

**United States Senate**  
WASHINGTON, DC 20510

February 27, 2023

**VIA ELECTRONIC TRANSMISSION**

The Honorable Merrick Garland  
Attorney General  
U.S. Department of Justice

Dear Attorney General Garland:

The Victims of Crime Act of 1984 (VOCA) established the Crime Victims Fund (CVF), which was designed to ensure victims of crime have access to the resources they need to financially recover and to provide counseling and related support services.<sup>1</sup> The CVF is primarily funded from criminal fines and penalties.<sup>2</sup> Accordingly, large criminal fines levied in cases involving financial fraud and other white collar crimes significantly contribute to the balance of the fund.<sup>3</sup> The CVF is used to support organizations throughout the country that provide critical resources to victims such as domestic violence counseling, services for victims of trafficking, and rape crisis center services.<sup>4</sup> Money from the CVF is also used to bolster state victim compensation programs that provide direct reimbursements to victims for crime related expenses such as medical bills, mental health counseling, and funeral and burial costs.<sup>5</sup>

In 2020, I raised concerns about the negative effects of the shrinking CVF balance due to a decrease in criminal penalties and fines deposited into the fund, effects which would particularly impact victim services in rural areas.<sup>6</sup> I encouraged my colleagues to support the VOCA Fix Act (VOCA Fix), which became law in July 2021 and implemented by the Department in September 2021, to stabilize the CVF by redirecting fines from deferred and non-prosecution agreements from the Federal Treasury to the CVF.<sup>7</sup> It was reported that in Fiscal

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<sup>1</sup> Victims of Crime Act (VOCA, P.L. 98-473).

<sup>2</sup> Lisa N. Sacco, *The Crime Victims Fund: Federal Support for Victims of Crime*, Congressional Research Service (April 2, 2020) <https://www.crs.gov/reports/pdf/R42672/R42672.pdf> at 2.

<sup>3</sup> *Id.* at 3.

<sup>4</sup> Office for Victims of Crime, *Award List*, <https://ovc.ojp.gov/funding/awards/list>.

<sup>5</sup> Office for Victims of Crime, *Victim Compensation*, <https://ovc.ojp.gov/topics/victim-compensation>; Office for Victims of Crime, *2021 Report to the Nation Fiscal Years 2019-2020* (2021) <https://ovc.ojp.gov/2021-report-nation/formula-grants-voca-compensation-assistance>.

<sup>6</sup> Letter from Senator Charles E. Grassley, Senator Martha McSally, Senator Mike Crapo, and Senator Thom Tillis to Katharine Sullivan, Principal Deputy Assistant Attorney General, U.S. Department of Justice (June 3, 2020) <https://www.grassley.senate.gov/imo/media/doc/6.3.20%20Senate%20CVF%20Letter.pdf>.

<sup>7</sup> Jordain Carney, *Senate unanimously passes bill to strengthen crime victims fund*, The Hill (July 20, 2021) <https://thehill.com/homenews/senate/564013-senate-unanimously-passes-bill-to-strengthen-crime-victims-fund/>;

Year 2020 almost \$5 billion was collected from non-prosecution and deferred prosecution agreements and the annual average collected from these fines over the last decade totaled \$1.6 billion.<sup>8</sup>

Unfortunately, information published by the Department's Office for Victims of Crime (OVC) reports that the balance of the CVF remains historically low.<sup>9</sup> As of December 2022, after the Department had ample time to implement the VOCA Fix and collect deposits, the balance of the CVF was approximately \$1.8 billion, the lowest level since FY 2007.<sup>10</sup> In addition, according to OVC data, deposits into the CVF post-implementation of the VOCA Fix also continue to remain historically low as compared to the last ten fiscal years.<sup>11</sup> For example, deposits in FY 2012 totaled \$2.796 billion but in FY 2022 only totaled \$822 million with \$531 million from non-prosecution and deferred prosecution agreements.<sup>12</sup> As a significant portion of the deposits made into the CVF come from penalties and fines imposed as punishments for white collar crime and corporate criminal misconduct, I am seeking information regarding whether there is a correlation between the Department's reported pledge to be more lenient on corporate criminal enforcement and the lower than expected deposits into the CVF.<sup>13</sup>

A month after the Department implemented the VOCA Fix, Deputy Attorney General Lisa Monaco sent out a Departmental memo in October 2021 announcing changes to the Department's corporate criminal enforcement policies.<sup>14</sup> In September 2022, Deputy Attorney General Monaco sent out a subsequent Departmental memo, the so-called "Monaco memo," that built upon the prior guidance and announced the Department would incentivize companies to voluntarily disclose misconduct by providing reductions in criminal penalties for their

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Press Release, *Grassley on Updating the Victims of Crime Act*, Senator Charles E. Grassley (July 20, 2021) <https://www.judiciary.senate.gov/grassley-on-updating-the-victims-of-crime-act>.

<sup>8</sup> David Lerman, *House throws financial lifeline to victims fund, appropriators*, Roll Call (March 17, 2021) <https://rollcall.com/2021/03/17/house-throws-financial-lifeline-to-victims-fund-appropriators/>.

<sup>9</sup> Office for Victims of Crime, *FY 2007-FY2023 Crime Victims Fund End of Year Balance*, <https://ovc.ojp.gov/about/crime-victims-fund/fy-2007-2023-cvf-balance.pdf>

<sup>10</sup> *Id.*; Office for Victims of Crime, *Crime Victims Fund Overview*, <https://ovc.ojp.gov/about/crime-victims-fund>

<sup>11</sup> OVC, *FY 2007 – FY 2023 Crime Victims Fund Annual Receipts*, <https://ovc.ojp.gov/about/crime-victims-fund/fy-2007-2023-cvf-annual-receipts.pdf> (\$2.796 billion in FY 2012, \$1.49 billion in FY2013, \$3.592 billion in FY2014, \$2.64 billion in FY2015, \$1.486 billion in FY2016, \$6.584 billion in 2017, \$445 million in 2018, \$495 million in 2019, \$503 million in FY2020, \$774 million in FY2021 with \$224 million coming from non-prosecution and deferred prosecution agreements, and \$822 million in FY2022 with \$531 million coming from non-prosecution and deferred prosecution agreements).

<sup>12</sup> *Id.*

<sup>13</sup> See Ben Penn, *Companies to Look for DOJ Proof on Leniency Pledge, Lawyers Say*, Bloomberg Law (Jan. 20, 2023) <https://news.bloomberglaw.com/us-law-week/companies-to-look-for-doj-proof-on-leniency-pledge-lawyers-say>; Lou Kettering, *US DOJ announces discounts on fines for corporate misconduct self-disclosure*, JURIST (Jan. 18, 2023) <https://www.jurist.org/news/2023/01/us-doj-announces-discounts-on-fines-for-corporate-misconduct-self-disclosure/>.

<sup>14</sup> Memo from Deputy Attorney General Lisa Monaco, *Corporate Crime Advisory Group and Initial Revisions to Corporate Criminal Enforcement Policies*, U.S. Department of Justice (Oct. 28, 2021) <https://www.justice.gov/media/1173646/dl?inline>;

cooperation.<sup>15</sup> Furthermore, Assistant Attorney General for the Criminal Division, Kenneth A. Polite Jr., reportedly announced the Department is expanding upon the Monaco memo policy and provided that if a corporation makes voluntary disclosures of their misconduct, the Department may decline to prosecute despite the presence of aggravating factors; if the Department does prosecute a company, including those with a history of criminal violations, they may still receive a significant reduction in criminal penalties; and even if a company does not voluntarily self-disclose misconduct, the Department may still recommend a significant reduction in criminal fines.<sup>16</sup> Under this update to the Monaco memo, companies reportedly can receive up to a 75% reduction in criminal penalties if they disclose their misconduct.<sup>17</sup> Moreover, even in circumstances where they do not disclose their criminal misconduct to the Department, they can receive up to a 50% reduction in criminal penalties.<sup>18</sup> A significant consequence of the Department's pledge to be more lenient in holding corporate criminals accountable for their wrongdoing and misconduct appears to be at the expense of resources for victims of crime and the financial stability of the CVF.<sup>19</sup>

Accordingly, I write to better understand why the current deposits into the CVF remain historically low post-implementation of the VOCA Fix as well as to gather additional information on the overall stability of the CVF. I also strongly encourage the Department to ensure crime victims continue to have access to the services and resources they need. Therefore, please provide responses to the following no later than March 13, 2023.

- 1) What steps has the Department taken to ensure the CVF is financially stable?
- 2) What is the Department's explanation for the current trend of historically low deposits into the CVF?
- 3) In a 2020 analysis of the CVF, CRS reported that if Department prosecutions against corporate offenders decline – prosecutions which pay substantial criminal fines – it may

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<sup>15</sup> Memo from Deputy Attorney General Lisa Monaco, *Further Revisions to Corporate Criminal Enforcement Policies Following Discussions with Corporate Crime Advisory Group*, U.S. Department of Justice (Sept., 2022) <https://www.justice.gov/media/1245436/dl?inline>.

<sup>16</sup> Robert Anello, *Can't We Just Be Friends? DOJ Incentivizes Corporations (Again) To Become Its Allies*, Forbes (Feb. 15, 2023) <https://www.forbes.com/sites/insider/2023/02/15/cant-we-just-be-friends-doj-incentivizes-corporations-again-to-become-its-allies/?sh=49c76905d818>.

<sup>17</sup> Haris Alic, *Biden DOJ vows to go easy on white-collar criminals if they self-report, even slashing fines by 75%*, The Washington Times (Jan. 18, 2023). <https://www.washingtontimes.com/news/2023/jan/18/biden-doj-vows-go-easy-white-collar-criminals-if-t/>.

<sup>18</sup> Robert Anello, *Can't We Just Be Friends? DOJ Incentivizes Corporations (Again) To Become Its Allies*, Forbes (Feb. 15, 2023) <https://www.forbes.com/sites/insider/2023/02/15/cant-we-just-be-friends-doj-incentivizes-corporations-again-to-become-its-allies/?sh=49c76905d818>.

<sup>19</sup> See Lisa N. Sacco, *The Crime Victims Fund: Federal Support for Victims of Crime*, Congressional Research Service (April 2, 2020) <https://www.crs.gov/reports/pdf/R42672/R42672.pdf> at 2-3 ("Large criminal fines levied in cases of financial fraud and other white collar crimes contributed to the sizeable growth of the Fund... if these prosecutions were to decline it may effect a further decline in the deposit amounts to the CVF.").

cause a further decline in the amounts deposited into the CVF.<sup>20</sup> Are the low deposits into the CVF a result of the Department not holding corporate criminal offenders accountable for criminal misconduct? Please explain.

- 4) What effect did Deputy Attorney General Lisa Monaco's October 28, 2021 memo on initial revisions to corporate criminal enforcement policies have on the collection of funds required to be deposited into the CVF?<sup>21</sup>
- 5) What effect did Deputy Attorney General Lisa Monaco's September 15, 2022, memo on further revising DOJ's corporate criminal enforcement policies have on the collection of funds required to be deposited into the CVF?<sup>22</sup>
- 6) Since enactment of the VOCA Fix, what guidance, if any, has the Department provided to US Attorneys on the imposition and collection of criminal fines and penalties and fines collected from deferred and non-prosecution agreements required to be deposited into the CVF? Please provide a copy of the guidance documents.
- 7) Since enactment of the VOCA Fix, have all funds required to be deposited into the CVF been deposited in accordance with all applicable statutes, guidelines, and regulations? If not, for each erroneous deposit, list when the action occurred, the amount of the deposit, why it was not deposited into the CVF, and when the Department correctly deposited the funds into the CVF.
- 8) Since enactment of the VOCA Fix, has the Department agreed to resolve cases through deferred or non-prosecution agreements without instituting or collecting a fine or penalty? If so, in how many cases?
- 9) Since enactment of the VOCA Fix, how much has the Department collected in criminal fines from deferred and non-prosecution agreements? Of what was collected, how much was deposited into the CVF?

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<sup>20</sup> Lisa N. Sacco, *The Crime Victims Fund: Federal Support for Victims of Crime*, Congressional Research Service (April 2, 2020) <https://www.crs.gov/reports/pdf/R42672/R42672.pdf> at 3.

<sup>21</sup> Memo from Deputy Attorney General Lisa Monaco, *Corporate Crime Advisory Group and Initial Revisions to Corporate Criminal Enforcement Policies*, U.S. Department of Justice (Oct. 28, 2021) <https://www.justice.gov/media/1173646/dl?inline>.

<sup>22</sup> Memo from Deputy Attorney General Lisa Monaco, *Further Revisions to Corporate Criminal Enforcement Policies Following Discussions with Corporate Crime Advisory Group*, U.S. Department of Justice (Sept., 2022) <https://www.justice.gov/media/1245436/dl?inline>.

Sincerely,

A handwritten signature in blue ink that reads "Chuck Grassley". The signature is written in a cursive, flowing style.

Charles E. Grassley  
Ranking Member  
Committee on the Budget

cc: The Honorable Kristina Rose  
Director  
Office for Victims of Crime  
U.S. Department of Justice