MEMORANDUM December 17, 2013

To: Senator Tom Coburn

Subject: **Changes in Mandatory Programs (CHIMPs) and the Crime Victims Fund**

This memorandum responds to your recent request regarding changes in mandatory programs (CHIMPs) in annual appropriations acts. In particular, the memorandum analyzes the use of CHIMPs involving the U.S. Department of Justice's Crime Victims Fund (CVF), which has been the largest CHIMP item in recent years. The memorandum first provides a brief overview of the role of CHIMPs in the appropriations process and within the context of budget enforcement rules. The memorandum then describes the Crime Victims Fund and CHIMPs affecting the Fund that have been included in appropriations acts. Finally, the memorandum presents some summary data on the use of CHIMPs since 2003.[1]

Changes in Mandatory Programs

Federal spending can be divided into the budget categories of discretionary spending, mandatory spending, and net interest. Different procedural and budget enforcement rules apply to the first two categories.[2] Compliance with spending constraints is evaluated using estimates calculated according to established scorekeeping guidelines. Those estimates typically diverge from budget totals presented for other purposes. For instance, total discretionary budget authority reported in the CBO Status of Current Appropriations tables for a given budget year will not coincide with total discretionary budget authority for the same year reported in the OMB Historical Tables.

In certain circumstances, reductions in mandatory spending can generate offsets that allow higher levels of discretionary spending than would otherwise be permitted under congressional budget rules or under statutory caps on discretionary spending.[3] Changes in mandatory programs (CHIMPs) are provisions in appropriations acts that reduce or constrain mandatory spending.[4]

[1] For a summary of the use of CHIMPs in the 1990s, see U.S. General Accounting Office, "Budget Process: Use of PAYGO and Discretionary Offsets," letter to Senator Larry E. Craig, dated July 14, 1998, GAO B-280341, available at http://www.gao.gov/assets/90/88015.pdf. The U.S. General Accounting Office was renamed the U.S. Government Accountability Office.

[2] Federal interest payments have been authorized by a permanent appropriation since the Mexican-American War.

[3] Under pay-as-you-go or PAYGO rules in effect during the 1990s, reductions in discretionary spending could offset increases in mandatory spending. A 1998 GAO study, however, found only one such instance, while it identified over 100 cases in which (continued...)

CHIMPs can provide offsets to discretionary spending, which could help an appropriations committee or subcommittee comply with spending limits that it faces. Some appropriations subcommittees (such as Agriculture) typically include CHIMPs, while other subcommittees (such as Defense and Legislative Branch) generally do not. The Congressional Budget Office (CBO) typically includes summaries of estimated cost savings or increases due to CHIMPs in its analyses of appropriations legislation. CHIMPs also affect how statutory limits on discretionary spending imposed in the Budget Control Act of 2011 (BCA; P.L. 112-25) constrain discretionary totals. For the sake of brevity, however, this memorandum focuses on CHIMPs, scoring, and spending limits (allocations) placed on appropriations subcommittees, rather than a wider range of budget enforcement mechanisms. In particular, this memorandum does not discuss the role of CHIMPs in PAYGO (pay-as-you-go) requirements.[5]

CBO, the Office of Management and Budget (OMB), and the House and Senate Budget Committees are responsible for the scorekeeping process. The use of CHIMPs is permitted by Scorekeeping Guideline 3, which allows certain changes in mandatory spending in an appropriations bill to be scored against limits faced by Appropriations subcommittees, potentially generating an offset that would allow an increase in discretionary spending.[6]

CHIMPs affect both budget authority (BA; i.e., legal authority to obligate the federal government to make payments) and outlays (disbursements from the U.S. Treasury). In some cases, the change in BA will match the change in outlays over time. In other cases, CHIMPs may affect BA and outlays differently.

The following sections of this memorandum explain how CHIMPs are used to generate offsets to discretionary spending in more detail. Differences in how mandatory and discretionary spending is funded are discussed next, as CHIMPs affect both.

Mandatory and Discretionary Spending

Discretionary and mandatory spending are distinguished by the type of law that controls their funding. Discretionary spending is controlled and provided through the annual appropriations process. Mandatory spending—also referred to as direct spending—is controlled by the authorizing laws that typically establish or continue the operation of a federal program or agency, either indefinitely or for a set period. Such spending may be provided through provisions in the authorizing law that contain appropriations. Social Security and some other mandatory programs are funded through permanent appropriations. Mandatory programs also may be funded by authorizing laws that extend over multiple years, but are not permanent. For mandatory programs funded by permanent or multi-year appropriations in the authorizing statute, funding becomes available each year without further legislative action by Congress.

(...continued)

CHIMPs had been used to offset increases in discretionary spending. See U.S. General Accounting Office, "Budget Process: Use of PAYGO and Discretionary Offsets," letter to Senator Larry E. Craig, dated July 14, 1998, GAO B-280341.

[4] CHIMPs may also affect levels of offsetting receipts, which are generally treated as negative mandatory spending.

[5] The Statutory Pay-As-You-Go Act of 2010 (P.L. 111-139) reinstituted a set of PAYGO rules. That act, according to OMB Circular A-11, sec. 20, (p. 4), requires that "the outlay effects of CHIMPs that alter mandatory budget authority in an outyear or tax law in any year [be] classified as PAYGO (mandatory or revenue) impacts except when their net outlay effect is zero over a six-year period beginning with the current year."

[6] The Appropriations Committees subdivide their allotted level of spending among their subcommittees. That process is discussed below.

In some instances, authorizing laws that control mandatory spending contain no appropriations. In those instances, programs are funded through the annual appropriations process, and are classified as "appropriated mandatory" programs. For example, the federal portion of Medicaid costs is funded in this way. Thus, Medicaid is sometimes referred to as an appropriated entitlement.

Authorizing committees have jurisdiction over federal agencies, programs, projects, and activities (PPAs), including their mission, structure, and legal authority. CHIMPs in annual appropriations acts, by their nature, may affect the operation of mandatory programs. Some industry analysts have contended that CHIMPs can affect programs in ways that do not reflect the priorities of the relevant authorization committees.[7] The relationship of Appropriations and authorizing committees, however, is beyond the scope of this memorandum.[8]

Baselines and Scoring

A score is an estimate or projection of the change in spending or revenues that would result from enactment of new legislation relative to a current-law baseline. In general, a budget score estimates the direct budgetary effects of legislation. CBO is mandated to provide a cost estimate for each bill reported by a committee.

The CBO current-law baseline serves as a benchmark for measuring the budgetary effects of legislative proposals. Rules specified in section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA; Part C of Title II of P.L. 99-177, as amended; 2 U.S.C. 907) govern how CBO and OMB calculate the current-law baseline.[9] At times, authority underlying those rules has expired. Even when the authority for those rules has lapsed, however, CBO has continued to calculate its current-law baseline using those concepts. According to those rules, baseline funding for each discretionary program is held constant in real (i.e., inflation-adjusted) terms. When statutory limits on discretionary spending are in effect, CBO includes adjustments to discretionary baseline projections to bring totals in line with those statutory limits on discretionary spending. That is, CBO uses those limits as the baseline for discretionary spending that is subject to those limits. Mandatory spending estimates depend on projected program costs under current law, which depend on eligibility requirements, the pool of potential beneficiaries, and benefit take-up rates.[10]

Enforcement of congressional budget limits in annual appropriations process, which is discussed in the next section, relies on scoring estimates. Scoring is also used to help evaluate compliance with statutory caps on discretionary spending that were reinstituted by the BCA in 2011. OMB, however, has the sole responsibility for determining compliance with those statutory limits, which relies on OMB scoring

[7] Craig Jagger, "CHIMPs are Not Chump Change," Farm Foundation AgChallenge2050 blog, December 3, 2012, available at http://www.agchallenge2050.org/farm-and-food-policy/2012/11/CHIMPs-are-not-chump-change/.

[8] For an introduction to that issue, see Louis Fisher, "The Authorization-Appropriation Process in Congress: Formal Rules and Informal Practices," *Catholic University Law Review*, vol. 29 (1980), pp. 51-105.

[9] Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA; Part C of Title II of P.L. 99-177, as amended). The act is often known as the Gramm-Rudman-Hollings Act or GRH, after its principal sponsors, Senator Phil Gramm, Senator Warren Rudman, and Senator Ernest Hollings.

[10] Certain mandatory programs, such as the State Children's Health Insurance Program (SCHIP), are subject to legislative spending caps. SCHIP costs are split between the federal government and the states. The federal share for each state and in aggregate, however, is limited by a system of allotments. For details, see Jeanne M. Lambrew, "The State Children's Health Insurance Program: Past, Present, and Future," paper prepared for the Commonwealth Fund, January 2007, available at http://www.commonwealthfund.org/usr_doc/991_lambrew_schip_past_present_future.pdf. SCHIP is sometimes referred to as the Children's Health Insurance Program (CHIP).

estimates. OMB scoring is based on the same scorekeeping guidelines used by CBO, including provisions that govern scoring of CHIMPs. Thus, an offset generated by CHIMPs may help prevent those limits from being exceeded. CBO and OMB occasionally differ in their interpretations of budget concepts and scorekeeping rules. Congress has at times encouraged efforts to minimize, or at least clarify, those differences. For example, after a sequestration to enforce statutory caps on discretionary spending, OMB is directed to explain differences between OMB and CBO scoring.[11]

Budgetary Scoring and 302(b) Caps

A congressional budget resolution sets what are considered appropriate levels of aggregate spending, revenues, deficits, and debt for the years in the current budget window (covering at least five fiscal years). The resolution allocates spending levels among committees that have jurisdiction over spending, which are known as 302(a) allocations because their role is specified in that section of the Budget Act.[12]

The Appropriations Committees then subdivide their 302(a) amounts among their subcommittees through what are known as 302(b) allocations or suballocations. While budget resolutions specify budget aggregates for all years in the budget window, the 302(a) and 302(b) allocations for Appropriations Committees are only set for the budget year. Thus, 302(a) and 302(b) allocations present Appropriations Committees and their subcommittees in the annual appropriations process with a budgetary constraint that only affects the budget year.

Appropriations bills are scored to assist Budget Committees to determine whether those measures comply with 302(b) caps and other budget enforcement mechanisms. An appropriations measure that exceeds its 302(b) cap would be vulnerable to a point of order.[13] A score of an appropriations measure typically includes estimates of new budget authority and outlays, and may include information on how those amounts are divided among relevant budget enforcement categories.[14] If an appropriations measure includes "substantive changes to or restrictions on entitlement law or other mandatory spending law"—that is, a CHIMPs provision—then those reductions in mandatory spending can then be counted as an offset of discretionary spending for the purposes of evaluating compliance with 302(b) limits.[15] In other words, an appropriations subcommittee can propose total discretionary spending within its jurisdiction

[11] Sec. 251(a)(7)(B) of BBEDCA mandates that OMB, after a discretionary appropriations bill is enacted, report to Congress within 7 business days its estimates of resulting changes in outlays and budget authority, along with an explanation of any differences between CBO and OMB estimates. Those "7-Day-After" reports are available here: http://www.whitehouse.gov/omb/legislative_reports/BEA_reports.

[12] Formally, the Congressional Budget and Impoundment Control Act of 1974 (P.L. 93-344), as amended.

[13] Sec. 302(f) of the Budget Act. See CRS Report 97-865, *Points of Order in the Congressional Budget Process*, by James V. Saturno.

[14] A "score" may also include rescissions, advance appropriations, and adjustments for certain designated spending (e.g., emergency requirements).

[15] Scorekeeping Guideline #3 reads:

Entitlements and other mandatory programs (including offsetting receipts) will be scored at current law levels as defined in section 257 of [Gramm-Rudman-Hollings], unless Congressional action modifies the authorization legislation. Substantive changes to or restrictions on entitlement law or other mandatory spending law in appropriations laws will be scored against the Appropriations Committee section 302(b) allocations in the House and the Senate. For the purpose of [Congressional Budget Act] scoring, direct spending savings that are included in both an appropriation bill and a reconciliation bill will be scored to the reconciliation bill and not to the appropriation bill. For scoring under sections 251 or 252 of [Gramm-Rudman-Hollings], such provisions will be scored to the first bill enacted.

House Committee On The Budget, *Compilation of Laws and Rules Relating to the Congressional Budget Process As Amended Through November 30, 2008*, November 2008, Serial CP–3.

equal to its 302(b) suballocation plus savings or restrictions on mandatory spending resulting from a CHIMPs provision.

For example, suppose a hypothetical appropriations committee had a 302(b) allocation of $10 billion in budget authority (BA) and for outlays. Suppose the committee's appropriations measure contained a CHIMPs provision that was estimated to reduce or restrict some mandatory program spending from $9 billion to $7 billion for a change of $2 billion in BA and outlays. Then the committee's appropriation measure could include $12 billion in discretionary spending, which when combined with the $2 billion CHIMPs offset, would keep the committee within its 302(b) limit. That is, the net budgetary effect of the appropriations measure would be scored at $10 billion.

Different appropriations subcommittees have different opportunities to use CHIMPs to offset discretionary spending to comply with 302(b) caps depending on the nature of spending within their jurisdictions. Some might contend that 302(b) allocations limit some appropriations subcommittees more stringently than others. On the other hand, budget committees when setting 302(a) allocations for committees and the appropriations committees when setting 302(b) allocations, may take those differences into account.

Rebasing

If the legislative proposal were enacted, in general, the current-law baselines calculated by CBO and OMB for the following year's budget would be rebased to reflect the legislative changes that reduced mandatory spending. In OMB's explanation,

> *Substantive changes to or restrictions on entitlement law or other mandatory spending law specified in appropriations laws that affect current-year or budget-year budget authority and the resulting outlays are treated as changes in discretionary spending for the purposes of scoring those appropriations laws. Once enacted, these changes are reclassified or "rebased" in the subsequent budget as mandatory spending.*[16]

To return to the example used above, that explanation would suggest that if an appropriations subcommittee reported a measure that reduced or restricted mandatory program spending from $9 billion to $7 billion, then in the following year the mandatory program's baseline would be set at $7 billion, other things equal. Baseline discretionary spending would be $2 billion higher than the "score" for the measure when considered and enacted.

If in the next annual budget cycle the same appropriations subcommittee again wished to provide $12 billion in programmatic funding while facing a 302(b) suballocation of $10 billion, it would in principle be required to identify additional restrictions or reductions in mandatory program spending of at least $2 billion. In practice, however, some appropriations subcommittees have been able to reuse essentially the same CHIMPs for multiple years.[17]

[16] OMB, Circular A-11, Section 20, p. 4, available at http://www.whitehouse.gov/sites/default/files/omb/assets/a11_current_year/s20.pdf.

[17] For examples of CHIMPs used in multiple years, see CRS Report R41245, *Reductions in Mandatory Agriculture Program Spending*, by Jim Monke and Megan Stubbs.

The next sections of the memorandum discuss one permanent cancellation of funds (the COOP program) and obligation limitations on the Department of Justice (DOJ) Crime Victims Fund, which delays the ability to spend some portion of otherwise available funds.

Example of Permanent Cancellation of Funds: the Consumer Operated and Oriented Plan (CO-OP)[18]

The Consumer Operated and Oriented Plan (CO-OP) provides one example of a CHIMPs item that reflects a permanent reduction in mandatory spending.

Health insurance organizations cooperatively governed by the insured members have been shown to promote high quality health care. The Patient Protection and Affordable Care Act (PPACA, P.L. 111-148) encourages the creation of new health insurance cooperatives by requiring the Secretary of Health and Human Services to make grant and loan awards no later than July 1, 2013 through the CO-OP program.[19] Federal funds will be distributed as loans for start-up costs and grants for meeting solvency requirements. The funds must ultimately be repaid.[20] PPACA appropriated $6 billion for the CO-OP program.[21] The Department of Defense and Full-Year Continuing Appropriations Act of 2011 (H.R. 1473; P.L. 112-10) contained a provision (Section 1857) that permanently cancelled $2.2 billion of the appropriations for the CO-OP program.

Following the scorekeeping guidelines explained above, the estimated budgetary effects of the act (i.e., the "score") reflected this $2.2 billion reduction. Therefore, discretionary BA in the act was scored as $2.2 billion lower than in the case in which the CHIMP had not been included.

Obligation or Expenditure Limitations

Some federal programs draw upon trust or special funds to support their activities. Some of those have been funded through permanent appropriations, which are then available for obligation without further legislative action. Congress, however, often restricts programs' ability to obligate or spend trust fund budgetary resources in a given year. Remaining balances are typically available for obligation in future years. Thus, such limits postpone spending until future years.

Obligation limitations, according to OMB, are commonly used in transportation and General Service Administration accounts.[22] The obligation limitation on the Crime Victims Fund, which is as discussed in more detail below, has been the CHIMP item that has generated the largest offset of discretionary spending in recent years.

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[18] Most of this section was written by Mark Newsom, formerly a Specialist in Health Care Financing.

[19] §1322 of PPACA, as amended by §10104(l).

[20] Not later than July 1, 2013, and prior to awarding loans and grants under the CO-OP program, the Secretary will promulgate regulations with respect to the repayment of loans and grants in a manner that is consistent with state solvency regulations and other similar state laws that may apply. In promulgating such regulations, the Secretary will provide that such loans will be repaid within 5 years and such grants will be repaid within 15 years, taking into consideration any appropriate state reserve requirements, solvency regulations, and requisite surplus note arrangements that must be constructed in a state to provide for such repayment prior to awarding such loans and grants (§10104(l)).

[21] §1322(g) of PPACA.

[22] OMB, Circular A-11, sec. 20, p. 7.

The Crime Victims Fund

In 1984, the Victims of Crime Act (VOCA; P.L. 98-473) established the Crime Victims Fund (CVF) to provide funding for state victim compensation and assistance programs.[23] Since 1984, VOCA has been amended several times to support additional victim-related activities. These amendments established five programs within the CVF: (1) discretionary grants for private organizations,[24] (2) the Federal Victim Notification System,[25] (3) funding for victim assistance staff within the Federal Bureau of Investigation (FBI) and Executive Office of U.S. Attorneys,[26] (4) funding for the Children's Justice Act Program, and (5) assistance and compensation for victims of terrorism.[27]

CVF Programs and Grants

The Office for Victims of Crime (OVC), as authorized by VOCA, awards CVF money through grants to states, local units of government, individuals, and other entities. [28] The OVC also distributes CVF money to specially designated programs, such as the Children's Justice Act Program and the Federal Victim Notification System. The OVC mission is to enhance the nation's capacity to assist crime victims and to improve attitudes, policies, and practices that promote justice and help victims.[29] According to the OVC, this mission is accomplished by (1) administering the CVF, (2) supporting direct services for victims, (3) providing training programs for service providers, (4) sponsoring the development of best practices for service providers, and (5) producing reports on best practices. The OVC funds victim-support programs in all 50 states, the District of Columbia, and the territories.[30]

CVF Funding

The CVF does not receive annual appropriations, although it did receive funds from a special appropriation in January 2002.[31] Rather, deposits to the CVF come from a number of sources including criminal fines, forfeited bail bonds, penalties, and special assessments collected by the U.S. Attorneys' Offices, federal courts, and the Federal Bureau of Prisons from offenders convicted of federal crimes. In 2001, the USA PATRIOT Act (P.L. 107-56) established that gifts, bequests, or donations from private entities could also be deposited to the CVF.

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[23] P.L. 98-473, Title II, Chapter XIV, Victims of Crime Act of 1984, October 12, 1984, 98 Stat. 2170. VOCA is codified at 42 U.S.C. §10601 et seq.

[24] P.L. 109-162, Title XI, Subtitle B, §1132, January 5, 2006, 119 Stat. 3107.

[25] P.L. 107-77, Title I, §111, November 28, 2001, 115 Stat. 765.

[26] P.L. 106-553, §1(a)(2), Title I, §113, December 21, 2000, 114 Stat. 2762, 2762A-68; P.L. 106-554, §1(a)(4), Division A, §213(a)(2), December 21, 2000, 114 Stat. 2763, 2763A-179; and P.L. 106-113, Division B, §1000(a)(1) [H.R. 3421, Title I, §119], November 29, 1999, 113 Stat. 1535, 1501A-22.

[27] P.L. 104-132, Antiterrorism and Effective Death Penalty Act of 1996, Title II, Subtitle C; P.L. 107-56, Uniting and Strengthening America By Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT Act) Act of 2001, Title VI, §621(a) to (d).

[28] In 1988, the Office for Victims of Crime was formally established (P.L. 100-690, Title VII, Subtitle D) within the Department of Justice (DOJ) to administer the CVF.

[29] For more information on the CVF and OVC, see CRS Report R42672, *The Crime Victims Fund: Federal Support for Victims of Crime*, by Lisa N. Sacco.

[30] For information on OVC grant allocations, see http://www.ojp.usdoj.gov/ovc/grants/index.html.

[31] In January 2002, Congress enacted a one-time appropriation of $68.1 million for the Crime Victims Fund to assist in providing relief to 9/11 victims (P.L. 107-117, 115 Stat. 2294).

The largest source of deposits into the CVF is criminal fines.[32] According to a 2005 report from the National Association of VOCA Assistance Administrators, criminal fines account for approximately 98% of all deposits to the CVF.[33] Large criminal fines, if collected, can have a significant effect on deposits into the CVF. For example, from FY1996 through FY2004, fines collected from 12 defendants in federal courts accounted for 45% of all deposits to the CVF during this time period.[34] **Table 1** provides the amounts collected and deposited into the CVF in each fiscal year from 1999 through 2013.

Obligations Limitations on the Crime Victims Fund

In 2000, Congress established an annual obligation cap on CVF funds available for distribution to reduce the impact of fluctuating deposits and to ensure the stability of funds for programs. Congress establishes the CVF cap each year as a part of the appropriations for the Department of Justice. As **Table 1** illustrates, since 2000 there has been considerable fluctuation in the amount collected each fiscal year. For example, between FY2007 and FY2008, the amount of receipts collected dropped by nearly 12% and then increased by approximately 95% in FY2009. This was followed by a 35% increase in FY2010 and a 15% decrease in FY2011. **Table 1** also provides the CVF obligation cap amounts from FY2000 through FY2013. The annual obligation cap amount represents the amount of funds to be distributed to CVF grants and programs in that fiscal year.

Funding for a current year's grants is provided by the previous years' deposits to the CVF, and the OVC is authorized to use the capped amount for grant awards in a given year. After the yearly allocations are distributed, the remaining balance in the CVF is retained for future expenditures. The difference between the fund's balance and the capped amount due to the obligation limitation is scored as a reduction or offset (i.e., as a CHIMP as explained above) in the Department of Justice (DOJ) total discretionary spending in a given fiscal year.[35] Moreover, that offset also affects the discretionary spending total in measures reported in the Commerce, Justice, and Science appropriations bill.

VOCA requires that all sums deposited in a fiscal year that are not obligated must remain in the CVF for obligation in future fiscal years.[36] If collections in a previous year exceed the obligation cap, amounts over the cap are credited to the CVF, also referred to as the "rainy day" fund, for future program benefits.[37] For example, in FY2000 funding for the year was capped at $500 million despite the fact that collections were over $985 million in FY1999, and in FY2000, approximately $485 million remained in the CVF and was credited for future use.[38] **Table 1** provides the balances that remain credited to the CVF at the end of each fiscal year from FY2000 through FY2013.

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[32] U.S. Department of Justice, Office of Justice Programs, Office for Victims of Crime, *2011 OVC Report to the Nation*, p. 2, http://www.ovc.gov/pubs/reporttonation2011/ReporttoNation2011.pdf.

[33] Steve Derene, *Crime Victims Fund Report: Past, Present, Future*, National Association of VOCA Assistance Administrators, March 2005, p. 6, http://www.navaa.org/budget/CVFReport/CrimeVictimsReport.pdf (hereinafter, *Crime Victims Fund Report*).

[34] *Crime Victims Fund Report*, p. 3.

[35] For the *DOJ FY2014 Summary of Budget Authority by Appropriation*, see http://www.justice.gov/jmd/2014summary/pdf/fy14-sbaa.pdf.

[36] 42 U.S.C. §10601(c).

[37] U.S. Department of Justice, Office of Justice Programs, Office for Victims of Crime, *2009 OVC Report to the Nation*, p. 11, https://www.ncjrs.gov/ovc_archives/reporttonation2009/ReporttoNation09Part1.pdf.

[38] *Crime Victims Fund Report: Past, Present, Future*, p. 6.

Table 1. Crime Victims Fund: FY1999-FY2013

(dollars in millions)

Fiscal Year	Amount Collected to CVF	Obligation Cap on CVF	Funds Made Available for Distribution[a]	Carryover CVF Balance
1999	985.2	—	500.0	—
2000	777.0	500.0	537.5	485.2
2001	544.4	537.5	550.0	785.2
2002	519.5	550.0	600.0	792.0
2003	361.3	600.0	617.6[b]	718.9
2004	833.7	621.3[c]	671.3[c]	422.1
2005	668.3	620.0	620.0	1,307.4
2006	641.8	625.0	625.0	1,333.5
2007	1,018.0	625.0	625.0	1,784.0
2008	896.3	590.0	590.0	2,084.0
2009	1,745.7	635.0	635.0	3,146.5
2010	2,362.3	705.0	705.0	4,801.5
2011	1,998.0	705.0	705.0	6,099.7
2012	2,795.5	705.0	705.0	8,186.1
2013	1,489.6	730.0	730.0	8,953.5

Source: U.S. Department of Justice, Office of Justice Programs, Office of Communications.

a. Prior to FY1999, deposits collected in each fiscal year were distributed in the following fiscal year. From FY1999-FY2002, the funds made available for distribution reflect the amounts distributed in the following fiscal year.

b. FY2003 funds include $17.6 million for the Antiterrorism Emergency Reserve.

c. The original cap of $625.0 million was reduced due to congressional rescission. FY2004 funds include $50.0 million for the Antiterrorism Emergency Reserve.

The Crime Victims Fund CHIMPs Provision

The obligation limitation on the Crime Victims Fund, which is discussed in more detail below, has been the CHIMP item that has generated the largest offset of discretionary spending in recent years. In particular, the limitation proposed in the President's FY2014 Budget states that

> *SEC. 216. Notwithstanding any other provision of law, amounts deposited or available in the Fund established under section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601) in any fiscal year in excess of $800,000,000 shall not be available for obligation in this fiscal year: Provided, That, notwithstanding section 1402(d) of such Act of 1984, of the amounts available from the Fund for obligation, the following amounts shall be available without fiscal year limitation to the Director of the Office for Victims of Crime: $25,000,000 for supplemental victims' services and other victim-related programs and initiatives, $20,000,000 for tribal assistance for victims of violence, and $10,000,000 for victims of trafficking grants focused on domestic victims: Provided, That up to 2*

percent of funds may be made available to the National Institute of Justice and the Bureau of Justice Statistics, to be used by them for research, evaluation or statistical purposes related to crime victims and related programs.[39]

Thus, the Administration proposed an obligation limit of $800 million in FY2014 for the CVF. In the Budget Appendix, the Administration estimated that the CVF balance would be $11,431 million.[40] The difference ($10,631 million) then generates an offset for discretionary spending. **Table 2** presents the Administration's FY2014 proposals regarding the CVF. The CVF CHIMP for FY2013 and FY2014 are highlighted in boldface.[41]

Figure 1 and **Figure 2** show spending trends for Administration of Justice subfunctions in terms of BA and outlays respectively. The CVF falls within the Criminal Justice Assistance subfunction, which shows a downward spike in FY2013 and FY2014 that reflects the CVF CHIMP. Programmatic spending for criminal justice activities will be a positive amount; however, with the CVF CHIMP offset the discretionary total for that subfunction is negative.

Table 3 shows budgetary scores for the CVF CHIMP and for total CHIMPs for selected years. The size of the CVF CHIMP increased substantially in FY2011 relative to earlier years.[42] The size of CVF CHIMP, however, did differ substantially among the House-passed FY2011 final appropriations measure, the proposed Senate amendment (S.Amdt. 149 offered by Appropriations Chairman Inouye), and the final measure, as shown in **Table 4**.[43] Since 2009, amounts collected by the CVF have grown much more rapidly than spending on programs supported by the CVF, leading to substantially larger amounts accumulated in the CVF, which in turn enabled the use of a larger savings (or offset) as a result of the obligation limitation.

[39] U.S. Department of Justice, General Provisions, FY2014 Budget Appendix, p. 748.

[40] OMB, *Budget Appendix for FY2014*, Crime Victims Fund, pp. 745-6, Program and Financing table, mandatory total.

[41] The FY2013 CHIMPs item was included because a continuing resolution was in effect at the time that the budget was prepared.

[42] CRS Report R41771, *FY2011 Appropriations in Budgetary Context*, by D. Andrew Austin and Amy Belasco.

[43] For a more detailed discussion of FY2011 appropriations, see CRS Report R41771, *FY2011 Appropriations in Budgetary Context*, by D. Andrew Austin and Amy Belasco.

Table 2. Crime Victims Fund in the President's FY2014 Budget Submission

In millions of dollars; FY2013 estimated; FY2014-FY2017 proposed

Budget Authority (BA)	**2006**	**2007**	**2008**	**2009**	**2010**	**2011**	**2012**	**2013**	**2014**	**2015**	**2016**	**2017**
Discretionary	-19	0	0	0	0	0	0	***-9,531***	***-10,631***	0	0	0
Mandatory	623	621	774	632	708	700	709	10,236	11,431	1,900	1,900	1,900
Total	604	621	774	632	708	700	709	705	800	1,900	1,900	1,900
Outlays	**2006**	**2007**	**2008**	**2009**	**2010**	**2011**	**2012**	**2013**	**2014**	**2015**	**2016**	**2017**
Discretionary (Nongrant)	-11	0	0	0	0	0	0	-5,719	-9,238	-4,142	-1,063	0
Mandatory												
Nongrant	39	41	18	38	45	10	48	5,767	9,283	5,410	2,690	1,729
Grant	561	557	611	519	582	667	648	712	920	536	267	171
Total	589	598	629	557	627	677	696	760	965	1,804	1,894	1,900

Source: OMB, Public Budget Database; available at http://www.whitehouse.gov/omb/budget/Supplemental. See also OMB, *Budget Appendix for FY2014*, Crime Victims Fund, pp. 745-6, Program and Financing table.

Notes: FY2016-FY2012 data are historical levels. FY2013 levels reflect extension of continuing resolution levels. Levels for FY2014 and later years reflect the President's budget plan. For more details and for a reconciliation of these numbers with other reported CVF estimates, see the Department of Justice budget justification for the CVF in the FY2014 Budget Appendix, available at http://www.whitehouse.gov/sites/default/files/omb/budget/fy2014/assets/jus.pdf#page=43.

Figure 1. Budget Authority for Administration of Justice Subfunctions

In billions of constant FY2013 dollars

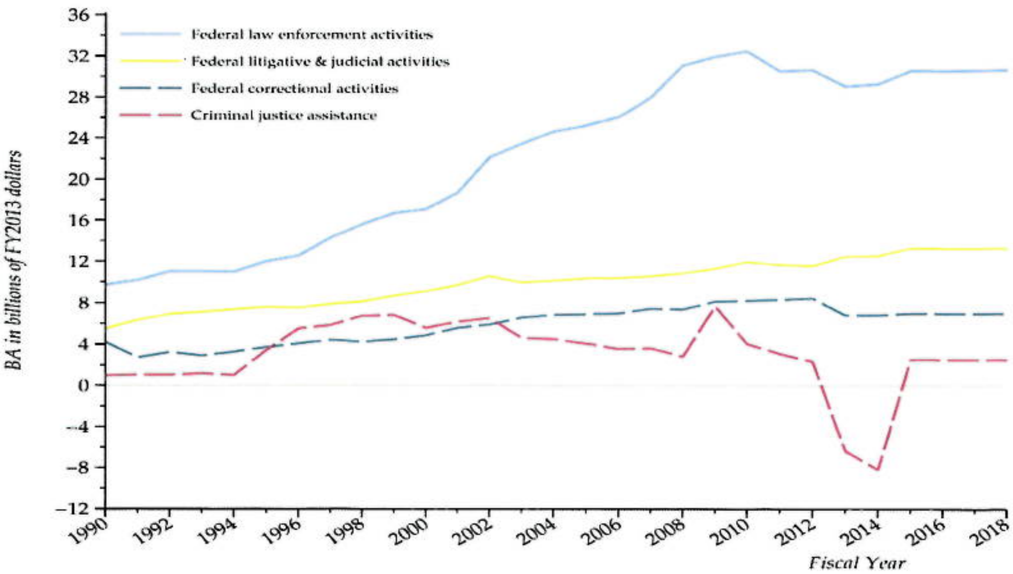
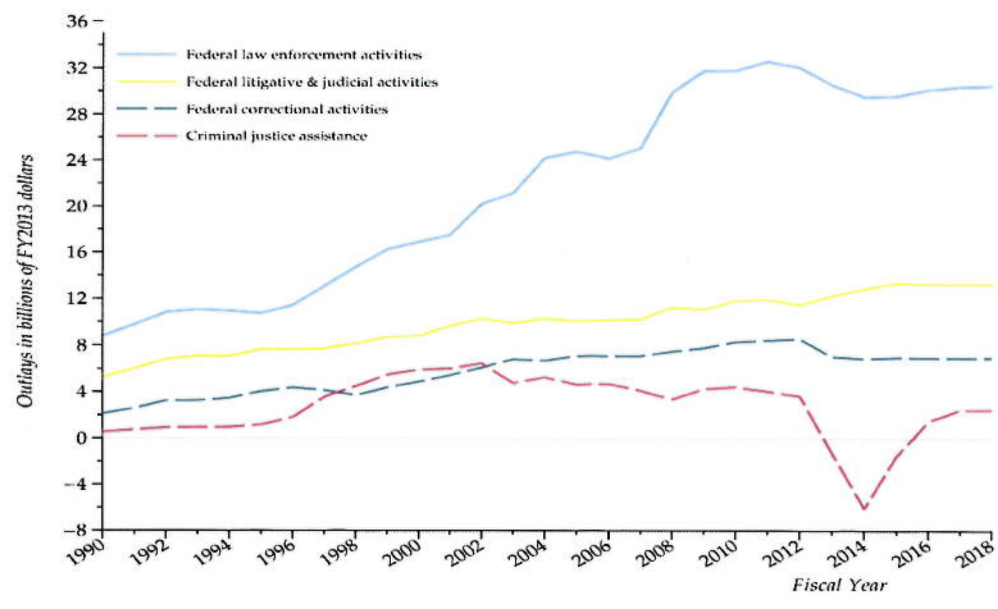


Figure 2. Outlays for Administration of Justice Subfunctions

In billions of constant FY2013 dollars



Source: OMB, Public Budget Database; available at http://www.whitehouse.gov/omb/budget/Supplemental.

Notes: FY2013 levels reflect extension of continuing resolution levels. Levels for FY2014 and later years reflect the President's budget plan.

Table 3. Selected Estimates of Changes in Mandatory Programs (CHIMPs)

Crime Victims Fund and Totals, FY2003-FY2005, FY2007-FY2013 in millions of dollars

Category	Fiscal Year								*Pres. Req.*	Enacted	*Pres. Req.*	Enacted
	2003	2004	2005	2007	2008	2009	2010*	2011	2012	2012	*2013*	2013
Criminal justice assistance												
Office of Justice Programs, ***Crime victims fund***												
Account 15 5041 0 2 754												
BA	-1,200	-1,095	-888	-1,253	-1,373	-1,909	-3,290	-4,919	-6,641	-7,113	-8,491	-9,224
Outlays	-420	-383	-311	-447	-481	-668	-823	-639	*	*	-595	-646
Grand Totals												
BA	-1,972	-1,930	-1,492	-5,906	-7,817	-7,526	-5,455	-17,512	-9,585	-18,814	-18,521	-18,611
Outlays	-919	-448	1,698	-790	-487	-926	-940	-1,159	*	*	-2,066	-784

Source: CRS analysis of unpublished CBO and OMB scoring runs.

Notes: Only estimates for budget year shown; effects for out years not shown. Past CBO scoring practices may differ from current practices. CBO estimates of CHIMPs may vary from estimates of OMB, agencies, congressional committees, and independent analysts. CBO scores might not reflect floor amendments or other legislative actions taken after estimates calculated. * FY2010 totals do not include CHIMPs in supplemental appropriations (Supplemental Appropriations Act, 2010, H..R, 4899; P.L. 111-212).

Measures:
Consolidated Appropriations Resolution, 2003 (H.J.Res. 2; P.L. 108-7)
Consolidated Appropriations Act, 2004 (H.R. 2673; P.L. 108-199)
Consolidated Appropriations Act, 2005 (H.R. 4818; P.L. 108-447)
Revised Continuing Appropriations Resolution, 2007 (H.J.Res. 20; P.L. 110-5)
Consolidated Appropriations Act, 2008 (H.R. 2764; P.L. 110-252)
Omnibus Appropriations Act, 2009 (H.R. 1105; P.L. 111-8)
Consolidated Appropriations Act, 2010 (H.R. 3288; P.L. 111-117) – does not include CHIMPs in supplemental appropriations.
Defense and Full-Year Appropriations, 2011 (H.R. 1473; P.L. 112-10)
Consolidated Appropriations Act, 2012 (H.R. 3671; P.L. 112-74)
Consolidated and Further Continuing Appropriations Act, 2013, (H.R. 933; P.L. 113-6)
FY2013 amounts may not reflect sequestration and related adjustments.

Budgetary Implications of CHIMPs

Budgeting is fundamentally a matter of making decisions about tradeoffs in the allocation of resources. The task of budgeting includes managing the delegation of decisionmaking for complex budgets, as well as setting out means to ensure that resources are actually used in ways reflecting those policy decisions.

The use of CHIMPs can affect at least three different budgetary tradeoffs. First, CHIMPs reflects a tradeoff between mandatory and discretionary spending in a given year. As noted above, reducing or restricting mandatory spending can generate an offset for discretionary spending for the purposes of evaluating compliance with 302(b) allocations, which can allow higher levels of discretionary spending than would otherwise be allowed. Second, CHIMPs may affect tradeoffs between spending in the budget year and spending in subsequent years. Permanent cancellation of mandatory program spending reduces future federal expenditures, while a restriction of mandatory program's spending in one year may make additional budgetary resources available in later years. Third, CHIMPs may affect the allocation of resources among the 12 annual appropriations bills. The opportunity or propensity to use CHIMPs offsets varies among appropriations bills, which may affect the relative amount of flexibility in the allocation of budgetary resources under the jurisdiction of each appropriations subcommittee.

Scorekeeping Rule 3 governs how changes in mandatory programs (CHIMPs) can generate discretionary spending offsets. That rule has been applied in some cases in a way that effectively treats one-year restrictions on the use of resources in the same way as permanent cancellation of budgetary resources. To refer to examples described earlier, each dollar cancelled for the COOP program provided one dollar in discretionary spending offsets, as did each dollar in the CVF subject to limitation in a budget year but that would be available for subsequent years.[44] In particular, the rule refers to "(s)*ubstantive changes to or restrictions on entitlement law or other mandatory spending law,*" which does not appear to distinguish between delays in mandatory spending and the permanent cancellation of mandatory spending.

By contrast, economic theory suggests that the social value of deferring the use of resources for a year is reflected by an appropriate interest rate multiplied by the value of those resources, rather than the full amount. For example, if an appropriate social interest rate were 8%, then the social value of delaying an expenditure of $100 million for one year would be $8 million. Delaying program spending may also delay program benefits, which constitutes a social loss, even if not reflected in budgetary statistics.[45] The scorekeeping treatment of CHIMPs, however, can provide the same discretionary spending offset for a year's delay in spending (or $8 million in the above example) as a permanent reduction in that spending (or $100 million in above example).

In many cases, CHIMPs create reductions in the amount of budget authority (BA), but much smaller reductions in outlays. For example, in the FY2011 final appropriations measure (H.R. 1473; P.L. 112-10) the total reduction in BA for FY2011 was $17,512 million, while the reduction in outlays was only $1,159 million—that is, 6.6% of the reduction in BA.[46]

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[44] Recall that the COOP program required that loans would be repaid within 5 years and that grants be repaid within 15 years, so that the economic cost of the program would reflect the value of the use of funds until repayment and the risk of that funds would not be repaid.

[45] This discussion abstracts from some technical issues surrounding an appropriate social discount rate. For details, see CRS Report RL33623, *Long-Term Measures of Fiscal Imbalance*, by D. Andrew Austin.

[46] Some have noted similar issues with the use of rescissions in budgeting. Former Acting CBO Director Donald Marron testified that "rescissions often appear to be focused on spending items for which outlays would be significantly less than budget (continued...)

Finally, CHIMPs may affect the allocation of resources across appropriations subcommittees or the flexibility those subcommittees can employ to allocate funds. The bills of some appropriations subcommittees seldom include CHIMPs, while the bills of other subcommittees regularly do. For example, the Defense appropriations bill typically does not include CHIMPs, in large part because the mandatory portion of the defense budget is relatively small. As **Table 3** indicates, the CVF CHIMP, which is included in the Commerce-Justice-Science appropriations bill, has been present in all recent years for which data are available. The Agriculture appropriations bill has also typically included CHIMPs adjustments.[47]

The nature of some mandatory programs makes them more amenable for creating CHIMPs that generate offsets to allow for additional discretionary spending. As noted above, annual spending for programs and grants funded by the CVF is less than the amount of fines, penalties, and other amounts received by the CVF in most years, so that the remaining funds are left for future programmatic expenditures. In particular, amounts received by the CVF in recent years have exceeded programmatic expenditures by a large margin (see **Table 1**). Having budget resources carried forward in a distinct federal fund (as opposed to receiving outlays directly from the U.S. Treasury's General Fund), in conjunction with a permanent appropriation of resources deposited into that fund, opens the possibility of limiting the use of some of those funds in the budget year to create the opportunity for CHIMPs. For example, the DOJ Assets Forfeiture Fund and the U.S. Treasury Forfeiture Fund have also been used to generate CHIMPs, although in past years at a much smaller scale than for the CVF.[48]

Options for Revising CHIMPs Scorekeeping Rules

Congress has several potential options for altering the treatment of CHIMPs in the budget process. Congressional committees might take actions using existing budget enforcement mechanisms to limit the effects of CHIMPs on estimated spending levels. Alternatively, Congress could take steps to alter scorekeeping rules or other aspects of the congressional budgeting process. Such changes might make the resource allocation process that Congress uses less flexible. On the other hand, some researchers argue that changes in budgetary processes aimed at restraining spending or enhancing efficiency may have limited effects in practice.[49]

Prospective Action by Other Committees

Congress and the House and Senate Budget Committees, when setting 302(a) allocations, are presumably aware of differences in CHIMPs practices among difference appropriations bills, as are Appropriations

(...continued)

authority—at least in the first years and possibly altogether. Such budget authority could be most easily used to offset additional spending without compromising existing programs. In assessing the impact of rescissions enacted from 2000 to 2005, CBO estimates that about half of the amounts rescinded will not result [in] outlay savings." U.S. Congress, Senate Budget Committee, To Consider S. 2381, A Bill to Amend the Congressional Budget & Impoundment Control Act of 1974 to provide Line Item Rescission Authority, hearing, 109th Cong., 2nd sess., May 2, 2006, p. 55; available at http://www.gpo.gov/fdsys/pkg/CHRG-109shrg28460/pdf/CHRG-109shrg28460.pdf.

[47] See CRS Report R41245, *Reductions in Mandatory Agriculture Program Spending*, by Jim Monke and Megan Stubbs.

[48] The FY2014 continuing resolution (H.J.Res. 59; as introduced in the House) contained a $950 million CHIMPs item for the Treasury Forfeiture Fund and a $723 million CHIMPs item for the DOJ Assets Forfeiture Fund.

[49] For instance, some research based on the experience of states suggests that the line-item veto has not been an effective tool for promoting budgetary discipline. See John R. Carter and David Schap, "Line-Item Veto: Where is Thy Sting?" *Journal of Economic Perspectives*, vol. 4, no. 2 (Spring 1990), pp. 103-118.

Committees when setting 302(b) limits. If the usage of CHIMPs offsets in different appropriations bills is relatively stable or predictable, then 302(a) and 302(b) allocations could be adjusted downwards as a counterbalance the increases in discretionary spending enabled by those CHIMPs offsets. In the case of the CVF, some information on fund balances and pending collections from criminal fines may be available at the time that 302(b) limits are set. On the other hand, such adjustments to 302(b) allocations would not counterbalance unexpected increases in the use of CHIMPs.

For example, the usage of CHIMPs expanded dramatically during consideration of FY2011 funding measures.[50] Predicting such increases in CHIMPs levels at the beginning of the congressional budget cycle would have presumably been difficult. **Table 4** presents a summary of CHIMPs provisions in H.R. 1, the appropriations measure passed by the House; S.Amdt 149 which was offered by Senate Appropriations Chair Daniel Inouye, and H.R. 1473 (as introduced), which when enacted (P.L. 112-10) provided funds for the remainder of FY2011. CHIMPs provisions in the final measure (H.R. 1473) totaled $17.5 billion, well above the levels proposed in either the House-passed measure ($9.5 billion) or in the Senate alternative (S.Amdt. 149), which totaled $7.9 billion. The increases in the CHIMPs offsets chiefly resulted from the addition of CHIMPs provisions within the Labor, Health and Human Services, Education and Related Agencies (LA; Labor-HHS) bill and in the Transportation and Housing and Urban Development (T-HUD; TT) bill. Both the House-passed measure and the Senate alternative included roughly similar CHIMPs levels for the Commerce, Justice, Science and Related Agencies (CJS; CJ) bill, which includes the CVF.[51] The level of the CVF CHIMPs provision in FY2011, however, was more than twice its level in FY2009 (see **Table 3**).

In budget cycles such as FY2011 it may be therefore difficult to imagine that prospective action by Budget Committees or Appropriations Committees could have counterbalanced the effects of heightened use of CHIMPs provisions.

[50] For further details on FY2011 appropriations, see CRS Report R41771, *FY2011 Appropriations in Budgetary Context*, by D. Andrew Austin and Amy Belasco.

[51] As **Table 4** indicates, the House-passed measure included $5.057 billion in CJS CHIMPs, while the Senate alternative included $5.592 billion. The final measure was slightly below the Senate alternative level ($5.552 billion).

Table 4. CHIMPs in FY2011 Appropriations Proposals

Budget Authority (BA) and Outlays (OT) in Millions of Current Dollars, by House Appropriations Subcommittee Jurisdiction

Subcommittee		H.R. 1 As Passed by the House				S.Amdt 149 (Inouye)				H.R. 1473 As Introduced (P.L. 112-10)			
		2011	2012	2013-2021	2011-2021	2011	2012	2013-2021	2011-2021	2011	2012	2013-2021	2011-2021
AR	BA	-1,146	291	0	-855	-669	313	0	-356	-1,502	455	126	-921
	OT	-294	-133	-206	-633	-151	-59	-92	-302	-319	-83	34	-368
CJ	BA	-5,057	4,919	0	-138	-5592	5414	0	-178	-5,552	5,414	0	-138
	OT	-749	-612	1,223	-138	-785	-591	1198	-178	-749	-612	1,223	-138
EW	BA	-115	0	0	-115	0	0	-160	-160	0	0	-160	-160
	OT	1	0	-1	0	0	0	-160	-160	0	0	-160	-160
FA	BA									-140	0	0	-140
	OT									0	0	0	0
FS	BA	-511	400	0	-111	-448	400	0	-48	-442	400	0	-42
	OT	-109	-4	0	-113	-48	0	0	-48	-42	0	0	-42
HS	BA	-23	23	0	0	-23	23	0	0	-23	23	0	0
	OT	0	0	0	0	0	0	0	0	0	0	0	0
IN	BA	-89	0	0	-89	-77	0	0	-77	-77	0	0	-77
	OT	-46	0	0	-46	-34	0	0	-34	-34	0	0	-34
LA	BA	-2,749	3,490	-70,262	-69,521	-558	0	0	-558	-6,725	2,654	-2,175	-6,246
	OT	-2,190	2,557	-62,425	-62,058	-16	14	5	3	-139	2,718	-2,668	-89
TT	BA	155	0	0	155	-551	0	0	-551	-3,051	0	0	-3,051
	OT	155	0	0	155	124	-27	-17	80	124	0	0	124
Totals													
	BA	**-9,535**	**9,123**	**-70,262**	**-70,674**	**-7,918**	**6,150**	**-160**	**-1,928**	**-17,512**	**8,946**	**-2,209**	**-10,775**
	OT	**-3,232**	**1,808**	**-61,409**	**-62,833**	**-910**	**-663**	**934**	**-639**	**-1,159**	**2,023**	**-1,571**	**-707**

Source: CRS analysis of unpublished CBO scoring runs.

Notes: Only estimates for budget year shown; effects for out years not shown. Past CBO scoring practices may differ from current practices. CBO estimates of CHIMPs may vary from estimates of OMB, agencies, congressional committees, and independent analysts. CBO scores might not reflect floor amendments or other legislative actions taken after estimates calculated.

House Appropriations Subcommittee (in order of abbreviation)

More standard abbreviations precede two-letter abbreviations used in CBO scoring runs.

Agriculture, FDA and Related Agencies (Agriculture; AR)

Commerce, Justice, Science and Related Agencies (CJS; CJ)

Energy and Water Development (Energy & Water; EW)

State, Foreign Operations, and Related Programs (State-Foreign Ops; FA)

Financial Services and General Government (Financial Services; FS)

Homeland Security (Homeland Security; HS)

Interior and the Environment (Interior; IN)

Labor, Health and Human Services, Education and Related Agencies (Labor-HHS; LA)

Transportation and Housing and Urban Development (T-HUD; TT)

No CHIMPs were reported for Defense, Veterans Administration/Military Construction, and Legislative Branch bills.

Changes in Scorekeeping Guidelines

Congress could take steps to modify Scorekeeping Guideline 3, although changes in the scorekeeping guidelines require agreement of all the scorekeepers (i.e., the House and Senate Budget Committees, the Congressional Budget Office, and the Office of Management and Budget).[52]

Because altering guidelines could result in significant changes in the allocation of future budgetary resources, reaching such agreement might not be straightforward. The Scorekeeping Guidelines have remained in their current form since 1997.[53] In the early 1990s, some initiatives to change scoring practices sparked controversy, as some contended that changing scoring procedures was tantamount to altering agreements on the appropriate aggregate levels of federal spending.[54]

Budget resolutions have often included provisions intended to maintain budgetary discipline, including measures affecting the scoring of CHIMPs, which are discussed in the following section.[55]

Two sorts of changes in the scoring of CHIMPs might be considered. One approach, which has been proposed in legislation in the 112th and 113th Congresses (see below), would establish a point of order that would require CHIMPs to achieve more stringent savings targets. Another approach would be to distinguish between provisions that would delay funding and provisions that would permanently cancel funding.

For example, the Scorekeeping Guideline 3 could be altered to distinguish between delays in mandatory spending and the permanent cancellations of mandatory spending. Such a distinction could arguably tie the constraints posed by budget enforcement measures more closely to differences in the social cost of the federal government's use of economic resources.[56] That is, restricting discretionary offsets generated by delays in mandatory spending to the amount of delayed spending multiplied by some appropriate social interest rate might reflect more closely the economic tradeoffs involved in those allocation choices.

Budget Resolution Provisions

Budgetary rules, some enforced by points of order, provide another method of restricting the use of CHIMPs to generate offsets for discretionary spending. Such rules can restrict consideration of budgetary legislation, but they are not self-enforcing. A Member must raise a point of order to enforce a rule. Further, budget rules may be waived. In the Senate, a motion to waive most such rules requires an affirmative vote of three-fifths of Senators.

[52] The scorekeeping guidelines require that the guidelines "cannot be changed unless all of the scorekeepers agree."

[53] According to the explanatory statement accompanying the 1997 Balanced Budget Act, the scorekeeping guidelines presented at that time included "no substantive changes from current scorekeeping practices." *Committee Report to Accompany H.R.2015*, H.Rpt. 105-217, p. 1012.

[54] George Hager, "Republicans Cry Foul as House Changes Rules for 'Scoring,'" *Congressional Quarterly*, January 5, 1991, pp. 49-50.

[55] For example, Hazen Marshall, majority staff director of the Senate Budget Committee from 2003 to 2004, commented that "We now have whole titles of the budget resolution dedicated to shutting down games the appropriators have dreamed up year in and year out to get around their committee allocation." United States Senate, *Committee on the Budget: 1974-2006*, S.Doc. 109-24, p. 105.

[56] Note that under such a procedure, the present value of delaying funding of an amount indefinitely would equal the savings of cancelling the same funding immediately.

Some Senate-passed budget resolutions have included provisions relating to CHIMPs. The Senate-passed budget resolution for FY2014 included a provision (S.Con.Res. 8; sec. 404) establishing a point of order applicable to any appropriations legislation that included a CVF CHIMP. The point of order appears aimed at preventing the use of the CVF as a CHIMP offset.[57]

The FY2009 Senate-passed budget resolution included a more general point of order (S.Con.Res. 70; sec. 314) applicable to CHIMPs that remains in effect for the Senate.[58] That point of order applies to CHIMPs provisions in appropriations legislation that meet a three-point test. The point of order, however, does not apply to CHIMPs enacted in each of the three years previous to the budget year. The three-point test is explained in the report accompanying S.Con.Res. 70:[59]

> *The Committee-reported resolution again includes a 60-vote point of order against any provision of appropriations legislation that would have been estimated as affecting direct spending or receipts if it were included in legislation other than appropriations legislation, if all three of the following conditions are met:*
>
> *(1) the provision would increase BA in –*
>
> *(a) at least one of the nine fiscal years that follow the budget year, and*
>
> *(b) over the period of the total of the budget year and the nine fiscal years following the budget year;*
>
> *(2) the provision would increase net outlays over the period of the total of the nine fiscal years following the budget year; and*
>
> *(3) the sum total of all changes in mandatory programs in the legislation would increase net outlays as measured over the period of the total of the nine fiscal years following the budget year.*
>
> *The point of order does not apply against any CHIMPs that were enacted in each of the three fiscal years prior to the budget year. The point of order works like the Byrd rule in that it applies against individual provisions of legislation rather than against an entire bill, amendment, or conference report. If the point of order is not waived then the offending provision is stricken.*

That point of order superseded a similar point of order included in the Senate-passed budget resolution for FY2008 (S. Con. Res. 21; sec. 209).[60] Because the CVF CHIMP has appeared in each of the past three budget years it would appear not to meet the three-point test.

A budget resolution may also include provisions affecting the scoring of legislation. For instance, the FY2014 Senate-passed budget resolution (S.Con.Res. 8; sec. 406) contains a provision that prohibits scoring of higher guarantee fees charged by the government-sponsored enterprises (GSEs) Fannie Mae and Freddie Mac for the purposes of evaluating whether Senate legislation would be subject to existing points of order.[61] Along the same lines, a provision could modify or exclude the scoring of CHIMPs in an appropriations act for budget enforcement purposes.

Finally, Senator Sessions introduced a measure (Honest Budget Act; S 1651; 112th Congress) on October 4, 2011 that would modify various budget enforcement mechanisms. One provision aimed at limiting the

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[57] As written, the point of order would prohibit the inclusion of an obligation limit or a permanent rescission of resources in the CVF. At this point, it has no force and effect because the budget resolution has not been adopted by both the chambers.

[58] See Table 3 in CRS Report 97-865, *Points of Order in the Congressional Budget Process*, by James V. Saturno.

[59] S.Prt. 110-039, Committee Print to accompany S.Con.Res. 70, Concurrent Resolution on the Budget FY 2009, pp. 27-28.

[60] That point of order excluded supplemental appropriations for FY2007.

[61] For background on GSEs, see CRS Report RL33756, *Fannie Mae and Freddie Mac: A Legal and Policy Overview*, by N. Eric Weiss and Michael V. Seitzinger.

use of CHIMPs offsets through a statutory point of order in the Senate.[62] The bill was referred to the Senate Budget Committee. On November 14, 2011, Representative Huizenga introduced a companion measure (H.R. 3414) that would establish a statutory point of order applicable to CHIMPs in the House. On January 31, 2012, Representative Roby introduced a similar measure (H.R. 3844) that would establish points of order for both the House and Senate that would prevent the use of CHIMPs items to generate offsets if each item did not lower net outlays over the total of the period of the current year, the budget year, and all fiscal years covered under the most recently adopted budget resolution. No action was taken on any of these proposals in the 112th Congress.

Representative Roby introduced the same legislation (H.R. 1270) in the 113th Congress on March 19, 2013. No action has yet been taken on that legislation.

[62] The relevant section of the bill (Sec. 5. No Changes in Mandatory Programs in Appropriation Bills) would amend Section 302(f)(2) of the Congressional Budget Act of 1974 is amended to read as follows:

(2) IN THE SENATE- After a concurrent resolution on the budget is agreed to, it shall not be in order in the Senate to consider any bill or joint resolution, amendment, motion, or conference report that--

(A)(i) in the case of any committee except the Committee on Appropriations, would cause the applicable allocation of new budget authority or outlays under subsection (a) for the first fiscal year or the total of fiscal years to be exceeded; or

(ii) in the case of the Committee on Appropriations would cause the applicable suballocation of new budget authority or outlays under subsection (b) to be exceeded; or

(B) includes one or more provisions that would have been estimated as affecting direct spending or receipts under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 were they included in legislation other than appropriations legislation, if such provision does not result in net outlay savings over the total of the period of the current year, the budget year, and all fiscal years covered under the most recently adopted concurrent resolution on the budget.