

Re: ALA



DEPARTMENT OF HEALTH & HUMAN SERVICES

Chief of Staff

Washington, D.C. 20201

FACSIMILE

DATE: 6/9
Ann O'Leary/Heather Howard
TO: Mary Smith
456 - 2878
FAX#: 456 - 1647

FROM: Liz Summy
Deputy Chief of Staff Rebecca
Phone: 202/690-7431 Fax: 202/401-5783

COMMENTS:

info on MS woman

____ Pages [including this cover]

Stephanie Sites
Executive Director
Sexual Assault/Spouse Resource Center, Inc.
21 W. Courtland St.
Bel Air, MD 21014
(410)836-8431, ext. 12 or
(410)879-3486

Stephanie was recommended by Bill Riley, who runs the family violence programs at HHS. Stephanie is a dynamic person and her organization is a grantee of ours through the state of Maryland. She and the Sexual Assault/Spouse Abuse Resource Center, Inc. work closely with local authorities in Maryland and have strong local support.

As Stephanie describes it, her relationship with local law enforcement is "amazing." The relationship started when the local authorities approached her organization and asked them for help with setting up a joint domestic violence unit. From that point on, the relationship between the center and the 5 law enforcement jurisdictions in Harford county grew. Some examples she gave were: there is a member from each jurisdiction on the center's local coordinating committee; there are always 2 sheriff deputies available to go with the center to make visits to victims who have called for help; the center provides training on domestic violence and sexual assault to all of the law enforcement; the law enforcement are available to keep the employees and clients of the center safe; and the center is where local law enforcement call first when they receive a problem call.

Stephanie sounded like a very enthusiastic person, and was very excited to talk about what she calls a "true partnership" and the best she's ever worked with (she's been at two other counties).

Stephanie Sites has been the Executive Director of the Sexual Assault/Spouse Abuse Resource Center, Inc. (SARC) since July 1995. During this time, she has designed and opened a 28-bed Safehouse, new administrative office and created an office exclusively dedicated to our counseling program. In the past five years, SARC has grown from a small grassroots 9 person program to a million dollar plus organization with 31 staff professionals organized into five program components. Prior to coming to Harford County, Stephanie was Executive Director and Director of Residential Services at the Domestic Violence Center in Howard County. She has done some work with Transitional Services, Inc. and the University of Pennsylvania. Stephanie was a 1994 recipient of the Maryland Governor's Victim Assistant Award. She was awarded the Arthur J. Halligan Memorial Scholarship in 1993 to attend the Leadership Development Program sponsored by the University of Maryland University College in cooperation with the Center for Creative Leadership. Stephanie published an article in the October 1994 *Maryland Medical Journal* entitled "Physicians and domestic violence programs: partners in change". Which detailed her Safehouse program and the theories behind a battered woman's struggle to heal. Ms. Sites has worked in the field of victims service since 1984 beginning with her work with abused children and ultimately finding her passion in working with victims of domestic violence.

- Sexual Assault/Spouse Abuse Resource Center (SARC) received \$140,000 from the Maryland Department of Human Resource FY 1999
- SARC has been funded since 1981
- SARC is considered a state domestic violence program
- SARC has served more than 1200 clients this fiscal year
- SARC has served more than 15,000 clients in their 21-year history

STEPHANIE K. SITES
 4801 NICHOLSON STREET
 RIVERDALE PARK, MARYLAND 20737
 301-779-7385 HOME
 410-836-8431 OFFICE

PROFESSIONAL EXPERIENCE

EXECUTIVE DIRECTOR, Sexual Assault/Spouse Abuse Resource Center, Inc.
 (SARC) July 1995 to present

- * Responsible for agency administration; personnel; grant development, acquisition, and monitoring; fundraising; and relations with public, private, and governmental contacts
- * Increased SARC's budget from \$250,000 to \$1.2 million in four years
- * Designed and opened a 23-bed Safehouse and a new administrative office
- * Developed and implemented a strategic plan in partnership with the Board, staff, and outside stakeholders

EXECUTIVE DIRECTOR, Domestic Violence Center, Inc. (DVC) July 1992 to
 December 1994.

- * Responsible for agency administration; personnel; grant development, acquisition, and monitoring; fundraising; and relations with public, private, and governmental contacts
- * Increased DVC's budget from \$300,000 to \$800,00 in less than three years
- * Expanded the residential program from two shelters to six facilities and implemented a three stage residential program

DIRECTOR OF RESIDENTIAL SERVICES, Domestic Violence Center, Inc. (DVC)
 December 1989 to July 1992.

- * Managed the overall operation of the Safehouse and Transitional Shelters
- * Supervised all staff

STEPHANIE K. SITES

PAGE 2

CONSULTING EXPERIENCE

TRANSITIONAL SERVICES, INC. January 1991 to August 1991.

- * Designed and implemented from the ground-up a transitional housing program for battered women and their children
- * Secured funding for the on-going operation of the program

UNIVERSITY OF PENNSYLVANIA. July 1990 to July 1992.

- * Provided consultation to faculty in the Sociology Department
- * Taught classes on domestic violence to undergraduate students in Introduction to Sociology, Family Systems, Dysfunctional Families, and Gender Issues

PROFESSIONAL AFFILIATIONS, CITATIONS

- * 2000 Harford County Roundtable on Homelessness
- * 1998, 1999 Chair, Harford County Homeless Services Taskforce
- * 1995 Class of Leadership Howard County
- * 1994 Recipient-State of Maryland Governor's Award for Victims' Assistance
- * 1993 Recipient-Arthur J. Halligan Memorial Scholarship, University of Maryland Leadership Institute
- * 1993 Maryland Alliance Against Family Violence Board Member
- * 1991 State of Maryland Women's Services Advisory Council
- * 1990 - 1994 Howard County Board on Homelessness

EDUCATIONAL EXPERIENCE

- * Leadership Development Program, University of Maryland Leadership Institute, July 1994
- * Certification in Therapeutic Crisis Intervention, Department of Health and Mental Hygiene, March 1986
- * Certification in Child Care, University of North Carolina, March 1985
- * Bachelor of Arts in Psychology, Western Maryland College, May 1984

SARC...Rebuilding People's Lives

BRICK by BRICK

Taking Back the Night

Spring 2000

April is Sexual Assault Awareness Month. April brings many opportunities for increasing awareness about the widespread occurrence of sexual violence, from displaying purple ribbons on cars to holding vigils. The annual Take Back the Night Rally (TBTN) is a unique event held during Sexual Assault Awareness Month.

Take Back the Night vigils have been held annually in the United States since 1978. They began as movements within grassroots women's activism creating a forum to educate and speak out against sexual violence. The historical origin of these vigils is somewhat unclear. Some historians consider an 1877 protest in England as the first Take Back the Night rally. At this event, activists began speaking out against the violence and fear women experienced walking the street at night. Others report that Take Back the Night first took place in Germany in 1973 in response to a series of sexual assaults, rapes, and murders. The most well documented "first" TBTN was in Belgium in 1976. Women attending the International Tribunal on Crimes Against Women marched through the streets carrying candles to protest ways in which violence permeates the lives of women worldwide. Regardless of the exact origin, TBTN has been held annually throughout the United States, Canada, Latin America, India, Europe, and Australia.

The slogan "Take Back the

Night" was first used in 1978 as a theme for a United States protest. Following the first feminist conference on pornography, people marched through San Francisco known for its strip joints and brothels. For the past twenty years the phrase Take Back the Night has been used as a symbolic statement for stopping the sexual exploitation of women. The vigils themselves typically include survival testimonials, speakers, workshops ranging from self-defense to self-care, and most recently, the Clothesline project. With the Clothesline Project, survivors can create a T-shirt to represent herself and her story. Survivors of violence break the coerced secrecy, symbolically "hanging out the dirty laundry."

TBTN aims to create an atmosphere in which violence against women is no longer tolerated. It is held to increase community awareness about the prevalence of sexual violence and the attitudes, beliefs, and behavior that perpetuate these crimes. It is an opportunity to educate ourselves about the systematic use of violence against women as a form of oppression. By coming together as a collective voice we demand safety and empower individual women and men to take direct action against sexual violence. These vigils also serve as a challenge to our local and national government to address the issue of sexual violence on an institutional level. TBTN is a time to unite individuals who wish to

Continued on page 4

SARC Services

24 Hour Helpline

Safehouse Services

A confidentially located shelter for battered women and their children.

Women's Counseling

Individual, crisis, and group counseling for women that are victims and survivors of domestic violence or sexual assault. Counseling available for adults molested as children and incest survivors.

Children's Counseling

Individual and group counseling for child victims of sexual assault and children who witness domestic violence.

Men's Counseling

Group counseling for men who batter. Individual counseling available for male victims of sexual assault and domestic violence.

Legal Services

Court accompaniment for victims of domestic violence or sexual assault. Legal representation for Protective Order and Emergency Custody Hearings along with other civil remedies.

Hospital Accompaniment

For victims of sexual assault or domestic violence.



Sexual Assault/Spouse Abuse Resource Center, Inc.

21 W. Courtland Street, Bel Air, MD 21014

24 Hour Helpline - (410) 836-8430 Office - (410) 836-8431/879-3486

Fax - (410) 838-9484 www.sarcmaryland.org



The Department of Justice
and
The Department of Health and Human Services



May 15, 2000

The Honorable Orrin G. Hatch
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

Six years ago, Congress passed, and the President signed, the landmark Violence Against Women Act (VAWA). Thanks to your leadership and that of Senator Biden, the Violence Against Women Act has become an important tool in this country's effort to combat domestic violence, stalking, and sexual assault. During the past 6 years, this law has made a critical difference in the lives of countless women and children. In implementing the Act, the Department of Justice (DOJ) and the Department of Health and Human Services (HHS) have forged a new partnership to expand our prevention efforts, ensure the safety of more victims, and hold perpetrators of violence accountable for their acts.

Overall, more than \$1.5 billion in VAWA grant funds have supported the work of prosecutors, law enforcement officials, the courts, victim advocates, and intervention and prevention programs to address violence against women at the federal, tribal, state, and local levels. Under five discretionary grant programs, DOJ has awarded more than 900 grants and has also awarded 280 STOP (Services, Training, Officers, Prosecutors) formula grants to the states and territories. More than 6,500 STOP subgrants have supported community partnerships to address violence against women. To date, DOJ has prosecuted 242 cases in the federal system involving interstate domestic violence, interstate stalking, interstate violation of a protection order, or possession of a firearm while under a protection order or after conviction for a misdemeanor crime of domestic violence. Through VAWA funding, HHS has provided grant funds to shelter more than 300,000 women and their dependents each year and the National Domestic Violence Hotline has responded to approximately 500,000 calls. VAWA resources for community-based domestic violence and sexual assault programs and the training of health care and social services professionals have ensured that more women seeking help after being sexually assaulted or battered can receive the assistance they need in their own communities.

The programs and initiatives that we have established are only the beginning of our struggle to end violence against women in our Nation. Violence still devastates the lives of many women and children. Our national statistics are sobering:

- Nearly one-third of women murdered each year are killed by their intimate partners.
- Violence by intimates accounts for over 20 percent of all violent crime against women.
- Approximately one million women are stalked each year.
- Women were raped and sexually assaulted 307,000 times in 1998 alone.

The Federal Government alone cannot solve the problem. But we can help provide to states and communities the tools they need to prevent and fight violence and to assist victims, and we can make certain that federal law enforcement is unhindered in its pursuit of those offenders who violate federal law. Congress and this Administration have an opportunity now to build on our strong record opposing violence against women. We therefore urge Congress to continue its unprecedented bipartisan leadership on this issue and both re-authorize the Violence Against Women Act and make critical improvements to the statute. We believe that the following provisions are essential to include in violence against women legislation.¹

1. Re-authorize and improve the Violence Against Women Act grant programs.

The Violence Against Women Act of 1994 authorized and funded critically important grant programs to forge partnerships among federal, state, tribal, and local governments, between the criminal justice system and victim advocates, and within communities. The VAWA grant programs assist state, tribal, and local governments and agencies in training personnel, enforcing laws, developing policies and procedures, assisting victims of violence, and holding perpetrators accountable. Over the past six years, victim services providers, including battered women's shelters and rape crisis programs, victim advocates, law enforcement, prosecutors, courts, health care providers, and community organizations have all received crucial VAWA funding.

¹ Today's decision by the Supreme Court in United States v. Morrison, which invalidated VAWA's federal civil remedy for victims of gender-motivated violence, does not implicate or affect Congress's ability to re-authorize and strengthen VAWA in the manner proposed in this letter.

These grant programs have proved to be an effective tool in our fight against violence against women. The following steps, which are included in the Administration's proposed crime bill, would help to continue and improve these programs:

- Re-authorize through fiscal year 2005 the critical DOJ and HHS programs so we can expand investigation and prosecution of crimes and provide greater numbers of victims with much needed assistance. It is particularly important to ensure that funding for domestic violence and sexual assault programs is adequate to respond to the increasing demand for their services as the criminal justice, medical and social services systems more regularly identify and refer victims to them.
- Re-authorize the Battered Women's Shelter program to expand and provide services to more of those who are currently underserved, such as women of color, older women, women with disabilities, and women in rural areas.
- Re-authorize the National Domestic Violence Hotline at a level adequate to continue the high quality services currently provided and to expand the training and knowledge of the staff to deal with related issues, such as sexual assault.
- Provide authorizing legislation for the Domestic Violence Victims' Civil Legal Assistance Program, which currently operates only under appropriations acts. This vital program offers victims legal representation in cases related to their safety and well-being.
- Continue to support research and evaluation in order to provide sound data for ongoing improvement of policies, practices and programs for reducing violence against women.
- Provide authorizing language to allow HHS to utilize funds for administrative purposes, such as monitoring and stewardship, to support the programs and services provided to victims of domestic violence.
- Extend to fiscal year 2005 the authorization of the Grants to Combat Violent Crimes Against Women on Campuses Grant Program, which focuses on the safety of women at institutions of higher education.
- Amend the definition of domestic violence under all VAWA grant programs to permit support of services for victims of dating violence in all funded jurisdictions.

The recent, tragic death of a young Columbia University student at the hands of her boyfriend in February 2000 underscores the need to protect young people trapped in violent relationships.

- Direct critical resources toward traditionally underserved populations. Adding these populations to the "purposes" sections of existing grant programs will reinforce our commitment to serve these victims.
 - Set aside 5 percent of Department of Justice grant funds for tribes. A recent study by the Bureau of Justice Statistics found the rates of violent victimization were substantially higher among Native Americans. The rate of violent crime experienced by Native American women is estimated to be more than twice that experienced by women generally. We can best combat this violence by helping tribes to provide focused, culturally appropriate assistance to victims in their communities.
 - Include a specific allocation for courts in the STOP Violence Against Women Formula Grant Program (STOP program) and re-authorize the State Justice Institute VAWA grants for model judicial training programs, so that judges and other court personnel can receive the training and resources they need to enhance their handling of domestic violence and sexual assault cases. Educated judges ensure that orders enhance victim safety and that offenders are held accountable through graduated sanctions.
 - Amend VAWA to include a re-allotment provision in the STOP program so that funds that remain unobligated after 2 years may be reallocated to support victim services projects.
 - Re-authorize through fiscal year 2005 rape prevention and education programs that help to supplement the rape crisis centers and state sexual assault coalitions.
 - Re-authorize through fiscal year 2005 the Community Coordinated Response programs that support the development and implementation of coordinated community intervention and prevention activities concerning violence against women.
2. Amend Title 18 to strengthen federal domestic violence laws and protect Native American and other women.

The Violence Against Women Act and subsequent legislation added criminal provisions to Title 18 that authorized federal law

enforcement officials to investigate and prosecute crimes of interstate domestic violence, stalking, and violations of protection orders. Based on our experience implementing the VAWA criminal provisions, we now have identified ways in which these provisions of Title 18 can be made more effective. To this end, we support a number of changes to the VAWA criminal provisions that would improve our ability to protect Native American victims of violence. Native American women are suffering from domestic violence and sexual assault at extraordinary rates. Minor statutory changes will clarify that victims who live in Indian Country enjoy the full protection of federal law and will enable us to apprehend and prosecute offenders who victimize Native American women or cross tribal boundaries to pursue or abuse their victims. We also advocate other technical amendments that are designed to clarify the elements of the VAWA offenses, ensure consistency in their statutory language, and close loopholes that hamper effective prosecution of these crimes.

3. Authorize federal law enforcement officials to protect victims in dating relationships with their abusers.

The Violence Against Women Act empowered federal law enforcement officials to bring certain dangerous offenders to justice. Data collected by the Bureau of Justice Statistics indicate that domestic violence occurs at the highest rates among young persons aged 16-19 and 20-24 and that more than four in ten incidents of domestic violence involve non-married persons. The Violence Against Women Act as enacted in 1994, however, does not authorize federal law enforcement personnel to apprehend and prosecute offenders who prey on these young victims. Just as it is essential to cover "dating relationships" in grants to all jurisdictions, we believe that it is critical to clarify specifically that the VAWA criminal provisions cover "dating relationships" in order to close a dangerous loophole in federal law.

4. Protect immigrant women and children from domestic violence.

The Violence Against Women Act included important provisions to protect battered immigrant women and children. The central premise of these protections was that no one should be forced to choose between deportation and abuse - that is, an abuser should not be able to use United States immigration laws as a means to coerce, control, or intimidate a spouse or child. Since the enactment of the immigration provisions of VAWA, more than 6,000 battered immigrants are now eligible for lawful permanent residence based on their approved self-petitions, enabling them to work and provide for a safe future for themselves and their families. However, the complexities of immigration law have undermined the relief created by VAWA. Consequently, many women

and children with approved self-petitions are unable to seek adjustment of status. It is essential to pass amendments that redress these undesired effects while ensuring that domestic abusers with immigrant victims are brought to justice and that the battered immigrants Congress sought to help under VAWA are able to escape the abuse.

5. Amend the full faith and credit provision of the Violence Against Women Act.

Enforcement of protection orders is a cornerstone of victim safety. To improve such enforcement, the Violence Against Women Act, 18 U.S.C. § 2265, requires states and territories to give full faith and credit to protection orders issued by the courts of other states, territories, or tribes. As we have worked with jurisdictions on implementing this provision, we have identified two aspects of the statute that should be clarified in order to enhance enforcement across all jurisdictions in our Nation.

Currently, a few states require victims with protection orders from other jurisdictions to register those orders in their courts, creating an unnecessary and dangerous prerequisite to enforcement. Some jurisdictions notify abusers that such orders have been registered, gravely endangering victims who have relocated to hide from their abusers. To secure the safety of these victims, we urge you to amend the full faith and credit provision of VAWA to prohibit registration as a prerequisite to enforcement of foreign orders and to prohibit notification of a batterer without the victim's consent when a foreign protection order is registered in a new jurisdiction.

We must reinforce that protection orders issued by tribes are entitled to full faith and credit by states. Tribal orders are essential to protecting Native American victims and deserve the same recognition as state orders. In addition, we must make it clear that Indian tribes have jurisdiction to enforce protection orders and hold offenders, both Indian and non-Indian, accountable.

6. Facilitate filing and service of protection orders for victims.

Recipients of STOP formula grant funds under the Violence Against Women Act should be required, as a condition of their grant, to facilitate filing and service without cost to the victim in both civil and criminal cases. Current federal law regarding eligibility criteria for states and tribes to receive grants under the STOP program does not clearly prohibit charging fees for all of these services, leaving many victims struggling with the cost of initiating protection order proceedings and serving the orders. We cannot permit financial resources to

The Honorable Orrin G. Hatch
Page 7

determine victim safety and access to the protections of our legal system.

7. Ensure that children remain in the custody of non-abusive parents.

We can reduce the impact of domestic violence on children by helping to ensure that children remain in the custody of non-abusive parents. We believe that the federal Parental Kidnaping Prevention Act should be amended to enhance the ability of victims fleeing from abuse with their children to obtain custody orders without returning to dangerous jurisdictions.

We also support establishing grants for supervised visitation centers to help preserve families and protect children from violence by creating safe places for visitation and exchange of children. These centers help protect victims of domestic violence and their children and minimize the danger of parental abduction.

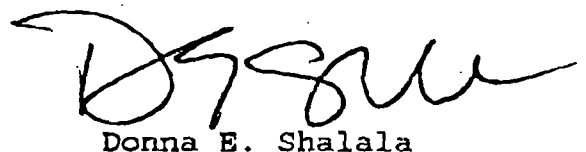
These seven points are critical elements of a federal legislative plan to reduce violence against women. We also want to express our support for other programs that combat violence against women that do not fall under the authority of the Department of Justice or the Department of Health and Human Services. Members of Congress have introduced legislation that contains many important programs, including employment protections, housing assistance initiatives, and protection for victims of abuse who experience insurance discrimination, that will dramatically improve the lives of victims and their families.

Thank you again for your thoughtful consideration of these issues and for all the important work that you have done to safeguard lives and support victims of domestic violence, sexual assault and stalking. We cannot rest while so many women and children live in terror and experience violence. We have made great strides in the last 6 years, and we are proud of our joint accomplishments. But even that progress has demonstrated the need to do more. We look forward to working with you as we renew our efforts to free our Nation of violence against women.

Sincerely,



Janet Reno



Donna E. Shalala

Q&A
VAWA Reauthorization Hill Meeting and Press Conference
May 17, 2000
12:45-1:30 p.m.

I. U.S. v. Morrison (Brzonkala)

Q: What is your reaction to the Supreme Court's decision on Monday in U.S. v. Morrison?

A: I'm deeply disappointed by the decision. In that case, the Court struck down the civil remedy provision contained in the Violence Against Women Act of 1994. That provision gave victims of gender-motivated violence the ability to sue their attackers for lost earnings, medical expenses, and other damages. I regret that the Court held that Congress does not have the authority to provide such a remedy for victims. But the Supreme Court's decision does not affect the viability of VAWA as a whole and should give us no pause in our efforts to improve and re-authorize the 1994 statute.

Q: Would the Administration support a "legislative fix" to create a new civil rights remedy to replace the one struck down by the Supreme Court?

A: We plan to study the Supreme Court's decision in U.S. v. Morrison to determine, in light of that decision, what is the best approach is to providing remedies for victims of gender-motivated violence.

Q: Is re-authorization of the VAWA grant programs in jeopardy because of Monday's Supreme Court decision about VAWA?

A: No. The Supreme Court's decision in United States v. Morrison invalidated only one provision of the VAWA and does not implicate or affect the validity of the VAWA grant programs. The Court did not address or question whether Congress has the authority to establish and fund grant programs to address violence against women. Instead, the Court addressed only the private civil rights remedy -- one discrete piece of the VAWA. The Court held that Congress did not have the constitutional authority under the Commerce Clause or the Fourteenth Amendment to enact the VAWA civil rights remedy. In enacting -- and in re-authorizing -- the grant programs, however, Congress acts under a different source of constitutional authority, the Spending Clause, and Congress's authority to enact and fund those programs has not been questioned.

Q: In U.S. v. Morrison, the Supreme Court seems to have said that States, not the federal government, have the constitutional authority to regulate local, criminal activity, but you're asking Congress to amend the federal criminal provisions of the VAWA. What effect does the Supreme Court's decision have on federal prosecution of these types of crimes?

A: The decision does not affect the federal criminal provisions that punish interstate domestic violence and stalking crimes. First of all, those provisions were not at issue in the case. Moreover, the Court went out of its way to note that, unlike the civil rights remedy provision at issue in Morrison, the federal criminal remedies in VAWA address interstate -- rather than intrastate -- crimes. Congress clearly has the authority under the Commerce Clause to regulate interstate criminal activity. The Court also noted that the Courts of Appeals have uniformly upheld these criminal provisions against constitutional challenges.

Summary of U.S. v. Morrison, — S. Ct. —, 2000 WL 574361 (May 15, 2000)

The Supreme Court today struck down 42 U.S.C. § 13981, a provision of the 1994 Violence Against Women Act that provides civil remedies for crimes of gender-motivated violence. Petitioner Christy Bronzkala filed suit under this provision, alleging that she was raped by respondents while they were students at the Virginia Polytechnic Institute. In a 5 - 4 opinion, the Supreme Court held that Congress lacked authority to enact § 13981 under either the Commerce Clause or Section 5 of the Fourteenth Amendment. Chief Justice Rehnquist, writing for the majority, held that the decision was compelled by the Court's opinions in United States v. Lopez, 514 U.S. 549 (1995), United States v. Harris, 106 U.S. 629 (1883), and The Civil Rights Cases, 109 U.S. 3 (1883).

On Commerce Clause grounds, the Court held that its analysis of § 13981 was governed by the framework set forth in Lopez, identified four "significant considerations" that had contributed to the Lopez decision, and applied them to § 13981. First, the Court stated that, in Lopez, the non-economic, criminal nature of the activity being regulated (namely, possession of a firearm in a school zone), was central to the Court's conclusion that Congress lacked regulatory authority under the Commerce Clause. Similarly, gender-motivated crimes of violence are in no way economic activity. Second, the Court found that, like the statute in Lopez, § 13981 fails to contain a jurisdictional element to limit its reach to a discrete set of activity that has an explicit connection with, or effect on, interstate commerce. Third, the Court explained that, although § 13981, unlike the statute in Lopez, was supported by numerous congressional findings showing the serious economic impact of gender-motivated violence, those findings could not in and of themselves sustain the constitutionality of the statute. Fourth, the Court explained that its Lopez decision rested in part on the fact that the link between gun possession and a substantial effect on interstate commerce was attenuated. In this case, the Congressional findings were weakened because they relied on the same already-rejected connection, namely a but-for chain of causation from the initial violent act to every attenuated effect upon interstate commerce. While the Court declined to "adopt a categorical rule against aggregating the effects of any non-economic activity in order to decide these cases," it intimated that it would not uphold commerce clause regulation of intrastate activity that was non-economic in nature.

In holding that section 5 of the Fourteenth Amendment does not give Congress the authority to enact § 13981, the Court noted that Congress could prohibit only state action, not private conduct. It rejected petitioners' suggestion that this conclusion, reached by the Court in Harris and The Civil Rights Cases, has essentially been overturned by more recent precedent. Furthermore, even assuming that this case could be distinguished on the grounds that Congress had evidence here of pervasive state bias against victims of gender-motivated violence, the Court held that the statute lacked the necessary "congruence and proportionality" between means and ends. It explained that § 13981 does not provide a remedy against state officials and applies to all states, regardless whether a particular state discriminates against victims of gender-motivated crimes.