

AMENDMENT -- To more quickly resolve rape cases and reduce the deficit by consolidating unnecessary duplication within the Department of Justice.

This legislation fails to completely address the duplication and overlap within VAWA programs and with non-VAWA programs operated by both the Department of Justice (DOJ) and the Department of Health and Human Services (HHS). At the beginning of every Congress, I send to each senator my letter outlining the criteria I will use to evaluate legislation. Last Congress, it was also signed by seven other members. The VAWA reauthorization violates several of those criteria, including elimination and consolidation of duplicative programs prior to reauthorization.

This Bill Does Not Eliminate All Duplication Either Within VAWA Programs or Among Other Federal Government Programs with Similar Provisions

While I recognize the legislation does consolidate some programs, it has not eliminated all duplication. There are several VAWA grant programs that are so broad that they duplicate one another, providing multiple opportunities for grantees to double dip into federal funds. In addition, the Family Violence Prevention and Services Act (FVPSA), which pre-dates the original VAWA legislation, authorized several HHS programs aimed at reducing domestic violence and helping victims. Several of those programs fund the same types of services as those authorized by the VAWA grants in this legislation.

Furthermore, in the Government Accountability Office (GAO) Duplication Report released at the end of February 2012, GAO found the DOJ administers more than 250 grant programs to provide crime prevention, law enforcement, and victims' services, totaling approximately \$30 billion since 2005. Specifically, GAO noted more than 20% of the 253 grants reviewed by GAO are for victims' assistance.

In addition, the GAO released another duplication report in July 2012, which specifically examined the Office of Violence Against Women (OVW), Office of Justice Programs (OJP), and Community Oriented Policing Services (COPS) program. GAO stated "DOJ's narrow definition of duplication curtails it from assessing the use of funds for the same or a similar overall purpose on a grant project." GAO found limited coordination and a lack of policies and procedures in place for sharing information among the three major DOJ granting agencies—OJP, COPS and OVW—during the pre-award phase.

Just this week, the Department of Justice Inspector General (DOJ IG) released a report on VAWA grants awarded to a non-profit organization in Utah.¹ The DOJ IG stated the grantee misused funds by purchasing "items that were unallowable...[paying] salary and fringe benefits that were not allowable...[and reporting] financial information that did not match the organizations accounting records."² The DOJ IG questioned almost \$28,000 in costs and made several recommendations for improved management.

¹ "Audit of the Office on Violence Against Women Grants Awarded to Citizens Against Physical and Sexual Abuse in Logan, Utah," United States Department of Justice, Office of the Inspector General, GR-60-13-003, February 2013.

² *Id.* at 5.

Unfortunately, this is not an uncommon report as grant management has appeared on the IG's list of DOJ's Top 10 Management Challenges since 2001. Year after year, DOJ ignores the massive problems it has in administering its grant programs, and VAWA grants continue to contribute to the Department's ongoing management problems.

Before moving forward with a VAWA reauthorization, Congress should evaluate these reports to determine how we can streamline the victims' services DOJ already provides. Reauthorizing VAWA programs now, without taking into account the recent work of GAO, is premature.

The Amendment Will Provide At Least \$600 Million to Support Solving Sexual Assault Crimes By Consolidating and Eliminating Unnecessary Duplication

As a result, I urge support for this amendment, which would eliminate unnecessary duplication within DOJ and direct the savings to be used to help bring justice to rape cases. This amendment will provide at least \$600 million in additional funds to support efforts to use DNA to solve crimes.

This amendment requires the Department of Justice to—

- Identify every program its administers;
- Consolidate unnecessary duplication; and
- Apply savings towards resolving rape cases and reducing the deficit.

Specifically, the amendment directs the Attorney General to develop a plan that would result in financial cost savings of at least 20 percent of the nearly \$3.9 billion in duplicative grant programs identified by the Government Accountability Office.

According to GAO, since 2005, Congress has spent \$30 billion in overlapping Department of Justice grants for crime prevention police and victims services from more than 250 DOJ grant programs, and \$3.9 billion in grants just in 2010.

As much as 75 percent of the savings, nearly \$600 million, may be directed towards alleviating any backlogs of analysis and placement of DNA samples from rape, sexual assault, homicide, kidnapping and other criminal cases, including casework sample and convicted offender backlogs, into the Combined DNA Index System. The remainder of the savings will be returned to the Treasury for the purpose of deficit reduction.

By requiring the consolidation and elimination of duplication at DOJ, Congress will free federal funding which can be more appropriately dedicated to bringing justice to rape victims, while also reducing the deficit.

DNA Testing Provides a Powerful Criminal Justice Tool to Convict Rapists and Exonerate the Innocent

DNA (deoxyribonucleic acid) testing has become a powerful criminal justice tool in recent years. “DNA can be used to identify criminals with incredible accuracy when biological evidence exists. By the same token, DNA can be used to clear suspects and exonerate persons mistakenly accused or convicted of crimes. In all, DNA technology is increasingly vital to ensure accuracy and fairness in the criminal justice system,” according to the Department of Justice.³

“Each person's DNA is unique (with the exception of identical twins). Therefore, DNA evidence collected from a crime scene can implicate or eliminate a suspect, similar to the use of fingerprints. It also can analyze unidentified remains through comparisons with DNA from relatives. Additionally, when evidence from one crime scene is compared with evidence from another using the Combined DNA Index System, those crime scenes can be linked to the same perpetrator locally, statewide, and nationally.”⁴

“When biological evidence from crime scenes is collected and stored properly, forensically valuable DNA can be found on evidence that may be decades old. Therefore, old cases that were previously thought unsolvable may contain valuable DNA evidence capable of identifying the perpetrator.”⁵

In New York, authorities used DNA evidence to link a man to at least 22 sexual assaults and robberies. Authorities in Philadelphia, Pennsylvania, and Fort Collins, Colorado, used DNA evidence to link and then solve a series of crimes—rapes and a murder—perpetrated by the same individual.

DNA is generally used to solve crimes in one of two ways. **First**, in cases where a suspect is identified, a sample of that person’s DNA can be compared to evidence from the crime scene. The results of this comparison may help establish whether the suspect committed the crime. **Second**, in cases where a suspect has not yet been identified, biological evidence from the crime scene can be analyzed and compared to offender profiles in DNA databases to help identify the perpetrator. Crime scene evidence can also be linked to other crime scenes through the use of DNA databases.

DNA evidence is generally linked to DNA offender profiles through DNA databases. In the late 1980s, the federal government laid the groundwork for a system of national, state, and local DNA databases for the storage and exchange of DNA profiles. This system, called the Combined DNA Index System (CODIS), maintains DNA profiles obtained under the federal, state, and local systems in a set of databases that are available to law enforcement agencies across the country for law enforcement purposes. CODIS can compare crime scene evidence to

³ USING DNA TO SOLVE CRIMES,” Department of Justice website, accessed April 23, 2012; http://www.justice.gov/ag/dnapolicybook_solve_crimes.htm.

⁴ “About Forensic DNA,” DNA Initiative website, accessed April 23, 2012; <http://www.dna.gov/basics/>.

⁵ “About Forensic DNA,” DNA Initiative website, accessed April 23, 2012; <http://www.dna.gov/basics/>.

a database of DNA profiles obtained from convicted offenders. CODIS can also link DNA evidence obtained from different crime scenes, thereby identifying serial criminals.

In order to take advantage of the investigative potential of CODIS, in the late 1980s and early 1990s, states began passing laws requiring offenders convicted of certain offenses to provide DNA samples. Currently all 50 states and the federal government have laws requiring that DNA samples be collected from some categories of offenders.

When used to its full potential, DNA evidence will help solve and may even prevent some of the Nation's most serious violent crimes. However, the current federal and state DNA collection and analysis system needs improvement, according to the Department of Justice:

- In many instances, public crime labs are overwhelmed by backlogs of unanalyzed DNA samples.
- In addition, these labs may be ill-equipped to handle the increasing influx of DNA samples and evidence. The problems of backlogs and lack of up-to-date technology result in significant delays in the administration of justice.
- More research is needed to develop faster methods for analyzing DNA evidence.
- Professionals working in the criminal justice system need additional training and assistance in order to ensure the optimal use of DNA evidence to solve crimes and assist victims.

Thousands of Sexual Assault DNA Kits Still Not Tested

“The demand for DNA testing continues to outstrip the capacity of crime laboratories to process these cases,” according to a National Institute of Justice report.⁶ “The bottom line: crime laboratories are processing more cases than ever before, but their expanded capacity has not been able to meet the increased demand.”

The DNA casework backlog, consisting of forensic evidence collected—from crime scenes, victims and suspects in criminal cases—has more than doubled from less than 50,000 in 2005 to more than 100,000 in 2009.⁷

There are thousands of rape kits “sitting waiting to be tested” in Houston, Texas alone. The Houston Police Department may have up to 7,000 sexual assault kits that have not been tested.⁸ Houston recently accepted an \$821,000 federal grant to study the backlog of untested kits, but “the bulk of the money has to be spent on figuring out the reasons rape kits have gone untested” and less than half of the money “will go towards dealing with the actual backlog.”

⁶ “Making Sense of DNA Backlogs, 2010 — Myths vs. Reality,” National Institute of Justice special report, February 2011; <https://www.ncjrs.gov/pdffiles1/nij/232197.pdf>.

⁷ “Making Sense of DNA Backlogs, 2010 — Myths vs. Reality,” National Institute of Justice special report, February 2011; <https://www.ncjrs.gov/pdffiles1/nij/232197.pdf>.

⁸ Andy Cerota, “City accepts grant for HPD rape kit backlog,” KTRK-TV (Texas), December 15, 2011; <http://abclocal.go.com/ktrk/story?section=news/local&id=8468341>.

This Amendment Provides Roughly \$600 Million to Help Resolve More 340,000 Rape And Other Criminal Cases with DNA Testing

This amendment would provide at least \$600 million in additional funds to support efforts to use DNA to solve crimes.

The amendment directs the Attorney General to develop a plan that would result in financial cost savings of at least 20 percent of the nearly \$3.9 billion in duplicative grant programs identified by the Government Accountability Office. As much as 75 percent of the savings, nearly \$600 million, may be directed towards alleviating any backlogs of analysis and placement of DNA samples from rape, sexual assault, homicide, kidnapping and other criminal cases, including casework sample and convicted offender backlogs, into the Combined DNA Index System. The remainder of the savings will be returned to the Treasury for the purpose of deficit reduction.

In 2010, National Institute of Justice's DNA Backlog Reduction Program provided more than **\$64.8 million** which allowed more than **37,000 cases** to be tested.⁹ The **\$600 million** provided by this amendment could therefore be enough to provide testing for over **342,000 cases**.

No List of Justice Department Programs Exists, yet GAO Found More Than 250 Overlapping DOJ Grant Programs

As with many other agencies, the Justice Department cannot fully account for each program in its purview. In fact, in its review of DOJ programs for its 2012 annual report on duplication, even the GAO could not fully account for every program at the agency.

The number of Justice programs detailed by GAO, 253, may actually be an understatement. The report explains Justice grant programs can continue for up to five years, and as such, "the total number of active justice grant programs can be higher than what is presented," which is only a one-year snapshot of the Department's programs.

This amendment would require the Department to provide a full listing of every single program administered under their jurisdiction, which will assist in Congress' work to address this extensive overlap when making funding decisions.

In its duplication report, GAO revealed "overlap and fragmentation among government programs or activities can be harbingers of unnecessary duplication. Reducing or eliminating duplication, overlap, or fragmentation could potentially save billions of taxpayer dollars annually and help agencies provide more efficient and effective services."

This amendment addresses this overlap and unnecessary duplication at the Department of Justice by also requiring a listing of other programs within the federal government with duplicative or overlapping missions and services; the latest performance reviews for the program, including the metrics used to review the program; the latest improper payment rate for the program, including

⁹ "Making Sense of DNA Backlogs, 2010 — Myths vs. Reality," National Institute of Justice special report, February 2011; <https://www.ncjrs.gov/pdffiles1/nij/232197.pdf>.

fraudulent payments; and the total amount of unspent and unobligated program funds held by the agency and grant recipients.

This information would be updated annually and posted online, along with recommendations from the agency to consolidate duplicative and overlapping programs, eliminate waste and inefficiency, and terminate lower priority, outdated and unnecessary programs.

According to GAO, since 2005, Congress Has Spent \$30 Billion in Overlapping Department of Justice Grants for Crime Prevention Police and Victims Services Through More Than 250 Programs, and \$3.9 Billion in Grants in 2010.

In February 2012, GAO released its second annual report addressing duplication and areas for cost savings throughout the federal government. The report, “Opportunities to Reduce Duplication, Overlap and Fragmentation, Achieve Savings, and Enhance Revenue,” exposed 51 specific examples of government duplication and areas of federal spending with potential for significant cost savings.¹⁰

Included in the report are some very troubling findings of extensive duplication in a large portion of DOJ programs. GAO found the Justice Department administers more than 250 duplicative programs to provide “crime prevention, law enforcement, and crime victim services,” costing taxpayers roughly \$30 billion in the last six years.

The report details the widespread duplication in the Department, enumerating at least 56 victims’ assistance programs, 33 juvenile justice efforts, more than 40 technology and forensics grant solicitations, and 16 community crime prevention strategy programs, to name a handful of the many identified.

In one year alone, three primary offices—the Office of Justice Programs, the Office on Violence Against Women, and the Community Oriented Policing Services Office—awarded \$3.9 billion through 11,000 grants, many of which the GAO found to be duplicative and in need of review and coordination.

GAO attributes much of the duplication among these 253 grant programs to the fact Justice officials do not conduct a full cross reference check to ensure applicants have not applied for or received overlapping grants from the Department.

In fact, DOJ employees contend they simply do not have enough time before providing a grant to ensure recipients have not already received funding. GAO observed, “Justice officials stated that the timeline for reviewing applications, making recommendations on their merit, and processing awards each year is compressed and that it would be difficult to build in the extra time and level of coordination required to complete an intradepartmental review for potentially unnecessary duplication of funding prior to making awards.”¹¹

¹⁰ “Opportunities to Reduce Duplication, Overlap and Fragmentation, Achieve Savings, and Enhance Revenue,” United States Government Accountability Office, GAO-12-342SP, February 2012.

¹¹ *Id.* at 115-116.

This amendment would direct DOJ to use their own authority to eliminate and consolidate overlapping programs as identified by GAO, and develop a plan that would result in financial cost savings of no less than 20 percent of the nearly \$3.9 billion in duplicative grant programs identified by the Government Accountability Office.

Addressing Duplication Identified by GAO is One Step in Addressing our \$17 Trillion Debt

GAO has now released at least 3 reports on duplication that include DOJ programs.¹² Congress and the administration have been given extensive details of at least 132 areas of government duplication and opportunities for significant cost savings, with dozens recommendations for how to address the duplication and find these savings.

The problem in Congress today is not an issue of ignorance—it is one of indifference and incompetence. We know we have a problem. We know we have cancer. Yet, we refuse to stop making it worse, we refuse to apply the treatment, and we refuse take the pain of the medication for the long-term benefit of a cure.

We are looking into a future of trillion dollar deficits and a national debt quickly headed toward \$20 trillion. Our nation is not on the verge of bankruptcy—it is already bankrupt. Over the last three years, there have been countless discussions and bipartisan talks about how to address our debt and deficit. Yet, there has been little agreement, and we continue to be faced with another increase in the debt limit, and sequestration looming on the horizon that will be required to achieve the savings Congress has been unable to muster the courage to pass.

But, before us, we have part of the answer. GAO's work presents Washington with literally hundreds of options for areas in which we could make a decision now to start finding savings, potentially hundreds of billions of dollars. If we are unable to agree on eliminating even one small duplicative program or tax credit, when clearly we know there are hundreds, we have little hope of ever coming to a comprehensive compromise for fixing our floundering budget.

Congress should require the Department of Justice to provide a full listing of every program in their jurisdiction. Further, the Department can find savings from consolidating the overlap outlined by the GAO, freeing up federal funding to dedicate toward solving unresolved rape cases, while also reducing the deficit.

Conclusion

¹² See "Opportunities to Reduce Government Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue," United States Government Accountability Office, GAO-11-318SP, March 2011; "Opportunities to Reduce Duplication, Overlap and Fragmentation, Achieve Savings, and Enhance Revenue," United States Government Accountability Office, GAO-12-342SP, February 2012; and "Justice Grant Programs," United States Government Accountability Office, GAO-12-517, July 2012.

As a nation, we simply cannot afford to reauthorize programs that waste taxpayer dollars by duplicating programs operated by other federal agencies for the same purposes.

To be clear, addressing duplication and overlap is not a matter of refusing to provide services to victims of domestic violence, but rather it is to ensure they are properly served by programs that are efficient, effective and not bogged down in federal government bureaucracy.

I urge my colleagues to support my amendment in order to better serve victims by ensuring the Justice Department more quickly processes the unresolved rape kit backlog and reduces the deficit by consolidating unnecessary and duplicative programs.