on *250 the New Jersey Turnpike seventeen years ago was what led to Mr. Glock's confessions, conviction and eventual sentence of death." Thus, Glock contends that the trial court erred by refusing "to give counsel time to examine the remainder of the 91,000 pages of documents disclosed by the New Jersey Attorney General and amend his Rule 3.850 motion with any new facts he discovered from those documents."

In 709 So.2d 512 (Fla.1998), this Court reiterated the standard that must be met in order for a conviction to be set aside based upon newly discovered evidence:

First, in order to be considered newly discovered, the evidence "must have been unknown by the trial court, by the party, or by counsel at the time of trial, and it must appear that defendant or his counsel could not have known [of it] by use of diligence."

636 So.2d 1321, 1324-25

(Fla.1994).

Second, the newly discovered evidence must be of such nature that it would probably produce an acquittal on retrial.

591 So.2d at 911, 915. To reach this conclusion the trial court is required to "consider all newly discovered evidence which would be admissible" at trial and then evaluate the "weight of both the newly discovered evidence and the evidence which was introduced at the trial."

at 521. In this case, the trial court's order denying relief on this claim stated that:

The concept of drug profiling has been well known for several years and yet Glock has waited some fourteen years and only now on the eve of execution on a second death warrant presents his current claim. The circumstances surrounding the stop of the vehicle were fully known to him for all those years. He urges that what is new at this time is the disclosure that New Jersey officers have engaged in a practice of disproportionately stopping drivers of a racial minority; it is questionable whether even this is new since among the exhibits he has furnished includes a certificate of a

New Jersey criminal defense attorney who asserts that he has been in the process of litigating such claims for the last ten years. (See Appendix 10 to Defendant's Motion to Vacate). The Court concludes that petitioner Glock is untimely in presenting this eleventh hour exercise in speculation to overturn his judgment and sentence.

In particular, the trial court in this case specifically found that Glock's claim was meritless because, among other things:

Trooper Moore testified that he stopped the vehicle because of his observation that the license plate was illegible and it is a motor vehicle driver's violation to have the license tags improperly displayed. Glock and Puiatti admitted that their licenses were suspended, and Moore observed the butt of a handgun in the glove compartment when they retrieved the auto registration (R400-404). When Moore patted them down Glock stated there was a gun in the car and had no objection to Moore looking in the car. Moore placed them under arrest for possession of the two guns in the car (R404-406). Moore stated that the only reason he stopped the car was because of the tag (R419).

Petitioner Glock offers nothing now in this proceeding that would challenge in any way Trooper Moore's testimony that he validly stopped the vehicle driven by Glock for an improper display of the license tag in August of 1983. That some troopers years later may have engaged in an impermissible policy of stopping other drivers for illegitimate reasons is irrelevant to the instant case.

....

The Court notes that the evidence shows that Glock and Puiatti confessed not just once in New Jersey but again *251 jointly after their return to Pasco County, all after warnings.

We agree with the trial court's conclusions regarding the denial of the newly discovered evidence claim on both prongs of

¹³¹ As to the first prong of any claim of newly discovered evidence in a death penalty case must be brought within one year of the date such evidence was discovered or could have been discovered through the exercise of due diligence. 708 So.2d 941, 947-48 (Fla.1998); Fla. R.Crim. Pro. 3.851(b)(4) (providing for extension of time for filing of motion for postconviction relief where counsel makes a showing of good cause for the inability to file the

postconviction pleadings within the one-year time period). The claim that minorities were subject to a disproportionate number of traffic stops on the New Jersey Turnpike and thus the potential victims of illegal discriminatory enforcement of the traffic laws was a claim that has been known for a number of years, as indicated by reported cases addressing that issue.

247 N.J.Super. 21, 588 A.2d 834, 836 (1991); 331 N.J.Super. 529, 752 A.2d 735, 740 (2000); 324 N.J.Super. 66, 734 A.2d 350, 351 (1996). Further, as the trial court recognized, the expert declaration of New Jersey attorney William Buckman that Glock submitted in support of his motion in this case indicates that Buckman has been representing individuals in cases involving the racial profiling issue for the past ten years. In addition, the New Jersey Attorney General issued an interim report on the issue of racial profiling in April 1999, more than one year before the filing of the motion. Nonetheless, despite this report and these earlier cases, Glock has never before Governor Bush signed this death warrant on November 14, 2000, raised or attempted to pursue this claim. In fact, Glock did not even raise the denial of the motion to suppress or the impropriety of the initial stop as an issue on direct appeal.

We do not find persuasive Glock's additional argument that he would have had no reason to know prior to the November 2000 disclosure of the 91,000 pages of documents that profiling was occurring as early as 1983. Even the most recent records that Glock relies on for his claim of newly-discovered evidence do not actually establish that racial or drug profiling was systematically used in the early 1980's, and such an assertion is speculative at best. For all these reasons, we find this claim to be procedurally barred.

As to the second prong of even if we were to find that this claim was not procedurally barred, we do not find that the motion was sufficiently pled to give rise to a legal claim for relief that would probably produce an acquittal on retrial in this case. In order to prevail, Glock would have to show that evidence of impermissible racial or drug profiling, if considered in conjunction with other evidence presented, would have resulted in the granting of the motion to suppress based on an unlawful stop.

As we noted on direct appeal, the New Jersey state trooper stopped the victim's vehicle driven by Glock and occupied by Puiatti because the vehicle's license plate was improperly displayed. 495 So.2d at 129. Nothing that Glock has asserted in his successive motion contradicts that established fact. When neither Puiatti nor Glock could present a valid driver's license,

the officer requested the car's registration. As Puiatti opened the glove box, the trooper saw a handgun, which he seized. The officer then searched the vehicle, discovered another handgun and arrested Glock and Puiatti for possession of handguns without permits.

^[4] ^[5] According to the trooper's testimony, an improper display of a license plate constituted a motor vehicle violation under New Jersey law. As we explained *252 in 696 So.2d 757, 759 (Fla.1997), the violation of a traffic law provides sufficient probable cause to make a lawful stop under the objective test laid out by the United States Supreme Court in 517 U.S. 806, 813, 116 S.Ct. 1769, 135 L.Ed.2d 89 (1996) (constitutional reasonableness of traffic stop is not dependent on actual motivations of individual officers). Thus, this alleged traffic violation provided probable cause for the trooper to stop Glock and Puiatti. 517 U.S. at 810, 116 S.Ct. 1769.

^[6] On the other hand, as the United States Supreme Court has recognized, "the constitutional basis for objecting to intentionally discriminatory application of laws is the Equal Protection Clause, not the Fourth Amendment." 517 U.S. at 813, 116 S.Ct. 1769. Thus, the United States Supreme Court has recognized that "the Constitution prohibits selective enforcement of the law based on considerations such as race." 426 U.S. 229, 239, 96 S.Ct. 2040, 48 L.Ed.2d 597 (1976) ("The central purpose of the Equal Protection Clause of the Fourteenth Amendment is the prevention of official conduct discriminating on the basis of race.").

As noted by the trial court, however, Glock, who was the driver of the vehicle, was Caucasian.¹⁰ Therefore, even assuming that an official policy of racial profiling existed in New Jersey as of 1983, it is mere speculation that the stop in this case was connected to such a policy; that is, that the stop was based on race or other invidious classification. 254 N.J.Super. 390, 603 A.2d 562, 566 (1992) (granting motion to suppress where detective relied on racial makeup of defendants as primary factor arousing his suspicion of drug activity).

^[7] To the extent that Glock claims that his vehicle was stopped because he and Puiatti fit a drug profile, a law enforcement officer's reliance on a "drug courier profile" would not be material to the arrest of a suspect that was otherwise reasonable and supported by probable cause. 490 U.S. 1, 10, 109 S.Ct. 1581, 104 L.Ed.2d 1 (1989). A claim of the use of an impermissible profile, not based on race or other

invidious classification, would thus relate to the Fourth Amendment claim of whether the original stop was lawful. In this case, nothing that Glock has asserted casts doubt on the legality of the stop so as to allow a collateral attack on the conviction seventeen years after the stop took place.

[8] [9] [10] [11] [12] Glock was afforded a clemency hearing at the time of his first death warrant, at which time he was represented by counsel. In the current death warrant, Governor Bush attested to the fact that “it has been determined that Executive Clemency, as authorized by [Article IV, Section 8\(a\), Florida Constitution](#), is not appropriate.” Glock now contends that he has been denied access to the clemency process because he was denied the right to present mitigating evidence and denied the right to counsel. In this Court rejected a similar argument:

In the final claim raised under his 3.850 motion, appellant contends that he must be allowed time to prepare and present an application for executive clemency before sentence may be carried out in this case. In the death warrant authorizing appellant’s execution, the governor attests to the fact that “it has been determined that Executive *253 Clemency, as authorized by [Article IV, Section 8\(a\), Florida Constitution](#), is not appropriate.” It is not our prerogative to second-guess the application of this exclusive executive function. First, the principle of separation of powers requires the judiciary to adopt an extremely cautious approach in analyzing questions involving this admitted matter of executive grace. [348 So.2d 312 \(Fla.\)](#), [434 U.S. 878, 98 S.Ct. 232, 54 L.Ed.2d 159 \(1977\)](#). As noted in [334 So.2d 561, 562–63 \(Fla.1976\)](#), “[t]his Court has always viewed the pardon powers expressed in the Constitution as being peculiarly within the domain of the executive branch of government.”

[131 Fla. 83, 178 So. 876 \(1938\)](#).
[497 So.2d 1209, 1211 \(Fla.1986\)](#)

[739 So.2d 1150, 1155 \(Fla.1999\)](#). As in and Glock now seeks counsel for a second clemency hearing. Although Glock contends that and differ from this case because the Governor, rather than Glock, has initiated the clemency proceeding, this is a distinction without a difference.

Moreover, for the reasons stated in we reject Glock’s arguments with regard to his right to present evidence. Accordingly, we find no due process violation and no merit to Glock’s clemency claim.

[13] On November 20, 2000, Glock filed demands for public records requests on a variety of different state agencies, pursuant to chapter 119, Florida Statutes (2000), and [Florida Rule of Criminal Procedure 3.852\(h\)\(3\) and \(i\)](#). Glock supplemented these demands by additional requests, as well as motions to compel, filed on December 1 and December 5, 2000.

This Court has recently addressed the issue of public records as it arises in cases such as this one, where the request is made after the death warrant has been signed:

The language of [section 119.19](#) and of rule 3.852 clearly provides for the production of public records after the governor has signed a death warrant. However, it is equally clear that this discovery tool is not intended to be a procedure authorizing a fishing expedition for records unrelated to a colorable claim for postconviction relief. To prevent such a fishing expedition, the statute and the rule provide for the production of public records from persons and agencies who were the recipients of a public records request at the time the defendant began his or her postconviction odyssey. The use of the past tense and such words and phrases as “requested,” “previously,” “received,” “produced,” “previous request,” and “produced previously” are not happenstance.

To hold otherwise would foster a procedure in which defendants make only a partial public records request during the initial postconviction proceedings and hold in abeyance other requests until such time as a warrant is signed. Such is neither the spirit nor intent of the public records law.

”
[753 So.2d 66, 70 \(Fla.2000\)](#) (emphasis added).

In this case, the scope of Glock's public records request is quite broad.¹¹ Many of *254 the records Glock requested were in fact produced by the various agencies, but some agencies claimed exemptions. It is clear from a review of the record and the hearing that most of the records are not simply an update of information previously requested but entirely new requests.

Nonetheless, Glock has not made a showing as to how any of the records he has requested and has not received relate to a colorable claim for postconviction relief or to a "focused investigation into some legitimate area of inquiry." Moreover, Glock has not shown good cause as to why he did not make these public records requests until after the death warrant was signed.

748 So.2d 1003, 1006 (Fla.1999);

708 So.2d 941, 947 (Fla.1998). Accordingly, based upon the record before us, we hold that the trial court did not abuse its discretion in denying the motions to compel and in determining that Glock's right to public records was not denied under section 119.19, Florida Statutes, and rule 3.852.

PETITION FOR WRIT OF HABEAS CORPUS

^[14] In his petition for habeas corpus, Glock claims that his death sentence has been applied in an arbitrary and capricious manner in violation of the constitutional imperatives under 408 U.S. 238, 92 S.Ct. 2726, 33 L.Ed.2d 346 (1972), because he was unable to obtain relief on collateral review for his claim that the "HAC" jury instruction was unconstitutionally vague based on 505 U.S. 1079, 112 S.Ct. 2926, 120 L.Ed.2d 854 (1992). He compares his case with 615 So.2d 668 (Fla.1993), and contends that the differing results between the two cases have led to an arbitrary application of the death penalty.

In however, the defendant properly raised the issue in the trial court and again on appeal. 615 So.2d at 669. Glock, on the other hand, failed to raise the issue on appeal.¹² Accordingly, Glock's case is *255 more akin to 520 U.S. 518, 117 S.Ct. 1517, 137 L.Ed.2d 771 (1997), in which the United States Supreme Court found no constitutional infirmity in holding that the defendant was not entitled to receive the benefit of the

retroactivity of Like Glock, Lambrix properly raised his "HAC" objection at trial, but did not raise the issue on appeal. 641 So.2d

847, 848 (Fla.1994). This resulted in our finding that the claim was procedurally barred.

617 So.2d 313, 315 (Fla.1993)

("The instruction given on the heinous, atrocious, or cruel aggravator was the standard jury instruction found lacking in ... Although defense counsel requested expanded instructions on both aggravating factors and objected when the standard instructions were given, this claim is procedurally barred because a specific challenge to the instructions was not raised on direct appeal.").

Indeed, even in itself, we held that "[c]laims that the instruction on the heinous, atrocious, or cruel aggravator is unconstitutionally vague are procedurally barred unless a specific objection on that ground is made at trial and pursued on appeal." 615 So.2d at 669. Thus, the fact that raised this issue on appeal distinguishes from Glock's case and that distinction does not make the application of the death penalty arbitrary under ¹³ Based on the reasons expressed above, Glock's petition for writ of habeas corpus is denied.

CONCLUSION

In sum, we affirm the trial court's denial of Glock's motion for postconviction relief and we deny Glock's petition for habeas corpus. No motion for rehearing will be entertained.

Is it so ordered.

WELLS, C.J., and SHAW, HARDING, ANSTEAD, PARIENTE and LEWIS, JJ., concur.

QUINCE, J., recused.

All Citations

776 So.2d 243, 26 Fla. L. Weekly S9

316 So.2d 537
Supreme Court of Florida.

Paul Eugene OWENS, Appellant,
v.
STATE of Florida, Appellee.

No. 45705.
|
July 10, 1975.

Synopsis

Defendant was convicted in the Circuit Court, Hillsborough County, Harry Lee Coe, III, J., of a capital felony. Defendant was sentenced and appealed. The District Court of Appeal, 294 So.2d 693, held that the statute requiring that a person convicted of a capital felony serve no less than 25 years before becoming eligible for parole is constitutional. On further appeal by the defendant, the Supreme Court, England, J., held that the statute is not unconstitutional as usurping parole authority alleged to be a function of the executive branch; in enacting the statute, the legislature was exercising power expressly reserved in creation of the Parole and Probation Commission.

Affirmed.

West Headnotes (3)

[1] **Pardon and Parole** → Authority or Duty to Grant Parole or Parole Consideration

Parole authority is only exercisable to extent it has been conferred. [West's F.S.A.Const. art. 4, § 8\(c\)](#); [West's F.S.A. § 947.16\(1\)](#).

2 Cases that cite this headnote

[2] **Constitutional Law** → To Executive, in General

Placement of legislative power in one subsection of constitutional article dealing with executive

branch does not render the delegated power nugatory; the placement is functional, as with executive powers conferred in the judicial article and legislative article. [West's F.S.A.Const. art. 3, § 8](#); [art. 4, § 8\(c\)](#); [art. 5, § 11](#).

2 Cases that cite this headnote

[3] **Constitutional Law** → Pardon and Parole
Pardon and Parole → Validity of Statutes

Statute providing that person convicted of capital felony shall serve no less than 25 years in prison before becoming eligible for parole is not unconstitutional as violating scheme for separation of powers or as usurping parole authority alleged to be function of executive branch; in so providing, legislature was exercising power expressly reserved in creation of Parole and Probation Commission. [West's F.S.A. §§ 775.082\(1\), 947.01 et seq., 947.16\(1\)](#); [F.S.1971, § 794.01\(1\)](#), Laws 1972, c. 72-724; [West's F.S.A.Const. art. 4, § 8\(c\)](#); [art. 5, § 3\(b\)\(1\)](#).

13 Cases that cite this headnote

Attorneys and Law Firms

*537 James A. Gardner, Public Defendant, and Ellen Condon, Asst. Public Defender, for appellant.

Robert L. Shevin, Atty. Gen., and Robert J. Landry, Asst. Atty. Gen., for appellee.

Opinion

ENGLAND, Justice.

This case is here on appeal from a decision of the Second District Court of Appeal, reported at 294 So.2d 693. Since the district court initially and directly passed on the validity of [Section 775.082\(1\)](#), [Florida Statutes](#), we have jurisdiction for review.¹

Appellant pled guilty to a charge that he had raped a female under eleven years old in violation of [Section 794.01\(1\), Florida Statutes](#), after which he was adjudicated guilty and sentenced to life imprisonment. In reviewing his conviction and sentence, the district court upheld the constitutionality of [Section 775.082\(1\)](#), which provides that a person convicted of a capital felony shall serve no less than 25 years in prison before becoming eligible for parole.²

***538** ^[1] The only question presented for our review is the constitutional one passed on below. Appellant contends the law is invalid because the legislature has usurped parole authority, alleged to be a function of the executive branch of government. However the exercise of parole authority is characterized for separation of powers purposes, the authority is only exercisable to the extent it has been conferred. No parole authority has been conferred with respect to the first 25 years of incarceration of one convicted of a capital felony. For that reason, we disagree with appellant's suggestion that the law is invalid.³

^[2] ^[3] The Florida Constitution (1968) expressly provides that the legislature may create a parole and probation commission having power to grant paroles.⁴ The

Footnotes

1 Fla.Const. art. V, s 3(b)(1) (1972).

2 The same result on the same legal question was reached in [Owens v. State, 300 So.2d 70 \(1st Dist.Ct.App.Fla.\)](#), Appeal dismissed, [305 So.2d 203 \(Fla.1974\)](#), involving another individual whose trial resulted in conviction for the same offense.

3 We recently upheld the constitutionality of minimum prison time, as expressed in [Section 775.082\(1\)](#), against an identical separation of powers attack. [Dorminey v. State, 314 So.2d 134 \(Fla.1975\)](#).

4 Fla.Const. art. IV, s 8(c). Although article IV of the constitution deals with the executive branch, the placement of a legislative power in one subsection of that article does not render the delegated power nugatory. The placement is functional, as with executive powers conferred in the judicial article (art. V, s 11) and in the legislative article (art. III, s 8).

5 [Section 947.16\(1\), Fla.Stat. \(1973\)](#).

6 [Owens v. State, 300 So.2d 70, 72 \(1st Dist.Ct.App.Fla.\)](#) Appeal dismissed, [305 So.2d 203 \(Fla.1974\)](#). In presenting materials and arguments relative to modern penology's approach to the rehabilitation of criminals, appellant has really asked us to breach the separation of constitutional powers by usurping the acknowledged legislative function of prescribing punishments for crimes.

7 We have considered appellant's 'due process' argument and find it to be without merit.

legislature exercised this power in chapter 947, Florida Statutes (1973). Appellant contends, however, that having created a Parole and Probation Commission with full parole powers for all criminal offenses, the legislature may not limit its powers by a statute outside that chapter which prescribes a minimum sentence for one class of crimes. The complete answer to appellant's contention is that the legislature expressly reserved this power in its creation of the Commission.⁵

For the reasons well expressed by the First District Court of Appeal,⁶ we reject appellant's contention and hold that this statute does not violate Florida's constitutional scheme for the separation of powers.⁷ Appellant's sentence to life imprisonment under [Section 775.082\(1\), Florida Statutes](#), is affirmed.

ADKINS, C.J., and ROBERTS, BOYD, McCAIN and OVERTON, JJ., concur.

All Citations

316 So.2d 537









AMERICAN
OVERSIGHT



November 13, 2020

To: All Attorneys General

From: Attorneys General Tom Miller and Dave Yost

Re: **Urging Congress to Extend the Deadline for Eligible CARES Act Expenses from December 30, 2020 to December 31, 2021**

Dear Colleagues:

This is an invitation for you to join us in urging Congress to pass S. 4494, bipartisan legislation sponsored by Senator Maggie Hassan (D-NH) and Senator Chuck Grassley (R-Iowa) that would extend the eligibility period for Coronavirus Aid, Relief, and Economic Security (CARES) Act Funding.

COVID-19 has impacted every facet of American society. In anticipation of unprecedented costs and economic disruption stemming from the pandemic, Congress passed the CARES Act which provides financial assistance to communities for expenses incurred due to COVID-19. One of the restrictions placed on the funding, however, limits the money's use to expenses incurred between March 1, 2020, and December 30, 2020. While this time frame likely made sense in late March when the CARES Act was passed, we have learned a great deal about COVID-19 in the intervening months. There can be no question that states and local communities will continue to incur COVID related expenses next year.

We invite each of you to add your voice to this effort by joining the attached letter to Congress, urging the passage of S. 4494 to extend the deadline to December 31, 2021. If you have any questions about the substance of this letter, please contact Michael Rodgers of Ohio at 614-995-2273 or Michael.Rodgers@ohioattorneygeneral.gov or Nathan Blake of Iowa at 515-281-4325 or nathan.blake@ag.iowa.gov.

A sign-on sheet is attached; please return the sheet to Ryan Greenstein by email at rgreenstein@naag.org or by fax to (202) 521-4057 no later than 12:00 p.m. EST, Wednesday, November 25, 2020. The final letter will be sent Monday, November 30, 2020.

Yours,

Tom Miller
Iowa Attorney General

Dave Yost
Ohio Attorney General

Nov. XX, 2020

The Honorable Richard Neal
Chairman
House Ways and Means Committee
1102 Longworth House Office Building
Washington, DC 20515

The Honorable Kevin Brady
Ranking Member
House Ways and Means Committee
1139 Longworth House Office Building
Washington, DC 20515

Dear Chairman Neal and Ranking Member Brady,

Thank you for everything you have done thus far in providing critical relief to communities reeling from the health, societal, and economic effects of COVID-19. We are grateful for the federal support, but we write today to ask that Congress consider extending the spending-related deadline for relief funding so Americans can receive the full benefit of this assistance.

COVID-19 has impacted every facet of American society. In anticipation of unprecedented costs and economic disruption stemming from the pandemic, Congress passed the Coronavirus Aid, Relief, and Economic Security (CARES) Act, which President Trump signed into law. This legislation established the Coronavirus Relief Fund (CRF), which provides financial assistance to communities for expenses incurred due to COVID-19.

One of the restrictions placed on the funding, however, limits the money's use to expenses incurred between March 1, 2020, and December 30, 2020. This time frame likely made sense in late March when the CARES Act was passed, but we have learned a great deal about COVID-19 in the past seven months. Among other things, we know that the pandemic will continue to challenge communities well beyond December 30, 2020 – a deadline that now seems unreasonable.

With COVID-19 cases rising daily in much of the country and many states still under a health emergency declaration, we urge Congress to amend the CFR program to allow state and local governments to spend the funding at least until December 31, 2021.

In some states, Attorneys General are being called upon to help distribute CARES funding, a role that has given us firsthand knowledge of the difficulties posed by the current deadline.

For example, the Ohio Attorney General's Office is administering a grant program providing reimbursement for eligible COVID-19 expenses to rape crisis centers, domestic violence shelters, and child advocacy centers. Establishing standards and procedures for a grant program took time, thus reducing the time that these organizations have had to apply for and receive reimbursements. All the while, these groups' need for COVID-related assistance has grown only more substantial, a demand that is not likely to subside anytime soon.

The CARES Act is a program that is delivering critical resources to local governments, businesses, nonprofits, and families. We collectively thank you for your leadership on this issue and hope that you will carefully consider our request to extend the deadline for eligible expenses through 2021.

Yours,

Tom Miller
Iowa Attorney General

Dave Yost
Ohio Attorney General

**RESPONSE FORM FOR SIGN-ON LETTER TO CONGRESS ASKING FOR AN EXTENSION OF THE
DEADLINE FOR ELIGIBLE CARES ACT EXPENSES BY 12 MONTHS
DEADLINE FOR RESPONSE: 12PM ET WEDNESDAY, NOVEMBER 25, 2020**

PLEASE RETURN FORM TO:
Ryan Greenstein
National Association of Attorneys General
rgreenstein@naag.org

- ☐ **YES, I authorize NAAG to affix my signature** to the letter to Congress asking for an extension to the deadline for eligible CARES Act expenses by 12 months.
- ☐ **NO, I do not authorize NAAG to affix my signature** to the letter.

PLEASE PRINT OR TYPE LEGIBLY

_____ (name)

Attorney General of _____ (state name)

Contact Name, Phone Number, Email

**If you have any questions about the letter or would like additional information on it,
please contact Michael Rodgers of Ohio at 614-995-2273 or Michael.Rodgers@ohioattorneygeneral.gov or
Nathan Blake of Iowa at 515-281-4325 or nathan.blake@ag.iowa.gov.**

**If you have any questions about your state's response, please contact Ryan Greenstein at 202-326-6262 or
rgreenstein@naag.org.**

116TH CONGRESS
2D SESSION

S. 4494

To amend title VI of the Social Security Act to extend the period with respect to which amounts under the Coronavirus Relief Fund may be expended.

IN THE SENATE OF THE UNITED STATES

AUGUST 6, 2020

Ms. HASSAN (for herself and Mr. GRASSLEY) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To amend title VI of the Social Security Act to extend the period with respect to which amounts under the Coronavirus Relief Fund may be expended.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “State and Local
5 Coronavirus Relief Fund Extension Act”.

1 **SEC. 2. EXTENSION.**

2 Section 601(d)(3) of the Social Security Act (42
3 U.S.C. 801(d)(3)) is amended by striking “December 30,
4 2020” and inserting “December 31, 2021”.

○



No. 20-366

In the
Supreme Court of the United States

DONALD J. TRUMP,
PRESIDENT OF THE UNITED STATES, ET AL.,
Appellants,
v.
NEW YORK, ET AL.,
Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT
COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

**AMICUS CURIAE BRIEF OF THE
STATES OF LOUISIANA, [OTHERS]
IN SUPPORT OF APPELLANTS**

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ELIZABETH B. MURRILL*
Solicitor General
**Counsel of Record*
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INTEREST OF AMICI CURIAE

The following States submit this brief as *amici curiae*: Louisiana, [OTHERS].

Much is at stake for *amici* in this litigation because, one way or another, the Court's decision will affect the apportionment of congressional seats to the States. If illegal immigrants are not excluded from the apportionment base in 2020, Ohio, Alabama, and Minnesota will probably each lose a seat in the House of Representatives.¹ California, New York, and Texas are likely to each gain a seat.² Apportionment of these seats is a “zero-sum” process because federal law caps the House at 435 members. *See* 2 U.S.C. § 2a. There are few interests more vital to a State than the extent of its representation in Congress, as this Court has recognized. *See, e.g., Utah v. Evans*, 536 U.S. 452, 462–63 (2002).

If illegal immigration continues, more seats

¹ *See* Steven A. Camarota & Karen Zeigler, *The Impact of Legal and Illegal Immigration on the Apportionment of Seats in the U.S. House of Representatives in 2020*, Center for Immigration Studies (Dec. 19, 2019), <https://cis.org/Report/Impact-Legal-and-Illegal-Immigration-Apportionment-Seats-US-House-Representatives-2020>; Jeffrey S. Passel & D'Vera Cohn, *How removing unauthorized immigrants from census statistics could affect House reapportionment*, Pew Research Ctr. (July 24, 2020), <https://www.pewresearch.org/fact-tank/2020/07/24/how-removing-unauthorized-immigrants-from-census-statistics-could-affect-house-reapportionment/>.

² *Id.*

could be at stake in future years.³ Thus, this litigation is likely to have an outsized effect on future apportionment for decades to come.

The Court's decision will also affect districting within many—and perhaps all—States.⁴ In congressional districting, a state legislature seeks to divide a fixed number of seats among a population unevenly distributed across the State's area. If census figures do not properly reflect the distribution of voters within the States, state legislatures might demarcate boundaries between districts in ways incompatible with the Constitution's requirement that districts be drawn in a manner that gives each vote equal weight. See generally *Wesberry v. Sanders*, 376 U.S. 1 (1964);

³ According to the Pew Research Center, “[f]rom 1990 to 2007, the unauthorized immigrant population more than tripled in size—from 3.5 million to a record high of 12.2 million in 2007.” Although “that number had declined by 1.7 million, or 14%” by 2017, “[t]here were 10.5 million unauthorized immigrants in the United States in 2017, accounting for 3.2% of the nation's population.” Abby Budiman, *Key findings about U.S. immigrants*, Pew Research Ctr. (Aug. 20, 2020), <https://www.pewresearch.org/fact-tank/2020/08/20/key-findings-about-u-s-immigrants>.

⁴ Drawing the boundaries of a State's congressional districts in light of census data is among the most constitutionally vexing tasks for state governments—and this Court routinely considers cases involving challenges to redistricting plans. See e.g., *Branch v. Smith*, 538 U.S. 254 (2003) (litigation over Mississippi's post-census redistricting); *Bush v. Vera*, 517 U.S. 952 (1996) (litigation over Texas's postcensus redistricting); *Shaw v. Hunt*, 517 U.S. 899 (1996) (North Carolina); *Karcher v. Daggett*, 462 U.S. 725 (1983) (New Jersey); *White v. Regester*, 412 U.S. 755 (1973) (Texas); *Gaffney v. Cummings*, 412 U.S. 735 (1973) (Connecticut).

Reynolds v. Sims, 377 U.S. 533 (1964).

Because so much is at stake, *amici* write to encourage the Court to conclude that excluding illegal aliens from the apportionment base is a permissible policy choice because it is consistent with the Constitution’s text and promotes the “constitutional goal of equal representation.” *Franklin v. Massachusetts*, 505 U.S. 788, 806 (1992). *Amici* accordingly ask the Court to reverse the lower court’s “declaration that the Presidential Memorandum is unlawful because the President does not have the authority to exclude illegal aliens from the apportionment base” App. 101a.

SUMMARY OF ARGUMENT

The founders understood that conducting a census would not be an easy task. For that reason, the Constitution gives Congress broad authority to regulate the details of the undertaking. U.S. Const. art. I, § 2, cl. 3. (“The actual Enumeration shall be made . . . *in such Manner as [Congress] shall by Law direct.*” (emphasis added)). Congress, in turn, has given the Secretary of Commerce tremendous power to take the census “in such form and content as he may determine.” 13 U.S.C. § 141. When determining apportionment, the Secretary has license to employ policy decisions that promote equality.

This Court has recognized the breadth of the Secretary’s authority. *See, e.g., Wisconsin v. City of New York*, 517 U.S. 1 (1996); *Franklin v. Massachusetts*, 505 U.S. 788 (1992). The Court has approved various policy choices that the Secretary has employed to conduct the census and determine apportionment. As a general rule, a policy

determination will survive judicial review “so long as the Secretary’s conduct of the census is ‘consistent with the constitutional language and the constitutional goal of equal representation.’” *Wisconsin*, 517 U.S. at 19–20 (quoting *Franklin*, 505 U.S. at 804).

Despite this Court’s precedents upholding Secretary policy decisions, the lower court declared President Trump’s Memorandum to be unlawful because it directs the Secretary to “take all appropriate action, consistent with the Constitution and other applicable law, to provide information permitting the President, to the extent practicable, to exercise the President’s discretion to” exclude illegal aliens from the apportionment base. 85 Fed. Reg. 44,679, 44,680 (July 23, 2020). The lower court’s decision rested heavily on an unreasonable interpretation of the relevant statutory texts and their accompanying legislative history.

The Court should uphold the Memorandum because it is consonant with the Constitution and promotes equality. Including illegal aliens in the apportionment effectively dilutes the relative weight of a person’s vote in a district that does not contain many illegal immigrants. That runs headlong into this Court’s holding that, “as nearly as is practicable[,] one man’s vote in a congressional election is to be worth as much as another’s.” *Wesberry*, 376 U.S. at 7–8. Thus, by excluding illegal aliens from the apportionment base, the Memorandum promotes equality.

Finally, the Court should uphold the Memorandum because it corrects current incentives that encourage States to enact sanctuary policies in violation of federal law. States should not be

rewarded with extra representation in the House for thwarting federal immigration law.

ARGUMENT

I. FEDERAL LAW DOES NOT PROHIBIT EXCLUDING ILLEGAL ALIENS FROM CONGRESSIONAL APPORTIONMENT.

The lower court declared the Presidential Memorandum unlawful for two reasons: (1) the relevant statutory framework requires apportionment to be based on the results of the census alone; and (2) the Memorandum deviates from 2 U.S.C. § 2a(a)'s command to count the "whole number of persons in each State."

Both of these rationales are misguided because they fail to acknowledge the broad authority the executive branch wields to promote equal representation when determining congressional apportionment. Because the Memorandum promotes equal representation by preventing vote dilution in districts without many illegal immigrants, it fits comfortably within the range of acceptable policy choices that the executive branch may employ when conducting the census and determining apportionment.

A. The executive branch wields broad authority to adopt policies that promote equality for the purposes of determining apportionment.

When declaring the Presidential Memorandum unlawful and enjoining the Secretary

from including the number of illegal aliens in the report as directed by the President, the lower court concluded that the Memorandum violated 13 U.S.C. § 141 and 2 U.S.C. § 2a. In the lower court's view, those statutes dictate that "apportionment must be based on the results of the census alone." App. 73a–78a, 94a–102a. The lower court reinforced this interpretation by resorting to the legislative history of the provisions. *See id.* at 74a–78a.

Justice Scalia warned against relying too heavily on legislative history when determining the meaning of a law: "[T]he use of legislative history [is] the equivalent of entering a crowded cocktail party and looking over the heads of the guests for one's friends." *Conroy v. Aniskoff*, 507 U.S. 511, 519 (1993) (Scalia, J., concurring). The lower court failed to heed this warning, which led it to a result that is inconsistent with the jurisprudence of this Court—which acknowledges the broad authority the Secretary wields to promote the "constitutional goal of equal representation" undergirding the Constitution's system of congressional apportionment. *Franklin*, 505 U.S. at 806.

The lower court's decision is sharply at odds with this Court's opinion in *Franklin*, which recognized that the Secretary commands broad authority to make "judgment[s]" about who should be counted for the purposes of apportionment—even when those judgments are "not dictated by[] the text and history of the Constitution." *Franklin*, 505 U.S. at 806.

In *Franklin*, the Court was asked to prevent the Secretary from counting federal employees temporarily stationed overseas as inhabitants of their home States for the purposes of apportionment.

See id. at 806. The Court ultimately blessed the Secretary’s decision to include the federal employees in the apportionment—even though the employees arguably were not “determined by an actual Enumeration of their respective Numbers, that is, a count of the persons in each State.” *Franklin*, 505 U.S. at 803 (internal quotation marks omitted). The Court reasoned that “[t]he Secretary’s judgment does not hamper the underlying constitutional goal of equal representation, but . . . actually promotes equality.” *Id.* at 806.

Franklin is not an outlier in this Court’s jurisprudence. On the contrary, it falls within a line of cases approving congressional and executive policy decisions about how to conduct the census and determine apportionment. Since deciding *Franklin*, this Court has reiterated that “so long as the Secretary’s conduct of the census is ‘consistent with the constitutional language and the constitutional goal of equal representation,’ it is within the limits of the Constitution.” *Wisconsin*, 517 U.S. at 19–20 (quoting *Franklin*, 505 U.S. at 804); *see also Montana*, 503 U.S. at 462 (“The polestar of equal representation does not provide sufficient guidance to allow us to discern a single constitutionally permissible course.”).

Of course, the lower court here concluded that the Memorandum conflicted with the relevant *statutory* scheme, and it did not reach the question of whether the Memorandum violates the Constitution. But there can be little doubt that, under the lower court’s narrow view of the relevant statutes it adopted in this litigation, the result of *Franklin* would have come out the other way. Indeed, the lower court gave short shrift to that opinion: “At

most, *Franklin* establishes that the President retains his usual superintendent role with respect to the conduct of the census—and can direct the Secretary to make policy judgments that result in the decennial census.” App. 81a. This narrow reading of *Franklin* fails to give that opinion the weight it deserves.

With a proper understanding of the broad authority that the Secretary wields, it is clear that the lower court read the relevant statutes incorrectly. As discussed below, excluding illegal immigrants from the apportionment base enhances equal representation in the House and realigns States’ incentives to promote policies consonant with federal law.

B. Statutory language directing the Secretary to count the “whole number of persons” reasonably can be interpreted to exclude illegal aliens.

The lower court also concluded that the Memorandum was *ultra vires* because, in the court’s view, the Memorandum conflicts with 2 U.S.C. § 2a(a). According to the court, the statute’s command to count “the whole number of persons in each State” cannot bear an interpretation that categorically excludes illegal aliens residing in each State. *See* App. 83a. The court reasoned that the phrase includes illegal immigrants because they are, of course, “persons.” And the district court, again, relied heavily on the legislative history of the statute to reinforce its view. *See* App. 87a.

But in no census have the terms “numbers” and “whole persons” been construed to apply to *all*

persons. Tourists and corporate persons have never been counted, even if they happen to be physically present within a State at the time the census data are collected.

The district court's analysis disregarded yet another warning from Justice Scalia, who criticized "wooden" textualism as a methodology for interpreting statutes.⁵ He explained that a court should not construe a law's text either strictly or leniently, but "reasonably, to contain all that it fairly means."⁶

The Memorandum's interpretation of the statute comfortably fits within the range of acceptable interpretations and applications adopted by past administrations.

Unlawfully present foreign nationals are in the same position as foreign travelers: Their exit is legally certain. Under federal law, the sojourn of unlawfully present foreign nationals is plagued by instability and uncertainty. Their very presence is unlawful, rendering them subject to criminal penalties and deportation. 8 U.S.C. § 1227(a)(1)(B).

Thus, an unlawfully present foreign national's link to the United States, and to any particular State, is inherently tenuous. Statistical analysis of the growth and migration of the population of such individuals demonstrates this instability. The Pew Research Center announced in 2018 that "[t]he

⁵ Antonin Scalia, *Common-Law Courts in a Civil-Law System: The Role of United State Federal Courts in Interpreting the Constitution and Laws*, in *A Matter of Interpretation: Federal Courts and the Law* 3, 22 (Amy Gutmann ed., 1997).

⁶ *Id.*

number of unauthorized immigrants in the U.S. fell to its lowest level in more than a decade.”⁷ “There were 10.7 million unauthorized immigrants living in the U.S. in 2016, down from a peak of 12.2 million in 2007, according to the new estimates.”⁸

Armed with a proper understanding of the broad authority that the Constitution gives to Congress and the executive branch to conduct the census—as discussed above—it is clear that the lower court read § 2a(a) too woodenly. The Court can overturn the lower court’s decision merely by concluding that the President and the Secretary have the authority and discretion to exclude illegal aliens from the apportionment base because doing so promotes the constitutional goal of equal representation. *See Wisconsin*, 517 U.S. at 19–20.

C. By diluting votes, illegal immigration inhibits equal representation in the House—a key principle of the Great Compromise between the founders.

This Court has long recognized that federalism principles require equal representation in the House of Representatives. *Wesberry*, 376 U.S. at 14. Indeed, this Court has observed that “the principle solemnly embodied in the Great

⁷ Jeffrey S. Passel & D’Vera Cohn, *U.S. Unauthorized Immigrant Total Dips to Lowest Level in a Decade*, Pew Research Ctr. (Nov. 27, 2018), <https://www.pewresearch.org/hispanic/2018/11/27/u-s-unauthorized-immigrant-total-dips-to-lowest-level-in-a-decade/>

⁸ *Id.*

Compromise” is “equal representation in the House for equal numbers of people.” *Id.*; accord *U.S. Dep’t of Commerce v. Montana*, 503 U.S. 442, 460 (1992); see also *Wesberry*, 376 U.S. at 12–13 (detailing how, through the “Great Compromise” the framers eventually decided to apportion State representation in the federal government: Each State would receive two senators and representation in the House would be based on population).

The inescapable consequence of the lower court’s decision, however, is that a congressional district in a State with relatively fewer non-immigrant foreign nationals contains a greater population of eligible voters than a district in a State with relatively more unauthorized immigrants. For example, because of the large unauthorized immigration population in California, the votes of California residents will count for more than the votes cast in States with few unauthorized immigrants. An apportionment that excluded unauthorized immigrants would largely ameliorate these disparities.

The President determined that excluding “illegal aliens from the apportionment base is more consonant with the principles of representative democracy underpinning our system of Government.” 85 Fed. Reg. 44,679, 44,680 (July 23, 2020). To that end, the President directed the Secretary to “take all appropriate action, consistent with the Constitution and other applicable law, to provide information permitting the President, to the extent practicable, to exercise the President’s discretion to” exclude illegal aliens from the apportionment base. *Id.*

This commonsense direction helps ensure the

integrity of the federal system of government by promoting “the constitutional goal of equal representation.” *Franklin*, 505 U.S. at 804.⁹ Excluding illegal immigrants from the apportionment base would bring the average district size in affected States nearer to the ideal size: All districts in the nation would contain the same number of lawful residents.

In this way, excluding illegal immigrants from the apportionment base would enhance equal representation in the House. That matters a great deal in this litigation because under the constitutional and statutory schemes—as recognized by this Court and discussed above—the executive branch enjoys broad authority to promote equal representation when tabulating the population for the purposes of congressional apportionment.

⁹ This conclusion is not altered by this Court’s observation that *Wesberry*’s strict “mathematical” approach to districting does not transpose perfectly onto interstate apportionment. See generally *Montana*, 503 U.S. at 442; *Franklin*, 505 U.S. at 788; *Wisconsin*, 571 U.S. at 1. *Franklin*, *Montana*, and *Wisconsin* pose no obstacle to applying *Wesberry*’s core principle of equal representation here because those cases merely recognize that *Wesberry* must be adapted to interstate apportionment by granting the executive branch and Congress discretion to conduct the count for apportionment purposes as they see fit. See, e.g., *Wisconsin*, 571 U.S. at 20 (upholding the Secretary’s discretion to select a statistical adjustment method privileging “distributive accuracy” over “numerical accuracy”); *Franklin*, 505 U.S. at 806 (upholding the Secretary’s discretion over method for allocating military personnel serving abroad for census purposes); *Montana*, 503 U.S. at 452 n.36 (upholding Congress’ discretion to choose among various statistical methods for apportioning seats in Congress).

II. FEDERALISM PRINCIPLES MILITATE IN FAVOR OF EXCLUDING ILLEGAL IMMIGRANTS FROM CONGRESSIONAL APPORTIONMENT.

As a general matter, the Constitution ties congressional seat apportionment to the results of the census. U.S. Const. art. I, § 2, cl. 3. A State with a large population is likely to receive more seats in the House than a less populous State. For this reason, a State's population is intimately tied to the amount of influence it wields in the federal government. That is exactly what the founders intended when they struck the "Great Compromise." See *Wesberry*, 376 U.S. at 12–13.

Nearly a century ago, Justice Brandeis famously observed that the States are laboratories of democracy. *New State Ice Co. v. Liebmann*, 285 U.S. 262, 311 (1932) (Brandeis, J., dissenting) ("It is one of the happy incidents of the federal system that a single courageous state may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country."). If a State promotes good policies, people will move to that State and its population will flourish.¹⁰ But, in the words of President Ronald

¹⁰ For example, the number of people who moved to Texas from California increased by 36 percent, according to a 2020 Texas Relocation Report. The 2020 Chairman of Texas Realtors explained that the migration to Texas was very natural because "[i]n addition to its business-friendly environment with no state income tax and abundance of jobs, land and opportunity, Texas is known for its diverse, friendly spirit and culture." According to the report, 86,164 California residents moved to Texas in 2018. See Gordon Dickson & Luke Ranker, *If it seems like more Californians are moving into your Texas*

Reagan, “[i]f a State is badly managed,” then a person will “vote with his feet” and “go someplace else.”¹¹ Through this ebb and flow, States gain and lose federal influence based on the success of their policies.

Illegal immigration throws a wrench into the machinery of congressional apportionment. The Constitution bestows control of immigration law on the federal government. *See Elkins v. Moreno*, 435 U.S. 647, 664 (1978). By definition, illegal immigration is unsanctioned, and so it should fall outside the bounds of state policy experimentation. *See* 8 U.S.C. § 1101 *et seq.* But there can be little doubt, as scholars have recognized, that “American federalism has meant that states and localities have helped shape immigration policy throughout history, often through deliberate resistance to the federal government.”¹²

Some States have amplified federal law by adopting policies discouraging illegal immigration. For example, this Court upheld the constitutionality an Arizona law that required “state officers to make a reasonable attempt to determine the immigration

neighborhood, here's why (Jan. 23, 2020), <https://www.star-telegram.com/article239570433.html>.

¹¹ The American Presidency Project, Ronald Reagan, Interview With Reporters on Federalism (November 19, 1981), <https://web.archive.org/web/20171030211919/http://www.presidency.ucsb.edu/ws/?pid=43277>.

¹² Cristina Rodriguez, *Enforcement, Integration, and the Future of Immigration Federalism*, 5 J. Migration & Human Security 509, 510 (2017), <https://journals.sagepub.com/doi/pdf/10.1177/233150241700500215>.

status of any person they stop, detain, or arrest on some other legitimate basis.” *Arizona v. United States*, 567 U.S. 387, 411 (2012) (cleaned up).

Unfortunately, however, other States and local governments have *encouraged* illegal immigration through “sanctuary” policies.¹³ These policies include “not providing adequate notice of criminal aliens who are already in custody, releasing criminal aliens back into communities without notice to the federal government, refusing to notify ICE of detained criminal aliens with final removal orders, and the like.”¹⁴ Sanctuary policies persist despite polling showing that “[a]n overwhelming majority of Americans believe that cities that arrest illegal

¹³ See Department of Homeland Security, *To Make America Safe Again, We Must End Sanctuary Cities and Remove Criminal Aliens* (Feb. 15, 2008), <https://www.dhs.gov/news/2018/02/15/make-america-safe-again-we-must-end-sanctuary-cities-and-remove-criminal-aliens>; see also Jessica M. Vaughan & Bryan Griffith, *Map: Sanctuary Cities, Counties, and States*, Center for Immigration Studies (August 25, 2020), <https://cis.org/Map-Sanctuary-Cities-Counties-and-States> (listing sanctuary cities, counties and States).

¹⁴ Hans von Spakovsky & Charles Stimson, *Enforcing Immigration Law: What States Can Do to Assist the Federal Government and Fight the Illegal Immigration Problem*, Heritage Foundation (Oct. 8, 2019), <https://www.heritage.org/immigration/report/enforcing-immigration-law-what-states-can-do-assist-the-federal-government-and>; see also Department of Homeland Security, *supra* n.13 (“Some jurisdictions do not honor ICE detainer requests to hold or provide adequate notice of release of criminal aliens who are already in custody, endangering the public and threatening officer safety by releasing criminal aliens back into our communities to re-offend.”).

immigrants for crimes should be required to turn them over to federal authorities.”¹⁵

Policies friendly to illegal immigration inevitably attract larger numbers of illegal immigrants to the State or local jurisdiction: The United States Department of Homeland Security has observed that sanctuary policies create a “pull factor’ that increases illegal immigration.”¹⁶ Unsurprisingly, many of the cities with the largest illegal immigrant populations promulgate sanctuary policies.¹⁷ President Trump’s Memorandum observed that “[c]urrent estimates suggest that one State is home to more than 2.2 million illegal aliens, constituting more than 6 percent of the State’s entire population.” 85 Fed. Reg. 44,679, 44,680 (July 23, 2020). That State—California¹⁸—is likely to gain another seat (at the expense of Ohio, Alabama, or

¹⁵ Jonathan Easley, *Poll: Americans overwhelmingly oppose sanctuary cities*, Hill (Feb. 21, 2017), <https://thehill.com/homenews/administration/320487-poll-americans-overwhelmingly-oppose-sanctuary-cities>.

¹⁶ Department of Homeland Security, *supra* n.13.

¹⁷ Compare Jeffrey S. Passel & D’Vera Cohn, *20 metro areas are home to six-in-ten unauthorized immigrants in U.S.*, Pew Research Ctr. (Jun 12, 2019) <https://www.pewresearch.org/fact-tank/2019/03/11/us-metro-areas-unauthorized-immigrants/> with Vaughan & Griffith, *supra* n.13.

¹⁸ See Pew Research Ctr., *U.S. unauthorized immigrant population estimates by state, 2016* (February 5, 2019), <https://www.pewresearch.org/hispanic/interactives/u-s-unauthorized-immigrants-by-state/> (explaining that California’s unauthorized immigrant population stands at 2,200,000).

Minnesota) in the 2020 census apportionment unless this Court overturns the decision of the lower court.¹⁹

As President Trump's Memorandum explained, "States adopting policies that encourage illegal aliens to enter this country and that hobble Federal efforts to enforce the immigration laws passed by the Congress should not be rewarded with greater representation in the House of Representatives." 85 Fed. Reg. 44,679, 44,680 (July 23, 2020). For the federal system to work as envisioned by the founders and ratifiers of the Fourteenth Amendment, congressional apportionment should reward compliance with federal law, not punish it.

CONCLUSION

Amici respectfully ask the Court to uphold the Presidential Memorandum and reverse the lower court.

¹⁹ See Passel & Cohn, *supra* n.1.

Respectfully submitted,

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**Counsel of Record*

SHAE MCPHEE

Deputy Solicitor General

Louisiana Department of
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Counsel for Louisiana

[[Additional Co-Signing AGs]]

[[DATE]]





AMERICAN
OVERSIGHT



PRESIDENT
Tim Fox

Montana Attorney General

PRESIDENT-ELECT
Karl A. Racine
*District of Columbia
Attorney General*

VICE PRESIDENT
Tom Miller
Iowa Attorney General

IMMEDIATE PAST PRESIDENT
Jeff Landry
Louisiana Attorney General

EXECUTIVE DIRECTOR
Chris Toth

August 24, 2020

Hon. Nancy Pelosi
Speaker
House of Representatives
Washington, DC 20515

Hon. Kevin McCarthy
Minority Leader
House of Representatives
Washington, DC 20515

Hon. Jerrold Nadler
Chairman
House Judiciary Committee
2138 Rayburn House Office Bldg.
Washington, D.C. 20515

Hon. Lindsey Graham
Chairman
Senate Judiciary Committee
290 Russell Senate Office Building
Washington, D.C. 20510

Hon. Mitch McConnell
Majority Leader
United States Senate
Washington, DC 20510

Hon. Chuck Schumer
Minority Leader
United States Senate
Washington, DC 20510

Hon. Jim Jordan
Ranking Member
House Judiciary Committee
2056 Rayburn House Office Bldg.
Washington, D.C. 20515

Hon. Dianne Feinstein
Ranking Member
Senate Judiciary Committee
331 Hart Senate Office Building
Washington, DC 20510

Dear Speaker Pelosi, Majority Leader McConnell, Minority Leader McCarthy, Minority Leader Schumer, Chairman Nadler, Chairman Graham, Ranking Member Jordan, and Ranking Member Feinstein:

On behalf of the undersigned state Attorneys General, we write to respectfully urge Congress to address the ongoing, declining balance of the Crime Victims Fund (“the Fund”). The Fund provides critical support and services to victims of crime across the country. As state Attorneys General, we are often the administrators of grant funding, through our state compensation programs or otherwise, financed directly from the Fund. In order to ensure the predictability and sustainability of these critical funds, change must be enacted to support our states’ ability to effectively serve victims and survivors of crime for years to come.

The Fund, established by the Victims of Crime Act of 1984 (“VOCA”), is the primary funding source for victim services in all 50 states and six U.S. territories. Deposits to the Fund originate from criminal fines, forfeited bail bonds, penalties and special assessments collected by U.S. Attorneys’ Offices, federal courts and the Federal Bureau of Prisons. Funding is derived from offenders convicted of federal crimes, and not from taxpayers.

1850 M Street, NW
Twelfth Floor
Washington, DC 20036
Phone: (202) 326-6000
<https://www.naag.org/>

Since its creation, the Fund has covered the expenses of essential direct services and support for victims and survivors in the aftermath of crime, including medical care, mental health counseling, lost wages, courtroom advocacy and temporary housing. The Fund also provides support for initiatives that benefit victims of crime, including federal, state and tribal victim service programs, crime victim compensation, discretionary grant awards, victim specialists in U.S. Attorneys' and FBI offices and the federal victim notification system. Additionally, grants through the Fund are the only funding source available for services to all victims of crime.

The balance and financial health of the Fund is in jeopardy. As deposits have sharply decreased in recent years due to a decline in the fines and penalties recouped from federal criminal cases, withdrawals have increased at a rapid pace. In 2015, Congress increased the annual cap on distributions from the Fund, resulting in significant growth in the amount of services offered across the country. Nearly 2,500 new organizations received VOCA funding since 2015. In addition, more than 2.5 million new victims were served through VOCA assistance formula grants from 2015 to 2019.

We applaud Congress for expanding access to victim services. Yet, these important advances are at risk given the current downward trajectory of the Fund's balance. Its balance is projected to reach a ten-year low by the end of 2021 unless specific changes are enacted to protect its bottom line. Any decrease in the funds available for distribution results in a decrease in the number of victims and survivors that are served as well as potential loss of essential staff for victim service programs.

In order to stabilize and maintain the Fund for use in the future, we respectfully request Congress amend VOCA in the following three ways:

Deposit all monetary penalties from deferred and non-prosecution agreements into the Crime Victims Fund.

Over the last decade, the Department of Justice has increasingly utilized deferred and non-prosecution agreements to resolve cases of corporate misconduct. These agreements bypass a traditional prosecution process and shift fines and penalties into the general treasury rather than the Fund. In 2018 and 2019, the total recoveries resulting from these agreements resulted in approximately \$8 billion each year.¹ Redirecting these deposits will provide increased funding to the Fund, which will allow for better predictability of state awards.²

Increase the rate at which states are federally reimbursed for victim compensation programs to 75%.

¹ (Gibson Dunn, 2020) available at <https://www.gibsondunn.com/2019-year-end-npa-dpa-update/>

² June 2020, The House of Representatives included language related to deferred and non-prosecution agreements in the HEROES Act.

The Fund supports state compensation programs, which provide direct reimbursement to or on behalf of crime victims for unexpected and often catastrophic expenses caused by violent crime. In order to supplement a state's efforts to financially assist victims for crime-related out-of-pocket expenses, the Fund reimburses states 60% of spending in a fiscal year. Most states' compensation programs are funded through fines and fees paid by offenders prosecuted in state courts. Recently, due to criminal justice reform initiatives along with court closures due to the COVID-19 pandemic, states are facing a significant decline in collections of these fines and fees, limiting their ability to support essential victim compensation eligible expenses. An increase in the reimbursement rate from the Fund to at least 75% will ensure each state has more money accessible to serve victims and survivors with much needed financial support.

Allow for additional years of spending or no-cost extensions for VOCA discretionary, assistance and compensation awards.

Current statutory limitations require that recipients of VOCA funds spend annual grants in a four-year period. To reduce reversions and provide better forecasting for programming, the statute should allow for longer periods to spend down grants and allow the Office for Victims of Crime to permit no-cost extensions to states. A longer award period allows administrators to better plan and predict funding awards and long-term services. In times of economic uncertainty, such as the COVID-19 pandemic, this is especially important as state budgets and other funding sources are significantly impacted. Additional time also allows for redirection of funds for emergency assistance without the threat of compromising traditional services.

Your support of the Crime Victims Fund is paramount to our responsibility as Attorneys General to protect the interests of victims. As such, we defer to you on the best vehicle to introduce the above changes. We do ask, however, that Congress make them a key priority and act upon all three swiftly.

Thank you for your attention and consideration of this matter.

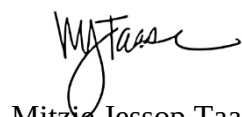
Sincerely,



Maura Healey
Massachusetts Attorney General



Steve Marshall
Alabama Attorney General



Mitzie Jessop Taase
American Samoa Attorney General



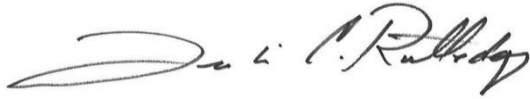
Tim Fox
Montana Attorney General



Kevin G. Clarkson
Alaska Attorney General



Mark Brnovich
Arizona Attorney General



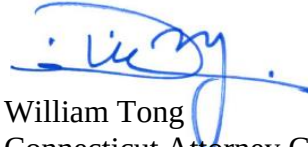
Leslie Rutledge
Arkansas Attorney General



Xavier Becerra
California Attorney General



Phil Weiser
Colorado Attorney General



William Tong
Connecticut Attorney General



Kathleen Jennings
Delaware Attorney General



Karl A. Racine
District of Columbia Attorney General



Ashley Moody
Florida Attorney General



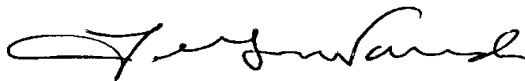
Christopher M. Carr
Georgia Attorney General



Leevin Taitano Camacho
Guam Attorney General



Clare E. Connors
Hawaii Attorney General



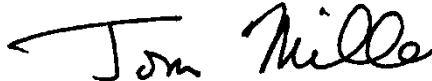
Lawrence Wasden
Idaho Attorney General



Kwame Raoul
Illinois Attorney General



Curtis T. Hill, Jr.
Indiana Attorney General



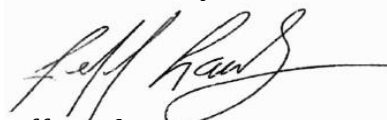
Tom Miller
Iowa Attorney General



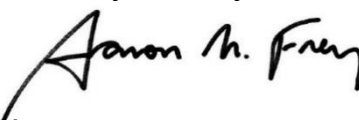
Derek Schmidt
Kansas Attorney General



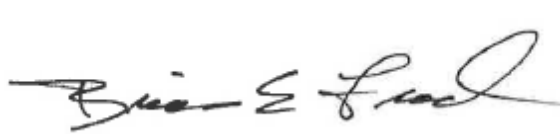
Daniel Cameron
Kentucky Attorney General



Jeff Landry
Louisiana Attorney General



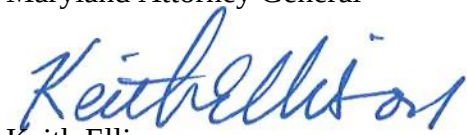
Aaron M. Frey
Maine Attorney General



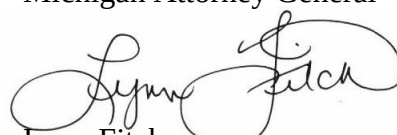
Brian Frosh
Maryland Attorney General



Dana Nessel
Michigan Attorney General



Keith Ellison
Minnesota Attorney General



Lynn Fitch
Mississippi Attorney General



Eric S. Schmitt
Missouri Attorney General



Douglas Peterson
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Nevada Attorney General



Gordon MacDonald
New Hampshire Attorney General



Gurbir S. Grewal
New Jersey Attorney General



Hector Balderas
New Mexico Attorney General



Letitia James
New York Attorney General



Josh Stein
North Carolina Attorney General



Wayne Stenehjem
North Dakota Attorney General



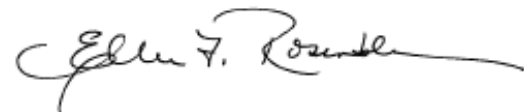
Edward Manibusan
Northern Mariana Islands Attorney General



Dave Yost
Ohio Attorney General



Mike Hunter
Oklahoma Attorney General



Ellen F. Rosenblum
Oregon Attorney General



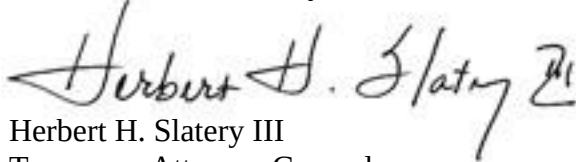
Josh Shapiro
Pennsylvania Attorney General



Inés del C. Carrati-Martínez
Acting Puerto Rico Attorney General



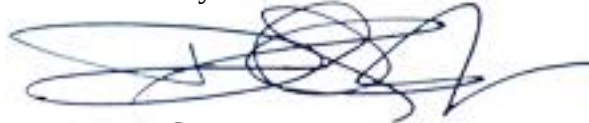
Alan Wilson
South Carolina Attorney General



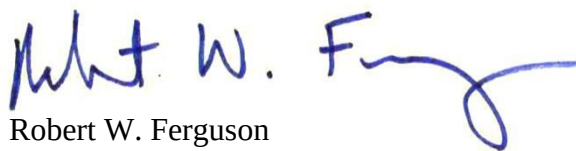
Herbert H. Slatery III
Tennessee Attorney General



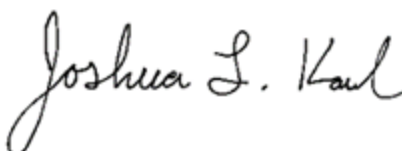
Sean Reyes
Utah Attorney General



Denise N. George
Virgin Islands Attorney General



Robert W. Ferguson
Washington Attorney General



Joshua L. Kaul
Wisconsin Attorney General



Peter F. Neronha
Rhode Island Attorney General



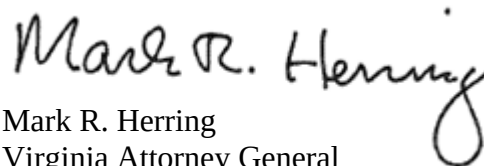
Jason R. Ravensborg
South Dakota Attorney General



Ken Paxton
Texas Attorney General



T.J. Donovan
Vermont Attorney General



Mark R. Herring
Virginia Attorney General



Patrick Morrissey
West Virginia Attorney General



Bridget Hill
Wyoming Attorney General



November 16, 2020

Honorable Nancy Pelosi
Speaker
House of Representatives
Washington, DC 20515

Honorable Mitch McConnell
Majority Leader
United States Senate
Washington, DC 20510

Honorable Kevin McCarthy
Minority Leader
House of Representatives
Washington, DC 20515

Honorable Chuck Schumer
Minority Leader
United States Senate
Washington, DC 20510

Honorable Jerrold Nadler
Chair
House Judiciary Committee
2138 Rayburn House Office Building
Washington, DC 20515

Honorable Jim Jordan
Ranking Member
House Judiciary Committee
2056 Rayburn House Office Building
Washington, DC 20515

Honorable Lindsey Graham
Chair
Senate Judiciary Committee
290 Russell Senate Office Building
Washington, DC 20510

Honorable Dianne Feinstein
Ranking Member
Senate Judiciary Committee
331 Hart Senate Office Building
Washington, DC 20510

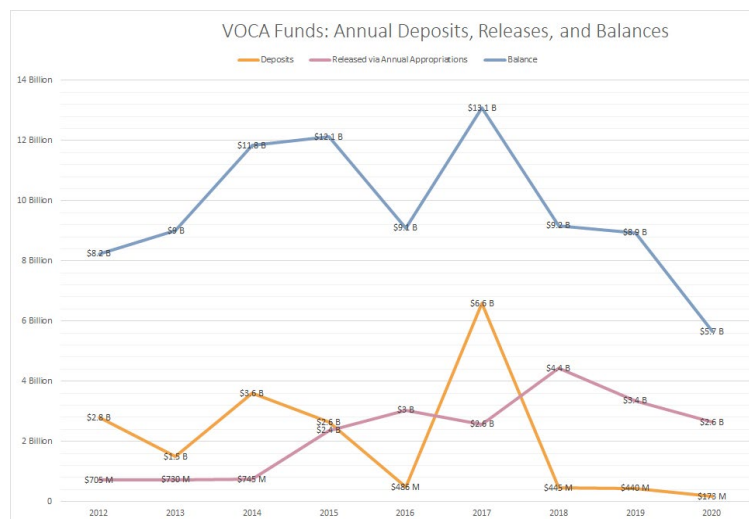
Dear Speaker Pelosi, Majority Leader McConnell, Minority Leader McCarthy, Minority Leader Schumer, Chairman Nadler, Ranking Member Jordan, Chairman Graham, and Ranking Member Feinstein:

We, the undersigned organizations representing thousands of victim service providers, prosecutors, and state VOCA administration and compensation agencies, as well as millions of survivors of crime, call on Congress to take immediate action to prevent expected catastrophic cuts to Victims of Crime Act (“VOCA”) grants. VOCA grants are the primary source of federal funding for thousands of victim service providers across the nation, including programs serving victims of domestic violence, sexual assault, child abuse, trafficking, and drunk driving. VOCA grants also fund victim compensation, which helps survivors pay medical bills, makes up for missed wages, and, in the most severe cases, helps

pay for funeral costs. VOCA grants are *not* taxpayer-funded. Instead, they are paid for out of the Crime Victims Fund (“CVF” or “the Fund”), which comprises federal criminal monetary penalties. Every year, appropriators decide how much to release from the CVF. Most of the disbursement is distributed by the Office for Victims of Crime (“OVC”) via formula grant to victim service providers, with some of the disbursement also providing crucial additional funding to supplement state compensation programs.

In Fiscal Year 2020, the VOCA disbursement - and thus the funding available for victim service providers - decreased by 25%, and victim service providers have been told to expect further, potentially catastrophic cuts. Such cuts to programs that already struggle to serve every survivor who walks through their doors would mean that hundreds of thousands of Americans would be unable to access lifesaving services every year, programs would be forced to close, and tens of thousands of advocates could lose their jobs during a time of extremely high unemployment. This would also coincide with continued increased need, particularly for African-American communities that have been disproportionately impacted, for services resulting from the COVID-19 pandemic and reduced state and local funding.

The past and expected future cuts to VOCA grants are the result of concerning low deposits into the Fund (see chart below). As Appropriators wrote in 2019, “The Committee is concerned . . . by the historically low receipts deposited in the CVF, and in turn, the decrease in resources available for OVC’s disbursement of CVF funded grants and cooperative agreements.”¹ As the size of the Fund dwindles, less money is available to be disbursed to the states in the form of grants. Instead of prosecuting federal crimes, particularly white collar crimes, the Department of Justice is increasingly relying on non-prosecution and deferred-prosecution agreements. If these cases had been prosecuted, the monetary penalties would have been deposited into the Fund. Instead, the money that would otherwise go to serve victims is being deposited into the General Treasury.



State victim compensation funds are facing a somewhat analogous challenge, because they are primarily funded through state criminal monetary penalties. We support the use of alternatives to the criminal system while understanding the burden that the resulting decreased revenue puts

¹ Senate committee report, *Department of Commerce, Justice, Science and Related Agencies Appropriations Bill, 2020, (to Accompany S.2584)*.

on state victim compensation funds. Compensation funds in many states are running dry and are unable to help survivors pay for medical bills, counseling, lost wages, and even funeral costs. Moreover, the onset of the COVID-19 pandemic has delayed many prosecutions, resulting in even less income for the state compensation funds. The federal government's VOCA grant funding to a state victim compensation program is based on a percentage of the state's payments to victims from these dwindling state funds, and thus they are also receiving less support from the federal government, while the need for these funds continues to mount. Additionally, requirements that survivors engage with the criminal justice system limit the reach of victim compensation.

The undersigned organizations propose the following measures, which have also been supported by the 56 State and Territorial Attorneys Generals (see August 26 [letter](#) to Congress):

- Redirect monetary penalties from federal deferred prosecution and non-prosecution agreements that would otherwise be deposited into the General Treasury into the Crime Victims Fund;
- Increase the federal grant calculation for funding to victim compensation programs from the current 60% to 75% of state-funded payouts; and
- Allow states to request a one-year no-cost extension from the Attorney General, as allowed for other Department of Justice formula grant programs, to ensure states can thoughtfully and effectively distribute victim service grants without being penalized.

We also ask that Congress:

- Require state VOCA Administrators to waive the 20% match requirement for victim service subgrantees for the pendency of the COVID-19 crisis and one additional year;
- Allow state VOCA Administrators to waive subgrantee match requirements at their discretion after the aforementioned waiver expires and require state VOCA Administrators to develop and publish a policy and procedure for obtaining a waiver;
- Instruct OVC not to deduct restitution payments recovered by state victim compensation funds when calculating victim compensation awards; and
- Provide flexibility for state compensation programs to waive the requirement to promote victim cooperation with law enforcement if good cause is established by the program.

This is an urgent matter. Every day that passes without the fixes above is a day that money that, with these fixes, could be accruing into the CVF is not doing so - as much as \$2 billion annually. Survivors and the programs that serve them need renewed funding *now* to avoid catastrophic and dangerous cuts. Congress must act immediately to ensure the provisions proposed above are passed into law.

For more information, contact Denise Edwards (dedwards@nca-online.org), Rachel Graber (rgraber@ncadv.org), Terri Poore (terri@endsexualviolence.org), Monica McLaughlin (mmclaughlin@nnedv.org), Daisy Pagan (daisy@navaa.org), and Dan Eddy (dan.eddy@nacvcb.org).

Respectfully,

National Organizations:

Alliance for Safety and Justice
Asian Pacific Institute on Gender-Based Violence
Association of Prosecuting Attorneys
Association of Violence Against Women Administrators
Brady
Break the Cycle
Breaking Free
California Coalition Against Sexual Assault (CALCASA)
Casa de Esperanza: National Latin@ Network for Healthy Families and Communities
Chi-Town GVP Summit
Coalition to Stop Gun Violence
CommonSpirit Health
Covenant House International
Crime Survivors for Safety and Justice
Cybercrime Support Network
DeafLEAD
Evangelical Covenant Church - Advocacy for Victims of Abuse
FaithTrust Institute
First Star Institute
Forward Together Action
Futures Without Violence
Jewish Women International
Kros Learning Group
Legal Momentum, the Women's Legal Defense and Education Fund
Major Cities Chiefs Association
Mothers Against Drunk Driving
Mothers of Lost Children
National Advocacy Center of the Sisters of the Good Shepherd
National Alliance to End Sexual Assault
National Association of Crime Victim Compensation Boards
National Association Social Workers
National Association of Victim Assistance in Corrections
National Association of VOCA Assistance Administrators
National CASA/GAL Association for Children on behalf of their 948 state organizations and local programs
National Center for Victims of Crime
National Center on Sexual Exploitation
National Children's Advocacy Center
National Children's Alliance
National Coalition Against Domestic Violence
National Criminal Justice Association
National District Attorneys Association
National Domestic Violence Hotline
National Indigenous Women's Resource Center
National Juvenile Justice Network

National Network to End Domestic Violence, membership organization of the 56 state and territorial domestic violence coalitions
National Organization for Victim Assistance (NOVA)
National Organization of API Ending Sexual Violence
National Resource Center on Domestic Violence
National Rural Social Work Caucus
Newtown Action Alliance
RAINN
Rights4Girls
Shared Hope International
States United to Prevent Gun Violence
Tahirih Justice Center
The American Probation and Parole Association
The Campaign to Keep Guns Off Campus
The Council of State Governments Justice Center
Victim Rights Law Center
YWCA USA
Zero Abuse Project
Zeta Phi Beta Sorority, Inc.
Zonta USA

Multi-State Organizations:

Amara Legal Center, Washington, DC
Childhelp, Phoenix, AZ
Child Abuse Council, Moline, IL
Community Health Service Inc., Moorhead, MN
Dartmouth Hitchcock Medical Center, Lebanon, NH
Family & Children's Center, La Crosse, WI and Winona, MN
Gray's Trauma-Informed Care Services Corp, Lake Elsinore, CA
Great Circle, St. Louis, MO
PeaceWorks Inc., Conifer, CO
Rape and Abuse Crisis Center of Fargo-Moorhead, Fargo, ND and Moorhead, MN
Red River Children's Advocacy Center, Fargo, ND
SAL Family and Community Services, Moline, IL
Survivors Lead, Minneapolis, MN
The WellHouse, Odenville, AL
Wendt Center for Loss and Healing, Washington, DC
YWCA Lewiston, ID-Clarkston, WA, Lewistown, ID

Tribal Organizations:

Child Advocacy Program, Chautauqua County
Fort Peck Assiniboiné and Sioux Tribes/Red Bird Woman Center
Little River Band of Ottawa Indians Victim Services Program
Red Cliff Band of Lake Superior Chippewa, Family Violence Prevention Program
VOCA Brighter Days

Alabama:

AL Network of Children's Advocacy Centers
Alabama Coalition Against Domestic Violence
Alabama Coalition Against Rape
AshaKiran
Victims of Crime and Leniency (VOCAL)
Blount County Children's Center, Inc., Oneonta
Butler County Children's Advocacy Center, Greenville
Butterfly Bridge Children's Advocacy Center, Clanton
Calhoun Cleburne Children's Center, Inc., Anniston
Central Alabama Regional Child Advocacy Center, Selma
Child Advocacy Center of Mobile, AL, Mobile
Covington County Child Advocacy Center, Andalusia
Cramer Children's Center, Florence
Crisis Center, Inc., Birmingham
DeKalb County Children's Advocacy Center, Inc., Fort Wayne
Escambia County Regional Child Advocacy Center, Brewton
Family Resource Center of Northwest Alabama, Inc., Jasper
Jackson County Children's Advocacy Center Inc, Scottsboro
James M. Barrie Center for Children, Inc., Gadsden
Lifelines Counseling Services, Mobile
Limestone Child Advocacy Center, Athens
Morgan County Child Advocacy Center, Decatur
Penelope House, Mobile
Pike Regional Child Advocacy Center, Troy
Regional Child Advocacy Center, Inc., Grove Hill
Russell County Child Advocacy Center, Phenix City
Shelby County Children's Advocacy Center-Owens House, Columbiana
Southeast Alabama Child Advocacy Center, Dothan
St.Clair Children's Advocacy Center, Pell City
The Bessemer Cut Off Advocacy Center, Bessemer
The Child Advocacy Center of Marshall County, Guntersville
The Children's Advocacy Center of Cherokee County, Centre
The Tuscaloosa Children's Center, Inc., Tuscaloosa
Tri-County Children's Advocacy Center, Dadeville
Twin Cedars Child Advocacy Center, Opelika
Victim Services of Cullman, Inc., Cullman
Walker County Children's Advocacy Center, Jasper
West Alabama Children's Advocacy Center, Vernon, Fayette, and Carrollton
Wiregrass Angel House, Dothan
YWCA Central Alabama, Birmingham

Alaska:

Alaska Children's Alliance
Alaska Network on Domestic Violence and Sexual Assault INC
Victims For Justice

The Children's Place, Wasilla
The LeeShore Center, Kenai
Tundra Women's Coalition, Bethel

Arizona:

Arizona Coalition to End Sexual and Domestic Violence
Arizona Voice for Crime Victims, Inc.
Az Crime Victim Rights Law Group
Legal Services for Crime Victims in Arizona
The Arizona Child & Family Advocacy Network
Alice's Place, Inc., Winslow
Amberly's Place Family Advocacy Center, Yuma
Catholic Charities My Sisters' Place, Phoenix
Children's Advocacy Center of Southern Arizona, Tucson
Emerge Center Against Domestic Abuse, Tucson
Eve's Place Inc., West Valley
Glendale Police Department, Glendale

Arkansas:

Arkansas Children's Advocacy Centers
Arkansas Coalition Against Domestic Violence
Arkansas Coalition Against Sexual Assault
Child Safety Center of White County, Searcy
Children's Advocacy Center of Benton County, Rogers
Children's Advocacy Center of Eastern Arkansas, West Memphis
Ozark Rape Crisis, Inc., Clarksville, Harrison, and Russellville
Rise House Arkansas, Conway
Serenity, Inc., Mountain Home
Women & Children First: The Center Against Family Violence, Little Rock

California:

A Community For Peace
California Partnership to End Domestic Violence
Family Violence Appellate Project
National Association of Social Workers, California Chapter
Stopping Domestic Violence
Casa de Esperanza, Sutter, Yuba, and Colusa
Chadwick Center for Children and Families, San Diego
Children's Advocacy Centers of California, San Leandro
Children's Legacy Center, Redding
Community United Against Violence (CUAV), San Francisco
CORA (Community Overcoming Relationship Abuse), San Mateo
Next Door Solutions to Domestic Violence, San Jose
Empower Tehama, Red Bluff
Empower Yolo, Inc., Woodland
Encouragement Project, Santa Monica

Family Services of Tulare County, Visalia
Family Violence Law Center, Oakland
Foundation for Peaceful Communities, Sacramento
Harrington House/Rural Human Services, Crescent City
Haven Hills, Canoga Park
Haven Women's Center of Stanislaus, Modesto
House of Ruth, Inc., Pomona
Humboldt Domestic Violence Services (HDVS), Rural Humboldt County
La Casa de Las Madres, San Francisco
Lassen Family Services, Susanville
Los Angeles Center for Law and Justice, Los Angeles
Monarch Services of Santa Cruz County, Watsonville
My Sister's House, Sacramento
Option House, Inc., San Bernardino
Plumas Rural Services, Quincy
Rape Counseling Services of Fresno, Fresno
RISE, Paso Robles
San Bernardino County District Attorney's Office, San Bernardino
Saving All Children (dba) Family Healing Center, Fresno
Shelter From The Storm, Palm Desert
Stand Strong, San Luis Obispo
StrengthUnited, Los Angeles
Su Casa~Ending Domestic Violence, Long Beach
The Children's Advocacy Center for Child Abuse Assessment and Treatment, Covina
Tuolumne County District Attorney Victim Services Program, Sonoma
Walnut Avenue Family & Women's Center, Santa Cruz
Women Against Gun Violence, Los Angeles
Women's Center-High Desert, Inc, Ridgecrest
WomenShelter of Long Beach, Long Beach
YWCA of Sonoma County, Santa Rosa

Colorado:

Colorado Coalition Against Sexual Assault
IMPACT Personal Safety of Colorado
National Association of Social Workers, Colorado Chapter
Rocky Mountain Victim Law Center
The Initiative
Violence Free Colorado
Advocate Safehouse Project, Glenwood Springs
7th Judicial District Child Advocacy Center dba The Dolphin House, Montrose
Advocates for Victims of Assault, Inc, Dillon
Advocates of Lake County, Inc., Leadville
Advocates of Routt County, Steamboat Springs
Blue Sky Bridge, Boulder
Clear Creek County Advocates, Georgetown
Finding Our Voices, Colorado Springs

Gateway Domestic Violence Services, Aurora
Hispanic Affairs Project, Western Colorado
Justice Never Sleeps, Florence
Latina SafeHouse, Denver
Park County Sheriff's Office, Fairplay
Project Hope of Gunnison Valley, Gunnison
Project Safeguard, Denver
Renew, Inc., Cortez
RESPONSE Help for Survivors of Domestic Violence and Sexual Assault, Aspen
Rise Above Violence, Pagosa Springs
SafeHouse Denver, Denver
Safehouse Progressive Alliance for Nonviolence, Boulder
Safe Shelter of St. Vrain Valley, Longmont
San Luis Valley Immigrant Resource Center, Alamosa
San Miguel Resource Center, Telluride
SARA House, Fort Morgan
Sexual Assault Services Organization, Durango and Ignacio
The Arc of Adams County, Northglenn
The Arc of Aurora, Aurora
The Blue Bench, Denver
Tu Casa, Inc., Alamosa
Western Slope Center For Children, Grand Junction
WINGS, Denver
YWCA Pueblo

Connecticut:

Connecticut Coalition Against Domestic Violence
Connecticut Children's Alliance
National Association of Social Workers Connecticut Chapter
Child Guidance Center of Southern Connecticut, Stamford
Human Services Council/ Children's Connection, Norwalk
The Center for Family Justice, Bridgeport
YWCA Greenwich, Greenwich

Delaware:

CHILD, Inc.
Children's Advocacy Center of Delaware
DCADV
Delaware Victims' Compensation Assistance Program

District of Columbia:

DC Volunteer Lawyers Project
District of Columbia Office of Victim Services and Justice Grants
FAIR Girls, Inc.
Network for Victim Recovery of DC (NVRDC)
Tzedek DC

Zonta Club of Washington, D.C.

Florida:

American Children's Campaign (dba The Children's Campaign)
Children's Home Society of Florida
Florida Council Against Sexual Violence
Florida Network of Children's Advocacy Centers
National Association of Social Workers - Florida
Voices for Florida - Open Doors Outreach Network
Alachua County Sheriff's Office, Gainesville
Betty Griffin Center, St. Augustine
Center for Abuse and Rape Emergencies, Inc., Punta Gorda
Child Advocacy Center, Inc., Gainesville
Children's Advocacy Center of Brevard, Rockledge
Children's Advocacy Center of Collier County, Naples
Children's Advocacy Center of Hernando County, Brooksville
Children's Advocacy Center of SW Florida, Fort Myers
Citrus County Children's Advocacy Center, Inc., Lecanto
Emerald Coast Children's Advocacy Center, Inc., Niceville
Florida Council Against Sexual Violence, Tallahassee
Kids House of Seminole, Inc., Sanford
Kristi House, Inc., Miami
MUJER, Inc., Naranja
Peaceful Paths, Inc., Gainesville
Port St Lucie Police Dept, Port St Lucie
Refuge House, Inc., Tallahassee
Santa Rosa Kids' House, Milton
Sexual Assault Assistance Program of the Treasure Coast, Fort Pierce
State Attorney's Office, 19th Judicial Circuit of Florida
Sunrise of Pasco County, Inc., Pasco County
Victim Services Coalition for the 7th Judicial Circuit, Daytona Beach
Women's Center of Brevard, Melbourne and Titusville
Women's Center of Jacksonville, Jacksonville

Georgia:

Children's Advocacy Centers of Georgia
GA Coalition Against Domestic Violence
National Association of Social Workers - Georgia Chapter
Solicitor General's Office Victim Witness
Student Victim Assistance
A Child's Voice CAC, Social Circles
Carroll County Child Advocacy Center, Inc., Carrollton
Chattahoochee CASA, Columbus
Child Advocacy Center of Coffee County, Douglas
Child Enrichment, Inc., Augusta
Children's Advocacy Center - LMJC

Children's Tree House Child Advocacy Center, Columbus
Cobb Domestic Violence Taskforce, Marietta
Douglasville Islamic Women's Shelter and Services, Inc., Douglasville
FAITH's Power House Child Advocacy Center, Toccoa
Family Resource Center of Gordon County, Inc., Calhoun
Forsyth County Child Advocacy Center, Cumming
Harbor House-Northwest Georgia Child Advocacy Center, Inc, Rome
Hero House, Moultrie
Mary Lou Fraser Foundation for Families, Inc. - Helen's Haven Children's Advocacy Center,
Hinesville
Mosaic Georgia, Inc., Duluth
Ocmulgee Judicial Circuit, Georgia, Milledgeville
Prosecuting Attorneys' Council of Georgia, Morrow
Rainbow House Inc., Jonesboro
SafePath Children's Advocacy Center, Marietta
Sexual Assault Center of Northwest Georgia, Rome
South Enotah Child Advocacy Center, Inc., Cleveland
Southern Crescent Sexual Assault and Child Advocacy Center, Hampton
Southwest Georgia Children's Alliance. Inc., Americus
Stepping Stone CAC and SAC, Dublin
The Children's Advocacy Center of Lowndes County, Inc., Valdosta
The Cottage, Sexual Assault Center & Children's Advocacy Center, Inc., Athens
The Gateway Center, Inc, Cordele
Twin Cedars Youth and Family Services, Inc., Columbus

Hawaii:

Hawaii Department of the Attorney General
Hawaii State Chapter Children's Justice Center
Hawaii State Coalition Against Domestic Violence
National Association of Social Workers- Hawai'i Chapter
The Sex Abuse Treatment Center, Honolulu
YWCA Kauai, Lihue

Idaho:

Idaho Coalition Against Sexual & Domestic Violence
Idaho Crime Victims Compensation Program
The Idaho Network of Children's Advocacy Centers
Advocates Against Family Violence, Inc., Caldwell
Bright Tomorrows Child Advocacy Center, Pocatello
Domestic Violence & Sexual Assault Center, Idaho Falls
Elmore County Domestic Violence Council, Mountain Home
Family Safety Network, Driggs
Lemhi County Crisis Intervention, Salmon
Nampa Family Justice Center, Nampa
Oneida Crisis Center, Inc., Malad City
Safe Passage Violence Prevention Center, Coeur d'Alene

The Advocates, Hailey
Upper Valley Child Advocacy Center, Rigby
Women's and Children's Alliance, Boise

Illinois:

Children's Advocacy Centers of Illinois
Gun Violence Prevention PAC
Illinois Child Advocacy Center Board of Directors
Illinois Coalition Against Domestic Violence
Illinois Coalition Against Sexual Assault
National Association of Social Workers (NASW) Illinois Chapter
Advocacy Network for Children, Quincy
All Our Children's Advocacy Center, Justice
April House Children's Advocacy Center, Morrison
Braveheart Children's Advocacy Center, Cambridge
Carrie Lynn Children's Center, Rockford
Champaign County Children's Advocacy Center, Champaign
Chicago Alliance Against Sexual Exploitation, Chicago
Chicago Children's Advocacy Center, Chicago
Children's Advocacy Center of East Central IL, Charleston
Child Advocacy Center of McHenry County, Woodstock
Child Network, Bradley
Children's Advocacy Center of DeKalb County, DeKalb
Children's Advocacy Center of East Central IL, Charleston
Children's Advocacy Center of N & NW Cook Co., Hoffman Estates
Family Service Agency, Dekalb
Franklin-Williamson Child Advocacy Center, Herrin
Fulton-Mason Crisis Service, Canton
Growing Strong Sexual Assault Center, Decatur
HOPE of East Central Illinois, Charleston
La Rabida Children's Advocacy Center, Park Forest
Lake County Children's Advocacy Center, Gurnee
LaSalle County Children's Advocacy Center, Ottawa
McLean County Children's Advocacy Center & CASA, Bloomington
Mercer County Family Crisis Center, Aledo
Northwest Center Against Sexual Assault, Arlington Heights
Office of Will County State's Attorney, Joliet
Perry-Jackson Child Advocacy Center, Pinckneyville
Pillars Community Health Domestic and Sexual Violence Services, La Grange Park
Resilience, formerly Rape Victim Advocates, Chicago
Rockford Sexual Assault Counseling, Rockford
Safe Journeys, Streator
Sangamon County Child Advocacy Center, Springfield
Sexual Assault and Family Emergencies - SAFE, Vandalia, Effingham, Centralia, Mt. Vernon
Sexual Assault Counseling and Information Service, Charleston
Shining Star Children's Advocacy Center, Dixon

St. Clair County Child Advocacy Center, Belleville
Tazewell County Children's Advocacy Center, Pekin, Eureka, and Havana
The Child 1st Center, Decatur
The Guardian Center, Inc., Carmi
The Poshard Foundation for Abused Children, Carterville
The Rock Island County Children's Advocacy Center, Rock Island
Two Rivers Child Advocacy Center, Anna
Tyler's Justice Center for Children, Stockton
Western Illinois Regional Council - Community Action Agency, Macomb
Will County Children's Advocacy Center, Joliet
YWCA Metropolitan Chicago, Chicago
YWCA of the University of Illinois, Champaign
Zacharias Sexual Abuse Center, Gurnee

Indiana:

Indiana Chapter of National Children's Alliance
Indiana Coalition Against Domestic Violence
Indiana Prosecuting Attorneys Council
NASW - Indiana Chapter
Children & Families of Iowa, Des Moines
Children's Advocacy Center of Southeast Indiana, Dillsboro
Franklin County (IN) Prosecutor's Office, Brookville
JACY House, Richmond
Kids Talk Child Advocacy Center, Anderson
Middle Way House, Bloomington
Office of the Boone County Prosecutor, Lebanon, Boone County
Susie's Place Child Advocacy Centers, Avon
The CASIE Center, South Bend
The Child Advocacy Center of Grant County Indiana, Inc., Marion

Iowa:

Amani Community Services
Central Iowa Trauma Recovery Center
EMBARC
Iowa Chapter of Children's Advocacy Centers
Iowa Coalition Against Domestic Violence
Iowa Coalition Against Sexual Assault (IowaCASA)
Iowa Coalition For Collective Change
Iowa County Attorneys Association
Iowa Safe Schools
Monsoon Asians & Pacific Islanders in Solidarity
National Association of Social Workers - Iowa
Thrive Together
Assault Care Center Extending Shelter and Support, Ames
CAASA, Spencer
Catholic Charities, Council Bluffs

Creative Visions Inc., Des Moines
Crisis Intervention and Advocacy Center, Adel
Crisis Intervention Service, Mason City
Crisis Intervention Services of SE Iowa, Oskaloosa
Domestic Violence Intervention Program, Iowa City
Domestic/Sexual Assault Outreach Center, Fort Dodge
Family Crisis Center, Ottumwa
Family Crisis Centers, Inc., Sioux Center
Family Resources, Davenport
Friends of the Family, Waterloo
Jesse Cosby Neighborhood Center, Waterloo
La Luz Hispana, Hampton
Latinas Unidas por un Nuevo Amanecer (L.U.N.A.), Des Moines
MercyOne Siouland Child Advocacy Center, Sioux City
Nisaa African Family Services, Des Moines
Plymouth County Victim Witness Coordinator, Le Mars
SafePlace, Sioux City
Seasons Center for Behavioral Health, Spencer
Waypoint Services, Cedar Rapids

Kansas:

Children's Advocacy Centers of Kansas, Inc.
Kansas Coalition Against Sexual and Domestic Violence
Bright House, Hutchinson
Child Advocacy Center of Sedgwick County, Wichita
Children's Advocacy Center, Inc., Pittsburg
Crisis Center Dodge City, Inc., Dodge City
Crisis Center, Inc., Clay, Geary, Marshall, Pottawatomie, and Riley Counties
Domestic Violence Association of Central Kansas (DVACK), Salina
Family Crisis Center, Inc., Great Bend
Family Crisis Services Inc., Garden City
Family Life Center - Safehouse, El Dorado
First Judicial CASA Association Leavenworth Atchison Child Advocacy Center, Leavenworth
Friends of Yates, Kansas City
Healing Hearts Child Advocacy Center, Southaven
Hope Unlimited, Inc., Iola
Horizons Mental Health Center, Hutchinson
Liberal Area Rape Crisis & Domestic Violence Services, Inc., Liberal
North Central Kansas CASA & Hope's Place CAC, Concordia
Safehome, Overland Park
Safehouse Crisis Center, Inc., Pittsburg
SOS, Inc, Emporia
Stepping Stones Child Advocacy Center, Manhattan
StepStone, Inc., Wichita
Wichita Area Sexual Assault Center, Inc., Wichita
Wichita Family Crisis Center, Wichita

Kentucky:

Children's Advocacy Centers of Kentucky
Kentucky Association of Sexual Assault Programs
Kentucky Coalition Against Domestic Violence
NASW-KY
Barren River Area Child Advocacy Center, Bowling Green
Buffalo Trace Children's Advocacy Center, Maysville
Children's Advocacy Center of the Bluegrass, Lexington
Family & Children's Place Kosair Charities Child Advocacy Center, Louisville
Gateway Children's Advocacy Center, Morehead
Green River Regional Rape Victim Services, Inc., Owensboro
Hope Harbor, Inc., Bowling Green
Hope's Place, Inc., Ashland
Judi's Place for Kids, Pikeville
Lake Cumberland Children's Advocacy Center, Jamestown
Lotus Children's Advocacy & Sexual Violence Resource Center, Paducah
OASIS, INC, Owensboro
Pennyrile Children's Advocacy Center, Hopkinsville
Silverleaf Sexual Trauma Recovery Services, Elizabethtown
The Center for Women and Families, Louisville
The Rising Center / Kentucky River Community Care (KRCC), Hazard

Louisiana:

Louisiana Alliance of Children's Advocacy Centers
Louisiana Coalition Against Domestic Violence
National Association of Social Workers - Louisiana Chapter
Children's Advocacy Center - Hope House, Covington
Children's Advocacy Network, Alexandria
Jefferson Children's Advocacy Center, Gretna
Metro Centers For Community, New Orleans

Maine:

Maine Coalition Against Sexual Assault
Maine Coalition to End Domestic Violence
Maine Gun Safety Coalition
Maine Network of Children's Advocacy Centers
Nat Assoc of Social Workers, Maine Chapters
Caring Unlimited, Sanford
Family Violence Project, Augusta
Hope and Justice Project, Aroostook County
New Hope For Women, Rockland
NextStep Domestic Violence Project, Ellsworth and Machias
Partners for Peace, Bangor
Rape Response Services, Bangor
Safe Place Child Advocacy Center, Hagerstown

Safe Voices, Lewiston
Sexual Assault Crisis & Support Center, Winthrop
Sexual Assault Prevention and Response Services, Androscoggin County, Oxford County,
Franklin County
Sexual Assault Response Services of Southern Maine, Portland
Sexual Assault Support Services of Midcoast Maine, Brunswick
Through These Doors, Portland

Maryland:

Maryland CASA Association
Maryland Chapter of the American Academy of Pediatrics
Maryland Children's Alliance
Maryland Coalition Against Sexual Assault
Maryland Essentials for Childhood
Maryland Family Network
Maryland Local Management Board Association
Maryland Network Against Domestic Violence
Maryland Safe At Home Address Confidentiality Program, Office of the Secretary of State
Maryland State Council on Child Abuse and Neglect
MD Chapter of the National Organization of Social Workers
MD Coalition of Families
Anne Arundel County CASA, Inc., Annapolis
CASA of Allegany County, Cumberland
CASA of Frederick & Carroll Counties, Frederick
Life Crisis Center, Salisbury
No More Stolen Childhoods
The Family Tree/Prevent Child Abuse Maryland
Carroll County Sheriff's Office, Westminster
Cecil County Family Violence Programs, Elkton
Center for Children, Inc., La Plata
Dove Center, Oakland
Family Crisis Resource Center, Inc., Cumberland
For All Seasons, Inc., Easton, Cambridge, Denton, Stevensville, Chestertown, Tilghman Island
Friends of the Child Advocacy Center, Frederick
LifeBridge Health, Center for Hope, Baltimore
Office of the State's Attorney for Baltimore City, Baltimore
Prince George's County Department Social Services, Landover
Southern Md. Center for Family Advocacy, Hollywood
St. Mary's County Child Advocacy Center, Lexington Park
Talbot County Children's Advocacy Center, Easton
The CRICKET Center, Berlin
The Rebuild, Overcome, and Rise (ROAR) Center, Baltimore
Voices for Children, Howard County's Court Appointed Special Advocate Program, Ellicott
City
Voices for Children Montgomery, Montgomery County

Massachusetts:

Jane Doe Inc.
Massachusetts Office for Victim Assistance (MOVA)
Mothers Against Drunk Driving Massachusetts
National Association of Social Workers, MA Chapter
Portal To Hope
Saheli Inc.
Stop Handgun Violence
Violence Recovery Program, Fenway Health
Beth Israel Deaconess Medical Center, Center for Violence Prevention and Recovery, Boston
Boston Area Rape Crisis Center, Cambridge
Boston Medical Center Domestic Violence Program, Boston
Casa Myrna Vazquez, Boston
Catholic Social Services, Diocese of Fall River, Fall River
Centerboard, Lynn
Children's Advocacy Center Franklin County North Quabbin Inc, Greenfield
Children's Advocacy Center of Hampshire County, Northampton
DOVE, Inc., Quincy
HarborCOV, Chelsea
Healing Abuse Working for Change, Salem
Health Imperatives
Hilltown Community Health Centers, Inc., Worthington
Jeanne Geiger Crisis Center, Newburyport
Louis D. Brown Peace Institute, Dorchester
Martha's Vineyard Community Services' CONNECT to End Violence, Vineyard Haven
New England Learning Center for Women In Transition (NELCWIT), Greenfield
New Hope Inc., Attleboro
Office of Northwestern District Attorney, Northampton
On The Rise, Inc., Cambridge
Pathways for Change, Inc., Worcester
RIA House, Inc., Framingham and Worcester
Riverside Community Care, Sommerville
Roxbury Youthworks, Inc., Roxbury
The Second Step, Newton
UMass Community Healthlink Victim Services, Worcester
Wayside Youth & Family Support Network, Framingham
Womanshelter/Companeras, Holyoke
Victim Rights Law Center, Boston
Voices Against Violence, Framingham
YWCA Northeastern Massachusetts, Lawrence

Michigan:

Children's Advocacy Centers of Michigan
Equality Michigan
Michigan Coalition to End Domestic & Sexual Violence
Mothers Against Drunk Driving (MADD) Michigan State Office

Prosecuting Attorneys Association of Michigan
Allegan County CASA- Safe Harbor CAC, Allegan
AWARE, Inc., Jackson
Bronson Sexual Assault Services, Child Advocacy Center, Battle Creek
CAN Council, Saginaw, Bay City, and Bad Axe
CARE House of Oakland County, Pontiac
CASA of Kent County, Grand Rapids
CASA - The Voice for Clinton County's Children, St. Johns
Centro Multicultural La Familia, Pontiac
Child Advocacy, Amla
Child and Family Services of Saginaw, Saginaw
Children's Advocacy Center, Holland
Children's Advocacy Center of Kalamazoo, Kalamazoo
Children's Advocacy Center of Kent County, Grand Rapids
Children's Advocacy Center of Southwest Michigan, St. Joseph
CHOICES of Manistee County, Inc., Manistee
Community Healing Centers Children's Advocacy Center, Kalamazoo
Domestic Violence Coalition, Inc, Paw Paw
Every Woman's Place, Muskegon
Hurley Medical Center-Trauma Recovery Center, Flint
Ionia Montcalm Secure and Friendly Environment Child Advocacy Center, Fenwick
Kids-TALK Children's Advocacy Center, Detroit
Macomb County Child Advocacy Center/Care House, Mount Clemens
Manistee County Child Advocacy Center, Manistee
Northern Michigan Children's Assessment Center, Roscommon
Office of Prosecuting Attorney, Kalamazoo
Region 2 Area Agency on Aging, Brooklyn
Resilience: Advocates for Ending Violence, Holland
S.A.F.E. Place, Battle Creek
Safe & Sound Child Advocacy Center, Midland
Safe Harbor CAC of Barry County, Hastings
Safe Harbor Children's Advocacy Center, Allegan
SafeCenter, Owosso and St. Johns
Sanilac County Child Abuse Prevention Council, Sandusky
Small Talk Children's Advocacy Center, Lansing
St. Clair County Child Abuse Neglect Council Inc, Port Huron
St. Clair County Victim's Rights Office, Port Huron
The Avenue Family Network, Benton Harbor
The Capital Area Response Effort (CARE), Lansing
The Child Advocacy Center of Lapeer County, Lapeer
The Child Advocacy Center of Tuscola County, Caro
The Women's Center, Marquette
Traverse Bay Children's Advocacy Center, Traverse City
Underground Railroad, Inc., Saginaw
Voices for Children, Flint
Voices for Children, Owosso

Women's Resource Center for the Grand Traverse Area, Traverse City

Minnesota:

American Indian Community Housing Organization
Minnesota Alliance on Crime
Midwest Children's Resource Center
Minnesota Children's Alliance
Minnesota Elder Justice Center
MN Coalition Against Sexual Assault
ThinkSelf Deaf Adult Education & Advocacy
Unspoken Voices
Violence Free Minnesota
Women of Nations
360 Communities, Burnsville
Advocates for Family Peace, Grand Rapids
Alexandra House, Inc., Blaine
Anoka County Attorney's Office, Anoka
Canvas Health Abuse Response Services, Oakdale
Child & Family Advocacy Center of South Central Minnesota, Mankato
Child's Place, Redwood Falls
Cornerstone Advocacy Service, Bloomington and Minneapolis
Dakota County Attorney's Office, Hastings
Division of Indian Work, Minneapolis
Domestic Abuse Intervention Programs, Duluth
Family Advocacy Center of Northern Minnesota, Bemidji
Family & Children's Center - Matty's Place CAC, Winona
Family Pathways, North Branch
Family Safety Network, Walker
Freeborn County Crime Victims Crisis Center, Albert Lea
Hands of Hope Resource Center, Little Falls
HOPE Center, Faribault
HOPE Coalition, Red Wing
HOPE (Healing Opportunity Provided Equally), Aitkin
Kandiyohi County Attorney's Office, Willmar
Karen Organization of Minnesota, St. Paul
Mahnomen County Attorney's Office, Mahnomen
Mid-Minnesota Women's Center, Inc., Brainerd
Minneapolis American Indian Center, Minneapolis
Missions Inc. Programs, Plymouth
New Horizons Crisis Center, Marshall
North Star Family Advocacy Center, Braham
PAVSA, Duluth
Phumulani Minnesota African Women Against Violence, Minneapolis
Red Lake County Victim Services, Red Lake Falls
Rivers of Hope, Monticello
Safe Avenues, Willmar

Safe Haven Shelter & Resource Center, Duluth
Sewa-Aifw, Minneapolis
Sexual Violence Center, Minneapolis
Someplace Safe, Fergus Falls
Southern Valley Alliance, Belle Plaine
Southwest Crisis Center, Worthington
Standpoint, St. Paul
Stevens County Victim Services, Morris
Support Within Reach, Bemidji
The Committee Against Domestic Abuse (CADA) Inc., Mankato
Tubman, Minneapolis
Watonwan County Victim Witness Program, St. James
Women's Advocates, St. Paul
Women's Initiative for Self Empowerment, St. Paul
Yellow Medicine County Attorney Office - Victim Services, Granite Falls

Mississippi:

Children's Advocacy Centers of Mississippi
Mississippi Coalition Against Domestic Violence
National Association of Social Workers - MS Chapter
Angel Wings Out-Reach Center, Mendenhall
Care Lodge Domestic Violence Shelter, Inc., Meridian
Catholic Charities, Inc., Jackson
Domestic Abuse Family Shelter, Inc., Laurel
Family Resource Center, Tupelo
Gulf Coast Center for Nonviolence, Biloxi
Haven House Family Shelter, Inc., Vicksburg
Hope Haven Children's Advocacy Center, Waveland
House of Grace Domestic Violence Shelter, Southaven
Natchez Children's Services
Safe Haven, Inc., Columbus
Shafer Center for Crisis Intervention, Hattiesburg
Southwest Mississippi Children's Advocacy Center, McComb
Violence Intervention Project, Thief River Falls

Missouri:

Christos House, Inc.
Missouri Association of Prosecuting Attorneys
Missouri Coalition Against Domestic & Sexual Violence
Missouri KidsFirst
Agape House Inc of Mountain View, Mountain View
ALIVE, St. Louis
Audrain County Crisis Intervention Services, Mexico
AVENUES for Northeast Missouri, Inc., Hannibal
C.A.R.E. of Atchison Co. Inc., Rock Port
Cedar County Office of Prosecuting Attorney, Stockton

Child Protection Center, Inc., Kansas City
Child Safe of Central Missouri, Inc., Sedalia
Children's Advocacy Center of East Central Missouri, Festus
Children's Advocacy Services of Greater St. Louis, St. Louis
Children's Center Of Southwest Missouri, Joplin
Citizens Against Domestic Violence, Inc, Camden, Miller, and Morgan Counties
Citizens Against Spouse Abuse, Inc., Sedalia
Comtrea's A Safe Place, Jefferson County
Crime Victim Advocacy Center of St. Louis, St. Louis
Family Violence Center, Inc., d/b/a Harmony House, Springfield
Genesis: A Place of New Beginnings, Waynesville
Green Hills Women's Shelter, Cameron
Harbor House Domestic Violence Center, Kimberling City
Haven House, Inc., Poplar Bluff
Hope House, Lees Summit
Jefferson City Rape & Abuse Crisis Service, Jefferson City
Lafayette House, Joplin
Lakes Area Child Advocacy Center, Branson West
Lighthouse Shelter/Resource Center, Marshall
Linn County Prosecuting Attorney, Linneus
Lydia's House, Inc., St. Louis
Kids' Harbor, Inc., Osage Beach
Metropolitan Organization to Counter Sexual Assault (MOCSA), Metro Kansas City
North Central Missouri Children's Advocacy Center, Trenton
North Star Advocacy Center, Maryville
Phelps County Family Crisis Services DBA Russell House, Missouri, Rolla, Salem, Steelville,
and Vienna
Rainbow House Regional Child Advocacy Center, Columbia
Regional Family Crisis Center, Perryville
Rose Brooks Center, Kansas City
Safe Connections, St. Louis
Safe House for Women, Cape Girardeau
Shockley Family, Salem
Sikeston House of Refuge, Sikeston
Southeast Missouri Network Against Sexual Violence, Cape Girardeau
Susanna Wesley Family Learning Center, Inc., Charleston
Synergy Services, Inc, Parkville
The Child Advocacy Center, Springfield
The Child Center, Wentzville
The Kathy J. Weinman Shelter for Domestic Violence, St. Louis
The Women's Safe House, St. Louis
True North of Columbia, Colubia
Turning Point Advocacy Services, Warrenton
Voices of Courage Child Advocacy Center, St. Joseph
Whole Health Outreach/Casa Guadalupe Domestic Violence Shelter, Ellington
Women of Grace/GIA Community Development Corporation, St. Louis

Young Women's Christian Association of St. Joseph, Missouri, St. Joseph
YWCA Metro St. Louis, St. Louis

Montana:

Children's Alliance of Montana, Inc.
Montana Coalition Against Domestic and Sexual Violence
Abuse Support and Prevention Education Network, Livingston
Custer Network Against Domestic Abuse Inc., Miles City
District 4 HRDC Victim Services, Havre
Domestic and Sexual Violence Services of Carbon County, Red Lodge
Flathead County Children's Advocacy Center, Kalispell
The Sexual Assault Counseling Center, Bozeman
Victim-Witness Assistance Services, Great Falls
YWCA Billings, Billings and Hardin

Nebraska:

Healing Hearts & Families
National Association of Social Workers, Nebraska Chapter
Nebraska Alliance of Child Advocacy Centers
Nebraska Coalition to End Sexual and Domestic Violence
Bridge of Hope Child Advocacy Center, North Platte
Bright Horizons Resources for Survivors of Domestic Violence and Sexual Assault, Inc.,
Norfolk
CAPstone Child Advocacy Center, Gering
Central Nebraska Child Advocacy Center
Family Advocacy Network, Kearney
Lincoln/Lancaster Child Advocacy Center, Lincoln
Parent-Child Center, Lexington
Rape/Domestic Abuse Program, North Platte and Valentine
Spouse Abuse Sexual Assault Crisis Center, Inc., Hastings
Survivors Rising, Omaha
The Bridge, Fremont
The DOVES Program, Gering
Voices Of Hope, Lincoln

Nevada:

Battle Born Progress - Nevada
National Association of Social Workers - Nevada Chapter
Nevada Coalition to End Domestic and Sexual Violence
North Las Vegas City Attorney's Office, North Las Vegas

New Hampshire:

Catholic Charities NH
Court Appointed Special Advocates (CASA) of NH
Granite State Children's Alliance
National Association of Social Workers, NH Chapter

New Hampshire Coalition Against Domestic and Sexual Violence
New Hampshire Legal Assistance
New Hampshire Victims' Compensation Program
YWCA NH
Belknap County Attorney's Office, Laconia
Bridges: Domestic & Sexual Violence Support Services, Nashua
Child Advocacy Center of Carroll County, Wolfeboro
Child Advocacy Center of Hillsborough County - Manchester, Manchester
Child Advocacy Center of Hillsborough County - Nashua, Nashua
Child Advocacy Center of Rockingham County, Inc., Portsmouth and Derry
City Attorney's Office, Rochester
Crisis Center of Central New Hampshire, Concord
Greater Lakes Child Advocacy Center, Laconia
HAVEN Violence Prevention and Support Services, Portsmouth
Merrimack County Board of Commissioners, Concord
Merrimack County Commissioners, Boscawen
Monadnock Region Child Advocacy Center, Keene
Rockingham County Attorney's Office, Brentwood
Strafford County Child Advocacy Center, Dover
The Front Door Agency, Inc., Nashua
Turning Points Network, Claremont
Zonta Club of Concord, NH, Concord

New Jersey:

New Jersey Children's Alliance, Inc.
New Jersey Coalition Against Sexual Assault
New Jersey Coalition to End Domestic Violence
Cumberland County Prosecutor's Office, Bridgeton
Safe + Sound Somerset, Somerset
WWITS Mentoring Program, Camden
Wynona's House CAC, Newark
YWCA Northern New Jersey, Hackensack

New Mexico:

Bold Futures NM
NASW - NM
New Mexico Children's Alliance
New Mexico Coalition Against Domestic Violence
New Mexico Coalition of Sexual Assault Programs, Inc.
Transgender Resource Center of New Mexico
Twelfth Judicial District Attorney's Office
Community Against Violence (CAV), Taos
El Refugio, Inc., Silver City
Families and Youth Inc, Las Cruces
me mom, Shiprock
Rape Crisis Center of Central New Mexico, Albuquerque

New York:

Gun Sense New York
National Association of Social Workers, New York State
New York State Children's Alliance, Inc.
New York State Coalition Against Sexual Assault
New York State Coalition Against Domestic Violence
St. Peter's Crime Victim Services
A New Hope Center, Owego
Albany County Crime Victim and Sexual Violence Center, Albany
Arab-American Family Support Center, New York
BestSelf Behavioral Health, Buffalo
Bivona Child Advocacy Center, Rochester
Bronx Child Advocacy Center, Bronx
Cayuga Counseling Services, Inc., Auburn
Child Advocacy Center of Niagara, Niagara Falls
Child Advocacy Center of Putnam County, Brewster
Child Advocacy Center of the Finger Lakes, Inc., Canandaigua
Crime Victims Assistance Center, Inc., Binghamton
EAC Network, Hempstead
Liberty Resources, Inc., Madison and Chenango Counties
Madison County Children's Advocacy Center, Canastota
McMahon Ryan Child Advocacy Center, Syracuse
MHACGC/Child Advocacy Center & the REACH Center, Catskill and Hudson
National Association of Social Workers-New York City Chapter, New York City
North Brooklyn Coalition Against Family Violence, Brooklyn
Oneida County Child Advocacy Center, Utica
Otsego County Child Advocacy Center, Cooperstown
Safe Horizon, New York City
Safe Horizon Bronx Child Advocacy Center, Bronx
Saratoga Center for the Family/Harriet M. West Child Advocacy Center, Saratoga Springs
Sauti Yetu , Bronx
Sullivan County Child Advocacy Center, Liberty
Suicide Prevention and Crisis Service, Inc. (Crisis Services), Buffalo
The Regional Child Advocacy Center in Fulton, Montgomery & Hamilton Counties, Johnstown
The Safe Center LI, Inc, Bethpage
The Victims Assistance Center of Jefferson County, Watertown
Victims Information Bureau of Suffolk, Islandia
Violence Intervention Program, New York
Warren Washington CARE Center, Warren and Washington
Westchester Institute for Human Development, Valhalla
YWCA Binghamton and Broome County, Binghamton

North Carolina:

Children's Advocacy Centers of North Carolina
National Association of Social Workers North Carolina

NC Coalition Against Human Trafficking
NC Governor's Crime Commission
North Carolina Victim Assistance Network
AWAKE Children's Advocacy Center, Sylva
Atrium Health Jeff Gordon Children's Child Advocacy Center, Concord
Butterfly House Children's Advocacy Center of Atrium Health Stanly, Albemarle
Child Advocacy Center, Inc., Fayetteville
Child Advocacy Center of Onslow County, Jacksonville
Children's Advocacy and Protection Center, Conover
CrossRoads: Sexual Assault Response and Resource Center, Burlington
Doing It For The Kingdom, Fayetteville
Dove House Children's Advocacy Center, Iredell and Alexander Counties, Statesville
Family Resources of Rutherford County, Clara Allen Family Center, Forest City
H.A.V.E.N. Children's Advocacy Center, Murphy
Help, Incorporated: Center Against Violence, Wentworth
KARE, Inc., Waynesville
Kids First Inc CAC, Elizabeth City
KIDS Place (Kids InterDisciplinary Services, Inc.), Franklin
Mocksville Police Department, Mocksville
Mountain Child Advocacy Center, Asheville
Pat's Place Child Advocacy Center, Charlotte
Prevent Child Abuse Rowan, Salisbury
Robin's Nest Children's Advocacy Center, Lenoir
Safelight, Hendersonville
Safe Spot Child Advocacy Center of Wilkes, Wilkesboro
Sampson County Child Advocacy Center, Inc., Clinton
The Dragonfly House Children's Advocacy Center, Mocksville
The Lincoln County Child Advocacy Center, Lincolnton
Turning Point, Inc., Monroe

North Dakota:

CAWS North Dakota
Children's Advocacy Centers of North Dakota
National Association of Social Workers, North Dakota Chapter
ND Victim Services Grants & Victim Compensation Program
Dakota Children's Advocacy Center, Bismarck
Red River Children's Advocacy Center, Fargo
Walsh County, Grafton
Walsh County Victim Assistance, Grafton

Northern Mariana Islands:

Northern Marianas Coalition Against Domestic & Sexual Violence

Ohio:

DeafPhoenix
DWAVE (Deaf World Against Violence Everywhere)

NASW Ohio Chapter
Ohio Alliance to End Sexual Violence
Ohio Crime Victim Justice Center
Ohio Domestic Violence Network
Ohio Hispanic Coalition
Ohio Network of Children's Advocacy Centers
Ohio Prosecuting Attorneys Association
Ohio Victim Witness Association
A Caring Place Child Advocacy Center, Wintersville
Appleaseed Community Mental Health Center, Rape Crisis Domestic Violence Safe Haven
Program, Ashland
Artemis Center, Dayton
Asian Services in Action (ASIA), Akron
Athens County Child Advocacy Center, Inc., Athens
Auglaize County Crisis Center, Wapakoneta
Beavercreek Police Department, Beavercreek
Bellbrook Police Department, Bellbrook
Bethany House, Toledo
Canopy Child Advocacy Center, Cleveland
CAC of West Central Ohio, Lima
CARE House, Dayton
City Of Xenia Law Department Victim Advocate Division, Xenia
Cleveland Rape Crisis Center, Cuyahoga, Lake, Ashtabula, and Geauga Counties
Crawford County Prosecuting Attorney's Victim Assistance Program, Bucyrus
Crime Victim Services, Lima
Crisis Care Line, Van Wert
Crossroads Crisis Center, Lima
Defiance County Victims Assistance, Defiance
Ethiopian Tewahedo Social Services (ETSS), Columbus
Eve, Incorporated, Marietta
Fairborn Police Department, Fairborn
Family Abuse Shelter of Miami County, Inc., Troy
Greene County Department of Job and Family Services, Xenia
Greene County Prosecuting Attorney, Xenia
Haven House of Pickaway County Inc., Circleville
Jewish Family Service Association of Cleveland, Cleveland
Licking County Prosecutor, Newark
Lucas County Domestic Violence Task Force - Best Practices Committee, Toledo
Marion Victim Assistance Program, Marion
Mayfield Heights Police Department Victim Advocacy Program, Mayfield Heights
Michael's House Child Advocacy Center, Fairborn
New Choices, Inc., Sidney
Noah's Hope Child Advocacy Center Of Tuscarawas Co, New Philadelphia
Office of the Portage County Prosecuting Attorney, Ravenna
OneEighty, Wooster
Open Arms, Findlay

Paulding County Victims Assistance, Paulding
Rape Crisis Domestic Violence Safe Haven, Ashland
Safe Harbour Domestic Violence Shelter Inc., Sandusky
Sarah's Friends, Inc., Bryan
SARNCO (Sexual Assault Response Network of Central Ohio), Columbus
Southern Ohio Sexual Assault Treatment Center, Portsmouth
Southern Ohio Task Force on Domestic Violence, Portsmouth
Survivor Advocacy Outreach Program, Athens
The Center for Safe & Healthy Children, Findlay
The Children's Advocacy Center of Guernsey County, Cambridge
The Cocoon, Bowling Green
The Counseling Center, Lisbon
The Delaware County Prosecutor's Office of Melissa A. Schiffel, Delaware
The Domestic Violence Shelter, Inc., Mansfield
The House of Ruth, Defiance
The Nord Center, Lorain
Tri-County Help Center Inc, St. Clairsville
Upper Ohio Valley Sexual Assault Help Center Inc., Wheeling
Van Wert County Prosecutor, Van Wert
Wayne County Children's Advocacy Center, Wooster
Wayne County Prosecuting Attorney's Office, Wooster
Williams County Victim Assistance, Bryan
Women Helping Women, Cincinnati
YWCA Hamilton, Hamilton
YWCA Greater Cincinnati, Greater Cincinnati

Oklahoma:

Action Associates
Children's Advocacy Centers of Oklahoma
La Luz Organization
Legal Aid Services of Oklahoma
NASW - Oklahoma
Oklahoma Coalition Against Domestic Violence & Sexual Assault
Oklahoma Crime Victims Compensation Board
Oklahoma District Attorneys Association
22nd Judicial District CASA, Inc., Pontotoc, Hughes, and Seminole Counties
Bethesda, Inc., Norman
CASA of Cherokee Country, Tahlequah, Cherokee County
Child Abuse Network, Inc., Tulsa
Children's Advocacy Center of Ottawa County Inc, Miami
Community Crisis Center, Miami
Crisis Control Center, Inc., Durant
Dearing House Child Advocacy Center, Ponca City
Domestic Violence Intervention Services, Tulsa
Family Safer Center, Tulsa
Family Shelter of Southern Oklahoma, Ardmore

Garfield County Child Advocacy Council, Inc., Enid
Oklahoma Guardian Ad Litem Institute, Edmond
One Safe Place - Unzner Centre CAC, Shawnee
Pittsburg County Child Abuse Response Effort, INC., McAlester
Ray of Hope Advocacy Center, Inc., Bartlesville
RISE, Muskogee
Sara's Project, Ardmore
The CARE Center, Oklahoma City
The CART House, El Reno
Women In Safe Home, Inc., Muskogee
YWCA Oklahoma City, Oklahoma City

Oregon:

Ceasefire Oregon
Oregon Abuse Advocates & Survivors in Service
Oregon Child Abuse Solutions
Oregon Coalition Against Domestic & Sexual Violence
Oregon Department of Justice
Children's Advocacy Center of Lincoln County, Newport
Domestic Violence Services, Inc., Pendleton
Douglas County Children's Center Inc. dba Douglas, Roseburg
KIDS Center, Bend
Kids FIRST, Eugene
Mt. Emily Safe Center, Le Grande

Pennsylvania:

Center for Advocacy for the Rights and Interests of the Elderly (CARIE)
Crime Victims Alliance of Pennsylvania
Office of Victim Advocate
Pennsylvania Chapter of Child Advocacy Centers
Pennsylvania Coalition Against Domestic Violence
Pennsylvania Coalition Against Rape
Pennsylvania Psychiatric Society
SeniorLAW Center
Women Against Abuse
A Child's Place PA, Pittsburgh
Adams County Victim Assistance, Gettysburg
Alle-Kiski Area HOPE Center, Inc., Tarentum
Anti-Violence Partnership of Philadelphia, Philadelphia
ARCC, Towanda
Beaver County Victim/Witness Assistance Project, Beaver
Blackburn Center, Greensburg
Bradley H. Foulk Children's Advocacy Center of Erie County, Inc., Erie
CASA Youth Advocates, Inc., Media
CASA of Westmoreland, Inc., Greensburg
Center for Victims, Pittsburgh

Centre Safe, State College
Children's Advocacy Center of Lawrence County, Inc., New Castle
Children's Advocacy Center of McKean County, Smethport
Children's Alliance Center of Berks County, Reading
Congreso de Latinos Unidos, Inc., Philadelphia
Crime Victims Council of the Lehigh Valley, Inc., Allentown
Crisis Center North, Pittsburgh
Crisis Shelter of Lawrence County, New Castle
Domestic Violence Service Center, Luzerne and Carbon Counties
Domestic Violence Services of Lancaster County, Lancaster
Family Service Association of NEPA, Wilkes-Barre
Family Support Line of Delaware County, Media
Helping All Victims in Need, Kittanning
Huntingdon House, Huntingdon
Laurel House, Norristown
Lutheran Settlement House, Philadelphia
Luzerne County Child Advocacy Center, Wilkes-Barre
Lycoming County District Attorney, Williamsport
Mifflin County Crime Victim Services, Lewistown
Mission Kids Child Advocacy Center, Montgomery County
Montgomery Child Advocacy Project, Norristown
Nationalities Service Center, Philadelphia
Network of Victim Assistance (NOVA), Jamison
Northwest Victim Services, Philadelphia
Philadelphia Children's Alliance, Philadelphia
Philadelphia Corporation for Aging, Philadelphia
Safe Berks, Reading
Schuylkill Women in Crisis, Pottsville
Sullivan County Victim Services, Laporte
The Abuse Network, Inc., Lewistown
The Abuse Network Inc., Mifflintown
The Abuse Network Inc., Huntingdon
The Children's Center, Montrose
The Domestic Abuse Project of Delaware County, Delaware County
The Lincoln Center for Family and Youth, Audubon
Transitions of PA, Union, Snyder, and Northumberland Counties
Turning Point Counseling & Advocacy Center, York
Turning Point of Lehigh Valley, Inc., Allentown
Victim Outreach Intervention Center, Butler
Victim Services Inc., Johnstown
Victims' Intervention Program, Honesdale
Victims Resource Center, Wilkes-Barre, Lehigh, and Tunkhannock
Victim/Witness Assistance Program (Dauphin County, PA), Harrisburg
Washington County District Attorney's Office of Victim Services, Washington
Western PA CARES for Kids, Brookville
Women In Transition, Philadelphia

Women's Center & Shelter of Greater Pittsburgh, Pittsburgh
Women's Center of Beaver County, Beaver
Women's Center of Montgomery County, Norristown
Women's Resources of Monroe County, Inc., Delaware Water Gap
Women's Services, Inc., Meadville
York County Children's Advocacy Center, York
YWCA Hanover, Hanover
YWCA Lancaster, Lancaster
YWCA York, York

Rhode Island:

Day One
Blackstone Valley Advocacy Center
National Association of Social Workers, RI Chapter
Progreso Latino
Rhode Island Children's Advocacy Center
Rhode Island Coalition Against Domestic Violence
Rhode Island Crime Victim Compensation Program
Sojourner House
Domestic Violence Resource Center of South County, Southern Rhode Island
Elizabeth Buffum Chace Center, Central Rhode Island
St. Mary's Home for Children, Providence
The Nonviolence Institute, Providence
Tri County Community Action, Johnston
Women's Resource Center, Newport & Bristol Counties

South Carolina:

SC Victim Assistance Network
South Carolina Coalition Against Domestic Violence and Sexual Assault
South Carolina Network of Children's Advocacy Centers
Beyond Abuse, Greenwood and Laurens
CARE House of the Pee Dee, Florence
Child Advocacy Center of Aiken County, Aiken
Children's Advocacy Center of Spartanburg, Cherokee and Union Counties, Inc., Spartanburg
Dickerson Children's Advocacy Center, Lexington
Dorchester Children's Advocacy Center, Summerville
Foothills Alliance, Anderson
Hopeful Horizons, Beaufort
Julie Valentine Center, Greenville
Laurens County SAFE Home, Laurens
Pee Dee Coalition, Florence
Pickens County Advocacy Center, Easley
Sexual Trauma Services of the Midlands, Columbia
Sistercare, Columbia
Solving the Puzzle, Simpsonville
Spartanburg Police Department - Victim Services, Spartanburg

South Dakota:

National Association of Social Workers, South Dakota Chapter
South Dakota Network Against Family Violence and Sexual Assault
Beacon Center, Watertown
Domestic Violence Network of the Lakes Region, Madison
Where All Women Are Honored-Winyan Wicayuonihan Oyanke, Rapid City

Tennessee:

Children's Advocacy Centers of Tennessee
National Association of Social Workers, Tennessee Chapter
Tennessee Coalition to End Domestic & Sexual Violence
Child Advocacy Center for the 23rd Judicial District, Charlotte
Children's Advocacy Center 23rd District Tennessee, Dickson
Childhelp Children's Advocacy Center, Knoxville
Crime No More, Memphis
HOPE Center, Inc, Athens and Cleveland
Kid's Place/A Child Advocacy Center, Lawrenceburg
Memphis Child Advocacy Center, Memphis
Sexual Assault Center, Nashville
The Children's Advocacy Center, Blountville
YWCA Knoxville and the Tennessee Valley, Knoxville

Texas:

Children's Advocacy Centers of Texas
National Association of Social Workers - Texas Chapter
Texas Association Against Sexual Assault
Texas Council on Family Violence
Abigail's Arms - CAC of Cooke County, Gainesville
Advocacy Center for Crime Victims and Children, Waco
Advocacy Center for the Children of El Paso, El Paso
After The Scars/Fortified, Arlington
Alliance For Children, Fort Worth
Bluebonnet Children's Advocacy Center, Hondo
Brazoria County Alliance for Children, Inc., Angleton
Bridgehaven Children's Advocacy Center, Dayton
Casa de Misericordia, Laredo
CASA Texarkana, Texarkana
Center for Child Protection, Austin
Child Advocates of Navarro County, Corsicana
Children's Advocacy Center, Cleburne
Children's Advocacy Center for Denton County, Lewisville
Children's Advocacy Center for Rockwall County, Rockwall
Children's Advocacy Center Laredo-Webb, Laredo
Children's Advocacy Center of Collin County, Plano
Children's Advocacy Center of Paris, Paris

Children's Advocacy Center of the Coastal Bend, Corpus Christi
Children's Advocacy Center of the South Plains, Inc., Lubbock
Children's Advocacy Center of Van Zandt County, Inc, Canton
Children's Advocacy Center Serving Bastrop, Lee, and Fayette Counties, Bastrop
Crisis Center of Comal County, New Braunfels and Comal County
Dallas Area Rape Crisis Center, Dallas
Domestic Violence Prevention, Inc., Texarkana
Eastland County Crisis Center, Inc., Eastland
Ellis County Children's Advocacy Center, Waxahachie
Families In Crisis, Inc., Killeen
Family Crisis Center, Bastrop
Family Crisis Center, Inc., Harlingen
FamilyTime Crisis & Counseling Center, Humble
Focusing Families, Hempstead
Fort Bend Women's Center, Richmond
Friendship of Women, Inc., Brownsville
Garth House, Mickey Mehaffy Children's Advocacy Program, Inc., Beaumont
Gateway Family Services, Inc., Snyder
Gonzales Regional Children's Advocacy Center, Gonzales
Grayson County Children's Advocacy Center, Sherman
Guadalupe County Children's Advocacy Center, Seguin
Guadalupe Valley Family Violence Shelter, Inc., Seguin
Hand Up Network-Victim Services Program, Tyler
Harmony Home CAC, Odessa
Hays-Caldwell Women's Center, San Marcos
Henderson County HELP Center and Maggie's House Child Advocacy Center, Athens
Hope of South Texas, Inc., Victoria
Houston Area Women's Center, Houston
Hunt County Children's Advocacy Center, Greenville
Johnson County Family Crisis Center, Cleburne
Katy Christian Ministries, Katy
Kendall County Women's Shelter, Boerne
Lubbock Rape Crisis Center dba Voice of Hope, Lubbock
Midland Rape Crisis and Children's Advocacy Center, Midland
Noah Project, Inc., Abilene
Northeast Texas Child Advocacy Center, Winnsboro
Northwest Assistance Ministries' Family Violence Center, Houston
Paluxy River Children's Advocacy Center, Granbury
Panhandle Crisis Center, Perryton
Rape & Suicide Crisis of Southeast Texas. Inc., Beaumont
Regional Justice Center, Mission
Regional Victim Crisis Center, Abilene
Resource & Crisis Center of Galveston County (RCCGC), Galveston
Scotty's House, Bryan
Shelter Agencies for Families in East Texas, Mt. Pleasant
Southern Grit Advocacy, Wichita Falls

The Ark Domestic Violence and Sexual Assault Shelter, Brownwood
The Bridge Children's Advocacy Center, Amarillo
The Bridge Over Troubled Waters, Pasadena
The Children's Assessment Center, Houston
The Family Place, Dallas
The Harbor Children's Alliance & Victim Center, Port Lavaca
The Martin House Children's Advocacy Center, Longview
The Montrose Center, Houston
The SAFE Alliance, Austin
The Salvation Army Carr P. Collins Center, Dallas
Victim Services of Big Spring, Big Spring
Virginia's House, Graham
Women In Need, Inc., Greenville
Women's Shelter of South Texas dba The Purple Door, Corpus Christi

Utah:

NASW-Utah
Trauma Help for Women (THW)
Utah Children's Justice Center Program
Utah Domestic Violence Coalition
Canyon Creek Services, Cedar City
Davis County Children's Justice Center, Farmington
Duchesne County Children's Justice Center, Roosevelt
Juab and Millard County Children's Justice Center, Nephi
Safe Harbor Crisis Center, Kaysville
Salt Lake County Children's Justice Centers, Salt Lake City
Sanpete County Utah CJC, Ephraim
Utah County Children's Justice Center, Provo
Weber/Morgan Children's Justice Center, Ogden

Vermont:

Nat Assoc of Social Workers, Vermont Chapter
Vermont Center for Crime Victim Services
Vermont Children's Alliance
Vermont Network Against Domestic and Sexual Violence
Addison County Unit for Special Investigations, Middlebury
AWARE, Inc., Hardwick
Chittenden Children's Advocacy Center, Burlington
Circle, Barre
Clarina Howard Nichols Center, Morrisville
Dennis Wygmans, State's Attorney, Addison County, Middlebury
HOPEWORKS, Burlington
Mosaic Vermont, Inc., Barre
NewStory Center, Rutland
Northwest Unit for Special Investigations Children's Advocacy Center, St. Albans
Pride Center of Vermont, Burlington

Project Against Violent Encounters (PAVE), Bennington
Safetline, Inc., Chelsea
Steps to End Domestic Violence, Burlington
Voices Against Violence, St. Albans

Virgin Islands:

Virgin Islands Domestic Violence and Sexual Assault Council
Women's Coalition of St. Croix, Christainsted

Virginia:

Children's Advocacy Centers of Virginia
NASW Virginia Chapter
The Virginia Victim Assistance Network
Virginia Sexual & Domestic Violence Action Alliance
Accomack County Victim/Witness Program, Accomac
Avalon Center Domestic and Sexual Violence, Williamsburg
Bedford Victim Witness Assistance Program, Bedford County
CDVPC, Choices, Inc., Luray
Children's Hospital of The King's Daughters, Norfolk
Children's Trust, Roanoke
ChildSafe Center-CAC, Winchester
Collins Center & Child Advocacy Center, Harrisonburg
Concerned Citizens, Arlington
Davis Child Advocacy Center, Chesterfield
Eastern Shore Coalition Against Domestic Violence, Onancock
Foothills Child Advocacy Center, Charlottesville
Fredericksburg Victim Witness Program, Fredericksburg
FVSAU Child Advocacy Center, Emporia
Greater Richmond SCAN (Stop Child Abuse Now), Richmond
Highlands Community Services, Abingdon
Madison County Victim Witness Program, Madison
Middlesex Victim Witness, Saluda
New Directions Center, Staunton
Project Horizon, Inc., Lexington
Response, Inc., Woodstock
Safe Harbor Child Advocacy Center, Fredericksburg
SafeSpot Children's Advocacy Center of Fairfax County, Fairfax
Shenandoah Co. Victim/Witness, Woodstock
Southern Virginia Child Advocacy Center, Franklin County
Surry Victim Witness Program, Surry
The Center for Alexandria's Children, Inc., Alexandria
Valley Children's Advocacy Center, Staunton
Winchester Victim Witness Program, Winchester
YWCA South Hampton Roads, Norfolk

Washington:

Alliance for Gun Responsibility
Children's Advocacy Centers of Washington
Lutheran Community Services Northwest
National Association of Social Workers - Washington State Chapter
Washington State Coalition Against Domestic Violence
Children's Justice & Advocacy Center (CJAC), Longview
Crime Victims Advocacy Network, Olympia
Crisis Support Network, Raymond
Dawson Place Child Advocacy Center, Everett
KCSARC, Renton
Kitsap County Prosecutor's Office, Port Orchard
Partners with Families & Children, Spokane
Walla Walla Police Department
SAGE, Wenatchee
YWCA Clark County, Vancouver
YWCA Spokane, Spokane

West Virginia:

National Association of Social Workers West Virginia Chapter
Planned Parenthood South Atlantic
West Virginia Child Advocacy Network
West Virginia Coalition Against Domestic Violence
West Virginia Foundation for Rape Information and Services
Stop Abusive Family Environments, Inc. (SAFE)
WV Working Families Party
Branches Domestic Violence Shelter, Huntington
CONTACT Rape Crisis Center, Huntington
Covenant House, Charleston
Eastern Panhandle Empowerment Center, Berkeley County, Jefferson County, Morgan County
Family Crisis Intervention Center, Parkersburg
Family Refuge Center, Lewisburg
Harrison County Child Advocacy Center, Clarksburg
Nicholas County Family Resource Network, Summersville
Rape and Domestic Violence Information Center, Morgantown
REACH/TCC, Charleston
The Lighthouse Child Advocacy Center, Paden City
Women's Resource Center WV, Beckley
WV Citizen Action, Charleson

Wisconsin:

Child Advocacy Centers of Wisconsin
Diverse & Resilient
End Domestic Abuse Wisconsin
WAVE Educational Fund
Wisconsin Coalition Against Sexual Assault
Wisconsin Crime Victim Compensation Program

Wisconsin Victim Assistance Program
Advocates of Ozaukee, Saukville
ASTOP, Inc, Fond du Lac
Benedict Center, Milwaukee
Children's Wisconsin, Milwaukee
Community Referral Agency, Milltown
Domestic Violence Center DBA InCourage, Manitowoc
Embrace Services, Inc., Ladysmith
Family Advocates, Inc., Platteville
Family Service of Waukesha, Waukesha
Family Services of Northeast Wisconsin, Green Bay
Family Support Center, Chippewa and Eau Claire Counties
FRIEND Inc., West Bend
Green County District Attorney's Office, Monroe
Green County Human Services Department Children, Youth and Families Unit, Monroe
Haven Inc., Merrill
HELP of Door County, Sturgeon Bay
Hope House of Central Wisconsin, Baraboo
Jewish Family Services, Inc., Milwaukee
Lakeshore Regional Child Advocacy Center, Saukville
New Beginnings APFV (formerly The Association for Prevention of Family Violence), Elkhorn
Rape Crisis Center, Madison
Safe Harbor Child Advocacy Center, Madison
Sexual Assault Services, Racine
Stepping Stones, Inc., Medford
The Bridge to Hope, Menomonie
The Women's Center, Waukesha
The Women's Community, Wausau
Tri-County Council on Domestic Violence and Sexual Assault, Rhinelander
Wise Women Gathering Place, Green Bay

Wyoming:

Wyoming Coalition Against Domestic Violence and Sexual Assault
CASA Association of the 5th Judicial District, Cody
Community Safety Network, Jackson Hole

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: CS/CS/HB 747 Coverage for Air Ambulance Services

SPONSOR(S): Health & Human Services Committee and Health Market Reform Subcommittee, Williamson and others

TIED BILLS: **IDEN./SIM. BILLS:** CS/CS/CS/SB 736

FINAL HOUSE FLOOR ACTION: 117 Y's 0 N's **GOVERNOR'S ACTION:** Approved

SUMMARY ANALYSIS

CS/CS/HB 747 passed the House on February 20, 2020, and subsequently passed the Senate on March 12, 2020.

Providers of air ambulance services use both helicopter and fixed-wing aircraft to transport patients with time-sensitive medical needs. Air ambulance services can dramatically reduce transport times for critically ill patients during life-threatening emergencies.

The infrequent and unpredictable nature of most air ambulance transports, as well as high prices, reduce the incentives of both air ambulance providers and insurers to enter into contracts with agreed-upon payment rates. This means air ambulance providers are more likely to be out-of-network when compared with other types of providers, and may be more likely to seek reimbursement by balance billing the patient. While Florida law prohibits balance billing in many circumstances, air ambulance services are largely exempt from those prohibitions.

CS/CS/HB 747 requires a commercial health insurer or HMO to provide reasonable reimbursement to an air ambulance service for emergency and nonemergency transport services provided to a covered individual in accordance with the terms of the insurance policy or HMO contract. The bill defines "reasonable reimbursement" as payment that considers the direct cost of services provided, costs incurred by the operation of an air ambulance service by a county which operates entirely within a designated area of critical state concern as determined by the Department of Economic Opportunity, and in-network reimbursement for comparable services.

The bill specifies that payment in full of applicable copayments, coinsurance, and deductibles by an insured patient who receives air ambulance services shall constitute the full financial obligation of the patient for those services. Accordingly, the bill prohibits air ambulance service providers from balance billing insured patients.

The bill has no fiscal impact to the state and an indeterminate impact to local governments.

The bill was approved by the Governor on September 18, 2020, ch. 2020-177, L.O.F., and takes effect upon becoming law.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

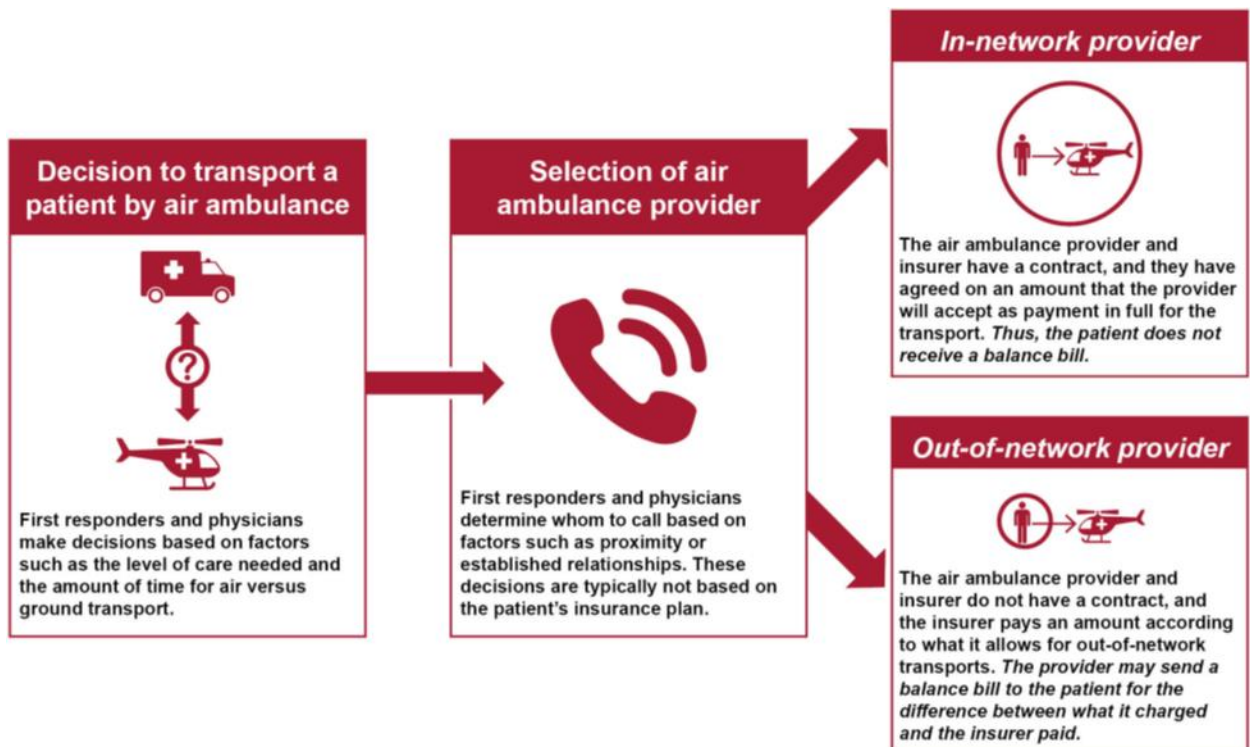
Background

Air Ambulance Services

Providers of air ambulance services use both helicopter and fixed-wing aircraft to transport patients with time-sensitive medical needs. These two types of aircraft are generally used on different types of missions:

- Helicopters are often used for transports from the scene of the accident or injury to the hospital or for shorter-distance transports between hospitals. Helicopter bases may be at hospitals, airports, or other types of helipads, and a provider may need to fly from its base to the scene or a hospital to pick up the patient being transported.
- Fixed-wing aircraft may be used for longer-distance transports between hospitals. Fixed-wing bases are at airports, and the patient is usually transported by ground ambulance to and from the airports.¹

Relatively few patients receive air ambulance transports, but those who do generally have no control over the decision to be transported via air ambulance or in the selection of an air ambulance provider.²



Source: GAO. | GAO-19-292

Air ambulance services can dramatically reduce transport times for critically ill patients during life-threatening emergencies.³ In the case of on-scene response transports, first responders decide when air ambulance service is needed, while hospital staff primarily make decisions regarding the need for interfacility transports. However, the on-demand nature of air ambulance services, combined with the

¹ U.S. Government Accountability Office, *AIR AMBULANCE – Available Data Show Privately-Insured Patients are at Financial Risk*, GAO-19-292, March 2019, available at <https://www.gao.gov/assets/700/697684.pdf> (last accessed March 6, 2020).

² Id.

³ U.S. Government Accountability Office, *AIR AMBULANCE – Data Collection and Transparency Needed to Enhance DOT Oversight*, GAO-17-637, July 2017, available at <https://www.gao.gov/assets/690/686167.pdf> (last accessed March 6, 2020).

high fixed costs associated with the transport vehicles, leads to the high cost of air ambulance services.⁴ Those costs can vary widely; one source indicates the average air ambulance flight covers 52 miles and costs between \$12,000 and \$25,000.⁵ Another source indicates that the median price charged by air ambulance providers was just under \$30,000 per transport in 2014.⁶ A study commissioned by the Association of Air Medical Services and Members, an industry trade group, indicates that air ambulance providers earned approximately \$23,500 in median revenue per transport for flights reimbursed under commercial health insurance during fiscal year 2015.⁷

There have been numerous reports of cases where patients have received substantial balance bills from air ambulance providers for services rendered.⁸ Balance billing describes a situation where a health care provider seeks to collect payment from a patient for the difference between the provider's billed charges for a covered service and the amount that the insurer or HMO paid on the claim. The infrequent and unpredictable nature of most air ambulance transports, as well as high prices, reduces the incentives of both air ambulance providers and insurers to enter into contracts with agreed-upon payment rates. This means air ambulance providers are more likely to be out-of-network when compared with other types of providers, and may be more likely to seek reimbursement through balance billing.⁹

Regulation of Air Ambulance Services

Federal Regulation

States generally have the right to regulate the business of insurance.¹⁰ Absent federal intervention, states are responsible for regulating both health plans and service providers. In the case of air ambulance, however, federal law has effectively prevented states from regulating air ambulance services.

The federal Airline Deregulation Act of 1978¹¹ prohibits states from regulating the price, route, or service of an air carrier for the purposes of keeping national commercial air travel competitive. While the law was intended to shield commercial airlines from state price regulations, it also had the effect of preempting any state regulation of air medical transportation.¹²

Several states have tried to prevent air ambulances from collecting inflated charges by setting maximum prices, prohibiting air ambulances from balance billing, setting reasonable air ambulance rates in workers' compensation claims (which states do for nearly every health care service for workplace injuries), or even requiring air ambulance providers to provide fee schedules upon request.¹³

⁴ Supra note 1.

⁵ National Association of Insurance Commissioners, *Understanding Air Ambulance Insurance Coverage*, May 2018, available at https://www.naic.org/documents/consumer_alert_understanding_air_ambulance_insurance.htm (last accessed March 6, 2020).

⁶ Supra note 3.

⁷ Association of Air Medical Services and Members, *Air Medical Services Cost Study Report*, March 24, 2017, available at <http://aams.org/wp-content/uploads/2017/04/Air-Medical-Services-Cost-Study-Report.pdf> (last accessed March 6, 2020).

⁸ See, for example, *New York Times*, "Air Ambulances Offer a Lifeline, and Then a Sky-High Bill", May 5, 2015, available at <https://www.nytimes.com/2015/05/06/business/rescued-by-an-air-ambulance-but-stunned-at-the-sky-high-bill.html> (last accessed March 6, 2020); *Kaiser Health News*, "Loopholes Limit New California Law To Guard Against Lofty Air Ambulance Bills," January 14, 2020, available at https://khn.org/news/loopholes-limit-new-california-law-to-guard-against-lofty-air-ambulance-bills/?utm_campaign=KHN%3A%20Daily%20Health%20Policy%20Report&utm_source=hs_email&utm_medium=email&utm_content=81882222&_hsenc=p2ANqtz-xOXkiliKqycwboslv-ok9ZzPwE0kaWlcuR0C89EQT-IM6DCIHRVYXBUUCrR4Nk_Fih6H2L5j_boZBH9EpSPpIKcsGeCRPTqKN5nw13yXMSu_VTOo&_hsmi=81882222 (last accessed March 6, 2020).

⁹ Supra note 1.

¹⁰ See the McCarran-Ferguson Act of 1945, 15 U.S.C. §§ 1011-1015

¹¹ P.L. 95-504, 49 U.S.C. § 1301 et seq.

¹² National Association of Insurance Commissioners, *Issue Brief: Air Ambulance Regulation*, January 2019, available at https://www.naic.org/documents/government_relations_air_ambulance_regulation_issue_brief.pdf (last accessed March 6, 2020).

¹³ Are Air Ambulances Truly Flying Out Of Reach? Surprise-Billing Policy And The Airline Deregulation Act, "Health Affairs Blog, October 17, 2019, available at <https://www.healthaffairs.org/do/10.1377/hblog20191016.235396/full/> (last accessed March 6, 2020).

In some states, air ambulance providers have successfully challenged state law by relying on the Airline Deregulation Act. For example, A 2017 North Dakota law requires insurers to pay for out-of-network air ambulance transports at the average of the insurer's in-network rate for air ambulance providers in the state. This payment is deemed full and final payment for the services provided.¹⁴ In January 2019, a federal district court concluded that this payment provision is preempted by the ADA, as it has the effect of setting rates for air services.¹⁵

Alternatively, states have also used coverage mandates on insurers as a vehicle to prevent balance billing by service providers. In Montana, a 2017 law requires insurers and health plans to assume responsibility for amounts charged to a covered individual in excess of both allowed amounts and applicable cost-sharing amounts for air ambulance services. It also requires the use of a nonbinding dispute resolution process to determine the fair market price of services provided before a party may seek any remedy in court.¹⁶ In New Mexico, managed health care plans are required to make emergency care services available to covered individuals without restriction and to ensure the provision of appropriate out-of-network services without additional costs. The Superintendent of Insurance began applying these requirements to air ambulance services in 2017.¹⁷ Laws such as these appear to skirt the Airline Deregulation Act by imposing regulatory requirements on the insurer, rather than the provider.

Florida Regulation

In Florida, the Office of Insurance Regulation (OIR) is responsible for all activities concerning insurers and other risk bearing entities, including licensing, rates, policy forms, market conduct, claims, issuance of certificates of authority, solvency, viatical settlements, premium financing, and administrative supervision, as provided under the insurance code.¹⁸

All health insurance policies issued in Florida, with the exception of certain self-insured policies,¹⁹ must meet certain requirements that are detailed throughout the Florida Insurance Code. Chapter 627, F.S., sets parameters and requirements for health insurance policies and ch. 641, F.S., provides requirements for health plans issued by health maintenance organizations (HMOs). At a minimum, insurance policies must specify premium rates, services covered, and effective dates. Insurers must document the time when a policy takes effect and the period during which the policy remains in effect.²⁰

There have been numerous reports of cases where patients have received substantial balance bills from air ambulance providers for services rendered.²¹ While Florida law prohibits balance billing in many circumstances, air ambulance services are generally exempt from those prohibitions.

Under current law, balance billing is prohibited for services provided by Medicaid;²² workers' compensation insurance;²³ an exclusive provider who is part of an EPO;²⁴ or a provider who is under

¹⁴ N.D. Cent. Code S 26.1-47-09.

¹⁵ *Guardian Flight LLC v. Godfread*, No. 1:18-cv-007.

¹⁶ Mont. Code Ann. Ss. 33-2-2302 and 33-2-2305.

¹⁷ N.M. Stat. Ann. S. 59A-57-4; N.M. Code R. S. 13.10.21.8.

¹⁸ S. 20.121(3)(a)1., F.S. The OIR's commissioner is the agency head for purposes of final agency action, and its rulemaking body is the Financial Services Commission (the Governor and the Cabinet).

¹⁹ 29 U.S.C. 18 § 1001 et seq. ERISA regulates certain self-insured plans, which represent approximately 50 percent of the insureds in Florida. These plans cannot be regulated by state law.

²⁰ S. 627.413(1)(d), F.S.

²¹ See, for example, *New York Times*, "Air Ambulances Offer a Lifeline, and Then a Sky-High Bill", May 5, 2015, available at <https://www.nytimes.com/2015/05/06/business/rescued-by-an-air-ambulance-but-stunned-at-the-sky-high-bill.html> (last accessed March 6, 2020).

²² S. 409.907(3)(j), F.S.; Medicaid managed care plans and their providers are required to comply with the Provider General Handbook, which expressly prohibits balance billing. In addition, the Statewide Medicaid Managed Care Contract (CORE contract) establishes minimum requirements for contracts between plans and providers. The CORE contract requires those contracts to prohibit balance billing, except for any applicable cost sharing.

²³ S. 440.13(13)(a), F.S.

²⁴ S. 627.6472(4)(e), F.S.

contract with a prepaid limited service organization.²⁵ In addition, the law provides that an HMO is liable to pay, and may not balance bill, for covered services provided to a subscriber whether or not a contract exists between the provider and the HMO.²⁶ Balance billing is also prohibited under commercial insurance in cases when emergency services are provided by an out-of-network provider, and when nonemergency services are provided by an out-of-network provider and the covered individual does not have the ability and opportunity to choose a participating provider at the facility who is available to treat that patient.²⁷

Florida law does not address balance billing by air ambulance providers in cases when an air ambulance provider has not contracted with an insurer for reimbursement rates.

Effect of Proposed Changes

CS/CS/HB 747 requires a commercial health insurer or HMO to provide reasonable reimbursement to an air ambulance service for covered emergency and nonemergency transport services provided to a covered individual in accordance with the terms of the insurance policy or HMO contract. The bill defines “reasonable reimbursement” as payment that considers the direct cost of services provided, costs incurred by the operation of an air ambulance service by a county which operates entirely within a designated area of critical state concern as determined by the Department of Economic Opportunity²⁸, and in-network reimbursement for comparable services.

The bill specifies that payment in full of applicable copayments, coinsurance, and deductibles by an insured patient who receives air ambulance services constitutes the full financial obligation of the patient for those services.

The bill prohibits air ambulance service providers from seeking reimbursement from commercially insured recipients of services, and thus prohibits balance billing. In cases where an air ambulance provider and an insurer have not contractually agreed to reimbursement rates, the air ambulance provider would be required to accept “reasonable reimbursement” from the insurer. In preventing the use of balance billing practices by air ambulance providers, the bill will reduce the number of insured patients who receive unexpected bills resulting from air medical transport, while changing the balance of contract negotiation between payers and these providers.

The bill also indicates that these provisions are not severable. In other words, if one provision in the bill is invalidated for any reason, the entirety of the bill shall be void.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

²⁵ S. 636.035(3) - (4), F.S.

²⁶ Ss. 641.315(1) and 641.3154(1), F.S.

²⁷ S. 627.64194, F.S.

²⁸ The Areas of Critical State Concern Program was created by the Florida Environmental Land and Water Management Act of 1972. The program is intended to protect resources and public facilities of major statewide significance, within designated geographic areas, from uncontrolled development that would cause substantial deterioration of such resources.

There is no additional cost to the Office of Insurance Regulation associated with the need to amend its form review procedures to account for new requirements in the bill.²⁹ Additionally, provisions of the bill have no impact on the Department of Management Services Division of State Group Insurance PPO and HMO health plans.³⁰

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

At least one county (Monroe) operates an air ambulance service program, and is within a designated area of critical state concern. The bill may have an indeterminate fiscal impact on any county or municipal government operating such a program.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

By preventing the use of balance billing practices by air ambulance service providers, the bill will likely have a negative, indeterminate fiscal impact on those providers. Oppositely, the bill may have a positive fiscal impact on insurers, HMOs, and insureds by limiting payments to air ambulance service providers to “reasonable reimbursement” for services.

D. FISCAL COMMENTS:

None.

²⁹ Florida Office of Insurance Regulation, *Agency Analysis of 2020 HB 747*, pp. 2-3 (Dec. 10, 2019).

³⁰ Florida Department of Management Services, *Agency Analysis of 2020 HB 747*, p.5 (Jan. 23, 2020).

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/CS/CS/SB 736

INTRODUCER: Rules Committee; Health Policy Committee; Banking and Insurance Committee; and Senator Diaz

SUBJECT: Coverage for Air Ambulance Services

DATE: March 4, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Knudson	BI	Fav/CS
2.	Kibbey	Brown	HP	Fav/CS
3.	Johnson	Phelps	RC	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 736 requires health insurers and health maintenance organizations (HMOs) to provide reasonable reimbursement to air ambulances for covered services. The bill defines the term, “reasonable reimbursement” to mean reimbursement that considers the direct cost to provide air ambulance transportation service to an insured or subscriber, the operation of an air ambulance service by a county that operates entirely within a designated area of critical state concern, and in-network reimbursement established by the insurer or HMO for the specific policy or contract. Under the bill, reasonable reimbursement may be reduced only by applicable copayments, coinsurance, and deductibles.

The bill establishes that payment in full by the insured or subscriber of his or her applicable copayment, coinsurance, or deductible constitutes an accord and satisfaction of and a release of any claim for monies owed by the insured or subscriber in connection with the air ambulance service.

Air ambulances provide emergency services for critically ill patients, primarily in life-threatening situations, regardless of their insurance status or ability to pay. Privately-insured patients who are transported by air ambulance providers that are outside of provider networks of their respective insurer or HMO are at financial risk for balance billing, which is the difference between prices charged by providers and the payment rates established by insurers or HMOs.

Any balance billing incurred by a patient is in addition to copayments or other types of cost-sharing typically paid under the insurance policy or HMO contract.

While states can regulate the medical aspects of air ambulances, the federal Airline Deregulation Act of 1979 (ADA)¹ preempts states from economic regulation, i.e., regulating rates, routes, and services of air ambulances.

II. Present Situation:

Emergency medical transportation is a life-saving service that may affect any Floridian, including the uninsured, privately insured, and those covered by federal health care programs. According to the National Association of Insurance Commissioners, more than 550,000 patients in the U.S. use air ambulances each year.² The average air ambulance trip is 52 miles and costs \$12,000 to \$25,000 per flight.

Some of the services an air ambulance may provide include medical care, aircraft operation and maintenance, 24-hour communications and dispatch, and medical billing and collections. The price of a trip must account for the initial aircraft cost which can reach \$6 million, and the associated operating expenses³ (e.g., fuel, insurance, and maintenance costs), as well as medical equipment.⁴ Air ambulance services also have to factor in the cost of round-the-clock availability for medical personnel and pilots, including salaries and benefits. Contingent on the severity of the medical condition, the number and type of medical staff (paramedics, doctors, or nurses) on board can vary, further influencing the flight price. Further, air ambulances incur overhead expenses⁵ or indirect costs, such as executive management, legal, accounting and finance, billing and collections, information services, human resources, associated with providing their services.

Florida Insurance Consumer Advocate's Working Group

The Insurance Consumer Advocate of the Department of Financial Services⁶ created the Emergency Medical Transportation (EMT) Working Group in 2016 to assess the impact of EMT costs to Florida's privately-insured consumers, and to make recommendations to address concerns faced by ground and air ambulance services, the insurance industry, state and local governments, and consumers. In 2018, the Insurance Consumer Advocate released a report that

¹ Federal Airline Deregulation Act of 1978. Pub. L. No. 95-504, 92 STAT. 1705.

² National Association of Insurance Commissioners, *Understanding Air Ambulance Insurance Coverage* (May 2018) https://www.naic.org/documents/consumer_alert_understanding_air_ambulance_insurance.htm (last visited Feb. 7, 2020).

³ Form 10K filing, Air Methods Corporation (2014), Securities and Exchange Commission, at https://www.sec.gov/Archives/edgar/data/816159/000157104915001464/t81389_10k.htm (last viewed Feb. 28, 2020).

⁴ *Id.*

⁵ Direct costs are costs that a company can easily allocate to a specific cost object, which may be a product or service. Indirect costs go beyond the expenses associated with creating a particular product or service to include the price of maintaining the entire company. See <https://www.businessnewsdaily.com/5498-direct-costs-indirect-costs.html> (last viewed Feb. 28, 2020).

⁶ The Florida Insurance Commissioner created the Office of the Insurance Consumer Advocate in 1990. In 1992, the Legislature codified the office under s. 627.0613, F.S.

provided extensive background information about the EMT industry, ambulance costs, insurance coverage, and the impact on insureds.⁷

Regarding licensed air emergency medical services providers, the report noted that there are 37 companies. Typically, three types of business models exist for air ambulances providers, namely hospital-based, independent, and government operator. The air ambulances provide services using a fixed-wing airplane or a rotary-wing helicopter.

Average Bill for Air Emergency Transportation in Florida

FAIR Health⁸ provided extensive data to the Insurance Consumer Advocate's report regarding the average bills in Florida. FAIR Health data indicates that the average bill for a fixed-wing airplane transport in Florida was \$15,828, while the U.S. 80th percentile was at \$22,500. When comparing Florida to other states, Georgia's average charge was \$11,661, New York's was \$17,226, and Texas' was \$18,238. Comparatively speaking, Florida has a lower average charge than New York and Texas, but Florida's average charge was more than \$4,000 higher than Georgia's average charge for a fixed-wing transport.

In the report, FAIR Health noted that the average bill for a rotary-wing helicopter transport in Florida was \$21,221. As with fixed-wing, this is also below the U.S. 80th percentile of \$29,036. While Georgia had the lowest average charge for fixed-wing transport of the states analyzed, Florida holds the lowest average charge for rotary-wing transport. Georgia's average charge for rotary-wing transport was \$24,660, New York's was \$25,857, and Texas was \$22,652.

Recommendations of the Insurance Consumer Advocate

The report included the following recommendations:

1. Steps must be taken to deregulate the aeromedical industry from federal regulation so that states may regulate the market to address consumer concerns.
2. Consumers should have increased access to in-network EMT providers in order to decrease the likelihood of surprise medical bills.
3. The current billing model used for ground EMT should be revised to allow ambulance companies to charge for medical services and treatments without the requirement of transporting the patient to a medical facility.
4. Stakeholders should commit to improving transparency and consumer education.

Federal Laws Relating to Air Ambulance Billing

The authority of states to address issues related to air ambulance balance billing is affected by the following federal laws:

⁷ Insurance Consumer Advocate, *Emergency Medical Transportation Costs in Florida* (May 2018) at <https://www.myfloridacfo.com/Division/ICA/EMTWhitePaper.pdf> (last visited Feb. 7, 2020). The data is indicative of information for the period of October 1, 2015 through September 30, 2016.

⁸ FAIR Health is an independent nonprofit that collects data for and manages the nation's largest database of privately billed health insurance claims, including Medicare Parts A, B and D claims data for 2013 to the present. See <https://www.fairhealth.org/about-us> (last visited Feb. 7, 2020).

- **Airline Deregulation Act of 1978 (ADA).** A provision in this law preempts state-level economic regulation, i.e., regulating rates, routes, and services, of air carriers authorized by U.S. Department of Transportation (DOT) to provide air transportation.⁹ In general, courts have held that air ambulances are considered air carriers under the ADA’s preemption provision. The courts, the DOT, and state attorneys general have determined specific issues related to the air ambulance industry that cannot be regulated at the state level having a connection with or reference to a carrier’s rates, routes, or services.¹⁰
- **McCarran-Ferguson Act of 1945.** This act affirms that states have the authority to regulate the business of insurance.¹¹ For example, states may review insurers’ health insurance plans and premium rates. In instances of balance billing, states can determine whether the insurer paid a provider in accordance with its policy for paying for out-of-network services.
- **Employee Retirement Income Security Act of 1974 (ERISA).** The ERISA provides a federal framework for regulating employer-based pension and welfare benefit plans, including health plans.¹² Although states may regulate health insurers, the ERISA preemption generally prevents states from directly regulating self-insured employer-based health plans.
- **The Patient Protection and Affordable Care Act** provides limited balance billing protections¹³ for insureds or subscribers who receive ambulance services from an out-of-network provider.¹⁴ In the case of air ambulances, these protections are applied only when the service is affiliated with a hospital and thus considered an extension of the emergency department service.¹⁵

State Laws Relating to Emergency Services and Insurance Coverage

Access to Emergency Services and Care

In 1986, Congress enacted the Emergency Medical Treatment and Active Labor Act (EMTALA) to ensure public access to emergency services regardless of ability to pay. The EMTALA imposes specific obligations on hospitals participating in the Medicare program, which offer emergency services. Any patient who comes to the emergency department must be provided with a medical screening examination to determine if the patient has an emergency medical condition. If an emergency medical condition exists, the hospital must provide treatment within its service capability to stabilize the patient. If a hospital is unable to stabilize a patient or, if the patient

⁹ Pub. L. No. 95-504, s. 4, 92 Stat. 1705, 1707 (codified as revised and amended at 49 U.S.C. s. 41713(b)).

¹⁰ General Accounting Office, *Air Ambulances: Available Data Show Privately-Insured Patients Are at Financial Risk* (March 20, 2019) available at <https://www.gao.gov/products/GAO-19-292> (last visited Feb. 7, 2020).

¹¹ Act of Mar. 9, 1945, Ch. 20, s. 2, 59 Stat. 33, 34 (codified as amended at 15 U.S.C. s. 1012).

¹² See, Pub. L. No. 93-406, 88 Stat. 646 (codified as amended at 29 U.S.C. ss. 1001 et seq.).

¹³ The regulations establish minimum payment standards for insurers and HMOs. However, insurers or HMOs are not required to cover amounts that out-of-network providers may “balance bill.” See 80 FR 72192.

¹⁴ The Patient Protection and Affordable Care Act (Pub. L. 111–148), was enacted on March 23, 2010; the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152) was enacted on March 30, 2010. These statutes are collectively referred to as “PPACA.”

¹⁵ National Association of Insurance Commissioners, *Air Ambulance Regulation*, (Jan. 2019) at https://www.naic.org/documents/government_relations_air_ambulance_regulation_issue_brief.pdf (last visited Feb 7, 2020).

requests, the hospital must transfer the patient to another appropriate facility.¹⁶ A hospital that violates EMTALA is subject to civil monetary penalty¹⁷ or civil suit by a patient who suffers personal harm.¹⁸

Florida law imposes a similar duty.¹⁹ The law requires the Agency for Health Care Administration to maintain an inventory of the service capability of all licensed hospitals that provide emergency care in order to assist emergency medical services (EMS or ambulance) providers and the public in locating appropriate medical care. Hospitals must provide all listed services when requested, whether by a patient, an emergency medical services provider, or another hospital, regardless of the patient's ability to pay. If the hospital is at capacity or does not provide the requested emergency service, the hospital may transfer the patient to the nearest facility with appropriate available services. Each hospital must ensure the services listed can be provided at all times either directly or through another hospital. A hospital is prohibited from basing emergency treatment and care on a patient's insurance status, economic status, or ability to pay. A hospital that violates Florida's access to care statute is subject to administrative penalties; denial, revocation, or suspension of its license; or civil action by another hospital or physician suffering financial loss. In addition, hospital administrative or medical staff are subject to civil suit by a patient who suffers personal harm and may be found guilty of a second-degree misdemeanor for a knowing or intentional violation. Physicians who violate the statute are also subject to disciplinary action against their license or civil action by another hospital or physician suffering financial loss.

Regulation of Emergency Medical Transportation

Part III of ch. 401, F.S., governs the provision of emergency medical transportation services in Florida and establishes the licensure and operational requirements for emergency medical services, including air ambulances.²⁰ Air ambulance service refers to a licensed publicly or privately owned service that operates air ambulances to transport persons requiring or likely to require medical attention during transport.²¹ An air ambulance is a fixed-wing or rotary-wing aircraft used for, or intended to be used for, the air transportation of sick or injured persons that require or are likely to require medical attention during transport.²²

Regulation of Insurance

The Office of Insurance Regulation (OIR) licenses and regulates insurers, HMOs, and other risk-bearing entities.²³ To operate in Florida, an insurer or HMO must obtain a certificate of authority from the OIR.²⁴ The Agency for Health Care Administration (AHCA) regulates the quality of care provided by HMOs under part III of ch. 641, F.S. Prior to receiving a certificate of authority

¹⁶ Emergency Medical Treatment and Active Labor Act (EMTALA), 42 U.S.C. §1395dd; *see also* CENTERS FOR MEDICARE & MEDICAID SERVICES, *Emergency Medical Treatment & Labor Act (EMTALA)*, <http://www.cms.gov/Regulations-and-Guidance/Legislation/EMTALA/index.html?redirect=/emtala/> (last visited Feb. 7, 2020).

¹⁷ 42 U.S.C. s. 1395dd(d)(1).

¹⁸ 42 U.S.C. s. 1395dd(d)(2).

¹⁹ *See* s. 395.1041, F.S.

²⁰ Section 401.251, F.S.

²¹ Section 401.23, F.S.

²² *Id.*

²³ Section 20.121(3)(a)1., F.S.

²⁴ Section 641.21(1), F.S.

from the OIR, an HMO must receive a Health Care Provider Certificate from the AHCA.²⁵ As part of the certification process used by the AHCA, an HMO must provide information to demonstrate that the HMO has the ability to provide quality of care consistent with the prevailing standards of care.²⁶

Federal Reports Relating to Air Ambulance Costs

A 2017 U.S. Government Accountability Office (GAO) report noted that, between 2010 and 2014, the national median prices providers charged for helicopter-air ambulance service approximately doubled, from around \$15,000 to about \$30,000 per transport.²⁷ In 2017, the median price charged nationally by air ambulance providers was about \$36,400 for helicopter transportation and \$40,600 for a fixed wing transport.²⁸ The total generally includes the costs for both the transportation and the medical care aboard the aircraft. Air ambulance providers may not turn away patients based on their ability to pay. The providers receive payments from many sources depending on the patient's coverage, often at rates lower than the price charged.

Selected providers reported that factors such as transport costs and volume, payer mix, and competition play a role in prices charged. Air ambulance providers' costs for air ambulance service are relatively fixed, meaning they do not increase significantly when they complete more transports. For example, personnel and the costs of helicopter ownership are the same regardless of how often the helicopter is used. Providers contacted by GAO noted that a small portion of their costs, such as fuel, are variable, meaning they increase with the number of transports completed.

To be profitable, and thus be in business and provide service, providers must earn sufficient revenues to cover their costs, including their fixed costs. To increase revenue, a provider must increase its number of transports or its prices charged. When a provider has a lower transport volume, then that provider must earn higher prices on average across transports in order to be profitable. Representatives from the eight selected providers GAO contacted reported average costs per transport, given current transport volumes, of \$6,000 to \$13,000 in 2016.²⁹ Factors such as a provider's proportion of transports provided by payer and competition may play a role in air ambulance prices charged, but data to assess these factors are not available.

Selected stakeholders the GAO contacted proposed actions to address air ambulance pricing issues, including: (1) raising Medicare rates; (2) allowing state-level regulation of air ambulance prices; and (3) improving data collection for the purposes of investigations and transparency regarding prices.

²⁵ Sections 624.401 and 641.49, F.S.

²⁶ Section 641.495, F.S.

²⁷ Government Accountability Office, *Data Collection and Transparency Needed to Enhance DOT Oversight* (GAO-17-637) (July 2017) available at <https://www.gao.gov/assets/690/686167.pdf> (last visited Feb. 7, 2020).

²⁸ Government Accountability Office, *Air Ambulances: Available Data Show Privately-Insured Patients Are at Financial Risk* (Mar. 20, 2019) available at <https://www.gao.gov/products/GAO-19-292> (last visited Feb. 7, 2020).

²⁹ *Id.*

Federal Air Ambulance and Patient Billing Advisory Committee

On October 5, 2018, President Donald Trump signed the FAA Reauthorization Act of 2018 (FAA Act).³⁰ The FAA Act requires the Secretary of Transportation, in consultation with the Secretary of Health and Human Services, to establish an advisory committee³¹ to review options to improve the disclosure of charges and fees for air medical services, inform consumers of insurance options for such services, and protect consumers from balance billing. The committee held its first meeting on January 15, 2020. The committee must submit a report containing recommendations to the Secretary of Transportation and others no later than 120 days after the first committee meeting.

Legislation and Litigation Relating to State Regulation of Air Ambulance Rates

A number of states have attempted to enact laws to protect consumers from balance billings by out-of-network air ambulances through the enactment of laws addressing reimbursement of air ambulance providers, but the Airline Deregulation Act of 1978 has preempted the laws.

Florida

*Bailey v. Rocky Mountain Holdings, LLC*³², concerns whether the ADA preempts a cause of action against an air ambulance provider based on a statutory medical fee schedule for personal injury protection (PIP)³³ reimbursement under the Florida Motor Vehicle No-Fault Law.³⁴ Under PIP, a medical provider may not bill the insured for any amount in excess of such limits, except for amounts that are not covered by the insured's PIP coverage due to the coinsurance amount or maximum policy limits.³⁵

In this case, an air ambulance provider submitted a bill for covered emergency transportation to the insurer; however, the policy limited reimbursement of the services under the fee schedule to less than the invoiced amount. The provider sought payment from the insured for the unpaid portion of its bill. The insured brought a class action suit against the provider seeking a declaration that the balance billing provision limited its reimbursement to the amount fixed in the fee schedule. In response, the provider moved to dismiss the action on grounds that the ADA preempted the enforcement of the balance billing provision. The insured contended that the McCarron-Ferguson Act, which provides that federal laws cannot preempt "any law enacted by any state for the purpose of regulating the business of insurance," precluded the ADA's preemption of the insured's action. The U.S. District Court concurred with the provider and held that the ADA preempted the insured's action because it related to the prices of the air carrier.³⁶

³⁰ See Pub. L. No. 115-254, 132 Stat. 3186 (2018).

³¹ U.S. Department of Transportation, *Air Ambulance and Patient Billing Advisory Committee (AAPB Advisory Committee)* (updated February 7, 2020) available at <https://www.transportation.gov/airconsumer/AAPB> (last visited Feb. 7, 2020).

³² *Bailey v. Rocky Mountain Holdings, LLC*, 889 Fed 1259 (11th Cir. 2018).

³³ Florida drivers are required to purchase both PIP insurance. The personal injury protection must provide a minimum benefit of \$10,000 for bodily injury to any one person who sustains an emergency medical condition and includes emergency transport. See ss. 324.022, and 627.736, F.S.

³⁴ Florida's Motor Vehicle No-Fault Law, ss. 627.730-627.7405, F.S.

³⁵ Section 627.736(5), F.S.

³⁶ *Bailey v. Rocky Mountain Holdings, LLC*, 136F.Supp.3d 1376.

The McCarron-Ferguson Act, the Court determined, prevents only inadvertent intrusion from federal legislation, not express preemption such as that of the ADA.

The insured appealed the decision to the U.S. Eleventh Circuit Court of Appeals. The panel concurred with the District Court that the (PIP) statute improperly restricted an air ambulance operator's rates by first limiting the reimbursement for such services to a schedule of charges based on Medicare rates, and then prohibiting the operator from billing the insured for the balance of the unpaid invoices.³⁷

Montana

In 2017, Montana enacted a state law that imposes a hold-harmless requirement on insurers or HMOs for charges pertaining to out-of-network air ambulance transports. Insurers or HMOs assume responsibility for amounts charged to a covered person in excess of both allowed amounts and applicable cost-sharing amounts. It also requires the use of a nonbinding dispute resolution process, including a determination of the fair market price of the services provided, before an aggrieved party may pursue any remedy in court.³⁸

North Dakota

In 2017, legislation was enacted that provides, effective January 1, 2018, insurers are required to pay for out-of-network air ambulance transports at the average of the insurer's in-network rates for air ambulance providers in the state. The law also provides that this payment is deemed full and final payment by the covered person for the transport.³⁹ The air ambulances subsequently challenged the law in January 2018. In January 2019, the federal court concluded that this payment provision is preempted by the ADA.⁴⁰ In February 2019, the state Insurance Commissioner announced plans for North Dakota to appeal this ruling to the U.S. Circuit Court of Appeals.

Texas

Legislation was enacted, relating to the Texas workers' compensation program, which provided if payments for patients were made pursuant to applicable rate guidelines, the payment must be accepted as payment in full.⁴¹ The Division of Workers' Compensation of the Texas Department of Insurance began applying this requirement to air ambulance services in 2016. The air ambulances challenged the law in federal district court, and the court recently decided that the ADA preempts enforcement of workers' compensation rate restrictions on air ambulance services.⁴²

³⁷ *Bailey v. Rocky Mountain Holdings*, 889 F. 3d 1259 (11th Cir. 2018).

³⁸ Mont. Code Ann. ss. 33-2-2302 and 33-2-2305 (as added by S.B. 44 (2017)).

³⁹ N.D. Cent. Code s. 26.1-47-09 (as added by S.B. 2231 (2017)).

⁴⁰ See *Guardian Flight LLC v. Godfread*, No. 1:18-cv-007 (D.N.D. order filed Jan. 14, 2019).

⁴¹ Tex. Lab. Code s. 413.011 (2017); 28 Tex. Admin. Code ss. 134.1(a), 134.203(d) (2017).

⁴² *Air Evac EMS, Inc. v. Sullivan*, 331 F. Supp. 3d 650 (W.D. Tex., 2018) (U.S. District Ct. granted injunctive relief, prohibiting state from enforcing rate restrictions).

Areas of Critical State Concern

Florida's Administration Commission, which is composed of the Governor and Cabinet, designates areas of critical state concern.⁴³ Areas that qualify for designation include only:

An area containing, or having a significant impact upon, environmental or natural resources of regional or statewide importance, including, but not limited to, state or federal parks, forests, wildlife refuges, wilderness areas, aquatic preserves, major rivers and estuaries, state environmentally endangered lands, Outstanding Florida Waters, and aquifer recharge areas, the uncontrolled private or public development of which would cause substantial deterioration of such resources.⁴⁴

Once designated, the area's land planning regulations must comply with the principles guiding development specified by the Administration Commission, which must be approved by the Department of Economic Development.⁴⁵ Several areas have been designated as an area of critical state concern or have had their designations ratified by statute, and include the Big Cypress Area,⁴⁶ the Green Swamp Area,⁴⁷ the Apalachicola Bay Area,⁴⁸ and the Florida Keys Area.⁴⁹

III. Effect of Proposed Changes:

Section 1 creates s. 627.42397, F.S., to require each health insurer to provide reasonable reimbursement to air ambulance services for covered nonemergency and emergency services provided to an insured or subscriber in accordance with the coverage terms of the policy or contract. Such reimbursement may be reduced only by copayments, coinsurance, and deductibles. Payment in full by the insured or subscriber of his or her applicable copayment, coinsurance, or deductible constitutes an accord and satisfaction of and a release of any claim for monies owed by the insured or subscriber to the health insurer or to any person or entity in connection with the air ambulance service.

The bill defines the following terms: "air ambulance service," "health insurer," "health maintenance organization," and "reasonable reimbursement." The term, "reasonable reimbursement," means reimbursement that considers the direct cost to provide air ambulance transportation service to an insured; the operation of air ambulance service by a county, which operates entirely within a designated area of critical state concern as determined by the Department of Economic Opportunity; and in-network reimbursement established by the insurer for the specific policy.

Section 2 creates s. 641.514, F.S., to apply the provisions of Section 1 to HMOs.

⁴³ Section 380.05, F.S.

⁴⁴ Section 380.05(2), F.S.

⁴⁵ Section 380.05(6), F.S.

⁴⁶ Section 380.055, F.S.

⁴⁷ Section 380.0551, F.S.

⁴⁸ Section 380.0555, F.S.

⁴⁹ Section 380.0552, F.S.

Section 3 provides that if any provision of s. 627.42397, F.S., (Section 1 of the bill) or s. 641.514, F.S., (Section 2 of the bill) is determined to be invalid or inoperative, the remaining provisions are deemed void and of no effect. Under the bill, the Legislature finds that the two provisions are not severable.

Section 4 provides that nothing in this act shall be construed to give retroactive application or to impair any contract existing on or before the effective date of the act, or to otherwise restrict the ability of the air ambulance service to contract for emergency and nonemergency services.

Section 5 provides the bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18 of the Florida Constitution governs laws that require counties and municipalities to spend funds or that limit their ability to raise revenue or receive state tax revenues. Except upon approval of each house of the Legislature by two-thirds vote of the membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandates requirements do not apply to laws having an insignificant impact, which for Fiscal Year 2019-2020 is approximately \$2.1 million or less.

Cities or counties that provide such services directly or indirectly may incur an indeterminate fiscal impact due to the implementation of the reasonable reimbursement prescribed in the bill. If the reimbursement by an insurer or health maintenance organization to a county or city providing air ambulance services is decreased as a result, an indeterminate amount of additional funding sources may be necessary to fund these local services.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Since the bill effectively prohibits balance billing by air ambulance providers, the bill will hold privately-insured patients harmless in the event they incur medical bills from an out-of-network provider.

The provisions of the bill would not apply to coverage offered by self-insured plans⁵⁰ via employers, which are governed by federal law, or federal programs such as Medicare, Medicaid, or State Children's Health Insurance Program.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

Sections 1 and 2 of the bill define "reasonable reimbursement" to require that the amount "considers" the direct cost to provide air ambulances service to an insured or subscriber, the operation of an air ambulance service, by a county that operates entirely within a designated area of critical state concern, and in-network reimbursement by the insurer or HMO, respectively. It is unclear how an insurer or HMO would demonstrate that consideration when making a rate filing with the Office of Insurance Regulation and whether that consideration should be reflected as an upward or downward deviation in reimbursement.

Given the generally broad interpretation given to the Airline Deregulation Act of 1978's prohibition on state regulation of airline rates (including air ambulance services), it is unclear whether this would serve as a prohibition on balance billing or would be struck down upon challenge.⁵¹

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates sections 627.42397 and 641.514 of the Florida Statutes.

⁵⁰ The Employee Retirement Income Security Act of 1974 (ERISA).

⁵¹ The Florida Office of Insurance Regulation, *Agency Legislative Analysis of SB 736* (Nov. 19, 2019).

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS/CS/CS by Rules on March 2, 2020:**

The CS/CS/CS:

- Provides that nothing in this bill shall be construed to give retroactive application or to impair any contract existing on or before the effective date of the act, or to otherwise restrict the ability of the air ambulance service to contract for emergency and nonemergency services.
- Clarifies that payment by the insured or subscriber of his or her applicable cost-sharing obligation constitutes an accord and satisfaction of, and constitutes release of, any claim for additional moneys owed by the insured or subscriber to the health insurer, or to any person or entity in connection with the air ambulance service.

CS/CS by Health Policy on February 11, 2020:

The CS/CS:

- Defines “reasonable reimbursement” to require that the amount considers the “direct cost to provide air ambulance transportation service to an insured,” rather than the “actual cost of services rendered,” as in the underlying bill. This excludes consideration of all indirect costs, which may include, but are not limited, to costs accrued from: staffing, accounting and billing, pilot training, health care practitioner training, operations command centers, aviation maintenance, and helipad maintenance.
- Establishes that payment in full by the insured or subscriber of his or her applicable copayment, coinsurance, or deductible constitutes an accord and satisfaction of and a release of any claim for monies owed by the insured or subscriber in connection with the air ambulance service.
- Removes a provision from the underlying bill that established that the reasonable reimbursement paid by the health insurer or health maintenance organization to the air ambulance service constitutes full and final payment to the air ambulance service.

CS by Banking and Insurance on January 21, 2020:

The CS clarifies the application of the bills’ provisions to health maintenance organizations and provides other technical changes.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

From: [John Guard](#)
To: [Singer, Paul](#)
Cc: Jennifer.Peacock@ag.tn.gov; [Anne Infinger](#); [Jonathan Skrmetti](#); [Jonathan Blanton](#); [Stiles, Bill](#)
Subject: Asbestos like trust proposed by our professionals in Purdue
Date: Friday, November 13, 2020 4:30:00 PM
Attachments: [stateAGs.pdf](#)
[objection.pdf](#)

An objection by DOJ like the attached is going to be what we get from an asbestos trust like structure being utilized which is what is being proposed by our professionals. I have also attached letters from DOJ to nineteen Republican AGs responding to their concerns on how structures like this allow fraudulent activity when they complained two years ago to DOJ. You will have a full blown mutiny if we go down this road.

John

From: [Richard Martin](#)
To: [John Guard](#)
Subject: FW: Scott R. Strauss Resume
Date: Monday, November 16, 2020 9:59:32 AM
Attachments: [Strauss, Scott - CV.pdf](#)
[image003.png](#)

John,
As discussed.



Richard H. Martin
Chief of Staff
Office of the Attorney General
PL-01 The Capitol | Tallahassee, FL 32399-1050
Tel.: (850) 245-0187
E-mail: Richard.Martin@myfloridalegal.com

From: Scott Strauss <scottstrauss@outlook.com>
Sent: Friday, November 13, 2020 11:55 PM
To: Richard Martin <Richard.Martin@myfloridalegal.com>
Subject: Scott R. Strauss Resume

Hi Richard,

I have attached a copy of my resume. If you have availability to speak next week, please let me know.

Thank you,

Scott R. Strauss

scottstrauss@outlook.com



Sent from [Mail](#) for Windows 10

From: [John Guard](#)
To: [Elizabeth Guzzo](#)
Date: Wednesday, November 18, 2020 10:08:32 AM
Attachments: [AG-#1195252-v1-Ltr to Congress in Support of Safe to Work Act.pdf](#)

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From: [John Guard](#)
To: [Elizabeth Guzzo](#)
Date: Wednesday, November 18, 2020 10:09:46 AM
Attachments: [AG-#1176469-v1-Ltr to Congress COVID-19 Liability Protections.pdf](#)

Second letter

Get [Outlook for iOS](#)

From: [John Guard](#)
To: [Amit Agarwal](#)
Subject: Re: Cases pending against federal government
Date: Friday, November 20, 2020 1:46:05 PM

Can you get me the briefs in the SIPs matter where we are lead?

Get [Outlook for iOS](#)

From: Amit Agarwal <Amit.Agarwal@myfloridalegal.com>
Sent: Friday, November 20, 2020 1:40:47 PM
To: John Guard <John.Guard@myfloridalegal.com>
Subject: Fw: Cases pending against federal government

John,

Please see Jimmy's email below, following up on our conversation from earlier this week. Chris has since confirmed that our involvement in the WOTUS litigation has come to an end.

Jimmy has been handling and monitoring the CADC cases and at this point we plan for him to continue taking the lead on them if they come back to life.

Please let us know if you have any questions or would like any additional information.

--Amit

From: James Percival <James.Percival@myfloridalegal.com>
Sent: Wednesday, November 18, 2020 10:09 AM
To: Amit Agarwal <Amit.Agarwal@myfloridalegal.com>
Cc: Jeffrey DeSousa <Jeffrey.DeSousa@myfloridalegal.com>; Christopher Baum <Christopher.Baum@myfloridalegal.com>; Kevin Golembiewski <Kevin.Golembiewski@myfloridalegal.com>; Evan Ezray <Evan.Ezray@myfloridalegal.com>; David Costello <David.Costello@myfloridalegal.com>
Subject: Cases pending against federal government

Amit,

You asked me for a list of cases where we have sued the federal government, particularly ones that are in abeyance because the federal government is reconsidering the challenged position. Other than the ACA litigation and WOTUS (both of which I am recused on), the only two I am aware of are two environmental cases in the DC Circuit.

1. Environmental Committee v. EPA (15-1239, DC Cir.). [REDACTED]

a. [REDACTED]

b.

c.

2. North Dakota v. EPA (15-1381, DC Cir.).

a.

b.

c.

James H. Percival

Chief Deputy Solicitor General
Office of the Attorney General
107 West Gaines Street
Tallahassee, FL 32399
850.414.3684



Washington, D.C. 20530

September 13, 2018

The Honorable Steve Marshall
Attorney General of Alabama
P.O. Box 300152
Montgomery, AL 36130-0152

Dear Attorney General Marshall:

This responds to your letter of November 6, 2017, and those of nineteen other state attorneys general, to Attorney General Sessions regarding potential fraud, abuse, and mismanagement in asbestos trusts. The Department of Justice (Department) greatly appreciates your interest in this matter and agrees that the United States would be well served by a commitment of Department resources to addressing the problems you identified. We are sending identical responses to the other attorneys general who joined your letter.

Since the Bankruptcy Reform Act of 1994 became law, asbestos trusts established under Section 524(g) of the Bankruptcy Code have become an essential mechanism for responding to the unique problems of litigation over asbestos liability. As your letter notes, many companies have established these trusts, creating a streamlined process for victims to receive billions of dollars in compensation. Yet the Department agrees with you, and has explained before, that there is a problematic lack of transparency in the operation and oversight of asbestos trusts. There are no requirements that the trusts publicly report important information regarding their operations. The claims process is conducted without court review and generally is not subject to independent auditing. There is no clear recourse for stakeholders to challenge the claims review process or the administration of the trusts. Bankruptcy courts and the United States Trustee have limited statutory oversight authority following plan confirmation. This lack of oversight and accountability creates opportunities for improper, unfair, or even unlawful conduct that is not easily remedied.

The Department has taken notice of specific instances of potential misconduct regarding asbestos trusts. As you noted, particularly telling are the findings made in *In re Garlock Sealing Technologies* (Bankr. W.D.N.C. 2014). The bankruptcy court permitted limited discovery into claimants' assertions in other bankruptcy cases. The court concluded that the asbestos claimants had filed inconsistent claims with different trusts—a “startling pattern of misrepresentation” of exposure—and determined that the debtor was liable for less than one-tenth of the \$1.3 billion that the plaintiffs claimed was owed.

The Honorable Steve Marshall
Page Two

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The Department appreciates the efforts of state attorneys general to bring transparency and accountability to asbestos trusts. The Department shares your concerns, and today we have filed a statement of interest in *In re Kaiser Gypsum Co.*, 16-31602 (W.D.N.C.), a case proposing the establishment of a new asbestos trust. We enclose a copy. As explained more fully therein, the United States has an interest in ensuring that asbestos trusts operate transparently and comply with their obligations under the Medicare Secondary Payer Statute; that claimants are informed of their potential obligation to reimburse the Medicare program; that trust assets are preserved to the greatest extent possible to pay the claims of legitimate asbestos victims; and that trust assets are not dissipated through payment of fraudulent claims, excessive professional fees, or mismanagement. Accordingly, henceforth the United States will object to plans for asbestos trusts that fail to include critical information on how asbestos claims will be evaluated, paid, and reported or that lack sufficient safeguards to prevent fraud and abuse and to ensure that the interests of the United States will be protected.

The Department will continue to look for opportunities to increase the transparency of asbestos trusts and protect the interests of legitimate claimants and the United States. The Department will also investigate conduct related to asbestos trusts that is illegal under federal law. If you or anyone else has information on asbestos trust fraud or mismanagement, the Department welcomes the reporting of that information so that it may pursue all appropriate means under federal law to ensure that asbestos trusts operate lawfully and responsibly.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'Jesse Panuccio', with a stylized flourish at the end.

Jesse Panuccio
Acting Associate Attorney General

Enclosure



Washington, D.C. 20530

September 13, 2018

The Honorable Leslie Rutledge
Attorney General of Arkansas
323 Center Street, Suite 200
Little Rock, AR 72201

Dear Attorney General Rutledge:

This responds to your letter of November 6, 2017, and those of nineteen other state attorneys general, to Attorney General Sessions regarding potential fraud, abuse, and mismanagement in asbestos trusts. The Department of Justice (Department) greatly appreciates your interest in this matter and agrees that the United States would be well served by a commitment of Department resources to addressing the problems you identified. We are sending identical responses to the other attorneys general who joined your letter.

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The potential misuse of an asbestos trust's limited funds can cause wide-ranging harm. Legitimate claimants who are suffering from asbestos-related disease, as well as those not yet diagnosed, may not have the compensation available to them that they need and are owed if the funds have been diluted by improper claims, fraud, or mismanagement. But misconduct may also harm Americans more broadly. Custodians of funds for asbestos treatment that has already been provided through federal or state medical-assistance programs may be required to reimburse such programs on behalf of the claimant. Without sound reporting or oversight of asbestos trusts, federal and state medical-assistance funds may not be properly reimbursed as required by law.

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Very truly yours,



Jesse Panuccio
Acting Associate Attorney General

Enclosure



U.S. Department of Justice

Office of the Associate Attorney General

Washington, D.C. 20530

September 13, 2018

The Honorable Mark Brnovich
Attorney General of Arizona
2005 N. Central Avenue
Phoenix, AZ 85004-2926

Dear Attorney General Brnovich:

This responds to your letter of November 6, 2017, and those of nineteen other state attorneys general, to Attorney General Sessions regarding potential fraud, abuse, and mismanagement in asbestos trusts. The Department of Justice (Department) greatly appreciates your interest in this matter and agrees that the United States would be well served by a commitment of Department resources to addressing the problems you identified. We are sending identical responses to the other attorneys general who joined your letter.

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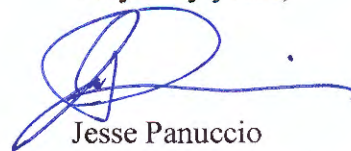
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Very truly yours,

A handwritten signature in blue ink, appearing to read "J. Panuccio", with a stylized flourish extending to the right.

Jesse Panuccio
Acting Associate Attorney General

Enclosure



Washington, D.C. 20530

September 13, 2018

The Honorable Christopher M. Carr
Attorney General of Georgia
40 Capitol Square, SW
Atlanta, GA 30334 .

Dear Attorney General Carr:

This responds to your letter of November 6, 2017, and those of nineteen other state attorneys general, to Attorney General Sessions regarding potential fraud, abuse, and mismanagement in asbestos trusts. The Department of Justice (Department) greatly appreciates your interest in this matter and agrees that the United States would be well served by a commitment of Department resources to addressing the problems you identified. We are sending identical responses to the other attorneys general who joined your letter.

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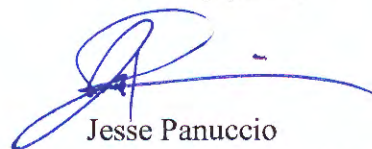
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Very truly yours,



Jesse Panuccio
Acting Associate Attorney General

Enclosure



U.S. Department of Justice

Office of the Associate Attorney General

Washington, D.C. 20530

September 13, 2018

The Honorable Lawrence G. Wasden
Attorney General of Idaho
700 W. Jefferson Street
P.O. Box 83720
Boise, ID 83720-0010

Dear Attorney General Wasden:

This responds to your letter of November 6, 2017, and those of nineteen other state attorneys general, to Attorney General Sessions regarding potential fraud, abuse, and mismanagement in asbestos trusts. The Department of Justice (Department) greatly appreciates your interest in this matter and agrees that the United States would be well served by a commitment of Department resources to addressing the problems you identified. We are sending identical responses to the other attorneys general who joined your letter.

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Very truly yours,



Jesse Panuccio
Acting Associate Attorney General

Enclosure



Washington, D.C. 20530

September 13, 2018

The Honorable Derek Schmidt
Attorney General of Kansas
120 SW 10th Avenue, 2nd Floor
Topeka, KS 66612

Dear Attorney General Schmidt:

This responds to your letter of November 6, 2017, and those of nineteen other state attorneys general, to Attorney General Sessions regarding potential fraud, abuse, and mismanagement in asbestos trusts. The Department of Justice (Department) greatly appreciates your interest in this matter and agrees that the United States would be well served by a commitment of Department resources to addressing the problems you identified. We are sending identical responses to the other attorneys general who joined your letter.

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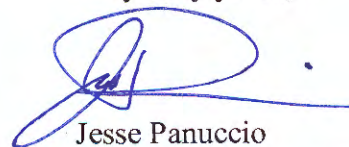
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Very truly yours,



Jesse Panuccio
Acting Associate Attorney General

Enclosure



U.S. Department of Justice

Office of the Associate Attorney General

Washington, D.C. 20530

September 13, 2018

The Honorable Jeff Landry
Attorney General of Louisiana
P.O. Box 94005
Baton Rouge, LA 70804

Dear Attorney General Landry:

This responds to your letter of November 6, 2017, and those of nineteen other state attorneys general, to Attorney General Sessions regarding potential fraud, abuse, and mismanagement in asbestos trusts. The Department of Justice (Department) greatly appreciates your interest in this matter and agrees that the United States would be well served by a commitment of Department resources to addressing the problems you identified. We are sending identical responses to the other attorneys general who joined your letter.

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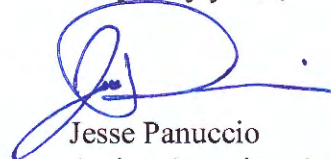
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Very truly yours,



Jesse Panuccio
Acting Associate Attorney General

Enclosure



U.S. Department of Justice

Office of the Associate Attorney General

Washington, D.C. 20530

September 13, 2018

The Honorable Joshua D. Hawley
Attorney General of Missouri
Supreme Court Building
207 W. High Street
P.O. Box 899
Jefferson City, MO 65102

Dear Attorney General Hawley:

This responds to your letter of November 6, 2017, and those of nineteen other state attorneys general, to Attorney General Sessions regarding potential fraud, abuse, and mismanagement in asbestos trusts. The Department of Justice (Department) greatly appreciates your interest in this matter and agrees that the United States would be well served by a commitment of Department resources to addressing the problems you identified. We are sending identical responses to the other attorneys general who joined your letter.

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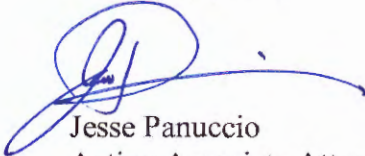
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Very truly yours,

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Jesse Panuccio
Acting Associate Attorney General

Enclosure



Washington, D.C. 20530

September 13, 2018

The Honorable Timothy C. Fox
Attorney General of Montana
215 N. Sanders Street
Helena, MT 59601

Dear Attorney General Fox:

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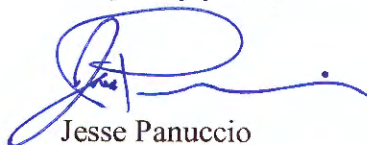
The Honorable Timothy C. Fox
Page Two

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Very truly yours,



Jesse Panuccio
Acting Associate Attorney General

Enclosure



U.S. Department of Justice

Office of the Associate Attorney General

Washington, D.C. 20530

September 13, 2018

The Honorable Douglas J. Peterson
Attorney General of Nebraska
2115 State Capitol
P.O. Box 98920
Lincoln, NE 68509

Dear Attorney General Peterson:

This responds to your letter of November 6, 2017, and those of nineteen other state attorneys general, to Attorney General Sessions regarding potential fraud, abuse, and mismanagement in asbestos trusts. The Department of Justice (Department) greatly appreciates your interest in this matter and agrees that the United States would be well served by a commitment of Department resources to addressing the problems you identified. We are sending identical responses to the other attorneys general who joined your letter.

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Very truly yours,



Jesse Panuccio
Acting Associate Attorney General

Enclosure



Washington, D.C. 20530

September 13, 2018

The Honorable Adam P. Laxalt
Attorney General of Nevada
100 North Carson Street
Carson City, NV 89701

Dear Attorney General Laxalt:

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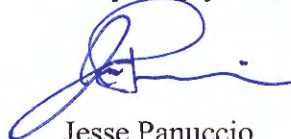
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Very truly yours,

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Jesse Panuccio
Acting Associate Attorney General

Enclosure



U.S. Department of Justice

Office of the Associate Attorney General

Washington, D.C. 20530

September 13, 2018

The Honorable Wayne Stenehjem
Attorney General of North Dakota
600 E. Boulevard Avenue, Dept. 125
Bismarck, ND 58505

Dear Attorney General Stenehjem:

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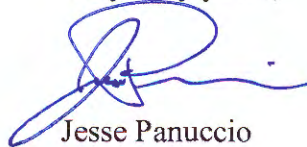
The Honorable Wayne Stenehjem
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Very truly yours,



Jesse Panuccio
Acting Associate Attorney General

Enclosure



Washington, D.C. 20530

September 13, 2018

The Honorable R. Michael DeWine
Attorney General of Ohio
30 E. Broad Street, 14th Floor
Columbus, OH 43215

Dear Attorney General DeWine:

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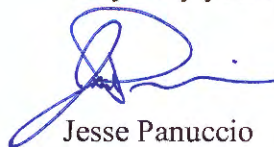
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Jesse Panuccio
Acting Associate Attorney General

Enclosure



Washington, D.C. 20530

September 13, 2018

The Honorable Mike Hunter
Attorney General of Oklahoma
313 NE 21st Street
Oklahoma City, OK 73105

Dear Attorney General Hunter:

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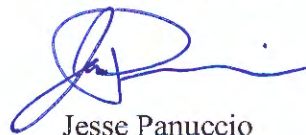
The Honorable Mike Hunter
Page Two

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Very truly yours,

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Jesse Panuccio
Acting Associate Attorney General

Enclosure



Washington, D.C. 20530

September 13, 2018

The Honorable Alan M. Wilson
Attorney General of South Carolina
P.O. Box 11549
Columbia, SC 29211

Dear Attorney General Wilson:

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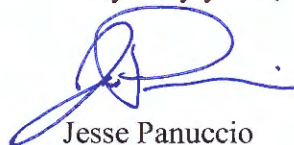
The Honorable Alan M. Wilson
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Very truly yours,



Jesse Panuccio
Acting Associate Attorney General

Enclosure



Washington, D.C. 20530

September 13, 2018

The Honorable Marty J. Jackley
Attorney General of South Dakota
1302 E. Hwy 14, Suite 1
Pierre, SD 57501-8501

Dear Attorney General Jackley:

This responds to your letter of November 6, 2017, and those of nineteen other state attorneys general, to Attorney General Sessions regarding potential fraud, abuse, and mismanagement in asbestos trusts. The Department of Justice (Department) greatly appreciates your interest in this matter and agrees that the United States would be well served by a commitment of Department resources to addressing the problems you identified. We are sending identical responses to the other attorneys general who joined your letter.

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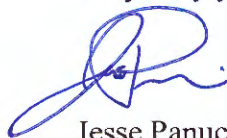
The Honorable Marty J. Jackley
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Very truly yours,



Jesse Panuccio
Acting Associate Attorney General

Enclosure



Washington, D.C. 20530

September 13, 2018

The Honorable Ken Paxton
Attorney General of Texas
P.O. Box 12548
Austin, TX 78711-2548

Dear Attorney General Paxton:

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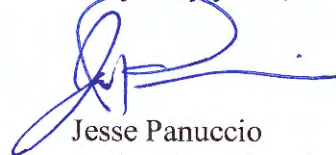
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Jesse Panuccio
Acting Associate Attorney General

Enclosure



Washington, D.C. 20530

September 13, 2018

The Honorable Sean D. Reyes
Attorney General of Utah
P.O. Box 142320
Salt Lake City, UT 84114-2320

Dear Attorney General Reyes:

This responds to your letter of November 6, 2017, and those of nineteen other state attorneys general, to Attorney General Sessions regarding potential fraud, abuse, and mismanagement in asbestos trusts. The Department of Justice (Department) greatly appreciates your interest in this matter and agrees that the United States would be well served by a commitment of Department resources to addressing the problems you identified. We are sending identical responses to the other attorneys general who joined your letter.

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Very truly yours,



Jesse Panuccio
Acting Associate Attorney General

Enclosure



Washington, D.C. 20530

September 13, 2018

The Honorable Patrick J. Morrissey
Attorney General of West Virginia
State Capitol Complex, Bldg. 1, Room E-26
Charleston, WV 25305

Dear Attorney General Morrissey:

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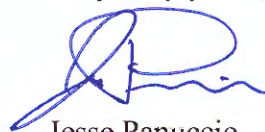
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Jesse Panuccio
Acting Associate Attorney General

Enclosure



U.S. Department of Justice

Office of the Associate Attorney General

Washington, D.C. 20530

September 13, 2018

The Honorable Brad D. Schimel
Attorney General of Wisconsin
P.O. Box 7857
Madison, WI 53707-7557

Dear Attorney General Schimel:

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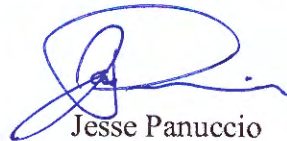
The Honorable Brad D. Schimel
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Jesse Panuccio
Acting Associate Attorney General

Enclosure

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA**

In re:	)	Chapter 11
	)	
KAISER GYPSUM COMPANY, INC., <i>et al.</i> ,	)	Case No. 16-31602 (JCW)
	)	
Debtors.	)	Jointly Administered
	)	
	)	
	)	

**STATEMENT OF INTEREST ON BEHALF OF THE UNITED STATES OF AMERICA
REGARDING PLANS OF REORGANIZATION FOR KAISER GYPSUM COMPANY,
INC. AND HANSON PERMANENTE CEMENT, INC.**

The United States respectfully submits this statement of interest under 11 U.S.C. § 1109(b) and 28 U.S.C. § 517 to address plans of reorganization that have been or may be filed in the above-captioned bankruptcy of debtors Kaiser Gypsum Company, Inc. and Hanson Permanente Cement, Inc. (collectively, the “Debtors”).¹

The two plans currently on file both provide for the creation of a trust under 11 U.S.C. § 524(g) to resolve certain present and future asbestos claims, and the United States expects that any future plans likely will seek to create a section 524(g) trust to address asbestos claims (the “Trust”). In many cases, payment of personal injury claims by the Trust will trigger reimbursement obligations to the United States under the Medicare Secondary Payer Statute (“MSP Statute”), 42 U.S.C. § 1395y(b)(2). *See Taransky v. Sec’y of Health and Human Servs.*, 760 F.3d 307, 309–310 (3d Cir. 2014). The United States has a strong interest in ensuring that the Trust operates in a transparent manner and complies with its obligations under the MSP Statute; that claimants are informed of their potential obligation to reimburse the Medicare

¹ On July 27, 2018, the Debtors, along with other parties, filed a proposed Joint Plan of Reorganization (the “Debtors’ plan”), which provides for the creation of a trust under 11 U.S.C. § 524(g) to resolve present and future asbestos claims. Dkt. No. 1085. Similarly, Truck Insurance Exchange filed a proposed Plan of Reorganization on April 13, 2018 (the “Creditor’s plan”), which likewise proposes the creation of a section 524(g) trust. Dkt. No. 887.

program; that the Trust's assets are preserved to the greatest extent possible to pay the claims of legitimate asbestos victims; and that Trust assets are not dissipated through payment of fraudulent claims, excessive professional fees, or mismanagement.

The United States is filing this statement of interest to address and forestall objectionable plan provisions relating to the Trust. Although the parties have had nearly two years in which to formulate plans, the Debtors' plan is missing exhibits that will control critical terms of the reorganization, including how asbestos claims will be evaluated, paid, and reported. That plan also lacks sufficient safeguards to prevent fraud, abuse, or mismanagement and to ensure that the interests of the United States will be protected. Absent specific safeguards, the final plan may allow the Trust to review, negotiate, and liquidate potentially millions of dollars of personal injury claims, with little continuing supervision by this Court and with little ability for interested parties to prevent—or even detect—fraud, abuse, or mismanagement. Although the Creditor's plan contains some safeguards, neither it nor the Debtors' plan properly addresses the claimants' reimbursement obligations under the MSP Statute. The United States believes that any final plan (and accompanying disclosure statement) must address reimbursement and reporting obligations.

Because any Trust created pursuant to a plan must comply with applicable federal law, the United States urges all parties to craft Trust provisions that will take into account the United States' rights under the MSP Statute and that will include safeguards against fraud and waste in the payment of asbestos claims. The United States is submitting this statement of interest now to provide greater time for the parties to address these concerns, including prior to the Debtors' filing a disclosure statement, and to avoid the need for the filing of objections.

STANDING AND INTERESTS OF THE UNITED STATES

1. The United States may be heard on this matter because, as discussed in detail

below, any proposed plan may contain provisions that could adversely affect the United States' ability to recover amounts due to it under the MSP Statute. The United States has an interest in ensuring that any Trust created as part of these bankruptcy cases operates in a transparent and accountable manner. The Trust will have the responsibility for millions of dollars of claims under the terms of the Trust, including claims of future asbestos victims. It is essential that Trust beneficiaries, the Court, and other interested parties—including the United States—have a reasonable opportunity to monitor operations of the Trust.

2. In addition, the United States submits this statement to advise the Court of its concern that payments to legitimate asbestos claimants could be diluted through fraud, mismanagement, or abuse. The United States has a strong interest in ensuring that the processes of this Court are not used to facilitate fraud and abuse in other asbestos-related proceedings.

3. The United States is an interested party in these cases with standing to appear and be heard on the approval of any disclosure statement or plan filed in these cases. *See* 11 U.S.C. § 1109(b) (party in interest “may appear and be heard on any issue” in a bankruptcy case); *In re Thorpe Insulation Co.*, 677 F.3d 869, 887 (9th Cir. 2012) (holding that parties whose rights would potentially be “substantially affected” by asbestos-related bankruptcy plan had party-in-interest standing in bankruptcy case); *In re Global Indus. Techs., Inc.*, 645 F.3d 201, 215 (3d Cir. 2011) (en banc) (same). As the Third Circuit has observed, the standing of parties adversely affected by the plan is particularly appropriate where the potential objections “implicate the integrity of the bankruptcy process.” *Id.* The United States is also authorized to submit this statement pursuant to 28 U.S.C. § 517, which permits the Attorney General to direct any officer of the Department of Justice to attend to the interests of the United States in any case pending in

a federal court.² This Statement of Interest is without prejudice to any objections or arguments that may be raised by the United States in its capacity as a party in interest with respect to any disclosure statement, plan, or other contested matter.

BACKGROUND

A. Medicare Reimbursement Obligations under the MSP Statute.

4. Medicare is a federal entitlement program, administered by the Centers for Medicare and Medicaid Services (“CMS”), that provides health benefits to qualified elderly and disabled individuals. 42 U.S.C. § 1395y. Under the MSP Statute, Medicare is a “secondary payer” of benefits and does not pay expenses for which payment could be expected from another source. 42 U.S.C. § 1395y(b)(2)(A). If the other source, or “primary plan,” fails to make prompt payment at the time that medical services are needed, Medicare will make conditional payments that must be reimbursed as soon as payment becomes available from the primary plan. 42 U.S.C. § 1395y(b)(2)(B). Both the primary plan and any entities that received payment from the primary plan are obligated to reimburse Medicare within 60 days of such payments. 42 U.S.C. § 1395y(b)(2)(B)(ii)–(iii); 42 C.F.R. §§ 411.22(a), 411.24(h).

5. For purposes of the MSP Statute, the term “primary plan” includes self-insured tortfeasors, and a reimbursement obligation may be triggered by a payment that is conditioned on a compromise or release of claims against the tortfeasor or its insurer. 42 U.S.C. § 1395y(b)(2)(B)(ii); 42 C.F.R. § 411.22(b)(2); *Taransky*, 760 F.3d 313–314 (holding that tort

² The United States filed Proofs of Claim against the Debtors for CERCLA past and future response costs and claims for Natural Resource Damages associated with the Lower Duwamish Waterway Site. Claims Register Nos. 6-11 (Mar. 31, 2017); 648-653 (Oct. 12, 2017). Those claims are being handled by the U.S. Department of Justice, Environment and Natural Resources Division, Environmental Enforcement Section (EES). The Arguments made herein are without prejudice to any arguments EES may make with respect to any matter in these cases. As stated above, this statement of interest is also without prejudice to any objections or arguments that may be raised by the United States, including those not related to environmental claims, with respect to any disclosure statement, plan, or other matter.

defendant that paid insurance settlement to Medicare beneficiary was a “primary plan” within the meaning of the MSP Statute). “The fact of settlement alone, if it releases a tortfeasor from claims for medical expenses, is sufficient to demonstrate the beneficiary’s obligation to reimburse Medicare.” *Taransky*, 760 F.3d at 315 (citing *Hadden v. United States*, 661 F.3d 298, 301–02 (6th Cir. 2011)); *Brown v. Thompson*, 374 F.3d 253, 262 (4th Cir. 2004) (“We, therefore, hold that the Medicare Secondary Payer provisions do entitle the Secretary to reimbursement from Brown’s settlement proceeds for the Medicare payments previously paid to Brown.”). The primary plan must report all payments made to Medicare beneficiaries. 42 U.S.C. § 1395y(b)(7), (b)(8). The primary plan, as well as anyone else who receives payment from the primary plan, including the Trust and the Medicare beneficiary, must reimburse Medicare for medical expenses paid on behalf of the beneficiary. 42 U.S.C. § 1395y(b)(2)(B)(ii). In some situations, the amount due to Medicare may be reduced by “procurement costs,” including attorneys’ fees, but only to the extent that the tort claim was disputed and the procurement costs were borne by the party against which CMS seeks to recover. 42 C.F.R. § 411.37(a)(1)(i).

6. The identities of the persons who will eventually seek payment from the Trust are presently unknown to the United States. Because the Debtors’ asbestos liabilities involve products that were manufactured many decades ago and because of the often-debilitating nature of asbestos illnesses, many beneficiaries of the Trust will be elderly, disabled, or both, and many of those persons may therefore also have received medical care paid for by Medicare. For this reason, the United States has a strong interest in ensuring that the provisions of the Trust are consistent with the parties’ reporting and reimbursement obligations under the MSP Statute. More broadly, because Medicare will only be reimbursed if Trust funds remain available to pay legitimate asbestos claimants, the United States has a strong interest in ensuring that the Trust

maintains adequate safeguards so that it does not become depleted through fraud or mismanagement.

B. Patterns of Abuse in the Operation of Section 524(g) Asbestos Trusts.

7. In 1994, Congress enacted 11 U.S.C. § 524(g), which created a comprehensive mechanism for addressing both existing and future injuries caused by asbestos. Under the terms of most section 524(g) plans, asbestos-related claims against the debtor are not liquidated or paid during the bankruptcy case but are instead channeled to a special trust created under the plan of reorganization, which then assumes responsibility for both the defense and payment of those claims. These trusts are managed by trustees, who often must secure support for major decisions from a “trust advisory committee” (TAC), whose members are often the same attorneys who represented asbestos claimants during the bankruptcy. *See generally* Dixon, McGovern, and Coombe, *Asbestos Bankruptcy Trusts: An Overview of Trust Structure and Activity with Detailed Reports on the Largest Trusts*, RAND Institute for Civil Justice, 2010 (the “RAND Report”). Since 1994, more than 60 such trusts have been established by chapter 11 debtors with asbestos-related liabilities.

8. In recent years, both courts and researchers have noted a growing number of concerns with the operations of many of these trusts, particularly as they relate to fraudulent claims filed both within and outside the bankruptcy system. In 2010, the RAND Corporation conducted a comprehensive study of the 26 largest asbestos trusts then in operation, which at the time accounted for approximately 99 percent of all asbestos trust payments. *See* RAND Report at xi. Among other findings, the RAND Report found that, over the study period, persons who did not have malignant conditions accounted for 86 percent of all claims made to the trusts and 37 percent of all trust payments, notwithstanding that these claimants usually would not have

been compensated at all for those injuries in the tort system. *Id.* at xiv. The RAND Report also noted a troubling lack of transparency in trust operations. *Id.* at xv–xvi. In addition to RAND’s inability to obtain even such basic data as how often individuals disclosed claims to multiple trusts, it observed that trusts generally do not coordinate with each other to verify whether the exposure evidence submitted by claimants is consistent from case to case. *Id.* at 19.

9. Subsequently, this Court identified a substantial pattern of fraud when, as part of a contested estimation proceeding, it authorized discovery into a sample of prepetition asbestos claims. *See In re Garlock Sealing Technologies, LLC*, 504 B.R. 71 (Bankr. W.D.N.C. 2014). Among other findings, the Court found that plaintiffs withheld exposure evidence (which would have mitigated Garlock’s own liability) in each and every one of the fifteen sample civil asbestos cases that it examined, which had been settled by the debtor prepetition, usually for large sums. *Garlock*, 504 B.R. at 84. In addition, in three specific instances discussed by the court, plaintiffs were permitted to file claims against trusts for other asbestos defendants even after representing to a court of law in a different proceeding that they had never been exposed to those defendants’ products. *Id.* at 85.

10. Although the *Garlock* decision directly addressed only the issue of whether the debtors’ historic liability in the state tort system was tainted by fraud, its findings also raise troubling concerns about the lack of oversight and operation of the trusts themselves. Most notably, *Garlock* suggests that an unknown, but significant, amount of trust funds has been paid over the years to persons who had already disclaimed having any such claim against that particular trust in another court proceeding. Moreover, as a subsequent study of certain trust claims unsealed as part of the *Garlock* litigation concluded, many of the claim forms submitted by the same claimants and law firms to different trusts contradicted each other or contained

factually inconsistent allegations about the claimants' work histories or sources of exposure. U.S. Chamber Institute for Legal Reform, *Insights & Inconsistencies: Lessons from the Garlock Trust Claims* (February 2016). A common factor in many of these abuses has been the secrecy with which many trust claims are submitted, allowed, and paid, which has made it nearly impossible to detect when plaintiffs are seeking recovery based on factual representations that may be incompatible with other representations previously made in other litigation or before other trusts. *See, e.g., Kananian v. Lorillard Tobacco Co.*, No. CV-442750, 2007 WL 4913164 (Ohio Ct. Comm. Pl. Cuyahoga Cty., Jan. 18, 2007) (finding that plaintiff's attorney had deliberately misrepresented existence of claims against asbestos trust, and also noting that the discovery that revealed the fraud had been vigorously resisted by the trusts themselves).

C. Applicable Bankruptcy Code Provisions.

11. To be approved, any chapter 11 plan must be preceded by a disclosure statement that meets the requirement of the Bankruptcy Code that it provide creditors, and particularly those creditors who will be beneficiaries of the Trust, with "adequate information." 11 U.S.C. § 1125(a), (b). As explained below, this means that any plan (or any approved disclosure statement) must advise claimants of their potential obligation to reimburse Medicare for conditional payments and must contain the key provisions that will govern how the Trust will be administered and how claims will be reviewed, valued, and paid. *See* 11 U.S.C. § 1129(a)(1) (plans must comply with "applicable provisions of this title").

12. A chapter 11 plan may only be confirmed if the "plan has been proposed in good faith and not by any means forbidden by law." 11 U.S.C. § 1129(a)(3). In turn, section 1123(a)(5) mandates that "a plan shall—(5) provide adequate means for the plan's implementation." 11 U.S.C. § 1123. As explained below, any plan that does not contain

adequate safeguards to facilitate compliance with the MSP Statute and to prevent the payment of fraudulent claims, including both claims submitted to the Trust and claims in other proceedings, would potentially lack an adequate means for implementation. When enacting section 524(g) of the Code, Congress contemplated the payment of legitimate asbestos claims. See H.R. Rep. 103-835, 41, 1994 U.S.C.C.A.N. 3340, 3349 (stating that section 524(g) is designed to carry “high standards with respect to regard for the rights of claimants”). Paying legitimate claims—and legitimate claims only—advances one of chapter 11’s fundamental purposes: “the creditors’ interest in maximizing the value of the bankruptcy estate.” *Fla. Dep’t of Revenue v. Piccadilly Cafeterias, Inc.*, 554 U.S. 33, 51 (2008).

13. Also, to be confirmed, any plan must disclose the identities and affiliations of the persons who will be acting as trustees and TAC members for the Trust because 11 U.S.C. § 1129(a)(5)(A) provides that a plan cannot be confirmed unless the proponent “has disclosed the identity and affiliations of any individual proposed to serve, after confirmation of the plan, as a director, officer, or voting trustee of the debtor, an affiliate of the debtor participating in a joint plan with the debtor, or a successor to the debtor under the plan.” Even if these individuals were disclosed, a plan may also not be confirmable unless the appointment of those individuals is “consistent with the interests of creditors and equity security holders and with public policy.” 11 U.S.C. § 1129(a)(5)(A)(ii). To the extent these positions are filled by persons subject to material fiduciary conflicts, that requirement also cannot be met.

D. Status of Proposed Plans.

14. Two proposed plans of reorganization have been filed in these cases. The Creditor’s plan was filed on April 13, 2018 (Dkt. No. 887). It was accompanied by a disclosure statement as well as a plan supplement describing the terms of the proposed Trust, but no hearing

on the disclosure statement has been scheduled. The Debtors' plan (Dkt. No. 1085) was filed on July 27, 2018. The Debtors' plan was not accompanied by a disclosure statement or by a plan supplement, and the Debtors have not filed any document setting forth the terms of the Trust. The United States understands that negotiations and mediation are ongoing with respect to both plans, and that both may be subject to further amendment or supplementation.

15. Through the various plan supplement documents filed along with the Creditor's plan, the Creditor has provided information about the terms under which the proposed settlement facility will operate, the reporting of Medicare information, and the settlement facility's procedures for reviewing claims and safeguards for preventing fraud and abuse.

16. By contrast, the Debtors' proposed plan appears to be a typical section 524(g) asbestos plan in many respects, in that a number of critical reorganization terms are not found in the plan at all, but rather in various documents not yet filed, including the Asbestos Personal Injury Trust Agreement (Exhibit I.A.17) (the "Trust Agreement") and a set of Asbestos Personal Injury Trust Distribution Procedures (Exhibit I.A.19) (the "Trust Distribution Procedures"). *See, e.g.*, Debtors' Plan ¶¶ I.10 (asbestos claims shall be channeled to the Trust "as set forth in" the Trust Agreement and the Trust Distribution Procedures); III.B.4 (asbestos claims "shall be resolved pursuant to the terms of" the Trust Agreement and the Trust Distribution Procedures); IV.I (appointment of members of TAC to be disclosed in Trust Agreement); IV.O (asbestos claims to be liquidated and paid "in accordance with the terms, provisions and procedures" of the Trust Agreement and the Trust Distribution Procedures).

17. The Debtors' plan does not give a detailed description of the provisions of the anticipated Trust Agreement or the Trust Distribution Procedures. Rather, the Debtors' Plan contains placeholders for the Trust Agreement, the Trust Distribution Procedures, and numerous

other plan-related documents, along with a statement that those documents “shall be Filed and made available for review . . . no later than 10 days before the deadline to object to confirmation of the Plan.” Debtors’ plan at p.8 n.1. Further, the plan states that the Debtors “reserve the right to modify, amend, supplement, restate or withdraw any of the Exhibits after they are filed.” *Id.*³

STATEMENT OF INTEREST

18. The United States files this statement of interest to advise the court and the parties of the necessity of ensuring that any final plan in this case contains sufficient safeguards to prevent the fraud and abuse that may have occurred in certain earlier section 524(g) asbestos trusts, as demonstrated in *Garlock*. Fraud and abuse in the payment of asbestos claims will prejudice both legitimate asbestos victims as well as the United States because, like most asbestos trusts, the Trust in this case is likely to be a closed fund: the amount paid into the Trust will essentially be fixed at confirmation, and individual claimants will receive a greater or lesser distribution from that fund based on the number of other claims that are paid. Payment of a fraudulent claim will harm all legitimate claimants, whose own distributions from the Trust may be diluted as a result. Unfairly diluted recoveries will also harm the United States to the extent that claimants with legitimate claims receive funds insufficient to reimburse Medicare for its conditional payments. The United States further notes that it may have an interest in particular provisions of the plan or Trust, as follows:

Medicare-Related Provisions and Disclosure

19. Although it is likely that many of the claims to be paid by the Trust will implicate

³ Pursuant to a Plan Term Sheet between the Debtors and the Asbestos Claimants’ Committee (the “Committee”) filed March 6, 2018, responsibility for drafting all Trust documents has been delegated to the Committee and the Future Claimants’ Representative. Dkt. 854 at E.1. Based on this, it is expected that the eventual Trust Distribution Procedures to be incorporated in the Debtors’ plan will closely resemble those that have been proposed or negotiated by asbestos committees in previous asbestos cases.

MSP Statute reimbursement issues, the Debtors' plan currently lacks any provisions to ensure that the Trust complies with its obligations to the United States. This is in contrast to the plan in *Garlock*, the most recent asbestos-related plan confirmed in this district, which contains specific safeguards to ensure compliance with the MSP Statute.⁴ In any final plan, the Trust procedures should clearly identify the parties who will be responsible for MSP Statute reporting as well as ensure that those parties have access to information sufficient to accurately report payments to CMS. *See In re Garlock Sealing Technologies*, Case No. 3:17-cv-00275-GCM, Dkt. 13, Exh. A at 25-30 (June 9, 2017) (detailing obligations of various parties to ensure Medicare reporting compliance).

Claim Transparency

20. In order to monitor whether parties have complied with their reporting obligations under the MSP Statute, the terms of the Trust should permit the United States to monitor when particular individuals have filed claims with or received payment from the Trust. The Debtors' plan does not describe the circumstances under which claim and payment information can be disclosed by the Trust under the eventual Trust Distribution Procedures. The United States may object to any proposed Trust procedures that would permit claimants to file claims and receive payments in complete anonymity and in a manner that may prevent any meaningful audit of Trust claims and payments, as has been true of certain other asbestos trusts. *See RAND Report* at 19.

21. The terms of the Trust should also permit liability insurers to access information about individual claims, which they need to comply with their obligations under the MSP Statute. Those parties are "primary plans" with reporting obligations under the MSP Statute and

⁴ Although the Creditor's plan has safeguards that the Debtors' plan does not, neither the Creditor's plan nor its accompanying disclosure statement advises claimants of their reimbursement obligations under the MSP Statute.

therefore need access to information necessary to comply with federal law. In addition to the harm to the insurers that might result therefrom, claim secrecy will directly prejudice the United States because it creates a risk that CMS may receive reports based on incomplete or inaccurate information, which could hinder CMS's ability to ensure compliance with the MSP Statute. Moreover, claim secrecy will limit appropriate judicial oversight of the Trust.

22. Although personally identifiable information and medical information are protected under federal law, the assertion of a tort claim in court is a public act, and claims filed with a judicially established trust pursuant to 11 U.S.C. § 524(g) should be a matter of public record—as would be the case if those claims were pursued in a state court or litigated through the bankruptcy claims process. To the extent that the Debtors propose to prohibit any disclosure of claims information, as certain other asbestos trusts have done, this would be a blunt tool that frustrates the government's visibility into compliance with the MSP Statute and Congress's oversight of the effects of section 524(g). Certain information about claims filed with trusts can be appropriately disclosed while still complying with data privacy obligations. The ability to file claims in secret would also stand in contrast to the obligations of creditors in other chapter 11 cases, where claims become part of the public claims register and evidentiary submissions may be sealed only if such relief is specifically granted by the court pursuant to a legally supported motion under 11 U.S.C. § 107.

Failure to Advise Claimants of Potential Reimbursement Obligations

23. Nothing in either proposed plan or in the disclosure statement submitted with the Creditor's plan indicates that claimants will be advised that their recoveries from the Trust may be subject to a potential Medicare reimbursement obligation. If claimants are not educated about potential Medicare reimbursement obligations, claimants with Medicare debts may be unable to

fully plan for how they will use the funds received from the trust, and, as a result, the United States is more likely to be under-reimbursed.

Administrative Costs and Attorney Fees

24. The United States may object to any proposed Trust provisions that impose excessive administrative costs or that permit attorneys to collect excessive contingency fees. In both cases, the allowance of excessive fees or costs may prejudice the United States because it will effectively reduce the amount paid to claimants, which in turn will dilute the value of potential Medicare reimbursement obligations. This concern will be particularly heightened to the extent that a Trust offers a “settlement” option, in which claimants can elect to receive non-discretionary, fixed payments without the risk of litigation. To the extent that the Trust does not cap attorney fees in this circumstance (as certain other asbestos trusts have done), attorneys may be paid compensation that is grossly disproportionate to the work they have actually done. The Debtors’ plan does not disclose whether the Trust will impose a cap on the amount of attorney fees that may be charged in connection with claims paid through the Trust, and it is unclear if the attorneys filing those claims could be entitled to charge the same contingency fee in these uncontested matters that they would have received from a contested verdict in a civil trial. Furthermore, claimants who are Medicare beneficiaries should be advised of the risk that excessive legal fees may not qualify as a “procurement cost” within the meaning of 42 C.F.R. § 411.37(a)(1)(i), which may affect the amount of their reimbursement obligations.

Trust Governance Information

25. The identity of any fiduciaries who will administer the Trust after confirmation should be fully and timely disclosed. The Debtors’ plan does not currently do so. The selection of the Trust fiduciaries should be subject to the same vigorous conflicts review and

disinterestedness standards applicable to estate fiduciaries, and the fiduciaries should be approved in accordance with 11 U.S.C. § 1129(a)(5). This requirement is critical because, as the RAND Report found, the same individuals and firms often serve in fiduciary capacities in multiple asbestos trusts (which trusts might have conflicting interests in the case of overlapping claims), and the persons appointed to TACs have traditionally been the same attorneys who represent claimants against the trusts. *See* RAND Report at xvi. The United States and other parties should be permitted to evaluate whether there exist any conflicts arising from these relationships that would prevent trustees and TAC members from exercising their fiduciary duties to Trust beneficiaries. Trust operations tainted by conflicts of interest can result in dilution of funds flowing to claimants and under-reimbursement to the Medicare Trust Fund.

Payment of Non-Meritorious Claims

26. The United States has an interest in ensuring that assets of the Trust are preserved to the maximum extent possible to pay the claims of the most seriously injured individuals, and that Trust assets are not dissipated through payments to persons (1) asserting fraudulent claims or (2) who otherwise would not have had viable claims in the tort system or under the bankruptcy code, *see, e.g.*, 11 U.S.C. § 502(c) (providing mechanism for bankruptcy courts to estimate contingent and unliquidated claims). The Debtors' plan does not make any provision for how the existence of other potential sources of asbestos exposure will affect the valuation of particular claims under the Trust Distribution Procedures. The United States may object to any plan provisions that would prevent the Trust from asserting defenses that would have been available to a defendant in the tort system.

27. In particular, the United States may object to any Trust provision that proposes to make distributions to claimants who cannot credibly demonstrate significant exposure to the

Debtors' products. The weight given to different types of exposure evidence may have a potentially significant effect on the distribution of Trust assets among claimants, as well as the expected distributions to individual claimants. As *Garlock* noted, in a non-trust proceeding, a claimant who could credibly demonstrate that the Debtors were the sole cause of his injury would be entitled to a far larger judgment than a plaintiff for whom the Debtors were just one of many sources of exposure. *Garlock*, 504 B.R. at 82. To the extent the Trust will not consider evidence of other exposure, the plan would treat two disparate classes of plaintiffs equally. Apart from the general problem of paying claims that would likely be of minimal value in the tort system, this decision could also have serious distributional consequences: claimants with strong and high value claims against one tortfeasor could be forced to share on an equal basis with claimants whose ability to recover in the tort system is at best questionable.

28. The United States may also object to any Trust provisions that appear to shelter claimants from the consequences of misconduct in other proceedings. To the extent that any claimant has previously denied exposure to the Debtors' products in order to increase his or her recovery against another defendant, such claimant should not be permitted to take a different position here. The claimants should be advised of the effect of prior inconsistent statements made in other asbestos proceedings and any previous denial of any exposure to products for which the Debtors are legally liable. Finally, the United States may object to any Trust provisions that appear to facilitate fraud in other proceedings, such as provisions which unreasonably restrict the Trust from cooperating in discovery or which permit claimants to strategically withdraw and refile Trust claims.

29. Furthermore, excluding the effect of any tolling that has occurred due to the filing of the bankruptcy cases, the Trust should not be permitted to make payment to claimants whose

claims would be time barred in the tort system. Creditors should be advised of the extent to which the Trust will be permitted to assert other defenses that might have been available against claimants in the tort system, including a statute of limitations against claimants who strategically withdrew and refiled their claims against the Trust.

Comparison of Plans

30. There are substantial, material differences between the Debtors' and Creditor's plans. Whereas, as noted above, the Debtors' plan is missing many terms that the United States considers essential, the Creditor's plan includes a full set of supporting documents. Among other things, the Creditor's plan advises creditors of how that plan will address fraud and abuse. Specifically, its exhibits contain provisions addressing the following key topics that are missing from the Debtors' plan:

- The trustee's obligations regarding Medicare reporting (Creditor's plan Annex II at ¶ 8.1);
- The formulas and medical criteria that the trust will use in calculating the specific distribution to be awarded to different types of asbestos claimants (*Id.* Appendix I-II);
- The degree of medical and causation evidence that will be necessary to establish eligibility for payment (*Id.* ¶ 4.5);
- The disclosure obligations of claimants regarding claims they have made against other defendants (*Id.* ¶ 4.6(b));
- Provisions dealing with the release of information to other trusts (*Id.* ¶ 4.6(c));
- Provisions directing the trustee to maintain methods for auditing claims

(*Id.* ¶ 4.8);

- Provisions detailing the procedures that the trust will maintain to deter fraud and the consequences if fraud is detected (*Id.* ¶ 4.8(b));
- An identification of parties who will be entitled to indemnification by the Settlement Facility (Creditor's plan Annex I at ¶ 3.5);
- Provisions for the appointment, qualification, supervision, compensation, and replacement of trust fiduciaries (*Id.* at ¶ 5).

CONCLUSION

31. For the foregoing reasons, the United States may object to any plan filed in these cases that does not contain reasonable safeguards against fraud and abuse or which permits the Trust to operate with insufficient transparency or oversight. In particular, the plan should not contain provisions that prevent parties with a legitimate interest from auditing or accessing Trust claim information, that permit excessive attorney fees to be charged to claimants, that allow payments to claimants who have engaged in fraudulent conduct in other asbestos litigation, or that permit the Trust to be managed by persons with material fiduciary conflicts. The United States reserves all rights in these cases, including without limitation all arguments and objections that may be raised in connection with any disclosure statement, plan of reorganization, or other contested matter.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on the 13th day of September, 2018, a copy of the Statement of Interest was submitted to the Court for electronic filing via the ECF system which will serve the interested parties.

s/James M. Sullivan
Assistant United States Attorney

SCOTT R. STRAUSS

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EXPERIENCE

UNITED STATES ATTORNEY'S OFFICE, S.D. FLORIDA, MIAMI/FORT LAUDERDALE

Assistant United States Attorney, May 2019 – October 2020

Appeals (May 2019 – July 2019); Major Crimes (August 2019 – November 2019); Violent Crimes (December 2019 – October 2020)

- Prosecuted and investigated various criminal cases in the areas of misbranded drugs; trafficking in counterfeit goods; election fraud; firearms offenses; drug trafficking offenses; access device fraud; cargo theft; naturalization fraud; marriage fraud; bank fraud; wire fraud; and mail fraud.
- Fostered excellent relationships among several federal agencies including the following: Federal Bureau of Investigation; the Bureau of Alcohol, Tobacco, Firearms and Explosives; Drug Enforcement Agency; U.S. Secret Service; Department of Homeland Security; U.S. Customs and Border and Protection; U.S. Treasury; and the U.S. Postal Inspector.
- Recognized by the Bureau of Alcohol, Tobacco, Firearms, and Explosives for vigorously prosecuting violent criminals, street gangs, and firearms traffickers.

OFFICE OF STATE ATTORNEY, BROWARD COUNTY, Fort Lauderdale, Florida

Assistant State Attorney, July 2013 – May 2019

Traffic Homicide Unit (August 2017 – May 2019); 10-20-Life (January 2016 – July 2017); Felony Trial Unit, First Degree (July 2013 – December 2015); October 2009 – December 2012

- Tried 61 cases to jury verdict.
- Lead, investigated, and prosecuted traffic homicides throughout Broward County.
- Collaborated with expert witnesses including the Broward County Medical Examiner, toxicologists, and accident reconstructions.
- Prosecuted hundreds of criminal cases including: armed robbery; unlawful practice of medicine; first degree grand theft; unlawful possession of firearms; and first degree attempted murder (firearm, discharge, great bodily harm).

LAW OFFICE OF DONALD YARBROUGH, Fort Lauderdale, Florida

Associate Attorney – Federal Civil Practice, January 2013 – July 2013

- Responsible for overseeing all facets of federal litigation, including depositions, mediations, and pre-trial matters arising under the Fair Debt Collection Practices Act (FDCPA) and the Telephone Consumer Protection Act (TCPA).

BROWARD COLLEGE, Fort Lauderdale, Florida

Adjunct Legal Studies Instructor, 2009 – Present

- Lead instructor for the following courses: Introduction to Legal Writing, Business Law I, Business Law II, Introduction to Legal Studies, Criminal Law and Business Law (graduate level).

LIBERTY MUTUAL INSURANCE, Boca Raton, Florida

Legal Intern, March-June 2009

NOVAQUEST - QUINTILES INC, Fort Lauderdale, Florida

Pharmaceutical Sales Representative, May 2008 - February 2009

MERCK & CO., Miami, Florida

Pharmaceutical Sales Representative, April 2004 - May 2008

CBeyond COMMUNICATIONS, Atlanta, GA

Sales Representative, September 2002 – April 2004

EDUCATION

FLORIDA INTERNATIONAL UNIVERSITY, Miami, Florida

J.D., December 2008; *Class Rank 6/20 (Evening Program)*

UNIVERSITY OF WISCONSIN, Madison, Wisconsin

B.A. in International Relations, May 2002

ADMISSIONS & OTHER

Member, State Bar of Florida; Georgia; Minnesota

The Federalist Society – Vice President, Broward County Chapter

U.S.D.C. Middle District of Florida; Southern District of Florida

Federal Bar Association; Broward – Board of Directors; 2015 – Present

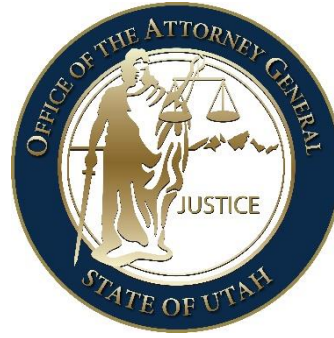
Broward County Bar Association – Member; 2016 – 2019

Florida Bar – Government and Public Policy Committee; 2017– 2019

Coral Ridge Homeowners Association – Board of Directors; 2017 – 2019

Fort Lauderdale Little League Coach; 2015 – Present





August 5, 2020

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Minority Leader
322 Hart Senate Office Building
Washington, DC 20510

Re: State Attorneys General on SAFE TO WORK Act Liability Protections

Dear Chairman Graham and Ranking Member Feinstein,

The undersigned Attorneys General, representing 22 states, are encouraged to see the introduction of S. 4317, the SAFE TO WORK Act, by U.S. Senator John Cornyn of Texas, and we urge you to adopt the COVID-19 civil liability protections included in this important legislation. As we wrote in our previous letter dated May 11, 2020, we believe this framework for federal pandemic liability protections will benefit all of our states and citizens as we continue working to slow the spread of COVID-19 and minimize the detrimental impact it has had on our state economies.

Attorneys General have a responsibility to protect the interests of the residents of our states. Notably, it is the role of the Attorney General to help maintain a stable legal and regulatory environment. We have seen the tragedies and widespread loss of life that the COVID-19 pandemic has caused in our states. We have also observed firsthand the livelihoods that have been lost due to joblessness, business closures, and the abandonment of traditional activities in daily lives and places of work.

As the economies in our states have started reopening, and as we continue to work to protect public health, safety, and the economic security of our residents, the need for a stable, predictable legal environment has never been greater. In order to avoid even greater damage to our economy and people's livelihoods, it is important that we are able to continue the operation of our free enterprise system, safely and appropriately, and to protect schools, colleges, and nonprofit organizations.

Unfortunately, the COVID-19 pandemic has the potential to create a surge in frivolous civil litigation targeting well-intentioned businesses, educational institutions and non-profit organizations that have implemented and utilized applicable pandemic mitigation measures. In fact, lawsuits are already being filed. We know that in order for our economy to fully recover, customers and employees have to have the confidence to return to the marketplace, students need to be able to safely return to school, and at the same time, entities of all types that follow applicable guidelines need to be protected from devastating civil liability litigation concerning baseless COVID-related claims. Therefore, we are encouraged by this common-sense framework to provide federal liability protections for much-needed goods and services while still ensuring victims are able to seek legal redress and compensation where appropriate.

As you are probably aware, states across the country have taken steps to address the need for timely, targeted and temporary civil liability protections in light of the pandemic, but the need for a uniform national baseline of liability protection still exists. As such, we are very encouraged by the introduction and consideration of this important framework for federal pandemic liability protections while still preserving states' autonomy to tailor protections based on each one's unique circumstances.

If adopted, these important protections will lead to meaningful results for our states, and we look forward to supporting the implementation of this type of legislation in any way we can.

Sincerely,



Christopher M. Carr
Georgia Attorney General



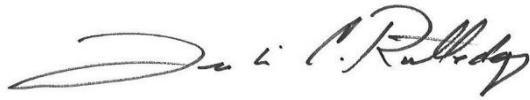
Steve Marshall
Alabama Attorney General



Sean D. Reyes
Utah Attorney General



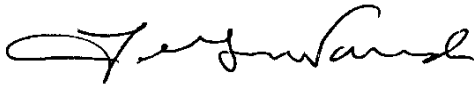
Kevin G. Clarkson
Alaska Attorney General



Leslie Rutledge
Arkansas Attorney General



Ashley Moody
Florida Attorney General



Lawrence G. Wasden
Idaho Attorney General



Curtis T. Hill, Jr.
Indiana Attorney General



Derek Schmidt
Kansas Attorney General



Daniel Cameron
Kentucky Attorney General



Jeff Landry
Louisiana Attorney General



Lynn Fitch
Mississippi Attorney General



Eric S. Schmitt
Missouri Attorney General



Douglas J. Peterson
Nebraska Attorney General



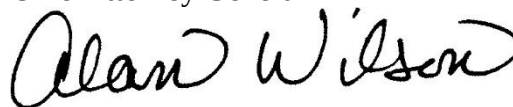
Wayne Stenehjem
North Dakota Attorney General



Dave Yost
Ohio Attorney General



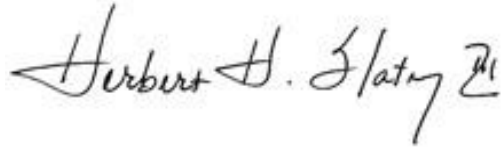
Mike Hunter
Oklahoma Attorney General



Alan Wilson
South Carolina Attorney General



Jason R. Ravensborg
South Dakota Attorney General



Herbert H. Slatery III
Tennessee Attorney General



Ken Paxton
Texas Attorney General



Patrick Morrissey
West Virginia Attorney General



GEORGIA DEPARTMENT OF LAW

CHRISTOPHER M. CARR
ATTORNEY GENERAL

40 Capitol Square SW
Atlanta, Georgia 30334-1300

www.law.ga.gov
(404) 656-3300

May 11, 2020

The Honorable Lindsey Graham
Chairman
Senate Committee on the Judiciary
290 Russell Senate Office Building
Washington, DC 20510

The Honorable Diane Feinstein
Ranking Member
Senate Committee on the Judiciary
331 Hart Senate Office Building
Washington, DC 20510

The Honorable Mitch McConnell
Majority Leader
317 Russell Senate Office Building
Washington, DC 20510

The Honorable Charles Schumer
Minority Leader
322 Hart Senate Office Building
Washington, DC 20510

Re: State Attorneys General on COVID-19 Pandemic Liability Protections

Dear Chairman Graham and Ranking Member Feinstein,

As Attorneys General, it is our responsibility to protect the interests of the residents of our states. Notably, it is the role of the Attorney General to help maintain a stable legal and regulatory environment. It is tragic that the COVID-19 pandemic has caused widespread loss of life, and it is also tragic that people have lost their jobs, been forced to shut down their businesses and had to completely abandon traditional activities in their daily lives and places of work. To avoid even greater damage to our economy and people's lives, it is important that we are able to restart our free enterprise system, safely and appropriately.

As we reopen our economies, the need for a stable, predictable legal environment has never been greater. The COVID-19 pandemic is likely to create a surge in civil litigation targeting well-intentioned businesses for taking pandemic mitigation measures; therefore, this country is in need of a common-sense framework to provide liability protections for much-needed goods and services while still ensuring victims are able to seek legal redress and compensation where appropriate.

On the one hand, our economy will only recover if customers and employees have the confidence to return to the marketplace, and, on the other, businesses need clearly defined expectations for the safe and appropriate continuance of operations while being protected from devastating civil liability litigation concerning baseless COVID-related claims.

States across the country have recognized the need for timely, targeted and tailored civil liability protections in light of the pandemic - to date 23 states have enacted liability protections for first responders and healthcare workers. In the wake of this unprecedented crisis, the extension of appropriate post-pandemic liability protections is needed at both the state and federal levels for businesses, manufacturers of personal protective equipment, first responders, healthcare workers, healthcare facilities, and members of law enforcement, among others.

The undersigned state Attorneys General, representing 21 states, are joining together to urge Congress, with insight and assistance from groups like the U.S. Chamber of Commerce (and its Institute for Legal Reform) and the President's Congressional Economic Task Force, to enact specific liability protections that help mitigate the threat of frivolous COVID-related litigation and address pandemic protections that are not currently covered in federal law, such as the SAFETY Act and PREP Act. Civil liability protections should not, however, be extended to businesses engaging in willful misconduct, reckless infliction of harm or intentional infliction of harm. We believe criminal penalties, regulatory fines and agency oversight should be able to capture bad actors and civil lawsuits should be available for any citizens hurt by a business or individual acting with disregard for safety during the COVID-19 pandemic.

In doing so, we request that these federal liability protections set a foundation for states to build upon. Any federal legislation must preserve states' autonomy and ability to add additional state-tailored protections against frivolous litigation, through state legislation and executive order, based on each one's unique circumstances. Additionally, these civil liability protections should be extended to all businesses and non-profit organizations, without regard to size or for-profit or not-for-profit status, that work in good faith to comply with guidance provided by government authorities and consistent with industry best practices as our states move to restart their economies.

We are confident your efforts will lead to meaningful results for our states, and we look forward to supporting the implementation of this type of legislation in any way we can.

Sincerely,

A handwritten signature in blue ink, appearing to read "Christopher Carr".

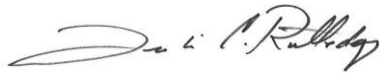
Christopher M. Carr
Georgia Attorney General



Steve Marshall
Alabama Attorney General



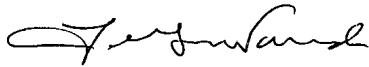
Kevin G. Clarkson
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Ashley Moody
Florida Attorney General



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Curtis T. Hill, Jr.
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Derek Schmidt
Kansas Attorney General



Daniel Cameron
Kentucky Attorney General



Jeff Landry
Louisiana Attorney General



Lynn Fitch
Mississippi Attorney General



Eric S. Schmitt
Missouri Attorney General



Douglas Peterson
Nebraska Attorney General



Wayne Stenehjem
North Dakota Attorney General



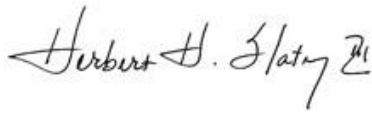
David Yost
Ohio Attorney General



Alan Wilson
South Carolina Attorney General



Jason R. Ravensborg
South Dakota Attorney General



Herbert H. Slatery III
Tennessee Attorney General



Ken Paxton
Texas Attorney General



Sean Reyes
Utah Attorney General



Patrick Morrisey
West Virginia Attorney General

From: Lauren Cassedy
To: dominick@checkyourfact.com
Subject: Re: MEDIA REQUEST FOR COMMENT - "Image Claims to Show Shredded Pro-Trump Ballot From Pensacola"
Date: Wednesday, November 4, 2020 3:15:38 PM

Hi Dominick,

Thanks for reaching out. Still working on your request and hope to have more information by 430PM.

Lauren Schenone Cassedy

From: Dominick Porcella <dominick@checkyourfact.com>
Sent: Wednesday, November 4, 2020 11:27 AM
To: Kylie Mason <Kylie.Mason@myfloridalegal.com>
Subject: MEDIA REQUEST FOR COMMENT - "Image Claims to Show Shredded Pro-Trump Ballot From Pensacola"

Dear Kylie Mason:

My name is Dominick Porcella, and I am fact check reporter with the Daily Caller.

I called the Florida AG Office, and they redirected me to you as Press Secretary.

There is a post going around Facebook and elsewhere that claims to show shredded pro-Trump ballots from a Pensacola polling station.

Based on our research, this does not appear to be the case and the tweet is a false claim.

Can you comment on the validity of the tweet or if the AG office is aware of it?

I look forward to your response. My deadline is 1 p.m. Eastern with flexibility.

Thank you,

Dominick Porcella

From: [Lauren Cassedy](#)
To: [Steve Contorno](#)
Subject: Re: Deadline
Date: Friday, November 20, 2020 4:24:32 PM

Below is a statement attributable to me -

"Florida supports the principle that a state's legislature, not its courts on the eve of an election, should determine a state's election laws. It is in Florida's interest to ensure clarity and finality of future elections."

The states' interest is explained at length in the brief on pages 1-3

Please see brief below -

https://ago.mo.gov/docs/default-source/press-releases/2020-11-09---republican-party-of-pa-v-boockvar---amicus-brief-of-missouri-et-al---final-with-tables.pdf?sfvrsn=e8b821a6_2

Thanks,

Lauren Schenone Cassedy

From: Steve Contorno <scontorno@tampabay.com>
Sent: Friday, November 20, 2020 12:17 PM
To: Lauren Cassedy <Lauren.Cassedy@myfloridalegal.com>
Subject: Re: Deadline

No worries. By 4 p.m. would be great.

From: Lauren Cassedy <Lauren.Cassedy@myfloridalegal.com>
Sent: Friday, November 20, 2020 12:14 PM
To: Steve Contorno <scontorno@tampabay.com>
Subject: Deadline

CAUTION: External Sender

Hi Steve,

Forgot to ask what your deadline was for the story.

Thanks

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CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

From: [Lauren Cassedy](#)
To: [Rajkumar, Victoria L](#)
Subject: Re: Hello from Bay News 9 - Political Connections Interview
Date: Thursday, November 12, 2020 12:56:01 PM

Hi Victoria,

Sorry for the delay - unfortunately, we aren't able to make it this week but please keep us in mind for future opportunities.

From: Rajkumar, Victoria L <Victoria.Rajkumar@charter.com>
Sent: Thursday, November 12, 2020 11:02 AM
To: Lauren Cassedy <Lauren.Cassedy@myfloridalegal.com>
Subject: RE: Hello from Bay News 9 - Political Connections Interview

Hi Lauren!

I wanted to check back to see if this was still a possibility given the storm? We would still like to do the interview if possible, but understand if she is swamped right now.

-Victoria

From: Lauren Cassedy [mailto:Lauren.Cassedy@myfloridalegal.com]
Sent: Tuesday, November 10, 2020 4:45 PM
To: Rajkumar, Victoria L
Subject: [EXTERNAL] Re: Hello from Bay News 9 - Political Connections Interview

CAUTION: The e-mail below is from an external source. Please exercise caution before opening attachments, clicking links, or following guidance.

Hi Victoria,

Thanks for reaching out. I will check our availability for later this week and check back in with you.

Lauren Schenone Cassedy

From: Rajkumar, Victoria L <Victoria.Rajkumar@charter.com>
Sent: Tuesday, November 10, 2020 4:24 PM
To: Skylar Swanson <Skylar.Swanson@myfloridalegal.com>
Subject: Hello from Bay News 9 - Political Connections Interview

Hi Skylar,

Would the Attorney General be available for a Skype interview this week to air this Sunday on *Political Connections*?

We were thinking of discussing more about the link below, and any other topics she would like to hit

on as well.

<https://www.sun-sentinel.com/news/politics/elections/fl-ne-moody-trump-election-fight-20201110-vdn6os3jt5g2xmo6i7tt5s43sm-story.html>

The interview would be conducted by Holly Gregory. We have availability tonight, tomorrow-Friday at your earliest convenience.

Thank you,



Victoria Rajkumar | Executive Producer | Spectrum Bay News 9
700 Carillon Parkway, Suite 9 | St. Petersburg, FL 33716 | Ph: 727-687-1904

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From: [Lauren Cassedy](#)
To: Victoria.Rajkumar@charter.com
Subject: Re: Hello from Bay News 9 - Political Connections Interview
Date: Tuesday, November 10, 2020 4:45:14 PM

Hi Victoria,

Thanks for reaching out. I will check our availability for later this week and check back in with you.

Lauren Schenone Cassedy

From: Rajkumar, Victoria L <Victoria.Rajkumar@charter.com>
Sent: Tuesday, November 10, 2020 4:24 PM
To: Skylar Swanson <Skylar.Swanson@myfloridalegal.com>
Subject: Hello from Bay News 9 - Political Connections Interview

Hi Skylar,

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<https://www.sun-sentinel.com/news/politics/elections/fl-ne-moody-trump-election-fight-20201110-vdn6os3jt5g2xmo6i7tt5s43sm-story.html>

The interview would be conducted by Holly Gregory. We have availability tonight, tomorrow-Friday at your earliest convenience.

Thank you,



Victoria Rajkumar | Executive Producer | Spectrum Bay News 9
700 Carillon Parkway, Suite 9 | St. Petersburg, FL 33716 | Ph: 727-687-1904

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From: [Lauren Cassedy](#)
To: [Kylie Mason](#)
Subject: Fwd: Reporter question for Moody - Issac Morgan, FL Phoenix
Date: Tuesday, November 10, 2020 4:14:46 PM

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From: Issac Morgan <imorgan@floridaphoenix.com>
Sent: Monday, November 9, 2020 12:48 PM
To: Lauren Cassedy
Subject: Re: Reporter question for Moody - Issac Morgan, FL Phoenix

Hello, thanks a lot and will include it in my story.

Issac

On Mon, Nov 9, 2020 at 10:51 AM Lauren Cassedy <Lauren.Cassedy@myfloridalegal.com> wrote:

Hi Isaac,

I'm so sorry for the delay. This was stuck in my outbox this morning. Please see the statement below which is attributable to me -

"Attorney General Moody has consistently supported the protection of those with pre-existing conditions and has successfully advocated the Florida Legislature to make changes to do so for all Floridians.

"Our office is party to this litigation and it would not be appropriate to discuss the ongoing proceedings."

Thanks,

Lauren Schenone Cassedy
Director of Public Affairs

From: Issac Morgan <imorgan@floridaphoenix.com>
Sent: Thursday, November 5, 2020 1:22 PM
To: Kylie Mason <Kylie.Mason@myfloridalegal.com>
Subject: Re: Reporter question for Moody - Issac Morgan, FL Phoenix

Hello Kylie,

I am on deadline (Monday 10 a.m.) working on another story about health care in Florida. If possible, any comment from Attorney General Moody about the upcoming oral arguments for the Obamacare

case? Reportedly, a Florida group sent her a letter asking for withdrawal from the case, saying millions would lose health insurance. Any comment on that?

Thanks,
Issac Morgan

On Fri, Oct 30, 2020 at 4:36 PM Kylie Mason <Kylie.Mason@myfloridalegal.com> wrote:

Isaac,

Please see that statement below:

"The Attorney General condemns hate, and any and all acts of voter intimidation. Violence and threats cannot be tolerated in our elections process. Voters must be allowed to exercise their right to vote without fear or intimidation and law enforcement must stand ready to assist if these acts occur."

Also, we are aware of one inquiry to our office about voter intimidation. Please see the inquiry below. You may also want to reach out to local authorities for more information.

Thank you,

Kylie

Kylie Mason

Press Secretary

Office of the Attorney General Ashley Moody
Kylie.Mason@MyFloridaLegal.com
(850) 245-0150

PL-01, The Capitol
Tallahassee, Florida 32399

From: attorney.general@myfloridalegal.com
To: DRVEASEY@VERIZON.NET
Subject: From the Florida Attorney General's Office
Date: 10/23/2020 02:04:06 PM

Dear Donald Veasey,

Florida Attorney General Ashley Moody received your correspondence regarding your concerns with voter intimidation. Attorney General Moody asked that I respond.

The investigation and prosecution of potential violations of criminal law are under the jurisdiction of the local police or sheriff and elected state attorney. Those authorities operate independently and are not part of the Attorney General's Office. Should you wish to express your concerns with the Pinellas County

Sheriff's Office, they can be reached at:

The Honorable Bob Gualtieri
Sheriff of Pinellas County
Phone: (727) 582-6200
Website: www.pcsoweb.com

In addition, oversight of Florida's election system and voting process is under the purview of the Florida Department of State (DOS), Division of Elections, and the local county supervisors of elections. You may also wish to contact those agencies to voice your concerns:

Florida Department of State
Division of Elections
Telephone: (850) 245-6200
Website: <http://dos.myflorida.com/elections/>
Voter Assistance Hotline: (866) 308-6739
Voter Fraud Hotline: (877) 868-3737
Voter Fraud Website: <http://dos.myflorida.com/elections/contacts/elections-fraud-complaint>

Pinellas County Supervisor of Elections
Election Service Center
Starkey Lakes Corporate Center
Phone: (727) 464-8683
Website: <http://www.votepinellas.com>

Thank you for contacting Attorney General Moody's office. I hope this proves helpful.

Sincerely,

Lauralyn Hudgins
Office of Citizen Services
Florida Attorney General's Office
PL-01, The Capitol
Tallahassee, Florida 32399-1050
Telephone: (850) 414-3990
Toll-free within Florida: (866) 966-7226
Website: www.myfloridalegal.com

PLEASE DO NOT REPLY TO THIS E-MAIL. THIS ADDRESS IS FOR PROCESSING ONLY.

To contact this office please visit the Attorney General's website at www.myfloridalegal.com and complete the on-line contact form. Again, thank you for contacting the Office of the Florida Attorney General.

INTERNET MESSAGE RECEIVED BY THE ATTORNEY GENERAL'S OFFICE ON 10/22/2020

Donald Veasey
3020 Minuteman Ln
Brandon, FL 33511
Phone: (813) 380-6179
Email: drveasey@verizon.net

RE: 2020 Elections St. Pete Polling station
501 1st Ave N
Saint Petersburg, FL 33701
Website: n/a
Transaction Date: 10/21/2020
Amount Paid: 0.00

Subject: Election Voter Intimidation in Saint Petersburg

It was reported that yesterday two armed "security guards" set up a tent in front of the early voting polling site stating that they had been hired by the Trump Campaign. This is clearly voter intimidation and as a citizen of the State of Florida and asking for an investigation of these two individuals and the organization that hired them.

<https://www.wtsp.com/article/news/local/armed-guards-hired-by-trump-campaign-show-up-to-early-voting-site-election-officials-say/67-5e8dcb65-f72a-41e1-8e84-90d83ddc952e>

From: Issac Morgan <imorgan@floridaphoenix.com>

Sent: Friday, October 30, 2020 9:58 AM

To: Kylie Mason <Kylie.Mason@myfloridalegal.com>

Subject: Reporter question for Moody - Issac Morgan, FL Phoenix

Hello Kylie,

I am working on deadline on story about voter intimidation in Florida. If possible, I wanted to know if Moody has responded to the attached letter from Common Cause regarding issuing a statement to the public about voter intimidation. Has this been an issue in FL amid the election?

Thanks,

Issac Morgan

850.491.3202

floridaphoenix.com

From: [Lauren Cassedy](#)
To: [Kennedy, John](#)
Subject: RE: Hi Kylie: Do you have a copy of the Trump brief filed w/SCOTUS?
Date: Tuesday, November 10, 2020 1:01:00 PM
Attachments: [image001.png](#)

Hi John,

Please see brief below –

- https://ago.mo.gov/docs/default-source/press-releases/2020-11-09---republican-party-of-pa-v-boockvar---amicus-brief-of-missouri-et-al---final-with-tables.pdf?sfvrsn=e8b821a6_2

Florida supports the principle that a state's legislature, not its courts on the eve of an election, should determine a state's election laws. It is in Florida's interest to ensure clarity and finality of future elections.

Thanks,



Lauren Schenone Cassedy
Director of Public Affairs
Office of the Attorney General
Tel.: (813) 928-1150
Lauren.Cassedy@MyFloridaLegal.com

From: Kennedy, John <jkennedy@gatehousemedia.com>
Sent: Tuesday, November 10, 2020 11:59:21 AM
To: Kylie Mason <Kylie.Mason@myfloridalegal.com>
Subject: Hi Kylie: Do you have a copy of the Trump brief filed w/SCOTUS?

This is the lawsuit seeking to overturn the Pennsylvania law allowing counting of ballots received after Nov. 3.

I'm assuming Atty Gen. Moody simply added her name. But if she filed any documents in addition, I'd welcome...

Thank you!

John

John Kennedy
Gannett Capital Bureau
@JKennedyReport
jkennedy@gatehousemedia.com
850-321-0572

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From: [Lauren Cassedy](#)
To: [Karen](#)
Subject: Re: Brief AG interview or statement request
Date: Tuesday, November 10, 2020 11:05:09 AM

Will do. Call or email me anytime for future stories - my cell is 813.928.1150

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From: Karen <kmurphy@embarqmail.com>
Sent: Tuesday, November 10, 2020 11:04 AM
To: Lauren Cassedy
Subject: Re: Brief AG interview or statement request

Thank you! If she changes her mind or would like to talk later, please let me know.

Karen Murphy

Sent from my iPhone

On Nov 10, 2020, at 10:58 AM, Lauren Cassedy
<Lauren.Cassedy@myfloridalegal.com> wrote:

Hi Karen,

Thanks for reaching out. I don't believe we will have availability today for an interview but below is a statement you can include in your reporting.

"Florida supports the principle that a state's legislature, not its courts on the eve of an election, should determine a state's election laws. It is in Florida's interest to ensure clarity and finality of future elections."

Please see brief below for more information - https://ago.mo.gov/docs/default-source/press-releases/2020-11-09---republican-party-of-pa-v-boockvar---amicus-brief-of-missouri-et-al---final-with-tables.pdf?sfvrsn=e8b821a6_2

Thanks,

Lauren Schenone Cassedy

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From: Karen Murphy <kmurphy@embarqmail.com>
Sent: Tuesday, November 10, 2020 10:10 AM
To: Lauren Cassedy
Subject: Brief AG interview or statement request

Ms. Cassidy,

I am a journalist with *The Capitolist*, a right of center business/politics news organization here in Florida. I saw AG Moody has joined the ballot count and would love to give her the opportunity to tell why she has joined this fight and to confront accusations that she is somehow doing something wrong, “using public funds,” etc.

If I could speak with her briefly or get her statement today, I would be very appreciative. Please let me know how to proceed.

I can be reached at this email or my landline (850) 894-3712 or cell (850)766-6713.

Karen Murphy
Sent from my iPad

From: [Lauren Cassedy](#)
To: [Karen Murphy](#)
Subject: Re: Brief AG interview or statement request
Date: Tuesday, November 10, 2020 10:58:36 AM

Hi Karen,

Thanks for reaching out. I don't believe we will have availability today for an interview but below is a statement you can include in your reporting.

"Florida supports the principle that a state's legislature, not its courts on the eve of an election, should determine a state's election laws. It is in Florida's interest to ensure clarity and finality of future elections."

Please see brief below for more information - https://ago.mo.gov/docs/default-source/press-releases/2020-11-09---republican-party-of-pa-v-boockvar---amicus-brief-of-missouri-et-al---final-with-tables.pdf?sfvrsn=e8b821a6_2

Thanks,

Lauren Schenone Cassedy

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From: Karen Murphy <kmurphy@embarqmail.com>
Sent: Tuesday, November 10, 2020 10:10 AM
To: Lauren Cassedy
Subject: Brief AG interview or statement request

Ms. Cassedy,

I am a journalist with *The Capitolist*, a right of center business/politics news organization here in Florida. I saw AG Moody has joined the ballot count and would love to give her the opportunity to tell why she has joined this fight and to confront accusations that she is somehow doing something wrong, "using public funds," etc.

If I could speak with her briefly or get her statement today, I would be very appreciative. Please let me know how to proceed.

I can be reached at this email or my landline (850) 894-3712 or cell (850)766-6713.

Karen Murphy
Sent from my iPad

From: [Lauren Cassedy](#)
To: [Daniel Olson](#)
Subject: Fwd: Florida weighing in
Date: Monday, November 9, 2020 4:28:46 PM

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From: Gary Fineout <gfineout@politico.com>
Sent: Monday, November 9, 2020 4:21:54 PM
To: Lauren Cassedy <Lauren.Cassedy@myfloridalegal.com>
Subject: RE: Florida weighing in

Ok, thanks. So you are all joining in. Got it.

From: Lauren Cassedy <Lauren.Cassedy@myfloridalegal.com>
Sent: Monday, November 9, 2020 4:20 PM
To: Gary Fineout <gfineout@politico.com>
Subject: Re: Florida weighing in

EXTERNAL SENDER: Use caution with links and attachments.

That is incorrect. No state has yet certified its election results.

Florida supports the principle that a state's legislature, not its courts on the eve of an election, should determine a state's election laws. It is in Florida's interest to ensure clarity and finality of future elections.

Please see brief below -

https://ago.mo.gov/docs/default-source/press-releases/2020-11-09---republican-party-of-pa-v-boockvar---amicus-brief-of-missouri-et-al---final-with-tables.pdf?sfvrsn=e8b821a6_2

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From: Gary Fineout <gfineout@politico.com>
Sent: Monday, November 9, 2020 2:57 PM
To: Lauren Cassedy
Subject: Florida weighing in

Good day

Is Florida joining with other states in attempting to overturn the outcome of the election?

Thanks

From: [Lauren Cassedy](#)
To: [Kylie Mason](#)
Subject: Fwd: Florida weighing in
Date: Monday, November 9, 2020 4:24:41 PM

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From: Gary Fineout <gfineout@politico.com>
Sent: Monday, November 9, 2020 4:21:54 PM
To: Lauren Cassedy <Lauren.Cassedy@myfloridalegal.com>
Subject: RE: Florida weighing in

Ok, thanks. So you are all joining in. Got it.

From: Lauren Cassedy <Lauren.Cassedy@myfloridalegal.com>
Sent: Monday, November 9, 2020 4:20 PM
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Sent: Monday, November 9, 2020 2:57 PM
To: Lauren Cassedy
Subject: Florida weighing in

Good day

Is Florida joining with other states in attempting to overturn the outcome of the election?

Thanks

From: [Lauren Cassedy](#)
To: [Gary Fineout](#)
Subject: Re: Florida weighing in
Date: Monday, November 9, 2020 4:19:57 PM

That is incorrect. No state has yet certified its election results.

Florida supports the principle that a state's legislature, not its courts on the eve of an election, should determine a state's election laws. It is in Florida's interest to ensure clarity and finality of future elections.

Please see brief below -

https://ago.mo.gov/docs/default-source/press-releases/2020-11-09---republican-party-of-pa-v-boockvar---amicus-brief-of-missouri-et-al---final-with-tables.pdf?sfvrsn=e8b821a6_2

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From: Gary Fineout <gfineout@politico.com>
Sent: Monday, November 9, 2020 2:57 PM
To: Lauren Cassedy
Subject: Florida weighing in

Good day

Is Florida joining with other states in attempting to overturn the outcome of the election?

Thanks

From: [Lauren Cassedy](#)
To: imorgan@floridaphoenix.com
Subject: Re: Reporter question for Moody - Issac Morgan, FL Phoenix
Date: Monday, November 9, 2020 10:51:30 AM
Attachments: [image005.png](#)

Hi Isaac,

I'm so sorry for the delay. This was stuck in my outbox this morning. Please see the statement below which is attributable to me -

"Attorney General Moody has consistently supported the protection of those with pre-existing conditions and has successfully advocated the Florida Legislature to make changes to do so for all Floridians.

"Our office is party to this litigation and it would not be appropriate to discuss the ongoing proceedings."

Thanks,

Lauren Schenone Cassedy
Director of Public Affairs

From: Issac Morgan <imorgan@floridaphoenix.com>
Sent: Thursday, November 5, 2020 1:22 PM
To: Kylie Mason <Kylie.Mason@myfloridalegal.com>
Subject: Re: Reporter question for Moody - Issac Morgan, FL Phoenix

Hello Kylie,

I am on deadline (Monday 10 a.m.) working on another story about health care in Florida. If possible, any comment from Attorney General Moody about the upcoming oral arguments for the Obamacare case? Reportedly, a Florida group sent her a letter asking for withdrawal from the case, saying millions would lose health insurance. Any comment on that?

Thanks,
Issac Morgan

On Fri, Oct 30, 2020 at 4:36 PM Kylie Mason <Kylie.Mason@myfloridalegal.com> wrote:

Isaac,

Please see that statement below:

"The Attorney General condemns hate, and any and all acts of voter intimidation. Violence and

threats cannot be tolerated in our elections process. Voters must be allowed to exercise their right to vote without fear or intimidation and law enforcement must stand ready to assist if these acts occur.”

Also, we are aware of one inquiry to our office about voter intimidation. Please see the inquiry below. You may also want to reach out to local authorities for more information.

Thank you,

Kylie



Kylie Mason

Press Secretary

Office of the Attorney General Ashley Moody
Kylie.Mason@MyFloridaLegal.com
(850) 245-0150

PL-01, The Capitol
Tallahassee, Florida 32399



From: attorney.general@myfloridalegal.com
To: DRVEASEY@VERIZON.NET
Subject: From the Florida Attorney General's Office
Date: 10/23/2020 02:04:06 PM

Dear Donald Veasey,

Florida Attorney General Ashley Moody received your correspondence regarding your concerns with voter intimidation. Attorney General Moody asked that I respond.

The investigation and prosecution of potential violations of criminal law are under the jurisdiction of the local police or sheriff and elected state attorney. Those authorities operate independently and are not part of the Attorney General's Office. Should you wish to express your concerns with the Pinellas County Sheriff's Office, they can be reached at:

The Honorable Bob Gualtieri
Sheriff of Pinellas County
Phone: (727) 582-6200
Website: www.pcsoweb.com

In addition, oversight of Florida's election system and voting process is under the purview of the Florida Department of State (DOS), Division of Elections, and the local county supervisors of elections. You may also wish to contact those agencies to voice your concerns:

Florida Department of State
Division of Elections

Telephone: (850) 245-6200
Website: <http://dos.myflorida.com/elections/>
Voter Assistance Hotline: (866) 308-6739
Voter Fraud Hotline: (877) 868-3737
Voter Fraud Website: <http://dos.myflorida.com/elections/contacts/elections-fraud-complaint>

Pinellas County Supervisor of Elections
Election Service Center
Starkey Lakes Corporate Center
Phone: (727) 464-8683
Website: <http://www.votePinellas.com>

Thank you for contacting Attorney General Moody's office. I hope this proves helpful.

Sincerely,

Lauralyn Hudgins
Office of Citizen Services
Florida Attorney General's Office
PL-01, The Capitol
Tallahassee, Florida 32399-1050
Telephone: (850) 414-3990
Toll-free within Florida: (866) 966-7226
Website: www.myfloridalegal.com

PLEASE DO NOT REPLY TO THIS E-MAIL. THIS ADDRESS IS FOR PROCESSING ONLY.

To contact this office please visit the Attorney General's website at www.myfloridalegal.com and complete the on-line contact form. Again, thank you for contacting the Office of the Florida Attorney General.

INTERNET MESSAGE RECEIVED BY THE ATTORNEY GENERAL'S OFFICE ON 10/22/2020

Donald Veasey
3020 Minuteman Ln
Brandon, FL 33511
Phone: (813) 380-6179
Email: drveasey@verizon.net

RE: 2020 Elections St. Pete Polling station
501 1st Ave N
Saint Petersburg, FL 33701
Website: n/a
Transaction Date: 10/21/2020
Amount Paid: 0.00

Subject: Election Voter Intimidation in Saint Petersburg

It was reported that yesterday two armed "security guards" set up a tent in front of the early voting polling site stating that they had been hired by the Trump Campaign. This is clearly voter intimidation and as a citizen of the State of Florida and asking for an investigation of these two individuals and the organization that hired them.
<https://www.wtsp.com/article/news/local/armed-guards-hired-by-trump-campaign-sho-w-up-to-early-voting-site-election-officials-say/67-5e8dcb65-f72a-41e1-8e84-90d83ddc952e>

From: Issac Morgan <imorgan@floridaphoenix.com>

Sent: Friday, October 30, 2020 9:58 AM

To: Kylie Mason <Kylie.Mason@myfloridalegal.com>

Subject: Reporter question for Moody - Issac Morgan, FL Phoenix

Hello Kylie,

I am working on deadline on story about voter intimidation in Florida. If possible, I wanted to know if Moody has responded to the attached letter from Common Cause regarding issuing a statement to the public about voter intimidation. Has this been an issue in FL amid the election?

Thanks,

Issac Morgan

850.491.3202

floridaphoenix.com

From: [Lauren Cassedy](#)
To: [Kym Oswald](#)
Subject: Media inquiry
Date: Wednesday, November 4, 2020 12:16:00 PM
Attachments: [image006.png](#)
[image001.png](#)

Hi Kym,

Can you check to see if we have any relevant complaints to the inquiry below and call me back at my cell (813.928.1150) to discuss?

Thank you!



Lauren Schenone Cassedy
Director of Public Affairs
Office of the Attorney General
Tel.: (813) 928-1150
Lauren.Cassedy@MyFloridaLegal.com

INQUIRY:

My name is Dominick Porcella, and I am fact check reporter with the Daily Caller.

I called the Florida AG Office, and they redirected me to you as Press Secretary.

There is a post going around Facebook and elsewhere that claims to show shredded pro-Trump ballots from a Pensacola polling station.



Marty
@martymoogles

...

Up early and working at the polling stations in Pensacola and boy (don't spread this around lol) I am shredding up so many Trump ballots, fuck it who cares



7:05 AM · Nov 3, 2020 · Twitter for iPhone

Based on our research, this does not appear to be the case and the tweet is a false claim.

Can you comment on the validity of the tweet or if the AG office is aware of it?

From: [Lauren Cassedy](#)
To: [Ray Roa](#)
Cc: [Kylie Mason](#)
Subject: RE: Kylie, has AG Moody's office received any complaints about armed people at polls?
Date: Friday, October 30, 2020 10:15:00 AM
Attachments: [image001.png](#)

Hi Ray,

Following up on your request. Our office is only aware of one inquiry at this time. Please see inquiry below. Additionally, you may also want to reach out to local authorities for more information.

Thanks,



Lauren Schenone Cassedy
Director of Public Affairs
Office of the Attorney General
Tel.: (813) 928-1150
Lauren.Cassedy@MyFloridaLegal.com

From: attorney.general@myfloridalegal.com
To: DRVEASEY@VERIZON.NET
Subject: From the Florida Attorney General's Office
Date: 10/23/2020 02:04:06 PM

Dear Donald Veasey,

Florida Attorney General Ashley Moody received your correspondence regarding your concerns with voter intimidation. Attorney General Moody asked that I respond.

The investigation and prosecution of potential violations of criminal law are under the jurisdiction of the local police or sheriff and elected state attorney. Those authorities operate independently and are not part of the Attorney General's Office. Should you wish to express your concerns with the Pinellas County Sheriff's Office, they can be reached at:

The Honorable Bob Gualtieri
Sheriff of Pinellas County
Phone: (727) 582-6200
Website: www.pcsoweb.com

In addition, oversight of Florida's election system and voting process is under the purview of the Florida Department of State (DOS), Division of Elections, and the local county supervisors of elections. You may also wish to contact those agencies to voice your concerns:

Florida Department of State
Division of Elections
Telephone: (850) 245-6200
Website: <http://dos.myflorida.com/elections/>
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Voter Fraud Hotline: (877) 868-3737

Voter Fraud Website: <http://dos.myflorida.com/elections/contacts/elections-fraud-complaint>

Pinellas County Supervisor of Elections
Election Service Center
Starkey Lakes Corporate Center
Phone: (727) 464-8683
Website: <http://www.votepinellas.com>

Thank you for contacting Attorney General Moody's office. I hope this proves helpful.

Sincerely,

Lauralyn Hudgins
Office of Citizen Services
Florida Attorney General's Office
PL-01, The Capitol
Tallahassee, Florida 32399-1050
Telephone: (850) 414-3990
Toll-free within Florida: (866) 966-7226
Website: www.myfloridalegal.com

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INTERNET MESSAGE RECEIVED BY THE ATTORNEY GENERAL'S OFFICE ON 10/22/2020

Donald Veasey
3020 Minuteman Ln
Brandon, FL 33511
Phone: (813) 380-6179
Email: drveasey@verizon.net

RE: 2020 Elections St. Pete Polling station
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Subject: Election Voter Intimidation in Saint Petersburg

It was reported that yesterday two armed "security guards" set up a tent in front of the early voting polling site stating that they had been hired by the Trump Campaign. This is clearly voter intimidation and as a citizen of the State of Florida and asking for an investigation of these two individuals and the organization that hired them.
<https://www.wtsp.com/article/news/local/armed-guards-hired-by-trump-campaign-show-up-to-early-voting-site-election-officials-say/67-5e8dcb65-f72a-41e1-8e84-90d83ddc952e>

From: Ray Roa <rroa@cltampa.com>

Sent: Wednesday, October 28, 2020 1:57 PM

To: Lauren Cassedy <Lauren.Cassedy@myfloridalegal.com>

Subject: Re: Kylie, has AG Moody's office received any complaints about armed people at polls?

Any update before the weekend is helpful. Thanks.

On Wed, Oct 28, 2020 at 1:56 PM Lauren Cassedy <Lauren.Cassedy@myfloridalegal.com> wrote:

Hi Ray,

Sorry we missed your inquiry earlier. We are looking into this for you now. What is your deadline?

Thanks,



Lauren Schenone Cassedy
Director of Public Affairs
Office of the Attorney General Ashley Moody
813.928.1150
Lauren.Cassedy@MyFloridaLegal.com

PL-01, The Capitol
Tallahassee, FL 32399

****The State of Florida has a broad public records law. Most written communications, including emails, to and from state officials are public records subject to disclosure upon request****

From: Ray Roa <rroa@cltampa.com>

Sent: Wednesday, October 28, 2020 12:35 PM

To: Kylie Mason <Kylie.Mason@myfloridalegal.com>

Cc: Colin Wolf <cwolf@cltampa.com>

Subject: Re: Kylie, has AG Moody's office received any complaints about armed people at polls?

Just circling back here, Kylie. Thanks!

On Thu, Oct 22, 2020 at 12:00 PM Ray Roa <rroa@cltampa.com> wrote:

In other states, there are investigations regarding advertisements calling for private guards at polling places, and in the light of yesterday's incident in St Petersburg where the sheriff said armed men were sent by private security company based out of Destin I was wondering if your office is looking into any complaints about arm guards at polling stations or advertisements for armed guards during the election. Thanks for your help.

Ray Roa
Editor-In-Chief cltampa.com
rroa@cltampa.com
(813) 789-4800 (ext. *14)

204 E. Henderson Ave. Tampa FL 33602

sent from a phone, so expect more typos than usual

--

—

Ray Roa ([@rayroa](#))

(he/him)

Editor-In-Chief

Creative Loafing Tampa ([@cl_tampabay](#))

rroa@cltampa.com

o: 813.739.4800 (ext. 1002)

204 E. Henderson Ave. Tampa, FL 33602

--

—

Ray Roa ([@rayroa](#))

(he/him)

Editor-In-Chief

Creative Loafing Tampa ([@cl_tampabay](#))

rroa@cltampa.com

o: 813.739.4800 (ext. 1002)

204 E. Henderson Ave. Tampa, FL 33602

From: [Charles Trippe](#)
To: [Richard Martin](#)
Subject: FW: Polk County amicus brief
Date: Tuesday, October 27, 2020 12:16:14 PM
Attachments: [image003.png](#)

FYI

From: Barbalich, Lauren <BarbalichL@ag.louisiana.gov>
Sent: Tuesday, October 27, 2020 12:14 PM
To: Wald, Sherri <Sherri.Wald@state.sd.us>; Kristi Johnson <Kristi.Johnson@ago.ms.gov>; Emory Smith <ESmith@scag.gov>; Charles Trippe <Charles.Trippe@myfloridalegal.com>; Schatz, Samson (OAG) <Samson.Schatz@dc.gov>; Kindall, Clare <Clare.Kindall@ct.gov>; Roysden, Beau <Beau.Roysden@azag.gov>
Cc: Lopez, Dave <Dave.Lopez@huschblackwell.com>; Murrill, Elizabeth <MurrillE@ag.louisiana.gov>
Subject: Polk County amicus brief

Liz wanted me to check in to notify about status of signers for the amicus brief we are filing in *Polk County v. J.K.J* (20-427).

Arkansas & Indiana are the current signers and many other states have inquired about status.

The Court due date is 11/2 (we originally thought it was 10/29), so we do have some wiggle room if you need additional time to decide.

Sincerely,



Lauren F. Barbalich
Paralegal to Liz Murrill, Solicitor General
Office of Attorney General Jeff Landry
Phone: (225) 326-6739
www.AGJeffLandry.com

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From: [Richard Martin](#)
To: [John Guard](#)
Subject: FW: Scott R. Strauss Resume
Date: Monday, November 16, 2020 9:59:00 AM
Attachments: [Strauss, Scott - CV.pdf](#)
[image003.png](#)

John,
As discussed.



Richard H. Martin
Chief of Staff
Office of the Attorney General
PL-01 The Capitol | Tallahassee, FL 32399-1050
Tel.: (850) 245-0187
E-mail: Richard.Martin@myfloridalegal.com

From: Scott Strauss <scottstrauss@outlook.com>
Sent: Friday, November 13, 2020 11:55 PM
To: Richard Martin <Richard.Martin@myfloridalegal.com>
Subject: Scott R. Strauss Resume

Hi Richard,

I have attached a copy of my resume. If you have availability to speak next week, please let me know.

Thank you,

Scott R. Strauss

scottstrauss@outlook.com



Sent from [Mail](#) for Windows 10

From: [Richard Martin](#)
To: [Gary Howze](#)
Subject: FW: Urgent: Commissioner Final Chapter Review
Date: Monday, November 16, 2020 11:19:00 AM
Attachments: [Rule of Law 11132020.docx](#)
[image003.png](#)
Importance: High

Gary, Please review. I will give you a call.



Richard H. Martin
Chief of Staff
Office of the Attorney General
PL-01 The Capitol | Tallahassee, FL 32399-1050
Tel.: (850) 245-0187
E-mail: Richard.Martin@myfloridalegal.com

From: COPS Director <COPS.Director@usdoj.gov>
Sent: Friday, November 13, 2020 4:10 PM
Subject: Urgent: Commissioner Final Chapter Review
Importance: High

Good Afternoon, Commissioners:

Either Vice-Chair Sullivan and I have spoken to you in recent days to provide updates, but one of the few remaining items to complete the report is your final review of the last two chapters, which are the Technology Chapter and Respect for Law Enforcement and Rule of Law. As we discussed, we are quickly finalizing the other chapters and report material, and are asking for you to review and provide any feedback you have on these two chapters **no later than Monday, November 16 at 2 PM EST.**

Please note that these chapters will go through additional copy editing and layout, and based on copy editing and layout, the chapter and recommendation numbers will change in the final report.

On behalf of Attorney General Barr, know that your many contributions and dedication continue to be appreciated as we complete the final steps in preparation for the delivery of the report. Please don't hesitate to reach out to me if you have any questions, and thank you in advance for your review.

Regards,

Phil Keith, Chair
President's Commission on Law Enforcement and the Administration of Justice

From: COPS Director <COPSDirector@cops.usdoj.gov>
Sent: Friday, September 25, 2020 4:26 PM
To: COPS Director <COPSDirector@cops.usdoj.gov>
Subject: [encrypt] Urgent: Commissioner Final Chapter Review
Importance: High

Good Afternoon Commissioners:

Thank you again to those who provided comments on the first two sets of chapters that were sent for your final review. Attached is another batch of three chapters, and we again ask that you **provide your feedback to this email address no later than Monday, September 28 at 2 PM ET**. Note that you will have received all chapters, with the exception of the Technology and Respect for Law Enforcement and Rule of Law chapters, which will be provided for your review early next week.

Please note that these chapters will go through additional copy editing and layout, and based on copy editing and layout, the chapter and recommendation numbers will change in the final report.

As always, I appreciate your dedication as we complete these final steps in preparation for the delivery of the report to the Attorney General. Please don't hesitate to reach out to me if you have any questions, and thank you in advance for your review.

Regards,

Phil Keith, Chair
President's Commission on Law Enforcement and the Administration of Justice

From: COPS Director <COPSDirector@cops.usdoj.gov>
Sent: Wednesday, September 23, 2020 1:49 PM
To: COPS Director <COPSDirector@cops.usdoj.gov>
Subject: Urgent: Commissioner Final Chapter Review
Importance: High

Good Afternoon Commissioners:

Thank you to those of you who provided comments on the first set of chapters that were sent for your final review. As promised, attached is the second set of chapters, and we are again asking that you **provide your feedback to this email address within two business days or sooner, and no later than Friday, September 25 at 2 PM ET**. Again we appreciate your dedication as we complete the final steps necessary to produce the Commission report and deliver it to the Attorney General. Please don't hesitate to reach out to me if you have any questions, and thank you in advance for your review.

Regards,

Phil Keith, Chair
President's Commission on Law Enforcement and the Administration of Justice

From: COPS Director <COPSDirector@cops.usdoj.gov>

Sent: Monday, September 21, 2020 1:45 PM

To: COPS Director <COPSDirector@cops.usdoj.gov>

Subject: Urgent: Commissioner Final Chapter Review

Importance: High

Hello, Commissioners –

Over the last several weeks, we have been busy editing the chapters to ensure that the recommendations are as high-level and impactful as possible. We are still on track for a Commission report release in October, however we would appreciate one final round of Commissioner review and comment on these drafts. Please note that these chapters will go through additional copy editing and layout, so we ask that you please reserve your comments to any significant suggestions or questions. After copy editing and layout, the chapter and recommendation numbers will change in the final report once it is finalized.

We plan for sequencing this final review by sending you the first five chapters today, the second five chapters this Wednesday, and the final five chapters Friday. Because of the limited number of days remaining before the release of the report, we are asking that any comments on chapters for all three batches be provided back to this email address **within two business days or sooner, and no later than Wednesday, September 23 at 12 PM ET** for these five chapters.

I understand your many competing priorities, however this final review is a critical step in completing the Commission's report, which is a culmination of the last eight months of your work. I continue to appreciate your commitment and dedication to the work of this Commission. Please do not hesitate to let me know if you have any questions.

Regards,

Phil Keith, Chair
President's Commission on Law Enforcement and the Administration of Justice

From: [Richard Martin](#)
To: [Daniel Olson](#); [Elizabeth Guzzo](#); [Gary Howze](#); [Michelle Crum](#); [Christina Harris](#)
(Christina.Harris@myfloridalegal.com)
Subject: FW: VOCA Letter Update
Date: Tuesday, November 17, 2020 10:18:00 AM
Attachments: [image001.png](#)
[image002.png](#)
[VOCA Amendments - NAAG Final .pdf](#)
[Hill+Blast++11-16-2020.pdf](#)
[image005.png](#)

Please review the attached letter from over 1400 organizations regarding VOCA and compensation funding. Dan, on p. 10 is a list of organizations from Florida that signed. This may be helpful this year in our discussions with the Legislature. The NAAG letter was from last August, and is just attached for reference.



Richard H. Martin
Chief of Staff
Office of the Attorney General
PL-01 The Capitol | Tallahassee, FL 32399-1050
Tel.: (850) 245-0187
E-mail: Richard.Martin@myfloridalegal.com

From: Ryan Greenstein <rgreenstein@naag.org>
Sent: Tuesday, November 17, 2020 9:20 AM
To: Ryan Greenstein <rgreenstein@naag.org>
Cc: Blundell, Shane E (AGO) <shane.e.blundell@state.ma.us>; jonbennion <jonbennion@mt.gov>
Subject: RE: VOCA Letter Update

This is being sent to all Attorneys General, Chief Deputies/Chiefs of Staff, and Executive Assistants:

As an update to the attached August 26th NAAG letter signed by all 56 attorneys general, over 1400 national, state, tribal, and local organizations signed the attached letter to Congress yesterday expressing support for the same three recommendations included in NAAG's August 26th letter. The NAAG letter was quoted and linked to in yesterday's letter.

As yesterday's letter also included additional requests that NAAG has not taken a stance on, NAAG declined to sign but will continue to coordinate with the lead organizations when engaging Congress to further our shared goals.

A complete list of organizations by state is available at the bottom of the letter.

Ryan Greenstein
Legislative Director and

Special Assistant to the Executive Director

National Association of Attorneys General

1850 M Street NW, 12th Floor

Washington, DC 20036

202.326.6262

rgreenstein@naag.org

www.naag.org



From: Ryan Greenstein

Sent: Monday, August 24, 2020 1:18 PM

To: Ryan Greenstein <rgreenstein@naag.org>

Cc: Blundell, Shane E (AGO) <shane.e.blundell@state.ma.us>; jonbennion@mt.gov

Subject: VOCA Letter Update

This is being sent to all Attorneys General, Chief Deputies/Chiefs of Staff, and Executive Assistants:

The attached letter was sent to the intended recipients this morning. It was signed by all 56 attorneys general. This is the only letter of 2020 to be signed by every attorney general so far.

Ryan Greenstein

Legislative Director and

Special Assistant to the Executive Director

National Association of Attorneys General

1850 M Street NW, 12th Floor

Washington, DC 20036

202.326.6262

rgreenstein@naag.org

www.naag.org





SCOTT R. STRAUSS

| Scottstrauss@outlook.com

EXPERIENCE

UNITED STATES ATTORNEY'S OFFICE, S.D. FLORIDA, MIAMI/FORT LAUDERDALE

Assistant United States Attorney, May 2019 – October 2020

Appeals (May 2019 – July 2019); Major Crimes (August 2019 – November 2019); Violent Crimes (December 2019 – October 2020)

- Prosecuted and investigated various criminal cases in the areas of misbranded drugs; trafficking in counterfeit goods; election fraud; firearms offenses; drug trafficking offenses; access device fraud; cargo theft; naturalization fraud; marriage fraud; bank fraud; wire fraud; and mail fraud.
- Fostered excellent relationships among several federal agencies including the following: Federal Bureau of Investigation; the Bureau of Alcohol, Tobacco, Firearms and Explosives; Drug Enforcement Agency; U.S. Secret Service; Department of Homeland Security; U.S. Customs and Border and Protection; U.S. Treasury; and the U.S. Postal Inspector.
- Recognized by the Bureau of Alcohol, Tobacco, Firearms, and Explosives for vigorously prosecuting violent criminals, street gangs, and firearms traffickers.

OFFICE OF STATE ATTORNEY, BROWARD COUNTY, Fort Lauderdale, Florida

Assistant State Attorney, July 2013 – May 2019

Traffic Homicide Unit (August 2017 – May 2019); 10-20-Life (January 2016 – July 2017); Felony Trial Unit, First Degree (July 2013 – December 2015); October 2009 – December 2012

- Tried 61 cases to jury verdict.
- Lead, investigated, and prosecuted traffic homicides throughout Broward County.
- Collaborated with expert witnesses including the Broward County Medical Examiner, toxicologists, and accident reconstructions.
- Prosecuted hundreds of criminal cases including: armed robbery; unlawful practice of medicine; first degree grand theft; unlawful possession of firearms; and first degree attempted murder (firearm, discharge, great bodily harm).

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Associate Attorney – Federal Civil Practice, January 2013 – July 2013

- Responsible for overseeing all facets of federal litigation, including depositions, mediations, and pre-trial matters arising under the Fair Debt Collection Practices Act (FDCPA) and the Telephone Consumer Protection Act (TCPA).

BROWARD COLLEGE, Fort Lauderdale, Florida

Adjunct Legal Studies Instructor, 2009 – Present

- Lead instructor for the following courses: Introduction to Legal Writing, Business Law I, Business Law II, Introduction to Legal Studies, Criminal Law and Business Law (graduate level).

LIBERTY MUTUAL INSURANCE, Boca Raton, Florida

Legal Intern, March-June 2009

NOVAQUEST - QUINTILES INC, Fort Lauderdale, Florida

Pharmaceutical Sales Representative, May 2008 - February 2009

MERCK & CO., Miami, Florida

Pharmaceutical Sales Representative, April 2004 - May 2008

CBeyond COMMUNICATIONS, Atlanta, GA

Sales Representative, September 2002 – April 2004

EDUCATION

FLORIDA INTERNATIONAL UNIVERSITY, Miami, Florida

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UNIVERSITY OF WISCONSIN, Madison, Wisconsin

B.A. in International Relations, May 2002

ADMISSIONS & OTHER

Member, State Bar of Florida; Georgia; Minnesota

The Federalist Society – Vice President, Broward County Chapter

U.S.D.C. Middle District of Florida; Southern District of Florida

Federal Bar Association; Broward – Board of Directors; 2015 – Present

Broward County Bar Association – Member; 2016 – 2019

Florida Bar – Government and Public Policy Committee; 2017– 2019

Coral Ridge Homeowners Association – Board of Directors; 2017 – 2019

Fort Lauderdale Little League Coach; 2015 – Present



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Chapter 7: Respect for the Rule of Law and Law Enforcement

Preserving the rule of law is the central function of law enforcement. The safety of American communities does not rely merely on the physical presence of law enforcement, but rather a social trust that law enforcement will hold those accountable who violate the law. Law enforcement provides that trust, and thereby stabilizes and preserves the rule of law. When communities lose respect for law enforcement, they lose faith in the legal order that law enforcement officers administer. As disrespect for law enforcement devolves into disrespect for the law itself, the consequences to public safety and the rule of law are grave.

As former Attorney General Michael B. Mukasey relates, it is not just respect for law enforcement, but respect for the rule of law that is critical to a civil society: “We draw our identity not only from adherence to a system embodied in a law that we call the Constitution, but also from consensus in general terms about what that means. Once that is up for grabs, the whole point of having a country at all, as opposed to just being citizens of the world at large, is up for grabs as well.”¹

These remarks highlight the challenges facing law enforcement agencies across the country. While the majority of Americans appreciate the important role of law enforcement in our society, there still remains significant work to address persistent negative attitudes towards peace officers. For the stability of a free and civilized society hinges on a justice system that is not only fair, but also perceived as such. There are many ways law enforcement agencies and the community at large can foster support, respect, and appreciation for the individuals who put their lives on the line to ensure the safety and well-being of the American people.

Anti-police sentiment has various historical and social origins, but at present time predominantly centers around abuses of power by law enforcement in the discharge of their duties. Unlawful and unjustified use of force by law enforcement officers

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manipulation of statistics and invalid comparisons, such as to other countries that have far lower rates of crime.⁴

[INSERT GRAPH OF INCARCERATION RATE VERSUS VIOLENT CRIME RATE FROM 1990-PRESENT]

The current prison population also does not, contrary to some narratives, consist mostly of “non-violent drug offenders.” “[T]he majority (60%) of prisoners in the U.S. are serving time primarily for one of just five serious offenses: murder (14.2%), rape or sexual assault (12.8%), robbery (13.1%), aggravated or simple assault (10.5%), and burglary (9.4%)...Those serving time primarily for drug offenses constitute less than 15% of state prisoners (who account for about 90% of the national prison population).”⁵ As Jonathan W. Blodgett, the District Attorney for Essex County, Massachusetts, testified to the Commission, “[P]ersons suffering from the disease of addiction, arrested for possessory offenses, are not clogging our prisons. They are, more often than not, offered multiple opportunities for drug treatment, through drug courts, diversion programs and community based assistance.”⁶

Remedying community distrust of police requires dispelling many of the narratives underlying that distrust, but it is even more important regardless of the validity of law enforcement officers should not be the subject of disrespect simply because of their position on the front lines of an embattled criminal justice system. As our predecessors noted in 1967: “They do not enact the laws that they are required to enforce.”⁷ Police officers may be the first and primary contact between the criminal justice system and the community, but they should not suffer the brunt of all social discontent simply because they are the front line agents of that system that the public primarily encounters.

It is therefore important to emphasize that law enforcement officers have an important but limited responsibility to execute the law, and that criticism towards officers should be accordingly limited to how they discharge that responsibility. In general, attacks towards the criminal justice system should not be directed at law enforcement officers simply because they are physically in the streets to take it. Reinforcing the separation of powers within the criminal justice system is therefore essential to fostering respect for law enforcement and the rule of law. One measure to do so the Commission believes is important is to discourage and restrain prosecutorial nonenforcement policies in order to maintain the clear and appropriate roles between legislators and law enforcement officials who execute the laws they enact.

This is not to say that all criticism towards police is misplaced. In fact, today the greatest source of distrust and disrespect for police results from the unlawful use of force against citizens in the course of enforcing the law. Accordingly, the Commission recommends specific protocols and policies to minimize unjustified uses of force, which should function to restore community trust in law enforcement and their capacity to ably and safely do their job. Police officers are far from perfect. There is always more work to be done. Genuine and enduring distrust between law enforcement and communities remains, many ways that law enforcement can continue to engage with the community and build relationships that promote respect for law enforcement as well as the rule of law that keeps citizens safe.

7.1 Respect for Law Enforcement and the Rule of Law by the Executive Branch

Respect for law enforcement depends on a clear demarcation and understanding of the duty of the executive branch to enforce the law. Respect for law enforcement and the rule of law must permeate all levels of society. Governors, mayors, city managers, county executives, U.S. attorneys, prosecutors, and all elected

⁴ Rafael Mangual, Testimony before the Commission on Law Enforcement and the Administration of Justice, July 21, 2020

<https://www.justice.gov/file/1305886/download>; For example, certain neighborhoods in Chicago and Baltimore experience “30% of the homicides seen in the whole of England and Wales, despite those subsections having a combined population that (at 292,898) is just 0.5% of England and Wales.”

⁷ CITE 1967 REPORT

⁷ CITE 1967 REPORT

⁷ CITE 1967 REPORT

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officials should demonstrate respect for the rule of law and the men and women responsible for enforcing the law. Respect for law enforcement must start at the highest levels of government:

We cannot expect parents to teach their children the importance of respecting those in authority, while elected leaders are demonizing their law enforcement agencies to gain political favor in times of crisis. We must implore methods of reconciliation to help restore the faith of the community that those officers responding to situations are there to help them, not hurt them. Similarly, our community leaders must sit down with local law enforcement to further develop that relationship. The safety of our citizens and our officers does not have to be diametrically opposed.⁸

A threat to the rule of law, and the ability of law enforcement to uphold it, has recently come from “progressive” or “social reform” prosecutors who purport to share the distrust and cynicism for law enforcement that some in their communities have.⁹ Despite their election to a position to enforce the law, these prosecutors view the very laws they enforce as unjust and illegitimate, and therefore seek to undermine that system by unilaterally deciding not to enforce certain laws. [CITE] Unlike standard prosecutorial discretion, in which a prosecutor assesses whether to pursue charges after a case-by-case examination of the individual circumstances, nonenforcement policies remove that discretion entirely by prescribing that certain laws will be categorically unenforced.

The flaws of this approach are clear, as U.S. Attorney Macgregor Scott of the Eastern District of California testified to the Commission: It “1) usurps the constitutional role of the legislative branch; 2) miscasts who the prosecutor represents in a criminal case; 3) causes violent crime rates to go up, especially in minority communities; and 4) and forgets crime victims.”¹⁰

On a legal, even philosophical, level these progressive prosecutors are not only violating the obligation of the Executive Branch to enforce the law but they also are disregarding our system of separation of powers. In the language of the U.S. Constitution, the Executive has the duty to “take care that the laws be faithfully executed.” If a prosecutor appropriates to herself the right to decide what crimes should be prosecuted, as one author has explained, “[i]t becomes an executive veto of the community’s right to define and punish penal offenses through its legislative representatives.”¹¹ Moreover, when enforcement of the law depends on executive whim, and not on the legislative will of the people, citizens may erroneously believe that law enforcement for the laws they enforce. Recent events in the arena of immigration law exemplify the detriment to law enforcement that occurs when executive nonenforcement violates the separation of powers. In or around 2017, after a change of presidential administration resulted in increased enforcement of immigration laws, critics of those laws attacked and vilified federal immigration

[CITATION] The misdirected hostility towards ICE stemmed from the fallacy that it was the executive branch, not the United States Congress, that determined what laws to enforce.

Nonenforcement also has clear practical consequences to public safety. The Commission notes one case in Massachusetts described by Deputy Attorney General Rosen of a woman brutally assaulted while walking her dog.¹² A criminal knocked her to the ground where she lay unconscious and suffering a skull fracture, among

¹⁶ Gail Heriot, Testimony before the Commission on Law Enforcement and the Administration of Justice, July 21, 2020 <https://www.justice.gov/file/1305886/download>

¹⁶ Gail Heriot, Testimony before the Commission on Law Enforcement and the Administration of Justice, July 21, 2020 <https://www.justice.gov/file/1305886/download>

¹⁶ Gail Heriot, Testimony before the Commission on Law Enforcement and the Administration of Justice, July 21, 2020 <https://www.justice.gov/file/1305886/download>

¹⁶ Gail Heriot, Testimony before the Commission on Law Enforcement and the Administration of Justice, July 21, 2020 <https://www.justice.gov/file/1305886/download>

¹⁶ Gail Heriot, Testimony before the Commission on Law Enforcement and the Administration of Justice, July 21, 2020 <https://www.justice.gov/file/1305886/download>

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other injuries. The victim is reportedly still coping with speech, vision, and hearing impairments. The prosecutor, a self-described social reform district attorney, had publicly stated that it was her responsibility to “represent not just the victim, but the defendant and the community.” The district attorney allowed the offender to plead guilty to a misdemeanor with a suspended sentence and one year of probation, even though the victim begged the prosecutor not to cut this deal and called it “flagrant, appalling, and disgusting.” Nor was this case an anomaly. An analysis by the local media revealed that the Massachusetts district attorney was dropping “more cases than before, but some of the cases don’t seem ‘low-level’ at all, involving serious bodily injury, major thefts, and career criminals.”¹³ As the Deputy Attorney General stated, “victims deserve better.”¹⁴ In fact, as DA Blodgett told the Commission, the entire discussion around criminal justice reform ignores the victims of crime. Blodgett says, “The crime victim is the only one in the courtroom who didn’t ask to be there, who has suffered an incalculable loss that cannot be restored...Their voices must be heard and respected.”¹⁵

resisting arrest, petty theft or certain drug crimes
disrespect for law enforcement. When communities can no longer depend on the criminal justice system to enforce the law and obtain justice for victims, trust in law enforcement deteriorates. Not only do victims deserve to have the rule of law respected, so do those who enforce the law. Widespread disrespect for the law endangers law enforcement officers and the communities they protect. In the aftermath of anti-police civil unrest in 2016 and 2020, for example, there have been unmistakable corresponding increases in crime. [CITE]

7.1.1 Prosecutorial authorities who adopt nonenforcement policies should publish such policies in the interests of transparency.

Prosecutors should have discretion in prosecuting cases to account for case strengths and weaknesses and to accommodate the pursuit of successful criminal justice objectives. However, the public deserves to know if and when prosecutors forego that discretion completely by refusing to enforce valid laws enacted by the people. Given that categorical nonenforcement of a law is tantamount to its abolition, transparency and accountability demand that prosecutor’s offices publicly share written guidelines for nonenforcement priorities that correspond with community crime data and proven strategies for reducing crime.

7.1.2 State officials should provide oversight of prosecutors who have blanket policies not to prosecute certain categories of crimes.

When a prosecutor unilaterally decides to not prosecute an entire category of crimes (i.e., deems it a low-level offense that does not warrant prosecution or otherwise fails to prosecute a case where probable cause for an arrest is present), that prosecutor is usurping legislative authority and ultimately the authority of the citizens of that community. These laws have been duly enacted by an elected legislative body, and the public has a reasonable expectation that breaking these laws will result in prosecution. State governments, through legislative committees and executive actions, should oversee local prosecutors who refuse to prosecute crimes by conducting hearings and issuing reports to the public about the impact of those policies. Where necessary, legislators should take legal action to prevent such policies from harming public safety.

7.1.3 The doctrine of qualified immunity for law enforcement officers should not be weakened.

A related aspect of appreciating the role of law enforcement in merely enforcing the law is protecting these officers in the course of good faith law enforcement. The doctrine of qualified immunity protects government officials, including law enforcement officers, from being personally subjected to a civil lawsuit for

¹⁶ Gail Heriot, Testimony before the Commission on Law Enforcement and the Administration of Justice, July 21, 2020 <https://www.justice.gov/file/1305886/download>

¹⁶ Gail Heriot, Testimony before the Commission on Law Enforcement and the Administration of Justice, July 21, 2020 <https://www.justice.gov/file/1305886/download>

¹⁶ Gail Heriot, Testimony before the Commission on Law Enforcement and the Administration of Justice, July 21, 2020 <https://www.justice.gov/file/1305886/download>

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an action that does not violate a clearly established statutory or Constitutional right. As Gail Heriot, Professor of Law, University of San Diego & Member, U.S. Commission on Civil Rights, explained to the Commission, “[I]t is thought that otherwise there is a danger that public officials will protect themselves by opting for inaction...This is a greater danger for public officials than it is for private citizens. In the private sector, diligence and industry tend to have a more direct link to reward than they do for public officials...But when a police officer saves a life, he doesn’t get to keep it. If only his errors and not his successes affect his fortunes, a reluctance to act at all may be the result.”¹⁶

When a federal judge grants qualified immunity, it may result in the early dismissal of a lawsuit for money damages and prevent a law enforcement official from having to go through the stresses and financial pressures of a long judicial process that can include discovery, depositions, and a trial.¹⁷ The doctrine of qualified immunity should not be weakened. Officers who use excessive force can still be punished under existing procedures. If an officer does violate the law, he is subject to criminal investigation and prosecution under state and federal statutes, and he can also be subject to administrative punishment, such as suspension or firing even if criminal charges are not brought.

In speaking against the idea of limiting qualified immunity, Attorney General William Barr said: “I don’t think you need to reduce immunity to go after the bad cops, because that would result certainly in police pulling back. Policing is the toughest job in the country. . . . The vast, overwhelming majority of police are good people. They’re civic-minded people who believe in serving the public. They do so bravely. They do so righteously.”¹⁸

7.2 Building Relationships

PULL QUOTE: “While policing is demanding, it is also uniquely rewarding. It is one of our country’s highest callings, and we are blessed that there are men and women of character willing to serve selflessly so that their fellow citizens can live securely. We owe our officers the support and services they need to work their way through problems.”¹⁹ - Attorney General William Barr

Respect for law enforcement increases when partnerships are forged between agencies and their communities; each benefits realizing the other’s perspective. When they can work through stereotypes and misunderstandings, years of false narratives can be dissolved, and new relationships can be cultivated.²⁰ These new lines of open communication increases public safety and respect for law enforcement.

Over the years, programs that embrace a proactive and consistent outreach approach have effectively developed and sustained relationships between law enforcement and the community. Law enforcement agencies may overlook these programs and consider them only if time and staff are available. However, such a casual approach is ill advised, and law enforcement agencies that do not engage in these programs do so at their own peril. Respect for law enforcement grows only through nurturing and sustaining these relationships.

Strong community-based partnerships can lead to greater trust between police and the public they serve. In turn, this trust should evolve and encourage a greater willingness for community members to assist in crime-reduction efforts. Another benefit of these relationships can be realized at the investigations level, as increased cooperation can strengthen investigations and help solve crimes.

¹⁶ Gail Heriot, Testimony before the Commission on Law Enforcement and the Administration of Justice, July 21, 2020 <https://www.justice.gov/file/1305886/download>

¹⁷ Robert Fagin, Attorney, San Diego County Sheriff’s Department, CA, email communication with Respect for Law Enforcement and the Rule of Law Working Group, email communication with Respect for Law Enforcement, June 24, 2020.

¹⁹ 2015 Time Magazine Quote, citation needed

¹⁹ 2015 Time Magazine Quote, citation needed

¹⁹ 2015 Time Magazine Quote, citation needed

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Michael “Mick” McHale, president of the National Association of Police Officers (NAPO), says that one way to build relationships between law enforcement and the community is to ensure citizens that any complaint against an officer will be heard and thoroughly investigated. NAPO supports the idea of “Comply, Then Complain.” Individuals, including youth, who are approached by a police officer should first “comply.” Then, if the individual feels they were treated unfairly or unlawfully, they can submit a formal complaint with guided assistance throughout the process. McHale says this process helps “rebuild trust with the community.”²¹

7.2.1 Law enforcement agencies should continue to prioritize community outreach and developing and maintaining strong, positive relationships with various segments of the community, while providing a knowledge of and appreciation for the daily responsibilities of law enforcement.

[CROSS REFERENCE BUSINESS AND COMMUNITY DEVELOPMENT]

Implementing strategies to accomplish stronger police–community relations can be daunting. Agencies looking to make these positive changes should look to other successful programs that already exist, such as citizen and youth police academies, clergy–police partnerships, youth mentoring, and business community partnerships.

Houston Police Chief Art Acevedo, who is president of the Major Cities Chiefs Association (MCCA), says the importance of building these relationships can’t be stressed enough: “Overwhelmingly, MCCA members have heard from their communities—we don’t want less police, we want better policing. It is imperative that law enforcement work tirelessly—in both good times and bad—to build strong relationships with the communities they serve. It is much easier to navigate a crisis when the public trusts law enforcement and knows their concerns will be taken seriously.”^[1]

In North Carolina, the Fayetteville Police Department prioritized community outreach by focusing on a variety of community-based engagement opportunities. The department identified and understood their audiences and recognized the need to use a diverse approach that covered a variety of interests, including community empowerment response teams, community watch groups, Citizens on Patrol, Coffee with a Cop, police activities leagues, and a Police Explorer program.^[2]

While it may not be feasible to immediately and directly touch every community member through these outreach efforts, social media has been shown to be another way to build a positive narrative that reinforces the work accomplished by the men and women in law enforcement, including stories that highlight the bravery, compassion, and dedication of their officers and show the people behind the badge. Agencies with limited resources or experience should look for partnership opportunities to share in these efforts (e.g., local government, neighboring agencies, or local labor or representative organization).

An informed community can help improve relationships between law enforcement and the communities they serve. When community members understand the daily responsibilities of an officer, the decisions they face, and the breadth of assistance they are expected to provide every day, they can become law enforcement’s strongest advocates and supporters. From Citizens Police Academies to after-school programs, efforts that give citizens a greater awareness of the work of law enforcement can go a long way toward increasing respect for law enforcement.

Nicholas A. Trutanich, U.S. Attorney for Nevada, says that building those relationships is critical: “Community leaders and law enforcement should consider forming partnerships, involving regular meetings attended by executive-level officers, to build and maintain trust. Among other things, such meetings would allow law

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enforcement to solicit feedback from community leaders, and continually reinforce that the safety of the community (not arrests or convictions) is law enforcement's highest priority."²²

7.3 Promoting Transparency and Accountability When Officers Use Force

Law enforcement is a dangerous task, and officers may need to use physical force to subdue suspects, sometimes (though rarely) including deadly force. Any understanding of these situations, and their importance to community trust, must account for the fact that such incidents can and will occur. Law enforcement officers must necessarily use force to "enforce" the law. Moreover, when a criminal suspect resists their authority, police do not have the option of simply standing down. If it were otherwise, citizens could avoid arrest by simple noncompliance. In fact, nearly all force used by police officers results from a citizen refusing to obey their orders. The most effective measure, therefore, to prevent police from using force remains for citizens to comply with law enforcement commands.

Nevertheless, police officers are not perfect. At times, use of force may be unwarranted or unjustified. In the aftermath of the killing of George Floyd on May 25, 2020, President Trump signed in the following month Executive Order No. 13929 entitled "Safe Policing for Safe Communities."²³ Pursuant to this Executive Order, the Department of Justice has devised generalized standards for safe policing, most prominently those involving use of force, and mandated that law enforcement agencies certify that they meet these standards in order to receive federal funding.²⁴ These actions will ensure that police departments implement sound and standardized policies on officer use of force that will minimize incidents where officers engage in excessive or unwarranted force.

These measures are independent of the work of the Commission, but complement and comport with the Commission's recommendations regarding use of force. For infrequent as these incidents may be, incidents involving police use of force garner widespread public attention, which is often driven by social media, 24/7 news cycles, and social divisions within the nation. When incidents of police use of force occur that result in death or serious injury, it is imperative that both prosecutor and law enforcement officers have transparent and effective protocols for handling such an event.

It is true that "police use of force is extremely rare. Rarer still are uses of force that are injurious and unwarranted."²⁵ The Bureau of Justice Statistics estimates that law enforcement officers interact with members of the public on 50 million or more occasions per year.²⁶ Incidents involving use of force are rare in this context. Citizen surveys indicate that force is used in 0.6 percent of interactions.²⁷ When an officer uses force, it is typically during an arrest, is at the low end of the use-of-force spectrum, and is the result of suspect resistance or aggression.²⁸ At the extreme end of the spectrum, the suspect is usually armed when an officer uses deadly force.²⁹ The data thus show that less than a half of a percent of police officers discharged their firearms in 2018, and only three arrests out of 1,000 involved use of a firearm.³⁰ Similarly, less than one percent of arrest used any physical force at all.

Nevertheless, even isolated incidents can nurture a cynicism about the criminal justice system that "erode[s] the public's respect for the policing profession and the system of laws they're sworn to uphold."³¹ This

²³ June 16, 2020, <https://www.whitehouse.gov/presidential-actions/executive-order-safe-policing-safe-communities/> [NEEDS FULL CITE]

²³ June 16, 2020, <https://www.whitehouse.gov/presidential-actions/executive-order-safe-policing-safe-communities/> [NEEDS FULL CITE]

²⁴ [CITE DOJ announcement with Ja'Ron].

²⁵ Mangual, note 2.

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environment is challenging for law enforcement, as they have the additional burden of combatting negative perceptions that are based on a small—but magnified—sample of incidents. These incidents have spurred a national conversation over police practices, including the types of accountability mechanisms in place to investigate and adjudicate allegations of misconduct and excessive use of force. Trust in a process is important for building and maintaining legitimacy.³²

A prosecutor's office will often have a substantial and important role in addressing and adjudging the actions of a law enforcement officer who has engaged in use of force resulting in serious injury or death. The Commission examines that role elsewhere in the report.

But the law enforcement agency of the involved officer necessarily has a role as well, and its accountability process may have a substantial impact on public trust and respect for law enforcement. These mechanisms, however, vary widely in their form and function in agencies nationwide. For example, criminal investigations can be conducted by the involved law enforcement agency or independently by another agency, task force, or prosecutor. There is a growing demand for independent criminal investigations on deadly force, as well. Furthermore, more than one investigation may take place. State and local law enforcement agencies may conduct an administrative investigation to determine if the use of force was within department policy and/or a criminal investigation to determine if the use of force was compliant with the law.³³ The process of an investigation needs to be explained clearly and executed transparently so that the public has confidence in the outcome.

At the same time, officers involved in a use-of-force incident have the right to due process. The Constitution grants that right to all Americans regardless of their chosen profession and law enforcement is not exempted. Bending the investigative process to political pressure erodes the Constitutional protection of due process. To ensure immunity from undue influence, the conduct of internal investigations must be consistent, transparent, and impartial. Two Supreme Court decisions have reinforced this. In Garrity v. New Jersey, 385 U.S. 493 (1967), the Court stated that law enforcement officers and other public employees have the right to be free from compulsory self-incrimination. Similarly in Gardner v. Broderick, 392 U.S. 273 (1968), the Court ruled that a law enforcement officer who refuses to waive his constitutional protections cannot be dismissed from office because of that refusal.

Currently, rights for officers involved in administrative investigations vary depending on state and local law. In 2015, 14 states had Law Enforcement Officers' Bill of Rights (LEOBR), which define and protect the due process rights of officers who are subject to such investigations. During the same period, 11 states were in the process of developing legislation. At the federal level, the FOP has been working to pass legislation to define and protect due process.³⁴ These rights, for example, may extend to allowing officers direct access to body worn camera and in-car camera footage before giving their statements to investigators. In 2016, about 60 percent of agencies with body-worn cameras allowed the officers who made the recording direct access to the video.³⁵

The recommendations below provide guidance to law enforcement agencies and governments overseeing them to improve handling of use-of-force incidents that will promote transparency and public understanding

³² International Association of Chiefs of Police, (Washington, DC: Office of Community Oriented Policing, 2016), https://www.theiacp.org/sites/default/files/2018-08/e051602754_Officer_Involved_v8.pdf; and Beau Thurnauer, (Washington, DC: International Association of Chiefs of Police, n.d.), <https://www.theiacp.org/sites/default/files/2018-08/BP-InternalAffairs.pdf>.

³³ International Association of Chiefs of Police, (Washington, DC: Office of Community Oriented Policing, 2016), https://www.theiacp.org/sites/default/files/2018-08/e051602754_Officer_Involved_v8.pdf; and Beau Thurnauer, (Washington, DC: International Association of Chiefs of Police, n.d.), <https://www.theiacp.org/sites/default/files/2018-08/BP-InternalAffairs.pdf>.

³⁴ Eli Hager, "Blue Shield: Did You Know Police Have Their Own Bill of Rights?," The Marshall Project, <https://www.themarshallproject.org/2015/04/27/blue-shield#.Etqk3UTYF>; and "Due Process Rights for Law Enforcement Officers," Fraternal Order of Police, accessed July 22, 2020, <https://fop.net/CmsPage.aspx?id=97>.

³⁵ Shelley S. Hyland, (Washington, DC: Bureau of Justice Statistics, 2018), 7, <https://www.bjs.gov/content/pub/pdf/bwclea16.pdf>.

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in order to reduce community tensions in the aftermath of such an event.

7.2.1 Law enforcement agencies should have well-documented and publicly available protocols for conducting administrative investigations of alleged officer misconduct and any uses of force.

Law enforcement agencies have an obligation to maintain protocols for administrative and criminal investigations of misconduct, use of force, and integrity failures. These protocols should appropriately consider best practices and be reviewed by a competent legal authority to establish the legal foundation for all investigations. These protocols should consider: thresholds that trigger an investigation; the unit responsible for conducting the investigation; notifications of all appropriate parties; investigative practices, including evidence collection, interview procedures, incident analysis, investigative steps, target timeframes, adjudication considerations, dispositions and required notifications to license or certifying entities, and the due process rights of officers, including in some instances, the right to representation.

Agencies should routinely review protocols for potential updates; how to apply research or legal decisions; and best practices to improve the efficiency, effectiveness, and fairness of investigations. Routine and systematic audits and inspections of investigative files can help agencies identify necessary refinements in training, policy, and practice in investigations.³⁶ Such audits can be conducted by qualified agency personnel. Alternatively, agencies can seek outside assistance. Agencies should account for cost, quality, timeliness, and capacity in determining the best approach.

7.2.2 Law enforcement agencies should publicly disseminate and educate the community on all use-of-force policies and procedures, including protocols for criminal and administrative investigations.

By making the investigative process more transparent, law enforcement agencies have an opportunity to educate the public, establish expectations, and engender trust. The Bureau of Justice Assistance's (BJA) guide,

, states that the written protocol for criminal investigations of use-of-force incidents may be shared with the public to instill confidence in the fairness of the process.³⁷ Likewise, an administrative investigation may demonstrate to the public that the agency is working to address a potential violation of policy and holds officers accountable when necessary. Public confidence and trust cannot exist without understanding of the agency's accountability process.

7.2.4 States should enact legislation that requires law enforcement agencies to have an independent, external agency that has met minimum training and accreditation standards conduct the criminal investigation of use-of-force incidents that result in death or serious bodily injury.

Independent criminal investigations increase transparency and public trust in the aftermath of use-of-force incidents. Specifically, a law enforcement agency not involved in the incident should conduct any criminal investigation involving a use-of-force incident. At a minimum, a use-of-force incident involving death or serious bodily injury should require an independent, external investigation.³⁸ State legislation should outline the appropriate method for determining when and how an independent criminal investigation should be conducted, which should include "written protocols such as MOUs or standard operating procedures (SOPs) to identify and determine each jurisdiction's investigative response to a use-of-force incident, including which agency will serve as the primary investigative entity, the role of the prosecutor, and contact protocols. Agencies taking on the investigative responsibility should develop a uniform standard agreement to promote

³⁶ U.S. Department of Justice, Policing Services, 2019), <https://cops.usdoj.gov/RIC/Publications/cops-w0875-pub.pdf>

(Washington, DC: Office of Community Oriented

³⁷ Bureau of Justice Assistance, (Washington, DC: Bureau of Justice Assistance, 2017), <https://it.ojp.gov/GIST/1202/Considerations-and-Recommendations-Regarding-State-and-Local-Officer-Involved-Use-of-Force-Investigations>.

³⁸ For this report, serious bodily injury is "bodily injury that involves a substantial risk of death, unconsciousness, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty." See "National Use-of-Force Data Collection," Federal Bureau of Investigation, accessed August 14, 2020, <https://www.fbi.gov/services/cjis/ucr/use-of-force>.

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consistency and uniformity of approach.”³⁹

7.3 Public Outreach

Programs that embrace a proactive and consistent outreach approach have effectively developed and sustained relationships between law enforcement and the community. Given the constant and stressful demands on law enforcement, law enforcement agencies might overlook these programs and consider them only if time and staff are available. However, such a casual approach is ill advised. Respect for law enforcement grows only through nurturing and sustaining these relationships.

Strong community-based partnerships can lead to greater trust between police and the public they serve. In turn, this trust should evolve and encourage a greater willingness for community members to assist in crime-reduction efforts.

Additionally, public celebrations like parades, notable civic or historic events, and community festivals are ideal places to both recognize the commitment and dedication of law enforcement personnel and encourage community members to show their support. Annual events such as National Night Out (a celebration of police–community partnerships) and National Police Week (the week when the nation commemorates the sacrifice of America’s fallen law enforcement officers) have also contributed to a positive image.⁴⁰

Furthermore, with the omnipresence of social media and the 24/7 news cycle, the public demands information almost immediately. The narrative is set within the first few hours of an event occurring or even sooner; if this narrative is negative, it is often difficult to overcome. Law enforcement professionals should promptly share the facts of an incident, to the extent possible.

For years, police agencies have relied primarily on broadcast media to ensure communities receive public safety messages and alerts; however, that is no longer the sole method to accomplish those tasks. Multiple online tools, including social media platforms and blogs, enable community members to learn more about the reality of policing and the lives of law enforcement officers in near-real time.⁴¹

7.3.1 Law enforcement agencies should prioritize community outreach and developing and maintaining strong, positive relationships with various segments of the community, while providing knowledge of and appreciation for the daily responsibilities of law enforcement.

Implementing strategies to accomplish stronger police–community relations can be daunting. Agencies looking to make these positive changes should look to other successful programs that already exist, such as citizen and youth police academies, clergy–police partnerships, youth mentoring, and business community partnerships.

While strong relationships between law enforcement executives and community stakeholders are essential, those relationships should not only exist at the senior leadership level. Many others throughout the organization, particularly line-level personnel, can benefit from those relationships. Law enforcement agencies should ensure that their relationships with the clergy, community groups, businesses, other groups, and the public are not limited to executive leadership. These relationships should filter throughout the law enforcement organization and be built from the bottom up, and officers should be the linchpins for establishing those relationships.

7.3.2 Train new prosecutors on the work of law enforcement officers.

[CROSS REFERENCE CRIMINAL JUSTICE PARTNERS]

³⁹ Bureau of Justice Assistance, , 7–8.

⁴⁰ “National Night Out,” National Night Out, May 7, 2020, <https://natw.org/>; and “National Police Week,” National Law Enforcement Memorial Fund, accessed July 9, 2020, <https://nleomf.org/programs-events/national-police-week>.

⁴¹ Gary Cordner and Elizabeth Beall Perkins, (Washington, DC: Office of Community Oriented Policing Services, 2013), <https://cops.usdoj.gov/RIC/Publications/cops-w0706-pub.pdf>.

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Training for new prosecutors should include highlighting the importance of the prosecutor's role of working alongside law enforcement officers to secure justice within a community. This training can include ride-alongs or periodic roundtables with law enforcement agencies to help a new prosecutor understand the perspective of law enforcement officers. Such training would improve prosecutors' understanding of the effort and resources that officers put into each arrest and the risks that officers encounter in the line of duty.

Training prosecutors this way would make their work more efficient and boost the morale of both prosecutors and law enforcement officers. This training will also improve prosecutors' respect for law enforcement officers and officers' relationship with the prosecuting agency.

7.3.3 Law enforcement agencies should develop and maintain a strong social media presence and a comprehensive public outreach plan to consistently deliver accurate and timely messaging to the public.

When local law enforcement agencies lack a social media presence, it allows a counter-narrative to develop and direct perceptions and attitudes. Law enforcement agencies should use social media to build a narrative that reinforces the work accomplished by the people in law enforcement, including stories that highlight the bravery, compassion, and dedication of their officers and show the people behind the badge. This should include dedicated personnel to regularly share positive stories via social media, print and broadcast media, community websites, and other digital avenues. Agencies with limited resources or experience should look for partnership opportunities to share in these effort, such as other police departments and sheriff's offices, national police organizations, and local or national labor organizations. Government executives should also convey a positive message about law enforcement officers who protect their communities.

Police leadership should look through a public lens to consider how well the public understands their agency's mission and priorities, and leadership should ensure that the agency's core values reflect the community's priorities.

7.3.4 Law enforcement agencies should ensure that their social media technology and strategies are current and constantly updated to ensure responsiveness to their community.

People have become accustomed to prompt and efficient responses when communicating electronically, and law enforcement agencies are not exempt. Agencies have a variety of opportunities to engage using various social media platforms. In many ways, social media platforms have become the primary method in which law enforcement interacts with their communities. Social media can be used to quickly and directly disseminate information to the public. As cell phones take the place of home computers, police agencies should tailor social media messaging to mobile platforms. Additionally, agencies should maintain a traditional website to ensure optimum accessibility, outreach, and engagement opportunities.

Moreover, law enforcement agencies should create and maintain guidelines or policies regarding the use of personal media accounts. While employees of a law enforcement agency should be able to express themselves on social media, they should be aware of how their posts may affect the image of their agency and the department's ability to effectively maintain the trust of the community it serves







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OVERSIGHT



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Tim Fox
Montana Attorney General

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Karl A. Racine
*District of Columbia
Attorney General*

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Tom Miller
Iowa Attorney General

IMMEDIATE PAST PRESIDENT
Jeff Landry
Louisiana Attorney General

EXECUTIVE DIRECTOR
Chris Toth

August 24, 2020

Hon. Nancy Pelosi
Speaker
House of Representatives
Washington, DC 20515

Hon. Kevin McCarthy
Minority Leader
House of Representatives
Washington, DC 20515

Hon. Jerrold Nadler
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Hon. Mitch McConnell
Majority Leader
United States Senate
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Hon. Chuck Schumer
Minority Leader
United States Senate
Washington, DC 20510

Hon. Jim Jordan
Ranking Member
House Judiciary Committee
2056 Rayburn House Office Bldg.
Washington, D.C. 20515

Hon. Dianne Feinstein
Ranking Member
Senate Judiciary Committee
331 Hart Senate Office Building
Washington, DC 20510

Dear Speaker Pelosi, Majority Leader McConnell, Minority Leader McCarthy, Minority Leader Schumer, Chairman Nadler, Chairman Graham, Ranking Member Jordan, and Ranking Member Feinstein:

On behalf of the undersigned state Attorneys General, we write to respectfully urge Congress to address the ongoing, declining balance of the Crime Victims Fund (“the Fund”). The Fund provides critical support and services to victims of crime across the country. As state Attorneys General, we are often the administrators of grant funding, through our state compensation programs or otherwise, financed directly from the Fund. In order to ensure the predictability and sustainability of these critical funds, change must be enacted to support our states’ ability to effectively serve victims and survivors of crime for years to come.

The Fund, established by the Victims of Crime Act of 1984 (“VOCA”), is the primary funding source for victim services in all 50 states and six U.S. territories. Deposits to the Fund originate from criminal fines, forfeited bail bonds, penalties and special assessments collected by U.S. Attorneys’ Offices, federal courts and the Federal Bureau of Prisons. Funding is derived from offenders convicted of federal crimes, and not from taxpayers.

1850 M Street, NW
Twelfth Floor
Washington, DC 20036
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<https://www.naag.org/>

Since its creation, the Fund has covered the expenses of essential direct services and support for victims and survivors in the aftermath of crime, including medical care, mental health counseling, lost wages, courtroom advocacy and temporary housing. The Fund also provides support for initiatives that benefit victims of crime, including federal, state and tribal victim service programs, crime victim compensation, discretionary grant awards, victim specialists in U.S. Attorneys' and FBI offices and the federal victim notification system. Additionally, grants through the Fund are the only funding source available for services to all victims of crime.

The balance and financial health of the Fund is in jeopardy. As deposits have sharply decreased in recent years due to a decline in the fines and penalties recouped from federal criminal cases, withdrawals have increased at a rapid pace. In 2015, Congress increased the annual cap on distributions from the Fund, resulting in significant growth in the amount of services offered across the country. Nearly 2,500 new organizations received VOCA funding since 2015. In addition, more than 2.5 million new victims were served through VOCA assistance formula grants from 2015 to 2019.

We applaud Congress for expanding access to victim services. Yet, these important advances are at risk given the current downward trajectory of the Fund's balance. Its balance is projected to reach a ten-year low by the end of 2021 unless specific changes are enacted to protect its bottom line. Any decrease in the funds available for distribution results in a decrease in the number of victims and survivors that are served as well as potential loss of essential staff for victim service programs.

In order to stabilize and maintain the Fund for use in the future, we respectfully request Congress amend VOCA in the following three ways:

Deposit all monetary penalties from deferred and non-prosecution agreements into the Crime Victims Fund.

Over the last decade, the Department of Justice has increasingly utilized deferred and non-prosecution agreements to resolve cases of corporate misconduct. These agreements bypass a traditional prosecution process and shift fines and penalties into the general treasury rather than the Fund. In 2018 and 2019, the total recoveries resulting from these agreements resulted in approximately \$8 billion each year.¹ Redirecting these deposits will provide increased funding to the Fund, which will allow for better predictability of state awards.²

Increase the rate at which states are federally reimbursed for victim compensation programs to 75%.

¹ (Gibson Dunn, 2020) available at <https://www.gibsondunn.com/2019-year-end-npa-dpa-update/>

² June 2020, The House of Representatives included language related to deferred and non-prosecution agreements in the HEROES Act.

The Fund supports state compensation programs, which provide direct reimbursement to or on behalf of crime victims for unexpected and often catastrophic expenses caused by violent crime. In order to supplement a state's efforts to financially assist victims for crime-related out-of-pocket expenses, the Fund reimburses states 60% of spending in a fiscal year. Most states' compensation programs are funded through fines and fees paid by offenders prosecuted in state courts. Recently, due to criminal justice reform initiatives along with court closures due to the COVID-19 pandemic, states are facing a significant decline in collections of these fines and fees, limiting their ability to support essential victim compensation eligible expenses. An increase in the reimbursement rate from the Fund to at least 75% will ensure each state has more money accessible to serve victims and survivors with much needed financial support.

Allow for additional years of spending or no-cost extensions for VOCA discretionary, assistance and compensation awards.

Current statutory limitations require that recipients of VOCA funds spend annual grants in a four-year period. To reduce reversions and provide better forecasting for programming, the statute should allow for longer periods to spend down grants and allow the Office for Victims of Crime to permit no-cost extensions to states. A longer award period allows administrators to better plan and predict funding awards and long-term services. In times of economic uncertainty, such as the COVID-19 pandemic, this is especially important as state budgets and other funding sources are significantly impacted. Additional time also allows for redirection of funds for emergency assistance without the threat of compromising traditional services.

Your support of the Crime Victims Fund is paramount to our responsibility as Attorneys General to protect the interests of victims. As such, we defer to you on the best vehicle to introduce the above changes. We do ask, however, that Congress make them a key priority and act upon all three swiftly.

Thank you for your attention and consideration of this matter.

Sincerely,



Maura Healey
Massachusetts Attorney General



Steve Marshall
Alabama Attorney General



Mitzie Jessop Taase
American Samoa Attorney General



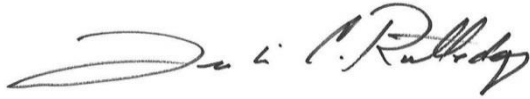
Tim Fox
Montana Attorney General



Kevin G. Clarkson
Alaska Attorney General



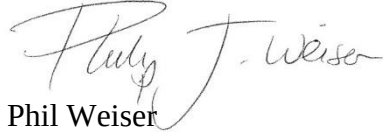
Mark Brnovich
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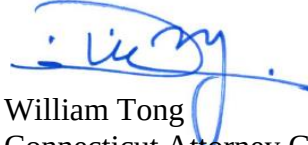
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Phil Weiser
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Karl A. Racine
District of Columbia Attorney General



Ashley Moody
Florida Attorney General



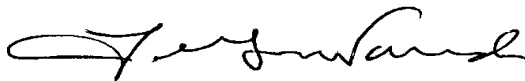
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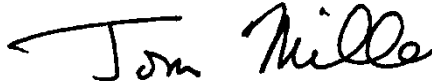
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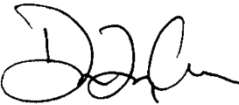
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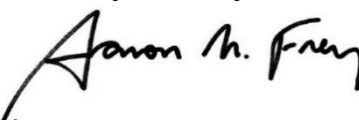
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Kansas Attorney General



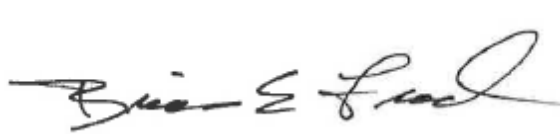
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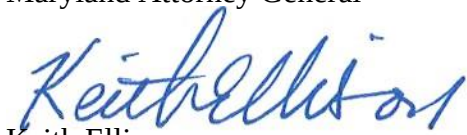
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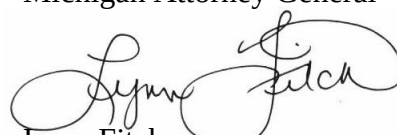
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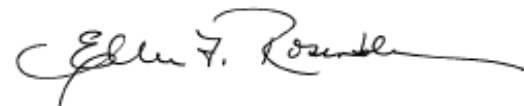
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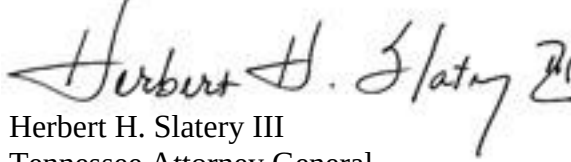
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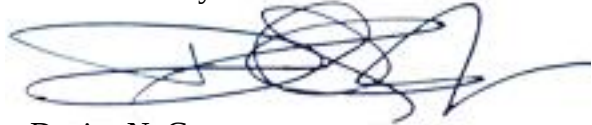
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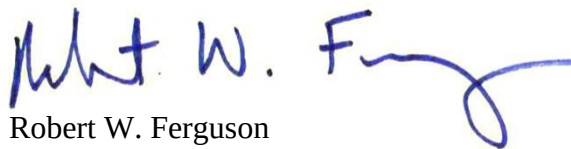
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Tennessee Attorney General



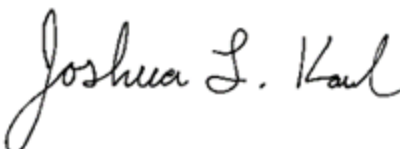
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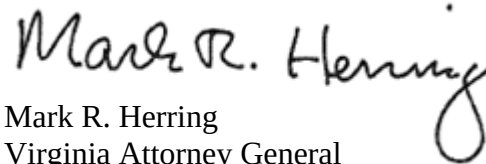
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West Virginia Attorney General



Bridget Hill
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November 16, 2020

Honorable Nancy Pelosi
Speaker
House of Representatives
Washington, DC 20515

Honorable Mitch McConnell
Majority Leader
United States Senate
Washington, DC 20510

Honorable Kevin McCarthy
Minority Leader
House of Representatives
Washington, DC 20515

Honorable Chuck Schumer
Minority Leader
United States Senate
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Honorable Jerrold Nadler
Chair
House Judiciary Committee
2138 Rayburn House Office Building
Washington, DC 20515

Honorable Jim Jordan
Ranking Member
House Judiciary Committee
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Honorable Lindsey Graham
Chair
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290 Russell Senate Office Building
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Honorable Dianne Feinstein
Ranking Member
Senate Judiciary Committee
331 Hart Senate Office Building
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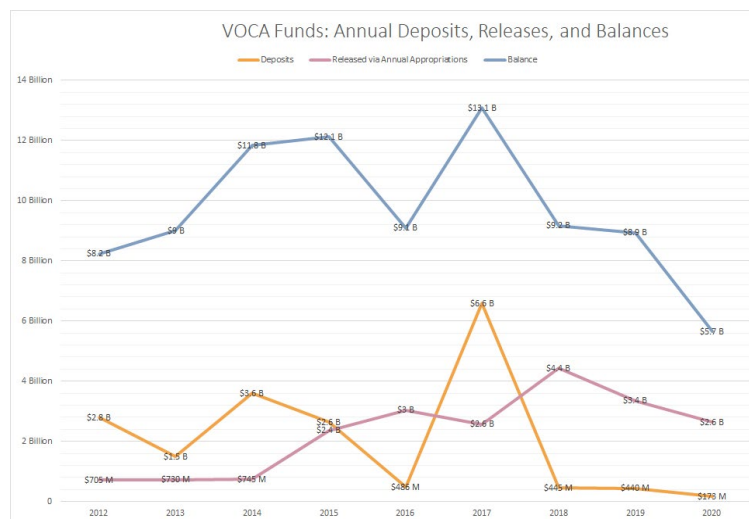
Dear Speaker Pelosi, Majority Leader McConnell, Minority Leader McCarthy, Minority Leader Schumer, Chairman Nadler, Ranking Member Jordan, Chairman Graham, and Ranking Member Feinstein:

We, the undersigned organizations representing thousands of victim service providers, prosecutors, and state VOCA administration and compensation agencies, as well as millions of survivors of crime, call on Congress to take immediate action to prevent expected catastrophic cuts to Victims of Crime Act (“VOCA”) grants. VOCA grants are the primary source of federal funding for thousands of victim service providers across the nation, including programs serving victims of domestic violence, sexual assault, child abuse, trafficking, and drunk driving. VOCA grants also fund victim compensation, which helps survivors pay medical bills, makes up for missed wages, and, in the most severe cases, helps

pay for funeral costs. VOCA grants are *not* taxpayer-funded. Instead, they are paid for out of the Crime Victims Fund (“CVF” or “the Fund”), which comprises federal criminal monetary penalties. Every year, appropriators decide how much to release from the CVF. Most of the disbursement is distributed by the Office for Victims of Crime (“OVC”) via formula grant to victim service providers, with some of the disbursement also providing crucial additional funding to supplement state compensation programs.

In Fiscal Year 2020, the VOCA disbursement - and thus the funding available for victim service providers - decreased by 25%, and victim service providers have been told to expect further, potentially catastrophic cuts. Such cuts to programs that already struggle to serve every survivor who walks through their doors would mean that hundreds of thousands of Americans would be unable to access lifesaving services every year, programs would be forced to close, and tens of thousands of advocates could lose their jobs during a time of extremely high unemployment. This would also coincide with continued increased need, particularly for African-American communities that have been disproportionately impacted, for services resulting from the COVID-19 pandemic and reduced state and local funding.

The past and expected future cuts to VOCA grants are the result of concerning low deposits into the Fund (see chart below). As Appropriators wrote in 2019, “The Committee is concerned . . . by the historically low receipts deposited in the CVF, and in turn, the decrease in resources available for OVC’s disbursement of CVF funded grants and cooperative agreements.”¹ As the size of the Fund dwindles, less money is available to be disbursed to the states in the form of grants. Instead of prosecuting federal crimes, particularly white collar crimes, the Department of Justice is increasingly relying on non-prosecution and deferred-prosecution agreements. If these cases had been prosecuted, the monetary penalties would have been deposited into the Fund. Instead, the money that would otherwise go to serve victims is being deposited into the General Treasury.



State victim compensation funds are facing a somewhat analogous challenge, because they are primarily funded through state criminal monetary penalties. We support the use of alternatives to the criminal system while understanding the burden that the resulting decreased revenue puts

¹ Senate committee report, *Department of Commerce, Justice, Science and Related Agencies Appropriations Bill, 2020, (to Accompany S.2584)*.

on state victim compensation funds. Compensation funds in many states are running dry and are unable to help survivors pay for medical bills, counseling, lost wages, and even funeral costs. Moreover, the onset of the COVID-19 pandemic has delayed many prosecutions, resulting in even less income for the state compensation funds. The federal government's VOCA grant funding to a state victim compensation program is based on a percentage of the state's payments to victims from these dwindling state funds, and thus they are also receiving less support from the federal government, while the need for these funds continues to mount. Additionally, requirements that survivors engage with the criminal justice system limit the reach of victim compensation.

The undersigned organizations propose the following measures, which have also been supported by the 56 State and Territorial Attorneys Generals (see August 26 [letter](#) to Congress):

- Redirect monetary penalties from federal deferred prosecution and non-prosecution agreements that would otherwise be deposited into the General Treasury into the Crime Victims Fund;
- Increase the federal grant calculation for funding to victim compensation programs from the current 60% to 75% of state-funded payouts; and
- Allow states to request a one-year no-cost extension from the Attorney General, as allowed for other Department of Justice formula grant programs, to ensure states can thoughtfully and effectively distribute victim service grants without being penalized.

We also ask that Congress:

- Require state VOCA Administrators to waive the 20% match requirement for victim service subgrantees for the pendency of the COVID-19 crisis and one additional year;
- Allow state VOCA Administrators to waive subgrantee match requirements at their discretion after the aforementioned waiver expires and require state VOCA Administrators to develop and publish a policy and procedure for obtaining a waiver;
- Instruct OVC not to deduct restitution payments recovered by state victim compensation funds when calculating victim compensation awards; and
- Provide flexibility for state compensation programs to waive the requirement to promote victim cooperation with law enforcement if good cause is established by the program.

This is an urgent matter. Every day that passes without the fixes above is a day that money that, with these fixes, could be accruing into the CVF is not doing so - as much as \$2 billion annually. Survivors and the programs that serve them need renewed funding *now* to avoid catastrophic and dangerous cuts. Congress must act immediately to ensure the provisions proposed above are passed into law.

For more information, contact Denise Edwards (dedwards@nca-online.org), Rachel Graber (rgraber@ncadv.org), Terri Poore (terri@endsexualviolence.org), Monica McLaughlin (mmclaughlin@nnedv.org), Daisy Pagan (daisy@navaa.org), and Dan Eddy (dan.eddy@nacvcb.org).

Respectfully,

National Organizations:

Alliance for Safety and Justice
Asian Pacific Institute on Gender-Based Violence
Association of Prosecuting Attorneys
Association of Violence Against Women Administrators
Brady
Break the Cycle
Breaking Free
California Coalition Against Sexual Assault (CALCASA)
Casa de Esperanza: National Latin@ Network for Healthy Families and Communities
Chi-Town GVP Summit
Coalition to Stop Gun Violence
CommonSpirit Health
Covenant House International
Crime Survivors for Safety and Justice
Cybercrime Support Network
DeafLEAD
Evangelical Covenant Church - Advocacy for Victims of Abuse
FaithTrust Institute
First Star Institute
Forward Together Action
Futures Without Violence
Jewish Women International
Kros Learning Group
Legal Momentum, the Women's Legal Defense and Education Fund
Major Cities Chiefs Association
Mothers Against Drunk Driving
Mothers of Lost Children
National Advocacy Center of the Sisters of the Good Shepherd
National Alliance to End Sexual Assault
National Association of Crime Victim Compensation Boards
National Association Social Workers
National Association of Victim Assistance in Corrections
National Association of VOCA Assistance Administrators
National CASA/GAL Association for Children on behalf of their 948 state organizations and local programs
National Center for Victims of Crime
National Center on Sexual Exploitation
National Children's Advocacy Center
National Children's Alliance
National Coalition Against Domestic Violence
National Criminal Justice Association
National District Attorneys Association
National Domestic Violence Hotline
National Indigenous Women's Resource Center
National Juvenile Justice Network

National Network to End Domestic Violence, membership organization of the 56 state and territorial domestic violence coalitions
National Organization for Victim Assistance (NOVA)
National Organization of API Ending Sexual Violence
National Resource Center on Domestic Violence
National Rural Social Work Caucus
Newtown Action Alliance
RAINN
Rights4Girls
Shared Hope International
States United to Prevent Gun Violence
Tahirih Justice Center
The American Probation and Parole Association
The Campaign to Keep Guns Off Campus
The Council of State Governments Justice Center
Victim Rights Law Center
YWCA USA
Zero Abuse Project
Zeta Phi Beta Sorority, Inc.
Zonta USA

Multi-State Organizations:

Amara Legal Center, Washington, DC
Childhelp, Phoenix, AZ
Child Abuse Council, Moline, IL
Community Health Service Inc., Moorhead, MN
Dartmouth Hitchcock Medical Center, Lebanon, NH
Family & Children's Center, La Crosse, WI and Winona, MN
Gray's Trauma-Informed Care Services Corp, Lake Elsinore, CA
Great Circle, St. Louis, MO
PeaceWorks Inc., Conifer, CO
Rape and Abuse Crisis Center of Fargo-Moorhead, Fargo, ND and Moorhead, MN
Red River Children's Advocacy Center, Fargo, ND
SAL Family and Community Services, Moline, IL
Survivors Lead, Minneapolis, MN
The WellHouse, Odenville, AL
Wendt Center for Loss and Healing, Washington, DC
YWCA Lewiston, ID-Clarkston, WA, Lewistown, ID

Tribal Organizations:

Child Advocacy Program, Chautauqua County
Fort Peck Assiniboine and Sioux Tribes/Red Bird Woman Center
Little River Band of Ottawa Indians Victim Services Program
Red Cliff Band of Lake Superior Chippewa, Family Violence Prevention Program
VOCA Brighter Days

Alabama:

AL Network of Children's Advocacy Centers
Alabama Coalition Against Domestic Violence
Alabama Coalition Against Rape
AshaKiran
Victims of Crime and Leniency (VOCAL)
Blount County Children's Center, Inc., Oneonta
Butler County Children's Advocacy Center, Greenville
Butterfly Bridge Children's Advocacy Center, Clanton
Calhoun Cleburne Children's Center, Inc., Anniston
Central Alabama Regional Child Advocacy Center, Selma
Child Advocacy Center of Mobile, AL, Mobile
Covington County Child Advocacy Center, Andalusia
Cramer Children's Center, Florence
Crisis Center, Inc., Birmingham
DeKalb County Children's Advocacy Center, Inc., Fort Wayne
Escambia County Regional Child Advocacy Center, Brewton
Family Resource Center of Northwest Alabama, Inc., Jasper
Jackson County Children's Advocacy Center Inc, Scottsboro
James M. Barrie Center for Children, Inc., Gadsden
Lifelines Counseling Services, Mobile
Limestone Child Advocacy Center, Athens
Morgan County Child Advocacy Center, Decatur
Penelope House, Mobile
Pike Regional Child Advocacy Center, Troy
Regional Child Advocacy Center, Inc., Grove Hill
Russell County Child Advocacy Center, Phenix City
Shelby County Children's Advocacy Center-Owens House, Columbiana
Southeast Alabama Child Advocacy Center, Dothan
St.Clair Children's Advocacy Center, Pell City
The Bessemer Cut Off Advocacy Center, Bessemer
The Child Advocacy Center of Marshall County, Guntersville
The Children's Advocacy Center of Cherokee County, Centre
The Tuscaloosa Children's Center, Inc., Tuscaloosa
Tri-County Children's Advocacy Center, Dadeville
Twin Cedars Child Advocacy Center, Opelika
Victim Services of Cullman, Inc., Cullman
Walker County Children's Advocacy Center, Jasper
West Alabama Children's Advocacy Center, Vernon, Fayette, and Carrollton
Wiregrass Angel House, Dothan
YWCA Central Alabama, Birmingham

Alaska:

Alaska Children's Alliance
Alaska Network on Domestic Violence and Sexual Assault INC
Victims For Justice

The Children's Place, Wasilla
The LeeShore Center, Kenai
Tundra Women's Coalition, Bethel

Arizona:

Arizona Coalition to End Sexual and Domestic Violence
Arizona Voice for Crime Victims, Inc.
Az Crime Victim Rights Law Group
Legal Services for Crime Victims in Arizona
The Arizona Child & Family Advocacy Network
Alice's Place, Inc., Winslow
Amberly's Place Family Advocacy Center, Yuma
Catholic Charities My Sisters' Place, Phoenix
Children's Advocacy Center of Southern Arizona, Tucson
Emerge Center Against Domestic Abuse, Tucson
Eve's Place Inc., West Valley
Glendale Police Department, Glendale

Arkansas:

Arkansas Children's Advocacy Centers
Arkansas Coalition Against Domestic Violence
Arkansas Coalition Against Sexual Assault
Child Safety Center of White County, Searcy
Children's Advocacy Center of Benton County, Rogers
Children's Advocacy Center of Eastern Arkansas, West Memphis
Ozark Rape Crisis, Inc., Clarksville, Harrison, and Russellville
Rise House Arkansas, Conway
Serenity, Inc., Mountain Home
Women & Children First: The Center Against Family Violence, Little Rock

California:

A Community For Peace
California Partnership to End Domestic Violence
Family Violence Appellate Project
National Association of Social Workers, California Chapter
Stopping Domestic Violence
Casa de Esperanza, Sutter, Yuba, and Colusa
Chadwick Center for Children and Families, San Diego
Children's Advocacy Centers of California, San Leandro
Children's Legacy Center, Redding
Community United Against Violence (CUAV), San Francisco
CORA (Community Overcoming Relationship Abuse), San Mateo
Next Door Solutions to Domestic Violence, San Jose
Empower Tehama, Red Bluff
Empower Yolo, Inc., Woodland
Encouragement Project, Santa Monica

Family Services of Tulare County, Visalia
Family Violence Law Center, Oakland
Foundation for Peaceful Communities, Sacramento
Harrington House/Rural Human Services, Crescent City
Haven Hills, Canoga Park
Haven Women's Center of Stanislaus, Modesto
House of Ruth, Inc., Pomona
Humboldt Domestic Violence Services (HDVS), Rural Humboldt County
La Casa de Las Madres, San Francisco
Lassen Family Services, Susanville
Los Angeles Center for Law and Justice, Los Angeles
Monarch Services of Santa Cruz County, Watsonville
My Sister's House, Sacramento
Option House, Inc., San Bernardino
Plumas Rural Services, Quincy
Rape Counseling Services of Fresno, Fresno
RISE, Paso Robles
San Bernardino County District Attorney's Office, San Bernardino
Saving All Children (dba) Family Healing Center, Fresno
Shelter From The Storm, Palm Desert
Stand Strong, San Luis Obispo
StrengthUnited, Los Angeles
Su Casa~Ending Domestic Violence, Long Beach
The Children's Advocacy Center for Child Abuse Assessment and Treatment, Covina
Tuolumne County District Attorney Victim Services Program, Sonoma
Walnut Avenue Family & Women's Center, Santa Cruz
Women Against Gun Violence, Los Angeles
Women's Center-High Desert, Inc, Ridgecrest
WomenShelter of Long Beach, Long Beach
YWCA of Sonoma County, Santa Rosa

Colorado:

Colorado Coalition Against Sexual Assault
IMPACT Personal Safety of Colorado
National Association of Social Workers, Colorado Chapter
Rocky Mountain Victim Law Center
The Initiative
Violence Free Colorado
Advocate Safehouse Project, Glenwood Springs
7th Judicial District Child Advocacy Center dba The Dolphin House, Montrose
Advocates for Victims of Assault, Inc, Dillon
Advocates of Lake County, Inc., Leadville
Advocates of Routt County, Steamboat Springs
Blue Sky Bridge, Boulder
Clear Creek County Advocates, Georgetown
Finding Our Voices, Colorado Springs

Gateway Domestic Violence Services, Aurora
Hispanic Affairs Project, Western Colorado
Justice Never Sleeps, Florence
Latina SafeHouse, Denver
Park County Sheriff's Office, Fairplay
Project Hope of Gunnison Valley, Gunnison
Project Safeguard, Denver
Renew, Inc., Cortez
RESPONSE Help for Survivors of Domestic Violence and Sexual Assault, Aspen
Rise Above Violence, Pagosa Springs
SafeHouse Denver, Denver
Safehouse Progressive Alliance for Nonviolence, Boulder
Safe Shelter of St. Vrain Valley, Longmont
San Luis Valley Immigrant Resource Center, Alamosa
San Miguel Resource Center, Telluride
SARA House, Fort Morgan
Sexual Assault Services Organization, Durango and Ignacio
The Arc of Adams County, Northglenn
The Arc of Aurora, Aurora
The Blue Bench, Denver
Tu Casa, Inc., Alamosa
Western Slope Center For Children, Grand Junction
WINGS, Denver
YWCA Pueblo

Connecticut:

Connecticut Coalition Against Domestic Violence
Connecticut Children's Alliance
National Association of Social Workers Connecticut Chapter
Child Guidance Center of Southern Connecticut, Stamford
Human Services Council/ Children's Connection, Norwalk
The Center for Family Justice, Bridgeport
YWCA Greenwich, Greenwich

Delaware:

CHILD, Inc.
Children's Advocacy Center of Delaware
DCADV
Delaware Victims' Compensation Assistance Program

District of Columbia:

DC Volunteer Lawyers Project
District of Columbia Office of Victim Services and Justice Grants
FAIR Girls, Inc.
Network for Victim Recovery of DC (NVRDC)
Tzedek DC

Zonta Club of Washington, D.C.

Florida:

American Children's Campaign (dba The Children's Campaign)
Children's Home Society of Florida
Florida Council Against Sexual Violence
Florida Network of Children's Advocacy Centers
National Association of Social Workers - Florida
Voices for Florida - Open Doors Outreach Network
Alachua County Sheriff's Office, Gainesville
Betty Griffin Center, St. Augustine
Center for Abuse and Rape Emergencies, Inc., Punta Gorda
Child Advocacy Center, Inc., Gainesville
Children's Advocacy Center of Brevard, Rockledge
Children's Advocacy Center of Collier County, Naples
Children's Advocacy Center of Hernando County, Brooksville
Children's Advocacy Center of SW Florida, Fort Myers
Citrus County Children's Advocacy Center, Inc., Lecanto
Emerald Coast Children's Advocacy Center, Inc., Niceville
Florida Council Against Sexual Violence, Tallahassee
Kids House of Seminole, Inc., Sanford
Kristi House, Inc., Miami
MUJER, Inc., Naranja
Peaceful Paths, Inc., Gainesville
Port St Lucie Police Dept, Port St Lucie
Refuge House, Inc., Tallahassee
Santa Rosa Kids' House, Milton
Sexual Assault Assistance Program of the Treasure Coast, Fort Pierce
State Attorney's Office, 19th Judicial Circuit of Florida
Sunrise of Pasco County, Inc., Pasco County
Victim Services Coalition for the 7th Judicial Circuit, Daytona Beach
Women's Center of Brevard, Melbourne and Titusville
Women's Center of Jacksonville, Jacksonville

Georgia:

Children's Advocacy Centers of Georgia
GA Coalition Against Domestic Violence
National Association of Social Workers - Georgia Chapter
Solicitor General's Office Victim Witness
Student Victim Assistance
A Child's Voice CAC, Social Circles
Carroll County Child Advocacy Center, Inc., Carrollton
Chattahoochee CASA, Columbus
Child Advocacy Center of Coffee County, Douglas
Child Enrichment, Inc., Augusta
Children's Advocacy Center - LMJC

Children's Tree House Child Advocacy Center, Columbus
Cobb Domestic Violence Taskforce, Marietta
Douglasville Islamic Women's Shelter and Services, Inc., Douglasville
FAITH's Power House Child Advocacy Center, Toccoa
Family Resource Center of Gordon County, Inc., Calhoun
Forsyth County Child Advocacy Center, Cumming
Harbor House-Northwest Georgia Child Advocacy Center, Inc, Rome
Hero House, Moultrie
Mary Lou Fraser Foundation for Families, Inc. - Helen's Haven Children's Advocacy Center,
Hinesville
Mosaic Georgia, Inc., Duluth
Ocmulgee Judicial Circuit, Georgia, Milledgeville
Prosecuting Attorneys' Council of Georgia, Morrow
Rainbow House Inc., Jonesboro
SafePath Children's Advocacy Center, Marietta
Sexual Assault Center of Northwest Georgia, Rome
South Enotah Child Advocacy Center, Inc., Cleveland
Southern Crescent Sexual Assault and Child Advocacy Center, Hampton
Southwest Georgia Children's Alliance. Inc., Americus
Stepping Stone CAC and SAC, Dublin
The Children's Advocacy Center of Lowndes County, Inc., Valdosta
The Cottage, Sexual Assault Center & Children's Advocacy Center, Inc., Athens
The Gateway Center, Inc, Cordele
Twin Cedars Youth and Family Services, Inc., Columbus

Hawaii:

Hawaii Department of the Attorney General
Hawaii State Chapter Children's Justice Center
Hawaii State Coalition Against Domestic Violence
National Association of Social Workers- Hawai'i Chapter
The Sex Abuse Treatment Center, Honolulu
YWCA Kauai, Lihue

Idaho:

Idaho Coalition Against Sexual & Domestic Violence
Idaho Crime Victims Compensation Program
The Idaho Network of Children's Advocacy Centers
Advocates Against Family Violence, Inc., Caldwell
Bright Tomorrows Child Advocacy Center, Pocatello
Domestic Violence & Sexual Assault Center, Idaho Falls
Elmore County Domestic Violence Council, Mountain Home
Family Safety Network, Driggs
Lemhi County Crisis Intervention, Salmon
Nampa Family Justice Center, Nampa
Oneida Crisis Center, Inc., Malad City
Safe Passage Violence Prevention Center, Coeur d'Alene

The Advocates, Hailey
Upper Valley Child Advocacy Center, Rigby
Women's and Children's Alliance, Boise

Illinois:

Children's Advocacy Centers of Illinois
Gun Violence Prevention PAC
Illinois Child Advocacy Center Board of Directors
Illinois Coalition Against Domestic Violence
Illinois Coalition Against Sexual Assault
National Association of Social Workers (NASW) Illinois Chapter
Advocacy Network for Children, Quincy
All Our Children's Advocacy Center, Justice
April House Children's Advocacy Center, Morrison
Braveheart Children's Advocacy Center, Cambridge
Carrie Lynn Children's Center, Rockford
Champaign County Children's Advocacy Center, Champaign
Chicago Alliance Against Sexual Exploitation, Chicago
Chicago Children's Advocacy Center, Chicago
Children's Advocacy Center of East Central IL, Charleston
Child Advocacy Center of McHenry County, Woodstock
Child Network, Bradley
Children's Advocacy Center of DeKalb County, DeKalb
Children's Advocacy Center of East Central IL, Charleston
Children's Advocacy Center of N & NW Cook Co., Hoffman Estates
Family Service Agency, Dekalb
Franklin-Williamson Child Advocacy Center, Herrin
Fulton-Mason Crisis Service, Canton
Growing Strong Sexual Assault Center, Decatur
HOPE of East Central Illinois, Charleston
La Rabida Children's Advocacy Center, Park Forest
Lake County Children's Advocacy Center, Gurnee
LaSalle County Children's Advocacy Center, Ottawa
McLean County Children's Advocacy Center & CASA, Bloomington
Mercer County Family Crisis Center, Aledo
Northwest Center Against Sexual Assault, Arlington Heights
Office of Will County State's Attorney, Joliet
Perry-Jackson Child Advocacy Center, Pinckneyville
Pillars Community Health Domestic and Sexual Violence Services, La Grange Park
Resilience, formerly Rape Victim Advocates, Chicago
Rockford Sexual Assault Counseling, Rockford
Safe Journeys, Streator
Sangamon County Child Advocacy Center, Springfield
Sexual Assault and Family Emergencies - SAFE, Vandalia, Effingham, Centralia, Mt. Vernon
Sexual Assault Counseling and Information Service, Charleston
Shining Star Children's Advocacy Center, Dixon

St. Clair County Child Advocacy Center, Belleville
Tazewell County Children's Advocacy Center, Pekin, Eureka, and Havana
The Child 1st Center, Decatur
The Guardian Center, Inc., Carmi
The Poshard Foundation for Abused Children, Carterville
The Rock Island County Children's Advocacy Center, Rock Island
Two Rivers Child Advocacy Center, Anna
Tyler's Justice Center for Children, Stockton
Western Illinois Regional Council - Community Action Agency, Macomb
Will County Children's Advocacy Center, Joliet
YWCA Metropolitan Chicago, Chicago
YWCA of the University of Illinois, Champaign
Zacharias Sexual Abuse Center, Gurnee

Indiana:

Indiana Chapter of National Children's Alliance
Indiana Coalition Against Domestic Violence
Indiana Prosecuting Attorneys Council
NASW - Indiana Chapter
Children & Families of Iowa, Des Moines
Children's Advocacy Center of Southeast Indiana, Dillsboro
Franklin County (IN) Prosecutor's Office, Brookville
JACY House, Richmond
Kids Talk Child Advocacy Center, Anderson
Middle Way House, Bloomington
Office of the Boone County Prosecutor , Lebanon, Boone County
Susie's Place Child Advocacy Centers, Avon
The CASIE Center, South Bend
The Child Advocacy Center of Grant County Indiana, Inc., Marion

Iowa:

Amani Community Services
Central Iowa Trauma Recovery Center
EMBARC
Iowa Chapter of Children's Advocacy Centers
Iowa Coalition Against Domestic Violence
Iowa Coalition Against Sexual Assault (IowaCASA)
Iowa Coalition For Collective Change
Iowa County Attorneys Association
Iowa Safe Schools
Monsoon Asians & Pacific Islanders in Solidarity
National Association of Social Workers - Iowa
Thrive Together
Assault Care Center Extending Shelter and Support, Ames
CAASA, Spencer
Catholic Charities, Council Bluffs

Creative Visions Inc., Des Moines
Crisis Intervention and Advocacy Center, Adel
Crisis Intervention Service, Mason City
Crisis Intervention Services of SE Iowa, Oskaloosa
Domestic Violence Intervention Program, Iowa City
Domestic/Sexual Assault Outreach Center, Fort Dodge
Family Crisis Center, Ottumwa
Family Crisis Centers, Inc., Sioux Center
Family Resources, Davenport
Friends of the Family, Waterloo
Jesse Cosby Neighborhood Center, Waterloo
La Luz Hispana, Hampton
Latinas Unidas por un Nuevo Amanecer (L.U.N.A.), Des Moines
MercyOne Siouxland Child Advocacy Center, Sioux City
Nisaa African Family Services, Des Moines
Plymouth County Victim Witness Coordinator, Le Mars
SafePlace, Sioux City
Seasons Center for Behavioral Health, Spencer
Waypoint Services, Cedar Rapids

Kansas:

Children's Advocacy Centers of Kansas, Inc.
Kansas Coalition Against Sexual and Domestic Violence
Bright House, Hutchinson
Child Advocacy Center of Sedgwick County, Wichita
Children's Advocacy Center, Inc., Pittsburg
Crisis Center Dodge City, Inc., Dodge City
Crisis Center, Inc., Clay, Geary, Marshall, Pottawatomie, and Riley Counties
Domestic Violence Association of Central Kansas (DVACK), Salina
Family Crisis Center, Inc., Great Bend
Family Crisis Services Inc., Garden City
Family Life Center - Safehouse, El Dorado
First Judicial CASA Association Leavenworth Atchison Child Advocacy Center, Leavenworth
Friends of Yates, Kansas City
Healing Hearts Child Advocacy Center, Southaven
Hope Unlimited, Inc., Iola
Horizons Mental Health Center, Hutchinson
Liberal Area Rape Crisis & Domestic Violence Services, Inc., Liberal
North Central Kansas CASA & Hope's Place CAC, Concordia
Safehome, Overland Park
Safehouse Crisis Center, Inc., Pittsburg
SOS, Inc, Emporia
Stepping Stones Child Advocacy Center, Manhattan
StepStone, Inc., Wichita
Wichita Area Sexual Assault Center, Inc., Wichita
Wichita Family Crisis Center, Wichita

Kentucky:

Children's Advocacy Centers of Kentucky
Kentucky Association of Sexual Assault Programs
Kentucky Coalition Against Domestic Violence
NASW-KY
Barren River Area Child Advocacy Center, Bowling Green
Buffalo Trace Children's Advocacy Center, Maysville
Children's Advocacy Center of the Bluegrass, Lexington
Family & Children's Place Kosair Charities Child Advocacy Center, Louisville
Gateway Children's Advocacy Center, Morehead
Green River Regional Rape Victim Services, Inc., Owensboro
Hope Harbor, Inc., Bowling Green
Hope's Place, Inc., Ashland
Judi's Place for Kids, Pikeville
Lake Cumberland Children's Advocacy Center, Jamestown
Lotus Children's Advocacy & Sexual Violence Resource Center, Paducah
OASIS, INC, Owensboro
Pennyrile Children's Advocacy Center, Hopkinsville
Silverleaf Sexual Trauma Recovery Services, Elizabethtown
The Center for Women and Families, Louisville
The Rising Center / Kentucky River Community Care (KRCC), Hazard

Louisiana:

Louisiana Alliance of Children's Advocacy Centers
Louisiana Coalition Against Domestic Violence
National Association of Social Workers - Louisiana Chapter
Children's Advocacy Center - Hope House, Covington
Children's Advocacy Network, Alexandria
Jefferson Children's Advocacy Center, Gretna
Metro Centers For Community, New Orleans

Maine:

Maine Coalition Against Sexual Assault
Maine Coalition to End Domestic Violence
Maine Gun Safety Coalition
Maine Network of Children's Advocacy Centers
Nat Assoc of Social Workers, Maine Chapters
Caring Unlimited, Sanford
Family Violence Project, Augusta
Hope and Justice Project, Aroostook County
New Hope For Women, Rockland
NextStep Domestic Violence Project, Ellsworth and Machias
Partners for Peace, Bangor
Rape Response Services, Bangor
Safe Place Child Advocacy Center, Hagerstown

Safe Voices, Lewiston
Sexual Assault Crisis & Support Center, Winthrop
Sexual Assault Prevention and Response Services, Androscoggin County, Oxford County,
Franklin County
Sexual Assault Response Services of Southern Maine, Portland
Sexual Assault Support Services of Midcoast Maine, Brunswick
Through These Doors, Portland

Maryland:

Maryland CASA Association
Maryland Chapter of the American Academy of Pediatrics
Maryland Children's Alliance
Maryland Coalition Against Sexual Assault
Maryland Essentials for Childhood
Maryland Family Network
Maryland Local Management Board Association
Maryland Network Against Domestic Violence
Maryland Safe At Home Address Confidentiality Program, Office of the Secretary of State
Maryland State Council on Child Abuse and Neglect
MD Chapter of the National Organization of Social Workers
MD Coalition of Families
Anne Arundel County CASA, Inc., Annapolis
CASA of Allegany County, Cumberland
CASA of Frederick & Carroll Counties, Frederick
Life Crisis Center, Salisbury
No More Stolen Childhoods
The Family Tree/Prevent Child Abuse Maryland
Carroll County Sheriff's Office, Westminster
Cecil County Family Violence Programs, Elkton
Center for Children, Inc., La Plata
Dove Center, Oakland
Family Crisis Resource Center, Inc., Cumberland
For All Seasons, Inc., Easton, Cambridge, Denton, Stevensville, Chestertown, Tilghman Island
Friends of the Child Advocacy Center, Frederick
LifeBridge Health, Center for Hope, Baltimore
Office of the State's Attorney for Baltimore City, Baltimore
Prince George's County Department Social Services, Landover
Southern Md. Center for Family Advocacy, Hollywood
St. Mary's County Child Advocacy Center, Lexington Park
Talbot County Children's Advocacy Center, Easton
The CRICKET Center, Berlin
The Rebuild, Overcome, and Rise (ROAR) Center, Baltimore
Voices for Children, Howard County's Court Appointed Special Advocate Program, Ellicott
City
Voices for Children Montgomery, Montgomery County

Massachusetts:

Jane Doe Inc.
Massachusetts Office for Victim Assistance (MOVA)
Mothers Against Drunk Driving Massachusetts
National Association of Social Workers, MA Chapter
Portal To Hope
Saheli Inc.
Stop Handgun Violence
Violence Recovery Program, Fenway Health
Beth Israel Deaconess Medical Center, Center for Violence Prevention and Recovery, Boston
Boston Area Rape Crisis Center, Cambridge
Boston Medical Center Domestic Violence Program, Boston
Casa Myrna Vazquez, Boston
Catholic Social Services, Diocese of Fall River, Fall River
Centerboard, Lynn
Children's Advocacy Center Franklin County North Quabbin Inc, Greenfield
Children's Advocacy Center of Hampshire County, Northampton
DOVE, Inc., Quincy
HarborCOV, Chelsea
Healing Abuse Working for Change, Salem
Health Imperatives
Hilltown Community Health Centers, Inc., Worthington
Jeanne Geiger Crisis Center, Newburyport
Louis D. Brown Peace Institute, Dorchester
Martha's Vineyard Community Services' CONNECT to End Violence, Vineyard Haven
New England Learning Center for Women In Transition (NELCWIT), Greenfield
New Hope Inc., Attleboro
Office of Northwestern District Attorney, Northampton
On The Rise, Inc., Cambridge
Pathways for Change, Inc., Worcester
RIA House, Inc., Framingham and Worcester
Riverside Community Care, Sommerville
Roxbury Youthworks, Inc., Roxbury
The Second Step, Newton
UMass Community Healthlink Victim Services, Worcester
Wayside Youth & Family Support Network, Framingham
Womanshelter/Companeras, Holyoke
Victim Rights Law Center, Boston
Voices Against Violence, Framingham
YWCA Northeastern Massachusetts, Lawrence

Michigan:

Children's Advocacy Centers of Michigan
Equality Michigan
Michigan Coalition to End Domestic & Sexual Violence
Mothers Against Drunk Driving (MADD) Michigan State Office

Prosecuting Attorneys Association of Michigan
Allegan County CASA- Safe Harbor CAC, Allegan
AWARE, Inc., Jackson
Bronson Sexual Assault Services, Child Advocacy Center, Battle Creek
CAN Council, Saginaw, Bay City, and Bad Axe
CARE House of Oakland County, Pontiac
CASA of Kent County, Grand Rapids
CASA - The Voice for Clinton County's Children, St. Johns
Centro Multicultural La Familia, Pontiac
Child Advocacy, Amla
Child and Family Services of Saginaw, Saginaw
Children's Advocacy Center, Holland
Children's Advocacy Center of Kalamazoo, Kalamazoo
Children's Advocacy Center of Kent County, Grand Rapids
Children's Advocacy Center of Southwest Michigan, St. Joseph
CHOICES of Manistee County, Inc., Manistee
Community Healing Centers Children's Advocacy Center, Kalamazoo
Domestic Violence Coalition, Inc, Paw Paw
Every Woman's Place, Muskegon
Hurley Medical Center-Trauma Recovery Center, Flint
Ionia Montcalm Secure and Friendly Environment Child Advocacy Center, Fenwick
Kids-TALK Children's Advocacy Center, Detroit
Macomb County Child Advocacy Center/Care House, Mount Clemens
Manistee County Child Advocacy Center, Manistee
Northern Michigan Children's Assessment Center, Roscommon
Office of Prosecuting Attorney, Kalamazoo
Region 2 Area Agency on Aging, Brooklyn
Resilience: Advocates for Ending Violence, Holland
S.A.F.E. Place, Battle Creek
Safe & Sound Child Advocacy Center, Midland
Safe Harbor CAC of Barry County, Hastings
Safe Harbor Children's Advocacy Center, Allegan
SafeCenter, Owosso and St. Johns
Sanilac County Child Abuse Prevention Council, Sandusky
Small Talk Children's Advocacy Center, Lansing
St. Clair County Child Abuse Neglect Council Inc, Port Huron
St. Clair County Victim's Rights Office, Port Huron
The Avenue Family Network, Benton Harbor
The Capital Area Response Effort (CARE), Lansing
The Child Advocacy Center of Lapeer County, Lapeer
The Child Advocacy Center of Tuscola County, Caro
The Women's Center, Marquette
Traverse Bay Children's Advocacy Center, Traverse City
Underground Railroad, Inc., Saginaw
Voices for Children, Flint
Voices for Children, Owosso

Women's Resource Center for the Grand Traverse Area, Traverse City

Minnesota:

American Indian Community Housing Organization
Minnesota Alliance on Crime
Midwest Children's Resource Center
Minnesota Children's Alliance
Minnesota Elder Justice Center
MN Coalition Against Sexual Assault
ThinkSelf Deaf Adult Education & Advocacy
Unspoken Voices
Violence Free Minnesota
Women of Nations
360 Communities, Burnsville
Advocates for Family Peace, Grand Rapids
Alexandra House, Inc., Blaine
Anoka County Attorney's Office, Anoka
Canvas Health Abuse Response Services, Oakdale
Child & Family Advocacy Center of South Central Minnesota, Mankato
Child's Place, Redwood Falls
Cornerstone Advocacy Service, Bloomington and Minneapolis
Dakota County Attorney's Office, Hastings
Division of Indian Work, Minneapolis
Domestic Abuse Intervention Programs, Duluth
Family Advocacy Center of Northern Minnesota, Bemidji
Family & Children's Center - Matty's Place CAC, Winona
Family Pathways, North Branch
Family Safety Network, Walker
Freeborn County Crime Victims Crisis Center, Albert Lea
Hands of Hope Resource Center, Little Falls
HOPE Center, Faribault
HOPE Coalition, Red Wing
HOPE (Healing Opportunity Provided Equally), Aitkin
Kandiyohi County Attorney's Office, Willmar
Karen Organization of Minnesota, St. Paul
Mahnomen County Attorney's Office, Mahnomen
Mid-Minnesota Women's Center, Inc., Brainerd
Minneapolis American Indian Center, Minneapolis
Missions Inc. Programs, Plymouth
New Horizons Crisis Center, Marshall
North Star Family Advocacy Center, Braham
PAVSA, Duluth
Phumulani Minnesota African Women Against Violence, Minneapolis
Red Lake County Victim Services, Red Lake Falls
Rivers of Hope, Monticello
Safe Avenues, Willmar

Safe Haven Shelter & Resource Center, Duluth
Sewa-Aifw, Minneapolis
Sexual Violence Center, Minneapolis
Someplace Safe, Fergus Falls
Southern Valley Alliance, Belle Plaine
Southwest Crisis Center, Worthington
Standpoint, St. Paul
Stevens County Victim Services, Morris
Support Within Reach, Bemidji
The Committee Against Domestic Abuse (CADA) Inc., Mankato
Tubman, Minneapolis
Watonwan County Victim Witness Program, St. James
Women's Advocates, St. Paul
Women's Initiative for Self Empowerment, St. Paul
Yellow Medicine County Attorney Office - Victim Services, Granite Falls

Mississippi:

Children's Advocacy Centers of Mississippi
Mississippi Coalition Against Domestic Violence
National Association of Social Workers - MS Chapter
Angel Wings Out-Reach Center, Mendenhall
Care Lodge Domestic Violence Shelter, Inc., Meridian
Catholic Charities, Inc., Jackson
Domestic Abuse Family Shelter, Inc., Laurel
Family Resource Center, Tupelo
Gulf Coast Center for Nonviolence, Biloxi
Haven House Family Shelter, Inc., Vicksburg
Hope Haven Children's Advocacy Center, Waveland
House of Grace Domestic Violence Shelter, Southaven
Natchez Children's Services
Safe Haven, Inc., Columbus
Shafer Center for Crisis Intervention, Hattiesburg
Southwest Mississippi Children's Advocacy Center, McComb
Violence Intervention Project, Thief River Falls

Missouri:

Christos House, Inc.
Missouri Association of Prosecuting Attorneys
Missouri Coalition Against Domestic & Sexual Violence
Missouri KidsFirst
Agape House Inc of Mountain View, Mountain View
ALIVE, St. Louis
Audrain County Crisis Intervention Services, Mexico
AVENUES for Northeast Missouri, Inc., Hannibal
C.A.R.E. of Atchison Co. Inc., Rock Port
Cedar County Office of Prosecuting Attorney, Stockton

Child Protection Center, Inc., Kansas City
Child Safe of Central Missouri, Inc., Sedalia
Children's Advocacy Center of East Central Missouri, Festus
Children's Advocacy Services of Greater St. Louis, St. Louis
Children's Center Of Southwest Missouri, Joplin
Citizens Against Domestic Violence, Inc, Camden, Miller, and Morgan Counties
Citizens Against Spouse Abuse, Inc., Sedalia
Comtrea's A Safe Place, Jefferson County
Crime Victim Advocacy Center of St. Louis, St. Louis
Family Violence Center, Inc., d/b/a Harmony House, Springfield
Genesis: A Place of New Beginnings, Waynesville
Green Hills Women's Shelter, Cameron
Harbor House Domestic Violence Center, Kimberling City
Haven House, Inc., Poplar Bluff
Hope House, Lees Summit
Jefferson City Rape & Abuse Crisis Service, Jefferson City
Lafayette House, Joplin
Lakes Area Child Advocacy Center, Branson West
Lighthouse Shelter/Resource Center, Marshall
Linn County Prosecuting Attorney, Linneus
Lydia's House, Inc., St. Louis
Kids' Harbor, Inc., Osage Beach
Metropolitan Organization to Counter Sexual Assault (MOCSA), Metro Kansas City
North Central Missouri Children's Advocacy Center, Trenton
North Star Advocacy Center, Maryville
Phelps County Family Crisis Services DBA Russell House, Missouri, Rolla, Salem, Steelville,
and Vienna
Rainbow House Regional Child Advocacy Center, Columbia
Regional Family Crisis Center, Perryville
Rose Brooks Center, Kansas City
Safe Connections, St. Louis
Safe House for Women, Cape Girardeau
Shockley Family, Salem
Sikeston House of Refuge, Sikeston
Southeast Missouri Network Against Sexual Violence, Cape Girardeau
Susanna Wesley Family Learning Center, Inc., Charleston
Synergy Services, Inc, Parkville
The Child Advocacy Center, Springfield
The Child Center, Wentzville
The Kathy J. Weinman Shelter for Domestic Violence, St. Louis
The Women's Safe House, St. Louis
True North of Columbia, Colubia
Turning Point Advocacy Services, Warrenton
Voices of Courage Child Advocacy Center, St. Joseph
Whole Health Outreach/Casa Guadalupe Domestic Violence Shelter, Ellington
Women of Grace/GIA Community Development Corporation, St. Louis

Young Women's Christian Association of St. Joseph, Missouri, St. Joseph
YWCA Metro St. Louis, St. Louis

Montana:

Children's Alliance of Montana, Inc.
Montana Coalition Against Domestic and Sexual Violence
Abuse Support and Prevention Education Network, Livingston
Custer Network Against Domestic Abuse Inc., Miles City
District 4 HRDC Victim Services, Havre
Domestic and Sexual Violence Services of Carbon County, Red Lodge
Flathead County Children's Advocacy Center, Kalispell
The Sexual Assault Counseling Center, Bozeman
Victim-Witness Assistance Services, Great Falls
YWCA Billings, Billings and Hardin

Nebraska:

Healing Hearts & Families
National Association of Social Workers, Nebraska Chapter
Nebraska Alliance of Child Advocacy Centers
Nebraska Coalition to End Sexual and Domestic Violence
Bridge of Hope Child Advocacy Center, North Platte
Bright Horizons Resources for Survivors of Domestic Violence and Sexual Assault, Inc.,
Norfolk
CAPstone Child Advocacy Center, Gering
Central Nebraska Child Advocacy Center
Family Advocacy Network, Kearney
Lincoln/Lancaster Child Advocacy Center, Lincoln
Parent-Child Center, Lexington
Rape/Domestic Abuse Program, North Platte and Valentine
Spouse Abuse Sexual Assault Crisis Center, Inc., Hastings
Survivors Rising, Omaha
The Bridge, Fremont
The DOVES Program, Gering
Voices Of Hope, Lincoln

Nevada:

Battle Born Progress - Nevada
National Association of Social Workers - Nevada Chapter
Nevada Coalition to End Domestic and Sexual Violence
North Las Vegas City Attorney's Office, North Las Vegas

New Hampshire:

Catholic Charities NH
Court Appointed Special Advocates (CASA) of NH
Granite State Children's Alliance
National Association of Social Workers, NH Chapter

New Hampshire Coalition Against Domestic and Sexual Violence
New Hampshire Legal Assistance
New Hampshire Victims' Compensation Program
YWCA NH
Belknap County Attorney's Office, Laconia
Bridges: Domestic & Sexual Violence Support Services, Nashua
Child Advocacy Center of Carroll County, Wolfeboro
Child Advocacy Center of Hillsborough County - Manchester, Manchester
Child Advocacy Center of Hillsborough County - Nashua, Nashua
Child Advocacy Center of Rockingham County, Inc., Portsmouth and Derry
City Attorney's Office, Rochester
Crisis Center of Central New Hampshire, Concord
Greater Lakes Child Advocacy Center, Laconia
HAVEN Violence Prevention and Support Services, Portsmouth
Merrimack County Board of Commissioners, Concord
Merrimack County Commissioners, Boscawen
Monadnock Region Child Advocacy Center, Keene
Rockingham County Attorney's Office, Brentwood
Strafford County Child Advocacy Center, Dover
The Front Door Agency, Inc., Nashua
Turning Points Network, Claremont
Zonta Club of Concord, NH, Concord

New Jersey:

New Jersey Children's Alliance, Inc.
New Jersey Coalition Against Sexual Assault
New Jersey Coalition to End Domestic Violence
Cumberland County Prosecutor's Office, Bridgeton
Safe + Sound Somerset, Somerset
WWITS Mentoring Program, Camden
Wynona's House CAC, Newark
YWCA Northern New Jersey, Hackensack

New Mexico:

Bold Futures NM
NASW - NM
New Mexico Children's Alliance
New Mexico Coalition Against Domestic Violence
New Mexico Coalition of Sexual Assault Programs, Inc.
Transgender Resource Center of New Mexico
Twelfth Judicial District Attorney's Office
Community Against Violence (CAV), Taos
El Refugio, Inc., Silver City
Families and Youth Inc, Las Cruces
me mom, Shiprock
Rape Crisis Center of Central New Mexico, Albuquerque

New York:

Gun Sense New York
National Association of Social Workers, New York State
New York State Children's Alliance, Inc.
New York State Coalition Against Sexual Assault
New York State Coalition Against Domestic Violence
St. Peter's Crime Victim Services
A New Hope Center, Owego
Albany County Crime Victim and Sexual Violence Center, Albany
Arab-American Family Support Center, New York
BestSelf Behavioral Health, Buffalo
Bivona Child Advocacy Center, Rochester
Bronx Child Advocacy Center, Bronx
Cayuga Counseling Services, Inc., Auburn
Child Advocacy Center of Niagara, Niagara Falls
Child Advocacy Center of Putnam County, Brewster
Child Advocacy Center of the Finger Lakes, Inc., Canandaigua
Crime Victims Assistance Center, Inc., Binghamton
EAC Network, Hempstead
Liberty Resources, Inc., Madison and Chenango Counties
Madison County Children's Advocacy Center, Canastota
McMahon Ryan Child Advocacy Center, Syracuse
MHACGC/Child Advocacy Center & the REACH Center, Catskill and Hudson
National Association of Social Workers-New York City Chapter, New York City
North Brooklyn Coalition Against Family Violence, Brooklyn
Oneida County Child Advocacy Center, Utica
Otsego County Child Advocacy Center, Cooperstown
Safe Horizon, New York City
Safe Horizon Bronx Child Advocacy Center, Bronx
Saratoga Center for the Family/Harriet M. West Child Advocacy Center, Saratoga Springs
Sauti Yetu , Bronx
Sullivan County Child Advocacy Center, Liberty
Suicide Prevention and Crisis Service, Inc. (Crisis Services), Buffalo
The Regional Child Advocacy Center in Fulton, Montgomery & Hamilton Counties, Johnstown
The Safe Center LI, Inc, Bethpage
The Victims Assistance Center of Jefferson County, Watertown
Victims Information Bureau of Suffolk, Islandia
Violence Intervention Program, New York
Warren Washington CARE Center, Warren and Washington
Westchester Institute for Human Development, Valhalla
YWCA Binghamton and Broome County, Binghamton

North Carolina:

Children's Advocacy Centers of North Carolina
National Association of Social Workers North Carolina

NC Coalition Against Human Trafficking
NC Governor's Crime Commission
North Carolina Victim Assistance Network
AWAKE Children's Advocacy Center, Sylva
Atrium Health Jeff Gordon Children's Child Advocacy Center, Concord
Butterfly House Children's Advocacy Center of Atrium Health Stanly, Albemarle
Child Advocacy Center, Inc., Fayetteville
Child Advocacy Center of Onslow County, Jacksonville
Children's Advocacy and Protection Center, Conover
CrossRoads: Sexual Assault Response and Resource Center, Burlington
Doing It For The Kingdom, Fayetteville
Dove House Children's Advocacy Center, Iredell and Alexander Counties, Statesville
Family Resources of Rutherford County, Clara Allen Family Center, Forest City
H.A.V.E.N. Children's Advocacy Center, Murphy
Help, Incorporated: Center Against Violence, Wentworth
KARE, Inc., Waynesville
Kids First Inc CAC, Elizabeth City
KIDS Place (Kids InterDisciplinary Services, Inc.), Franklin
Mocksville Police Department, Mocksville
Mountain Child Advocacy Center, Asheville
Pat's Place Child Advocacy Center, Charlotte
Prevent Child Abuse Rowan, Salisbury
Robin's Nest Children's Advocacy Center, Lenoir
Safelight, Hendersonville
Safe Spot Child Advocacy Center of Wilkes, Wilkesboro
Sampson County Child Advocacy Center, Inc., Clinton
The Dragonfly House Children's Advocacy Center, Mocksville
The Lincoln County Child Advocacy Center, Lincolnton
Turning Point, Inc., Monroe

North Dakota:

CAWS North Dakota
Children's Advocacy Centers of North Dakota
National Association of Social Workers, North Dakota Chapter
ND Victim Services Grants & Victim Compensation Program
Dakota Children's Advocacy Center, Bismarck
Red River Children's Advocacy Center, Fargo
Walsh County, Grafton
Walsh County Victim Assistance, Grafton

Northern Mariana Islands:

Northern Marianas Coalition Against Domestic & Sexual Violence

Ohio:

DeafPhoenix
DWAVE (Deaf World Against Violence Everywhere)

NASW Ohio Chapter
Ohio Alliance to End Sexual Violence
Ohio Crime Victim Justice Center
Ohio Domestic Violence Network
Ohio Hispanic Coalition
Ohio Network of Children's Advocacy Centers
Ohio Prosecuting Attorneys Association
Ohio Victim Witness Association
A Caring Place Child Advocacy Center, Wintersville
Appleaseed Community Mental Health Center, Rape Crisis Domestic Violence Safe Haven
Program, Ashland
Artemis Center, Dayton
Asian Services in Action (ASIA), Akron
Athens County Child Advocacy Center, Inc., Athens
Auglaize County Crisis Center, Wapakoneta
Beavercreek Police Department, Beavercreek
Bellbrook Police Department, Bellbrook
Bethany House, Toledo
Canopy Child Advocacy Center, Cleveland
CAC of West Central Ohio, Lima
CARE House, Dayton
City Of Xenia Law Department Victim Advocate Division, Xenia
Cleveland Rape Crisis Center, Cuyahoga, Lake, Ashtabula, and Geauga Counties
Crawford County Prosecuting Attorney's Victim Assistance Program, Bucyrus
Crime Victim Services, Lima
Crisis Care Line, Van Wert
Crossroads Crisis Center, Lima
Defiance County Victims Assistance, Defiance
Ethiopian Tewahedo Social Services (ETSS), Columbus
Eve, Incorporated, Marietta
Fairborn Police Department, Fairborn
Family Abuse Shelter of Miami County, Inc., Troy
Greene County Department of Job and Family Services, Xenia
Greene County Prosecuting Attorney, Xenia
Haven House of Pickaway County Inc., Circleville
Jewish Family Service Association of Cleveland, Cleveland
Licking County Prosecutor, Newark
Lucas County Domestic Violence Task Force - Best Practices Committee, Toledo
Marion Victim Assistance Program, Marion
Mayfield Heights Police Department Victim Advocacy Program, Mayfield Heights
Michael's House Child Advocacy Center, Fairborn
New Choices, Inc., Sidney
Noah's Hope Child Advocacy Center Of Tuscarawas Co, New Philadelphia
Office of the Portage County Prosecuting Attorney, Ravenna
OneEighty, Wooster
Open Arms, Findlay

Paulding County Victims Assistance, Paulding
Rape Crisis Domestic Violence Safe Haven, Ashland
Safe Harbour Domestic Violence Shelter Inc., Sandusky
Sarah's Friends, Inc., Bryan
SARNCO (Sexual Assault Response Network of Central Ohio), Columbus
Southern Ohio Sexual Assault Treatment Center, Portsmouth
Southern Ohio Task Force on Domestic Violence, Portsmouth
Survivor Advocacy Outreach Program, Athens
The Center for Safe & Healthy Children, Findlay
The Children's Advocacy Center of Guernsey County, Cambridge
The Cocoon, Bowling Green
The Counseling Center, Lisbon
The Delaware County Prosecutor's Office of Melissa A. Schiffel, Delaware
The Domestic Violence Shelter, Inc., Mansfield
The House of Ruth, Defiance
The Nord Center, Lorain
Tri-County Help Center Inc, St. Clairsville
Upper Ohio Valley Sexual Assault Help Center Inc., Wheeling
Van Wert County Prosecutor, Van Wert
Wayne County Children's Advocacy Center, Wooster
Wayne County Prosecuting Attorney's Office, Wooster
Williams County Victim Assistance, Bryan
Women Helping Women, Cincinnati
YWCA Hamilton, Hamilton
YWCA Greater Cincinnati, Greater Cincinnati

Oklahoma:

Action Associates
Children's Advocacy Centers of Oklahoma
La Luz Organization
Legal Aid Services of Oklahoma
NASW - Oklahoma
Oklahoma Coalition Against Domestic Violence & Sexual Assault
Oklahoma Crime Victims Compensation Board
Oklahoma District Attorneys Association
22nd Judicial District CASA, Inc., Pontotoc, Hughes, and Seminole Counties
Bethesda, Inc., Norman
CASA of Cherokee Country, Tahlequah, Cherokee County
Child Abuse Network, Inc., Tulsa
Children's Advocacy Center of Ottawa County Inc, Miami
Community Crisis Center, Miami
Crisis Control Center, Inc., Durant
Dearing House Child Advocacy Center, Ponca City
Domestic Violence Intervention Services, Tulsa
Family Safer Center, Tulsa
Family Shelter of Southern Oklahoma, Ardmore

Garfield County Child Advocacy Council, Inc., Enid
Oklahoma Guardian Ad Litem Institute, Edmond
One Safe Place - Unzner Centre CAC, Shawnee
Pittsburg County Child Abuse Response Effort, INC., McAlester
Ray of Hope Advocacy Center, Inc., Bartlesville
RISE, Muskogee
Sara's Project, Ardmore
The CARE Center, Oklahoma City
The CART House, El Reno
Women In Safe Home, Inc., Muskogee
YWCA Oklahoma City, Oklahoma City

Oregon:

Ceasefire Oregon
Oregon Abuse Advocates & Survivors in Service
Oregon Child Abuse Solutions
Oregon Coalition Against Domestic & Sexual Violence
Oregon Department of Justice
Children's Advocacy Center of Lincoln County, Newport
Domestic Violence Services, Inc., Pendleton
Douglas County Children's Center Inc. dba Douglas, Roseburg
KIDS Center, Bend
Kids FIRST, Eugene
Mt. Emily Safe Center, Le Grande

Pennsylvania:

Center for Advocacy for the Rights and Interests of the Elderly (CARIE)
Crime Victims Alliance of Pennsylvania
Office of Victim Advocate
Pennsylvania Chapter of Child Advocacy Centers
Pennsylvania Coalition Against Domestic Violence
Pennsylvania Coalition Against Rape
Pennsylvania Psychiatric Society
SeniorLAW Center
Women Against Abuse
A Child's Place PA, Pittsburgh
Adams County Victim Assistance, Gettysburg
Alle-Kiski Area HOPE Center, Inc., Tarentum
Anti-Violence Partnership of Philadelphia, Philadelphia
ARCC, Towanda
Beaver County Victim/Witness Assistance Project, Beaver
Blackburn Center, Greensburg
Bradley H. Foulk Children's Advocacy Center of Erie County, Inc., Erie
CASA Youth Advocates, Inc., Media
CASA of Westmoreland, Inc., Greensburg
Center for Victims, Pittsburgh

Centre Safe, State College
Children's Advocacy Center of Lawrence County, Inc., New Castle
Children's Advocacy Center of McKean County, Smethport
Children's Alliance Center of Berks County, Reading
Congreso de Latinos Unidos, Inc., Philadelphia
Crime Victims Council of the Lehigh Valley, Inc., Allentown
Crisis Center North, Pittsburgh
Crisis Shelter of Lawrence County, New Castle
Domestic Violence Service Center, Luzerne and Carbon Counties
Domestic Violence Services of Lancaster County, Lancaster
Family Service Association of NEPA, Wilkes-Barre
Family Support Line of Delaware County, Media
Helping All Victims in Need, Kittanning
Huntingdon House, Huntingdon
Laurel House, Norristown
Lutheran Settlement House, Philadelphia
Luzerne County Child Advocacy Center, Wilkes-Barre
Lycoming County District Attorney, Williamsport
Mifflin County Crime Victim Services, Lewistown
Mission Kids Child Advocacy Center, Montgomery County
Montgomery Child Advocacy Project, Norristown
Nationalities Service Center, Philadelphia
Network of Victim Assistance (NOVA), Jamison
Northwest Victim Services, Philadelphia
Philadelphia Children's Alliance, Philadelphia
Philadelphia Corporation for Aging, Philadelphia
Safe Berks, Reading
Schuylkill Women in Crisis, Pottsville
Sullivan County Victim Services, Laporte
The Abuse Network, Inc., Lewistown
The Abuse Network Inc., Mifflintown
The Abuse Network Inc., Huntingdon
The Children's Center, Montrose
The Domestic Abuse Project of Delaware County, Delaware County
The Lincoln Center for Family and Youth, Audubon
Transitions of PA, Union, Snyder, and Northumberland Counties
Turning Point Counseling & Advocacy Center, York
Turning Point of Lehigh Valley, Inc., Allentown
Victim Outreach Intervention Center, Butler
Victim Services Inc., Johnstown
Victims' Intervention Program, Honesdale
Victims Resource Center, Wilkes-Barre, Lehigh, and Tunkhannock
Victim/Witness Assistance Program (Dauphin County, PA), Harrisburg
Washington County District Attorney's Office of Victim Services, Washington
Western PA CARES for Kids, Brookville
Women In Transition, Philadelphia

Women's Center & Shelter of Greater Pittsburgh, Pittsburgh
Women's Center of Beaver County, Beaver
Women's Center of Montgomery County, Norristown
Women's Resources of Monroe County, Inc., Delaware Water Gap
Women's Services, Inc., Meadville
York County Children's Advocacy Center, York
YWCA Hanover, Hanover
YWCA Lancaster, Lancaster
YWCA York, York

Rhode Island:

Day One
Blackstone Valley Advocacy Center
National Association of Social Workers, RI Chapter
Progreso Latino
Rhode Island Children's Advocacy Center
Rhode Island Coalition Against Domestic Violence
Rhode Island Crime Victim Compensation Program
Sojourner House
Domestic Violence Resource Center of South County, Southern Rhode Island
Elizabeth Buffum Chace Center, Central Rhode Island
St. Mary's Home for Children, Providence
The Nonviolence Institute, Providence
Tri County Community Action, Johnston
Women's Resource Center, Newport & Bristol Counties

South Carolina:

SC Victim Assistance Network
South Carolina Coalition Against Domestic Violence and Sexual Assault
South Carolina Network of Children's Advocacy Centers
Beyond Abuse, Greenwood and Laurens
CARE House of the Pee Dee, Florence
Child Advocacy Center of Aiken County, Aiken
Children's Advocacy Center of Spartanburg, Cherokee and Union Counties, Inc., Spartanburg
Dickerson Children's Advocacy Center, Lexington
Dorchester Children's Advocacy Center, Summerville
Foothills Alliance, Anderson
Hopeful Horizons, Beaufort
Julie Valentine Center, Greenville
Laurens County SAFE Home, Laurens
Pee Dee Coalition, Florence
Pickens County Advocacy Center, Easley
Sexual Trauma Services of the Midlands, Columbia
Sistercare, Columbia
Solving the Puzzle, Simpsonville
Spartanburg Police Department - Victim Services, Spartanburg

South Dakota:

National Association of Social Workers, South Dakota Chapter
South Dakota Network Against Family Violence and Sexual Assault
Beacon Center, Watertown
Domestic Violence Network of the Lakes Region, Madison
Where All Women Are Honored-Winyan Wicayuonihan Oyanke, Rapid City

Tennessee:

Children's Advocacy Centers of Tennessee
National Association of Social Workers, Tennessee Chapter
Tennessee Coalition to End Domestic & Sexual Violence
Child Advocacy Center for the 23rd Judicial District, Charlotte
Children's Advocacy Center 23rd District Tennessee, Dickson
Childhelp Children's Advocacy Center, Knoxville
Crime No More, Memphis
HOPE Center, Inc, Athens and Cleveland
Kid's Place/A Child Advocacy Center, Lawrenceburg
Memphis Child Advocacy Center, Memphis
Sexual Assault Center, Nashville
The Children's Advocacy Center, Blountville
YWCA Knoxville and the Tennessee Valley, Knoxville

Texas:

Children's Advocacy Centers of Texas
National Association of Social Workers - Texas Chapter
Texas Association Against Sexual Assault
Texas Council on Family Violence
Abigail's Arms - CAC of Cooke County, Gainesville
Advocacy Center for Crime Victims and Children, Waco
Advocacy Center for the Children of El Paso, El Paso
After The Scars/Fortified, Arlington
Alliance For Children, Fort Worth
Bluebonnet Children's Advocacy Center, Hondo
Brazoria County Alliance for Children, Inc., Angleton
Bridgehaven Children's Advocacy Center, Dayton
Casa de Misericordia, Laredo
CASA Texarkana, Texarkana
Center for Child Protection, Austin
Child Advocates of Navarro County, Corsicana
Children's Advocacy Center, Cleburne
Children's Advocacy Center for Denton County, Lewisville
Children's Advocacy Center for Rockwall County, Rockwall
Children's Advocacy Center Laredo-Webb, Laredo
Children's Advocacy Center of Collin County, Plano
Children's Advocacy Center of Paris, Paris

Children's Advocacy Center of the Coastal Bend, Corpus Christi
Children's Advocacy Center of the South Plains, Inc., Lubbock
Children's Advocacy Center of Van Zandt County, Inc, Canton
Children's Advocacy Center Serving Bastrop, Lee, and Fayette Counties, Bastrop
Crisis Center of Comal County, New Braunfels and Comal County
Dallas Area Rape Crisis Center, Dallas
Domestic Violence Prevention, Inc., Texarkana
Eastland County Crisis Center, Inc., Eastland
Ellis County Children's Advocacy Center, Waxahachie
Families In Crisis, Inc., Killeen
Family Crisis Center, Bastrop
Family Crisis Center, Inc., Harlingen
FamilyTime Crisis & Counseling Center, Humble
Focusing Families, Hempstead
Fort Bend Women's Center, Richmond
Friendship of Women, Inc., Brownsville
Garth House, Mickey Mehaffy Children's Advocacy Program, Inc., Beaumont
Gateway Family Services, Inc., Snyder
Gonzales Regional Children's Advocacy Center, Gonzales
Grayson County Children's Advocacy Center, Sherman
Guadalupe County Children's Advocacy Center, Seguin
Guadalupe Valley Family Violence Shelter, Inc., Seguin
Hand Up Network-Victim Services Program, Tyler
Harmony Home CAC, Odessa
Hays-Caldwell Women's Center, San Marcos
Henderson County HELP Center and Maggie's House Child Advocacy Center, Athens
Hope of South Texas, Inc., Victoria
Houston Area Women's Center, Houston
Hunt County Children's Advocacy Center, Greenville
Johnson County Family Crisis Center, Cleburne
Katy Christian Ministries, Katy
Kendall County Women's Shelter, Boerne
Lubbock Rape Crisis Center dba Voice of Hope, Lubbock
Midland Rape Crisis and Children's Advocacy Center, Midland
Noah Project, Inc., Abilene
Northeast Texas Child Advocacy Center, Winnsboro
Northwest Assistance Ministries' Family Violence Center, Houston
Paluxy River Children's Advocacy Center, Granbury
Panhandle Crisis Center, Perryton
Rape & Suicide Crisis of Southeast Texas. Inc., Beaumont
Regional Justice Center, Mission
Regional Victim Crisis Center, Abilene
Resource & Crisis Center of Galveston County (RCCGC), Galveston
Scotty's House, Bryan
Shelter Agencies for Families in East Texas, Mt. Pleasant
Southern Grit Advocacy, Wichita Falls

The Ark Domestic Violence and Sexual Assault Shelter, Brownwood
The Bridge Children's Advocacy Center, Amarillo
The Bridge Over Troubled Waters, Pasadena
The Children's Assessment Center, Houston
The Family Place, Dallas
The Harbor Children's Alliance & Victim Center, Port Lavaca
The Martin House Children's Advocacy Center, Longview
The Montrose Center, Houston
The SAFE Alliance, Austin
The Salvation Army Carr P. Collins Center, Dallas
Victim Services of Big Spring, Big Spring
Virginia's House, Graham
Women In Need, Inc., Greenville
Women's Shelter of South Texas dba The Purple Door, Corpus Christi

Utah:

NASW-Utah
Trauma Help for Women (THW)
Utah Children's Justice Center Program
Utah Domestic Violence Coalition
Canyon Creek Services, Cedar City
Davis County Children's Justice Center, Farmington
Duchesne County Children's Justice Center, Roosevelt
Juab and Millard County Children's Justice Center, Nephi
Safe Harbor Crisis Center, Kaysville
Salt Lake County Children's Justice Centers, Salt Lake City
Sanpete County Utah CJC, Ephraim
Utah County Children's Justice Center, Provo
Weber/Morgan Children's Justice Center, Ogden

Vermont:

Nat Assoc of Social Workers, Vermont Chapter
Vermont Center for Crime Victim Services
Vermont Children's Alliance
Vermont Network Against Domestic and Sexual Violence
Addison County Unit for Special Investigations, Middlebury
AWARE, Inc., Hardwick
Chittenden Children's Advocacy Center, Burlington
Circle, Barre
Clarina Howard Nichols Center, Morrisville
Dennis Wygmans, State's Attorney, Addison County, Middlebury
HOPEWORKS, Burlington
Mosaic Vermont, Inc., Barre
NewStory Center, Rutland
Northwest Unit for Special Investigations Children's Advocacy Center, St. Albans
Pride Center of Vermont, Burlington

Project Against Violent Encounters (PAVE), Bennington
Safetline, Inc., Chelsea
Steps to End Domestic Violence, Burlington
Voices Against Violence, St. Albans

Virgin Islands:

Virgin Islands Domestic Violence and Sexual Assault Council
Women's Coalition of St. Croix, Christainsted

Virginia:

Children's Advocacy Centers of Virginia
NASW Virginia Chapter
The Virginia Victim Assistance Network
Virginia Sexual & Domestic Violence Action Alliance
Accomack County Victim/Witness Program, Accomac
Avalon Center Domestic and Sexual Violence, Williamsburg
Bedford Victim Witness Assistance Program, Bedford County
CDVPC, Choices, Inc., Luray
Children's Hospital of The King's Daughters, Norfolk
Children's Trust, Roanoke
ChildSafe Center-CAC, Winchester
Collins Center & Child Advocacy Center, Harrisonburg
Concerned Citizens, Arlington
Davis Child Advocacy Center, Chesterfield
Eastern Shore Coalition Against Domestic Violence, Onancock
Foothills Child Advocacy Center, Charlottesville
Fredericksburg Victim Witness Program, Fredericksburg
FVSAU Child Advocacy Center, Emporia
Greater Richmond SCAN (Stop Child Abuse Now), Richmond
Highlands Community Services, Abingdon
Madison County Victim Witness Program, Madison
Middlesex Victim Witness, Saluda
New Directions Center, Staunton
Project Horizon, Inc., Lexington
Response, Inc., Woodstock
Safe Harbor Child Advocacy Center, Fredericksburg
SafeSpot Children's Advocacy Center of Fairfax County, Fairfax
Shenandoah Co. Victim/Witness, Woodstock
Southern Virginia Child Advocacy Center, Franklin County
Surry Victim Witness Program, Surry
The Center for Alexandria's Children, Inc., Alexandria
Valley Children's Advocacy Center, Staunton
Winchester Victim Witness Program, Winchester
YWCA South Hampton Roads, Norfolk

Washington:

Alliance for Gun Responsibility
Children's Advocacy Centers of Washington
Lutheran Community Services Northwest
National Association of Social Workers - Washington State Chapter
Washington State Coalition Against Domestic Violence
Children's Justice & Advocacy Center (CJAC), Longview
Crime Victims Advocacy Network, Olympia
Crisis Support Network, Raymond
Dawson Place Child Advocacy Center, Everett
KCSARC, Renton
Kitsap County Prosecutor's Office, Port Orchard
Partners with Families & Children, Spokane
Walla Walla Police Department
SAGE, Wenatchee
YWCA Clark County, Vancouver
YWCA Spokane, Spokane

West Virginia:

National Association of Social Workers West Virginia Chapter
Planned Parenthood South Atlantic
West Virginia Child Advocacy Network
West Virginia Coalition Against Domestic Violence
West Virginia Foundation for Rape Information and Services
Stop Abusive Family Environments, Inc. (SAFE)
WV Working Families Party
Branches Domestic Violence Shelter, Huntington
CONTACT Rape Crisis Center, Huntington
Covenant House, Charleston
Eastern Panhandle Empowerment Center, Berkeley County, Jefferson County, Morgan County
Family Crisis Intervention Center, Parkersburg
Family Refuge Center, Lewisburg
Harrison County Child Advocacy Center, Clarksburg
Nicholas County Family Resource Network, Summersville
Rape and Domestic Violence Information Center, Morgantown
REACH/TCC, Charleston
The Lighthouse Child Advocacy Center, Paden City
Women's Resource Center WV, Beckley
WV Citizen Action, Charleson

Wisconsin:

Child Advocacy Centers of Wisconsin
Diverse & Resilient
End Domestic Abuse Wisconsin
WAVE Educational Fund
Wisconsin Coalition Against Sexual Assault
Wisconsin Crime Victim Compensation Program

Wisconsin Victim Assistance Program
Advocates of Ozaukee, Saukville
ASTOP, Inc, Fond du Lac
Benedict Center, Milwaukee
Children's Wisconsin, Milwaukee
Community Referral Agency, Milltown
Domestic Violence Center DBA InCourage, Manitowoc
Embrace Services, Inc., Ladysmith
Family Advocates, Inc., Platteville
Family Service of Waukesha, Waukesha
Family Services of Northeast Wisconsin, Green Bay
Family Support Center, Chippewa and Eau Claire Counties
FRIEND Inc., West Bend
Green County District Attorney's Office, Monroe
Green County Human Services Department Children, Youth and Families Unit, Monroe
Haven Inc., Merrill
HELP of Door County, Sturgeon Bay
Hope House of Central Wisconsin, Baraboo
Jewish Family Services, Inc., Milwaukee
Lakeshore Regional Child Advocacy Center, Saukville
New Beginnings APFV (formerly The Association for Prevention of Family Violence), Elkhorn
Rape Crisis Center, Madison
Safe Harbor Child Advocacy Center, Madison
Sexual Assault Services, Racine
Stepping Stones, Inc., Medford
The Bridge to Hope, Menomonie
The Women's Center, Waukesha
The Women's Community, Wausau
Tri-County Council on Domestic Violence and Sexual Assault, Rhinelander
Wise Women Gathering Place, Green Bay

Wyoming:

Wyoming Coalition Against Domestic Violence and Sexual Assault
CASA Association of the 5th Judicial District, Cody
Community Safety Network, Jackson Hole



Charles Trippe

From: Charles Trippe
Sent: Thursday, November 19, 2020 5:10 PM
To: Nicholas Weilhammer
Subject: FW: follow up
Attachments: 11.2.20 order.pdf; joint status report.pdf

From: Rachel Kamoutsas <Rachel.Kamoutsas@myfloridalegal.com>
Sent: Thursday, November 19, 2020 4:34 PM
To: Charles Trippe <Charles.Trippe@myfloridalegal.com>
Subject: follow up

Rachel Kamoutsas
Deputy General Counsel
Office of the Attorney General Ashley Moody
PL-01, The Capitol
Tallahassee, FL 32399-1050
Tel: (850) 245-0140

Florida has a broad public records law. All correspondence to and from me may be subject to disclosure.

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

**NAACP LEGAL DEFENSE &
EDUCATIONAL FUND, INC.,**

Plaintiff,

v.

**WILLIAM P. BARR, in his official capacity
as Attorney General of the United States,
et al.,**

Defendants.

Civil Action No. 20-1132 (JDB)

ORDER

The Court has determined that the Presidential Commission on Law Enforcement and the Administration of Justice (“Commission”) is subject to the Federal Advisory Committee Act (“FACA”) and that defendants violated several of FACA’s requirements. See Oct. 1, 2020 Mem. Op. [ECF No. 45]. Specifically, the Commission and its officers violated FACA by failing to file a charter with the required entities and provide timely notice of each meeting in the Federal Register, and Attorney General William P. Barr violated FACA by failing to select a designated federal officer for the Commission and failing to ensure the Commission’s membership is fairly balanced in terms of the points of view represented and the functions to be performed. The Court noted that “[t]he Commission’s function is to improve policing, including relations between law enforcement and the communities they protect. Yet the Commission does not include a single member who represents elements of those communities, rather than law enforcement.” Id. at 42. And the Court was “hard pressed to think of a starker example of non-compliance with FACA’s fair balance requirement than a commission charged with examining broad issues of policing in today’s America that is composed entirely of past and present law enforcement officials.” Id.

Having found clear violations of FACA, the Court granted plaintiff's motion for summary judgment, issued a declaratory judgment, ordered defendants to comply with FACA, temporarily halted Commission proceedings, and temporarily enjoined defendants from releasing any report or recommendations produced by the Commission. See Oct. 1, 2020 Order [ECF No. 44]. The Court also directed the parties to file supplemental briefing and proposed orders as to further injunctive relief. Id. This Order, which takes that briefing into account, overrides the Court's previous Order and includes all operative relief in this case.

Upon consideration of the parties' proposed remedial orders and supporting briefs, and the entire record herein, and for the reasons stated in the accompanying Memorandum Opinion and the Court's October 1, 2020 Memorandum Opinion, it is hereby

ORDERED, ADJUDGED, and DECLARED that the Commission is an advisory committee subject to the requirements of FACA and is not exempt from FACA under 2 U.S.C. § 1534(b); that the Commission has violated FACA by failing to file a charter with the necessary entities, as required by 5 U.S.C. app. 2 § 9(c) and 41 C.F.R. § 102-3.70(a), and by failing to provide timely notice of each meeting in the Federal Register, as required by 5 U.S.C. app. 2 § 10(a)(2) and 41 C.F.R. § 102-3.150(a); and that Attorney General William P. Barr has violated FACA by failing to select a designated federal officer for the Commission, as required by 5 U.S.C. app. 2 § 10(e) and 41 C.F.R. § 102-3.120, and by failing to ensure the Commission's membership is fairly balanced in terms of the points of view represented and the functions to be performed, as required by 5 U.S.C. app. 2 § 5(b)(2); it is further

ORDERED that defendants are enjoined from publishing, releasing, or transmitting any unrestricted copy of all, or a portion, of any report produced by the Commission, either in hardcopy or any other written or electronic media, unless they first comply with FACA's provisions as

follows:

- (1) The Commission and its officers shall file a charter with the Attorney General, the relevant standing committees of the U.S. Senate and of the U.S. House of Representatives, the Library of Congress, and the Committee Management Secretariat of the General Services Administration, pursuant to 5 U.S.C. app. 2 § 9(c) and 41 C.F.R. § 102-3.70(a).
- (2) The Commission and its officers shall provide notice of any future meeting in the Federal Register at least fifteen days before the meeting is held, pursuant to 5 U.S.C. app. 2 § 10(a)(2) and 41 C.F.R. § 102-3.150(a).
- (3) The Attorney General shall designate a federal officer or employee who must be employed with the federal government either full-time or permanent part-time to be the designated federal officer for the Commission, pursuant to 5 U.S.C. app. 2 § 10(e) and 41 C.F.R. § 102-3.120.
- (4) The Attorney General shall take steps necessary to ensure the membership of the Commission is fairly balanced in terms of the points of view represented and the functions to be performed, consistent with 5 U.S.C. app. 2 § 5(b)(2), 41 C.F.R. § 102-3.60(b)(3), and 41 C.F.R. § 102-3, subpt. B, app. A. The Attorney General shall also ensure that new members have the opportunity to meaningfully participate in the Commission's work.

It is further **ORDERED** that if defendants publish, release, or transmit any copy of all, or a portion, of any report produced by the Commission (or refer to the Commission's recommendations), either in hardcopy or any other written or electronic media, without first satisfying the requirements of FACA as detailed above, then defendants must include the following statement (in at least the same size print as the rest of the text) near the beginning of the report or reference:

Although the Commission which prepared this Report was subject to the Federal Advisory Committee Act (“FACA”), 5 U.S.C. app. 2, a United States District Court judge has found that the Department of Justice (“DOJ”) and the Commission’s officers violated FACA in forming and operating the Commission. In particular, DOJ and the Commission did not comply with FACA’s requirements to ensure the Commission’s membership is fairly balanced in terms of the points of view represented, file a charter, select a designated federal officer, or provide timely notice of meetings in the Federal Register. For additional detail, the remedial order of the United States District Court that issued this decision is attached to the Commission’s Report.

It is further **ORDERED** that, by not later than November 16, 2020, the parties shall submit a joint status report that addresses compliance with this Order and provides a proposal (or separate proposals, if they cannot agree) for further proceedings concerning plaintiff’s claims that were not resolved on summary judgment.

SO ORDERED.

/s/
JOHN D. BATES
Senior United States District Judge

Dated: November 2, 2020

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

NAACP LEGAL DEFENSE &
EDUCATIONAL FUND, INC.,

Plaintiff,

v.

Civil Action No. 20-1132 (JDB)

WILLIAM P. BARR, in his official capacity
as Attorney General of the United States,

UNITED STATES DEPARTMENT OF
JUSTICE, an agency of the United States,

PRESIDENTIAL COMMISSION ON LAW
ENFORCEMENT AND THE
ADMINISTRATION OF JUSTICE, an
advisory committee established and utilized
by Attorney General William Barr,

PHIL KEITH, in his official capacity as
Chair of the Presidential Commission on Law
Enforcement and the Administration of
Justice, and

KATHARINE SULLIVAN, in her official
capacity as Vice Chair of the Presidential
Commission on Law Enforcement and the
Administration of Justice,

Defendants.

JOINT STATUS REPORT

Plaintiff NAACP Legal Defense & Educational Fund, Inc. ("Plaintiff" or "LDF") and Defendants William P. Barr, in his official capacity as Attorney General of the United States; United States Department of Justice, an agency of the United States; Presidential Commission on Law Enforcement and the Administration of Justice; Phil Keith, in his official capacity as Chair of the Presidential Commission on Law Enforcement and the Administration of Justice; and

Katharine Sullivan, in her official capacity as Vice Chair of the Presidential Commission on Law Enforcement and the Administration of Justice (collectively, “Defendants”), by undersigned counsel, submit this joint status report pursuant to the Court’s Order dated November 2, 2020 [ECF 53].

I. Procedural Background

Plaintiff’s Statement

Plaintiff filed its Original Complaint [ECF No. 1] on April 30, 2020, and a First Amended Complaint [ECF No. 26] on May 29, 2020, alleging that Defendants failed to comply with several provisions of the Federal Advisory Committee Act (“FACA”), 5 U.S.C. app. 2. On May 28, 2020, Plaintiff moved for summary judgment on its claims that Defendants had violated FACA because “the Commission is not fairly balanced, has not provided timely notice in the Federal Register, and has not published a charter or designated a federal officer for the Commission.” Pl.’s Mot. for Summ. J. at ¶ 7 [ECF No. 25]; *see* Mem. of Law in Supp. of Pl.’s Mot. for Summ. J. [ECF No. 25-2]. On June 29, 2020, Defendants moved to dismiss Plaintiff’s Amended Complaint, or, in the alternative, cross-moved for summary judgment. Opp’n to Pl.’s Mot. for Summ. J. & Mem. in Supp. of Defs.’ Cross-Mot. to Dismiss or, in the Alternative, for Summ. J. [ECF No. 33-1].

On October 1, 2020, after oral argument, the Court granted summary judgment to Plaintiff and denied Defendants’ motion. *See* Ord. [ECF No. 44]; Mem. Op. [ECF No. 45]. In doing so, the Court also ordered briefing on remedies, which the Parties subsequently filed. On November 2, 2020, the Court issued a Memorandum Opinion [ECF No. 54] and Order [ECF No. 53] enjoining Defendants from “publishing, releasing, or transmitting any unrestricted copy of all, or a portion, of any report produced by the Commission, . . . unless they first comply with FACA’s provisions,” or, in the alternative, ordering that if Defendants chose to publish, release, or transmit the report,

such report must include a statement near the beginning of the report in at least the same size print as the rest of the text, as follows:

Although the Commission which prepared this Report was subject to the Federal Advisory Committee Act (“FACA”), 5 U.S.C. app. 2, a United States District Court judge has found that the Department of Justice (“DOJ”) and the Commission’s officers violated FACA in forming and operating the Commission. In particular, DOJ and the Commission did not comply with FACA’s requirements to ensure the Commission’s membership is fairly balanced in terms of the points of view represented, file a charter, select a designated federal officer, or provide timely notice of meetings in the Federal Register. For additional detail, the remedial order of the United States District Court that issued this decision is attached to the Commission’s Report.

Ord. at 4 [ECF No. 53].

The Court also ordered the Parties to submit a joint status report no later than November 16, 2020, addressing compliance with the Court’s Order and providing “a proposal (or separate proposals, if they cannot agree) for further proceedings concerning plaintiff’s claims that were not resolved on summary judgment.” *Id.*

On November 12, 2020, counsel for the Parties met and conferred telephonically to discuss compliance with the Court’s Order and further proceedings concerning Plaintiff’s remaining claims.

Based on Defendants’ representations during the November 12, 2020 telephone call, Plaintiff understood Defendants to suggest that the following three categories of documents would be made publicly available pursuant to FACA, subject to documents being withheld for specific reasons:

- a. Drafts of the Commission’s report and recommendations, as well as drafts of any section or sections thereof;

- b. Documents provided to Commissioners or staff or consultants supporting the Commission's work by any individual or entity in connection with the drafting of the Commission's report and recommendations; and
- c. Written communications or written records of other communications among one or more Commissioners or among any combination of Commissioners and staff or consultants supporting the Commission's work, including all attachments thereto.

In preparing this joint status report, however, Defendants informed Plaintiff that they do not agree these are the categories of documents FACA may require be disclosed and have provided no indication why these are no longer the categories. Defendants have also declined to edit the language to be consistent, in their view, with the discussion the Parties had.

Defendants' Statement

The Court is already familiar with the procedural history of this case, which is reflected in the Court's recent opinions and orders. See Oct. 1, 2020 Mem. Op. [ECF No. 45] at 3–10; Oct. 1, 2020 Order [ECF No. 44]; Nov. 2, 2020 Mem. Op. [ECF No. 54] at 1-2; Nov. 2, 2020 Order [ECF No. 44]. Defendants disagree with LDF's understanding of the parties' November 12, 2020 discussion, and further disagree that all of the documents described by LDF are subject to the public records disclosure requirement in Section 10(b). Yet, in any event, Defendants do not believe that this joint status report—which the Court instructed should “provide[] a proposal (or separate proposals, if the parties cannot agree)” on how this litigation should proceed, [ECF No. 53] at 4—is the appropriate venue to litigate the merits of LDF's public records claim, which LDF did not pursue in its prior motion for summary judgment.

II. LDF's Public Records Claim

Plaintiff's Statement

As this Court has recognized, FACA requires an advisory committee such as the Commission to “make its records and drafts publicly available,” which the Commission has failed to do. *See* Mem. Op. at 5 [ECF No. 45]. Yet, it appears that Defendants have only recently begun attempting to comply with this FACA provision. Their argument that Plaintiff delayed in seeking relief on this specific provision is immaterial. Defendants have known at least since October 1, 2020, that the Commission is subject to FACA and must thus ensure public access to Commission documents. Mem. Op. [ECF No. 45]. Defendants’ proposal to *begin* producing these documents with an “initial public release of materials” on December 14, 2020, *see infra*, should be rejected as unjustifiably dilatory.

Defendants have identified no basis for failing to identify, collect, and produce covered records over the six weeks since this Court ruled that FACA applies to the Commission. Many of the Commission’s documents are easily available and should be produced immediately. For example, records, including transcripts, from a June 16, 2020 meeting in which “Attorney General William P. Barr met with the Presidential Commission on Law Enforcement and the Administration of Justice to discuss the current status of their progress regarding their final report due October 2020”¹ should be made available on the Commission’s website, as have other Commission hearing documents. Additionally, a complete draft of the Commission’s report has been in Defendants’ possession since at least August 26, 2020, and must be made available. Ex. K to Chandran Decl. at 2 [ECF No. 40-12] (Katherine McQuay of the Department of Justice

¹ Dept. of Justice, *Readout from Attorney General William P. Barr’s Meeting with the Presidential Commission on Law Enforcement and the Administration of Justice* (June 17, 2020) (on file with LDF).

informing Commission members that “[t]he draft report has now gone to the Office of the Attorney General”); 5 U.S.C. app. 2 § 10(b) (noting that “drafts” of committees’ work must be publicly available).² Defendants have provided no explanation as to why these documents cannot be produced until December 14. Nor should Defendants need an additional month to even identify the categories of documents they must produce; they have already done so at the parties’ attempt to meet and confer, only to now inexplicably disagree with those categories.

Moreover, Defendants’ decision to immediately publish the Commission’s report necessitates expeditious production of documents. Defendants have represented to Plaintiff that they intend to release the Commission’s entire report in full within the next one to two weeks. The Commission’s documents may further support Plaintiff’s challenge to the report as illegitimate. In light of Plaintiff’s need to promptly challenge Defendants’ release of the report, there is no reason that Defendants cannot begin making the Commission’s documents public and continue doing so on a rolling basis.

Defendants’ statement that the Solicitor General is considering an appeal from this Court’s November 2, 2020 order, *see infra*, is of no consequence. Until and unless an appeal is filed and a stay issued, mere indecision on Defendants’ part does not relieve them of the duty to follow FACA’s requirements and this Court’s order effectuating those requirements. To date, Defendants have not filed a notice of appeal or sought a stay. Nor have they provided any indication that this Court has abused its discretion. It is immaterial, therefore, that Defendants may eventually appeal, and they must now promptly comply with this Court’s order.

² Plaintiff requested Defendants at least make publicly available the draft report prior to releasing the final report. However, Defendants refuse to comply with this aspect of FACA though the draft is readily available.

Further, from the Parties' phone conference, the Parties disagree as to whether FACA requires Defendants to produce documents from the Commission's working groups. FACA's plain text defines an advisory committee subject to FACA's requirements as "any committee, board, commission, council, conference, panel, task force, or other similar group, or *any subcommittee or other subgroup thereof*," provided that such committee is "established or utilized" by a federal agency or the president. 5 U.S.C. app. 2 § 3(2). Whenever a subcommittee's records are "made available to or prepared for or by [the subcommittee's parent] advisory committee," those records must be disclosed to the public under FACA. 5 U.S.C. app. 2 § 10(b); *see Elec. Privacy Info. Ctr. v. Drone Advisory Comm.*, 369 F. Supp. 3d 27, 42 (D.D.C. 2019).

Here, at least one Commissioner participated in the meetings and substantive deliberations of at least one of the Commission's working groups. *See* Ex. H to Chandran Decl. [ECF No. 40-9]; (Commissioner Gina V. Hawkins participating in email correspondence and speaker selection for a working group meeting); Ex. B to Chandran Decl. [ECF No. 40-3] (Commissioner Hawkins referring to "my working group of Respect for Law Enforcement"). The evidence also suggests that the Commission's working groups were tasked with drafting chapters of the Commission's ultimate report corresponding to their focus areas. *See* Ex. K to Chandran Decl. [ECF No. 40-12] (Katherine McQuay of the DOJ referring to "the last version of our chapter" in an email to Commissioner Hawkins and other members of the "Respect for Law Enforcement" working group); *see also* Ex. I to Chandran Decl. [ECF No. 40-10] (Ms. McQuay providing members of the working group with "a very rough draft of our annotated outline" for the report chapter titled "Respect for Law Enforcement and the Rule of Law").

Thus, at least some records from the Commission's working groups "were made available to or prepared for or by [the Commission]," either during working group meetings that

Commissioners attended or through a drafting and deliberation process in which Commissioners participated. *See* 5 U.S.C.A. app. 2 § 10(b). All such working group records, including communications on which any Commissioner was copied, are subject to FACA and must be disclosed to Plaintiff.

In light of the above, Plaintiff requests that the Court order as follows:

a. Defendants shall provide to Plaintiff the total number of documents that are subject to disclosure under FACA, including covered working group records and records of the June 16 meeting, by November 23, 2020;

b. Also by November 23, 2020, Defendants shall identify any categories of documents, including working group documents, they possess but do not intend to disclose, and provide an explanation for such non-disclosure;

c. Defendants shall produce to Plaintiff 100 pages of responsive documents every seven days thereafter; and

d. Defendants shall provide to Plaintiff an estimated date of completion for the production of all covered documents by November 30, 2020.

Should the Court agree with Defendants' schedule, Plaintiff respectfully requests that the Commission's most recent draft report be made publicly available immediately. 5 U.S.C. app. 2 § 10(b). It is easily accessible to Defendants and will allow Plaintiff, who has been excluded from the Commission's hearings and work, an opportunity to understand specific grounds on which it may want to challenge the report.

Plaintiff also requests that the Court direct the parties to provide another Joint Status Report in 30 days detailing their progress toward reaching these goals.

Defendants' Statement

The Solicitor General has not yet determined whether to authorize appeal of this Court's November 2, 2020 injunctive order. However, in light of this Court's determination that the Commission is subject to FACA, and given LDF's intent to pursue its claim for public records, Defendants will begin to take steps to gather the public "records, reports, transcripts, minutes, appendixes, working papers, drafts, studies, agenda, or other documents which were made available to or prepared for or by" the Commission, as required by Section 10(b) of FACA. 5 U.S.C. app. 2 § 10(b). In the event that the Solicitor General authorizes an appeal, Defendants reserve the right to seek relief from any Court-ordered production schedule as appropriate.

Defendants are in the process of collecting such documents and cannot currently estimate when production will be complete. Given LDF's delay in pursuing its public records claim, the expedited schedule LDF proposes is unreasonable and should not be entered. Defendants propose to make initial public release of materials covered by Section 10(b) on or before December 14, 2020, and to provide the Court at that time with estimate of the volume of the remaining covered materials to be produced and a proposed schedule for completing its review and release of those materials. Defendants also propose to include in their submission to the Court a description of categories of documents in the Commission's possession that Defendants believe are not subject to disclosure under Section 10(b). Defendants further propose that the Court require the parties to submit a further joint status report on or before December 28, 2020 to identify areas of disagreement regarding what documents are covered by Section 10(b) and submit proposals for a briefing schedule to resolve any areas of dispute.

LDF requests a shorter period for Defendants to make their initial production and to estimate the total number of documents in the Commission's possession that are subject to Section

10. LDF also asks the Court to establish a schedule for production of covered materials. Yet, LDF does not provide any compelling reason to justify its proposed schedule. As this Court has noted, LDF did not move for summary judgment on its public records claim, *see* at Memorandum Opinion at 6, ECF No. 54, and—until this filing—LDF has taken no steps to advance that claim, or to suggest that it requires Commission records by any particular date. Defendants, on the other hand, need adequate time to search through potentially thousands of records to identify what material is subject to Section 10(b), and it would be impractical, if not impossible, for Defendants to identify and categorize those records by November 23—one week from the date of this filing—as LDF proposes. LDF’s newfound sense of urgency with respect to its public records claim also lacks any weight given this Court’s issuance of a “limited use injunction,” which this Court has already explained is “sufficient for LDF to challenge the Commission’s recommendations in the public forum.” [ECF No. 54] at 8; [ECF No. 53] at 3–4. Defendants also note that, while LDF has made several miscellaneous requests for relief in the instant joint status report, LDF has not actually moved for any such relief, despite filing this case over six months ago.

Defendants respectfully submit that the proper course would be to allow Defendants adequate time to gather covered materials, describe those records to the Court, and to make an initial production, and then to proceed to determine what areas of dispute remain in an orderly fashion.

III. LDF’s Inappropriate Influence Claim

Plaintiff’s Statement

Plaintiff’s Amended Complaint alleged that the Commission was inappropriately influenced by both Attorney General William P. Barr, the Commission’s appointing authority, and other entities, including President Trump and special interests such as the Fraternal Order of Police

and other law enforcement organizations. Am. Compl. ¶¶ 39, 41, 84–118, 181–184. Plaintiff did not seek summary judgment on this claim, and sought discovery as to it while the parties’ dispositive motions were pending. Defendants moved to stay all discovery in light of their cross-motion to dismiss all of Plaintiff’s claims, including its claim of inappropriate influence, for lack of standing and lack of justiciability [ECF No. 33].

In resolving the Parties’ motions, this Court held that “LDF can still pursue the claims for which it has not yet sought summary judgment [i.e., its inappropriate influence and document-access claims]” ECF No. 54 at 3. LDF now seeks to commence discovery on its inappropriate influence claim. Each violation of the statute further undermines confidence in the Commission’s conclusions, further injuring those parties with a “direct interest” in the Commission’s work—such as LDF. And understanding the full scope of the Commission’s FACA violations will be key to LDF’s efforts to publicly challenge the Commission’s findings. Plaintiff’s public records requests have already revealed some of the outside interest groups that influenced the Commission’s work—at times, even drafting portions of the report. *See, e.g.*, Ex. J to Chandran Decl. [ECF No. 40-11] (unlisted member of Fraternal Order of Police added to working group and providing draft language analyzing legislation). A finding about the sources and extent of this influence on the Commission, and a declaration of such, would further support Plaintiff’s challenge to the Commission’s report.

Defendants do not dispute that any inappropriate influence on the Commission would effectuate Plaintiff’s remedy: a meaningful opportunity to challenge the Commission’s findings in the public arena. Rather, they seek to avoid discovery by claiming they intend to again move to dismiss this claim, making the same arguments about standing that this Court has already rejected. But they point to no error in the Court’s analysis warranting reconsideration of its ruling. There

are no serious questions that this Court has not already addressed; Defendants should not be permitted to file a duplicative and redundant motion to dismiss.³ Further, Defendants' argument about standing is meritless; the substantive difference between Plaintiff's inappropriate influence claim and its fair balance claims further support discovery. LDF's fair balance claim focuses on which entities were inappropriately *excluded* from the Commission's work; its inappropriate influence claim focuses on which voices were inappropriately *included*. Inaccuracies and biases in the Commission's report are plainly traceable to Defendants' violations of FACA's inappropriate influence provisions, and those inaccuracies concretely injure Plaintiff, which has a direct interest in the Commission's work. And in any event, standing is measured at the time of filing, and is unaffected by subsequent developments in a litigation. *Wheaton Coll. v. Sebelius*, 703 F.3d 551, 552 (D.C. Cir. 2012) (“[S]tanding is assessed at the time of filing.”).

Defendants admit—for the first time—that they did not employ any procedures to prevent inappropriate influence on the Commission's work. They argue, however, that FACA imposes no substantive requirement that advisory committees be free of inappropriate influence. This is wrong. Advisory committees must be *substantively* free of inappropriate influence, as courts interpreting FACA have long recognized. *See, e.g., In re Cheney*, 406 F.3d 723, 727 (D.C. Cir. 2005) (noting that FACA provides that “each such [advisory] committee . . . may not be inappropriately influenced by the appointing authority or by any special interest”); *Metcalf v.*

³ Should the Court agree that Defendants may file a second motion to dismiss, Plaintiff requests an expedited briefing schedule to ensure it may expeditiously obtain all relevant information.

Natural Petroleum Council, 553 F.2d 176, 180 (D.C. Cir. 1977) (analyzing actual influence of outside forces on committee's operations in assessing plaintiff's standing).⁴

Defendants have not sought reconsideration of the Court's order on their motion to dismiss, and their contemplation of an appeal is no reason to delay discovery. In light of the above, Plaintiff requests that the Court order as follows concerning the undue influence claim:

- a. Initial disclosures required by Fed. R. Civ. P. 26(a)(1) and as relevant to the remaining undue influence claim shall be exchanged by November 23, 2020;
- b. Discovery should be completed by January 15, 2021; and
- c. Parties shall file dispositive motions by February 12, 2021.

Given that there is only a single issue remaining to be litigated—further narrowed by Defendants' admission that they failed to put provisions in place to prevent undue influence on the Commission—this schedule is realistic. Indeed, in the Parties' 26(f) report, Defendants suggested that they would need 21 days after the Court's decision on the Parties' pending dispositive motions to exchange initial disclosures on all of Plaintiff's claims. ECF No. 37 at 9. Nearly twice as much time has passed since the Court's October 1 order which left just two claims for discovery. Even if counted from the Court's November 2 order, Defendants' own proposal of 21 days to gather evidence counsels in favor of a November 23 deadline for initial disclosures. Thereafter, Plaintiff intends to conduct streamlined discovery on the narrow remaining issues, warranting a discovery window far shorter than the 120 days Defendants previously believed necessary to conduct discovery into all of the Commission's FACA violations.

⁴ Defendants' citation to the text of FACA is incorrect. It is the *legislation establishing* an advisory committee that need only contain procedures to avoid inappropriate influence, not the committee itself. *See* 5 U.S.C. app. 2 § 5(b)(3). Defendants' interpretation would allow for a commission to be inappropriately influenced, as long as there were procedures in place that attempted to avoid it.

Further, if this Court should agree with Defendants that FACA imposes only procedural requirements on advisory committees, Defendants have admitted a procedural violation in their statement below. Plaintiff thus reserves the right to seek further relief, including declaratory judgment as to such a violation and a modification of the disclaimer language ordered by the Court to include the Commission's failure to be free of inappropriate influence.

Defendants' Statement

The Court should not permit LDF to proceed on its inappropriate influence claim at this time, if ever. LDF has already obtained declaratory relief stating that the Commission did not comply with FACA. Order at 2, ECF No. 53 ("Remedies Order"). The Court has also ordered that, if Defendants publish, release or transmit any copy of any report produced by the Commission, they must include a disclaimer indicating that the Commission "was subject to the Federal Advisory Committee Act ("FACA"), 5 U.S.C. app. 2, and that "a United States District Court judge has found that the Department of Justice and the Commission's officers violated FACA in forming and operating the Commission." *Id.* at 3–4. Those remedies have already "remov[ed] the appearance of legitimacy that attaches to advisory committee recommendations" and redressed LDF's alleged injuries, "which stem from its inability to influence the Commission's work by scrutinizing the Commission's activities and having access to a representative voice on the Commission." Memorandum Opinion at 4, ECF No. 54.

Because any injury that is fairly traceable to the alleged inappropriate influence on the Commission has now been remedied by the Court's remedial order, Defendants intend to file a renewed motion to dismiss Plaintiff's inappropriate influence claim for lack of subject matter jurisdiction. Defendants respectfully propose the following schedule for briefing of that forthcoming motion:

- November 30, 2020: Defendants' Renewed Motion to Dismiss Due
- January 4, 2021: LDF's Response to Defendants' Renewed Motion to Dismiss Due
- January 25, 2021: Defendants Reply in Support or Renewed Motion to Dismiss Due

Given that there are, at a minimum, serious questions regarding this Court's continued jurisdiction over LDF's inappropriate influence claim, Defendants respectfully request that the Court reject LDF's request to begin discovery with respect to that claim until the Court rules on Defendants' renewed motion to dismiss.

LDF contends, incorrectly, that Defendants' renewed motion to dismiss would be duplicative of their prior motion. LDF fails to appreciate the relevant question: whether LDF would suffer a concrete, legally cognizable injury that is fairly traceable to Defendants' conduct *even after* the Court has already issued declaratory relief stating that the Commission violated FACA and injunctive relief requiring a "limited use injunction." Defendants respectfully submit that LDF cannot make such a showing.

However, even if the Court were to determine that LDF has standing to proceed with its inappropriate influence claim, Defendants would seek a protective order preventing discovery. The "inappropriate influence" provision of FACA is procedural. It requires only that an advisory committee "contain appropriate provisions to assure that advice and recommendations of the advisory committee will not be appropriately influenced." 5 U.S.C. app. 2 § 5(b)(3).⁵ Although

⁵ LDF points out that the quoted language applies only to "legislation establishing" a Commission. Besides ignoring Section 5(c), which imposes "guidelines set out in subsection (b)" on "the President, agency heads, or other Federal officials in creating an advisory committee" "to the extent they are applicable, *see* 5 U.S.C. app. 2 § 5(c), LDF fails to point to anything in the language of FACA that imposes a substantive requirement that advisory committees be free of inappropriate influence. *Compare id.* § 5(b)(2) (requiring "the membership of the advisory committee to be fairly balanced"). The D.C. Circuit cases LDF cites do not address this issue. *See, e.g.,*

Defendants dispute that the Commission was, in fact, inappropriately influenced, Defendants acknowledge that the Commission was not created with “provisions” to prevent such influence, because Defendants did not believe the Commission was subject to FACA. There is therefore nothing to discover. Indeed, Defendants are not aware of any case that has allowed discovery on a FACA claim brought under Section 5(b)(3), and LDF conspicuously cites none. The Supreme Court, moreover, has suggested that that discovery should not provide an avenue to obtain documents that a plaintiff cannot otherwise obtain if it succeeds on the merits of its FACA claim. *See In re Cheney*, 542 U.S. 367, 377 (2004) (“The majority [of the D.C. Circuit panel] acknowledged the scope of respondents’ requests is overly broad, because it seeks far more than the ‘limited items’ to which respondents would be entitled if ‘the district court ultimately determines that the NEPDG is subject to FACA.’”). Here, discovery would be particularly inappropriate after the Court has already concluded that the Commission violated FACA in not following that statute’s procedures.

Even if discovery were somehow appropriate—which Defendants dispute—the Court should reject LDF’s proposed schedule. LDF’s proposal that discovery begin and conclude in a mere two months over the holidays is wholly unrealistic. LDF does not explain why such an expedited schedule is necessary, and any suggestion that time is of the essence is inconsistent with how LDF has pursued its claims. *See* Remedies Order at 10 (noting that LDF “never sought emergency injunctive relief and only asked for a decision by the end of October, and that “LDF proposed that remedies briefing occur only *after* a ruling on the merits”). Rather, if the Court were to set any schedule, it should be to brief the Commission’s forthcoming motion to dismiss for lack of subject matter jurisdiction and to brief Defendants’ motion for a protective order.

Dated: November 16, 2020

Respectfully submitted,

/s/ Natasha C. Merle

Samuel Spital, Bar No. SS4839

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