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U.S. Department of Justice  
Office of Justice Programs  
National Institute of Justice



# NATIONAL INSTITUTE OF JUSTICE

*Issues and Practices*

## Compensating Crime Victims:

### A Summary of Policies and Practices

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U.S. Department of Justice  
Office of Justice Programs  
National Institute of Justice

# Compensating Crime Victims: A Summary of Policies and Practices

by  
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NCJRS

MAY 8 1992

ACQUISITIONS

January 1992

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*Issues and Practices in Criminal Justice* is a publication series of the National Institute of Justice. Designed for the criminal justice professional, each *Issues and Practices* report presents the program options and management issues in a topic area, based on a review of research and evaluation findings, operational experience, and expert opinion on the subject. The intent is to provide criminal justice managers and administrators with the information to make informed choices in planning, implementing and improving programs and practice.

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Prepared for the National Institute of Justice, U.S. Department of Justice by Abt Associates Inc., under contract #OJP-86-C-002. Points of view or opinions stated in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice.

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# Foreword

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Victims of violent crime are doubly injured—first, by the trauma and suffering of victimization itself, and second, by financial burdens that result from the crime: loss of income, hospital bills, and long-term treatment. In the last twenty years, the plight of crime victims has become a matter of increasing concern to public policy makers. Victim assistance programs have been created, and victim bills of rights have been passed. Since 1965, all but two states enacted crime victim compensation programs, which enabled the survivors of homicide victims and victims of other violent crimes to obtain at least partial compensation for out-of-pocket expenses resulting from their victimization.

In 1983 the National Institute of Justice published a national assessment of existing crime victim compensation programs, entitled *Compensating Victims of Crime: An Analysis of American Programs*. In the same year, the Department of Justice created the Office for Victims of Crime to serve as the federal focal point for victims issues and to promote improved treatment of victims of crime. In 1984 the Victims of Crime Act (VOCA) was enacted with strong Department of Justice and bipartisan congressional support. It authorized federal funding to induce states to establish victim compensation programs and to adopt comparable basic services such as victim outreach services, victim notification services, crisis counseling, and a variety of referral services to meet longer term victim needs. This updated study is the first systematic review of compensation programs since VOCA was enacted in 1984.

This report highlights state efforts to develop and provide crime victim compensation services and to comply with

VOCA's mandates. It describes different organizational structures and operating procedures that characterize American programs. It discusses efforts by states to streamline application and claim processing. It examines how state programs are grappling with key issues, such as redefining victim eligibility criteria and outreach to underserved victims. Finally, it discusses trends in program funding. This report also represents a partnership between the National Institute of Justice and the Office for Victims of Crime. Our agencies are jointly committed to providing support and assistance to victims, and this study is one attempt to demonstrate the benefits of research and program documentation to support emerging practice in the victim services field.

The National Institute of Justice and the Office for Victims of Crime hope state and local officials will find this report useful as they refine and improve their crime victim compensation policies and procedures, and that the report will stimulate further attention to the needs and problems of crime victims.

*Special recognition is made of the contribution of Dr. Jane Burnley, former Director of the Office for Victims of Crime, whose early support and commitment of funds made this publication possible.*

Charles B. DeWitt  
Director  
National Institute of Justice

Brenda Meister  
Acting Director  
Office for Victims of Crime

# Addendum

The material in "Compensating Crime Victims: A Summary of Policies and Practices" is current through 1990. During 1991 there were a number of significant program and legislative developments in the States, which are summarized below:

- South Dakota passed legislation establishing a Statewide crime victim compensation program in the Department of Corrections. Therefore, Maine is now the only State without a compensation program. However, in 1992 Maine introduced legislation to establish a crime victim compensation program;
- Florida and Texas transferred their crime victim compensation programs from State workers compensation agencies to the Office of the Attorney General in their State; and
- By the end of 1991, only eight States had a financial means test, also called a hardship provision, whereas in 1983 approximately one-third of all States had such a provision.

Currently, 49 States, the District of Columbia, and the Virgin Islands have crime victim compensation programs. The Office for Victims of Crime awards annual grants to State crime victim compensation programs (40 percent of the amounts paid to crime victims from State funds) from monies deposited in the Crime Victims Fund, authorized by the Victims of Crime Act (VOCA) of 1984, Public Law 98-473, Title II, Chapter XIV [U.S.C. 10602]. The 45 States now receiving VOCA awards meet the following eligibility requirements outlined in VOCA:

- States must operate programs which offer compensation to victims and survivors of victims of crime, including drunk driving and domestic violence. Medical expenses, mental health counseling and care, funeral expenses, and lost wages must be covered;
- States must promote victim cooperation with law enforcement;
- Grants received under VOCA must not be used to supplant State funds otherwise available to provide crime victim compensation benefits;
- States must use the same criteria in making compensation awards to resident and nonresident victims of crime;
- States must provide compensation to victims of Federal crimes on the same basis as compensation awarded to victims of State crimes;
- States must provide compensation to residents who are victimized outside the State if such crimes committed are compensable within the State of residence, and the State in which the crime occurred does not have a crime victim compensation program; and
- States may not deny compensation to a victim because of that victim's familial relationship to the offender, or because the victim and the offender share a residence, except to prevent undue enrichment of the offender.

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# Preface

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With the passage of the Victims of Crime Act (VOCA) in 1984, the United States Congress authorized substantial financial assistance to state crime victim compensation programs through the Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice. The Victims of Crime Act requires that certain eligibility requirements be met in order to qualify for state crime victim compensation grant awards. These requirements broadened the scope of compensable crimes and increased the range of compensable expenses incurred by innocent victims of violent crimes.

The Act also provides crime victim assistance grants to states for supplementing state and community victim service agencies. In addition, VOCA funding is provided for: (1) training and technical assistance projects of national scope and (2) assisting victims of federal crimes.

Today, only South Dakota and Maine do not have crime victim compensation programs. Fourteen new victim compensation programs have been created since the last national study in 1983. Changes in public attitudes toward important crimes, such as drunk driving and domestic violence, also have affected state victim compensation policies. The purpose of this study is to examine important trends in victim compensation practices and to explore VOCA's past effects and possible future impacts on state victim compensation programs.

The study began in late 1988 and was completed one year later. A survey instrument was mailed to all victim compensation programs, and telephone calls were made to obtain the data in early 1989. Site visits were conducted during the summer. Final data analysis was conducted in the fall of 1989. During 1990, most states amended their crime victim compensation laws to meet the four additional eligibility requirements for a VOCA crime victim compensation grant as provided in the 1988 amendments to VOCA. These requirements are discussed in Chapter 1.

Throughout the study, staff benefitted from the assistance of a panel of expert advisers, who identified key issues, critiqued the survey instrument and site visit protocols, selected site visit states, and reviewed the draft report. Advisers also helped by identifying key program officials

and responding to questions posed by staff. The project advisers were:

Frank Carrington  
Victim Assistance Legal Organization  
Virginia Beach, Virginia

Lucy Friedman  
Executive Director  
Victim Services Agency  
New York, New York

Michael Fullwood  
Past President,  
National Association of Crime Victim Compensation  
Boards, and  
Administrator,  
Michigan Crime Victims Compensation Board

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

In addition, project staff frequently called on Jay Olson, Senior Program Specialist, Office for Victims of Crime, when thorny problems arose. His understanding of state victim compensation programs and data maintained by his office on programs' past costs and funding was especially helpful.

Several staff at Abt Associates also played important roles in this study. Diane Karlsruhe designed and administered the survey instrument. Sharon Teitelbaum and Chris Smith analyzed the survey data. Peter Feng and Dan Wentworth prepared final data tables and painstakingly checked their accuracy. Kenneth E. Carlson analyzed published data from the Uniform Crime Reports, the Crime Victimization Survey, and the Fatal Accident Reporting System and wrote portions of the report relating to estimating the proportion of eligible crime victims who are served by compensation programs.

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Barbara Auerbach, a consultant to Abt, also played a major role in the study. She conducted the six site visits during the summer of 1989 and wrote a series of papers on key topics in those jurisdictions, which have been incorporated into the final report.

Finally, the assistance and support of Carol Petrie, project monitor at the National Institute of Justice, was especially helpful. Her knowledge of victims' issues, her able assistance, and prompt decisions assured timely completion of the study.

*Compensating Crime Victims: A Summary of Policies and Practices* was developed by Abt Associates Inc. with funding provided by the Office for Victims of Crime and the National Institute of Justice, Office of Justice Programs in the U.S. Department of Justice. Points of view expressed herein are those of the authors and do not necessarily represent the official position or policies of the U.S. Department of Justice.



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# Chapter 1

## An Overview of Victim Compensation Programs

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In 1983 the National Institute of Justice (NIJ) published an Issues and Practices Report entitled *Compensating Victims of Crime: An Analysis of American Programs*.<sup>1</sup> Since then, several important changes have occurred:

- In 1983, 32 states and the Virgin Islands had crime victim compensation programs. By late 1990, all states (including the District of Columbia and the Virgin Islands) except Maine and South Dakota, had crime victim compensation programs. Those two states plan to introduce crime victim compensation legislation in their 1991 legislative sessions.
- In 1984, Congress passed, and President Reagan signed into law, the Victims of Crime Act (VOCA) to provide federal grants to supplement state funding of victim compensation programs and to promote more uniform services among the states. In 1983 the U.S. Department of Justice created the Office for Victims of Crime (OVC) to serve as the federal focal point for victims issues and to implement the recommendations of the President's Task Force on Crime.
- In 1986, the Office for Victims of Crime began VOCA funding to the states. State crime victim compensation programs that meet the eligibility requirements of VOCA and the implementing guidelines receive grants equal to as much as 40 percent of their prior compensation awards to victims of violent crimes from state funding sources. The Office also implements the recommendations of the Attorney General's Task Force on Family Violence and the Victim Witness Protection Act of 1982.
- Public attitudes toward crimes involving domestic violence and drunk driving have changed, prompting

many state legislatures to amend their laws regarding victim eligibility and compensable crimes.

In 1989, NIJ and the Office for Victims of Crime asked Abt Associates to analyze current victim compensation practices and to identify and explore significant changes since the 1983 study. To do so, a detailed questionnaire was mailed to the director of each existing victim compensation program. Responses, obtained through telephone interviews, were received from 43 of the 46 victim compensation programs.<sup>2</sup> To supplement these data, on-site visits were conducted in six states: Massachusetts, South Carolina, Wyoming, Missouri, New York, and Oregon. These sites were selected to represent a range of programs operating under a variety of administrative organizations in different areas of the country.

In the course of telephone and on-site interviews, a variety of program materials were collected. These included annual reports, statistical summaries, procedures manuals, and outreach literature, such as posters and brochures. In addition, the National Organization for Victim Assistance (NOVA) and the Office for Victims of Crime provided helpful information on state statutes and federal funding to states under the Victims of Crime Act. Finally, a distinguished group of advisers (see Preface) helped to identify the key issues to be covered. They critiqued the questionnaire and site visit interview protocols and reviewed preliminary survey results. Throughout the project, they guided staff to appropriate officials in state victim compensation programs and helped to shape the final analysis.

Following a brief review of the key provisions of the Victims of Crime Act (VOCA), the remainder of this chapter summarizes the central features of programs reviewed in 1989.

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## The Victims of Crime Act

In 1984 Congress enacted the Victims of Crime Act (VOCA), ending an 18 year debate over the role of federal government in crime victim compensation and assistance. VOCA established a Crime Victims Fund, supported by revenues from federal offenders—fines, penalty assessments, and forfeited appearance bonds. Most of the monies in the fund are used to provide grants to states to support victim compensation and victim assistance service programs. Congress initially placed a \$100 million ceiling on the fund, which it raised in 1986 to \$110 million, and in 1988 to \$125 million through fiscal year 1991 and \$150 million through federal fiscal year 1994.

Congress also enacted the Criminal Fine Enforcement Act of 1984, which increased the maximum fines for misdemeanors from \$1,000 to \$100,000 for both individuals and corporations, and for felonies from \$250,000 to \$500,000 for both individuals and corporations. The act also permitted assessing interest on overdue fine payments and a 25 percent penalty on fines over 90 days past due. Finally, the act shifted responsibility for collecting fines from the courts to the United States Attorneys.

Fines account for about three-fourths of the revenues deposited into the Crime Victims Fund. Bond forfeitures are the second largest source of revenue for the Crime Victims Fund. They accounted for about 15 percent of the deposits in fiscal year 1987.

VOCA also established special assessments which may be levied on offenders for each count for which a conviction is obtained. The assessment for misdemeanors is \$25; and for felonies, \$50 for individual offenders and \$200 for corporate offenders. Penalty assessments also are collected by the United States Attorneys. Although these assessments are widely levied, they produce relatively little revenue. In fiscal year 1987, 57 percent of the total number of deposits into the Crime Victims Fund were from special assessments. However, these accounted for only four percent of the total revenue deposited in the fund.

Finally, VOCA contains a "Son of Sam" provision. Royalties from the sale of literary rights (or any other profits) derived from a crime are deposited in the Crime Victims Fund. However, royalties first must be held in escrow for five years to satisfy any civil judgments a victim may obtain against an offender. Therefore, revenues from royalties first became available to the Crime Victim Fund in 1989. They are not expected to be a significant source of revenue in the future.

The Victims of Crime Act provides for the allocation of funds from the Crime Victims Fund to victim programs. Of the annual amounts deposited in the Fund, VOCA funds are allocated on the following basis: of the first \$100 million deposited in the Fund, 49.5 percent is available for crime victim compensation grants; 45 percent, for crime victim assistance grants; 1 percent, for training and technical assistance services to victims of federal crimes; and 4.5 percent, for Children Justice Act grants. The next \$5.5 million deposited in the Fund is available for Children Justice Act Grants. Deposits in the Fund in excess of \$105.5 million but not in excess of \$110 million are available for victim assistance grants. Amounts in excess of \$110 million but not to exceed \$150 million are allocated on a percentage basis. Victim compensation grants and victim assistance grants each get 47.5 percent, and 5 percent goes to the financial support of services to victims of federal crimes.

Originally, eligible states could get VOCA grants for up to 35 percent of the state's funds used for victim compensation payments (excluding any payments for property losses) two fiscal years earlier. For example, in fiscal year 1986, a state could get a VOCA grant equaling 35 percent of the state funds it awarded in victim compensation payments during fiscal year 1984. Congress later raised the allocation formula from 35 to 40 percent. States may not use VOCA grants to supplant state funds that would otherwise be available for victim compensation and can use VOCA grants only to pay compensation awards to crime victims, not to pay for administrative costs.

In order to receive VOCA grants, states must provide assurance that they have a statewide program. The original VOCA legislation requires states to amend their victim compensation laws to conform to certain requirements relating to victim eligibility, compensable losses, and compensable crimes. For example, nonresidents must be eligible for compensation if they are the victim of a compensable crime committed within the state's borders. Persons subject to federal jurisdiction within a state (for example, soldiers on a military base, or residents of closed Indian reservations) must be eligible victims if they otherwise meet the state's criteria. States must permit compensation for mental health counseling and care to alleviate psychological trauma resulting from a compensable crime. States must classify the cost of eyeglasses and prosthetic devices as compensable medical expenses.

The 1988 amendments to VOCA added four new requirements to the existing eligibility requirements for a state crime victim compensation grant. A state program must

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offer compensation to victims of drunk driving crashes and domestic violence. Additionally, states are required to compensate residents who are victims in another state which does not have a crime victim compensation program. Finally, if a state denies claims on the basis of "unjust enrichment," the state must establish rules formally establishing what constitutes "unjust enrichment." The original deadline for meeting the new requirements in the 1988 amendments to VOCA was October 1, 1990; however, the deadline was extended to October 1, 1991. Failure to meet the new requirements by the deadline would disqualify a state from participating in the VOCA compensation program until the necessary assurances of compliance are met. Finally, states must meet procedural requirements—application, reporting, auditing—in order to qualify for VOCA grants.

## Summary Of Findings

### *Compliance with VOCA Requirements*

At the close of 1990, 44 state programs, including the District of Columbia and the Virgin Islands, were eligible to receive VOCA crime victim compensation grants. That number will increase in future years, as Mississippi, Georgia, Vermont, and New Hampshire have established new programs, and it is anticipated that they will apply for VOCA crime victim compensation grants as soon as they have made payments to victims for which they may receive matching funds. As provided in VOCA, state payments of crime victim compensation from state funding sources are matched by 40 percent from funds deposited in the U.S. Crime Victims Fund from fines and penalties assessed against those committing federal crimes. During 1991 it is expected that Maine and South Dakota will introduce legislation establishing crime victim compensation programs. Almost all states that needed to amend their laws or regulations to meet the new eligibility requirements, added to VOCA by the 1988 amendments, have done so. The few states that still need to amend their crime victim compensation laws, to comply with the new requirements, are expected to do so in 1991.

In its 1988 *Report to Congress*, the Office for Victims of Crime noted that since VOCA was enacted, 18 states had amended their residency requirements and 17 states had amended their laws relating to mental health counseling to conform to VOCA standards. In the survey, program directors were asked to describe planned future changes in state victim compensation laws. For more than three-

fourths of the potential changes mentioned, compliance with the 1990 VOCA requirements was listed as the reason for the change.

At the same time, only 10 state program directors said their statutory changes since 1985 were due solely to VOCA. Several noted that states would have amended their laws in any event in response to local concerns, even if there had been no pressure from VOCA. They noted that in some cases state amendments had been proposed or enacted before the VOCA requirements were announced. State program directors also noted other areas in which states had been moving toward more uniform practices—such as eliminating financial need requirements—even where VOCA had not imposed such a requirement.

State program directors tend to think of VOCA requirements as reflecting a growing political consensus among the states on key victim compensation issues rather than as an external force imposing uniformity on resistant state programs. Nonetheless, VOCA probably has accelerated the pace of state statutory change and promoted a degree of standardization among the programs that would not have existed, even if the states had reached consensus on the broad policy issues.

### *Program Organization and Work Load*

Eleven state victim compensation programs are independent executive agencies, while 39 are administratively attached to or sponsored by some other agency. Ten are sponsored by worker's compensation agencies, six by state criminal justice agencies, nine by state attorneys general, six by other state agencies, and two by state judicial agencies. Four are "hybrid" programs, where the attorney general investigates claims but decisions are made by judges or by worker's compensation boards. Finally, in two states, programs are run locally, but a central state agency has limited coordinating power.

Most programs have small staffs. About three-fourths have ten or fewer full-time employees, and 47 percent of the programs have three or fewer full-time employees. Most members of governing boards or commissions are appointed. About half the program directors are appointed and half are selected via civil service. Virtually all professional and clerical staff in state victim compensation programs are civil service employees.

Programs responding to the survey received more than 92,000 claims in their most recent fiscal year, up 20 percent from fiscal year 1987 levels. Program directors

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believe the growing case load stems mostly from increased victim awareness of the compensation programs and changes in compensable crimes rather than changes in the crime rate.

Programs reported that 65,799 claims were awarded during their most recent fiscal year, up from 56,200 in fiscal year 1987 and 50,200 in fiscal year 1986. Total benefits paid exceeded \$125 million, up from \$110.5 million in fiscal year 1987 and \$93.6 million in fiscal year 1986. The number of claims awarded equaled about 70 percent of the number of claims filed. The time required to process claims varied widely among the states—from a low of 20 days to a high of two years. On the average, processing time was about 89 business days. Verification of crime reporting, lost income, medical bills, and collateral payments were the major factors that prevented speedier processing.

### *Eligibility Criteria*

All states compensate crime victims for medical expenses, mental health counseling, and lost wages. In all states, survivors of deceased victims may be compensated for funeral expenses and loss of support. Thirty-seven states compensate for rehabilitation services; and 35, for the cost of replacement services. Only eight states compensate for property losses, and then subject to strict limits on amounts and often only for elderly victims.

All states require victims to report the crimes (on which they later file a compensation claim) to police, usually within three days. All states have deadlines—usually one year—within which victims must file a compensation claim, although more than three-fourths have substantial discretion to extend deadlines in special circumstances.

In 1983, about one-third of the programs considered victims' financial need in making compensation decisions. In 1989, only one-fourth of the programs had financial need requirements. There is also a trend away from minimum loss requirements and deductibles.

Two important changes in compensable crimes have occurred since 1983. Most states have added drunk driving and domestic violence to their list of compensable crimes. In five of the six site visit states, drunk driving accounted for two to four percent of all claims filed. However, average benefits paid in drunk driving claims are about twice as large as average benefits paid for other types of claims.

Domestic violence has produced very few claims. For example, in fiscal year 1987, spouse abuse accounted for

only 259 of the more than 56,000 claims awarded nationwide. State officials noted that victims of domestic violence often do not report offenses to police and fail to cooperate in investigations—both of which are required if they are to file a successful compensation claim. The low reporting rate is caused by several factors. Officials noted that many victims of domestic violence fear reprisal by their assailant if they report the crime. Some also said that domestic violence victims frequently are trapped in a syndrome of dependency that compels them to continue the relationship with the offender until the battering reaches intolerable levels.

The addition of domestic violence as a compensable crime has caused many states to reexamine three policies commonly used to deny claims or reduce benefits—contributory misconduct, unjust enrichment, and cooperation with law enforcement. As a result, many states have modified those policies, at least in the context of domestic violence cases, and an increase in such claims is anticipated.

In the past, officials often denied benefits in domestic violence claims, arguing that the victim contributed to the crime by living with the offender and refusing to cooperate in his prosecution. They often cited continued cohabitation as evidence that the offender could be unjustly enriched by compensation. As understanding and sensitivity towards domestic violence offenses increases, laws and practices are changing, as evidenced by the new VOCA domestic violence requirements.

### *Benefit Policies*

Eight states have increased their maximum awards since VOCA was enacted. Currently four states have maximum awards of \$50,000 or more. Fourteen states have maximum awards of \$10,000, while 11 have maximums of \$25,000. (See Table 4-1 for a complete description of maximum awards.) Average awards, however, tend to be considerably lower. In fiscal year 1987, the average award among all state programs was \$1,966.

All programs reduce awards by the amount of any collateral payments victims receive—from insurance, disability, medicare, or later from restitution paid by the offender. Virtually all states pay eligible victims and rely on subrogation to recoup any future collateral payments the victim may get from pending civil litigation, delayed insurance settlements, or restitution.

Twenty states compensate otherwise eligible victims only for losses above a minimum figure—usually \$100 to \$200. Nine states have deductibles which have the same effect.

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Eight states compensate for property losses, typically only for elderly victims or victims who are especially vulnerable due to infirmity or handicaps, and usually subject to stringent limits on amounts.

All but nine states grant emergency awards which can be used to cover victims' immediate needs for housing, medical care, replacement services, etc., resulting from a crime. Emergency awards typically are limited to \$500 or less and usually can be granted in five to ten days.

All but 13 states authorize payment of attorney fees for representing claimants. Usually attorney fees are limited to a fixed percent of a compensation award, most often from 2 to 15 percent. In fiscal years 1986 and 1987 attorney fees accounted for less than one percent of total benefit payments made by all state programs.

VOCA's requirement that states compensate crime victims for mental health counseling has led to increased use of supplemental payments. This allows a victim whose claim has been approved to return to obtain payment of future bills (up to limits set by the program) without having to file a new claim. It is difficult for programs to estimate future outlays for supplemental payments and thus to assure sufficient reserves to honor commitments.

Compensation for mental health counseling raises particular problems, including assessing the causal link between the proposed treatment and the crime, the appropriateness of the treatment modality chosen, the qualifications of the provider, and the necessary duration of treatment. Larger state programs have hired consultants to advise staff on these matters, while smaller programs usually must rely on information supplied by the mental health providers to make these judgments.

### *Costs and Funding*

In their most recent year of operation, programs responding to the survey paid over \$125 million in benefits, an increase of over 12.3 percent from fiscal year 1987 data reported by OVC. Administrative costs averaged about 16 percent of total costs.

The programs responding to the survey had total revenues of over \$165 million during their most recent fiscal year. Of that, about 62 percent came from fines and penalty assessments; 22 percent, from general appropriations; and 15 percent, from VOCA. All other sources of funding accounted for less than two percent of the programs' total revenues. While historical data are lacking, program directors believe that continuing state fiscal crises have

caused legislatures to rely less on appropriations and more on "abuser taxes"—fines and penalties—to fund victim compensation programs.

VOCA has been an important addition to the pool of resources used to compensate crime victims,<sup>3</sup> but VOCA has not eliminated states' funding problems. Eighteen programs said resources were inadequate to pay deserving claims. Almost half the program directors reported that funding was inadequate to support program administration. Fines and penalty assessments are the most likely source of substantially expanded funding for victim compensation.

### *Outreach to Crime Victims*

Programs rely heavily on police, hospital and emergency personnel, victim assistance programs, and prosecutors to inform victims of their right to seek compensation. Information campaigns—such as posters, ads, and public service announcements aimed at the general public—are used less often and judged less important by program directors.

Victim compensation program officials have no concrete information on how many eligible crime victims exist who do not file for compensation. Some program directors interviewed estimated that two-thirds of the eligible victims do not file, while others thought as many as 95 percent do not file. Officials frequently arrived at those numbers by reflecting upon reported crime data interpreted from the vantage of their experience in criminal justice.

Without solid information on the number and nature of eligible but unserved crime victims, it is difficult for program directors to target their outreach efforts rationally and impossible for policy makers to assess the cost of serving uncompensated crime victims more adequately. In an effort to shed light on the number of unserved crime victims, data from the National Crime Survey, the Uniform Crime Reports, and the Fatal Accident Reporting System were analyzed.

Although state victim compensation programs differ in their definition of compensable victims and crimes, most include a basic core of offenses which can result in substantial physical harm. Approximately 85 percent of all compensation claims can be attributed to drunk driving, homicide, rape, robbery, aggravated assault, and child abuse. Based on published reports of the number of incidents in each of these categories, it is possible to estimate that more than 800,000 persons are seriously injured by these crimes each year,<sup>4</sup> and more than 40,000 are killed.



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Some of these victims would be excluded from coverage by most victim compensation programs either because they failed to report the crime to law enforcement authorities or because they were partly or substantially culpable in the crime (e.g., drinking drivers). This leaves an estimated 560,000 "innocent" victims of crime (or their survivors) who sustained substantial medical costs as a result of their victimization. Most of these would be eligible for little or no recovery from most victim compensation programs because their private insurance coverage would cover most medical expenses, with the possible exception of a deductible amount. Among all victims of violent crime, two-thirds have insurance to cover their medical expenses. This narrow set of assumptions about eligibility produces an estimated 168,000 victims who appear to meet the criteria for filing victim compensation claims to compensate substantial losses.

A set of broader assumptions could also be drafted to reflect out-of-pocket costs above typical deductible levels in state programs for insured crime victims and costs related to mental health counseling. (These assumptions are discussed more fully in Appendix A.) Under these broader assumptions about eligibility, about 336,000 victims are eligible for compensation.

Programs responding to the survey received over 92,000 claims and made awards in 65,800 claims in their most recent fiscal year. These figures suggest that (at least for the crime types that account for about 85 percent of claims filed) victim compensation programs may be reaching as many as 40 to 50 percent of potentially eligible victims (using a narrow assumption about eligibility) or as few as 20 to 25 percent (according to broader assumptions).

Data do not permit estimation of the proportion of victims who are served by compensation programs by type of offense. It is possible, as practitioners maintain, that the proportion varies considerably from one crime type to the next.

Because the estimates reflect assumptions about eligibility criteria and detailed victim characteristics which could not be verified from published data, a calculation using more detailed data (if such data were available) or an

actual test might produce substantially different results. Calculations based on different assumptions about eligibility criteria also would lead to different estimates.

Under almost any reasonable set of assumptions, however, it appears that the proportion of eligible crime victims served by compensation programs is higher than it has generally been believed to be. This implies that programs' outreach efforts, on the whole, have been effective. It also implies that it may not be as costly as previously believed to expand victim compensation programs to serve a larger proportion of eligible crime victims, so long as eligibility criteria are not expanded substantially.

## Endnotes

1. Daniel McGillis and Patricia Smith. *Compensating Victims of Crime: An Analysis of American Programs*. Washington, D.C.: National Institute of Justice, 1983.
2. The three jurisdictions that did not respond were the District of Columbia, Ohio, and Illinois. It is important to note that the numbers of jurisdictions described will vary from table to table in this report. In some cases additional data supplied by organizations like the National Organization for Victim Assistance (NOVA), the Office for Victims of Crime, or the National Association of Crime Victim Compensation Boards were used. In a few tables, all 46 existing programs are represented. In most others, there exists only a subset of the survey respondents who provided information on specific items.
3. In 1988 the National Organization for Victim Assistance (NOVA) noted that VOCA funding enabled states to increase compensation benefits by raising maximum awards, eliminating or reducing minimum loss or deductible requirements, and adding emergency awards. See *Victim Rights and Services: A Legislative Directory—1988*. Washington, D.C.: National Organization for Victim Assistance, 1989, p.2.
4. For a complete description of the assumptions that underlie these estimates, see Appendix A.

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## Chapter 2

# Program Structure and Operation

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### Centralization versus Decentralization

Almost all victim compensation programs are organized and funded on a statewide basis, with functions like administration, claims investigation and decision making performed by a central agency. A few centralized programs have branch offices or may have agreements with other agencies with branch offices so that victims can get personal assistance in filing claims without having to travel to the agency's headquarters. In those cases, however, claims are forwarded to the central agency where they are processed and acted upon.

Centralized programs ostensibly permit development of greater staff expertise and specialization. In addition, they may enable agencies to cut administrative costs by achieving economies of scale. They are also more likely to promote uniform victim compensation policies and procedures for victims located throughout the state.

In 1982, Colorado developed a highly decentralized program, in which separate victim compensation boards were established in each of the state's judicial districts, administered by the local district attorneys' offices. Supporters argued that such programs would be more sensitive to victims' interests and needs because compensation decisions would be made by local officials who would ensure better coordination with locally delivered victim services programs.

In addition, supporters argued that decentralization would result in a more equitable allocation of funds because only penalty revenues generated within the district would be used to fund that district's compensation awards. Hence, penalty revenues from one district would not subsidize benefit payments in another.

However, critics note that a highly decentralized program lacks central policy-making authority. Thus, the determi-

nation of eligibility and the amounts of awards can vary somewhat from district to district. Colorado officials responding to the survey noted that the program's strength was the rapidity of its decision making; its weakness was lack of uniformity in decision making.

In 1985, Arizona adopted a similar, though not as completely decentralized, compensation program. In the Arizona program there is a central state coordinator with standard-setting authority to assure basic consistency in policies and procedures among the county-administered compensation programs.

### Independent versus Sponsored Agencies

Thirty-nine victim compensation programs are attached to or sponsored by some other agency of state government. Eleven are established as independent agencies within the executive branches of state government. Table 2-1 summarizes the status of existing victim compensation programs.

#### *Independent Programs*

Several arguments are advanced for independent victim compensation programs. Use of independent agencies suggests that policy makers accord victim compensation a high priority. An independent agency may be more visible and accessible to crime victims. Because they exist only to perform victim compensation functions, independent agencies are less likely to have their operations impaired by administrative problems or conflicting policies within a larger sponsoring agency. Decision making may be faster because independent boards can establish their own agendas, whereas in sponsored agencies, it may take weeks or months for claims recommended for approval to be heard by judges or worker's compensation boards.

**Table 2-1**  
**Status of Existing Victim Compensation Programs**

**Independent Executive Branch Agencies (n = 11)**

Alabama	Kentucky	New York
Connecticut	Michigan	Pennsylvania
Delaware	New Jersey	Utah
Hawaii	New Mexico	

**Worker's Compensation Agencies (n = 10)**

District of Columbia	Missouri	Virginia
Florida	North Dakota	Washington
Idaho	South Carolina	Georgia
Indiana		

**Offices of Attorneys General (n = 9)**

Arkansas	Montana <sup>1</sup>	Wyoming
Iowa	Oregon	New Hampshire
Kansas	Wisconsin	Vermont

**Hybrid Programs (n = 4)**

(In these programs the Attorney General investigates, but some other agency decides.)

<u>State</u>	<u>Decision Maker</u>
Texas	Worker's Compensation
Massachusetts	Court
Illinois	Court of Claims
Ohio	Court-Based Agency

**State Criminal Justice Agencies (n = 6)**

Alaska	Minnesota	Louisiana
Maryland	North Carolina	Nebraska

**Other State Boards or Agencies (n = 6)**

<u>State</u>	<u>Board or Agency</u>
California	Board of Control
Nevada	Board of Examiners
Oklahoma	District Attorneys Training Council
Tennessee	Division of Claims Administration
Virgin Islands	Department of Human Services
Mississippi	Department of Finance and Administration

**Court-based Programs (n = 2)**

Rhode Island	West Virginia
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**Local Programs with State Coordinating Agency (n = 2)**

<u>State</u>	<u>State Coordinating Agency</u>
Arizona	Department of Public Safety
Colorado	Division of Criminal Justice

On the downside, it is difficult to justify an independent agency if its work load and staff are small. Such agencies may have limited ability to advocate victims' interests effectively before the legislature, a particular problem if benefits are funded by appropriations.

Eleven victim compensation programs are independent agencies in the executive branches of their respective governments.

*Sponsored Programs*

Slightly more than three-quarters of the victim compensation programs are sponsored by some other agency. The forms of sponsorship vary greatly both in terms of structure and effect, and no clear patterns emerge.

Sponsorship has several advantages. Most victim compensation programs are small, both in terms of staff and budget. Economies of scale may be achieved if small agencies rely on larger ones for support services like purchasing, payroll or personnel, rather than establishing their own capacity. Critics note that sponsorship could diminish the administrative commitment to victim compensation, particularly if key staff or decision makers who work on victim compensation also perform tasks on issues that are more central to the sponsoring agency's mission.

The choice of sponsoring agency may vary according to the conceptual foundation of victim compensation. If victim compensation is conceived as a form of insurance for those injured by criminals, it may be more appropriate to have worker's compensation agencies sponsor the program. Such agencies already have expertise in conducting many of the same investigations performed in processing victim compensation claims—verifying losses, confirming collateral payments, etc.

Choice of sponsorship may reflect important pragmatic concerns as well. For example, some existing agencies may control information or have staff expertise that is particularly relevant to processing victim compensation claims. If program staff routinely need to consult criminal history records, it may be appropriate to have the department of public safety (or whatever agency maintains those records) sponsor the victim compensation program. It may be important to have a number of different offices where crime victims can file claims. If sponsored by a worker's compensation agency, the victim compensation program may be able to provide services in several branch offices.

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As noted in Table 2-1, 10 programs are sponsored by worker's compensation agencies, making it the most common form of sponsorship. In these agencies staff investigate claims; victim compensation administrators make decisions; and appeals are referred to the worker's compensation commission or board.

Nine existing programs are sponsored by state Attorneys General. In these programs both the investigation and decision functions are performed by staff designated by the Attorney General.

Six programs are sponsored by state criminal justice agencies, such as departments of public safety or criminal justice commissions. In most instances staff investigate and make recommendations to an appointive board or commission who make the decisions.

Four programs are "hybrids," in the sense that the states' Offices of Attorneys General investigate claims and formulate recommendations but then forward cases to another agency or official to make decisions. In Massachusetts, Illinois, and Ohio, a court is the decision maker. In Texas, the decision maker is a worker's compensation board. In the other states, the decision maker is a judge or judicial agency. Six programs are attached to miscellaneous other state boards or agencies, such as a board of examiners, division of claims administration, or even a welfare department.

Two programs—Rhode Island and West Virginia—are fully court-based, so that both investigation and decisions are made by court personnel. Finally, two programs—Colorado and Arizona—are locally based, but with some degree of coordination authority vested in a central state agency.

## Staffing

Most victim compensation programs are small agencies, employing only a handful of staff, aside from the program director. Thirty-one programs reported employing fewer than 10 full-time professional and clerical employees, excluding the program director. In fact, 20 programs—or over 47 percent of the total—reported employing three or fewer full-time staff. Table 2-2 shows staffing complements reported by state victim compensation programs.

Seven programs reported total staff complements (professional and clerical) ranging from 10 to 20 employees. Three large programs responding to the survey reported

having 45 or more full-time employees. California leads the way, with 156 full-time employees, or about 32 percent of the total full-time personnel in victim compensation programs nationwide.<sup>2</sup> New York reported 67 full-time employees, and New Jersey reported 45 full-time employees. Altogether, responding programs reported employing 481 full-time and 83 part-time employees. About 63 percent of the part-time employees are clerical workers.

Two hundred and thirty-five full-time employees, or 49 percent of all employees reported by respondents, are investigators. Clerical positions account for 183 employees, or 38 percent of the total. Other professional employees account for 65 full-time positions, or 13 percent of the total.

About half the responding programs indicated that their staff had increased since the program began. However, almost half the programs said funding for administration was inadequate. Respondents were asked to identify their program's weaknesses. The most common responses centered around problems caused by lack of adequate staffing, e.g., increased delays in processing time, and decline in quality of staff work leading to increased chance of fraudulent claims being paid, etc.

Small staff size compounds many other problems faced by victim compensation programs. For example, it is difficult for programs to free up staff for outreach efforts to educate groups about their rights to compensation if they should be crime victims in the future. It is more difficult to provide specialized services—such as bilingual staff—when an agency has only three or four total staff positions. Agencies also find it difficult to free staff time to develop decision-making standards or guidelines, thus prompting greater reliance on case-by-case decision making. Formal training programs are more difficult to develop, thus causing most agencies to use on-the-job experience as the primary method of training new employees.

In order to boost staffing, several programs have reached agreements with victim assistance (service) agencies to place their workers in the victim compensation programs to serve as advocates. In other cases, agencies use student interns and community volunteers to bolster staff capacity.

About half the directors of victim compensation programs are selected under state civil service procedures and about half are selected via an appointive process. However, virtually all professional and clerical staff are civil service positions. Only two programs reported having professional or clerical positions that were filled by appointment.

**Table 2-2  
Number of Employees in State Victim Compensation Programs**

State	Investigators		Other Professional		Clerical		Total	
	F.T.	P.T.	F.T.	P.T.	F.T.	P.T.	F.T.	P.T.
California	93	8	25	2	38	4	156	14
New York	28	1	--	--	39	--	67	1
New Jersey	21	--	--	--	24	--	45	--
Florida	13	--	4	--	5	4	22	4
Arizona	12	3	--	--	5	26	17	29
Texas	2	--	3	--	10	3	15	3
Washington	5	--	3	--	6	--	14	--
South Carolina	4	--	2	--	5	--	11	--
Maryland	5	--	4	--	2	--	11	--
Pennsylvania	3	--	1	1	6	--	10	1
Alabama	4	1	3	--	3	--	10	1
Wisconsin	6	--	--	--	2	1	8	1
North Carolina	6	--	1	--	1	5	8	5
Connecticut	3	2	1	--	3	--	7	2
Massachusetts	2	--	2	4	2	--	6	4
Indiana	3	--	1	--	2	--	6	--
Oregon	2	--	1	--	3	1	6	1
Delaware	2	--	1	--	3	--	6	--
Tennessee	--	1	2	--	4	1	4	1
Utah	2	--	1	--	1	--	4	--
Iowa	2	--	1	--	1	--	4	--
Michigan	2	--	--	--	2	--	4	--
West Virginia	2	--	1	--	1	--	4	--
Minnesota	2	--	--	--	1	1	3	1
Virginia	1	--	--	--	2	--	3	--
Hawaii	1	--	1	--	1	--	3	--
New Mexico	2	--	--	1	1	--	3	1
Kentucky	1	2	--	--	2	--	3	2
Rhode Island	--	--	1	3	1	--	2	3
Kansas	1	--	--	--	1	--	2	--
Idaho	1	--	1	--	--	1	2	1
Virgin Islands	1	--	1	1	--	1	2	2
Louisiana	--	--	--	--	2	--	2	--
Oklahoma	1	--	--	--	1	--	2	--
Missouri	1	--	--	--	1	--	2	--
Montana	--	--	1	--	1	--	2	--
Alaska	--	--	1	--	1	--	2	--
Nebraska	1	--	--	--	--	--	1	--
Arkansas	0	1	--	--	0	1	0	2
North Dakota	--	1	--	--	--	1	--	2
Wyoming	--	--	1	--	--	1	1	1
Nevada	0	0	1	0	0	1	1	1
Colorado	--	--	--	--	--	--	--	--
<b>Total</b>	<b>235</b>	<b>20</b>	<b>65</b>	<b>12</b>	<b>183</b>	<b>52</b>	<b>481</b>	<b>83</b>

-- none reported

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## The Claims Process

As noted earlier, claimants must comply with certain requirements in order to be eligible for compensation, including reporting the crime and filing claims by prescribed deadlines. In most states, victims usually initiate contact by telephoning the compensation program. Program staff normally mail an application form to the victim, who completes and returns it. Most states do not commence screening until after an application is filed that provides a written record for staff to review.

Several state programs have taken steps to facilitate the application process. For example, in Massachusetts and New York, bilingual staff or translators (provided from other agencies or community organizations) are available to help non-English speaking claimants. Several states mentioned that they had simplified application forms, both to reduce the amount of information applicants must supply and to make the forms more clear and understandable. In New York, claims forms are available in both English and Spanish. Finally, several programs have added victim advocates to their staff through cooperative arrangements with victim assistance programs. Their primary responsibility is to assure that social service agencies meet the victims' immediate needs. In addition, they help claimants work through the application process.

In most states, claims filed by victims are assigned to an investigator or claims specialist who is responsible for processing the claim until final action is taken on it. The investigator obtains information from a variety of sources to ensure that the victim is eligible and to determine the amount of compensation.

Typically, investigators are "desk-bound" in this process, collecting the required information by letters and telephone calls. Investigators must contact the local police agency to ensure that the crime was reported and to determine whether (from the police viewpoint) there is evidence of contributory misconduct on the victim's part. Investigators must document medical bills from health care providers and obtain verification of benefits paid by insurance companies. Investigators must obtain information from victims' employers to document lost wages. Finally, they must obtain a variety of additional data from victims, such as their version of the offense, information refuting alleged contributory misconduct, clarification of discrepancies in claimed out-of-pocket expenses, etc.

Some states have streamlined the investigation process in an effort to cut average processing time. For example, staff in Hawaii provide a limited review of each claim

filed and refer it to the commission. If the commission is not satisfied or feels more information is needed, it is assigned to staff for an in-depth investigation. In Wisconsin, claims specialists handle all cases initially. If they are unable to obtain enough information to support a decision, the case is turned over to an investigator.

In some jurisdictions, investigation is carried out by local officials. In Louisiana, for example, local sheriffs investigate claims and forward results to program staff for a decision. In Oklahoma, the staff of 27 district victim witness programs conduct claims investigations and return completed claims to the victim compensation program, where staff review information for completeness and prepare the case for review by the board.

## Decision Processes

Data suggest that among all programs about 30 percent of claims filed are not awarded. This includes those denied outright, those not acted upon due to failure of the claimant to provide information and those in which investigators concluded there was no compensable loss.

In four states, program administrators have discretion to make awards for any claims that survive screenings. In four other states, program administrators can make small awards to eligible claimants without having to convene the crime victim compensation board or commission. In one of these states, the maximum amount the program administrator can award is \$5,000; in two states, it is \$1,000; and in one state, the limit is \$500.

## Appeals

In all but one state, applicants may appeal denied claims. Applicants are notified in writing at the time a claim is denied that they may appeal the decision. Twenty-two states require appeals to be filed within 30 days of the denial, while six require appeals to be filed within 20 days of denial. Two require appeals to be filed within 15 days of denial, and four give denied applicants 60 days to file appeals. Only one state gives denied applicants more than 60 days to file an appeal. In 16 programs, the appeal is both heard and decided by a different panel of commissioners than made the denial or by the full commission. In eight states, an appeal is heard by a judge.

In site visit states, deadlines for appeals range from 15 days (Massachusetts), to 60 days (Oregon), with New York, South Carolina, and Wisconsin at 30 days. Wyo-

ming has no appeals process. Since contributory misconduct is a frequently cited reason for denial, procedures that build a solid factual basis on the contributory misconduct issue during the investigation phase both discourage claimants from taking appeals and provide the agency information it needs to decide appeals quickly.

## Program Work Loads

Table 2-3 shows data on claims filed, claims awarded, and reported average amount of claims for responding states.

### Claims Filed

VOCA's 1988 *Report to Congress* indicated that a total of 75,900 claims were filed in fiscal year 1987. Programs responding to the survey reported receiving over 92,000 claims in their most recently completed fiscal year (for most, that was fiscal year 1988), an increase of 18 percent.

About two-thirds of the program directors reported that their case loads had increased since their program's third year of operation. None reported that their case loads had gone down. Among those reporting increases, the average reported increase in case load was almost 40 percent.

All program directors said greater victim awareness about compensation programs had caused their case loads to increase. Only twelve attributed growth in case load to changes in compensable crimes or victim eligibility criteria. Only four attributed rising case loads to changes in crime rates.

### Claims Awarded

Respondents to the survey indicated they awarded a total of 65,799 claims, up 17.1 percent over fiscal year 1987, and up 31.1 percent over fiscal year 1986. This figure may be slightly higher than the number of claimants paid because some states, like Washington, record each check issued (even multiple checks to the same victim to cover continuing counseling costs) as a separate claim awarded.

Only nine program directors said that the proportion of claims awarded had changed since their third year of operation. Three said that they now awarded compensation to a higher percent of applicants than in the past. Of those, program directors attributed the increases in proportions of applicants awarded compensation to changes in compensable crimes or eligibility criteria.

**Table 2-3**  
**Victim Compensation Program Work Loads**

Program	Claims Filed	Claims Awarded	Reported Average Amount Awarded Claim
Alabama	740	537	\$3,500
Alaska	263	171	3,900
Arizona	--	222	695
California	33,402	27,970	1,375
Connecticut	862	530	3,800
Delaware	272	185	4,530
Florida	3,062	3,190	4,000
Hawaii	744	494	1,030
Idaho	169	81	3,388
Indiana	799	465	2,200
Iowa	677	539	1,800
Kansas	534	316	1,948
Kentucky	592	238	3,535
Louisiana	422	328	2,400
Maryland	1,221	465	5,000
Massachusetts	--	--	6,700
Michigan	1,951	994	2,300
Minnesota	635	424	1,831
Missouri	857	539	3,399
Montana	345	226	1,186
Nebraska	--	--	6,000
Nevada	419	202	4,038
New Jersey	3,767	--	4,211
New Mexico	138	104	3,623
New York	22,445	9,268	764
North Carolina	--	--	1,300
North Dakota	93	--	2,155
Oklahoma	712	460	1,555
Oregon	1,220	521	4,000
Pennsylvania	1,702	1,402	1,609
Rhode Island	245	86	8,800
South Carolina	3,261	2,285	1,128
Tennessee	1,031	1,031	3,688
Texas	6,777	3,938	4,422
Utah	347	245	2,600
Virgin Islands	36	31	2,300
Virginia	889	522	3,000
Washington	2,895	7,848	--
West Virginia	279	172	6,000
Wisconsin	1,369	650	1,804
Wyoming	62	49	1,117

-- not reported

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Due to differing state reporting procedures, it was not possible to collect data that tracked claims from filing through processing to termination in order to compute the percent of claims filed that are awarded compensation in each state. Rather, data on claims filed and claims awarded were obtained during the most recently completed state fiscal year. (At the time of the survey, this meant fiscal year 1988 for most programs.) Some of the claims awarded in that year had been filed in the prior year or, in a few extreme cases, even earlier. Some of the claims filed were not acted on during that fiscal year but were carried forward to the next.

However, assuming (as the data suggest) that almost all claims are denied or awarded within one year of filing, it appears that the average award rate among all programs is approximately 70 percent. That figure is obtained by dividing the total number of claims awarded by the total number of claims filed among programs providing data on both items.

Due to substantial variation among the states, comparing individual programs or groups of programs in terms of award percentages is not particularly useful. For example, states vary considerably in how they track supplemental awards. Some count them as a single award, even though a victim may get three or four payments over time. Others count each payment as a separate award.

### *Claims Denied*

Program directors were asked to indicate reasons for claim denial and to describe how often they were invoked in their states. Reasons linked to formal and objective criteria—such as failure to report the crime, missing filing deadlines, and being the victim of a noncompensable crime—were seldom cited as reasons for denial. This suggests that on strictly factual questions, staff do a good job of weeding out noncompensable cases.

The reasons cited for denying claims were more subjective in nature. Twenty-eight states said victim contribution to the crime was often a reason for denial. Eighteen states said failure to cooperate with police was often cited as a reason for denial, and fourteen said failure to provide enough information was often a reason for denial.

### **Processing Time**

The amount of time required to complete processing of a victim compensation claim varies widely among the pro-

grams. Total processing time for approved claims ranges from 20 days in Utah, Washington, and West Virginia to two years in Rhode Island. Among all states responding, the average total processing time is 89 business days.

The most serious impediments to faster processing generally are beyond the direct control of victim compensation programs. The survey asked program directors to identify obstacles to faster processing of claims. They noted that in processing claims, staff must rely on other organizations, agencies, and individuals—including the victim—to supply needed information. Thus, claims processing cannot proceed faster than the pace set by the slowest provider of essential information.

In particular, program directors said verifying information about victims' financial losses was the biggest obstacle to faster processing. Thirty program directors named verification of collateral sources of compensation as a factor that slowed case processing; 29, verification of bills; 25, verification of lost wages. Eighteen said that verification by police delayed processing, while 17 said that awaiting outcomes of trials delayed processing. During site visits, staff of several programs noted that insurance companies were particularly slow to respond with information on reimbursements or benefits paid to victims or to medical service providers who treated the victim.

Twenty-five program directors said lack of staff impaired faster processing. Clearly program directors alone cannot increase staffing levels. Rather, they must convince legislators of the need for additional staffing, which, in turn, may require rethinking the agency's basic structure (independent agency versus sponsorship by an existing agency, such as worker's compensation or the court) or funding base—from one funded by penalty assessments alone to partial reliance on general appropriations.

Eleven directors said existing agency procedures delayed processing or payment. In these cases, program directors may be able to reduce processing time by procedural or administrative changes. For example, in Kentucky, officials reportedly had cut processing time from almost nine months to less than five months by instituting procedural reforms.

### **Victim Awareness**

Program directors are caught in a double-bind in terms of crime victims' awareness of compensation programs. On the one hand, only 10 program directors said victims in their states were adequately informed about the compen-



sation program. Officials in 20 programs said they engaged in special outreach to groups not adequately informed, including minorities, the elderly, and the non-English speaking population. Twenty-eight said that more eligible victims could be reached if they devoted more time and resources to increased outreach.

On the other hand, officials in twenty programs said that increased public awareness would place greater strain on available funds. Eighteen said that their resources were not sufficient to pay deserved benefits to the existing number of claimants. Thus, if programs made more victims aware of their rights to compensation, they likely would diminish the average claim paid to those victims, unless there were major increases in funding.

In addition, almost half the program directors said that existing funding for program administration was inadequate. If better outreach efforts increased the number of claims, many states would be unable to process the increased work load in an efficient and timely manner. In states with inadequate administrative funding, staff cannot be spared from their claim processing duties to do more vigorous outreach.

Compensation programs follow two basic strategies to inform victims—giving notices to known victims and providing general information to the public-at-large. Program directors lack “hard” evidence about which works best. But, based on their experience, most thought targeting known victims was the most effective strategy. Several directors noted that the general public tends to ignore advertising about victim compensation because they do not want to think about being victimized or because they discount the chances that they will, at some point, be victims of violent crime. They gave examples of citizens complaining about lack of program information even though such information was prominently displayed in their communities.

The survey asked program directors to identify various methods they used to inform victims of their rights to seek compensation and to rank their relative importance. Table 2-4 shows the results.

Program directors gave the highest rankings to methods involving direct delivery of information about compensation programs to known victims—the methods that most programs used. Of these direct approaches, program directors ranked information delivery by police as most important, followed by victim assistance or victim advocate programs, hospital or emergency room personnel, and prosecutors in that order.

Program directors gave lower ranks to “indirect” approaches that involved delivery of general information about compensation programs to nonvictims. Fewer programs use these approaches. Of them, the use of posters or brochures and public appearances by program staff are used most often and were ranked as more important by program directors.

## Outreach to Unserved Victims

Groups that program directors singled out as in special need of information included non-English speaking victims (especially Hispanics and Asians), the elderly, minorities (especially Blacks and Native Americans), and battered women. Among site visit states, Wyoming officials noted that citizens of small ranching communities and isolated towns needed more information about the program. Even teenagers were identified as a group which is underserved. In all six site visit states, officials reiterated that victims in general are not well informed as to the existence of compensation programs.

The states visited have devised creative efforts to reach victims not now being served. In Wisconsin, for example, the victim compensation program provides training through the police academy to new recruits, through victim/witness program advocates in district attorneys offices throughout the state, and in hospitals whenever possible. In Wyoming, where all claims are heard at quarterly hearings at various towns in the state on a rotating basis, a dinner is held the evening preceding the hearing to which members of the local criminal justice community are invited. The program is explained and feedback is requested. In Oregon, domestic violence shelters (who counsel victims on their legal right to compensation) place their telephone numbers in ladies’ rooms located in bars. (A tear-off strip with just the number and no other identifying information is provided so that victims will not further anger abusive mates who might discover the number.)

New York makes special efforts to inform other officials who serve the public daily—all county legislators, community boards, precincts, city council members, etc. In South Carolina, staff work with hospitals, police, and all other interested groups around the state to insure that victims of crime are made aware of their rights. A victim rights card containing mandatory information for innocent crime victims has been prepared for police use. The card has *Miranda* warnings on one side and victim rights information on the other.

**Table 2-4  
Ranking of Methods Used to Inform Victims**

State	Police	Victim Assistance Programs	Hospital, Emergency Personnel	Prosecutor	Poster, Brochure	Public Service Announcement	Other	Public Appearance	Ads by Agency	Ads by Others
Alabama	2	1	3	1	4	5		6		
Alaska	1	5	3	2	4					
Arizona	1	3	2	4	5	6		7		
California	2	1	3		4					5
Connecticut	1	2	3		4	5			6	
Delaware	1	2	4	3	5			6	8	7
Hawaii		1								
Idaho	1	3	2	5	6			4		
Indiana	3	1	2	4	6			5		
Iowa	1	3	2	4	5		6			
Kansas	1	3	4	2				6		
Kentucky	4	1	3	2	5	6		7		
Louisiana	1								9	
Maryland	2	1	3	4	5			6		
Massachusetts	2	3		1						
Michigan	2	3	4	1	5		6	7		
Minnesota	1	2		3	4			5	6	
Missouri	1	4	3	2						
Montana	1	3	2	5	9	6	4	10	7	8
Nebraska	1	2	5	3	6	4		7		
Nevada	2	3	1	3						
New Jersey	1	4	2	3	9	6	5	8	7	10
New York	1	4	2	5	3			6	7	
North Carolina	3	2	1	5						
North Dakota		1								
Oklahoma	2	5	3	1	4	7	9	6	8	
Oregon	1	1	2	2	3			3		
Pennsylvania	2	1	4	3	3			5		
Rhode Island		2	3	1	4	5				6
South Carolina	3	1	4	2	9	5		8	7	6
Tennessee	1	1	3	4	7		6	5		8
Texas	2	3	1	4	9	5		8	6	7
Utah	1	4		2					3	
Virgin Islands	1	4	2	3	5					6
Virginia	2	1	3	4			5			
Washington	4	1	2	3	5		6	7		
West Virginia	1		3	2						
Wisconsin	1	3	2	4	3					3
Wyoming	2	4	5	3	1	6		8	7	
Number Using	36	37	33	34	28	12	8	22	12	10
Average Rank	1.63	2.41	2.76	2.94	5.07	5.50	5.88	6.36	6.75	6.60

Massachusetts has staff members who speak several languages. Outreach efforts have also included working directly with community leaders (for example, with Vietnamese or Mexican spokespersons) and presenting informational programs at local ethnic and community centers. In Wyoming, a domestic violence shelter on a large Native American reservation serves as an information center on victim compensation, and program staff have made presentations on victim benefits to the reservation's tribal council.

A number of programs voiced concerns about cultural differences, not just language barriers per se, that keep victims from seeking compensation. While language problems can be overcome by hiring bilingual staff or providing translators, cultural differences are much more intractable and, therefore, are a much more serious obstacle. In site visit states, program directors noted special problems with domestic violence cases in the Native American and Asian communities.

## Estimating the Numbers of Unserved Crime Victims

In 1987, an estimated 5,660,000 violent crime victimizations occurred in the U.S. Claims for compensation were filed in fewer than 2 percent of these victimizations. If the victims had filed claims, however, the vast majority of them would have been denied. About half (51 percent) of the victimizations are not reported to the police—a prerequisite for compensation. Most of the crimes (63 percent) were attempted rather than completed crimes, and even among the completed crimes, most of the victims sustained no injury severe enough to require medical treatment.

Estimating how many victims would have been eligible for compensation under existing program standards requires a number of assumptions about which losses and which victims would be covered. Although state victim compensation programs differ in the specific crimes compensated, most include a basic core of offenses which can result in substantial physical harm. The crimes for which compensation is most commonly available are listed below:

- fatalities and injuries due to drinking drivers,
- homicide,
- rape,
- robbery,
- aggravated assault (including domestic and all other assaults), and
- child abuse (combining sexual and physical abuse).

Together, these crime categories cover 85 percent of the claims filed and 94 percent of the awards granted in states responding to the survey.

For each crime, several assumptions were required to estimate the number of victims who would appear to meet the criteria for compensation. Rather than attempt to simulate each state's separate criteria, a common set of criteria were constructed which approximate the most common requirements throughout the nation. First, the victim had to be killed or injured severely enough to require medical attention. Second, only crimes reported to law enforcement authorities were considered eligible. Third, victims who contributed to the incident—by themselves breaking

**Table 2-5**  
**Summary of Victims Eligible for Compensation, 1987**

Crime	Victims				
	Total	Reported	Culpable	"Innocent"	Uninsured
DWI fatalities	23,630	23,630	20,322	3,308	3,308
DWI injuries	43,000	43,000	36,980	6,020	1,969
Homicide	20,096	20,096	2,154	17,942	17,942
Rape	51,496	30,846	0	30,846	10,087
Robbery	146,325	109,004	0	109,004	35,644
Aggravated assault	390,562	240,196	10,809	229,387	75,010
Domestic	91,059	56,001	0	56,001	18,312
Other	299,503	184,195	10,809	173,386	56,697
Child abuse	?	165,971	0	165,971	24,464
All offenses	675,109+	632,743	70,265	562,478	168,424

DWI = Driving While Intoxicated

the law or otherwise precipitating a crime—were excluded. Finally, the number of nonculpable, “innocent” victims was reduced to include only those estimated to be without insurance.

Table 2-5 summarizes the estimated total numbers of victims for each crime category and the number meeting each successive compensation criterion. In all, the victimizations covered lead to an estimate of approximately 168,000 people who are eligible for compensation. The specific assumptions for each crime type are detailed in Appendix A. Using restrictive criteria of eligibility, among states providing sufficiently detailed claims data, 76,134 claims were recorded for the types of offenses covered in this estimate (Table 2-3), or about 45 percent of the total estimate of uninsured victims who meet the basic requirements for compensation. This implies that there are about 92,000 uncompensated victims not reached by existing programs. About 15,000 of these (17 percent of the nonfiling victims) live in states where either their crime is excluded from compensation or there is no victim compensation program.

This calculation is based on a generally restrictive definition of eligibility. Broader coverage standards would substantially increase the number of victimizations which might result in compensation. For example, only physical injuries are considered. Some states pay substantial amounts for mental health care. In 1989, Montana and Kansas spent 25 and 21 percent of their respective total awards for counseling. Under certain assumptions (detailed in Appendix A) about the number of victims needing mental health counseling, the number of victims eligible for compensation could be increased by as much as one-third.

The assumptions are also arbitrary in their exclusion of all insured victims and their inclusion of all uninsured victims. Most insurance policies have deductible, copayment, or cap amounts which result in out-of-pocket costs for insured victims. Therefore, even some of the insured victims (in the “innocent” column) might be eligible for compensation. On the other hand, most state victim compensation programs also have deductible amounts or the equivalent, below which claims are disallowed, so that some of the “uninsured” victims would not be eligible.

To adjust for these two effects, one should reduce the number of uninsured victims by an estimate of the number with claims below the program’s deductible and increase the estimate of compensable victims by the number of insured victims whose out-of-pocket costs after insurance exceeded the program’s deductible amount. Neither of

these data are available. The 1987 National Crime Survey reports that among all crimes of violence in which injured victims incurred medical expenses, the amount of cost was ascertained in only 65.5 percent of the victimizations. Of these known instances, 20 percent resulted in costs of less than \$50; 33 percent resulted in costs between \$50 and \$249; and the remaining 47 percent resulted in costs of \$250 or more. (These are total gross costs, including those covered by insurance.)

If these rates were applied to the three violent crimes of rape, robbery, and aggravated assault, 117,000 insured victims would be estimated to have total costs of \$250 or more. Assuming that their insurance policies required 20 percent copayment, these victims would have out-of-pocket costs of \$50 or more. Offsetting these, 24,000 uninsured victims would be estimated to have total costs of \$50 or less. If programs were to compensate only those with out-of-pocket losses exceeding \$50, regardless of insurance, these calculations would imply a net increase of 93,000 in the number of eligible victimizations.

**Table 2-6**  
**Additional Eligible Victims Due to Insurance Copayment and Program Deductible**

Crime	Insured Victims with > \$50 Out-of-Pocket Expenses (47%)	Uninsured Victims with < \$50 Out-of-Pocket Expenses (20%)	Additional Eligible Victims
Rape	9,757	2,017	7,740
Robbery	34,479	7,129	27,350
Aggravated assault	72,557	15,002	57,555
Total	116,793	24,148	92,645

The combined implication of these alternative assumptions about insurance and mental health care is that under substantially different eligibility criteria, the number of victimizations eligible for compensation could be approximately twice as high as those shown in Table 2-5, and consequently the coverage rates calculated below could be half as high as those reported above. Hence, using the broader criteria of eligibility discussed above, it appears that about 22 percent of the eligible victims are served by compensation programs.

These estimates of nonfiling victims should be viewed as rough approximations. Claim and award rates vary substantially from state to state because of differences in criteria, outreach, and record-keeping practices. Filing rates vary as well: some states reach larger, and some reach smaller fractions of the eligible population.

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## Endnotes

1. Although administratively attached to the Justice Department, which is run by the Attorney General, Montana's program is functionally independent of the Attorney General.
2. California also accounts for about 43 percent of total spending on victim compensation in the United States.

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# Chapter 3

## Eligibility Requirements

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Eligibility requirements are a cornerstone of state victim compensation programs. Eligibility requirements have undergone substantial change since the early 1980's, reflecting important shifts in public values on criminal victimization. Eligibility is a broad concept, involving who was victimized, the type of crime that occurred, the type and amount of loss sustained, and claimants' cooperation with police. Eligibility also hinges on claimants' meeting certain procedural requirements in filing claims.

### Eligible Victims

In general, state statutes limit eligibility to crime victims who suffer injury as a result of the criminal conduct of another and to survivors of homicide victims. In 22 states, the victim must have suffered physical injuries; in 24 states, injuries can be physical or personal. Survivors of deceased crime victims are also eligible for compensation in all states, but definition of survivors and the types of compensation for which they are eligible vary somewhat from state to state.

Many states define eligible survivors of deceased crime victims in broad terms. In 38 states, parents of deceased victims are eligible for compensation, while siblings can submit claims in 36 states. In-laws are eligible for compensation in 31 states, while in 26 states, other family members of deceased victims may file compensation claims. As noted below, typically survivors of deceased crime victims can be compensated only for certain losses—such as funeral costs or loss of support.

In 30 states, persons are eligible if they are injured when they try to prevent someone from committing a crime or try to capture them.

Only eight states let third parties (for example, hospitals that provided medical care to injured crime victims) directly file a claim for compensation; however, 41 states pay third parties when their bills are part of a claim

submitted by an eligible victim. Of the states that do not permit third parties to file direct claims, 10 reported complaints about their policies, originating mostly from medical service providers.

In most states, some classes of persons are excluded as eligible victims. The most common exclusions are law enforcement officers and fire fighters, on the grounds that if their injuries result from job related duties, they can obtain worker's compensation to cover uninsured losses. New Mexico excludes prison inmates, fearing that incidents like the devastating 1980 Santa Fe prison riot could lead to a flood of unwarranted claims, and assuming that injured inmates would have no out-of-pocket expenses because they were under the care and custody of the state. California excludes convicted felons while they are in jail or prison or on probation or parole. Other states have considered blanket provisions, excluding convicted offenders from filing claims based on injuries arising from subsequent crimes (in which they were not the perpetrators), a position advocated by staff of several programs during the site visits. Ohio has a law that excludes persons associated with organized crime from being eligible victims.<sup>1</sup>

Since the 1983 report, VOCA has required states to eliminate most residency or jurisdictional restrictions in defining eligible victims. Specifically, VOCA requires the following:

- nonresidents victimized within a state must be eligible for compensation, and
- persons subject to federal jurisdiction (for example, Native Americans on a reservation) must be eligible if they otherwise meet state requirements.

The 1988 amendments to VOCA require that in order for a state program to maintain eligibility for a VOCA grant, it must comply with the following requirements by October 1, 1991:

- state residents victimized in another state which does not have a program for which the victim is eligible must be eligible to apply for compensation in the state of residence;
- victims and survivors of victims of drunk driving crimes and domestic violence must be eligible for crime victim compensation on the same basis as all other victims of violent crimes; and
- states which deny compensation to victims of violent crimes on the basis of "unjust enrichment" must develop rules setting out formally what constitutes "unjust enrichment."

During 1989 and 1990, most states, including the Virgin Islands and the District of Columbia, amended their crime victim compensation laws to comply with the new eligibility requirements added to VOCA by the 1988 amendments. By the close of 1990, there were only four states participating in the VOCA crime victim compensation program which had not enacted required legislative changes to maintain eligibility for VOCA grants. Legislation was introduced in Maryland and Pennsylvania during 1990 to make needed statutory changes, but the amendments were not enacted. Arkansas and North Dakota, which must also make legislative changes, did not have 1990 legislative sessions.

Section 7129 (Transition Rule) of VOCA was amended by the Crime Control Act of 1990, providing for an extension of time, to October 1, 1991, for state compliance with the new VOCA eligibility requirements. The four states named above, plus Maine and South Dakota, plan to introduce legislation in 1991 to comply with all VOCA requirements.

In states where resident victims injured in noncompensation states are already covered, verification of employment, insurance, crime occurrence and cooperation with police have raised no unusual problems. The processes of determining eligibility and compensable loss have caused no unusual problems and are not expected to do so.

## Compensable Crimes

Claimants' eligibility for compensation also depends on the type of crime in which they were injured. About three-fourths of the statutes define compensable crimes in broad language, similar to the Uniform Crime Victims Reparations Act:

"(e) Criminally injurious conduct means conduct that (1) occurs or is attempted in this State, (2) poses a substantial threat of personal injury or death, and (3) is punishable by fine, imprisonment, or death...."<sup>2</sup>

The balance of the statutes enumerate specific crimes or categories of offenses that are compensable. This practice could result in denial of benefits to some deserving victims simply because legislatures failed to amend victim compensation laws to reflect new or changing offense definitions in their criminal codes. None of the statutes require that non-DUI (driving under the influence) offenders be apprehended or convicted in order for the victim to be eligible for compensation. A few states require convictions in DUI cases before victims are eligible for compensation, a practice which is required to be dropped after October 1990 under the new VOCA requirements.

All existing states' programs compensate victims of criminal violence including survivors of homicide, and victims of assault, sexual assault, child abuse, and domestic violence. If a state statute does not explicitly include domestic violence as a crime, the state must provide written assurance that compensation is offered to such victims. Virtually all states define the specific acts of violence such as assault, homicide, and sexual assault to apply to domestic as well as to nondomestic violence cases.

VOCA requires that states make drunk driving and domestic violence compensable crimes by October 1, 1991. Given the potential for these requirements to impact state victim compensation programs, program directors were asked to provide specific information about their experience in compensating victims of these crimes.

### *Drunk Driving Crimes*

In his 1983 study, McGillis found that DUI was a compensable crime in only five states. In 1989, DUI was a compensable crime in all but nine states.<sup>3</sup> By the close of 1990, DUI was a compensable crime in all the states participating in the VOCA program except Montana, Pennsylvania, and Maryland. The effect of drunk driving claims on program case loads is of special interest because of concerns that DUI will generate many new claims, and that the size of DUI claims (average awards in DUI cases are more than twice the average award for all other claims) may drain program budgets.

All six states visited include drunk driving victims in their programs. Some have included them for many years; and all, for at least three years. In five of the six states, drunk

driving cases make up only a small part of the total case load (e.g., approximately 2 percent in South Carolina and 3 percent in Wisconsin). However, in Massachusetts, drunk driving cases have caused a considerable increase in the case load and now account for about 10 percent of the total claims filed.

Drunk driving cases have a substantial impact on program budgets because when they do occur, they tend to be extremely costly, both in terms of amounts of payments to victims and staff time expended. Program staff believe drunk driving cases take more time to process than other cases and note that dealing with two insurance companies and numerous attorneys—as is the norm in these cases—greatly increases the length of time from filing to payment.

In all six states visited, a crime must have been committed before a drunk driving victim qualifies for compensation; accidents in which the driver had been drinking, but was not legally intoxicated, are not sufficient for inclusion. For example, in Wyoming and Wisconsin the injury must be “recklessly or intentionally inflicted,” or the offender must have violated the drunk driving statute. In Oregon, criminal intent is required. If (as actually happened) a drunk driver killed a child who ran in front of his car, and if it were determined that the child would have been killed even if the driver had been sober, then the victim would not be covered by the compensation program due to the driver’s lack of criminal intent. Hit-and-run incidents are included in all states as well.

Two key issues concern the victim compensation program staff and managers interviewed: (1) contributory misconduct and (2) subrogation.

In drunk driving cases, staff frequently must decide whether victims contribute to their injury or death. Some states have developed regulations prohibiting payment to adult victims who were willing passengers of a known drunk. Others reduce awards if the victim has voluntarily entered the car of the drunk offender. (In Oregon, teenagers are also held to this adult standard of responsibility.) In South Carolina and Wyoming, entering the car of a known drunk is considered foolhardy, but not wrongful, and therefore not cause for denial.

All of the states visited use subrogation as a payment strategy (i.e., they pay an eligible victim “up front” and then attempt to recoup the payment from insurance proceeds after any litigation has been completed or a settlement has been reached). All states report that their subrogation efforts are less than totally successful since it is

extremely difficult to recoup monies paid out after a significant period of time has elapsed, as is often the case when litigation is involved.<sup>4</sup> Most states have not developed policies and procedures unique to drunk driving cases but have found existing practices to be sufficient.

### *Domestic Violence Crimes*

In 1983, McGillis also noted that many states either excluded domestic violence cases as compensable crimes or effectively eliminated them by denying awards either on the grounds that claimants contributed to their victimization by living with the offender or that offenders could benefit from an award if they were still living with the victims. Virtually all states now include domestic violence as a compensable crime. Though the state statutes do not use the term spouse abuse or domestic violence, compensation is awarded to victims of these acts on the same basis as other violent crimes committed against them, e.g., assault, rape, and homicide. A significant number of states have removed restrictions in the states’ crime victim compensation laws which had been a barrier to awarding compensation to domestic violence victims.

All six states visited have included domestic violence victims in their programs for a number of years. Program staff interviewed believe that domestic violence is generally an underreported crime due to lingering social acceptance of domestic violence and the fear felt by its victims. Thus, in all site visit states except Wyoming, very few domestic violence compensation cases have been filed, a fact which caused program staff and managers to voice concern. When asked why they had so few domestic violence cases, one staff member responded: “I wish I knew, because we’d have fewer homicide cases if we had more domestic violence claims filed.”<sup>5</sup>

In all of the states visited, staff find domestic violence cases troubling. They raise a number of difficult questions not found in most other cases. Domestic violence offenses are generally part of a long-term pattern, not one-time events, and understanding the realities of one incident is almost impossible without understanding the pattern of violence. In all states, staff expressed a need for more training in this area.

Cultural barriers and sexual biases also trouble staff. For example, program directors believe that Native American and Hispanic women are particularly unlikely to report domestic violence offenses or file compensation claims because exposing male violators to public attention would seriously violate cultural norms. Fear of retaliation may be



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even higher for these women than for women in other cultural groups.

Staff also expressed concern that police bias against abused women is widespread. For example, they noted that police often will report contributory misconduct (thus making the victim ineligible for compensation in many states) in domestic violence cases, while rarely reporting it in bar fights where it frequently occurs.

In processing domestic violence cases, staff must deal with three key issues: (1) contributory misconduct, (2) unjust enrichment, and (3) cooperation with law enforcement agencies.

**Contributory Misconduct.** Most compensation statutes are based on a premise that "innocent" victims deserve compensation. At the extreme, a prototypical innocent victim is one who is attacked without provocation by a stranger. Domestic violence cases are especially difficult to process because they often involve repetitive conduct among intimates. Staff in every state note the need to better understand the dynamics of domestic violence. Indeed, emerging research demonstrates that domestic violence is such a complex phenomenon that it may be difficult, if not impossible, to formulate unequivocal policies to guide victim compensation decisions. For example, about three-fourths of the domestic violence incidents reported to police occur during or after separation of the victim and assailant.<sup>6</sup> Thus, compensation policies that promote separation may actually expose victims to greater risk. Other studies challenge the notion of battered women as passive and dependent victims. Several studies have found that women are as likely (and in some studies, more likely) as men to initiate violence during domestic disputes; however, the severity of injury inflicted by men on women is greater than that inflicted by women on men.<sup>7</sup> Thus, victim contribution to domestic violence offenses may stem as much from conduct that precipitates the attack as from continued cohabitation.

Staff are often caught between a desire to compensate deserving victims and laws denying payment where contributory misconduct occurs. Often such statutory provisions were enacted before policy makers were sensitized to the patterned nature of domestic violence.

**Unjust Enrichment.** Unjust enrichment in the context of domestic violence is a thorny issue as well because almost any compensation which benefits the victim might conceivably lighten the assailant's financial burden if the relationship has not been terminated, and sometimes even if it has.

A number of states provide by statute that domestic violence victims may not receive crime victim compensation if the award would "unjustly benefit" the offender. In such instances, the state crime victim compensation program have issued rules, as provided in VOCA, formally establishing what constitutes "unjust enrichment."

**Cooperation.** Victims of domestic violence are especially reluctant to accuse the assailant through a formal criminal complaint. This reluctance is assumed to be a function either of fear of reprisal, cultural dictate, or a desire by the victim to maintain or reestablish a relationship with the perpetrator. In any event, the issue of cooperation with law enforcement is especially problematic for domestic violence compensation claims.

In Wyoming, "hesitant victims" (normally Native American or Hispanic victims) are referred to someone in their communities who can work with them, encouraging them to use program resources.

In New York, conversely, domestic violence cases never reach the victim compensation program if the victim does not file a complaint with the police. In South Carolina (where domestic violence organizations have a great deal of input through an unusual umbrella organization which includes all of the state's victim groups in policy formation), staff try to look at extenuating circumstances when domestic violence victims are labeled as uncooperative by police. However, cooperation is required, and charges of noncooperation can be disputed only on appeal. In Massachusetts, a police report must be filed, reporting the crime, and a temporary restraining order must be requested, but criminal charges need not be filed for a victim to meet eligibility criteria.

Like most other cases, domestic violence cases entail some level of subjective judgment on the part of victim compensation staff. The difference is that domestic violence cases reflect such a complex set of problems that staff cannot be sure that their intervention is beneficial.

## Compensable Losses

The type of losses sustained is another important element of eligibility. In all states, victims can be compensated for medical expenses, mental health counseling, and lost wages.<sup>8</sup> In all states, survivors of deceased victims can be compensated for funeral expenses and loss of support. In 37 states, victims can be compensated for rehabilitation services (other than mental health counseling). And in 35 states, the cost of replacement services is compensable.

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Two types of losses are not generally compensable. Only eight states compensate victims for any type of property loss; and then usually subject to strict limits (\$200 to \$500) for specific classes of victims—e.g., the elderly. (As noted earlier, VOCA funds cannot be used to compensate victims for property losses.)

Consistent with VOCA requirements, all states report that prosthetic devices (including eyeglasses, dentures, etc.) are defined not as property, but as medical expenses; hence, losses are recoverable. Only five states compensate for pain and suffering.

## Financial Need Requirements

In his 1983 study, McGillis found that about one-third of the states considered victims' financial need in determining either eligibility for or the amount of compensation. McGillis noted that the main rationales for this policy were to contain costs by reducing the number of awards and to allocate limited compensation resources among those most needy. Critics argue that considering victims' financial needs itself has costs. Staff must collect and analyze additional financial information. Needy victims may be discouraged from filing claims by the added paperwork or may view the added financial scrutiny with all the enthusiasm of a tax audit. Finally, critics note that financial need requirements are superfluous because merely requiring losses to be uncompensated effectively eliminates well-to-do victims, who are more likely to have insurance.

In 1989, only 11 programs, or about 26 percent of the total, still considered victims' financial conditions in reviewing applications or recommending compensation levels.

## Contributory Misconduct

All programs have laws or procedures designed to exclude noninnocent victims from receiving compensation. These laws and procedures are intended to prevent persons from being compensated who are injured while committing a crime or who bear substantial culpability for the crime. But at the margins, the concept of the "innocent victim" has been always ill-defined.

In practice, all states apply the concept of the "innocent victim" by searching the record for evidence of contributory misconduct—that is, did the victims' behaviors contribute to their victimizations? Contributory misconduct is one of the most difficult and frequent issues program staff

face. Many victims are involved to varying degrees in the circumstances leading to their victimization, and staff who process claims view the circumstances surrounding the crime through the filter of their own experience, values or biases. They must sift through several differing versions of an event and try to meet the letter and intent of the law, while, at the same time, being as fair as possible to all victims. As noted above, the inclusion of domestic violence and drunk driving as compensable crimes has underscored the complexity of contributory misconduct and has compelled states to face those issues in a growing number of cases.

Sixteen states reported that they deny awards entirely if claimants are found to have engaged in contributory misconduct. More often, states reported reducing awards in proportion to the extent of contributory misconduct. Among those that reduce awards, most states have not established rigid criteria for determining the amount of the reduction but, instead, make case-by-case determinations.

Contributory misconduct was one of the key issues examined during site visits. In all six states, officials reported that contributory misconduct was often a cause for denial of claims. The universal example—raised independently in each state visited—was the barroom fight, where the victim often knew his assailant, where both parties usually had been drinking, where the relationship between provocation and response was extremely difficult to unravel, and where injuries were often very serious. Staff all felt that the victim of barroom fights was not the victim the public and the legislature had in mind when creating victim compensation programs. It troubled program staff to pay victims of barroom fights (they make up a large part of the case load in each of the six states), especially when resources are limited and other victims may not be paid as a result.

In deciding contributory misconduct, staff rely heavily on police reports, witness statements, district attorney reports, any available trial transcripts, the opinions of victim advocates, and, of course, the statements (written and/or verbal) of the victim. In most states, staff have access to prior criminal histories as well.)

In cases where contributory misconduct is at issue, program staff give the victim at least one opportunity to refute evidence of contributory misconduct before a claim is denied. In Wisconsin, staff have developed a procedure that requires that each victim be telephoned in the process of the investigation and given an opportunity to clarify his or her position on contributory misconduct. In Oregon, the victim is asked specifically to clarify his or her position on

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this issue prior to the decision since it saves valuable time at the appeal stage.

Most of the states visited have no hard-and-fast rules for making decisions about contributory misconduct. However, Wyoming has developed criteria which are to be included in all police reports and which its commission takes into account in deciding awards. An award would be denied if the victim:

- used fighting words, obscene or threatening gestures, or other provocation,
- knowingly and willingly entered a vehicle operated by a person under the influence of alcohol or a controlled substance,
- consumed alcohol or other mood-altering substances,
- failed to retreat or withdraw from a situation where an option to do so was readily available,
- acted in a negligent manner or in a way that goes against common sense (which enabled a crime to be committed which would not otherwise have occurred), or
- assisted, attempted to commit, or committed a criminal act at the time of the injury.

Generally speaking, the states visited had no written standards for deciding the degree of contributory misconduct. This placed staff in a quandary: they valued flexibility in dealing with such cases but recognized that too much unguided discretion can lead to arbitrary decisions. In four of the six states, staff expressed a desire for written guidelines. In most states, difficult cases are discussed at staff meetings where a group process is used to come to a decision in order to avoid individual biases.

The quality of information used to determine contributory misconduct is another important issue. In South Carolina, for example, staff do not rely on verbal evidence but instead require written information from the police or a witness. In Oregon, if the police suggest verbally that contributory misconduct was involved, they are asked to make that assertion in writing. If they do so, their report is given increased weight in the decision process. In Massachusetts, where the program is court-based, the evidentiary standard used is "evidence on which reasonable people will rely." No other state noted a specific standard of evidence.

Massachusetts and Oregon permit either reduction or denial of award if contributory conduct is found, but, in

New York, Wisconsin and South Carolina, awards must be denied if the victim is found to have contributed to the crime. In South Carolina, program staff would like to experiment with a 0-50-100 percent standard which they believe would increase fairness in awards. Wyoming currently requires that there be no contribution, but will soon go to percentage-based awards due to a change in legislation.

During site visits, five "scenarios" were presented to state program staff and directors to determine how they would make decisions about contributory misconduct. The five scenarios are listed below:

### *Scenario One*

The victim was shot by her husband after she had a protection order amended to let him come to her apartment to visit their children.

**Response:** Officials in all states agreed that they would find no contributory misconduct.

### *Scenario Two*

The victim was robbed and shot after accepting a ride from a stranger who encountered the victim on a city street at 3 A.M.

**Response:** Officials in all states agreed that if solicitation was not a factor, they would find no contributory misconduct in this scenario. However, if the victim was engaged in solicitation, all would deny the claim.

### *Scenario Three*

The victim was shot at 3 A.M. in an after-hours bar after he invited the assailant's girlfriend to dance.

**Response:** This scenario raised the issue of whether the victim committed a crime by being in an after-hours bar. If not, officials in all states said that they likely would find no contributory misconduct and probably would pay the claim.

### *Scenario Four*

The victim was shot as he left a bar after he had a fight with his assailant in the bar an hour earlier.

**Response:** This scenario raised the same problem for officials in all states—the need for more information

about the relationship between provocation and response. But most agreed that the victim probably would be paid. If the time span between the fight and the victimization were shorter, there would be an increased likelihood of denial.

### *Scenario Five*

The victim was wounded in a drive-by shooting while trying to make a drug buy from a street dealer. The shooting was part of a gang war for control of drug markets.

**Response:** Officials in all six states would find that the victim had engaged in contributory misconduct, based on the attempt to make an illegal drug purchase, and would deny the claim.

## Cooperation with Law Enforcement

All states reported that victims must cooperate with the reasonable requests of law enforcement in order to be eligible for compensation. The victim cooperation requirement is intended to achieve several objectives. First, and perhaps most importantly, it is supposed to discourage people from filing false compensation claims. In all jurisdictions, it is a crime to falsely report a crime. Second, it creates an information base on the offense—the police report and attendant information—that investigators later can use in processing claims. Third, it achieves the prima facie purpose of encouraging victims to report crimes and to assist in their investigation.

At a minimum, cooperation means victims must report the crime to police. In 89 percent of the states reporting, victims must report crimes in seven days or less; the most common reporting deadline is three days (16 states). One state has a 90-day reporting deadline.

In site visit states, Wyoming requires a police report to be filed within “a reasonable period of time.” Reporting deadlines are two days in Massachusetts and South Carolina, three days in Oregon, five days in Wisconsin, and seven days in New York, which also has a “reasonable time” rule for reporting sex offenses.

Beyond simply reporting the crime, all states require victims to cooperate with police during the investigation. However, twenty-eight states reported qualifications in certain circumstances. The most common circumstances are as follows:

- when a victim is a child who allegedly suffered physical or sexual abuse,
- when the victim fears retaliation by the offender,
- when the victim is emotionally or physically unable to cooperate,
- when the victim cannot identify the offender, or
- when the victim lives too far away from the scene of the crime to cooperate fully.

Forty-two states also require victims to cooperate with prosecutors. Most states grant exceptions based on clear evidence that failure to cooperate was due to a compelling safety reason. As noted earlier, the requirement for cooperation with prosecution is a particularly thorny issue for domestic violence cases. However, it also becomes a consideration in cases of child sexual abuse and crimes against elderly victims.

Cooperation is required for eligibility in five of the six states visited. The sixth state, Massachusetts, requires only that nonresidents cooperate. Program staff hope to have the statute amended in the future to require cooperation from all claimants.

In most states, program staff rely primarily on police reports (and on well developed informal relationships with the police) for information on victim cooperation unless the victim indicates that he or she disagrees with the opinion of the police. In that event, staff dig deeper, reviewing any available trial documents and contacting witnesses, ambulance drivers or other medical personnel, the victim him- or herself, or anyone else who may have pertinent information.

Victims are given the opportunity to refute charges of noncooperation in most cases (both informally prior to appeal and formally at the appeal stage). If police allege noncooperation, Wisconsin staff phone victims during investigations to give them a chance to refute the charges. In Wyoming, the victim is encouraged to submit in writing his version of the incident and to bring witnesses to the hearing at which his or her case will be decided. In Oregon, police are requested to write out charges of noncooperation; whereas for other purposes, verbal reports are sufficient. When they submit written charges, their reports are given additional weight in the decision-making process.

In cases of physical or sexual assault, for example, the victim may not be able or willing to talk about the crime with police at the time police wish them to. In such

situations, fear, misunderstanding, lack of cooperation, and lack of innocence may be difficult to distinguish. Police may think the victim knows the assailant when, in fact, he or she does not. Thus, a victim who cannot be helpful may become increasingly frustrated or even belligerent. In such circumstances, it is relatively easy for police to conclude that lack of cooperation shows lack of innocence. If language or cultural barriers exist, the difficulty may be even greater. When police make this mistake, it is very difficult for victim compensation program staff to correct it.

In domestic violence cases, unwillingness to bring charges against the batterer is a part of the syndrome, and, therefore, labeling the victim as uncooperative is not likely to have any positive results. This is an area where all staff and managers interviewed agreed there is a real need for additional training; it is the underlying reason why program managers would like somehow to separate domestic violence from other types of cases.

Staff in a number of states noted that with experience they have gained an ability to detect cases in which charges of lack of cooperation may need further investigation. In fact, in most states a "seat of the pants" approach is all that is available. Written guidelines typically do not exist; staff have broad discretion to determine whether a victim really has been uncooperative or not. In this and several other areas, the lack of written policies and procedures is a concern to program managers and staff alike. Several states are in some stage of drafting more sophisticated program guidelines to remedy this problem.

## Filing Deadlines

All states also have deadlines within which victims must file claims. In 28 states, victims must file within one year of the date of the crime. In seven states, the filing deadline is two years. Four states have six month filing deadlines, while one state reported a filing deadline of 18 months. Seven states have two year deadlines, while Rhode Island has a three year deadline. Thirty-three programs have flexibility to grant exceptions to filing deadlines. Usually, criteria for granting exceptions are vaguely worded. For example, 28 programs may grant exceptions for "just cause," or for "good cause," or when it is "in the interests of justice," or if the victim filed within a "reasonable time" (given the total circumstances of the case). Five programs have authority to grant extensions if the victim is a minor or was the victim of child sexual abuse.

**Table 3-1**  
**Filing Deadlines and Exceptions,**  
**Site Visit States**

State	Deadline (in days)	Exceptions
Massachusetts	365 (crime)	none
New York	365 (crime)	ignorance of program, trauma, child sexual abuse
Oregon	365 (crime)	physical and mental incapacity, child sexual abuse
South Carolina	180 (crime or death) can now waive to 4 years (no exceptions)	age (elderly or minor), coma, kidnapping, rape, domestic violence, child sexual abuse
Wisconsin	365 (crime)	child sexual abuse, rape, domestic violence
Wyoming	365 (crime or death)	minor, loss of memory, child sexual abuse, incompetence, rape

All site visit states have 365 day filing deadlines, except for a 180 day deadline in South Carolina. Deadlines are measured from the date of the crime or, in Wyoming and South Carolina, the date of the crime or the date of death. In the telephone survey, all six states noted that they sometimes denied claims on the basis of missed filing deadlines though interviews revealed that the instance of such denials is fairly rare (estimated at less than 5 percent).

Five of the six site visit states reported flexibility in extending filing deadlines in certain situations. Only Massachusetts reported an inability to grant exceptions. The amount of flexibility available to staff varies significantly by state. In Wyoming, New York, and Wisconsin, staff have substantial room to grant exceptions if "good cause" can be shown or the extension is in the "interest of justice." South Carolina's four-year extension went into effect on July 1, 1989; it is too soon to tell how it will be applied in practice.

In the site visit states, exceptions to the filing deadlines include physical and mental incapacitation, rape, child sexual abuse, age (either for minors or for the infirm elderly), ignorance of program existence, domestic violence, and, in Wyoming, cases involving federal victims (Native Americans and members of the military) where lengthy delays due to various federal court requirements are common.

None of the site visit states have formal standards for granting exceptions to filing deadlines. In fact, staff view the decision as an important discretionary function that demands case-by-case flexibility. Massachusetts staff expressed bitterness over their lack of flexibility, noting that while not meeting a filing deadline is rare; when it does occur, the crimes tend to be traumatic (e.g., murder or child sexual abuse); and the loss of compensation "tragic" to the victim.

During site visits, a hypothetical claim was posed to staff in each state to gain a better understanding of how filing deadline rules would be applied. In the hypothetical claim, a woman filed a claim for \$5,000 in medical expenses for treatment of AIDS which she claimed she contracted from a rape that was duly reported to the police five years earlier. The offender was convicted and imprisoned and later died of AIDS.

Of the six states, three (Massachusetts, South Carolina, and Wisconsin) said the claimant would not be eligible because she failed to meet the filing deadline. In two states (Wyoming and Oregon), there were differences of opinion between claims specialists and directors on whether the claim would meet filing deadlines. Only New York staff answered unequivocally that the woman would be eligible for compensation.<sup>9</sup>

## Endnotes

1. While some restrictions on eligibility may be based on sound policy, especially where alternative sources of compensation are readily available, blanket exclusions of large classes of victims may constitute unreasonable discrimination. For example, persons previously convicted of a crime can be innocent victims of subsequent offenses. If there are questions about their culpability for a subsequent offense in which they were injured, that issue can be resolved using investigatory procedures followed for all claimants.
2. American Bar Association Section of Criminal Justice. *Victim/Witness Legislation: Considerations for Policymakers*. Washington, D.C.: American Bar Association Section of Criminal Justice, 1981, p. 7.

3. However, in late 1989, the National Association of Crime Victim Compensation Boards found that about 20 state laws did not conform fully to VOCA drunk driving requirements that were to go into effect on October 1, 1990.
4. Most states reported that it is too soon to determine the long-term impact of drunk driving cases on budgets since the subrogation process takes so long to complete.
5. Mandatory arrest statutes exist in several of the site visit states, but it is too soon to tell what effect, if any, these statutes will have on the number of compensation claims filed.
6. See E. Stark, A. Flitcraft, D. Zuckerman, A. Grey, J. Robuson, and W. Frazier. *Wife Abuse in the Medical Setting*. Washington, D.C.: Office of Domestic Violence, U.S. Department of Health and Human Services, 1980.
7. See K. Lane and P. Gibb. "Violence in the Context of Dating and Sex." *Journal of Family Issues*. Vol. 6, No. 1 (March, 1985), p. 51; also see J. Mercy and L. Saltzman. "Fatal Violence Among Spouses in the United States, 1976-1985." *American Journal of Public Health*. Vol. 79, No. 5 (May, 1989), p. 597.
8. For more extensive treatment of issues surrounding payment of mental health counseling claims, see the discussion on supplemental awards, Chapter 4.
9. None of the states visited had yet received an application based on AIDS, and thus, no policies had been formed to deal with the situation posed in the hypothetical claim. In all states, including those where deadlines could not be stretched, staff felt that if the timing threshold had been met, it would be necessary to carefully examine the question of other possible routes of contracting the disease. For example, if it were to become clear in the course of investigating the claim that the applicant was an IV drug user or a prostitute, further investigation would be required. Generally, the states would rely on medical expertise as to the cause and effect question. If the relationship between the disease and the rape were reasonably clear, however, most would pay the costs associated with the disease within limits set by funding caps.

# Chapter 4

## Benefit Policies

Many factors go into determining the amount of benefits a victim may receive in compensation. Benefits are subject to maximum award limits. In some states, benefits are reduced by a deductible. All states give awards only for nonreimbursed losses; hence, awards are reduced when victims get payments from collateral sources. Most states give emergency awards. Most permit supplemental awards for victims who require long-term treatment or counseling. Most pay attorney's fees, within limits, incurred by victims in the compensation process.

### Maximum Awards

Table 4-1 displays the maximum awards for each state responding to the survey. Eight states reported maximum awards exceeding \$25,000. New York has no overall limit on maximum awards, although certain limits for particular types of awards may curtail the amount given to a claimant. Minnesota, West Virginia and Utah have \$50,000 maximums. The most common maximum award is \$10,000, provided by 14 states, followed by \$25,000 maximums in 11 others.

Eight states reported having increased their maximum award since VOCA was enacted. In most cases, the increases were substantial. For example, California, Minnesota, and Utah doubled their maximum awards, while Massachusetts went from \$10,000 to \$25,000, and Wisconsin went from \$10,000 to \$40,000.

In addition, several states place lower limits on the amounts of awards for particular types of compensable costs. For example, Oregon limits awards for medical expenses to \$10,000, less than half its maximum award of \$23,000. Five states reported lower limits for awards covering mental health counseling costs. In those instances, some states enacted fairly sharp limits. For example, Iowa (which has a maximum award of \$20,600) limits compensation for mental health counseling to \$500. In Louisiana, compen-

**Table 4-1**  
**Maximum Award by State in Survey States**

State	Maximum Award
New York	Unlimited
Minnesota	\$50,000
Utah	50,000
West Virginia	50,000
California	46,000
Maryland	45,000
Wisconsin	40,000
Pennsylvania	35,000
Connecticut	25,000
Delaware	25,000
Idaho	25,000
Kentucky	25,000
Massachusetts	25,000
Montana	25,000
North Dakota	25,000
New Jersey	25,000
Rhode Island	25,000
Texas	25,000
Virgin Islands	25,000
Oregon	23,000
North Carolina	22,000
Iowa	20,600
Washington	20,000
Michigan	15,000
Virginia	15,000
Nevada	15,000
New Mexico	12,500
Alabama	10,000
Arkansas	10,000
Arizona	10,000
Colorado	10,000
Florida	10,000
Hawaii	10,000
Indiana	10,000
Kansas	10,000
Louisiana	10,000
Missouri	10,000
Nebraska	10,000
Oklahoma	10,000
South Carolina	10,000
Wyoming	10,000
Tennessee	5,000

sation for mental health counseling cannot exceed \$2,500, one-fourth of the maximum award. Such limits reflect agencies' concerns in trying to control costs and in adjudging the necessity of psychological or psychiatric treatment.

Of the eight states that permit compensation for some forms of property loss, four impose limits far below their maximum award levels. In Wisconsin, for example, awards for property loss cannot exceed \$200. In Colorado, the limit is \$250, and, in New York, property loss awards cannot exceed \$500. Louisiana has the highest limit on property loss awards—\$5,000, or one-half its maximum award.

### Minimum Losses

Seventeen states require that victims have a minimum loss in order to be eligible for compensation. Fourteen states set the minimum loss at \$100, while one have minimum losses of less than \$100, and two require minimum losses of \$200.

### Deductibles

Eight states reported that they have deductibles similar to those used in insurance policies. In one state, the deductible is \$200, and, in all the others, it is \$100. The effect of deductibles is similar to minimum loss requirements. Victims whose losses are less than the state's deductible are excluded from the compensation program. The exclusion is especially burdensome on the poorest victims—those for whom payment of even \$100 or \$200 may be a serious financial hardship.

### Collateral Source Reductions and Subrogation

All states reduce the amount of compensation paid to victims by subtracting from victims' total losses or claims any payments for costs reimbursed from other sources. This prevents victims from recovering losses twice, and thus, enriching themselves at the expense of other, more needy, victims. For instance, if an assault victim cannot work for two months and has disability insurance, a compensation program would pay only lost earnings not covered by the disability insurance. For victims with broad medical insurance coverage, only a small amount of medical expenses not paid by insurance may be covered by a compensation award. Conversely, if victims have minimal

medical coverage or no insurance at all, programs are likely to pay a larger amount of the medical expenses arising from a compensable crime.

Most states also reported that they pay qualified victims and commence subrogation procedures to recover a portion of any future settlements from insurance claims, civil suits, or restitution. This enables the victim to be fully compensated (within the limits set by the program) without having to wait months, or even years, for civil litigation to conclude or restitution to be completed. However, it requires the program to wait for months or years for revenues, if any, it may recoup from subrogation proceedings. And, of course, the state bears an added risk, since there is always the chance a civil case will never be settled, for example, due to the death of the litigant. Program staff in the site visit states expressed frustration with the low amounts they recover in subrogation. Across all programs subrogation accounts for less than one percent of total program revenues.

### Emergency Awards

Emergency awards are used to provide immediate assistance to poor and elderly crime victims who face pressing financial problems due to their victimization. Thirty-three states have emergency awards. Where limits are set, the maximum amount of emergency awards range from \$100 to \$5,000. Three states have no upper limits on emergency awards. Table 4-2 shows the distribution of maximum emergency awards.

**Table 4-2**  
Maximum Amounts of Emergency Awards

Amount	Number of States
\$100	1
500	15
1,000	6
1,500	5
2,000	1
5,000	2
No limit	3

Only six jurisdictions reported that it took 30 days or longer to process emergency award claims. The average reported processing time was 12.8 days. Thirteen pro-



grams reported that they processed emergency claims in five days or less.

## Supplemental Awards

While supplemental awards are used mainly for mental health counseling, they also are used to cover a variety of other costs, including dental care, plastic surgery, vocational rehabilitation (including education), home care, physical therapy, and multiple operations. Unlike other benefits, supplemental awards cover payments for future services the victim will need because of the crime.

Supplemental awards pose many special problems for victim compensation program staff. For example, how are staff members to judge whether a particular course of treatment is appropriate and reasonably related to the crime suffered by the victim? How are they to determine whether a particular mental health provider is qualified to deliver the services? How long should treatment continue? What should it cost? How can agencies determine probable future costs of approved supplemental awards?

### *Mental Health Counseling*

Supplemental awards are an important topic for program managers; they maintain that benefits paid for future mental health counseling have added significantly to the cost of victim compensation programs. VOCA's requirement that states compensate victims for mental health counseling has made supplemental awards a more salient issue because the trauma of victimization may require some victims to undergo years of counseling and treatment. Because of special problems associated with supplemental awards, the site visits focused on them specifically.

All six states visited now include mental health counseling as a compensable expense, in some cases as a direct response to VOCA requirements and in other cases as a matter of state initiative. Who is covered varies from state to state; in addition to the victim, the possibilities include families of homicide victims, families of victims of sexual abuse, and families of other types of victims. South Carolina, for example, has a relatively new "psychic trauma" policy which even covers witnesses who suffer emotional change after seeing a crime occur.

Defining who is a qualified mental health provider and identifying appropriate forms of treatment which are reasonably related to the victimization are difficult tasks for program staff and managers. The states visited have certi-

fication or licensing systems in place for mental health providers. To receive victim compensation payment in these states, programs require that a mental health provider must be licensed or registered. Generally, the mental health provider need not be a medical doctor. Psychologists, clinical social workers, crisis counselors, or any other practitioner who meets local standards may qualify.<sup>1</sup>

Determining the appropriateness of the counseling, especially in terms of the relationship between the victimization and the treatment, is an extremely complex task for program staff. Most states rely on the mental health provider for this analysis, but nowhere are staff completely satisfied with this approach because the possibility of exploitation is high.

Among site visit states, Wisconsin, New York, and Oregon require a treatment plan from the mental health provider in advance of payment approval. This gives the staff a tool for evaluating the relationship between the crime and the treatment and may offer as good a method for understanding the complexities of mental health care as lay evaluators can have. Wisconsin adds an additional useful procedure by asking the mental health provider to set forth in writing a rationale for why the crime in question (versus other causes) is 'the reason why treatment is needed.

Some states also require staff to periodically contact the mental health provider for an updated summary of treatment and prognosis. New York, for example, requires a review of this kind every six months. Oregon goes even further, requiring staff to monitor treatment notes for each session as a necessary part of approving or denying payment.

In general, staff have the greatest difficulty determining when treatment should terminate for lack of relevancy to the crime. This is particularly difficult in rape cases, for example, because the effects of the victimization may be extremely broad and difficult to relate directly to the crime.

### *Confidentiality*

Confidentiality problems are directly related to the degree of specific information on victims' treatment that compensation programs require from mental health providers. In New York, for example, the program reports few problems with confidentiality, whereas in Oregon such problems are more common, not with patients, but with mental health providers who do not wish to provide detailed

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information which they consider confidential.<sup>2</sup> Minors present special problems because parents must consent for them, and court records are often unavailable. States falling between these two extremes report that doctors tend to comply with reasonable information requirements "if they want to get paid."

### *Cost Containment*

All states visited attempt to contain the costs of mental health treatment since its actual and potential impact on program budgets is significant. In some cases, supplemental awards have increased dramatically since the VOCA requirement that mental health counseling be compensable, while in others this is not the case.

States face a serious problem in determining whether the cost of counseling is reasonable. Here again, states rely heavily on the mental health provider for this information—an unsatisfactory situation given providers' incentive to use up whatever funds are available for treatment. (In one state, staff reported a conversation wherein the victim noted casually that her doctor had assured her that she would need \$10,000 worth of counseling—the program's limit.)

New York hires consultant experts who advise staff as to (a) the appropriate cost of various services and (b) the relationship between crime and treatment. This takes the burden off program staff who are not trained mental health providers themselves.

Some states are looking at the possibility of moving to a fixed payment schedule, setting forth certain dollar amounts which will be paid for various services and paying that amount and no more, much as Blue Cross or worker's compensation programs do. This alternative to the current payment of "customary and reasonable" fees is expected to save a significant amount for the programs contemplating its use.

A second practical problem facing program management is how to accurately estimate the potential fiscal impact of mental health payments which may continue for an unknown period of time in the future. States have approached this problem with surprisingly different techniques.

At one end of the scale is Wyoming, which by statute cannot cover future payments. Staff help victims with mental health payments to work with this stringent requirement by informing them of potential hearing dates (all cases in Wyoming are heard at quarterly hearings where bills incurred up to the date of hearing may be

approved for payment) and advising them to delay (up to one year) their hearings until all mental health bills are in. At the other end of the scale is New York, where there is neither a time nor a dollar limit and a case may theoretically remain open for the life of the victim. In Massachusetts, where there is a \$25,000 cap, a victim may choose one of two payment strategies: (1) close and reopen the case several times during a one-year period, allowing the mental health provider to be paid with each closing; or (2) maintain an open file until treatment is complete, paying the provider at the end.

Whatever the approach, most states must carry a reserve from year to year to cover supplemental awards as yet unspecified. The most common method of estimating the necessary reserve amount is to multiply the average cost per case by the number of pending "supplemental" cases.

### **Attorney's Fees**

All but 13 states authorize payment for at least a portion of any attorney's fees victims incurred in processing the compensation claim. Usually the amount of attorney's fees that will be paid are limited by agency policy. In 11 states, attorney's fees cannot exceed a fixed percent of the compensation award, ranging from 2 to 15 percent. Two states define the hourly wage that will be paid to attorneys, and two states set a limit on the number of hours that they will pay for. Attorney's fees usually do not come out of the victim's award but are a separate payment to the attorney.

During site visits, program staff observed that victims may benefit from legal representation when appealing denied claims. Otherwise, they do not believe that victims need attorneys to help them file routine claims. They noted that some persons hire attorneys merely to relieve themselves of the burden of dealing with the claims process, not because lawyers' skills are needed. Finally, they emphasized that attorney's fees reduce the total amount of resources the agency has to pay other victims' claims.

Several programs have simplified paperwork and streamlined procedures so that victims will not need special assistance. In addition, program staff often take affirmative steps to assist victims and protect their interests in the claims process. For example, in Montana staff maintain a "tickler file" which they use to contact victims in advance of each upcoming deadline in the claims process so that victims do not inadvertently fail to supply required information on time. In programs attached to victim services agencies, victims often are assigned an advocate, whose duties include helping the victim to navigate the claims process.

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## Endnotes

1. In Wyoming, officials were considering approving Native American medicine men because they may be the most accessible and appropriate mental health providers for Native Americans living on reservations.
2. Patients pose no particular problems in most states because they sign a comprehensive release form when they apply for victim compensation benefits.

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# Chapter 5

## Program Costs and Funding

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### Program Costs

Table 5-1 shows costs reported by programs responding to the survey. The costs are broken down into two categories—benefits and administrative costs. Table 5-1 also shows total program costs (the sum of benefits and administrative costs) and administrative costs as a percent of total costs<sup>1</sup> for 31 states that reported data on both benefits paid and administrative costs. Each state reported data covering their most recently completed fiscal year for which they had complete data. Thus, the reporting periods vary from state to state but generally covered fiscal year 1988.

#### *Benefits*

Altogether, forty states and the Virgin Islands reported data on benefits paid. In these jurisdictions, benefits totalled over \$125 million. Of that amount, three large states—California, New York and Texas—accounted for \$67.0 million, or 54 percent. The amounts of reported benefits ranged from \$38.5 million in California to \$23,000 in Nebraska. Of the states that reported benefits paid in the survey, 30 also supplied information on fiscal year 1987 benefits in VOCA's 1988 *Report to Congress*. In the survey, benefits in those 30 states totalled \$113 million or a 19 percent increase over the \$95.3 million paid in benefits in fiscal year 1987.

#### *Administration*

During interviews, it quickly became apparent that the programs differed substantially in how they measured and reported administrative cost. Thus, data obtained on administrative cost should not be used to compare the performance or efficiency of programs (for example, in neighboring states) or categories of programs (for example, independent programs versus those sponsored by other agencies).<sup>2</sup>

Some programs simply are unable to identify and report separate administrative costs because staff who process victim compensation claims are integrated into a larger agency and also perform other functions unrelated to victim compensation. In highly decentralized programs that utilize large numbers of county-level decision-making boards, it may be virtually impossible to identify and aggregate administrative costs. In other cases, staff are not integrated, but the compensation program is sponsored by a larger agency, and some portions of the victim compensation administrative cost (such as fringe benefits, overhead, supplies, etc.) cannot be disentangled from the overall agency budget.

Claims processing procedures also vary among the states in ways that would distort measures of program efficiency. For example, in some states, each supplemental payment made for a claim previously awarded is recorded in total benefits paid but is not recorded as a separate new award. In other programs, each supplemental payment is counted as a new award, a practice which inflates the number of awards given. If two states had the same administrative costs (and in other respects their work load was comparable), but one followed the former practice; and the other, the latter, the latter would appear more "efficient" since its cost per award would seem to be lower when, in fact, both programs would have processed the same work load for the same cost.

In three states, new directors have launched crash programs to reduce large backlogs in claims they inherited from their predecessors. Thus, during the year for which data were collected, their number of claims awarded was temporarily inflated.

With those caveats in mind, Table 5-1 shows administrative costs as a percent of total program costs for the 31 programs that provided data on both (roughly three-fourths of all responding programs). On the average, reported administrative costs amount to 16.1 percent of the pro-

**Table 5-1  
Victim Compensation Program Costs**

<b>Program</b>	<b>Benefits Paid</b>	<b>Reported Administrative Costs</b>	<b>Total Expenditures</b>	<b>Admin Cost as percent of Total</b>
<b>A. Programs reporting benefits paid and administrative costs (n = 31)</b>				
Alabama	\$ 1,488,639	\$ 322,965	\$ 1,811,604	17.8%
Alaska	651,545	141,400	792,945	17.8
Arizona	303,803	17,874	321,677	5.6
California	38,455,000	11,379,000	49,834,000	22.8
Connecticut	1,834,313	227,631	2,061,944	11.0
Delaware	837,967	220,971	1,058,938	20.9
Hawaii	504,687	110,981	615,668	18.0
Idaho	276,005	33,725	309,730	10.9
Indiana	1,537,093	106,173	1,643,266	6.5
Iowa	716,914	109,764	826,678	13.3
Kansas	615,540	98,285	713,825	13.8
Louisiana	696,424	107,165	803,589	13.3
Maryland	2,946,417	399,329	3,345,746	11.9
Michigan	2,490,029	193,651	2,683,680	7.2
Minnesota	1,586,903	183,169	1,770,072	10.3
Missouri	1,831,167	51,204	1,882,371	2.7
Nevada	687,752	170,747	858,499	19.9
New Jersey	4,893,552	882,344	5,775,896	15.3
New York	11,196,519	3,849,208	15,045,727	25.6
North Carolina	988,924	100,000	1,088,924	9.2
Oklahoma	715,418	110,222	825,640	13.3
Oregon	2,305,135	275,110	2,580,245	10.7
Pennsylvania	2,256,872	563,000	2,819,872	20.0
South Carolina	1,263,164	193,137	1,456,301	13.3
Tennessee	3,800,000	502,000	4,302,000	11.7
Texas	17,369,000	938,639	18,307,639	5.1
Virginia	1,690,582	166,289	1,856,871	9.0
Washington	6,349,918	491,992	6,841,910	7.2
West Virginia	992,872	131,064	1,123,936	11.7
Wisconsin	1,300,000	207,300	1,507,000	13.8
Wyoming	69,288	31,778	101,066	31.4
Subtotal	\$112,651,442			
<b>B. Programs reporting only benefits paid (n = 10)</b>				
Florida	\$ 6,722,529			
Kentucky	841,350			
Massachusetts	2,647,018			
Montana	347,528			
Nebraska	23,000			
New Mexico	376,802			
North Dakota	200,196			
Rhode Island	1,105,833			
Utah	639,531			
Virgin Islands	63,008			
Subtotal	\$ 12,966,795			
Total Benefits Paid	\$125,618,237			

grams' total costs, and range from a low of 2.7 percent to a high of 31.4 percent, with a median of 13.3 percent. Again, since individual program figures may be far from a true expression of real administrative cost, state by state comparisons should be avoided.

## Funding

As shown in Table 5-2, victim compensation programs responding to the survey reported total revenues of \$165 million. Three sources of revenue—general appropriations, fines and penalty assessments, and federal grants under the Victims of Crimes Act (VOCA)—account for more than 98 percent of the funds used for victim compensation programs. All other sources of revenue—including civil suits, restitution payments, royalties, contributions, and interest—account for less than two percent of the total funding for victim compensation.

### *Fines or Penalty Assessments*

Fines and penalty assessments are the primary means of funding state victim compensation programs. The programs that responded to the survey reported revenues totaling \$101 million from fines or penalties, or 61.7 percent of all the revenue used to fund victim compensation programs. Altogether, 26 programs reported deriving all or part of their funding from fines or penalties.

Nineteen states reported receiving revenue from fines and penalty assessments but not general appropriations. Twelve states reported revenues from general appropriations, but not fines or penalty assessments. Seven states reported receiving revenues from both general appropriations and fines or penalty assessments. In two of those states, revenues from fines or penalty assessments about equal revenues from general appropriations. In four others, fines or penalty assessments provide three to five times more revenue than agencies got from appropriations. In the seventh state, revenues from fines or penalty assessments are 17 times greater than those from appropriations.

The proportion of operating programs funded by fines and penalties is about the same as in McGillis' 1983 study. He found that 60 percent of the programs operating at that time were funded in whole or part by fines or penalties; in the current survey, 68 percent of the responding programs get all or part of their funds from fines or penalties. Unfortunately, the 1983 study did not report the amount of programs' revenues by source, and the Office of Crime Victims did not begin collecting such data until 1989. Therefore, it is not possible to determine if fines or penal-

ties now provide a greater proportion of the total victim compensation program revenue than in 1983. However, practitioners generally believe there has been a growing reliance on fines and penalties to fund victim compensation programs.<sup>3</sup>

Some critics have questioned the propriety of using fines or penalty assessments to fund victim compensation programs, particularly when those fines and penalties are levied on offenders who have been convicted of noncompensable crimes, such as property crimes or misdemeanor traffic offenses. They note that there is an important distinction between holding individual offenders responsible for making restitution to the victims of their crimes and making criminals as a class responsible for providing compensation to victims as a class.<sup>4</sup>

Critics also have argued that it is unfair to require offenders who commit noncompensable crimes to pay fines or penalties to support benefit payments to victims of compensable crimes. Some practitioners have suggested that the recent shift to include drunk driving as a compensable crime is, in some measure, a response to this criticism. Where such funding mechanisms have been challenged, courts have upheld their use, noting that fines and penalties are an appropriate form of punishment so long as they are not excessive.<sup>5</sup>

Several states raise very large amounts of revenue from fines or penalty assessments. For example, four large victim compensation programs—California, Florida, Washington, and Texas—receive no appropriations, and virtually all their non-VOCA revenues come from fines or penalties. In those four states, revenues from fines or penalties totalled \$78.1 million, or 77.3 percent of all reported revenues from fines or penalty assessments among responding state programs. (These four states account for 54.8 percent of all reported victim compensation awards among responding programs.)

Table 5-3 shows the amount of authorized fines or penalty assessments in jurisdictions responding to the survey. Officials in several jurisdictions noted problems in levying and collecting fines and penalties. Typically, fines and penalties are levied by judges at the time of sentencing. In some instances, judges reportedly do not order fines or penalties when they have discretion to do so. In addition, just as with many other financial penalties, collection procedures sometimes are inadequate, so that many penalties imposed are never collected. Recent studies of use of financial sanctions have concluded that improved collection methods could result in substantial increases in revenues from fines.<sup>6</sup>

**Table 5-2**  
**Funding for Victim Compensation Programs**

Program	General Revenue	As % of Total	Fines & Penalty	As % of Total	VOCA Grants	As % of Total	Other Revenue	As % of Total	Total
<b>A. Programs funded by general revenue, but not fines or penalties</b>									
New York	\$13,171,600	83.4%			\$2,597,000	16.5%	\$17,108	0.1%	\$15,785,708
Tennessee	7,493,926	85.3			1,278,000	14.5	12,293	0.1	8,784,219
Maryland	2,626,767	79.2			690,173	20.8			3,316,940
Michigan	2,127,452	79.3			556,190	20.7			2,683,642
Wisconsin	1,308,000	81.3			300,000	18.7			1,608,000
Massachusetts	1,200,000	77.3			353,000	22.7			1,553,000
North Carolina	1,000,000	100.0							1,000,000
Hawaii	668,791	80.3			164,000	19.7			832,791
Alaska	393,300	61.5			246,000	38.5			639,300
Virgin Islands	200,151	88.5			26,000	11.5			226,151
Nebraska	200,000	93.7					13,530	6.3	213,530
North Dakota	173,196	86.5			27,000	13.5			200,196
Subtotal	\$30,563,183	83.0%			\$6,237,363	16.4%	\$42,931	0.5%	\$36,843,477
<b>B. Programs funded by both general revenues and fines/penalties</b>									
New Jersey	\$2,900,000	38.8%	\$2,658,600	35.6%	\$1,910,000	25.6%			\$7,468,600
Minnesota	635,900	41.2	500,000	32.4	284,000	18.4	\$125,230	8.1%	1,545,130
Pennsylvania	563,000	17.9	1,879,489	59.8	700,000	22.3			3,142,489
Oregon	487,462	30.8	756,905	47.8	285,000	18.0	55,431	3.5	1,584,798
Kentucky	212,450	16.8	755,600	59.6	300,000	23.7			1,268,050
South Carolina	106,283	4.9	1,812,209	83.2	234,000	10.7	24,618	1.1	2,177,110
Wyoming	24,340	14.4	135,837	80.1			9,346	5.5	169,523
Subtotal	\$4,929,435	23.5%	\$8,498,640	56.9%	\$3,713,000	17.0%	\$214,625	2.6%	\$17,355,700
<b>C. Programs funded by Fines and Penalties, but not general revenues</b>									
California			\$ 51,724,000	89.1%	\$ 6,353,000	10.9%			\$ 58,077,000
Texas			13,814,374	85.1	2,223,000	13.7	\$ 187,623	1.2%	16,224,997
Florida			7,050,528	77.8	1,808,000	20.0	210,593	2.3	9,069,121
Washington			5,554,433	81.2	1,108,000	16.2	179,477	2.6	6,841,910
Alabama			2,214,507	78.2	79,000	2.8	539,446	19.0	2,832,953
Connecticut			1,879,313	61.4	478,000	15.6	72,605	2.4	2,429,918
Missouri			1,635,598	81.1	373,000	18.5	7,889	0.4	2,016,487
Iowa			1,200,000	87.0	155,000	11.2	25,000	1.8	1,380,000
Delaware			1,186,531	67.5	165,000	9.4	17,230	1.0	1,368,761
Rhode Island			1,085,659	78.7	277,000	20.1	406,869	29.5	1,769,528
Nevada			966,991	80.5	93,000	7.7	141,360	11.8	1,201,351
Virginia			858,804	47.2	629,000	34.6	330,991	18.2	1,818,795
Oklahoma			638,400	70.5	214,000	23.6	52,793	5.8	905,193
Idaho			561,186	98.6			7,726	1.4	568,912
Arizona			547,814	97.7			13,150	2.3	560,964
West Virginia			500,000	45.7	593,000	54.2	400	0.0	1,093,400
Kansas			457,706	60.5	265,000	35.0	33,548	4.4	756,254
Montana			410,223	74.4	129,000	23.4			539,223
*Arkansas			312,183						312,183
Subtotal			\$92,598,250	84.4%	\$14,942,000	16.4%	\$2,226,700	2.0%	\$109,766,950
<b>Total</b>	<b>\$35,492,618</b>	<b>21.7%</b>	<b>\$101,096,890</b>	<b>61.7%</b>	<b>\$24,892,363</b>	<b>15.2%</b>	<b>\$2,484,256</b>	<b>1.5%</b>	<b>\$163,966,127</b>

Note: In Indiana, the program is funded solely by a portion of court costs levied. In FY 1988 this produced \$1,339,429, bringing total revenues for all responding programs to \$165,305,556.

\* New program collected penalties but did not accept claims.

Blanks = not reported

**Table 5-3**  
**Amounts Authorized for Fines or Penalty Assessments**

State	Amount for Felonies	Amount for Misdemeanors
Alabama	\$ 15	\$ 10
Arizona	100	
Arkansas	a	5
Connecticut	20	15
Delaware	b	
Florida	20	20
Hawaii	20	20
Idaho	20	10
Iowa		100
Kansas	2	2
Kentucky	10	10
Louisiana	50	8
Missouri	68	10
New Jersey		25
Oklahoma	500	100
Oregon	50	25
Pennsylvania	10	10
Rhode Island	c	20
South Carolina	15	3
Texas	20	15
Virginia	30	20
Washington	70	45
West Virginia	4	4
Wyoming	50	50

Note: Only 24 programs responded to this item.

- a. Arkansas: amount of penalty is discretionary, varies from \$20 to \$10,000.
- b. Delaware: penalty is 15% of the fine.
- c. Rhode Island: \$60 if maximum sentence is five years or less, \$100 if greater than five years.

Blanks = not reported

There is a growing trend to require convicted offenders to pay a wide range of other financial obligations—fines, court costs, defense costs, restitution, supervision fees, as well as user fees for drug testing, alcohol education programs, halfway house room and board, etc. Increasingly, victim compensation programs find themselves in competition for offender payments. As courts impose more payments on offenders, total obligations may easily exceed individual offenders' abilities to pay. Thus, it is important to establish policies that assure obligations are levied in proportion to offenders' ability to pay and that govern both the order in which obligations are imposed and the order in which collections are credited to various accounts.

### *Revenues from General Appropriations*

Among programs responding to the survey, general appropriations amount to \$35.5 million, or 21.7 percent of the total funding for victim compensation programs. Twelve state victim compensation programs are funded by general appropriations without any use of fines or penalty assessments. Another nine programs are funded by a mix of general appropriations and fines or penalty assessments. (As noted above, in most of these programs, appropriations provide much less revenue than do fines and penalties.)

In many ways, legislative funding is an attractive policy choice. Compensation programs do not have to set up (or more accurately, negotiate with other agencies to set up and operate) complicated and possibly inefficient collection procedures. However, program staff must invest more of their time in building legislative support for their programs and in guiding appropriation bills through the process than in states where programs are funded by fines or penalties. In states' current fiscal environments, victim compensation programs face very strong competition in budgeting and appropriations, particularly when state revenues drop. In Nebraska, the victim compensation program ceased operations in fiscal year 1988 due to inability of the legislature to provide funding. (It later was refunded and renewed operations.) During the Massachusetts site visit, the program director received a memo from the state's budget director stating that the agency's upcoming budget request for funding benefits would be cut due to revenue shortfalls.

### *VOCA — Amounts of Awards*

The states responding to the survey reported receiving \$24.9 million from VOCA, or about 15.2 percent of the total revenue spent on compensation programs.<sup>7</sup> As noted earlier, VOCA grants can be used only to pay victim benefits; they may not be used to cover costs of administering the programs.

VOCA has been a significant new source of funding for victim compensation programs. In fiscal year 1986 VOCA awarded \$23.6 million to 39 programs. By fiscal year 1990, the amount had doubled, reaching \$46.5 million to 42 eligible programs. VOCA grants have increased because deposits into the Federal Crime Victims Fund have grown substantially and, in fact, have reached the statutory ceiling set by Congress. Congress raised the ceiling from \$110 million to \$125 million through federal fiscal year 1990 and to \$150 million for fiscal years 1991-94.



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Under current law, when the amount of receipts in the Crime Victims Fund exceeds its ceiling, the next \$2.2 million goes to the Administrative Office of the United States Courts and any remaining balance goes to the United States Treasury.

Thus, for the next four to five fiscal years, state VOCA grants are likely to increase somewhat, due to the higher ceilings in the Crime Victims Fund, provided that federal fine collections continue to grow.<sup>8</sup> However, those adjusted ceilings will provide, at most, about a 4 to 5 percent average annual increase in VOCA funding. In jurisdictions where state-funded benefit payments are growing at a faster pace, VOCA grants as a percent of state-paid benefits could decline somewhat over the next few years.

### Other Sources

Other sources of funding account for only about \$3.7 million, or about 2.2 percent of the total revenues reported by victim compensation programs. The largest block of "other revenue"—\$1.34 million—was reported by Indiana, where a portion of court costs levied are dedicated to victim compensation. (Indiana officials felt strongly it was inappropriate to label these revenues either as a fine or as a penalty assessment.)

Interest earnings and funds recovered through subrogation each account for 0.5 percent of all programs' revenues. While it may be good public policy to deprive notorious offenders of profit from the sale of literary or film rights to their crimes, "Son of Sam" laws produced revenue in only two states and accounted for less than 0.1 percent of total program revenues nationwide.

### Conclusions

Program directors expressed a strong belief that legislatures had increased reliance on fines and penalty assessments to fund victim compensation programs in recent years. Added pressures on general revenues have increased the already strong appeal of offender-funded compensation programs. Four of the six largest victim compensation programs are funded mostly by fines and penalty assessments. Programs funded by fines and penalty assessments are somewhat more likely to rate funding for benefits as adequate and substantially more likely to rate funding for administration as adequate. Given those factors, it is likely that policy makers will rely more heavily on fines and penalty assessments in the future to fund victim compensation programs.

### Endnotes

1. Program officials were asked to give benefit, cost, and funding data from the most recent fiscal year for which they had tabulated information. Programs responded with data covering several different time frames since fiscal years and currency of information on costs vary from state to state. The telephone interviews were done in early 1989, with follow-up contacts to obtain missing data during the summer. Thus, most states responded with data from fiscal year 1987, ending (in the various states) from April to September, 1988. However, the time frames within which programs reported data often did not correspond to the federal fiscal years used by the Office of Crime Victims for VOCA funding.
2. In addition, measures of efficiency, like administrative cost per claim awarded, contain distortions in both the numerator and the denominator. As noted below, states also vary considerably in how they classify and report claims paid.
3. The National Organization on Victim Assistance (NOVA) reported in its 1988 Legislative Directory that there was a growing trend toward using fines or penalties to fund state victim compensation programs.
4. S. Thorvaldson and M. Krasnick. "On Recovering Compensation Funds from Offenders." *Victimology*, Vol. 5, No. 18 (1980), p. 21.
5. Courts likewise have upheld use of offender fees to fund correctional services. It is not uncommon for misdemeanor probationers to pay supervision fees that are greater than what it actually costs to provide them with supervision or services; in effect, their fee payments subsidize probation for felons, who require more supervision and services and who, in general, have less ability to pay.
6. S. Hillsman, J. Sichel, and B. Mahoney. *Fines in Sentencing: A Study of the Use of the Fine as a Criminal Sanction*. Washington, D.C.: National Institute of Justice, 1984.
7. It is important to remember that VOCA grants equal 40 percent of what each state awarded (using state money only) in benefits two fiscal years earlier. Thus, if state-funded benefits for victim compensation have increased substantially in subsequent years, VOCA funding will be considerably less than 40 percent of state-paid benefits in the current fiscal year.

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8. It is likely that federal fine revenue will continue to increase. The United States Sentencing Guidelines call for expanded use of fines for many offenders. In many jurisdictions, initiatives are underway to make

fine collection more efficient. But unless Congress raises the ceiling to higher levels, state VOCA grants will attain a maximum level when the Crime Victim Fund reaches \$150 million.

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# Appendix A

## Estimating the Total Number of Persons Eligible for Crime Victim Compensation

by  
Kenneth Carlson

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Although state victim compensation programs differ in the specific crimes and types of individuals who may be compensated, most include a basic core of offenses which can result in substantial physical harm. To estimate the total number of victims in the United States who suffer the types of crimes for which compensation is commonly awarded, 1987 data from the National Crime Survey (NCS), the Uniform Crime Reports (UCR), and the Fatal Accident Reporting System (FARS) were analyzed pertaining to the following crimes:

- fatalities and injuries due to drinking drivers,
- homicide,
- rape,
- robbery,
- aggravated assault (including domestic and all other assaults), and
- child abuse (combining sexual and physical abuse).

For each crime, several assumptions were required to estimate the fraction of victims who would appear to meet the criteria for compensation. Rather than attempt to simulate each state's separate criteria, a common set of criteria were constructed which approximate the most common requirements throughout the nation. First, the victim had to be killed or sufficiently severely injured to require medical attention. Second, only crimes reported to law enforcement authorities were considered eligible. Third, victims who contributed to the incident—by themselves breaking the law or otherwise precipitating a crime—were excluded. Finally, the number of nonculpable, "innocent" victims was reduced to include only those estimated to be without insurance.

For each type of victimization, the total number of persons killed or injured in a year was estimated from the best available source. Deaths and DWI injuries were assumed to be completely reported. For all other crime categories, a law enforcement reporting rate was estimated for the most nearly comparable subset of victims from published data. (Child abuse calculations were based directly on reported cases.)

The estimated numbers of reported victims were further reduced to exclude persons who contributed to the incident in a clearly identifiable way—principally DWI victims who were themselves drunk or riding with a drunk driver. Finally 67.3 percent of all victims were substantially, if not completely, covered by insurance. The detailed basis and application of these assumptions to each type of victimization are described below.

Table A-1 summarizes the estimated total numbers of victims for each crime category and the number meeting each successive compensation criterion. In all, the victimizations covered leads to an estimate that approximately 168,000 people are eligible for compensation. The specific assumptions for each crime type are as follows:

### Driving while Intoxicated

In 1987, there were 23,630 traffic fatalities classified by National Highway Traffic Safety Association as alcohol-related. Of these, 66 percent (15,600) were either drinking drivers or drinking pedestrians, most with a blood alcohol content in excess of 0.10 percent. Another 20 percent (4,730) were passengers in cars in which drivers had been drinking. These 20,320 victims were excluded as culpable in or contributing to the incident which killed them. The estates or families of all remaining victims were assumed eligible for compensation.

**Table A-1**  
**Summary of Victims Eligible for Compensation, 1987**

Crime	Victims				
	Total	Reported	Culpable	"Innocent"	Uninsured
DWI fatalities	23,630	23,630	20,322	3,308	3,308
DWI injuries	43,000	43,000	36,980	6,020	1,969
Homicide	20,096	20,096	2,154	17,942	17,942
Rape	51,496	30,846	0	30,846	10,087
Robbery	146,325	109,004	0	109,004	35,644
Aggravated assault	390,562	240,196	10,809	229,387	75,010
Domestic	91,059	56,001	0	56,001	18,312
Other	299,503	184,195	10,809	173,386	56,697
Child abuse	?	165,971	0	165,971	24,464
All offenses	675,109+	632,743	70,265	562,478	168,424

DWI = Driving While Intoxicated

During the same period, an estimated 43,000 persons were seriously injured in alcohol-related traffic crashes. Detailed statistics were not available on the behavior of these victims, so it was assumed that the same proportion of seriously injured victims would be found culpable as of fatally injured victims. This leads to an estimate of 6,020 "innocent" victims non-fatally injured by alcohol-related crashes. It is not known how many of these were covered by insurance; among victims of the violent crimes included in this estimate, 67 percent had insurance to cover their medical expenses. It seems likely that insurance coverage of crash victims would be at least as high. (Coverage might be higher since these victims should have had claims against both their own and the culpable drivers' insurance companies.) Assuming that 32.7 percent were uninsured leaves 1,970 victims eligible for compensation.

## Homicide

The UCR listed 20,096 homicides in 1987. Detailed circumstantial reports were available for two-thirds of these incidents. (In 22 percent of the incidents, a statistical report was filed, but police were unable to determine the circumstances. No statistical report was filed in 11 percent of the incidents.) The calculations assume that the unknown circumstances follow the same distribution as the known circumstances. Based on this assumption, it is estimated that 1,311 of the homicides were narcotics-related felony murders. These are excluded from compensation on the basis of victim culpability. Another 8,434 were the results of arguments with persons known to the victim. Of these, it was (arbitrarily) assumed that 10 percent (843) could be excluded from compensation be-

cause of victim precipitation. This leaves 17,942 "innocent" homicide victims. The survivors of all "innocent" victims were considered eligible for compensation.

## Rape

In 1987, the NCS estimated a total of 140,900 completed and attempted rapes occurred, of which 64,210 resulted in medical care. Eighty percent of the victims receiving medical care (51,496) were treated in doctors' offices, clinics, emergency rooms and hospitals. The estimated reporting rate for completed rapes is 59.9 percent. Applying this rate to the 51,496 victimizations resulting in major medical care implies 30,846 instances of rape victims with substantial medical expenses were reported to police. (A victim who did not go to the hospital or emergency room but later incurred substantial counselling expense would not be identified by this calculation.) No victims were considered ineligible by reason of culpability, but 67 percent were estimated to have insurance coverage, leaving 10,087 victims potentially eligible for compensation.

## Robbery

Classification of robbery in the NCS and UCR may differ from classifications used by some of the states which responded to the survey. In the NCS, a robbery was defined as taking or attempting to take something from the victim by force or threat of force. Some victim compensation programs may classify some of these incidents as assaults, so these estimates may overstate the number of persons who would be regarded as robbery victims by those programs.

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In 1987, the NCS estimated that 1,030,460 robbery victimizations occurred, of which 14 percent (146,325) resulted in medical expenses. Seventy-four percent of the seriously injured robbery victims reported the crimes to the police. Applying this rate to the 146,325 victims who had medical expenses implies that 109,004 incidents were reported to police. Again, none of the victims were assumed culpable, but 67 percent were assumed to have been insured, leaving 35,644 victimizations with substantial unreimbursed medical expenses.

## Assault

In 1987, the NCS estimated that nearly 4.5 million assaults occurred. Only 9 percent (390,562) of these, however, resulted in medical expenses. The reporting rate for completed assaults with injury is 61.5 percent, which implies 240,196 incidents with substantial medical expenses reported to the police. Bar fights raise questions of victim culpability. In 1987, 4.5 percent of the aggravated assaults occurred in bars or restaurants; all of these were excluded as culpable victims, leaving 229,387 "innocent" victims. Adjusting for an estimated 67 percent insurance coverage rate leaves 75,010 assault victims potentially eligible for compensation.

## Domestic Violence

"Domestic assault" was not a term specifically used in the NCS. About one million assault victimizations involved (former) friends or relatives of the victim and occurred in or near the victim's home or the home of a friend or neighbor. In all, 23 percent of assaults could be considered domestic by this definition, which is probably somewhat broader than that which most victim compensation programs would use. The estimates assume that 23 percent of each category of victims can be classified as victims of domestic violence. None of the victims of domestic assault were considered culpable.

## Child Abuse

According to the American Humane Association, an estimated 886,000 incidents of child abuse and neglect occurred in the U.S. in a year. Of these, approximately 199,000 children suffered physical abuse, and 132,000 suffered sexual assault. An estimated 24,000 of the physically abused children suffered "major" injuries (fractures, sprains, burns, and more severe injuries). Because some

children are counted twice (if they are both physically and sexually abused), the total of 166,000 slightly overstates the total number of victimized children.

Nearly half of the abused children lived in families receiving some form of welfare support, which would have included some provision for health care insurance. In addition, about 12 percent of the children were placed by the state in foster care, which automatically made the children eligible for Medicaid. This leaves an estimated 75,000 abused children remaining in and supported by their families. The same assumptions about insurance coverage are applied to these children as to victims of other crimes, leaving 24,500 children potentially eligible for compensation.

## Mental Health Costs

Explicit data were not available on the number of victims who were not physically injured but were eligible for mental health care. An upper limit was estimated for this population from the following assumptions:

- average cost of counseling equaled or exceeded average cost of care for physical injuries,
- need for counseling was independent of physical injury, and
- the state with the highest rate of counseling expenditures (25% of benefits) reflected the maximum rate if full coverage were applied in all jurisdictions.

These assumptions imply that the number of victims receiving only mental health care is between 0 and 33 percent of the number of physically injured victims. Since severe physical injuries probably increased the need for mental health services, and since most states were far below the maximum, these assumptions almost certainly overstate the number of uninjured victims eligible for compensation.

# **Appendix B**

## **Data Tables**

**Table I Program Structure and Organization**

State	Program Name	Enabling Legislation	Effective Date	Sponsoring Agency	Number of Staff				Appointment Process 1 = Civil Service 2 = Political 3 = Other 4 = Both 1 & 2			
					Professional		Clerical		Board Member	Director	Professional	Clerical
					FT	PT	FT	PT				
Alabama	Alabama Crime Victims Compensation Commission	23 Code of Alabama 1975 15.23.1 thru 15.23.23	May 31, 1984	Independent	7	1	3	0	2	2	1	1
Alaska	Violent Crimes Compensation Board	18.67.010 thru 18.67.018	1972	Department of Public Safety	1	0	1	0	1	1		1
Arizona	Criminal Justice Commission	ARS 41-240-1	July 1985	Department of Public Safety	12	3	5	26	2	1	1	1
Arkansas	Ark. Crime Victims Reparation Board	Ar. Statute 16.90.701 thru 16.90.718	July 1, 1988	Attorney General	0	1	0	1	2	2	2	2
California	Victims of Crime Program	Calif. Govt. Code Ann., Secs. 13959-74-1	July 1, 1965	State Board of Control	118	10	38	4	1	1	1	1
Colorado	Division of Criminal Justice	24.4.1 thru 24.100.1	July 1, 1981	Division of Criminal Justice								
Connecticut	Commission on Victim Services	968.54.201 thru 968.54.224	October 1, 1979	Independent	4	2	3	0	2	1	1	1
Delaware	Violent Crimes Compensation Board	Del. Code Ch. 90, Sec 11	January 1, 1975	Independent	3	0	3	0	2	1	1	1
Florida	Bureau of Crime Compensation	960 Fla. Statutes	January 1, 1978	Dept. of Labor and Employment Security	17	0	5	4		2	1	1

Table I (continued)  
Program Structure and Organization

State	Program Name	Enabling Legislation	Effective Date	Sponsoring Agency	Number of Staff				Appointment Process 1 = Civil Service 2 = Political 3 = Other 4 = Both 1 & 2			
					Professional		Clerical		Board Member	Director	Professional	Clerical
					FT	PT	FT	PT				
Hawaii	Criminal Injuries Compensation Commission	Ch. 351	July 1, 1967	Independent	2	0	1	0		2	1	1
Idaho	Victim Compensation Program	Ch. 10, Sec. 72	July 1, 1986	Workers' Compensation	2	0	0	1		2	1	1
Illinois	Crime Victims Division	111. Stat. Ann., Ch. 70, Secs. 71-90	October 1, 1973	Judicial								
Indiana	Violent Crimes Compensation Division	Title 1b, Indiana Code	1978 - Enacted	Workers' Compensation	4	0	2	0	2	2	1	1
Iowa	Crime Victims Assistance Programs	912 Code of Iowa	January 1, 1983	Attorney General	3	0	1	0		2	1	1
Kansas	Crime Victims Reparations Board	Kansas Stat. Ann. 74-7301	July 1, 1978	Attorney General	1	0	1	0	2	2	1	1
Kentucky	Crime Victims Compensation Board	KRS 346	July 1, 1976	Independent	1	2	2	0	2		1	1
Louisiana	Crime Victims Reparations Board	21.46.1801 thru 21.46.1823	January 1, 1983	Commission on Law Enforcement	0	0	2	0	2	1		1
Maryland	Criminal Injuries Compensation Board	Article 26.A; 455 (1968), Sec. 1	July 1, 1969	Department of Public Safety	9	0	2	0	2	1	1	1



Table I (continued)  
Program Structure and Organization

State	Program Name	Enabling Legislation	Effective Date	Sponsoring Agency	Number of Staff				Appointment Process 1 = Civil Service 2 = Political 3 = Other 4 = Both 1 & 2			
					Professional		Clerical		Board Member	Director	Professional	Clerical
					FT	PT	FT	PT				
Massachusetts	Victims Compensation & Assistance	Mass. Gen. Laws Ann. Ch. 258A, Secs. 1-8	July 1, 1968	Judiciary	4	4	2	0		2	1	1
Michigan	Crime Victims Compensation Board	MCL 18.351-368	October 1, 1977	Independent	2	0	2	0	2	1	1	1
Minnesota	Crime Victims Reparations Board	Ch. 611A	August 1, 1974	Department of Public Safety	2	0	1	1	2	2	1	1
Missouri	Crime Victims Compensation Unit	Ch. 595, Secs. 010-070	October 1, 1981	Workers' Compensation	1	0	1	0			1	1
Montana	Crime Victims Unit	53.9.101 thru 53.9.133, MCA	January 1, 1978	Department of Justice	1	0	1	0	2	1	2	1
Nebraska	Commission on Law Enforcement	Ch. 81, Secs. 1801-1848	July 1, 1979	Commission on Law Enforcement	1	0	0	0	2	3	3	3
Nevada	Victims of Crime Program	NCS 217.010 thru 217.270	September 1, 1981	State Board of Examiners	1	0	0	1	2		1	1
New Jersey	Violent Crimes Compensation Board	Law 1971, Ch. 317	October 4, 1971	Independent	30	0	24	0	1	1	1	1
New Mexico	Crime Victims Reparations Commissions	Ch. 325	January 4, 1982	Independent	2	1	1	0	2			

Table I (continued)  
Program Structure and Organization

State	Program Name	Enabling Legislation	Effective Date	Sponsoring Agency	Number of Staff				Appointment Process 1 = Civil Service 2 = Political 3 = Other 4 = Both 1 & 2			
					Profes- sional		Clerical		Board Member	Director	Professional	Clerical
					FT	PT	FT	PT				
New York	Crime Victims Board	N.Y. Exec. Law Ann. Ch. 8094, Art. 22	March 1, 1967	Independent	49	1	39	0	2		1	1
N. Carolina	Victim and Justice Services	Ch. 15B	August 13, 1987	Department of Crime Control & Public Safety	7	0	1	5	2	2	1	1
N. Dakota	Crime Victims Reparations	Ch. 65-13	July 1, 1975	Workers' Compensation	0	1	0	1	2		1	1
Ohio	Victims of Crime Compensation Program	2743.51-72, 121, 191, 20	July 1, 1975	Judiciary								
Oklahoma	Crime Victims Compensation Board	21.142.1 thru 21.142.18	October 19, 1981	District Attorneys Training Council	1	0	1	0	2	3	3	3
Oregon	Crime Victims Program	Oregon Rev. Statutes Sec. 147	January 2, 1978	Attorney General	3	0	3	1		3	1	1
Pennsylvania	Crime Victims Compensation Board	71 P.S. 180-7 et. seq.	January 10, 1977	Independent	4	1	6	0	2		3	3
Rhode Island	Crime Victim Compensation Program	12.25.1 thru 12.25.14	1984 (when floor reached \$100K)	Judiciary/General Treasurer	1	3	1	0		4	4	1
S. Carolina	Crime Victims Compensation Fund	Ch. 16, Secs. 13-15	January 1, 1983	Workers' Compensation	6	0	5	0	2	1	1	1

Table I (continued)  
Program Structure and Organization

State	Program Name	Enabling Legislation	Effective Date	Sponsoring Agency	Number of Staff				Appointment Process 1 = Civil Service 2 = Political 3 = Other 4 = Both 1 & 2			
					Professional		Clerical		Board Member	Director	Professional	Clerical
					FT	PT	FT	PT				
Tennessee	Claims Commission	29.13.101	June 1, 1978 (commission got jurisdiction January 1, 1987)	Division of Claims Administration	2	1	4	1		2	3	3
Texas	Industrial Accident Board	Article 8309-1	January 1, 1980	Workers' Compensation	5	0	10	3	2			
Utah	Office of Crime Victims Reparations	Ch. 63, Secs. 13-15	July 1, 1986	Independent	3	0	1	0	2	2	1	1
Virgin Islands	Criminal Victims Compensation Commission	7.34.151; 21.3.375a	March 6, 1968	Department of Human Services	2	1	0	1	2	2	1	1
Virginia	Division of Crime Victims Compensation	Ch. 21.1, Secs. 19.2-368.1 to 368.18	July 1, 1976	Workers' Compensation	1	0	2	0	2	1	1	1
Washington	Crime Victims Compensation Program	Ch. 7, Sec. 68	July 1, 1974	Workers' Compensation	8	0	6	0		2	1	1
West Virginia	Crime Victims Compensation Fund	14-2A-1 to 27	January 1, 1982	Judiciary	3	0	1.5	0	2	1	1	1
Wisconsin	Office of Crime Victim Services	Ch. 949, Secs. 1-18	July 1, 1977	Attorney General	6	0	2	1		2	1	1
Wyoming	Crime Victims Compensation Commission	1-40-101 to 119	May 23, 1985	Attorney General	0	0	0	1	2	1		1

**Table II Coverage and Eligibility**

State	Persons Eligible for Benefits										Compensable Crimes								Compensable Losses (Maximum x \$1000) x=yes; no specific max							Consider Financial Need?			
	Injured Party	Spouse	Children	Parents	Siblings	In-Laws	Intervenor Apprehenders	Third Party Rendering Services	Homicide	Assault & Battery	Robbery	Rape	Other Sexual Offense	Child Sexual Abuse	Child Physical Abuse	Spouse Abuse	Other Domestic Violence	Drunk Driving	Other Motor Vehicle	Medical	Mental Health Counseling	Pain & Suffering	Disability/Loss of Earnings	Rehabilitation	Funeral		Property Loss	Replacement Services	Attorney Fees
Alabama	x	x	x	x				x	x	x	x	x	x	x	x	x	x	x	(10)	(10)	(5.2)	(10)	x		(10)				
Alaska	x	x	x	x	x	x	x	x		x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	
Arizona	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x <sup>a</sup>	x <sup>b</sup>	x	x	x	x	x		
Arkansas	x	x	x	x	x	x		x	x		x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x		
California	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	(0.5)		
Connecticut	x	x	x	x	x		x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x <sup>h</sup>		
Delaware	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x		
Florida	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	(10)	(10)	(10)	(10)	x		(10)		x	
Hawaii	x	x	x	x	x			x	x	x	x		x	x	x	x		x	x	x	x	x	x	x	x	x	x	x <sup>i</sup>	
Idaho	x	x	x	x	x	x		x	x	x	x	x	x	x	x	x	x	x	x	(2.5)	x	x	x	x	x	(10)	(1.25)	x <sup>c</sup>	
Indiana	x	x	x	x	x	x		x	x		x	x	x	x	x	x	x	x	x	(10)	(10)	(10)	(10)	x		(10)			
Iowa	x	x	x					x	x		x	x	x	x	x	x	x	x	x	(10)	(0.5)	(2)		x		x			
Kansas	x	x	x	x			x	x	x		x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	
Kentucky	x	x	x	x	x	x	x	x	x		x	x	x	x			x		(25)	(25)	(25)		x				x <sup>h</sup>	x	
Louisiana	x	x	x				x	x	x	x	x	x	x	x	x	x		x	x	(2.5)	x	x	x	(5)	x	x <sup>k</sup>			
Maryland	x	x	x	x	x	x	x	x	x		x	x	x	x	x	x	x	x	(45)	(45)	(25)	(45)	x		x	x <sup>j</sup>	x		
Massachusetts	x	x	x	x	x			x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x <sup>h</sup>		
Michigan	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	
Minnesota	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	
Missouri	x	x	x	x	x		x	x	x		x	x	x	x	x	x	x	x	x	(1)	x		x				x <sup>h</sup>		
Montana	x	x	x	x	x	x		x	x	x	x	x	x	x	x	x			(25)	(25)	(25)	(25)	x				x		
Nebraska	x	x	x	x	x		x	x	x		x	x	x	x	x	x	x	x	x	(2)	x	(5)	x			(0.5)	x		
Nevada	x	x	x					x	x	x	x	x	x	x	x	x	x		x	x	M	x	N	x	x	x	x		
New Jersey	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x			x	x	x	x	x	x	x	x	x		
New Mexico	x	x	x	x	x	x		x	x		x		x				x	x	x	x	x	x	x	x	x	x	x		
New York	x	x	x	x	x		x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	(30)	x	x	(0.5)	x	(1)	x	
N. Carolina	x	x	x	x	x	x		x	x	x	x	x	x	x	x	x		x	(20)	(20)	(4.8)	x	x		(4.8)				
N. Dakota	x					x		x	x	x	x	x	x	x	x	x	x		x	x	x	x	x	x	x	x	x		
Oklahoma	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x		x	(10)	(10)	(10)	(10)	x		(10)	(0.5)			
Oregon	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	(10)	(10)	(10)	(3)	x						
Pennsylvania	x	x	x	x	x	x	x	x	x	Z	x	x	x	x	x	x			(35)	(35)	(15)	(35)	x		(35)	x <sup>g</sup>	x		
Rhode Island	x	x	x	x	x	x		x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	(2)			
S. Carolina	x	x	x	x	x	x	x	x	x		x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x <sup>d</sup>		
Tennessee	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x		x		x	x	(2.5)	x		x			x <sup>h</sup>		
Texas	x	x	x	x	x	x		x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x		
Utah	x	x	x	x	x	x		x	x	x	x	x	x	x	x	x	x	x	x	(5)	x	x	x		x				
Virgin Islands	x	x	x	x	x	x		x	x	x	x	x							x	x	(1)	x	x	x	(25)	x <sup>e</sup>			
Virginia	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x			x	x		x	x	x	x				
Washington	x	x	x	x	x	x		x	x	x	x	x	x	x	x	x	x	x	x	x	(20)	(5)	x	x					
W. Virginia	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	(35)	x	(15)	x	x	x	x	x	x		
Wisconsin	x	x	x	x	x	x		x	x	x	x	x	x	x	x	x	x	x	x	x			x	x	(0.2)	x	x <sup>d</sup>		
Wyoming	x	x	x	x	x	x		x	x	x	x	x	x	x	x	x	x	x	x	x	(0.5)	x	x		(0.5)				

(a) Up to one year's expenses.  
 (b) Up to \$130 per week.  
 (c) Up to 5% of total award.  
 (d) 10% of award.  
 (e) 2% of award if total > \$1,000;  
 5% of award if total < \$1,000.

(f) 15% of award if total > \$1,000.  
 (g) 15% of maximum award, or \$75 per hour (whichever is less).  
 (h) Up to 15% of total award.  
 (i) \$50 per hour preparation, \$65 per hour at board hearing.  
 (j) \$45/hour; maximum of \$225 for actual preparation.  
 (k) Up to 50 hours on top of maximum award.

M = Up to \$200/week.  
 N = Up to \$1,000.  
 Z = Loss of social security, cash, railroad retirement, child or spousal support.

Table III Benefits

State	Maximum Award	Minimum Loss	Deductible	Emergency Awards?	Contributory Misconduct			Planned Changes in Benefits
				(Maximum \$)	Reduce	Deny	Both	
Alabama	10,000			500			x	Expand certain benefits -- funeral, lost wages
Alaska	40,000			1,500		x		Expand eligibility for assault victims
Arizona	10,000			500	x			
Arkansas	10,000			500			x	To include hit-and-run victims
California	46,000	100		1,000			x	
Connecticut	25,000	100	100	500		x		Increase emergency award to \$1,000
Delaware	25,000	25		x			x	
Florida	10,000		x	500			x	
Hawaii	10,000					x		
Idaho	25,000			x			x	
Indiana	10,000	100	100	500			x	
Iowa	20,600			500		x		Pay for counseling family members of homicide cases
Kansas	10,000	100		x			x	
Kentucky	25,000			500		x		
Louisiana	10,000		100	500	x			
Maryland	45,000	100		1,000			x	
Massachusetts	25,000						x	Increase benefits for elderly; increase funeral expense from \$2,000 to \$4,000
Michigan	15,000	200		500			x	Increase loss of earnings and funeral benefits
Minnesota	50,000	100		5,000			x	Increase maximum funeral award
Missouri	10,000	200	200	100			x	
Montana	25,000						x	

Table III (continued)  
Benefits

State	Maximum Award	Minimum Loss	Deductible	Emergency Awards?	Contributory Misconduct			Planned Changes in Benefits
				(Maximum \$)	Reduce	Deny	Both	
Nebraska	10,000			500		x		
Nevada	15,000			500		x		
New Jersey	25,000	100		1,500		x		
New Mexico	12,500			1,500		x		
New York	Unlimited				x			
N. Carolina	22,000	100	0	5,000			x	
N. Dakota	25,000					x		
Oklahoma	10,000			500				D.U.I. eligibility
Oregon	23,000	100	x	1,000			x	
Pennsylvania	35,000	100		1,000			x	
Rhode Island	25,000						x	
S. Carolina	10,000	100	100	1,500				
Tennessee	5,000	100		500		x		
Texas	25,000			1,500		x		
Utah	50,000			1,000		x		Increase maximum award to \$35,000 and loss of support to \$50,000
Virgin Islands	25,000						x	Base loss of support on percentage of salary
Virginia	15,000	100		2,000			x	
Washington	20,000					x		
West Virginia	50,000						x	
Wisconsin	40,000			500		x		
Wyoming	10,000	100	100	1,000		x		

**Table IV Program Procedures**

State	Use to Inform Victim						Reporting Deadline (days)	Filing Deadline (days)	Processing Time (weeks) (avg. claim)	Processing Time (days) (emergency award)	Time Limit—Appeals (days)	Payment Method		Pay Vendors Directly?
	Police	Hospital/Emergency	Victim Assistance Programs	Prosecutor	Poster/Brochure	Public Service Announcements						Lump Sum	Installments	
Alabama	2	3	1	1	4	5	3	365	16	2	30	x		x
Alaska	1	3	5	2	4		5	730	16	3	30	x	x	
Arizona	1	2	3	4	5	6	3	365	9	1		x	x	x
Arkansas							3	365	10	22	30	x	x	x
California	2	3	1		4			365	40	30	45	x		x
Connecticut	1	3	2		4	5	5	730	13	1	30	x		x
Delaware	1	4	2	3	5		3	365	13	12	30	x		
Florida							3	365	16	15	60	x	x	x
Hawaii			1					548	40		30	x		x
Idaho	1	2	3	5	6		3	365	9	10	145		x	x
Indiana	3	2	1	4	6		2	730	7	2	30	x	x	
Iowa	1	2	3	4	5		1	180	16	42	30	x		
Kansas	1	4	3	2			3	365	12		30	x	x	x
Kentucky	4	3	1	2	5	6	2	365	20	30	30	x	x	x
Louisiana	1							365	45	6	5		x	
Maryland	2	3	1	4	5		2	180	10	10	30	x	x	x
Massachusetts	2		3	1			2	365	32		15	x		x
Michigan	2	4	3	1	5		2	365	22	30	30	x	x	x
Minnesota	1		2	3	4		5	365	14	12	30	x	x	
Missouri	1	3	4	2			2	365	30	30	30	x		
Montana	1	2	3	5	9	6	3	365	7	7	30	x	x	x
Nebraska	1	5	2	3	6	4	3	730	6		30	x	x	
Nevada	2	1	3	3			5	365 A	12	20	15	x	x	x
New Jersey	1	2	4	3	9	6	90	730	26	5	20	x	x	x
New Mexico							30	365				x	x	
New York	1	2	4	5	3		7	365	16	1	30	x	x	
N. Carolina	3	1	2				3	365	13	3	60	x	x	
N. Dakota			1				3	365	10		30	x	x	
Oklahoma	2	3	5	1	4	7	3	365	15	12	30	x	x	
Oregon	1	2	1	2	3		3	365	18	7	60	x	x	
Pennsylvania	2	4	1	3	3		72	365	20	28	20	x	x	
Rhode Island		3	2	1	4	5	10	1,095	104		20	x		
S. Carolina	3	4	1	2	9	5	2	180	9	2	30	x	x	
Tennessee	1	3	1	4	7		2	365	12	15	30	x		
Texas	2	1	3	4	9	5	3	365	22	3	20	x	x	
Utah	1		4	2			7	365	4	4	20	x	x	
Virgin Islands	1	2	4	3	5		1	730	27			x		
Virginia	2	3	1	4			5	180	8	30	20	x	x	x
Washington	4	2	1	3	5		3	365	4		60	x	x	
W. Virginia	1	3		2			3	730	4		21	x		
Wisconsin	1	2	3	4	3		5	365	14		30	x	x	x
Wyoming	2	5	4	3	1	6		365	5	5		x		x

A = Minor sexual assault victims have until age 21 to apply.

Table V Caseload, Cost, Funding

State	Year Ending	# Claims Filed	# Claims Awarded	Program Costs			Funding — (\$ From)					Funding Deemed Adequate For	
				Benefit Payments	Administrative Costs (% of total costs)	Total Costs	General Appropriations	Fines/Penalty Assessments	VOCA	Other	Total	Benefits?	Administration?
Alabama	9/88	740	537	1,488,639	322,965	1,811,604		2,213,507	79,000	539,446	2,832,953	1	2
Alaska	10/87	263	171	651,545	141,400 (17.8%)	792,945	393,300		246,000 <sup>a</sup>		639,300	2	1
Arizona			222	303,603	17,874 (5.6%)	321,677		547,814		13,150	560,964	2	2
Arkansas	6/88	0	0	—	5,073			312,183				1	1
California	6/88	33,402	27,970	38,455,000	11,379,000 (22.8%)	49,834,000		51,724,000	6,353,000		58,077,000	1	1
Connecticut		862	530	1,834,313	227,631 (11.0%)	2,061,944		1,879,313	478,000	72,605	2,429,918	1	1
Delaware		272	185	837,967	220,971 (20.9%)	1,058,938		1,186,531	165,000	17,230	1,368,761	1	1
Florida	6/88	3,062	3,190					7,050,528	1,808,000	210,593	9,069,121	2	2
Hawaii	12/87	744	494	504,687	110,981 (18.0%)	615,688			164,000			1	2
Idaho		169	81	276,005	33,725 (10.9%)	309,730		561,186		7,726	568,912	1	1
Indiana	FY88									1,339,429	1,339,429	1	1
Iowa		677	539	716,914	109,764 (13.3%)	826,678		1,200,000	155,000	25,000	1,380,000	1	1
Kansas	6/88	534	316	615,540	98,285 (13.8%)	713,825		457,706	265,000 <sup>b</sup>	33,548	756,254	2	2
Kentucky	9/88	592	238	841,350			212,450	755,600	300,000		1,268,050	2	2
Louisiana	5/88	422	328	696,424					222,000			1	1
Maryland	10/87	1,221	465	2,946,417	399,329 (11.9%)	3,345,746	2,626,767		690,173		3,316,940	1	1
Massachusetts	7/87			2,647,018			1,200,000		353,000		1,553,000	2	2
Michigan	9/88	1,951	994	2,490,029	193,651 (7.2%)	2,683,680	2,127,452		556,190		2,683,642	2	2
Minnesota	7/87	635	424	1,586,903	183,169 (10.3%)	1,770,072	635,900	500,000	284,000	125,230	1,545,130	2	1
Missouri		857	539	1,831,167	51,204 (2.7%)	1,882,371		1,635,598	373,000	7,889	2,016,487	1	1
Montana	7/89	345	226	347,528				410,233	129,000		539,233	1	1
Nebraska	12/88			23,000			200,000			13,530	213,530	1	2
Nevada	6/88	419	202	687,752	170,747 (19.9%)	858,499	0	966,991	93,000	141,360	1,201,351	1	2
New Jersey		3,767		4,893,552	882,344 (15.3%)	5,775,896	2,900,000	2,658,600	1,910,000		7,468,600	2	2
New Mexico	7/87	138	104	376,602									
New York	4/87	22,445	9,268	11,196,519	3,849,208 (25.6%)	15,045,727	13,171,600		2,597,000	17,108	15,785,708	1	2
N. Carolina	6/88			988,924	100,000 (9.2%)	1,088,924	1,000,000				1,000,000	2	2
N. Dakota	6/88	93		200,196			173,196				200,196	2	2
Oklahoma	7/87	712	460	715,418	110,222 (13.3%)	825,640		638,400	214,000	52,793	905,193	1	1
Oregon		1,220	521	2,305,135	275,110 (10.7%)	2,580,245	487,462	756,905	285,000	55,431	1,584,798	1	2
Pennsylvania	6/89						563,000	1,879,489	700,000		3,142,489	2	2
Rhode Island		245	86	1,105,833				1,085,659	277,000	406,869	1,769,528	2	1
S. Carolina	10/87	3,261	2,285	1,263,164	193,137 (13.3%)	1,456,301	106,283	1,812,209	234,000	24,618	2,177,110	2	1
Tennessee		1,031	1,031	3,800,000	502,000 (11.7%)	4,302,000	7,493,926		1,278,000		8,784,219	1	1
Texas	9/87	6,777	3,938	17,369,000	938,639 (5.1%)	18,307,639		13,814,374	2,223,000	187,623	16,224,997	2	2
Utah		347	245	639,531					6,773			1	1
Virgin Islands		36	31	63,008			200,151		26,000		226,151	1	
Virginia	6/88	889	522	1,690,582	166,289 (9.0%)	1,856,871		858,804	629,000 <sup>b</sup>	330,991	1,818,795	2	1
Washington	10/87	2,895	7,848	6,349,918	491,992 (7.2%)	6,841,910		5,554,433	1,108,000	179,477	6,841,910	2	2
W. Virginia		279	172	992,872	131,064 (11.7%)	1,123,936		500,000	593,000	400	1,093,400	2	1
Wisconsin		1,369	650	1,300,000	207,300 (13.8%)	1,507,000	1,308,000		300,000		1,608,000	1	2
Wyoming	7/87	62	49	69,288	31,778 (31.4%)	101,066	24,340	135,837		9,346	169,523	1	2

(a) Fiscal year 1987.

(b) Represents VOCA funding from two federal fiscal years (1987 and 1988).

1 = yes

2 = no



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# Appendix C

## Contact List — Victim Compensation Program

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### Alabama

Ms. Anita A. Morgan, Executive Director  
Alabama Crime Victims Compensation Commission  
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P.O. Box 1548  
Montgomery, Alabama 36102-1548  
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### Alaska

Ms. Nola K. Capp, Administrator  
Department of Public Safety  
Violent Crimes Compensation Board  
P.O. Box N  
Juneau, Alaska 99811  
(907) 465-3040

### Arizona

Ms. Tina Coronado  
Victim Services Coordinator  
Arizona Criminal Justice Commission  
1700 N. 7th Avenue, Suite 250  
Phoenix, Arizona 85007  
(602) 255-1928

### Arkansas

(New program)  
Ms. Lori Del Buono  
Children's and Victim's Advocate  
Crime Victims Reparations Board  
400 Tower Building, 4th and Center Street  
Little Rock, Arkansas 72201  
(501) 682-2341; (501) 682-5028

### California

Mr. Ted Boughton, Deputy Director  
State Board of Control  
State of California  
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Sacramento, California 95814  
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### Colorado

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Division of Criminal Justice  
Department of Public Safety  
700 Kipling Street, Suite 3000  
Denver, Colorado 80215  
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### Connecticut

Mr. John C. Ford, Administrator  
Commission on Victim Services  
1155 Silas Deane Highway  
Wethersfield, Connecticut 06109  
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### Delaware

Mr. Ed Stansky, Executive Secretary  
Delaware Violent Crimes Compensation Board  
1500 East Newport Pike, Suite 10  
Wilmington, Delaware 19804  
(302) 995-8383

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**District of Columbia**

Ms. Josephine Simmons, Acting Division Chief  
Victim Compensation Program  
1200 Upshur Street, N.W., Suite 100  
Washington, D.C. 20011  
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**Florida**

Ms. Meg Bates, Bureau Chief  
Bureau of Crimes Compensation and  
Victim/Witness Services  
Department of Labor and Employment Security  
Division of Worker's Compensation  
104 Hartmen Building  
2012 Capital Circle, S.E.  
Tallahassee, Florida 32399-0650  
(904) 488-0848  
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**Georgia**

(New program)

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Georgia Crime Victims Compensation Program  
Suite 1000, OMNI S. Tower  
One CNN Center  
Atlanta, Georgia 30303-2788  
(404) 656-3816

**Guam**

No compensation program

**Hawaii**

Estra Quilausing, Executive Director  
Department of the Attorney General  
Resource Coordination Division  
335 Merchant Street, Room 244  
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**Idaho**

Ms. Kristi Abel, Claims Investigator  
Crime Victims Compensation Program  
c/o Idaho Industrial Commission  
317 Main Street  
Boise, Idaho 83720  
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**Illinois**

Mrs. Chloanne Greathouse, Director  
Illinois Court of Claims  
630 S. College Street  
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**Indiana**

Mr. Rogelio (Roy) Dominguez, Director  
Indiana Worker's Compensation Board  
Victim's Compensation Division  
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Indianapolis, Indiana 46204  
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**Iowa**

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Iowa Department of Justice  
Crime Victim Assistance Program  
Old Historical Building  
Des Moines, Iowa 50319  
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**Kansas**

Mrs. Betty A. Bomar, Director  
Kansas Crime Victims Compensation Board  
Office of the Attorney General  
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Topeka, Kansas 66612-1208  
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**Kentucky**

Mr. Joe Billy Jones, Executive Director  
Crime Victims Compensation Board  
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**Louisiana**

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Crime Victims Program Manager  
Crime Victims Reparations Program  
Louisiana Commission on Law Enforcement  
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Baton Rouge, Louisiana 70806-1442  
(504) 925-4437  
FAX: (504) 925-1998

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**Maine**

No compensation program

**Marshall Islands**

No compensation program

**Maryland**

Ms. Esther Scaljon, Executive Director  
Criminal Injuries Compensation Board  
Department of Public Safety and Correctional  
Services

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**Massachusetts**

The Honorable Scott Harshbarger, AG  
Department of the Attorney General  
One Ashburton Place, Room 1800  
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**Michigan**

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Crime Victims Compensation Board  
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North Lansing, Michigan 48909)

**Minnesota**

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Crime Victims Reparations Board  
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**Mississippi**

(Legislation enacted March 1990)  
(New program)

Mr. Bill Triplett, Sr., Budget Analyst  
Department of Finance and Administration  
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**Missouri**

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Division of Workers' Compensation  
Crime Victims Compensation  
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**Montana**

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Board of Crime Control Division  
Crime Victims Unit  
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Helena, Montana 59601  
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**Nebraska**

Ms. Nancy Steeves, Federal Aid Administrator  
Nebraska Crime Victims Reparation Board  
Nebraska Commission on Law Enforcement and  
Criminal Justice  
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**Nevada**

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Nevada Department of Administration  
Capitol Complex  
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**New Hampshire**

(New program)

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Office of the Attorney General  
25 Capitol Street, State House Annex  
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**New Jersey**

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Violent Crimes Compensation Board  
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Newark, New Jersey 07102  
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**New Mexico**

Mr. Larry Tackman, Director  
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Commission  
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**New York**

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Administrative Officer  
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**North Carolina**

Mr. Arthur C. (Art) Ziedman, Director  
North Carolina Victims Compensation Commission  
Department of Crime Control and Public Safety  
Division of Victim and Justice Services  
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**North Dakota**

Ms. Laurel Moran, Assistant Administrator  
Worker's Compensation Bureau  
Crime Victims Reparations Program  
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**Ohio**

Mr. Miles C. Durfey, Clerk  
Victims of Crime Compensation Program  
Court of Claims of Ohio  
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**Oklahoma**

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**Oregon**

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**Pennsylvania**

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Pennsylvania Crime Victim's Compensation Board  
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**Puerto Rico**

No compensation program

**Rhode Island**

Mr. Robert J. (Bob) Melucci, State Coordinator  
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**South Carolina**

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**South Dakota**

No compensation program

**Tennessee**

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**Texas**

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Crime Victims Compensation  
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**Utah**

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Office of Crime Victim Reparations  
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**Vermont**

(New program)

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Vermont Crime Victims Compensation Program  
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**Virginia**

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Division of Crime Victims' Compensation  
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**Virgin Islands**

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Virgin Islands Criminal Victims Compensation  
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**Washington**

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**West Virginia**

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West Virginia Court of Claims  
Crime Victims Compensation Fund  
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**Wisconsin**

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**Wyoming**

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