

PROTECTING THE FREEDOM FOR WOMEN TO BE FREE FROM VIOLENCE: THE VIOLENCE AGAINST WOMEN ACT ENDURES

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Twenty-five years after it was introduced as novel legislation, and more than fifteen years after its cornerstone civil rights remedy was struck down by a divided U.S. Supreme Court, the Violence Against Women Act¹ endures as the seminal law that has dramatically shifted how we talk about, prosecute and protect women's fundamental freedom to be free from violence -- across the country and around the globe.

In 1980, the forcible rape crime rate,² primarily against women, was 36.8 percent.³ By 1985, the rate increased to 37.1 percent.⁴ By 1990, the rate rose again to 41.2 percent.⁵

These gender-based crime rates were among the violent crime statistics reviewed by then-Chairman of the U.S. Senate Judiciary Committee, Joseph R. Biden, Jr., which led to his introduction in June 1990 of the Violence Against Women Act.⁶ This Act became law on September 13, 1994.⁷

Hundreds of scholarly articles, books, reports and studies have been written on the creation, passage and impact of the Violence Against Women Act. This essay is an account by one attorney⁸ who witnessed turning the "Act into Action."⁹ Counter to what some critics, skeptics and objective scholars¹⁰ have argued, this essay seeks to highlight that even without the

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¹ See 42 U.S.C. §§ 13701-14040 (2012).

² Forcible rape, as defined in the FBI's Uniform Crime Reporting (UCR) Program, is the carnal knowledge of a female forcibly and against her will. *UCR Offense Definitions*, UCR CRIME REPORTING STATISTICS, <http://www.ucrdatatool.gov/offenses.cfm> (last visited May 20, 2016). Attempts or assaults to commit rape by force or threat of force also are included; however, statutory rape (without force) and other sex offenses are excluded. *Id.*

³ Crime-National or State Level: One Year of Data, UCR CRIME REPORTING STATS., <http://www.ucrdatatool.gov/Search/Crime/State/RunCrimeOneYearofData.cfm> [hereinafter Crime: One Year of Data] (search U.S.-Total, violent crime rates, 1980) (last visited May 20, 2016).

⁴ *Id.* (search U.S.-Total, violent crime rates, 1985).

⁵ *Id.* (search U.S.-Total, violent crime rates, 1990).

⁶ See S. REP. NO. 101-545 (1990). The Violence Against Women Act is also referred to as VAWA.

⁷ Violence Against Women Act of 1994, Pub. L. No. 103-322, 108 Stat. 1796 (1994).

⁸ The author served as Counsel and Senior Counsel to U.S. Senator Joseph R. Biden, Jr. from 1994-2004.

⁹ See JOSEPH R. BIDEN, JR. & SENATE JUDICIARY COMM., THE VIOLENCE AGAINST WOMEN ACT IN ACTION, (August 24, 1995).

¹⁰ See Caroline S. Schmidt, *What Killed the Violence Against Women Act's Civil Rights Remedy Before the Supreme Court Did?*, 101 VA. L. REV. 501 (2015).

civil rights remedy, the Violence Against Women Act has endured and has empowered women to report crimes, seek justice and hold their offenders and law enforcement accountable.

Did the Violence Against Women Act end violent crime against women? Of course not. That was never its objective. Nor should the Violence Against Women Act be judged by such a standard. Then-Senator, and now Vice President, Biden said as much himself in a 1990 hearing before the Senate Judiciary Committee, stating he was under “no illusion that this legislation is going to stop violence against women.”¹¹

In action, the Violence Against Women Act changed attitudes among law enforcement, judges, victims and society as a whole. By changing attitudes and no longer accepting violence against women as a private family matter, the Act has saved lives. Between 1993 and 2012, intimate partner violence declined 64 percent.¹² As important a benchmark as this statistic represents, the change in attitude of how we view such violence is immeasurable: 20 years after passage of the Violence Against Women Act, it is no longer a private family matter when an NFL marque player knocks out his fiancée unconscious in a hotel elevator.¹³ The Violence Against Women Act changed the law and changed attitudes so that such violence is no longer tolerated in a civilized country and ensures offenders are held accountable.

I. THE “VOLUMINOUS RECORD”

There is no disputing that when it was written and enacted, Title III, the Civil Rights Provision, was considered a cornerstone of the Act.¹⁴ The goal of the civil rights remedy was to create a federal civil rights cause of action for crimes motivated by gender.¹⁵

Several law review articles have been published regarding Title III, one of the most provocative published recently by Caroline Schmidt entitled *What Killed the Violence Against Women Act’s Civil Rights Remedy Before the Supreme Court Did?*¹⁶ Respectfully, law review articles such as this miss

¹¹ *Women and Violence: Hearing Before the S. Comm. on the Judiciary*, 101st Cong. 111 (1990) [hereinafter *Women and Violence*] (statement of Sen. Joseph R. Biden, Jr., Chairman, S. Comm. on the Judiciary).

¹² SHANNAN CATALANO, BUREAU OF JUST. STATS., U.S. DEP’T OF JUST., PUB. NO. NCJ 239203, *Intimate Partner Violence, 1993–2010* 1 (2015), <http://www.bjs.gov/content/pub/pdf/ipv9310.pdf>. The report, related documents and additional information about the Bureau of Justice Statistics’ statistical publications and programs can be found on the BJS website.

¹³ See, e.g., Naomi Wolf, *Ray Rice’s Abuse Video: Seeing is Believing a Crime Really Happened*, TIME, Sept. 10, 2014, <http://time.com/3319154/naomi-wolf-ray-rice-domestic-violence/>.

¹⁴ See *The Implementation of the Violence Against Women Act Provisions of the Violent Crime Control and Law Enforcement Act*, Pub. L. No. 103-322, § 40302, 108 Stat. 1796, 1941 (1994); see also *Implementation of the Violence Against Women Act: Hearing Before the S. Comm. on the Judiciary*, 103d Cong. 54 (1994) (statement of Sen. Joseph R. Biden, Jr., Chairman, S. Comm. on the Judiciary).

¹⁵ 42 U.S.C. § 13981 (2012).

¹⁶ See Schmidt, *supra* note 10.

the mark and fail to acknowledge the lasting impact of the Violence Against Women Act – an impact that endures despite the fact that the U.S. Supreme Court reversed a centuries-old interpretation of the Commerce Clause that was the law of the land when the Violence Against Women Act was first introduced in 1990, through the year it was enacted in 1994.¹⁷

Ms. Schmidt’s law review article provides no context of the impact the Violence Against Women Act has had on a woman’s right to seek justice against her abuser, despite the court’s rejection of the civil rights remedy.¹⁸ With the movement toward specialized Domestic Violence Courts that the Act spurred, as well as the Act’s targeted funding, education and prevention programs, women’s rights *are being protected* to a significantly greater extent than had the Violence Against Women Act had never been enacted.¹⁹

When the federal civil rights remedy was struck down by the U.S. Supreme Court in 2000, then-Senator Biden rededicated his efforts to protect women’s civil rights through criminal justice measures, education, and prevention programs funded by the Violence Against Women Act.²⁰ This essay will expand upon this point further, but first, it is important to note that from 1990 when the Violence Against Women Act was first introduced until September 13, 1994 when it signed into law,²¹ then-Senator Biden, as Chairman of the U.S. Senate Judiciary Committee, held more than a dozen hearings, with candid testimony from victims – which was really the first time victims spoke so openly and graphically about the violence and sexual assaults they experienced.²² The U.S. House of Representatives held additional hearings to build support for the five sections of the Act:

- Title I, the Safe Streets for Women Act,²³ which seeks to improve safety outside the home by increasing the penalties for federal cases of rape and aggravated rape;
- Title II, the Safe Homes for Women Act, which remedies existing defects in state protective orders by requiring that a protective order issued in one state be given “full faith and credit” in all other states;²⁴
- Title III, the Civil Rights Provision,²⁵

¹⁷ See *United States v. Lopez*, 514 U.S. 549 (1995). This case was the first United States Supreme Court case since 1942 to set limits on Congress’ power under the Commerce Clause of the U.S. Constitution.

¹⁸ Schmidt, *supra* note 10, at 508. In *United States v. Morrison*, the Supreme Court held that Congress lacked the constitutional authority to enact the civil rights remedy. *United States v. Morrison*, 529 U.S. 598, 611-12 (2000).

¹⁹ See *Women and Violence*, *supra* note 11.

²⁰ REPORT FROM THE OFFICE OF THE VICE PRESIDENT OF THE UNITED STATES, *1 is 2 Many: Twenty Years Fighting Violence Against Women and Girls* 14 (Sept. 2014) [hereinafter *1 is 2 Many*], https://www.whitehouse.gov/sites/default/files/docs/vawa_20_report_final.pdf.

²¹ See 42 U.S.C. §§ 13701-14040 (2012).

²² See *Women and Violence*, *supra* note 11, at 22-23.

²³ Violence Against Women Act of 1994, Pub. L. No. 103-322, §§ 40101-40155, 108 Stat. 1796, 1903-22 (1994).

²⁴ §§ 40201-40231, 108 Stat. at 1925-32.

²⁵ §§ 40301-40304, 108 Stat. at 1941-42.

- Title IV, Violence Against Women Act Improvements, which addressed the increasing problem of sexual assaults on college and university campuses;²⁶ and
- Title V, Equal Justice for Women in the Courts Act, which provided funding to train state court judges and court personnel on issues relating to violent crimes against women.²⁷

In June 2000, in a 5-4 ruling written by Chief Justice William Rehnquist in *United States v. Morrison*, the Court agreed with the government that there was a “voluminous congressional record” supporting the “assertion that there is pervasive bias in various state justice systems against victims of gender-motivated violence,” and the Court also agreed with the government that “state-sponsored gender discrimination violates equal protection unless it serves important governmental objectives”²⁸ The Court, however, held that the civil rights remedy exceeded Congress’ power under the Commerce Clause and under Section 5 of the Fourteenth Amendment to the U.S. Constitution.²⁹ According to the majority, even if there was unconstitutional state action that only justified Congress in targeting the state actors, rather than targeting private parties.³⁰ Further, in the majority opinion, Justice Rehnquist, who had vocally opposed the civil rights remedy as the Violence Against Women Act made its way through Congress, reiterated his previous concern that the civil rights provision would overload the federal courts and would allow Congress to regulate “family law and other areas of state regulation,” even “marriage, divorce, and childrearing.”³¹

II. “KILLING” THE CIVIL RIGHTS REMEDY DID NOT KILL THE ACT

In her detailed examination of the civil rights remedy and “what killed it before the Supreme Court did,” Ms. Schmidt’s overly-broad conclusions ignore the Violence Against Women Act’s effectiveness, which has proven to extend far beyond the civil rights remedy. First, by describing the Violence Against Women Act’s civil rights remedy in terms such as “radical” and that “the visionary legislation was used only to send a message rather than make real change,”³² the author completely obscures the fact that the Act has produced “real change” through Domestic Violence Courts, better law enforcement training, enhanced prosecution, and more housing and social services are available to women from the \$6 billion in programs and initiatives funded and initiated by the Act.³³

²⁶ § 40506, 108 Stat. at 1948.

²⁷ §§ 40401-40422, 108 Stat. at 1942-45.

²⁸ *United States v. Morrison*, 529 U.S. 598, 619-20 (2000).

²⁹ *Id.* at 627.

³⁰ *Id.*

³¹ *Id.* at 599.

³² Schmidt, *supra* note 10, at 506-07.

³³ See Lisa N. Sacco, *The Violence Against Women Act: Overview, Legislation, and Federal Funding*, CONG. RES. SERV., 1-4, 11, 14-16 (May 26, 2015), <https://www.fas.org/sgp/crs/misc/R42499.pdf>.

Moreover, by positing that the civil rights remedy “was a failure” because it failed to achieve its “promises” of “providing victims of gender-violence a forum and method to seek redress” and failed to “reduce the amount of violence against women in our society,”³⁴ Ms. Schmidt again, respectfully, leaves her reader with the incorrect conclusion that the Act was a failure. Rather, the progress over the past twenty years demonstrates just how much the Violence Against Women Act has empowered victims of gender-violence crimes and saved lives.

Finally, Ms. Schmidt’s Note glosses over the fact that when the civil rights remedy was written and enacted, constitutional scholars testified publicly to its constitutionality.³⁵ Far from “radical”, it was viewed as constitutional.

III. BUILDING BIPARTISAN SUPPORT

Along with pushing for passage of the Violence Against Women Act since 1990, then-Senator Biden also had introduced and fought for passage of a major crime bill since 1986. The two efforts came together in 1994. The Violence Against Women Act passed as part of the Omnibus Crime Law of 1994.³⁶ The legislation passed a Democratic-controlled Senate and House by votes of 61-38 and 235-195, respectively.³⁷

Then-Senator Biden worked out a compromise with his colleagues to fully fund the Crime Law and Violence Against Women Act by reducing the size of the federal workforce by two percent or 272,000 positions over five years.³⁸ That goal was achieved.³⁹

In 1996, when Republicans took control of the Senate and House, funding for programs in the Crime Law and Violence Against Women Act was in jeopardy. Still, the laws endured. In 2000 and 2005, the Violence Against Women Act was reauthorized by bipartisan majorities in Republican-led sessions of Congress.⁴⁰

Despite bipartisan support throughout its first 18 years, in 2012, the Violence Against Women Act Reauthorization hit roadblocks in the Republican-controlled Congress over protections for battered immigrant

³⁴ Schmidt, *supra* note 10, at 508.

³⁵ Constitutional scholars testifying before the Senate Judiciary Committee confirmed the constitutionality of the remedy. S. REP. NO. 103-138, at 39 (1993).

³⁶ See H.R. 3355, 103d Cong. (1994); see also Violence Against Women Act of 1994, Pub. L. No. 103-322, 108 Stat. 1796 (1994).

³⁷ See *Actions Overview: H.R.3355—103rd Congress (1993-1994)*, CONGRESS.GOV, <https://www.congress.gov/bill/103rd-congress/house-bill/3355/actions>.

³⁸ *I is 2 Many*, *supra* note 20, at 13.

³⁹ U.S. OFFICE OF PERS. MGMT., HISTORICAL FEDERAL WORKFORCE TABLES: TOTAL GOVERNMENT EMPLOYMENT SINCE 1962, <https://www.opm.gov/policy-data-oversight/data-analysis-documentation/federal-employment-reports/historical-tables/total-government-employment-since-1962/> (last visited May 20, 2016).

⁴⁰ Jill Laurie Goodman, *The Idea of Violence Against Women: Lessons From United States v. Jessica Lenaham, the Federal Civil Rights Remedy, and the New York State Anti-Trafficking Campaign*, 32 N.Y.U. REV. L & SOC. CHANGE 593, 622 (2012).

women and protections for same-sex couples.⁴¹ It is important to note, however, that the 112th Session of Congress from 2011-2012 passed the fewest laws in the history of the United States, enacting just 284 laws.⁴²

When the Violence Against Women Act was re-enacted in 2013 by a vote of 78-22 in the U.S. Senate and 286-138 in the U.S. House, it was one of just 57 laws passed that year. For the full 113th session of Congress, from 2013-2014, only 297 laws were passed.⁴³ To put these numbers in perspective, when President Harry S. Truman ran against the “do-nothing Congress” in 1948, the 80th Session of Congress in 1947-48 passed 906 bills.⁴⁴

Despite an increasingly divided Congress, the Violence Against Women Act was non-partisan in action in cities, counties and states across America. Sheriffs, police officers, judges, and lawmakers on the city, county and state levels put politics aside to take full advantage of the federal funding available to help prevent and reduce violence against women and children.

IV. THE ACT IN ACTION

The Violence Against Women Act has been a model of how the federal government can work with state governments, state criminal justice councils, police, sheriffs, prosecutors, public defenders, social agencies, housing authorities, judges and legal advocates. First, after passage of the Violence Against Women Act, then-Senator Biden was instrumental in securing creation of a new Office of Violence Against Women within the U.S. Department of Justice.⁴⁵ That Office has been and remains the link with State Domestic Violence Coalitions in all 50 states to establish, implement and monitor the STOP Violence Against Women Formula Grants.⁴⁶ From funding for more battered women shelters and transitional housing programs, to funding for training for law enforcement and judges, to establishing specialized prosecution, policing and courts, the Violence Against Women Act has impacted families and women in all 50 states and U.S territories.⁴⁷

As the White House Report, issued in September 2014 and entitled *I is 2 Many: Twenty Years Fighting Violence Against Women and Girls*, points out: a 1975 national survey recorded that 28 percent of respondents agreed that

⁴¹ Norma Espinosa, *The Fight to Reauthorize the Violence Against Women Act, Protecting Immigrant Women from Domestic Abuse*, CTR. FOR AM. PROGRESS (May 3, 2012), <https://www.americanprogress.org/issues/women/news/2012/05/03/11524/the-fight-to-reauthorize-the-violence-against-women-act/>.

⁴² *Statistics and Historical Comparison*, GOV'T TRACK, <https://www.govtrack.us/congress/bills/statistics> (last visited May 20, 2016).

⁴³ *Id.*

⁴⁴ NORMAN J. ORNSTEIN ET AL., VITAL STATISTICS ON CONGRESS, Table 6-4 (2014), <http://www.brookings.edu/~media/Research/Files/Reports/2013/07/vital-statistics-congress-mann-ornstein/Vital-Statistics-Full-Data-Set.pdf?la=en>.

⁴⁵ *I is 2 Many*, *supra* note 20, at 17.

⁴⁶ *See id.* at 17-18.

⁴⁷ For a full list of grants administered by the Office of Violence Against Women, *See Grant Programs*, DEP'T OF JUSTICE OFFICE OF VIOLENCE AGAINST WOMEN (Sept. 2015), <http://www.justice.gov/ovw/grant-programs>.

slapping a spouse was “necessary,” “normal” or “good.”⁴⁸ After implementation of the Violence Against Women Act, a 2006 study showed that 97% of college students surveyed agreed that for a husband to use physical force to make his wife have sex would constitute intimate partner violence.⁴⁹ Thus, the Act and national conversation about violence against women have changed attitudes. The Act also has provided more avenues for victims of gender-violence to seek justice.

A. Domestic Violence Courts

One such example is the proliferation of specialized Domestic Violence Courts, the funding for which initially came from Violence Against Women Act grants.⁵⁰ To support police “pro-arrest” policies in domestic violence incidents, specialized prosecution units and greater funding for victim services, Domestic Violence Courts have been established throughout the United States and Europe.⁵¹ There are more than 200 Domestic Violence Courts in the United States in more than 30 states,⁵² which are part of a larger trend toward “problem-solving” courts, such as drug, mental health, reentry and veterans’ courts.⁵³

In a 2009 study entitled *A National Portrait of Domestic Violence Courts*, the authors acknowledge previous criticisms that Domestic Violence Courts “lack a unifying set of goals and policies,”⁵⁴ the study reported major findings in four domains:

1. Domestic Violence Courts’ goals;
2. Victim services and safety;
3. Offender assessments and batterer programs; and
4. Compliance monitoring.⁵⁵

In the findings for Domestic Violence Court Goals, 83 percent of court survey respondents rated increasing victim safety as “extremely important,” including services for victims, orders of protection and safe victim waiting areas in the courthouse.⁵⁶ Moreover, 79 percent of court respondents rated

⁴⁸ *I is 2 Many*, *supra* note 20, at 16; *see also* Ursula Dibble & Murray A. Straus, *Some Social Structure Determinants of Inconsistency Between Attitudes and Behavior: The Case of Family Violence*, 42 J. OF MARRIAGE & THE FAM. 71, 73 (1980).

⁴⁹ *I is 2 Many*, *supra* note 20, at 16; Erin L. Nabors, et al., *Domestic Violence Beliefs and Perceptions Among College Students*, 21 VIOLENCE & VICTIMS 779, 786 (2006).

⁵⁰ *See* Sally F. Goldfarb, “No Civilized System of Justice”: *The Fate of the Violence Against Women Act*, 102 W. VA. L. REV. 499, 542 (2000)

⁵¹ Melissa Labriola, et al., *A National Portrait of Domestic Violence Courts*, NAT’L CRIM. JUST. REFERENCE SERV. 1 (Nat’l Inst. of Just., Doc. No. 229659, 2009), <https://www.ncjrs.gov/pdffiles1/nij/grants/229659.pdf>.

⁵² Julia Weber, *Domestic Violence Courts: Components and Considerations*, 2 J. CTR. FOR FAM., CHILD. & THE CTS. 23, 23 (2000).

⁵³ *See* RICHARD L. WIENER, *PROBLEM SOLVING COURTS: SOCIAL SCIENCE AND LEGAL PERSPECTIVE* ix-x (2013).

⁵⁴ LABRIOLA, et al., *supra* note 51, at 14.

⁵⁵ *Id.*

⁵⁶ *Id.* at v.

holding offenders accountable for illegal behavior as “extremely important.”⁵⁷ Such offender accountability was achieved through offender supervision, mandated batterer programs and enhanced enforcement of protective orders.⁵⁸

The findings for Victim Services and Safety found that “dedicated victim advocates worked at or in conjunction with 79 percent of the Domestic Violence Courts.”⁵⁹ Respondents noted that the “presence of victim advocates was significantly associated with prioritizing the goal of ‘facilitating victim access to services.’”⁶⁰

A finding of note in the prosecutor survey showed that court-based victim advocates, many of whom actually are employed by the prosecutor’s office, received high marks for accompanying victims to court (80%); safety planning (79%); providing housing referrals (73%); facilitating prosecution (64%); and, counseling (56%).⁶¹

As a reflection of the impact of specialized training for judges funded by the Violence Against Women Act, 88 percent of the Domestic Violence Court judges surveyed for this 2009 study reported that they either issue a temporary order of protection or restraining order at first appearance in the Domestic Violence Court, or that such an order of protection already has been issued before the case was assigned to the specialized court.⁶² Moreover, at sentencing 82 percent of the Domestic Violence Court judges reported that they “often or always” impose a final order of protection, prohibiting or limiting contact with the victim.⁶³

Finally, holding offenders accountable is a critical part of protecting women and children against violence. The 2009 study of Domestic Violence Courts found that judges mandate batterer programs, alcohol or substance abuse treatment and/or mental health treatment in the vast majority of cases.⁶⁴ Probation monitoring and sanctions for noncompliance were found to be additional measures judges always or often use to hold convicted domestic violence abusers accountable.⁶⁵

B. Federal Domestic Violence Statutes

The Violence Against Women Act provides for more than twelve federal domestic violence crimes that have proven to be an effective tool for U.S. Attorneys to work with state and local prosecutors to fight for victims and reduce gender-based violence. Many of these statutes criminalized interstate violation of sexual assault and domestic violence laws for the first time. Like

⁵⁷ LABRIOLA, et al., *supra* note 51, at v.

⁵⁸ *Id.*

⁵⁹ *Id.* at vi.

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² *Id.*

⁶³ LABRIOLA, et al., *supra* note 51, at vi.

⁶⁴ *Id.* at vii.

⁶⁵ *Id.*

Domestic Violence Courts, these statutes have made an impact in the persistent problem of violence against women. These statutes include:

- Interstate Travel to Commit Domestic Violence;⁶⁶
- Interstate Stalking;⁶⁷
- Interstate Travel to Violate an Order of Protection;⁶⁸
- Possession of Firearms While Subject to Order of Protection;⁶⁹
- Transfer of Firearm to Person Subject to Order of Protection;⁷⁰
- Possession of Firearm After Conviction of Misdemeanor Crime of Domestic Violence;⁷¹
- Transfer of Firearm to Person Convicted of a Misdemeanor Crime of Domestic Violence;⁷²
- Full Faith and Credit to Orders of Protection;⁷³
- Amendment of the Brady Statement;⁷⁴
- Right of Victim to Speak at Bail Hearing;⁷⁵
- Other Victim's Rights;⁷⁶
- Restitution;⁷⁷ and
- Self-Petitioning for Battered Immigrant Women and Children.⁷⁸

C. Law Enforcement Efforts, Housing, LBGT Protections

Other notable provisions of the Violence Against Women Act that continue to have a lasting impact include funding to help train more than a half million law enforcement officers, prosecutors, judges and victim advocates every year.⁷⁹ The National Domestic Violence Hotline, established by the original Violence Against Women Act, has helped more than 3.5 million people with issues of domestic violence and dating violence.⁸⁰ The 2000 reauthorization expanded protection for immigrant victims of abuse.⁸¹ The 2005 and 2013 reauthorizations of the Act included housing protections for battered women and new funding to help health care

⁶⁶ 18 U.S.C. § 2261(a)(1) (2012).

⁶⁷ 18 U.S.C. § 2261A (2012).

⁶⁸ 18 U.S.C. § 2261(b)(6) (2012).

⁶⁹ 18 U.S.C. § 922(g)(8) (2012).

⁷⁰ 18 U.S.C. § 922(d)(8) (2012).

⁷¹ 18 U.S.C. § 922(g)(9) (2012).

⁷² 18 U.S.C. § 922(d)(9).

⁷³ 18 U.S.C. § 2265 (2012).

⁷⁴ 18 U.S.C. § 922(t) (2012).

⁷⁵ 18 U.S.C. § 3771 (2012).

⁷⁶ 18 U.S.C. § 2263 (2012).

⁷⁷ 18 U.S.C. § 2264 (2012).

⁷⁸ 8 U.S.C. § 1154(a)(1)(A)(iv) (2012).

⁷⁹ See 8 U.S.C. § 1154 (2012).

⁸⁰ *2014 Year-End Review*, NAT'L DOMESTIC VIOLENCE HOTLINE, <http://www.thehotline.org/about-us/year-end-review-2014/> (last visited March 17, 2016).

⁸¹ See generally WILLIAM A. KANDEL, CONG. RES. SERV., REPORT NO. R42477, IMMIGRATION PROVISIONS OF THE VIOLENCE AGAINST WOMEN ACT (VAWA), Summary (2012), <https://www.fas.org/sgp/crs/misc/R42477.pdf>.

providers screen for domestic violence.⁸² And the 2013 reauthorization extended Violence Against Formula Grants administered by the U.S. Department of Justice to LGBT-specific services, recognizing the first time that the Act's protections apply universally regardless of sexual orientation or gender identity.⁸³

V. THE VIOLENCE AGAINST WOMEN ACT EXPANDS INTERNATIONALLY

A community of nations and worldwide organizations have galvanized to spread the impact of the Violence Against Women Act to countries from Australia to Latin America, from Africa to Afghanistan and throughout Europe and the Asia-Pacific region.⁸⁴ Through the efforts of organizations, including the United Nations, World Health Organization, Amnesty International USA, the U.S. State Department, Women Thrive Worldwide, the G-8, and the Family Prevention Fund (known as Futures without Violence), the sea change in attitudes toward violence against women has spread throughout the world.⁸⁵

This international effort does not rely on a civil rights remedy. Governments, courts, law enforcement, survivors and victims' advocates throughout the world have seen the impact of the Violence Against Women Act in the United States and are replicating its provisions. Countries throughout Europe, including Britain and Germany, have adopted the Domestic Violence Court model.⁸⁶ That is just one example of the increasingly global reach of the Violence Against Women Act. In fact, in Afghanistan – a country formally ruled by the strict anti-women's rights,

⁸² *I is 2 Many*, *supra* note 20, at 22.

⁸³ Violence Against Women Reauthorization Act of 2013, Pub. L. 113-4, 127 Stat. 54 (2013).

⁸⁴ See *Government Commitments*, UN WOMEN, <http://www.unwomen.org/en/what-we-do/ending-violence-against-women/take-action/commit/government-commitments#S> (last visited Mar. 17, 2016).

⁸⁵ See *id.*; GARCIA-MORENO ET AL., WORLD HEALTH ORG., GLOBAL AND REGIONAL ESTIMATES OF VIOLENCE AGAINST WOMEN: PREVALENCE AND HEALTH EFFECT OF INTIMATE PARTNER VIOLENCE AND NON-PARTNER SEXUAL VIOLENCE 2 (2013); *Gun Violence and Women: A Human Rights Violation: Submitted to U.S. Senate Committee on the Judiciary Hearing on VAWA Next Steps: Protecting Women from Gun Violence*, 113th Cong. (2015) (statements of Amnesty International); U.S. DEP'T OF STATE, U.S. DEP'T OF STATE EVALUATION OF IMPLEMENTATION OF THE UNITED STATES STRATEGY TO PREVENT AND RESPOND TO GENDER-BASED VIOLENCE GLOBALLY: AUG. 2012 THROUGH AUG. 2015 1 (2015), <http://www.state.gov/documents/organization/251034.pdf>; *Support the International Violence Against Women Act (IVAWA)*, AMNESTY INT'L, <http://www.amnestyusa.org/our-work/issues/women-s-rights/violence-against-women/international-violence-against-women-act> (last visit Mar. 17, 2016); Foreign & Commonwealth Office, Declaration on Preventing Sexual Violence in Conflict, 2013 (U.K.), https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/185008/G8_PSVI_Declaration_-_FINAL.pdf; *Global Violence Prevention*, FUTURES WITHOUT VIOLENCE, <http://www.futureswithoutviolence.org/global-violence-prevention/> (last visited Mar. 17, 2016).

⁸⁶ See ANNA MATCZAK ET AL., REVIEW OF DOMESTIC VIOLENCE POLICIES IN ENGLAND AND WALES 13 (2011), <http://eprints.kingston.ac.uk/18868/1/Matczak-A-18868.pdf>.

militant Taliban regime – former President Hamid Karzai decreed into law by executive order in 2009 the Elimination of Violence Against Women (EVAW) law.⁸⁷

Among the first international efforts to recognize the significance of the Violence Against Women Act occurred just one year after its passage. In 1995, the United Nation's Fourth World Conference on Women, held in China, adopted the Beijing Declaration and Platform for Action with the goals of gender equality and the empowerment of women.⁸⁸ The UN's Commission on the Status of Women has remained relentless in pursuing these goals. Twenty years after it was first adopted, in March 2015, the fifty-ninth session of the UN's Commission on the Status of Women held in New York undertook a major review of the progress made implementing the Beijing Declaration and Platform for Action and established further actions and initiatives to continue to confront global challenges to women and children from living free from violence.⁸⁹

Other international efforts include the UNiTE campaign launched in 2008 by UN General Secretary Ban Ki-moon.⁹⁰ The goals of UNiTE include adopting and enforcing national laws to address and punish all forms of violence against women and girls in accordance with international human rights standards; establishing data collection and analysis systems on crimes against women and children, similar to crime reports existing in the United States and other industrialized nations; establishing programs to support abused women and girls; and protecting women and girls from rape of war.⁹¹

At the April 2013 Group of Eight Nations in London, foreign ministers from the G-8 made the "historic" declaration that rape and serious sexual violence in conflicts constitute war crimes and grave breaches of the Geneva Conventions – putting responsibility on nations to search for and prosecute anyone accused of such crimes.⁹²

Finally, the International Violence Against Women Act (IVAWA) was introduced first introduced by then-Senator Biden in 2007.⁹³ It was re-introduced in 2010 in both the U.S. House of Representatives and in the U.S. Senate.⁹⁴ The International Violence Against Women Act, despite bipartisan

⁸⁷ Despite persistent efforts, the EVAW has still not been enacted by the Afghan Parliament. See OXFAM BEHIND CLOSED DOORS: THE RISK OF DENYING WOMEN A VOICE IN DETERMINING AFGHANISTAN'S FUTURE 7 (2014), https://www.oxfam.org/sites/www.oxfam.org/files/file_attachments/bp200-behind-doors-afghan-women-rights-241114-en.pdf.

⁸⁸ See BEIJING DECLARATION & PLATFORM FOR ACTION, THE FOURTH WORLD CONFERENCE ON WOMEN (1995), <http://www.un.org/womenwatch/daw/beijing/pdf/BDPfA%20E.pdf>.

⁸⁹ See DINAH DOUGLAS ET AL., UN-WOMEN BACKGROUND GUIDE 2015 (2015), http://www.nmun.org/ny_archives/ny15_downloads/BGGs/NY15_BGG_UN-Women.pdf.

⁹⁰ UNITED NATIONS SECRETARY-GENERAL'S CAMPAIGN, UNiTE TO END VIOLENCE AGAINST WOMEN, <http://endviolence.un.org/> (last visited Mar. 7, 2016).

⁹¹ *Id.*

⁹² *G8 Ministers Classify Rape, Sexual Violence As War Crimes*, RADIO FREE EUR. (Nov. 4, 2013), <http://www.rferl.org/content/g8-syria-north-korea-iran/24954292.html>.

⁹³ As introduced by then-Senator Biden, International Violence Against Women Act of 2007, S. 2279, 110th Cong. (2007).

⁹⁴ As introduced to the House of Representatives, H.R. 4594, 111th Cong. (2010).

support, has not yet been enacted.⁹⁵ While the Act does not require additional funding, its goal is to streamline and better coordinate existing anti-gender-based violence programs across numerous U.S. government agencies.⁹⁶ The programs that IVAWA seeks to better coordinate include health programs and women's economic and education opportunities in countries from the Middle East, Africa, Eastern Europe and Central America.⁹⁷

These international campaigns to protect women and children spurred by the Violence Against Women Act point to a more enduring impact of the Act than could have been contemplated at its introduction and enactment – despite partisan attacks, the Supreme Court's rejection of the civil rights remedy and funding reauthorization challenges. Indeed, the Violence Against Women Act endures in the United States and around the world.

VI. THE WOMEN ATTORNEYS BEHIND THE VIOLENCE AGAINST WOMEN ACT

Another enduring part of the Violence Against Women Act is the sustained commitment, not only from Vice President Biden, but also from the women attorneys who played key roles in helping to write, enact, reauthorize and implement the Act. Victoria Nourse, who helped write the original Act, served as Vice President Biden's Chief Counsel in 2014-15.⁹⁸ She currently serves as Georgetown University School of Law Professor and Director of Georgetown Law Center's Center on Congressional Studies.⁹⁹

Catherine Russell, now the U.S. State Department's Ambassador for Global Women's Issues, served as Chief of Staff for Senator Biden on the U.S. Senate Judiciary Committee as the Violence Against Women Act progressed from introduction to passage.¹⁰⁰ During the first term of the Obama-Biden Administration, she also served as Chief of Staff to second lady, Dr. Jill Biden.¹⁰¹

Cynthia Hogan, who was instrumental in the passage of the original Act, went on to serve as Vice President Biden's Chief Counsel during the first term of the Obama-Biden Administration. She now serves as Senior Vice President of Public Policy and Government Affairs for the NFL.¹⁰² Among

⁹⁵ However, the International Violence Against Women Act was again re-introduced in 2015. International Violence Against Women Act of 2015, H.R. 1340, 114th Cong. (2015).

⁹⁶ H.R. 1340, 114th Cong. (2015).

⁹⁷ See *Special Issue: The International Violence Against Women Act*, 13 FAMILY VIOLENCE PREVENTION FUND (Nov. 16, 2007), http://www.ncdsv.org/images/IVAWA_Special%20Issue_Speaking%20Up.pdf.

⁹⁸ GEORGETOWN LAW: VICTORIA NOURSE, <http://www.law.georgetown.edu/faculty/nourse-victoria.cfm#>.

⁹⁹ *Id.*

¹⁰⁰ U.S. DEP'T OF STATE: CATHERINE M. RUSSELL, <http://www.state.gov/r/pa/ei/biog/213845.htm>.

¹⁰¹ *Id.*

¹⁰² *Cynthia C. Hogan New VP of Public Policy and Government Affairs*, NFL (Sept. 16, 2014), <http://www.nfl.com/news/story/0ap3000000395673/article/cynthia-c-hogan-new-vp-of-public-policy-and-government-affairs>.

her initial focus, hired immediately after the Ray Rice domestic violence case, was to strengthen the NFL's domestic violence prevention and enforcement policies.¹⁰³

Demetra Lambros, who also served as counsel to then-Senator Biden on the U.S. Senate Judiciary Committee during the critical years it took to pass the legislation, moved onto a significant role in the U.S. Department of Justice and returned to serve as Chief Counsel to Vice President Biden in 2013-2014.

Louisa Terrell, who helped shepherd the 2005 reauthorization of the Violence Against Women Act as counsel to then-Senator Biden, went onto to serve on President Obama's legislative affairs team during his first term.¹⁰⁴ She now serves as a senior advisor to the Chairman of the FCC.¹⁰⁵

In short, these women and many others too numerous to mention, have remained committed throughout their careers to the principles that the Violence Against Women Act have stood for over the past 25 years.

VII. CONCLUSION

The forcible rape crime rate in 2013 decreased to 25.2 percent,¹⁰⁶ compared with a rate of 41.2 percent in 1990 when the Violence Against Women Act was first introduced.¹⁰⁷ The FBI estimates 79,770 reported rapes in 2013,¹⁰⁸ which is a reduction of about 16 percent since 2004.¹⁰⁹

While much progress has been made, as the Obama-Biden Administration's "1 is 2 Many" campaign acknowledges,¹¹⁰ the violent crime rate against women is still far too high. To put the persistent problem of intimate partner violence in context, the number of American troops killed in

¹⁰³ See Simon Van Zuylen-Wood, *How Roger Goodell and Cynthia Hogan are Turning the NFL into a Political Machine*, ESPN (Jan. 8, 2016), http://espn.go.com/nfl/story/_id/14396083/roger-goodell-cynthia-hogan-nfl-political-machine.

¹⁰⁴ See CHANGE.GOV, WORKING GROUP MEMBERS, http://change.gov/learn/working_group_members/ (last visited August 1, 2016).

¹⁰⁵ FCC, FCC ANNOUNCES CHANGES IN OFFICE OF CHAIRMAN WHEELER (2015), <https://www.fcc.gov/document/fcc-announces-changes-office-chairman-wheeler>.

¹⁰⁶ Crime: One Year of Data, *supra* note 3 (search U.S.-Total, violent crime rates, 2013) (last visited May 20, 2016). In 2013, the FBI UCR Program initiated collection of rape data under a revised definition within the Summary Reporting System. See *UCR Offense Definitions*, *supra* note 2. Previously, the offense data for forcible rape was collected under the legacy UCR definition: the carnal knowledge of a female forcibly against her will. *Id.* Beginning with the 2013 data year, the term "forcible" was removed from the offense title and the definition was changed. *Id.* The revised UCR definition of rape is "[p]enetration, no matter how slight, of the vagina or anus with any body or object, or oral penetration by a sex organ of another person, without the consent of the victim." *Id.* Attempts or assaults to commit rape also are included but statutory rape and incest are excluded. *Id.*

¹⁰⁷ Crime: One Year of Data, *supra* note 3 (search U.S.-Total, violent crime rates, 1990) (last visited May 20, 2016).

¹⁰⁸ *Id.* (search U.S.-Total, number of violent crimes, 2013).

¹⁰⁹ *Id.* (search U.S.-Total, number of violent crimes, 2004). The rape crime rate from 2012 to 2013 decreased about 6.3 percent. *Id.* (search U.S.-Total, number of violent crimes, 2012).

¹¹⁰ See generally *1 is 2 Many*, *supra* note 20.

Afghanistan and Iraq between 2001 and 2012 was 6,488.¹¹¹ The number of American women who were murdered by current or ex-male partners during that same time period was 11,766.¹¹² Thus, the goal of the “1 is 2 Many” campaign is to renew efforts among parents, teachers and college students to raise awareness about dating violence and sexual assault on college campuses.¹¹³ Moreover, in 2014, Vice President Biden and the White House Council on Women and Girls issued the first White House report on campus sexual assault, titled “Not Alone,” to highlight enhanced efforts to reach victims, prosecute offenders and prevent future sexual assaults.¹¹⁴ Another public-private sector initiative is to raise money to complete tests on thousands of untested rape kits sitting in evidence lockers in police agencies across this country.¹¹⁵

In conclusion, as the Violence Against Women Act’s impact continues to endure, it is important to reflect on the progress made on the federal and state levels to change attitudes and laws to better protect women against violence and note the Act’s expansion globally. Even without the civil rights remedy, the Violence Against Women Act has made an indelible imprint on protecting the basic civil right and freedom of women to be free from violence—in their home, on college campuses, and on the street against strangers.

¹¹¹ See Alanna Vagianos, *30 Shocking Domestic Violence Statistics That Remind Us It’s An Epidemic*, HUFFINGTON POST, (October 23, 2014), <https://www.dmdc.osd.mil/dcas/pages/casualties.xhtml>.

¹¹² *Id.*

¹¹³ See *1 is 2 Many*, *supra* note 20, at 33.

¹¹⁴ See generally, NOT ALONE, THE FIRST REPORT OF THE WHITE HOUSE TASK FORCE TO PROTECT STUDENTS FROM SEXUAL ASSAULT (April 2014), <https://www.notalone.gov/assets/report.pdf>

¹¹⁵ See *1 is 2 Many*, *supra* note 20, at 33.