

# Realizing the Promise of Victims' Compensation

2024 CVIPI Grantee Conference



**CVIPI**  
Community Based Violence Intervention  
and Prevention Initiative

**OJJDP** Office of Juvenile Justice  
and Delinquency Prevention

**NIJ** National Institute  
of Justice  
STRENGTHEN SCIENCE. ADVANCE JUSTICE.

Office for Victims of Crime  
**OVC**



**BJA**  
Bureau of Justice Assistance  
U.S. Department of Justice

# Moderator



**E. Ruebman**  
Managing Director  
Community Based  
Public Safety Collective

# Realizing the Promise of Victim's Compensation

## **Workshop Overview:**

This panel will discuss the recent federal rule change to remedy the inaccessibility to Victims' compensation for survivors of community violence. The session will offer detailed recommendation and best practices that can be used by advocates, CVI program and government leaders to unlock the programmatic potential to aid victims recovery, address trauma, and promote resilience within impacted communities.

# Panelist



**Katrina "Kate" Peterson, JD, LLM**  
Senior Policy Advisor  
Office of the Director  
Office for Victims of  
Violent Crime



**Aswad Thomas**  
Vice President  
Alliance for Safety and Justice  
Crime Survivors for  
Safety and Justice



**Heather Warnken**  
Executive Director  
University of Baltimore  
School of Law, Center for  
Criminal Justice Reform

# Realizing the Promise of Victim's Compensation

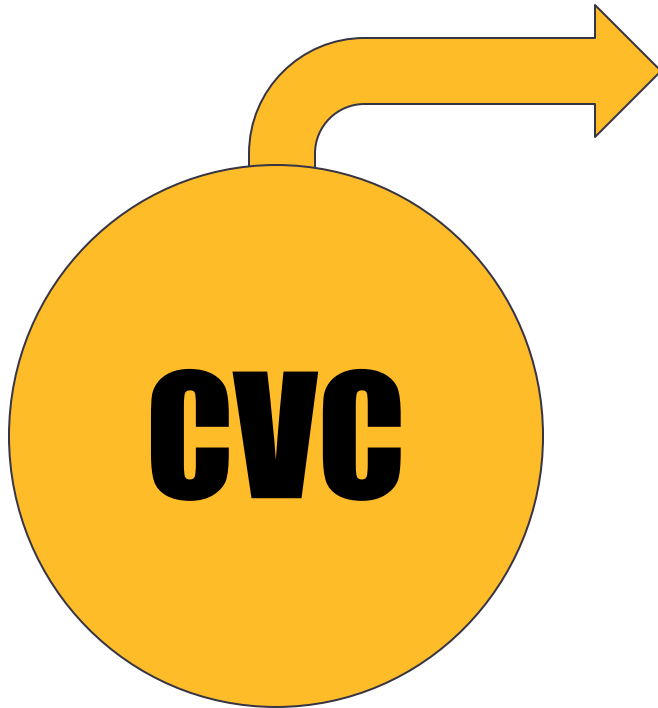
## Agenda:

- What is VOCA Compensation?
- Highlight the unrealized opportunity of VOCA Compensation for supporting CVI
- The new, proposed rule for VOCA Compensation
- Advice for CVI Organizations

# Foundations: What is Crime Victim Compensation?

- **VOCA Victim Compensation** provide states funding to support direct reimbursements to individuals for costs of certain expenses incurred as the result of victimization.
  - Federal role is important, but provides states tremendous flexibility, creating significant differences among states.
- **VOCA Victim Assistance** provides states funding to support grantmaking to victim service programs administered by government agencies and community based organizations.

# The Promise and Potential of CVC for CVI



- CVC intended to help most vulnerable victims who lack resources (“payer of last resort”).
- CVC can help reduce state and local costs of violence and unaddressed trauma.
- CVC can provide vital resources that stabilize and support impacted community members – including those at highest risk.
- CVC can help foster social trust and legitimacy.

# The Need for Reform

- Lack of Awareness about the availability of victim compensation and the majority of victims don't access the program
- Exclusions and eligibility restrictions that have a discriminatory impact
- Expense limits have not kept up with actual costs
- Burdensome red tape stands in the way of urgent help



# The Need for Reform

- Counterproductive reporting and cooperation requirements.
- Victim-blaming is tragically common.
- CVC uses an ineffective reimbursement model.
- Diminishing and unjust reliance on CJ system fines and fees.
- CVC programs need a better understanding of their state's victim population - including CVI.

# Purpose

OVC aims to modernize the compensation program to better respond to the needs of crime victims, with an emphasis on equity and access.

# Comments on the Proposed Rule

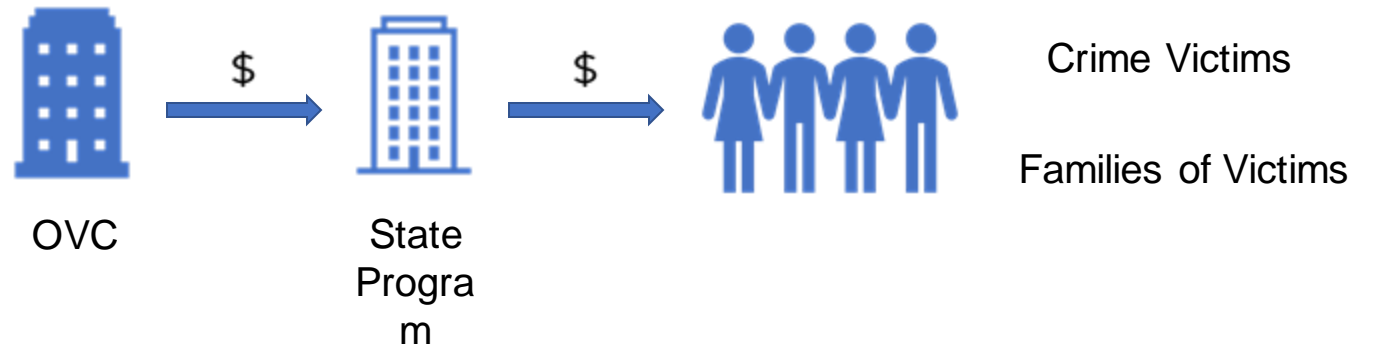
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- *Federal Register* – <https://www.federalregister.gov/documents/2024/02/05/2024-02230/subject-victims-of-crime-act-voca-victim-compensation-grant-program>
- [Regulations.gov](https://www.regulations.gov) – “Victims of Crime Act Victim Compensation”
- Public comment period closes on April 5, 2024

# VOCA Compensation 101

## Federal Crime Victim Compensation Program:

Direct reimbursement to, or on behalf of, a crime victim for a wide variety of crime-related, out-of-pocket expenses.



# Relevant Statutory Requirements

- The VOCA Victim Compensation program is authorized by the Victims of Crime Act (34 U.S.C. § 20102).
- Eligible compensation programs receive annual grants equal to 75 percent of state funds expended on compensation, less amounts for property damage.

# Voices from the Field Informed the Process

OVC conducted:

- 11 listening sessions with advocates, survivors, and administrators
- A review of the literature
- Interviews with federal partners supporting crime victims and survivors
- Information webinar on changes to the guidelines

# Victim Eligibility: Victim/Survivor Definitions

***Crime victim or victim of crime*** means a person who has suffered physical, sexual, financial, or emotional harm as a result of the commission of a crime, or as otherwise defined under pertinent State law.

***Survivor of a victim*** means a person with a sufficiently close relationship (as determined by the State compensation program) to a victim to be considered for compensation in circumstances where the victim has died.

§ 94.205



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# Victim Eligibility: Federal Immigration Status

Nothing in this subpart shall be understood to require or authorize a State to consider the federal immigration status of a victim's (or a survivor of a victim) in determining eligibility for crime victim compensation.

§ 94.221(c)



# Victim Eligibility: Promotion of Victim Cooperation with Reasonable Requests of Law Enforcement

As of the effective date of this rule, 34 U.S.C. 20102(b)(2)) requires crime victim compensation programs to “promote [] victim cooperation with the reasonable requests of law enforcement authorities, except if a program determines that such cooperation may be impacted due to a victim’s age, physical condition, psychological State, cultural or linguistic barriers, or any other health or safety concern that jeopardizes the victim’s well-being.”

§ 94.213(a)



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# Law Enforcement Cooperation (Cont.) —

Policy on exceptions required if victim bears evidentiary burden

For purposes of meeting the statutory eligibility threshold for promoting victim cooperation with the reasonable requests of law enforcement—

1. A State is not required to document, or require a victim to submit documentation of, a crime report, evidence of a medical evidentiary examination, or any other similar information.
2. A State may not require a victim to demonstrate cooperation with law enforcement unless it has a written policy in effect that addresses its application of the exceptions to promotion of victim cooperation that are set out in 34 U.S.C. 20102(b) (e.g., specifying when it will provide alternative methods for victims to demonstrate cooperation or will dispense with the requirement).

§ 94.213(b)



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# Law Enforcement Cooperation (Cont.) –

## Demonstrating Compliance

A State may show that it promotes cooperation with the reasonable requests of law enforcement authorities by using any reasonable means the State may determine to be appropriate to promote such cooperation, including any of the following:

1. Having a policy of encouraging victims to report the crime to law enforcement or other appropriate entity (e.g., protective services, university security), subject to the victim-wellbeing exceptions set forth in paragraph (a) of this section;
2. Providing victims with information or services (or referring such victims to the same) to assist them in reporting to law enforcement or other appropriate entity;
3. Accepting a victim's description of efforts to notify or cooperate with law enforcement or other appropriate entity (where evidence of victim's cooperation with law enforcement is a State program requirement); or
4. Accepting a crime report to law enforcement or other appropriate entity, or documentation of an evidentiary or non-evidentiary medical examination indicating the occurrence of a crime (where evidence of victim cooperation with law enforcement is a State program requirement). § 94.213(c)

# Victim Eligibility: Contributory Conduct

- (a) *In General.* A State may not deny or reduce claims on the basis of a victim's alleged contributory conduct, except pursuant to paragraph (b).
- (b) *Exceptional Circumstances.* In exceptional and specific cases, a State may deny or reduce claims on the basis of a victim's alleged contributory conduct, provided that -
1. The victim's alleged contributory conduct was not the result of criminal force, fraud, or coercion (e.g., human trafficking); and
  2. The State has a publicly available written policy in effect that (at a minimum) sets forth the standard of review, the review process, and an appeal process for any such denials or reductions.

§ 94.223

# Victim Eligibility: Criminal History

A State may not deny a compensation because of a victim's or survivor's incarceration, probation, or parole status, prior criminal history, or sentence.

§ 94.222(a)



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# Victim Eligibility: Delinquent Fines, Penalties, or Restitution

## *State Delinquent Fines, Penalties, or Restitution*

A State may deny compensation or *[pro-rate payment]* to the extent that a victim is delinquent in paying a *[state]* criminal fine, penalty, or restitution.

## *Federal Delinquent Fines, Penalties, or Restitution*

As of the effective date of this rule, States are not required to check whether a compensation recipient is delinquent in paying a federal criminal fine, penalty, or restitution before making a compensation payment. See Pub. L. 104-132, title II, sec. 234(a)(2), April 24, 1996, 110 Stat. 1245 (delaying implementation of the requirement in 34 U.S.C. 20102(b)(8)).

§ 94.222(b), (c)



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# Payment of Sexual Assault Forensic Exams

**Omits previous Guidelines language (Section IV(B)(8)):** The proposed Rule removes Guideline language that required compensation programs to first spend funds appropriated for forensic sexual assault programs before using compensation funding.

[Other Allowable Expenses include:]

Payments related to forensic sexual assault examinations (1) If such payments are made from funds administered by the compensation programs and are allowable under state statute, rule, or other established policy; and (2) to the extent that other funding sources such as state appropriations specifically earmarked for these exams are unavailable or insufficient.

# Eligible Mandatory Expenses: Medical

**Medical expenses** has the meaning in 34 U.S.C. 20102(d)(2) (“includes, to the extent provided under the eligible crime victim compensation program, expenses for eyeglasses or other corrective lenses, for dental services and devices and prosthetic devices, and for services rendered in accordance with a method of healing recognized by the law of the State.”)

**Services rendered in accordance with a method of healing** include, but are not limited to, assessment, diagnosis, comprehensive treatment, long-term care, treatment of underlying conditions that affect the treatment of the victimization injury, medication (prescription, non-prescription, prophylactic), and forensic sexual assault examinations and related expenses.

**Method of healing recognized by the law of the State** means any medical healing practice that meets professional standards to provide it in the jurisdiction in which it is provided; such methods also may, in the discretion of the State, include other healing practices.

§ 94.205



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# Eligible Mandatory Expenses: Mental

***Mental health counseling and care*** means the assessment, diagnosis, and treatment of an individual's mental and emotional functioning, and includes in-patient- and out-patient treatment, psychiatric care, counseling, therapy, and medication management. Mental health counseling and care must be provided by a person who meets professional standards to provide them in the jurisdiction in which they are provided.

§ 94.205



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# Eligible Mandatory Expenses: Dental

***Dental services and devices*** include those reasonably necessary for dental care, including, but not limited to, assessment, diagnosis, and treatment of underlying conditions affecting the treatment of the victimization injury, medication, prosthetics, and orthodontic appliances.

*Certification of payment for dental services and devices.*

A State may, pursuant to State policy, establish a presumption that the expenses of dental services and devices under a State-defined threshold are attributable to a physical injury resulting from a compensable crime, and make payments from VOCA funds (and certify payments) for such expenses, pursuant to such presumption.

§ 94.205, § 94.212(c)



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# Eligible Optional Expenses: Property

***Certifiable property damage expenses*** means optionally compensable expenses arising from property damage that are incurred for—

1. Purchase or acquisition of property reasonably necessary for victim safety (such as cell phones; security items such as doorbell cameras, movement lights, and locks; and window- and door repair or replacement); or
2. Replacement of clothing or bedding or other physical property held as evidence.

§ 94.205

# Comments on the Proposed Rule

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# Recommendation 1: Build Diverse Alliances with Government & Non-Government Partners

## ACTION: Develop working relationship w/ key gov agencies

### STATE LEVEL

- ***State CVC administrator!***  
***See Recommendation 3***
- State Administering Agency (SAA) & Statistical Analysis Center (SAC)

### LOCAL LEVEL

- Prosecutors & public defenders
- Office of Violence Prevention
- Police departments

# Recommendation 2: Build Diverse Alliances with Government & Non-Government Partners

## **ACTION: Develop working relationship w/ key non-gov organizations**



**Victim service organizations/associations**

- Trauma Recovery Centers, Hospital Based Violence Intervention Programs

**Hospitals and mental health service providers**

**Funeral homes**



# Recommendation 3: Build Working Relationship with CVC Administrator

## **ACTION: Meet with CVC leadership early and often**

Develop a meaningful line of communication & strong partnership

Explore what CVC can do for your organization and people you serve

- Have clear goals & objectives, grounded in CVC

But also ask what your organization can do for CVC administrators

- Training
- Recognition
- Advocacy / support

# Recommendation 4: Explore Necessary Legislative & Funding Reforms to Support CVI

## **ACTION: Remove unnecessary obstacles to CVC**

First work to get CVC administrators input and support

Remove obstacles not required by federal law

- Reporting
- Exclusions
- Cooperation



# Examples of successful reforms

**Reporting and “cooperation”:** IL, LA, CT, IN, NB, OK, UT, VA, TX, DC

**Expanding eligibility to victims on community supervision or with prior conviction record:** IL, OH, CA, DE, NJ

**Raising caps on award payouts, e.g., funeral & burial:** IL, CA, MI, NC

**Extending deadlines to apply:** DE, IN, KS, MI, IL, PA, TN, DC

# Questions & Answers



# Helpful Resources

- ASJ: [Creating A Model Victims Compensation Policy](#)
- ASJ: [Healing From Harm: Expanding Access to Victim Compensation](#)
- NYU: [Realizing The Promise of Crime Victim Compensation](#)

