

## SECTION IV

# New Directions in Financial Recovery

**E**ach year, victims of crime suffer enormous financial losses. The costs of medical expenses, mental health counseling, and lost wages alone are estimated at \$105 billion annually. This section addresses the three major avenues that victims can pursue to recover their financial losses due to crime: compensation, restitution, and civil remedies. Chapter 14 addresses crime victim compensation programs, which exist in every state and can pay for expenses such as medical care, mental health counseling, lost wages, funeral expenses, and crime scene cleanup. Chapter 15 discusses restitution, which can be ordered in juvenile and criminal courts as a way to hold offenders financially accountable for their crimes against victims. Finally, Chapter 16 addresses the potential financial as well as preventative remedies that crime victims can seek through the civil justice system.

The recommendations in these chapters address issues such as improving claims management, expanding benefits for crime victims, and utilizing technology to facilitate compensation programs. The restitution chapter calls for mandatory, full, and consistent restitution orders nationwide. In the area of civil remedies, recommendations focus on informing victims and victim service providers of the legal rights of crime victims to pursue reparations through the civil justice system. Each chapter also addresses the importance of education and training for criminal justice, victim service, and allied professionals, as well as victims themselves, about these potential avenues of financial recovery.

## CHAPTER 14

# Crime Victim Compensation

Compensation for victims of crime is one of the earliest forms of victim assistance. The first compensation programs in modern society were established in New Zealand and Great Britain in 1964 based on the concept suggested by British Magistrate Margery Fry in the late 1950s. In the United States, the first compensation program was established in California in 1965. New York, Hawaii, Massachusetts, Maryland, and the Virgin Islands soon followed suit, and by the time the President's Task Force on Victims of Crime released its *Final Report* in 1982, 36 states had established programs.<sup>1</sup> Today, all 50 states, the District of Columbia, and the Virgin Islands operate victim compensation programs.<sup>2</sup>

Compensation programs provide financial assistance to victims of nearly every type of violent crime including rape, robbery, assault, sexual abuse, drunk driving, and domestic violence. The programs pay for expenses such as medical care, mental health counseling, lost wages, and, in cases of homicide, funerals and loss of support.<sup>3</sup> With a few exceptions, however, they do not cover lost, stolen, or damaged property.<sup>4</sup> Most programs cover a basic core of offenses, although eligibility requirements and specific benefits of compensation programs vary somewhat from state to state.<sup>5</sup>

In 1996, state compensation programs paid approximately \$240 million to more than 110,000 victims nationwide.<sup>6</sup> The range of total payments among states is considerable, varying generally by the size of the state. Ten states pay less than \$500,000 annually and about 15 pay more than \$3 million.<sup>7</sup> The states with the two largest programs, California and Texas, pay out nearly one-half of all compensation benefits.<sup>8</sup>

State programs have established limits to the maximum benefits available to victims that typically range from \$10,000 to \$25,000, although a few states have lower or higher maximums. For example, California, Maryland, Minnesota, Ohio, Texas, and Wisconsin have maximum award limits between \$40,000 and \$50,000. It is important to note that New York has unlimited medical coverage, and Washington State has established a \$150,000 cap for medical injuries. In addition, many states have limits on specific compensable expenses such as funerals and mental health counseling. Nationally, the average amount paid to each victim applying for compensation is \$2,000.

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*Crime victim compensation is one of the pillars of victim assistance. For thousands of crime victims each year, it serves as the primary means of financial aid in the aftermath of victimization.*

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Dan Eddy,  
Executive Director  
National Association of Crime  
Victim Compensation Boards

State compensation programs are represented by the National Association of Crime Victim Compensation Boards (NACVCB), an organization founded in 1977 to provide advocacy, training, and technical assistance, and to foster communication among state programs. NACVCB provides a strong national voice on all matters affecting state compensation programs before Congress and the Office for Victims of Crime (OVC). In addition, it provides extensive training to its members on a wide range of issues facing programs today, from administration and funding matters to coverage of emerging areas of victimization.

In 1995 and 1996, with funding from OVC, members of NACVCB and advisers from victim assistance programs developed standards for state compensation programs to achieve four broad goals: effective outreach, training, and communication; expeditious and accurate claims processing; good decisionmaking; and sound financial planning. The states' progress in implementing these standards is discussed throughout this section and in the recommendations.

## **Compensation Issues Addressed by the President's Task Force on Victims of Crime**

Fifteen years ago, the President's Task Force made one significant recommendation for crime victim compensation programs—the creation of a federal funding source to increase support for state compensation programs. That recommendation was followed in 1984 with the passage of the Victims of Crime Act (VOCA), which established the Crime Victims Fund. Today, the Fund reimburses states for up to 40 percent of their annual compensation payments to crime victims.<sup>9</sup>

In addition, the Task Force raised several concerns regarding state compensation programs, including the absence of emergency awards in some states to cover immediate needs for food, shelter, and medical assistance; the need to eliminate or raise the maximum allowable compensation award; the lack of coverage for domestic violence victims due to provisions barring victims living with their batterers from receiving compensation; and differences in residency requirements for eligible crime victims. Many of these problems have been remedied by subsequent federal and state legislation and by increased funding from both state and federal sources.

State compensation programs have grown dramatically since 1982 in the benefits they provide and the types of victims that qualify for these benefits. However, some concerns raised by the President's Task Force, such as the need for timely emergency awards and the raising of maximum limits on awards, have not been fully addressed by all states. While many compensation programs have undertaken extensive public awareness efforts, eliminated minimum loss requirements, and

made efforts to cover such costs as crime scene cleanup and replacement of clothing for sexual assault victims, these gaps in coverage still need to be addressed.

## Impact of the Victims of Crime Act

With the enactment of VOCA in 1984, each state compensation program became eligible to receive annual federal VOCA funds that by statute equaled 35 percent of the state's total payout in the previous year. Subsequent amendments have raised this amount to 40 percent and allowed states to use up to 5 percent of federal funds for administrative costs. The VOCA compensation grant program is administered by OVC, which also provides technical assistance to state compensation programs.

## VOCA Program Requirements

To qualify for federal funding under VOCA, states must:

- Cover medical expenses, mental health counseling, and lost wages, as well as funeral expenses and loss of support for families of homicide victims.
- Consider drunk driving and domestic violence as compensable crimes.
- Not categorically exclude domestic violence victims because they are related to or living with the offender.
- Provide compensation for crime within their borders, even when the victims are from out of state.
- Comply with statistical reporting requirements.

Victims must apply for compensation in the state where the crime occurs. Until the passage of VOCA, many states restricted coverage to their own residents, unless a reciprocal agreement was in place with another state. Since 1986, states have been required to cover both residents and non-residents, as well as victims of federal crimes. Only two states restrict eligibility to U.S. citizens.

## Recent Trends in Compensation

From 1985 to 1992, victim compensation claims doubled, tripled, and even quadrupled in some states. The greater visibility of the programs, the growth in other victim services, and new laws mandating that rights, services, and information be provided to victims resulted in more and more victims applying for financial assistance.

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*In FY 1997, state crime victim compensation programs received \$83,843,000 in federal matching funds from the VOCA Crime Victims Fund.*

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### **Significant Landmarks in Crime**

#### **Victim Compensation**

- In 1965, California established the nation's first crime victim compensation program.
- In 1975, the International Association of Crime Victim Compensation Boards was established.
- In 1977, the National Association of Crime Victim Compensation Boards was created.
- In 1986, state compensation programs received their first funding from VOCA.
- In 1988, the Office for Victims of Crime began providing funding to the National Association of Crime Victim Compensation Boards to support a range of technical assistance and national training efforts. VOCA was also amended to require states to provide benefits to victims of domestic violence and drunk driving.
- In 1992, the first joint conference of state compensation and victim assistance administrators was funded by the Office for Victims of Crime.
- In 1995, with support from the Office for Victims of Crime, a national advisory body composed of state compensation programs and representatives of the victim assistance community established standards for state programs.
- In 1996, the passage of the Antiterrorism and Effective Death Penalty Act required compensation programs to make crimes involving terrorism compensable, regardless of where the terrorism occurs around the world.

More recently, the number of applications has leveled off in many states. Between 1995 and 1996, 23 states reported a slight increase in applications, and 26 states recorded a slight decrease. In addition, many states have moved to control costs and boost funding mechanisms. The result is that while some states are still struggling to pay all eligible claims, more and more have sufficient funds to do so.

The new challenge is for states with adequate funding to determine how best to use their funds and coordinate compensation services with other victim services in the community and across the state. Many compensation programs have increased outreach and public awareness efforts and are educating criminal justice personnel and

allied professionals on compensation benefits. Programs are also working with victims and victim service agencies to identify uncovered expenses. Finally, compensation programs increasingly are using technology to improve program administration and deliver payments to victims more quickly and efficiently. For example, technology has allowed many programs to greatly increase the speed with which they process claims.

## **Eligibility Requirements for Victims**

Each state has eligibility requirements victims must meet to qualify for compensation benefits. While eligibility requirements vary from state to state, virtually all programs require victims to:

- Report the crime promptly to law enforcement. Seventy-two hours is the general standard, although a few programs have shorter or longer periods. Nearly all states have “good cause” exceptions applied liberally to children, incapacitated victims, and others with special circumstances.
- Cooperate with police and prosecutors in the investigation and prosecution of the case.
- Submit a timely application to the compensation program, generally within one year from the date of the crime. A few states have shorter or longer deadlines, and most have the ability to waive these deadlines for exceptional circumstances. Children are generally excepted from timely filing requirements.

Victims are required to provide other essential information as needed by the program, and they generally are not eligible for compensation if the victimization giving rise to the claim resulted from the claimant’s own criminal activity or significant misconduct.

The *VOCA Victim Compensation Final Program Guidelines* encourage state compensation program staff to meet with victims and victim service providers to carefully review whether state statutes, program guidelines, and policies are responsive to the needs of crime victims and to determine possible barriers that might impede a victim’s cooperation with law enforcement.

Possible impediments to cooperation include apprehension about personal safety and fear of retaliation and intimidation by the offender or others. Some victims, for example, are reluctant to cooperate with law enforcement after offenders make threats of violence and death against them and their families. Age, psychological, cultural, or linguistic barriers may also influence the extent of victim cooperation with law

enforcement. For instance, there may be special barriers deterring a young child or senior citizen from “reasonable cooperation.” Likewise, embarrassment and shame may delay the reporting of sexual assault.

Compensation programs are “payers of last resort,” meaning that the victim must exhaust all other sources of insurance or public benefits that could pay for medical care, funeral benefits, or counseling before receiving compensation. Since these sources must be used before compensation can be paid, eligibility depends on whether the expenses for which reimbursement is sought have not been or cannot be paid from some other source. If another source such as offender restitution could *potentially* make payment, the compensation program generally will pay first and then expect to be repaid if the victim later receives payment.

Another important eligibility requirement is that the victim cannot be engaged in criminal activity or in substantial contributory conduct to the crime. The eligibility of a victim’s dependents or other secondary victims depends largely on the eligibility of the person who suffered the injury or death. If a homicide victim, for example, was engaged in criminal activity at the time of his or her death, the surviving family generally would not be eligible for benefits.

## **Compensation for Federal Victims**

With the passage of VOCA, victims of crimes that occur under federal jurisdiction, such as on Indian reservations, military installations, national parks, and other federal lands, became eligible for compensation in the state in which the crime occurred. Because there is no federal crime victim compensation program, each state treats federal crime victims as fully eligible for all the benefits available for victims of state and local crimes. Compensation programs depend on the help of federal victim/witness coordinators to inform federal victims of their opportunity to apply for benefits, and many states have initiated cooperative efforts with them. States are now conducting joint training with federal and state law enforcement personnel and planning and implementing joint crisis responses to bank robberies.

## **Compensation for Victims of Crimes Occurring in Other Countries**

A few states extend coverage to residents who are injured in other countries, but awards are usually conditioned upon the victim first applying in that country. A number of countries, including Canada, Great Britain, Germany, France, Sweden, and Australia, have compensation programs. In 1997, OVC and the U.S. Department of State compiled the *International Victim Compensation Program Directory*, which provides basic information concerning 30 countries’ compensation programs.<sup>10</sup>



A significant development affecting international crime victim compensation was the passage of the Antiterrorism and Effective Death Penalty Act of 1996, which mandates that crimes involving terrorism become compensable crimes under state crime victim compensation programs receiving VOCA funds, regardless of where the terrorism occurs. To continue receiving VOCA funds, each state must ensure that a resident or nonresident injured by a crime involving terrorism occurring within the state is eligible for compensation. In addition, the state must cover its own residents injured in terrorist acts abroad.<sup>11</sup>

## Benefit Criteria

All compensation programs cover the same major types of expenses, although their specific limits vary. The primary costs covered by all states are medical expenses, mental health counseling, lost wages for victims unable to work because of a crime-related injury, lost support for dependents of homicide victims, and funeral expenses. Nationwide, medical fees comprise well over half of the amount of all compensation awards, and lost wage and support payments comprise the next largest source. In a few states, 20 to 40 percent of awards are now paid for counseling, and compensation in this area is growing rapidly throughout the country. Of total claims awarded nationwide, 25 to 30 percent of recipients are children 17 years of age and younger.

In addition, many compensation programs pay for other essential expenses resulting from violent crime. They include:

- Moving or relocation expenses when a victim is in imminent physical danger, or when relocation is medically necessary in the aftermath of victimization.
- Transportation to medical providers when the provider is located far from the victim's residence or when other special circumstances exist.
- Replacement services for work such as child care and housekeeping the victim is unable to perform because of crime-related injury.
- Essential personal possessions lost or damaged during the crime. Eleven states will cover medically necessary equipment such as eyeglasses or hearing aids, but only a few will cover other items.
- Crime-scene cleanup or the cost of securing a home or restoring it to its pre-crime condition.
- Rehabilitation, which may include physical or job therapy, ramps, wheelchairs, and modification of homes or vehicles for paralyzed victims, and driving instruction.

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*Financial compensation is a tremendously important part of the assistance necessary to help victims recover from the effects of criminal violence. Each year compensation programs in every state across the country are helping tens of thousands of victims of child abuse, domestic violence, sexual assault, and other violent crimes put their lives back together.*

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Ted Boughton,  
Deputy Executive Director,  
California Victims  
of Crime Program,  
State Board of Control



The Alabama Crime Victims Compensation Commission has developed a separate assistance program for victims of domestic violence. The program pays awards of up to \$500 to help domestic violence victims establish independent, violence-free living. Expenses covered include the costs of relocation, document replacement, transportation, and health and welfare needs.

## Emergency Awards

Many states allow the program to make an emergency award to a victim within a few days or weeks. The maximum payment allowed under these awards ranges from state to state. However, emergency awards can pose significant problems due to the difficulty of verifying the claims under such expedited situations and because of the delays in processing other claims when staff must attend to emergency requests. Most programs limit emergency awards to cases of extreme hardship.

According to an October 1997 survey of compensation programs, 36 programs indicated that they provide emergency awards, while another two reported that they handle emergency requests by coordinating with VOCA assistance programs. Fourteen states do not provide emergency awards.<sup>12</sup> Of the states that do, most limit awards to between \$500 and \$2,000. Four states do not place caps on emergency awards under the total award amount.

A number of programs limit awards to instances when disability or death results in lost income and a subsequent problem in paying for food, shelter, and utilities. For other types of expenses, compensation programs reduce the need for emergency payments by calling medical providers, therapists, and funeral homes to ensure that services will be paid for upon review and acceptance of the victim's application.

Several state compensation programs have undertaken extra efforts to ensure that emergency support is available to crime victims.

- Delaware's program helped foster the development of a special fund that uses VOCA victim assistance funds to meet the emergency needs of crime victims when local and state resources and private insurance are not available. Up to \$2,500 is available for emergency services such as crisis intervention, food, temporary shelter, transportation to services, and lock replacement. Financing for the fund comes from a VOCA assistance grant awarded to the Delaware State Police Victim Services Unit. All victim advocates in law enforcement and prosecutors' offices in the state can make requests for funds on behalf of crime victims. The fund is overseen by a committee of representatives from victim service programs.
- Vermont's program has established interagency agreements with sexual assault task forces located within law enforcement agencies to expedite emergency financial assistance to sexual assault victims. Law

enforcement officers have been trained to provide enough documentation about the victimization to the compensation program so that an emergency award can be made within a few days.

There is considerable debate over whether compensation programs are the best vehicles for payment of emergency expenses. Many victim advocates and service providers believe that victim assistance programs should be funded to respond to the emergency financial needs of crime victims, noting that meeting these needs is one of the primary objectives of both VOCA compensation and assistance programs according to VOCA Guidelines. In addition, assistance programs are not limited by the eligibility requirements of compensation programs, and it will usually be quicker to seek assistance from a local victim assistance program than from a distant state agency. With the huge growth in VOCA assistance funding in recent years, state VOCA administrators should consider VOCA's emergency award requirement by providing more emergency funds to VOCA assistance programs.

## **Public Awareness of Compensation**

Victims typically learn about crime victim compensation programs from local victim assistance providers, police, prosecutors, and public awareness products such as posters, billboards, and public service announcements. Public awareness of the availability of compensation is critically important because missing the application filing deadline is one of the most painful "second injuries" in the aftermath of victimization.

While some compensation programs have policies for increasing victim awareness of compensation benefits, implementation of the policies can be improved. Notable efforts to increase public awareness of crime victim compensation have been undertaken by many states, including Arkansas, Texas, and Ohio.

- Arkansas' compensation program distributes notification cards to crime victim service providers, law enforcement officials, and the state's victim/witness coordinators explaining how to help crime victims file a claim. The program's staff prepare monthly news releases with information about the compensation program and the awards that have been made to residents of that county. Members of the state's Crime Victims Reparation Board and the state attorney general and his staff frequently appear on radio and television talk shows to heighten public awareness. During a recent National Crime Victims' Rights Week, the compensation program organized a statewide victims' rights tour with rallies in more than a dozen cities. The program's Smart Choices, Better Chances initiative, funded by an education grant from the U.S. Attorney General's office, educates elementary school students about juvenile violence and the state's crime victim compensation program.

Efforts are also underway to increase awareness of victim compensation on the national level. The National Association of Crime Victim Compensation Boards, with support from OVC, developed significant outreach products to increase awareness about crime victim compensation support in 1996. The Association developed 30-second radio and television public service announcements and two 10-minute training videotapes, one for police and service providers and the other to increase awareness of compensation in Native American communities. Programs that undertake public awareness campaigns, however, need to be prepared for the influx of claims which may, in some states, outstrip available resources.

## **Using Technology to Enhance Claims Processing**

Claims processing is the “nuts and bolts” of any crime victim compensation program. How it is accomplished speaks clearly about a state's commitment to serving victims of crime. Currently, the median time nationwide for processing and paying a compensation claim is 21 weeks, although it takes far less time in some states and more in others.

Many state compensation programs have implemented automated systems to process claims more quickly and accurately:

- New Mexico uses a software system in which staff enter all claim information into a database when the claim is opened. Thereafter, correspondence to the claimant, law enforcement agency, court officials, and service providers can be generated through the database. The software allows the program's director to monitor staff caseloads and productivity by generating aging reports and monthly claims processing statistics. All VOCA reports are also generated automatically. In addition, through the state's restitution database, program staff are able to monitor compliance with restitution orders, generate delinquency notification letters to offenders, and generate periodic restitution reports.
- Iowa uses different software, but it also provides the program director with an efficient way to track every claim from the moment the victim calls or writes to the office for assistance. Like New Mexico's system, the database can be used to generate correspondence with the victim, the district attorney, the courts, probation, and service providers.

## **The Office for Victims of Crime Mentoring Program**

The Office for Victims of Crime established a nationwide compensation mentoring program in 1995 that facilitates state-to-state transfer of knowledge of compensation program staff expertise. Under this program in 1996 and 1997:

- Iowa's program modified its claims processing software to meet the specific needs of the District of Columbia, Kansas, Rhode Island, and South Dakota.
- Florida's program installed a copy of its compensation claims tracking software for use by the Mississippi program.
- California's program staff assisted Hawaii in evaluating their restitution process.
- New Mexico's program staff provided mentoring to the Vermont program to help improve its compensation claims processing system.
- Georgia's program staff visited the Texas compensation program to study claims processing, workflow, and program operations.

## Funding of Compensation Programs

Two primary state sources, in addition to federal VOCA dollars, provide funding for victim compensation programs: funding from fees or charges that offenders pay in state and local courts and funding from general revenue appropriations from legislatures. According to the National Association of Crime Victim Compensation Boards, more than four-fifths of the states are in the first category, gaining most of their income from offenders. In fact, in a large majority of states, no tax dollars are involved in either the administration of programs or in the awards they provide to victims.

An increasingly significant funding issue facing compensation programs today is recovering restitution from convicted offenders to help offset the cost of compensation benefits to their victims. Programs are making special efforts to seek restitution from offenders, including working with prosecutors and judges to ensure restitution is ordered and collected.

Several states have developed systems that maximize collections from offenders, insurance, and other parties, and also hold offenders accountable. For example, California aggressively pursues criminal restitution payments owed to crime victims, collection of fines, and community outreach.

Iowa's program recaptures a full 15 percent of its payouts, primarily by mailing notification letters to county attorneys when a victim files a claim, and then again after he or she receives benefits. Iowa has also implemented strategies to initiate contempt of court proceedings against defendants who become delinquent in their restitution payments and garnish and assign their wages. To accomplish these reforms, Iowa pushed for legislative changes that:

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*A broader appreciation of the economic impact of crime and victimization, coupled with the intense desire to hold perpetrators accountable for their misdeeds, has resulted in the establishment of crime victim compensation programs in all states and a number of territories, passage of mandatory restitution laws at the federal level and in many states across the nation, as well as victims and their advocates turning to the civil justice system for relief.*

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Carolyn Hightower,  
Deputy Director  
Office for Victims of Crime

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*Both now and increasingly for the future, victim compensation programs must have a mission of service to crime victims to restore dignity and stability to their lives. Compensation programs must function as fully integrated partners in the broader community of criminal justice professionals, advocates, and service providers. Everything flows from this—the basic principles of broad participation in policy development and decision making, efficient claims management, and expanding coverage.*

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Judith E. Beals,  
Chief, Massachusetts  
Victim Compensation  
and Assistance Division

- Specifically list the compensation program as an eligible recipient in the restitution statute so the court can order the defendant to reimburse the program directly. The compensation program is listed second in the order of payment so that the defendant must first pay the victim for their noncovered losses.
- Allow the county attorney to attach a restitution lien to a defendant's property or other assets at the time of indictment so their assets cannot be divested if convicted.
- Enter all restitution orders as civil judgments, which permits the victim or the compensation program to execute a judgment for nonpayment of the debt.

However, fund recovery remains a small source income for programs across the country thus far, with only a few beginning to recover more than 10 percent of their awards.

## **Recommendations from the Field for Crime Victim Compensation Programs**

The promising initiatives highlighted in this chapter, as well as the recommendations that follow, encourage compensation programs to increase their efforts to be strong advocates for crime victims, not only in striving to minimize the financial impact of crime, but working in conjunction with others to ensure that victims get the services and support they need.

The recommendations in this chapter address the following areas: improving claims management, expanding benefits for crime victims, removing barriers and making programs more accessible, enhancing outreach activities and collaborative partnerships, expanding program funding; conducting program evaluations, and applying technology to improve overall operation, communication, and efficiency. Compensation programs across the nation are implementing a number of strategies to meet these goals, and some of the most promising practices are highlighted throughout this chapter.

**COMPENSATION RECOMMENDATION FROM THE FIELD #1**

**Every state victim compensation program should establish goals to process claims, including emergency awards, in the most expeditious manner possible.**

From the victim's standpoint, an important measure of a compensation program's performance is the speed with which it processes a victim's application for benefits. Delays in application processing can result in victims and survivors receiving harassing calls from bill collectors or delaying health or mental health treatment, as well as increased anxiety for crime victims and frustrations for service providers.

It is crucial for programs to impose internal performance standards for processing claims. States should strive to process claims within 90 to 150 calendar days in accordance with the goals established by the National Association of Crime Victim Compensation Boards in 1996. A number of compensation programs have boosted productivity tremendously through automated claims-tracking systems and compensation programs are encouraged to improve their technological capacity to speed processing. OVC continues to support the transfer of this technology and managerial expertise through its mentoring initiative. In addition, programs should notify victims as early as possible whether they are eligible to receive compensation to avoid making victims wait anxiously for months before learning whether they will receive an award.

Compensation programs should strive to process and pay emergency awards within 24 hours. However, because compensation programs must be cognizant of statutory requirements regarding police reporting and non-criminal activity, they may need to contact law enforcement to confirm the circumstances surrounding the crime before an emergency payment is made. States should consider the model used in Delaware and New Mexico, where compensation programs refer some emergency requests to designated VOCA assistance programs that have access to special VOCA emergency grants and are not under the same statutory restrictions as state compensation programs. Moreover, compensation programs should be aware that some victim service programs can help victims meet emergency needs by providing food, clothing, transportation, and shelter, and services such as boarding up broken windows, replacing locks, and arranging security measures.



COMPENSATION RECOMMENDATION FROM THE FIELD #2

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*A woman in her late 60s was raped and murdered. That was nearly 4 years ago. The case has not yet gone to court because of strategically filed motions, one of which was the issue of whether the victim was alive or dead when she was raped. Victims' crime compensation will only pay up to 3 years of counseling. This is still an ongoing traumatic experience in which the family of the victim no longer receives compensation.*

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A Rape Crisis Advocate

**States should examine the nature, level, and scope of benefits they provide for mental health treatment to ensure that all victims traumatized by crime receive financial support for adequate and culturally meaningful counseling services or healing practices. To achieve this goal, victim compensation programs should consult with advisory groups composed of mental health experts to develop guidelines for counseling benefits, including appropriate treatment lengths and types of mental health providers, documentation requirements for treatment plans and progress reports, and payment levels.**

Compensation programs have an obligation to review whether they are dealing appropriately with the mental health needs of crime victims. Mental health counseling benefits covered by state compensation programs vary greatly across the nation. Currently, 22 states do not place a limit on the amount of mental health benefits they will award, and victims in those states can qualify for mental health coverage up to the state's maximum compensation award. The other states restrict mental health benefits to some degree, generally by: limiting the length of treatment for which compensation may be awarded, limiting the number of counseling sessions that may be covered, or imposing a maximum dollar limit for counseling benefits.<sup>13</sup>

In the few states that limit the length of allowable treatment, limits generally range from 6 to 18 months. In states that limit the number of compensable counseling sessions, the number generally ranges from 26 to 50 sessions. In states that limit benefits to dollar amounts, allowable compensation ranges from \$1,500 to \$5,000. However, there are numerous exceptions to these restrictions. Several states apply distinct criteria depending on the type of crime or the age of the victim. For example, California allows up to \$10,000 for direct victims and surviving family members of homicide victims, Florida allows up to \$2,500 for adult victims and \$10,000 for minors, and Idaho allows up to \$2,500 for direct victims, \$500 for surviving family members of homicide victims, and up to \$1,500 per family following sexual assaults.

For child victims, 29 states provide \$10,000 or more in counseling benefits. Of those states, 18 can authorize \$25,000 or more, six provide at least \$5,000, three provide \$3,000, five provide \$2,500, three provide \$2,000, and one provides \$1,500.



Victim advocates and crime victims have raised the concern that some state ceilings on counseling benefits may be too low, especially for victims of catastrophic physical injury, sexual assault, domestic violence, and child abuse. Compensation programs should be cognizant of research findings that may inform their policies and standards, and should consult with therapists to gain better insight into victims' needs, particularly children. Standards for mental health treatment should also be informed by the advice and input of advisory groups comprising leading representatives of the mental health community.

#### COMPENSATION RECOMMENDATION FROM THE FIELD #3

### Victim compensation programs should expand the types of victims eligible to receive counseling benefits.

All but six states compensate surviving family members for mental health counseling. Every state should provide this vital service. Losing a loved one to homicide is one of the most traumatic events a person can experience. Survivors of homicide victims experience feelings of intense grief and overwhelming loss, often accompanied by guilt, shame, anger, depression, isolation, and spiritual crisis. Survivors face a long period of emotional struggle, and mental health counseling should be available to help them rebuild their lives.

Children who witness violence—the silent victims—should have access to counseling paid for by compensation programs. According to recent research conducted by the Medical University of South Carolina with funding from the National Institute of Justice, 43 percent of male adolescents and 35 percent of female adolescents surveyed had witnessed some form of violence firsthand, and of these young witnesses, 15 percent developed post-traumatic stress disorder (PTSD), compared to 3 percent of surveyed youths who had not witnessed violence.<sup>14</sup> Research also reveals that exposure to violence adversely affects children's development, emotional stability, and risk-taking behavior. Children who display symptoms of PTSD should be treated by specialized mental health services and psychotherapists with expertise in childhood PTSD, depression, and grief/mourning.<sup>15</sup>

In a recent survey conducted by the National Association of Crime Victim Compensation Boards, two-thirds of the states indicated that they are authorized to pay for counseling for children who witness domestic violence.<sup>16</sup> Some state compensation programs fund benefits for all child victims and witnesses, and a few states are making special efforts to help secondary victims. Utah and Iowa now pay up to \$1000 for mental health counseling for secondary victims who witness or are traumatically affected by violent crime, including children who are psychologically harmed by incidents of domestic abuse.

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*We had to deny mental health counseling benefits to a grandparent for a deceased grandchild as they were not considered 'eligible applicants' through the victim compensation program.*

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A Claims Analyst  
Crime Victims Compensation

In addition, the needs of many white collar crime victims are overlooked. Traditionally, counseling services are provided to victims of violent crime but are not generally available to victims of serious white collar crimes such as telemarketing fraud. These crimes have severe consequences in the lives of their victims. Fraud, for example, can have a devastating impact by depriving people—often seniors—of their life savings. Compensation programs should evaluate how they can assist victims of white collar crime who suffer significant financial loss, particularly by providing intervention with the elderly, who are especially vulnerable to revictimization.

Finally, compensation programs should evaluate whether the mental health needs of workplace violence victims are being met, including bank tellers and other people present in banks when they are robbed. In some states, these people are considered witnesses, not victims, despite the high level of trauma they suffer. Large financial institutions have established policies for addressing the immediate needs of employees in the aftermath of a bank robbery. These institutions provide on-scene crisis response and immediate counseling services as well as referrals for victim assistance and other support services available through employee assistance programs. However, where crisis intervention services are not made available by financial institutions, victim compensation programs should extend compensation to cover counseling services.

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*My little boy was struck by a drunk driver and was in a coma for 10 weeks. The [driver] had no insurance and we are stuck with the bills, which have now topped the \$500,000 mark. We lost our home and my ability to support my family. All because of a drunk driver.*

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The father of a drunk driving crash victim

#### COMPENSATION RECOMMENDATION FROM THE FIELD #4

### **Victim compensation programs should increase medical benefits for victims of catastrophic physical injury.**

Occasionally, a victim's losses due to catastrophic injury exceed the state program's cap on benefits. Victims who are permanently disabled as a result of their victimization will likely pay for installing wheelchair ramps in their homes, modifying vehicles, as well as other transportation, communication, or medical aids.

Compensation programs must go beyond the norm to help victims who are significantly injured as a result of crime. Two states have done so by raising their maximum amounts of medical benefits. The state of Washington provides up to \$150,000 in medical benefits for victims of catastrophic injury, and New York provides unlimited medical coverage. In addition, Texas provides a separate compensation award for special home and health aids for victims of catastrophic injury.

State compensation programs should strive to increase compensation coverage for victims who have suffered serious injuries. The 1997

*VOCA Victim Compensation Final Program Guidelines* allow states to include expenses not specifically identified in VOCA, such as medically necessary devices and building modifications, in their annual certification to OVC,<sup>17</sup> which is the basis for determining the amount of federal funding a state will receive.

**COMPENSATION RECOMMENDATION FROM THE FIELD #5**

**Victim compensation programs should eliminate restrictive statutory reporting requirements and permit victims to report the crime within a reasonable period of time and to agencies other than law enforcement.**

Most state statutes governing compensation programs mandate that victims report the crime to law enforcement within a limited period of time, generally 72 hours. The large majority of states have already removed, in practice or by statute, this reporting requirement for cases involving child sexual abuse. Moreover, many compensation programs currently allow victims to delay reporting for legitimate reasons such as incapacity due to injuries or hospitalization.

Research indicates that the majority of some categories of crime victims, such as sexual assault victims, never report the crime to law enforcement because of their fear of participating in the criminal justice system and retaliation from the perpetrator. A nationwide study of rape victims found that only 16 percent report the crime to the police, and more than half of these victims do not report the crime immediately.<sup>18</sup>

Many victims, including victims of domestic violence and gang violence, often report late, if they report at all, due to threats of intimidation and legitimate fears of physical retaliation from significant others, caretakers, employers, and friends. Only with counseling and encouragement are many victims able to acknowledge their victimization, even to their closest associates, and report it to law enforcement. The requirement of immediate reporting to law enforcement denies these victims compensation they could use to pay expenses for important services such as medical care, counseling, and funeral arrangements. It is time for states to reassess their reporting requirements and remove unrealistic barriers for victims to receive compensation.

In 1997, Texas removed its statutory time requirement and now requires that a report be made “within a reasonable period of time so as not to unduly interfere with or hamper the criminal justice investigation.”<sup>19</sup> It did so after learning that most rape crisis centers discourage victims from filing claims if they had not reported the crime to

law enforcement within 72 hours. New York allows the report in family violence cases to be made to the family court in the form of a petition for an order of protection or a determination that a family offense occurred. California does not set a time limit on when a report to the police must be made, rather it simply requires that the report be timely. In addition, California accepts reports to law enforcement in domestic violence cases from sources other than the victim, including battered women's shelters, friends, relatives, neighbors, and members of the clergy.

**COMPENSATION RECOMMENDATION FROM THE FIELD #6**

**Statutorily mandated time restrictions on filing claims that require crime victims to apply for compensation within one year of the crime should be reevaluated. State compensation programs should consider eliminating filing restrictions or at least extending the time limit to three years, as was done in Texas and Massachusetts.**

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*There is no longer a reason that there should be a time limit. The issue is: Can the victim prove the claim and is the information available to make an informed decision?*

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Richard Anderson,  
Director, Texas  
Compensation Program

Every state except Vermont requires that victims submit a timely application to the compensation program, generally within one year of the date of the crime. While filing deadlines historically have been a part of compensation program requirements because of a legitimate need to have accurate documentation, according to Lori Hayes, Executive Director of the Vermont Center for Crime Victim Services, they impose "an artificial and harsh burden upon victims who very well may be overwhelmed by the trauma of the victimization and the frustration of dealing with a slow-moving criminal justice system."

Some states have even shorter filing deadlines than the standard one-year limit. Six states require that victims file a claim within 6 months after the crime occurs. Other states have longer timeframes. Nine states allow victims to file a claim up to two years after the crime, and two states, Massachusetts and Texas, have extended the filing deadline to three years.

The majority of states waive or extend the filing deadline for victims of child abuse. This is especially critical because child abuse victims should not be penalized when their parents fail to file a timely claim. Because the effects of child sexual abuse may not be manifested until adolescence or later, child victims should be permitted to apply until the age of 21. A number of states also make good cause exceptions for victims of sexual assault and domestic violence, as well as for the elderly and victims with disabilities.

For victims who are significantly traumatized by a crime, such as survivors of homicide or victims of sexual assault, the effort required to file a claim may be too overwhelming to undertake for many months. This legitimate hardship should not jeopardize their eligibility for receiving a compensation award. Other victims may not have been informed of their right to receive compensation within the filing deadline. For example, Mothers Against Drunk Driving (MADD) has reported several cases in which badly injured victims of drunk driving crashes were not informed by law enforcement of possible compensation benefits or referred to MADD or other groups for counseling services. Eventually, these victims contacted MADD, but the filing deadline to receive a compensation award had passed and their claims were denied.

Recognizing that the real concern should not be the timeliness of claims but rather the availability of accurate information to support them, the Texas Legislature recently extended the state's filing deadline to 3 years. This reform should be seriously considered by other states so that compensation is available to the greatest number of injured victims, including those who are not notified of their right to compensation benefit by those responsible for doing so.

#### COMPENSATION RECOMMENDATION FROM THE FIELD #7

**Every victim compensation program should coordinate with victim assistance programs to develop an effective community outreach strategy to increase public awareness about the purpose and availability of crime victim compensation. This strategy should include extensive outreach efforts to ensure that all victims, regardless of their race, culture, or language, have knowledge of and access to compensation program benefits.**

Compensation programs must widely publicize the availability of compensation benefits for crime victims. A major focus of any outreach program must include educating those who work with victims of crime on a daily basis, including law enforcement officers, victim service providers, advocates, and medical and mental health professionals. Ultimately, it is the responsibility of every person who assists victims on the frontline to inform them that they may be eligible for compensation.

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*A man whose son was killed by a gun shot had made arrangements and paid for the funeral himself before I was brought into the situation. He was so grateful to learn about crime victim compensation and to be reimbursed for those expenses. Without victim assistance being involved he would have never been told of these benefits.*

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A Victim Advocate

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*I can't think of a better way to bridge the gaps in services, or to effectually provide a 'continuum of care' for victims of crime, than to join forces with our victim assistance colleagues. Through a unified, coordinated approach, victim compensation and victim assistance professionals can more adequately meet the fundamental needs of victims. This is what we as professionals want, this is what victims of crime need.*

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Ann DelNegro,  
Executive Director,  
Delaware Violent Crimes  
Compensation Board

Program outreach efforts should, at a minimum, include distribution of program brochures and applications throughout the state, as well as use of television and radio public service announcements, posters, community billboards, and the Internet. Hospitals, libraries, counseling clinics, child care centers, physicians' offices, and funeral homes should be among those targeted for outreach.

Every victim service provider and police officer should provide timely information about crime victim compensation benefits to crime victims. They should follow up with the victims after the crime to see if they understand the compensation process and need assistance in applying. Very often in the immediate aftermath of victimization, it is difficult for victims to focus on the issue of compensation.

Compensation programs should routinely evaluate whether they are adequately serving special population groups and should reach out to those who, because of cultural or language barriers, may not be accessing compensation assistance. Some compensation programs have undertaken extensive public awareness efforts to reach traditionally underserved crime victims. These efforts include developing public service announcements in languages other than English. The state of Washington's compensation program, for example, has developed pocket-sized cards describing compensation in 12 languages. The Massachusetts Attorney General's Office reports success in reaching non-English speaking crime victims through the Victims' Division of the International Institute of Boston, which provides translation and other language services. The Institute is part of a national network operated through Immigration and Refugee Services of America.

**COMPENSATION RECOMMENDATION FROM THE FIELD #8**

**Victim compensation programs have a responsibility to listen to and address the issues of the victims they serve. All programs should establish advisory boards that include victims. When developing policies for eligibility and benefits, compensation programs should seek the input of victim service groups, and criminal justice and allied professionals.**

Victims who have applied for compensation can provide helpful information to programs about their strengths and weaknesses. Their advice, and that of their advocates, can be solicited through appointments on boards, commissions, and advisory bodies that assist with program development and implementation.



Some compensation programs have established advisory boards, although only a few are mandated by state law to do so. To ensure that the policies, procedures, and communications of the compensation program are fully informed by the experiences of crime victims, at least one of the members should be a crime victim or survivor. While all states should strive to establish advisory boards, those programs that have not should routinely meet with victims and victim service providers to review whether state statutes, program guidelines, and policies are responsive to the needs of crime victims and to determine possible barriers that might impede a victim's access to compensation benefits.

Compensation programs must work to ensure that their programs and policies coordinate with and complement the range of services and assistance provided to victims in the state. When making policy decisions, compensation programs should seek input from local victim service groups, as recommended in the *VOCA Compensation Guidelines*.<sup>20</sup>

**COMPENSATION RECOMMENDATION FROM THE FIELD #9**

**Victim compensation programs should establish multidisciplinary cross-training programs to ensure that victim advocates and allied professionals are fully informed of the scope of compensation programs and that compensation professionals are kept up to date on the services victims need most.**

Cross-training is essential to a responsive, accessible compensation program. It is important that victims and those who serve them have a thorough understanding of the requirements for receiving compensation, the process for applying for benefits, and the legislative and programmatic limitations of assistance. In addition to general outreach, compensation programs should conduct trainings and briefings throughout the state on a regular basis, and should ensure that adequate training is available for law enforcement, prosecution, emergency room staff and other medical providers, and victim service providers.

At the same time, in order to ensure that compensation programs are responsive to the needs of crime victims, compensation professionals should build strong relationships with victim assistance providers, advocacy groups, and criminal justice professionals. Training of compensation program staff on issues these groups encounter in working with crime victims will help programs address emerging needs.

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*Victim services is an evolving field. In order to continually meet the needs of crime victims we need to take the time to listen to victims. We need to learn how to serve them better.*

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Sylvia Bagdonas,  
Director,  
Wyoming Crime Victims  
Compensation Program



COMPENSATION RECOMMENDATION FROM THE FIELD #10

**Victim advocacy should be institutionalized in victim compensation programs. Every program should include an advocate on staff to help victims access services and resources that are not available from the program.**

Victim advocacy skills and knowledge should be emphasized in all hiring and training decisions to ensure that all staff are skilled at addressing the broader needs of crime victims. Compensation program staff should focus not only on proper claim documentation and expeditious claims processing, but also in assisting victims in accessing services outside of compensation. Ideally, every compensation program should provide victim advocacy by intervening with creditors, making referrals to victim assistance programs throughout the state especially for victims who are not eligible for compensation, providing assistance in the filing of a claim, or simply taking extra time to explain the compensation process.

In larger programs, victim advocacy may require more than one staff position. Florida's compensation program employs nine victim advocates throughout the state to assist victims with filling out and filing compensation claims. Massachusetts' compensation program employs advocates to assist victims through the entire claims process, including translation for non-English speaking crime victims. In 1997, the *VOCA Victim Assistance Program Guidelines* were revised to allow VOCA victim assistance grant funds to be used to support such positions.<sup>21</sup> As a result, the District of Columbia's compensation program recently hired a full-time advocate to assist victims who apply for compensation within the District.

In some states, compensation claims processors also serve as victim advocates. It is critical that these individuals receive training on providing services for traumatized victims, including making appropriate referrals to resources in the victim assistance community. States that include victim advocates as part of their compensation program staff find not only that the advocates are helpful to victims but that they help raise awareness of the impact of victimization and the important role that compensation plays within the community.

**COMPENSATION RECOMMENDATION FROM THE FIELD #11****States should maximize victims' ability to recover losses and cover expenses, and should institute mechanisms for ensuring sufficient funding sources for victim compensation programs.**

Although the total amount of state funds awarded to crime victims has nearly tripled since the enactment of VOCA in 1984, some states continue to experience funding crises and are unable to pay claims for all of the eligible applications they receive. Programs should continue to ensure the availability of resources by exploring new funding options and maintaining reasonable controls over costs. In cases in which the victim's losses exceed the program's maximum payment, programs should, in addition to expanding caps, intercede with creditors and providers and request that they accept reduced payment on a victim's outstanding bills. This is often a viable alternative to spending more money. It is also in keeping with the financial advocacy and service mission of compensation programs. For example, Massachusetts recently assisted a victim with lost wages and over \$40,000 in medical bills by negotiating with the victim's providers to accept \$7,000 on the outstanding bills. As a result, the program was able to reimburse the victim for lost wages and pay for the purchase and fitting of a prosthesis under the state's \$25,000 cap.

Some states have found restitution to be a significant source of additional revenue. Restitution payments can serve a dual purpose: first, they can be used to cover victims' expenses that cannot otherwise be met through compensation; second, programs can be reimbursed, through a process known as subrogation, for compensation payments made to victims who subsequently receive restitution for the same expenses.<sup>22</sup> When compensation programs pursue restitution from offenders, however, they should ensure that restitution payments are applied first to cover losses not covered by the compensation program. This requirement should be mandated by law.

To be effective at recovering restitution, compensation programs must establish partnerships with local criminal justice agencies. Both California and Iowa, who have established such partnerships, have made significant strides in increasing payments to victims and securing program revenues by aggressively pursuing criminal restitution payments owed to crime victims and fines or fees owed to the compensation fund. California's program worked closely with prosecutors and the courts to develop strategies to increase collections. Their collaborative efforts resulted in the enactment of legislation to facilitate restitution collection, including the establishment of a rebate program allowing a 10 percent

reimbursement to counties on all restitution fines remitted to the state's compensation program. In addition, a wage garnishment program was established within the state's department of corrections that deducts 20 percent of inmate wages to pay outstanding restitution fines. Iowa's program more than doubled its restitution and subrogation revenues by urging prosecutors to seek restitution, urging probation and parole officials to collect restitution payments, and contacting offenders directly for payments. The program also initiated an automated computer system to assist in garnishing wages and seizing income tax refunds from delinquent offenders. These innovative efforts should be replicated by other compensation programs to increase program revenue.

**COMPENSATION RECOMMENDATION FROM THE FIELD #12**

**All state compensation programs should evaluate themselves to determine whether: (1) there are barriers to compensation that should be removed, (2) the program's outreach efforts are effective, (3) the services provided are effective, (4) the scope of victims that qualify for compensation is broad enough, (5) claims are processed as efficiently as possible, (6) available benefits for mental health treatment are sufficient, and (7) reasons for denial of compensation claims.**

All victim assistance programs, including state compensation programs, should be evaluated on a regular basis. In addition, state compensation programs should develop customer satisfaction surveys and provide them to victims for their input. Some states such as Wyoming and Iowa routinely send client satisfaction surveys to all approved and denied claimants to solicit input into the state's processes, benefits, and services. OVC is currently supporting a nationwide evaluation of compensation and assistance programs, and findings are scheduled for release by the year 2000.

**COMPENSATION RECOMMENDATION FROM THE FIELD #13**

**Compensation programs should make effective use of advanced technologies such as automated claims management systems and electronic linkages with medical providers, insurance companies, and criminal justice agencies.**

An automated system for processing victim applications can significantly increase a program's ability to serve crime victims efficiently and expeditiously. Many programs have moved from manual to automated operations and have implemented strategies for correcting inefficiencies. An automated claims management system enables program staff and managers to quickly retrieve information from a victim's application form to generate routine correspondence, verification requests, and statistical reports.

Compensation programs should also explore ways in which technology can foster communication with local service providers and facilitate victim referrals among programs throughout the state. Victims and advocates in Oklahoma, Texas, Iowa, and other states now have the ability to download compensation applications from the Internet,<sup>23</sup> and Florida operates an automated telephone system for medical providers and others to use to receive current information on claim status. These services provide valuable information to the public while freeing staff time to process victim applications. However, no programs currently allow applications to be filed electronically.

OVC encourages states to use their VOCA administrative grant funds to explore innovative approaches to using technology to facilitate claims filing and expedite claims processing. Compensation programs should take advantage of emerging communications technologies such as the Internet to inform victims and the general public about the availability of victim compensation. Many compensation programs have established websites on the Internet that provide information about eligibility requirements and application procedures.<sup>24</sup>

#### COMPENSATION RECOMMENDATION FROM THE FIELD #14

**State compensation programs should work with other state programs that provide funding for victim services to ensure that victims' needs are met comprehensively throughout the state.**

The need for state compensation programs to be aware of the range of victim services funded throughout the state has been raised in many of the recommendations in this section. Many compensation programs provide extensive referrals to victim assistance programs and should work with state level funding agencies to identify local victim assistance programs and areas in which services are lacking. In some states, services such as counseling, shelter, crime scene cleanup, emergency transportation, and child care are provided by local victim assistance programs. In others, compensation programs must fill in the gaps. Many state compensation

and assistance programs are working together, even functioning out of the same state agency. In other states, compensation programs need to enhance their partnerships with other victim service funding agencies.

**COMPENSATION RECOMMENDATION FROM THE FIELD #15**

**Compensation programs should consider the effects that more universal health care coverage (through expanded public benefits and broader private coverage) might have on their eligibility and benefits structures.**

Most other countries with victim compensation programs also have some form of national health care that provides coverage to all citizens for medical treatment. As a result, victim compensation can be used to address the effects of long-term psychological or physical injuries, to make payment for pain and suffering, and to reimburse property losses. While the debate on a national health care program in the United States has moved into the background of public policy issues, efforts at the federal and state levels to provide more coverage to greater numbers of Americans are continuing. It is possible that the United States may eventually achieve more universal coverage, which likely would have a substantial effect on the payments made by compensation programs for medical care, which is currently the largest source of claims nationwide. To be prepared for the future, compensation programs should explore ways in which victims can be served beyond current benefits by using any funds freed by future national changes in medical coverage.

**COMPENSATION RECOMMENDATION FROM THE FIELD #16**

**Compensation programs throughout the world should agree to compensate victims of crime within their borders regardless of nationality. The U.S. Departments of State and Justice should continue to work together to establish this principle as a basis for coverage in all countries.**

Nearly all compensation programs in the United States provide coverage to foreign citizens injured in their jurisdiction. U.S. residency and citizenship are not required for eligibility. A number of other countries, however, including France and Japan, have either nationality or residency requirements. The principle of universal coverage, regardless of citizenship, should be extended throughout the world through changes in law, or reciprocal agreements if necessary. Representatives

of the U.S. Department of Justice have participated in a number of forums to discuss these issues, and they should continue to work with the State Department and state governments in the United States to make universal coverage for all travelers a reality.

**COMPENSATION RECOMMENDATION FROM THE FIELD #17**

**Compensation programs should consider providing funds to cover transportation costs for victims who must travel across state lines to attend criminal proceedings.**

In some cases, victims and their families must travel to other states to attend trials. For example, in the Oklahoma City bombing cases, many victims traveled from Oklahoma City to attend the trials in Denver. Compensation programs should consider reimbursing victims when the costs of traveling to criminal proceedings would create hardship.

**COMPENSATION RECOMMENDATION FROM THE FIELD #18**

**Compensation programs should use excess funds to support victim assistance.**

Compensation programs should maintain sufficient reserves to guarantee prompt payment of victims' losses, provide greater levels of benefits, and expand coverage to more victims. While programs must be careful to maintain a healthy flow of funds, they should, in appropriate circumstances, consider using reserves far in excess of current and projected needs to support activities that benefit victims.

States that have excess funds in their compensation programs should find ways to ensure that the money remains earmarked for crime victims and is not diverted for other purposes. The Texas Constitution, for example, has been amended to dedicate the Texas Crime Victims' Compensation Fund to crime victims, protecting the money it provides to local rape crisis centers, family violence shelters, children's advocacy centers, and similar programs.

The recommendations in this chapter were based upon input from participants at public hearings and reaction and working groups, as well as papers submitted by experts in the field, identified in Appendix A. The recommendations do not necessarily reflect all of the views of the contributors, nor do they necessarily represent the official views of the Department of Justice.

## Endnotes

- 1 President's Task Force on Victims of Crime, *Final Report*, Washington, D.C.: U.S. Government Printing Office, December 1982:39.
- 2 National Association of Crime Victim Compensation Boards, *Crime Victim Compensation: An Overview*, Washington, DC: National Association of Crime Victim Compensation Boards, 1997:1; National Association of Crime Victim Compensation Boards, *Crime Victim Compensation: A Fact Sheet*, Washington, DC: National Association of Crime Victim Compensation Boards 1997; National Association of Crime Victim Compensation Boards, *Crime Victim Compensation Program Directory*, Washington, D.C.: National Association of Crime Victim Compensation Boards 1996.
- 3 National Association of Crime Victim Compensation Boards, *Crime Victim Compensation Program Directory*, 1.
- 4 *Id.* One notable exception is crime scene clean-up incident to violent crimes.
- 5 D. Parent, B. Auerbach, B and K. Carlson, *Compensating Crime Victims: A Summary of Policies and Practices*, Washington, DC: U.S. Department of Justice, Office for Justice Programs, National Institute of Justice, 1992, NCJ 136500.
- 6 *Nation Wide Analysis, Victims of Crime Act, 1996 Victims of Crime Act Performance Report, State Compensation Program*, Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, Office for Victims of Crime, April, 14 1997.
- 7 The information was provided by the National Association of Crime Victim Compensation Boards and reflect information provided by the U.S. Department of Justice, Office for Victims of Crime, 1996.
- 8 California operates the nation's largest program, paying nearly one-third of all compensation benefits nationwide (approximately \$75 to \$80 million annually). The second largest program, Texas, pays out approximately \$20 to \$30 million to victims each year.
- 9 *Victims of Crime Act of 1984*, Pub. L. No. 104-235, codified at 42 U.S.C. §10601-10605, 18 U.S.C. §3050 (1996).
- 10 Office for Victims of Crime, *International Crime Victims Compensation Program Directory*, Washington, D.C.: Office of Justice Programs, U.S. Department of Justice, 1996. To create the *International Directory*, U.S. embassies in 174 countries were contacted and asked to collect compensation program information from the appropriate officials in each country. OVC also contacted victim assistance programs throughout the world. Of the 91 countries responding to the survey, 30 reported having compensation programs, and they are listed in the *International Directory* with programs in the United States.
- 11 Office of General Counsel, "*Office of General Counsel (OGC) Recommendations for Bringing State Statutes into Compliance with the Requirements of the Antiterrorism Act under VOCA.*" Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, Office of General Counsel. The new provisions of VOCA pertaining to crimes involving terrorism are located at 42 U.S.C. 10602(b)(6)(B) and (d)(3).
- 12 Telephone survey by Dan Eddy, Executive Director, National Association of Crime Victim Compensation Boards, October 1997.
- 13 National Association of Crime Victim Compensation Boards, *Crime Victim Compensation Program Directory*. In addition, this information was compiled into a chart entitled *Mental Health Counseling Limits*, compiled by the National Association of Crime Victim Compensation Boards, September 1997.
- 14 Kilpatrick, D. and B. Saunders, *Prevalence and Consequences of Child Victimization*, Research Preview, Washington, D.C.: National Institute of Justice, April 1997.
- 15 Commentary "Silent Victims, Children Who Witness Violence," *Journal of the American Medical Association*, 1993:269:2 at 262- 264.
- 16 National Association of Crime Victim Compensation Boards, "Rules, Benefits Adapted for Domestic Violence," *Crime Victim Compensation Quarterly*, Autumn 1997:3.



- 17 *VOCA Victim Compensation Final Program Guidelines*, February 1997, III.B.3 provides: “Compensable expenses to be included in the annual certification must be authorized by state statute or rule, providing there is a rule making authority in state law. States may include expenses, not specifically identified in VOCA, such as pain and suffering; crime scene clean-up; replacement costs for clothing and bedding held as evidence; medically-necessary building modification; medically-necessary devices; and attorney fees related to victim’s claim for compensation.”
- 18 Kilpatrick, D.G., C.N. Edmunds, and A.K. Seymour, *Rape in America: A Report to the Nation*, National Victim Center & Medical University of South Carolina, 1992.
- 19 TEX. CODE CRIM. PRO. art. 56.46 (West 1997).
- 20 *VOCA Victim Compensation Final Program Guidelines*, February 1997, III.A.4.
- 21 *Id.*, IV.E.1.c.
- 22 Compensation programs are “subrogated” to the victim for any expenses the victim recovers from the offender or a third party. That means that if the victim recovers any money from the offender or any other party liable for the victim’s expenses, the compensation program must be paid back for that portion of the expenses for which the program has paid. Generally, if the victim’s losses are greater than the amount paid for by the compensation program, the program will expect repayment only after those other losses are fully reimbursed. In other words, if the victim’s total losses are \$100,000, and the compensation program awards \$10,000, the amounts the victim receives from other sources can go to pay for the remaining \$90,000 in losses before the compensation program needs to be repaid.
- 23 See e.g., [ourworld.compuserve.com/homepages/derene/cvc.htm](http://ourworld.compuserve.com/homepages/derene/cvc.htm)
- 24 See e.g., [www.nccrimecontrol.org/VJS/](http://www.nccrimecontrol.org/VJS/); [www.treasury.state.tn.us/injury.htm](http://www.treasury.state.tn.us/injury.htm); [www.ink.org/public/Kdhr/community/shawnee/agentfile/96030.html](http://www.ink.org/public/Kdhr/community/shawnee/agentfile/96030.html)