

Crime Victim Compensation

Q U A R T E R L Y

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INSIDE

- Congress Takes Step Toward \$575 million VOCA Cap
- Wyoming Hosts Great Western Regional
- Special Forensic-Exam Programs Help Victims of Sexual Assault
- New Jersey Spells Out Benefits for Families, Disabled, Elderly

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Compensation Programs Cover Wide Variety of Victims' Needs

Identifying and meeting more of the needs of victims are goals being achieved by many state compensation programs, according to a review of the "special" benefits the programs are currently providing. While all compensation programs cover certain basic expenses, like medical care and counseling, lost wages, lost support, and funerals, more and more states are recognizing that a wide variety of other services and losses may be just as important to some victims as they recover from the effects of violent crime.

Arizona and Iowa, for example, are among the states paying for wages lost by victims and family members attending trials. Some states also can pay for trial-related travel expenses incurred by victims and family members.

For domestic-violence victims, replacing lost support from offenders who are no longer contributing economically to their spouses or families is a benefit paid in a growing number of states. Many states also are paying for relocation expenses in domestic violence and sexual assault cases. Reimbursable costs also could include utility hookups, a limited amount of rent, and even lost wages resulting from relocation, rather than injury.

A majority of states will pay for modifying vehicles and homes for use and accessi-

bility by disabled victims. And many states can pay for services like housekeeping and child care that were formerly provided by a murdered or injured victim.

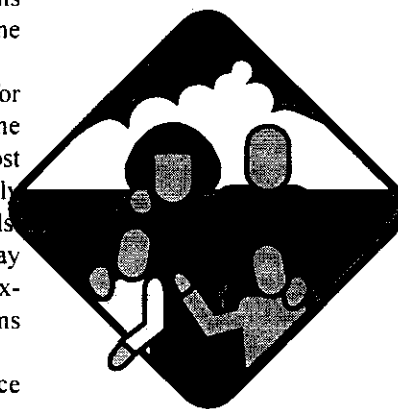
Counseling benefits are being expanded to include more family members, as well as people who have witnessed crimes, such as children in domestic violence situations.

Crime-scene cleanup costs are reimbursed by a growing number of states. Some states pay for replacing clothing and bedding held for evidence. Many states now pay for replacing locks and installing security systems and devices.

Fifteen state compensation programs operate special procedures to pay for forensic examinations in sexual assault cases, and a number of other expenses related to testing and treating rape victims. (*See p. 6.*)

Other expenses paid by some compensation programs include self-defense classes, service animals, stolen Social Security or pension checks, and costs incurred in retrieving abducted children.

While most of these "miscellaneous" expenses are not big-ticket items, compensation programs know that for some victims and their families these costs may loom large in the process of recovery. For those programs given sufficient resources and authority, victims can be helped in many new and important ways.



President's Message



We in the Victims of Crime Program in the State Board of Control are really looking forward to the Association coming to San Francisco for our annual conference, Nov. 1-5. We know you're going to love our beautiful City by the Bay, and we're working with the Association's Board and executive director

to plan an agenda that will be productive and exciting for everyone attending. We hope you're making plans to join us.

Our conferences always give us an opportunity to see how our members are making positive changes and improving their operations and their service to victims. I know I always learn so much from what others are doing, and I'm always able to take home ideas to implement. While California will be given some time in November to talk about our program, I thought you might be interested in a brief look at some of the things we've been trying to do in recent months.

First, with a lot of staff input in meetings and conversations, we've engineered a reorganization of our program to help us fully implement our vision and mission. While this process has been challenging, we believe we will see a marked improvement in staff morale and in our ability to provide better service to victims.

We've engaged in several special activities to demonstrate our commitment to victims and create a more profound awareness among our staff of the devastating trauma of crime victimization. Many members of our staff joined me in the Victims' Rights March on the State Capitol early in April. During Victims Rights Week, we worked with the California Coalition of Battered Women in setting up a display of "Silent Witness" silhouettes, with each life-size image serving as a dramatic memorial to women murdered in domestic violence. We also sponsored a special victim training for our staff, featuring NOVA Executive Director Marlene Young and the Victim Impact Panel of the California Youth Authority's Office of Prevention and Victim Services.

Another primary goal has been to eliminate a substantial backlog of claims and bills. We temporarily directed all available staff to our "Bon Voyage Backlog" initiative, and we reduced our inventory by 80% in just three months, while continuing to process aggressively our current claims. We're very proud of this accomplishment, achieved through lots of hard work and dedication from our staff.

We've also completed a new application form, which reduces a cumbersome eight-page application to a new one-page, double-sided self-mailer. We hope the simplified application will make us more accessible, and we're expanding substantially our distribution of it to reach more potential recipients.

I know that many other states are making similar progress, and that's why I'm so eager to meet with you later this year. We all gain so much when we share our successful strategies. See you soon!

—Kelly Brodie

National Training Conference 2000

San Francisco Holiday Inn Fisherman's Wharf, Nov. 1-5

Managers, Staff, and Board Members of victim compensation programs are invited to spend 5 days by the Bay discussing current challenges and sharing new ideas. A perfect location in the nation's most beautiful city promises what should be our best conference ever.

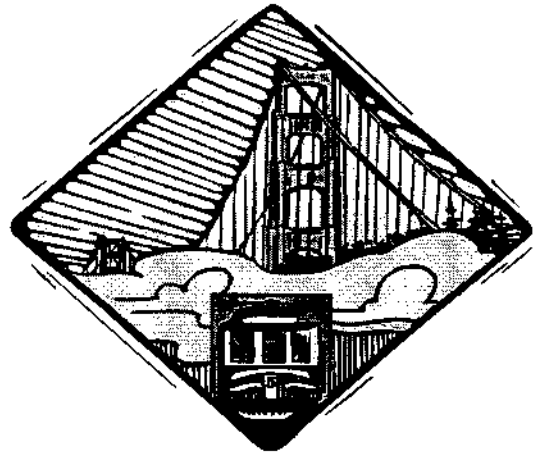
Our special conference rate of \$139 + 14% tax (the federal per diem rate for S.F.) is available by calling the Holiday Inn at 1-800-942-7348 or (415) 771-9000. Conference fees will be \$150 for the first 3 registrants from each state, and \$125 for all others. For further information contact Dan Eddy at (703) 370-2996.



National Conference

San Francisco, November 1- 5, 2000

Make plans to be with your colleagues at the Association's 2000 National Training Conference, where the best strategies for providing financial assistance to crime to victims will be explored over five days in the most beautiful city in America. Compensation program managers, staff, and board members from across the nation will join together at this one-of-kind gathering, with an agenda designed to meet every participant's training needs. We also expect several international visitors representing their countries' compensation programs, as well as our friends from the Office for Victims of Crime to discuss new program guidelines and other VOCA grant matters.



Registration forms have been sent to all compensation program directors and state VOCA administrators. We'll see you soon in San Francisco!

Wednesday, November 1

- 2:30 - 3:15 p.m. ***Compensation 101***
3:30 - 5:00 p.m. ***Advanced Issue Discussions***
1. Program Managers
 2. Claim Specialists
 3. Board Members

Thursday, November 2

- 7:30 a.m. Continental breakfast
8:30 a.m. ***Opening General Session***
1. Welcomes
 2. Compensation in California
 3. Victim Panel
- 10:30 a.m. ***21st-Century Victim Compensation: Challenges and Opportunities***
- 1:00 - 2:30 p.m. Concurrent Workshops
1. ***Managers: Developing Strategic Plans***
 2. ***Claim Specialists: Keys to Productivity***
 3. ***Board Members: Defining Your Issues***
 4. ***Legal Counsel Roundtable***
- 3:00 - 4:30 p.m. Concurrent Workshops
1. ***Managing Large Programs***
 2. ***Managing Small Programs***
 3. ***Board Members: Making Fair Decisions***
 4. ***Hate Crimes and Immigrant Exploitation***

Friday, November 3

- 7:30 a.m. Continental breakfast: ***Regional Meetings***
8:30 - 10:00 a.m. Concurrent Workshops
1. ***Managers: Establishing Financial Controls***
 2. ***Claim Specialists: Calculating Lost Income***
 3. ***Board Members: Contributory Conduct***
 4. ***Outreach: Building a Successful Strategy***

Friday, Nov. 3 (continued)

- 10:30 a.m. - noon Concurrent Workshops
1. ***Managers: OVC Guidelines***
 2. ***Claims Specialists: Contributory Conduct***
 3. ***Board Members: International Perspectives***
 4. ***Outreach: Advanced Communications***
- 1:30 - 3:00 p.m. Concurrent Workshops
1. ***Managers: Benefits for Special Populations***
 2. ***Claims Specialists: Objectivity & Diversity***
 3. ***Outreach: Specialists' Roundtable***
 4. ***Automation Demos***
- 3:30 - 5:00 p.m. Concurrent Workshops
1. ***Managers: Motivating and Measuring***
 2. ***Claims Specialists: Talking with Victims***
 3. ***Managing Mental Health Claims***
 4. ***Automation Demos***

Saturday, November 4

- 7:30 a.m. Continental breakfast
8:00 - 10:00 a.m. ***Association Business Meeting***
10:30 - noon: Concurrent Sessions
1. ***Personal Development Training***
 2. ***Using New Technology***
- 1:30 - 3:00 p.m. Concurrent Sessions
1. ***Personal Development Training***
 2. ***Combining Resources: Joint Programs***
- 3:30 - 5:00 p.m. Concurrent Sessions
1. ***Personal Development Training***
 2. ***Paying for Forensic Exams***

Sunday, November 5

- 8:00 - 10:00 a.m. ***Closing General Session: Meeting Challenges, Creating Opportunities***

Arizona Increases Benefits, Gains Unclaimed Restitution

Increases in benefits and an extension of the filing period highlight changes going into effect this summer for Arizona's victim compensation program.

The Criminal Justice Commission, which administers the program through 15 county district attorney office's, increased the maximum award to \$20,000; boosted funeral benefits to \$5,000; and expanded mental health counseling to 36 months from the first session.



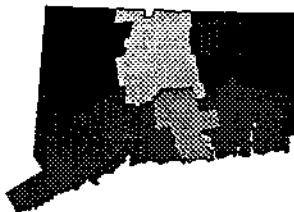
The commission also authorized wage loss benefits of up to 40 hours a month for victims and family members to attend court proceedings.

In addition, the application filing period was extended to two years, and the time to file an appeal was increased to 30 days.

The state legislature bolstered funding for the program by directing that unclaimed restitution funds be deposited in the compensation fund, instead of the general fund. The measure is expected to add as much as \$200,000 annually to the program.

Connecticut Authorizes Loans To Families in Homicides

In one of the most unusual -- and untested -- legislative moves in compensation history, Connecticut's legislature has authorized the compensation program to make loans of up to \$100,000 to families of homicide victims. The loans will be at zero or 1% interest, with repayment beginning five years from the date the loan was awarded. Loan funds must be used to pay for essential living expenses directly resulting from the loss of income provided by the deceased victim, or pre-existing financial obligations that are not otherwise forgiven or excused.



The bill was championed by the state's Survivors of Homicide organization.

The Office for Victim Services is studying the ramifications and fiscal implications of the new law, which was adopted without any additional funding. For further information, contact Director Linda Cimino at (860) 747-4501.

U.S. House Passes \$575 m. VOCA Cap for FY 2001

Congress took a step toward placing a cap on the VOCA Crime Victims Fund of \$575 million for the coming federal fiscal year with passage in the House of Representatives of the Department of Justice appropriations bill. The bill, which now moves to the Senate, provides a 15% increase over last year's cap of \$500 million, and is \$25 million more than the Administration requested. The bill also directs that deposits above \$575 million in the Fund this year shall be made available in FY 2002 -- the same action Congress took a year ago in deferring \$485 million above the \$500 million cap to expenditure in FY 2001.



Since Fund deposits are expected to be as much as \$750 million this year, the best-case scenario is that well over \$500 million will remain in the Fund for future expenditure once next year's \$575 million is allocated. However, there remains some confusion about exactly how the funds rolled over into future fiscal years can be combined with current collections, and how secure unspent money in the VOCA Fund can remain from one fiscal year to the next. If the Department of Justice or Congress do not guarantee that all deposits collected in the Fund will remain in the Fund, regardless of caps on individual-year expenditures, a huge amount of money intended for crime victims will be lost.

Compensation programs, however, will continue to receive full grants, regardless of whether a cap exists or money is rolled over into future years. The VOCA Fund needs only reach a level of approximately \$200 million to provide every compensation program with 40% of its state-dollar payout, the maximum currently allowed by the statute.

Congress Drops Victims Amendment

In other Congressional news, Senate sponsors of the Crime Victims Constitutional Amendment withdrew the proposal from consideration on April 27 after concluding that passage was not achievable at this time. Support foundered on the specific language of the amendment, as well as a more general feeling of some in the Senate that the Constitution should not be amended for this purpose. Advocates have vowed that they will continue to push for adoption by the requisite two-thirds majority in the future.



Frank Henderson, Jr., has been appointed Secretary of the Association by our Executive Committee. Frank has been serving on our Board of Directors, and has led the Kansas Crime Victims Compensation Board for a number of years. He has been an active participant in national and regional conferences. We welcome Frank to the Executive Committee and thank him for his interest in serving the Association's membership.

Moving up to fill the vacancy at First Vice President created by Ginger Bailey's recent resignation is former 2nd Vice President Jacob Toporek, a commissioner with the New Jersey Victims of Crime Compensation Board. Also ascending the officer ladder are new Second Vice President Sandra Morrison of Mississippi and new Treasurer Larry Tackman of New Mexico. Elections for all officer slots will be held this fall at the Association's annual Business Meeting.



Kathy Sheehan has been named administrator of the Arkansas Crime Victims Reparations Board. Kathy has worked for close to a decade as a claim specialist for the program, attending numerous Association events.

Benedict J. Monachino has been named a commissioner for the New York Crime Victims Board. An attorney, Ben has been serving as a law clerk to a justice of the New York Supreme Court, handling a violent-felony docket. Former Commissioner Lorraine Felegy has moved on from the Board to become counsel and assistant to the director of the Division of Criminal Justice Services in New York state. Lorraine began her career in the mid-'80s as a counsel to the Crime Victims Board and served on the Association's Board of Directors.

Ohio A.G. Assumes Primary Role in Compensation



The Ohio Attorney General's Division of Victim Services assumes initial decision-making responsibilities for the state's compensation program as of July 1. Previously, the A.G.'s office investigated claims and made recommendations for disposition by the Ohio Court of Claims. The court

will continue to be involved as an appeals authority.

The Attorney General also administers VOCA assistance funding for Ohio.

Division Director Brian Cook and his staff have been working hard to ensure a smooth transition, and we wish them every success with their new role in serving victims in Ohio.

Western Regional Draws 17 States to Wyoming

The Wyoming Division of Victim Services hosted the Association's Western Regional in Jackson, Wyoming, May 15-17, with seventeen state compensation programs represented. A wide-ranging agenda offered discussions on contributory conduct, new types of compensation benefits, uses of new technology, and building a statewide crisis response team, among many other workshops.

The Regional was held in conjunction with Wyoming's statewide victim services conference, which brought together close to 150 professionals in victim assistance, law enforcement, and prosecution from across the state.

Thanks to Division Director Sharon Montagnino (shown below) and her hard-working staff for doing so much to make the conference successful!



Paying for Forensic Exams in Sexual Assaults: *Compensation Programs With Special Procedures*

Fifteen victim compensation programs serve rape victims in their states as primary payment sources for forensic exams. While other compensation programs will cover exam expenses as well, these 15 programs are special in offering these benefits through separate procedures designed to expedite payment outside the regular claims process. In other states, police and prosecutors generally are responsible for payment of forensic-exam costs.



The compensation programs with special procedures include:

Alabama	North Carolina
Arkansas	Oklahoma
Delaware	Pennsylvania
Florida	South Carolina
Indiana	Utah
Iowa	Vermont
Maine	Washington state
New Hampshire	

Another state, Oregon, is designated as a primary payment source for forensic exams only for children.

While these programs share some similar characteristics, there are significant differences as well. Most have caps or maximums on how much they will pay, but some do not. Many require the victim's insurance to be billed first, but others do not. About half the states require that the victim report to and cooperate with law enforcement and/or prosecutors, and about half do not impose such requirements. A few programs never know the names of the victims for whom the exams are being paid, since the transaction is one solely between the hospital and the program—the program simply reimburses the hospital for however many exams are done, often in a bill that totals up all the exams for a particular month.

Maximums

Alabama, North Carolina, Utah, Vermont and Washington have no general cap on how much can be paid on forensic exams. Caps in other states range from about \$750 to \$200, with some states using a fee schedule to place maximums on specific procedures.

As examples, Iowa can pay up to \$200 to the facility where the exam is done, and another \$100 for the examiner. Oklahoma pays \$200 for the exam plus another \$50 for medications; Pennsylvania allows \$500 for the exam and other \$100 for medications.

Arkansas, Delaware, Florida, Iowa, Maine, New Hampshire, Pennsylvania, and South Carolina require that providers accept the program's payment as payment in full.

Specific Cost Items

States vary somewhat in the types of individual procedures and tests that they will pay for. Among the specific things states that most states pay for are the following:

- Performing the forensic examination*
- STD testing*
- Hepatitis testing*
- Date-rape-drug testing*
- Pregnancy testing*

In addition, some states will pay for DNA testing to determine offender identity, and preventive drug-treatment regimens for HIV and for hepatitis.

Billing Procedures

Nearly all the states indicated that the hospital or treating facility bills the program directly. About half the states require that the victim's insurance be billed first for the exam, and most of these states also expect Medicaid to be billed if the victim is eligible for those benefits. States that require insurance to be billed indicate that they work hard to train hospitals to bill the compensation program, rather than the victim, for any remaining balance after insurance benefits are paid.

Reporting and Cooperation

Most of the state compensation programs using these special procedures to pay for forensic exams still require that law enforcement be notified of the crime. Some of these states said that the rape-kit form that comes from the hospital to the program has a space on it to be checked to show that police have been notified. A majority of the states do not look further to see whether the victim has cooperated fully in the investigation and prosecution of the crime, but some do contact police and prosecutors to confirm cooperation.

Staffing and Processing

Most states use very few staff to process claims for forensic exams. Many use just one part-time staff. Processing times for forensic claims are generally short, with some programs paying in 10 days or less after receiving a bill, and others taking several weeks. An effort is made to coordinate benefits as necessary with any regular compensation claim the victim files.

Claims and Costs

Naturally enough, the number of claims and total costs to the programs operating these special payment functions vary according to the size of the state. Florida gets more than 4,500 forensic exam payment requests each year, at a cost of \$676,000 annually. Iowa pays close to \$350,000 for 1,500 claims per year, and Vermont covers 100 exams for about \$35,000.

Many states do not provide extra funds for paying for forensic exams; the compensation programs use their regular compensation funds to cover these costs. Some states do have special appropriations from their legislatures to pay for the exams.

VOCA and VAWA

While the federal Victims of Crime Act (VOCA) does not require that state compensation programs pay for forensic exams, it can provide funds for states that do pay for them. Forensic-exam costs are allowable expenses for inclusion in the state's certified payout figure, upon which VOCA's 40% matching grant is based. So, for example, if a state paid \$100,000 in its own dollars for forensic exams in a particular year, the federal government through VOCA would provide \$40,000 to the program—which the program can use for payment of future forensic exams or any other compensable expense.

VOCA does not require that victims of sexual as-

sault and rape “fully cooperate” with police and prosecutors in order for the costs of the exam to be considered compensable and allowable expenses under VOCA. VOCA guidelines, in fact, say that simply submitting to a forensic exam for evidentiary purposes can be sufficient to meet VOCA's requirement that compensation programs must “promote cooperation with reasonable requests of law enforcement.”

VAWA — the Violence Against Women Act — provides grant funds for states (not state compensation programs) that can be used for a variety of purposes in providing services and better police protection for female victims. One of VAWA's eligibility requirements that states must meet to get the funds is a guarantee that victims in the state will not have to bear the costs of forensic exams. While this can be achieved through a variety of means — and again, in most states, it is left up to local police and prosecutors to pay for these exams — states can meet this requirement through using their compensation programs as primary payment sources for the exams.

Again, it is important to note that VAWA itself does *not* provide funds for paying these exams. The benefit to the state in ensuring that victims don't pay for the exams are VAWA grants for other purposes related to preventing violence against women and helping victims of such violence.

Policy Considerations

While states where compensation programs are primary payers of forensic-exam costs may be more successful than other states in ensuring that victims don't bear these costs (no data exists on this score, but it makes sense that a central payment source may be better than scores of local authorities trying to pay), some difficult issues remain. Many advocates urge compensation programs not to require insurance or Medicaid to become involved in payment of the exams, since doing so may compromise a victim's privacy. And some advocates also question requirements for reporting and cooperation, believing that the victim should be able to choose in her own best interest whether to assist police and prosecutors.



New Jersey Rules Govern Special Benefits

Program Helps Domestic Violence Victims, Children, Elderly and Catastrophically Injured

Loss of support for domestic violence victims; expenses for domestic help, child care, and day care; stolen-cash replacement; and greater amounts for victims with catastrophic injury are among the benefits available through the New Jersey Victims of Crime Compensation Program. Program rules spelling out how the benefits shall be paid may be useful to other states considering similar coverage.



Loss of Support in Domestic Violence

The Board "may award compensation for loss of support to any victim or claimant who can establish . . . that, at the time of the incident, a dependency existed upon the income or other economic contributions of the victim's assailant or offender, and which is no longer available to or accessible by the victim."

The Board can only consider money or contributions that the offender was "actually contributing" to the victim or victim's household at the time of the injury to the victim. The Board also reserves the right to review and modify its determination should the victim's dependency, marital or earnings status change.

The loss of support may be compensated only for a period not to exceed 48 months, and only if the offender has ceased providing support for at least two weeks or has been incarcerated or remains a fugitive for at least two weeks. The compensation can be paid only if it does not relieve the offender from any monetary obligation imposed by law. The victim must cooperate in the prosecution of the offender unless a compelling health or safety reason is shown for failure to cooperate.

The victim cannot receive compensation for loss of support for more than two separate incidents involving the same offender, nor receive more than one such award within 12 consecutive months.

Domestic Help/Child Care/Day Care

The Board can pay for "expenses arising out of the hiring of domestic help or providing child care and/or day care for a minor child or an adult who may or may not be the victim . . . but who, nevertheless, is in need of such services and/or assistance as a direct result of the crime."

Domestic help can be paid at a maximum of \$50 per day, with an overall total of \$6,500 available. Domestic help is defined as services which, "taken as a whole, are not medically related" and can include items such as "housecleaning, laundry tasks, cooking, companionship, and other services."

Up to \$6,500 for child care and day care services can be reimbursed for children under 15, when the "service would enable a victim, spouse, surviving spouse of a deceased victim or guardian to continue employment rather than incur a loss of earnings because of the need to provide care . . ." Family members and private individuals can provide these services so long as canceled checks or other evidence is shown to prove payment.

Catastrophic Injury

The Board can provide supplemental awards of up to \$25,000 for a wide variety of expenses for a victim "who has sustained a severe long-term or life-long personal injury." The services include surgical and therapeutic procedures; rehabilitative physical and occupational therapy; up to 200 mental health sessions; home health assistance; residential and vehicle modifications up to \$15,000; and speech therapy.

Stolen Cash

Whether or not the victim suffered personal injury, the Board may make an emergency award of up to \$200 for cash stolen directly from any victim over 60 years or disabled, so long as the victim's income does not exceed the state's General Assistance income limits. More than \$50 must have been stolen, and the victim cannot be reimbursed for more than two incidents, nor receive more than one award within 36 months.