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U.S. Department of Justice

Office of Justice Programs

Office for Victims of Crime

Washington, DC 20531

January 17, 2025

Dear Colleague:

State compensation programs are vital for assisting survivors of crime on their path to healing and stability following victimization. State compensation offices' staff work diligently to ensure survivors receive reimbursement for eligible out-of-pocket expenses resulting from victimization. They do so despite insufficient resources and capacity constraints, while adhering to state laws and guidelines governing program practices. The U.S. Department of Justice's Office of Justice Programs (OJP) is proud to support these critical efforts through the Victims of Crime Act (VOCA) Victim Compensation Program, administered by OJP's Office for Victims of Crime (OVC). In Fiscal Year 2023 and 2024, VOCA state compensation programs made payments for over 421,000 claims throughout the nation, totaling more than \$763 million in financial assistance and reimbursement to victims of crime.¹

Even with the diligent efforts on the part of compensation programs, survivors and victims' families still encounter barriers to accessing this critical financial support. OVC is committed to supporting states in expanding access to compensation programs, in recognition of our shared goal of assisting as many survivors as possible. Over the last three years, OVC has engaged state compensation program administrators, victims and survivors, advocates, and other state, territory, Tribal, and national stakeholders to identify opportunities to mitigate common obstacles to accessing compensation. That engagement informed a [VOCA Victim Compensation Proposed Rule](#) that OVC published in the *Federal Register* on February 5, 2024. OVC received more than 3,800 comments during the 60-day comment period from survivors, advocates, national organizations, state administering agencies, state and federal officials, and others.

Most commenters expressed general support for the proposed rule, including comments strongly advocating for OVC's efforts to reduce barriers to compensation, clarify the breadth of expenses that can be covered, and reduce the administrative burdens victims experience when applying for compensation. Some individual commenters also shared their personal stories of victimization and compensation denials. Several commenters noted potential conflicts with the proposed rule and existing state policies and laws, or otherwise encouraged OVC to adjust its approach to promoting access to compensation. OVC has carefully considered each of these comments and is grateful for the thoughtful input of so many stakeholders.

¹ VOCA Victim Compensation Data Dashboard. Data analysis for FY 2023 and FY 2024. Available from: <https://ovc.ojp.gov/funding/performance-measures/data-analyses/dashboards/voca-victim-compensation>.

On Monday, January 6, 2025, the Department formally [withdrew the proposed rule](#) from the rulemaking process after determining that there was not enough time remaining in the current Administration to release a final rule that sufficiently addressed the full scope of comments that were received. This letter aims to share some of the obstacles and opportunities for improvement identified during the proposed rulemaking and stakeholder engagement process. The summary that follows identifies issue areas and correlating recommendations that received the strongest support from stakeholders. OVC concurs that these are effective practices to achieve the goal of serving victims of crime. We hope this letter will help state administering agencies consider promising approaches and best practices for administering funds under the VOCA Victim Compensation grant program.

Criminal History²

Listening sessions and public comments all made clear that state compensation programs' consideration of a victim's "criminal history" is one of the most significant barriers in accessing compensation. For example, one organization recognized that "most offenders have been victims" and that access to financial resources, including compensation, contributes to building stability for victims to heal, and can help interrupt cycles of violence and reduce the risk of future criminal legal involvement.³ A nationwide survey found that 9 out of 10 people with criminal records have been victims of crime, compared to 44 percent of people who do not have a criminal record.⁴ This means that for many crime victims, criminal history consideration policies may stand in the way of obtaining compensation.

Many states use "criminal history" as a compensation eligibility exclusion factor or justification for denying compensation. Indeed, 26 states (48 percent) condition compensation eligibility and/or compensation payment on at least one "criminal history" factor, including some states that consider future criminal activity.⁵

Eligibility and payment restrictions based on "criminal history" can fail to account for the substantial overlap between those who are victimized by crime and those who have been arrested or convicted for criminal offenses themselves. This leaves important and legitimate victim needs unmet. This limitation significantly hampers the goals of victim compensation and creates real

² For the purposes of this letter, OVC defines "criminal history" as pre-conviction engagement with the criminal justice system (e.g., pending criminal charges, arrest warrants), criminal history (e.g., criminal charge disposition such as conviction, regardless of when it occurs), and incarceration status (e.g., incarceration, probation, or parole).

³ Jewish Women International comment on OVC Proposed VOCA Victim Compensation Rule, March 28, 2024, available from: <https://www.regulations.gov/comment/OJP-2024-0001-0234>. (See p. 7, citing Delong, C., & Reichert, J., (2019). *The victim-offender overlap: Examining the relationship between victimization and offending*. Illinois Criminal Justice Information Authority. Available from: <https://icjia.illinois.gov/researchhub/articles/the-victim-offender-overlap-examining-the-relationship-between-victimization-and-offending>.)

⁴ Alliance for Safety and Justice. (2023). *Voices of Redemption: A National Survey of People with Records*. See p. 6. Available from: <https://asj.allianceforsafetyandjustice.org/wp-content/uploads/2023/05/2023-05-15-2023-TimeDoneSurvey-Full.pdf>.

⁵ As of March 2024, OVC determined that 26 states had laws, regulations, and/or policies requiring consideration of "criminal history" as a factor for denying compensation. "Criminal history" factors include pre-conviction engagement with the criminal justice system, criminal history and/or future criminal engagement, and incarceration status.

harm.⁶ OVC learned of mothers who lost sons to homicide and were denied compensation for funeral and burial costs due their son's "criminal history." OVC discovered this to be true of many mothers across the country through the National Organization of Parents Of Murdered Children Conference and in conversations with attendees at the National Funeral Directors Association Annual Conference. Funeral directors serving in under-resourced or marginalized communities shared they no longer accept crime victim compensation as payment for a funeral because of the length of time it takes to receive the reimbursement or because the application is often denied, leaving the funeral director to pick up the cost. A victim's access to financial support to assist with healing in the aftermath of a crime should not be contingent upon their engagement with the criminal justice system.

Advocates that work with crime victims highlighted the ways in which laws, regulations, and policies that require consideration of criminal history can perpetuate a belief that a person's involvement with the criminal justice system at any point in their life, makes them "forever ... undeserving of support and recovery."⁷ By contrast, advocates and experts explained, providing compensation to support victims in their healing can help those individuals view themselves as valued members of their community.⁸ In doing so, compensation can be an important piece in reducing recidivism and interrupting cycles of violence.⁹

OVC encourages states to consider eliminating consideration of criminal history as a disqualifying factor in claim determinations to avoid precluding compensation to certain victims of violent crimes and potentially undermining the objectives of state compensation programs.

Contributory Conduct

Stakeholders identified as an additional barrier states' conditioning of compensation eligibility and full payment of compensation on whether victims of crime are alleged to have engaged in contributory conduct. Contributory conduct is generally understood to refer to any conduct by a victim that police officers, claims processors, or other designated officials determine to have directly or indirectly resulted in a victim's injuries during the underlying criminal act.¹⁰

⁶ A 2022 National Survey of Victims' Views conducted by the Alliance for Safety and Justice found that 87 percent of victims did not receive financial or economic assistance to help recover; 7 in 10 victims of crime report experiencing at least one symptom of trauma; and 74 percent of victims did not receive counseling or other mental health support to help recover. Alliance for Safety and Justice, *Crime Survivors Speak 2022: National Survey of Victims' Views on Safety and Justice* (2022), available at: <https://allianceforsafetyandjustice.org/wp-content/uploads/2022/09/Alliance-for-Safety-and-Justice-Crime-Survivors-Speak-September-2022.pdf>.

⁷ Legal Aid Center of Southern Nevada's Resiliency and Justice Center comment on OVC Proposed VOCA Victim Compensation Rule, April 5, 2004, available from: <https://www.regulations.gov/comment/OJP-2024-0001-3745>.

⁸ Ibid.

⁹ Ibid.; Maki, J. and Warnken, H., (June 2023), "Realizing the Promise of Crime Victim Compensation: Recommendations to Help Community Violence Intervention Meet the Needs of Underserved Victims." The NYU Marron Institute of Urban Management. (June 2023). Available from: https://marroninstitute.nyu.edu/uploads/files/Realizing_the_Promise_of_CVC_%281%29.pdf.

¹⁰ See Levine, Jeremy, (2024). *Issue Brief: Inequality in Crime Victim Compensation*. (2024). p. 4. Available from: https://drive.google.com/file/d/17nukDkiMHg92mNmocLE4UziEvYMzE_GS/view.

Most state compensation programs consider a victim's alleged contributory conduct, either as a bar to eligibility or as a factor in determining the amount of compensation.¹¹ This consideration is based on state laws, regulations, and/or policies that require compensation programs to consider a victim's: (1) non-criminal conduct that contributed toward victimization; (2) alleged accomplice or participation in the underlying crime resulting in victimization; and/or (3) criminal conduct outside of the underlying crime resulting in victimization.

Victims and advocates reported that states' contributory conduct standards are often vague and left to the subjective interpretation of police, claims processors, or others. This can leave broad discretion for fact-finders to determine whether disqualifying contributory conduct occurred and confusion about what constitutes "contributory conduct." A recent analysis found that the discretionary application of contributory conduct standards disproportionately impacts Black survivors, with Black victims more likely to be denied compensation for behavior-based reasons like contributory misconduct.¹² Another study analyzed victim compensation applications and decisions in one state between January 1, 2015 and December 31, 2022, and found that Black victims represented 30.89 percent of all victim compensation claims but they represented 53.39 percent of all denials of contributory conduct, and that Black men represented 14.3 percent of all claims but 47.18 percent of all denials of contributory conduct.¹³ As one commenter noted, "if victim compensation programs assist only 'innocent' or 'perfect' victims and survivors, an untold number of people, especially people of color, are unlikely to heal or at least get" reimbursed for expenses they incurred as a result of their victimization.¹⁴ Experts in the field explained that by denying victims much needed support because of their alleged conduct, compensation programs can thwart their healing and send the message that the victim is unworthy of healing.

In some circumstances, victims of certain crimes, such as human trafficking or domestic violence, may be forced, defrauded, or coerced into actions that appear to contribute to their victimization.¹⁵ Many states have already taken proactive action to prohibit the consideration of contributory conduct when force, fraud, or coercion caused a victim to take certain actions. OVC encourages all states not to consider, under any circumstances, alleged contributory wherein the relevant actions were committed because a victim was forced, defrauded, or coerced.

Generally, OVC urges those states that consider contributory conduct to revisit their

¹¹ As of November 2023, all victim compensation programs considered a victim's alleged contributory conduct in determining a victim's eligibility for and/or payment of compensation. As of publication of this letter, OVC is aware that at least two states changed their laws, regulations, and/or policies to eliminate the consideration of "contributory conduct" in issuing compensation, and other states are considering making similar changes.

¹² Mike Cataline & Claudia Lauer, *Every state offers victim compensation. For the Longs and other Black families, it often isn't fair*. Associated Press (May 17, 2023), available from: <https://apnews.com/article/crime-victims-compensation-racial-bias-58908169e0ee05d4389c57f975eae49b>.

¹³ Common Justice comment on OVC Proposed VOCA Victim Compensation Rule, April 5, 2024, available from: <https://www.regulations.gov/comment/OJP-2024-0001-3761>. See p. 3 referencing Professor Jeremy Levine of the University of Michigan's analysis.

¹⁴ Ibid.

¹⁵ Coalition to Abolish Slavery & Trafficking on OVC Proposed VOCA Compensation Rule, April 5, 2024, available from: <https://www.regulations.gov/comment/OJP-2024-0001-3736>.

requirements in light of the potential for evidentiary incompleteness or inconsistency (e.g., police reports that may lack complete details or investigatory conclusions, or differences between subjective observations of responding officers) that may underlie contributory-conduct determinations, the potential for bias in such determinations, and the perception by many that such determinations are arbitrary. For states that retain consideration of contributory conduct, OVC encourages them to take actions to increase transparency and reduce the odds of arbitrary reductions or denials of compensation. States can do so by making publicly available a plain-language written policy that sets forth the standard of review, the review process, and an appeal process for any reductions or denials of compensation based on alleged contributory conduct.

Cooperation with Reasonable Requests from Law Enforcement

VOCA requires that *state programs* “promote[] victim cooperation with the reasonable requests of law enforcement authorities, except if a program determines such cooperation may be impacted due to a victim’s age, physical condition, psychological state, cultural or linguistic barriers, or any other health or safety concern that jeopardizes the victim’s wellbeing.” 34 U.S.C. § 20102(b)(2). By contrast, the statute does not include a mandate that individual *victims* must report to or otherwise participate in law enforcement activities related to criminal activity to validate their victimization. Many states, however, shift this burden to victims by requiring victims to demonstrate cooperation with reasonable requests of law enforcement. Because many victims are unable or choose not to cooperate with requests of law enforcement, this requirement can become another significant barrier to victims’ access of compensation and critical resources that could assist in their healing.

Commenters expressed concern that state requirements that victims report crimes to or otherwise prove cooperation with law enforcement can operate as barriers to compensation for victims. The Center for American Progress analyzed OVC’s state compensation data and determined that in 15 state compensation programs, more than 1 in 4 eligible applicants were denied compensation because the state determined that the victim did not cooperate with reasonable requests of law enforcement such as filing a police report.¹⁶ Moreover, approximately half of all victimizations are never even reported to law enforcement.¹⁷ A recent study found that “Black, Indigenous and ‘other’ race victims stand out as the most likely to be denied” compensation based on whether they were determined to have cooperated with law enforcement and whether they engaged in any misconduct that may have “caused” the victimization.¹⁸ State programs that employ this kind of reporting requirement “would effectively bar a substantial

¹⁶ CAP’s analysis of OVC 2022 State Performance Reports available at <https://ovc.ojp.gov/states>.

“Calculated as the 2022 share of applications denied in a given state of all total denials not including denials based on ineligible crimes, applications, or incomplete information.”

¹⁷ Maki, J. and Warnken, H. See p. 5, citing Langton, L., Berzofsky, M., Krebs, C. P., & Smiley-McDonald, H. (2012). *Victimizations Not Reported to the Police, 2006–2010* (NCJ 238536). Washington: Bureau of Justice Statistics. <https://bjs.ojp.gov/library/publications/victimizations-not-reported-police-2006-2010>.

¹⁸ Levine, Jeremy, (2024), pp. 4-5, *supra* note 10.

percentage of their state's population" from being eligible for compensation.¹⁹

There are many reasons that some victims may not report to or cooperate with law enforcement, including safety concerns; lack of trust in the justice process; fear of retaliation or repeat victimization; language barriers.²⁰ Victims, advocates, state administrators, and other stakeholders reported that victims in Tribal jurisdictions are frequently unable to report to law enforcement because the jurisdiction may not, at a minimum, have law enforcement or accessible law enforcement, or there is confusion about which law enforcement agency has jurisdiction over the matter. Because many victims are not able to cooperate with reasonable requests from law enforcement, these requirements can significantly restrict victims' ability to access compensation following their victimization. Requiring that a victim provide proof of cooperation can accordingly exclude many victims from compensation.

There are many ways that states compensation programs can promote victim cooperation without mandating specific actions. One simple way for states to promote victim cooperation is to post law enforcement contact information on state compensation program websites and inform victims of how to contact law enforcement in the event of a crime. States can also meet the requirement by providing resources and support for victims that encourage, rather than compel, them to cooperate.

States understandably place considerable value on the evidence that a police report or other victim-initiated acts of cooperation may provide in pursuing justice and preventing additional criminal activity. And states may view proof-of-cooperation requirements as helpful in furthering those evidentiary goals. But this interest should be balanced with the significant costs that mandating victim cooperation as part of the compensation eligibility determination may have on victims and the shared federal and state goal of compensating victims of crime. OVC encourages states to further their critical interest in obtaining evidence and pursuing prosecutions, and to comply with the VOCA requirement that states promote cooperation with law enforcement, through practices other than mandated individual cooperation.

Allowable Compensation Expenses

The efficacy of compensation funding to achieve the goal of promoting healing for victims can depend in large part on the breadth of expenses that state programs consider eligible for reimbursement. OVC heard from state administrators, advocates, and victims about the importance of VOCA Victim Compensation availability for a broad range of medical expenses, including assessment, diagnosis, comprehensive treatment, long-term care, treatment of

¹⁹ University of Baltimore Center for Criminal Justice Reform comment for OVC Proposed VOCA Victim Compensation Rule, April 5, 2024, available from: <https://www.regulations.gov/comment/OJP-2024-0001-3768>. See p. 7.

²⁰ GIFFORDS comment on OVC Proposed VOCA Victim Compensation Rule, April 4, 2024, available from: <https://www.regulations.gov/comment/OJP-2024-0001-2423>. See p. 2, citing Alliance for Safety and Justice, *Crime Survivors Speak 2022: National Survey of Victims' Views on Safety and Justice* (2022); Esperanza United comment on OVC Proposed VOCA Victim Compensation Rule, April 4, 2024, available from: <https://www.regulations.gov/comment/OJP-2024-0001-3693>; Common Justice comment on OVC Proposed VOCA Victim Compensation Rule, April 5, 2024, available from: <https://www.regulations.gov/comment/OJP-2024-0001-3761>. See p. 3.

underlying conditions that affect the treatment of the victimization impact, medication (*e.g.*, prescription, non-prescription, prophylactic), and (as appropriate) traditional healing practices. OVC encourages states to broadly interpret allowable medical expenses to include, but not be limited to, the services listed above.

OVC also encourages states to consider providing compensation for comprehensive and long-term mental health services and the treatment of underlying conditions affecting the treatment of conditions attributable to the victimization. Advocates, victims, and state administrators reiterated that healing often involves treatment of underlying mental health or dental issues that were directly or indirectly impacted by the crime, explaining that healing is not possible where there is an artificial limitation to treating the immediate injury experienced as a result of the crime. Rather, healing may require holistic treatment of pre-existing issues to help support recovery.

To fully support a crime victim's efforts to heal, OVC encourages states to consider covering a broad range of services and care that comprehensively address the treatment of injuries resulting from and/or impacted by victimization, including pre-existing issues as appropriate. For example, a state might rely on a policy establishing presumptions of causation where determining actual causation for pre-existing mental health or dental issues is burdensome or could delay or complicate treatment of the victimization injuries.

Submission Requirements

OVC heard from victims, advocates, state administrators, and stakeholders about the many ways in which procedural requirements can impede access to compensation for victims. In the aftermath of a crime, victims should not be excluded from compensation programs by unreasonable process requirements, logistics, and costs—particularly when such requirements impose barriers at the outset that could reasonably be handled later in the process when a victim may have more support from the compensation program. OVC encourages states to consider ways to simplify the initial application process in order to expand and ease access to compensation for eligible victims.

For example, many states require victims to submit compensation applications within a certain time-period after the crime.²¹ Victims frequently have trouble complying with these deadlines because they either learn about compensation opportunities too late, or because they are unable to complete applications while they are dealing with the aftermath and trauma of the crime itself. States may wish to extend or avoid deadlines absent compelling need and to provide good-cause waivers for deadlines that are imposed.

Similarly, a number of states still have requirements for victims to notarize their initial compensation application. Notary requirements can be burdensome, and may discourage victims from pursuing compensation. Victims may misunderstand the role of a notary and fear appearing

²¹ 34 U.S.C. § 20102(b)(9) mandates tolling of application deadlines in sexual assault or offenses cases where there was a delay in testing a sexual assault forensic exam kit or biological material collected as evidence related to a sexual offense, but does not otherwise impose timing restrictions for compensation applications.

before a notary.²² As of August 2024, OVC is aware of only two state programs that may still impose notary requirements on applicants.²³ The remainder of states use less burdensome practices to authenticate compensation applications like accepting a victim's signature. As state programs review application and specific reimbursement requests, state programs have the opportunity to seek additional verification of expenses such as paid medical bills.

Finally, it is essential for states to ensure that application requirements and standards for eligibility determinations are explained in a clear and accessible manner. OVC encourages states to enhance transparency and access to compensation by making publicly available in plain language all laws, regulations, and policies that set forth states' eligibility criteria, standard of review, the review process, and appeal process. States are also encouraged to have strong language access plans in place to make information about compensation available in multiple languages in order to reach the widest possible audience. The Department's Office of Justice Programs released a [language access plan](#) to serve as a resource for grantees and encourages state compensation program staff to consult with OJP or OVC when developing comprehensive language access plans.

Tribal Engagement

There is no separate OVC-funded victim compensation program for Tribal jurisdictions. However, people who reside in or are victimized in Tribal jurisdictions may access state victim compensation programs. *See generally* 34 U.S.C. § 20102(b)(1). During listening sessions with American Indian and Alaska Native survivors, advocates, and other stakeholders, participants reported numerous obstacles in accessing compensation, including lack of (a) awareness that compensation is available to American Indian and Alaska Native survivors, and (b) accessible law enforcement with whom to file a state-mandated police report, in addition to barriers to receiving compensation for culturally relevant services. Given the diversity of Tribal jurisdictions and resources, effective compensation for American Indian and Alaska Native persons and persons in Tribal jurisdictions requires proactive coordination by state compensation programs with the relevant Tribal sovereigns.

States with American Indian and Alaska Native Tribes can help expand access to compensation by putting in place meaningful plans that: (1) make Tribal communities aware of these programs and the steps required to successfully apply, including addressing the unique barriers that many American Indian and Alaska Native survivors face if states require compensation applicants to report to law enforcement; and (2) address the provision of compensation for culturally appropriate expenses and services. Several states currently have plans in place to increase outreach to Tribal communities about crime victim compensation and allow reimbursement for culturally specific victim services that reinforce social and familial bonds and preserve indigenous culture.

²² *Esperanza United*, *supra* note 20.

²³ Based on research and information provided by state programs, OVC determined that as of August 2024, only two states have laws, regulations, or policies that require a victim to notarize a victim compensation application.

Conclusion

We want to acknowledge the bravery of the crime victims and survivors who shared their personal accounts with OVC, and the honest and invaluable contributions of advocates, service providers, and state compensation administrators and program staff. We remain committed to working in collaboration with state compensation programs to break down the barriers that prevent so many victims from accessing the critical financial support they need. We remain steadfast in our commitment to advance our shared goal of serving all victims of crime.

Sincerely,

A handwritten signature in black ink, appearing to read "Kristina Rose". The signature is fluid and cursive, with the first name "Kristina" written in a larger, more prominent script than the last name "Rose".

Kristina Rose
Director