

Crime Victim Compensation

QUARTERLY

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THE NATIONAL ASSOCIATION
OF CRIME VICTIM
COMPENSATION BOARDS

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National Training Conference To Gather 250 from 50 States

A wide variety of workshops, presentations, and discussion groups are in store for participants in the Association's National Training Conference, held this year in collaboration with the National Association of VOCA Assistance Administrators (NAVAA) in Long Beach, California. We expect participants from every state, with managers and staff of compensation programs joining administrators of VOCA grants for four productive and energizing days.

The Office for Victims of Crime is providing generous grant support for the conference, and has helped tremendously in filling our agenda with outstanding speakers to illuminate important issues and to describe innovative projects and initiatives.

Sharing ideas and strategies to improve compensation-program operation remains the primary focus of the conference for NACVCB member programs. We'll have managers' roundtables on hot topics, and special gatherings for claims processors and board members to problem-solve together. Specific issues for workshops include customer service, process improvement, software developments, victims services in compensation programs, contributory conduct, cultural diversity, revenue

recovery, new benefits, written policies and procedures, mental health counseling claims, dental claims, outreach, and compensation in Indian country. Similarly, VOCA assistance administrators have a series of sessions focused on successful administration of VOCA grants.

One theme that permeates our agenda is ensuring that all victims have the opportunity to seek financial assistance and services: We'll have sessions not only on Na-

tive American victims, but lesbian and gay victims, elder-abuse victims, child victims of commercial sexual exploitation, and human trafficking, and victims of gang violence. Engaging communities of color to provide better services, and understanding the

experiences of urban youth, will be central to several workshops.

The full agenda is online at www.navaa.org/conf, where participants also can register and find information about hotel reservations. The conference is open only to state and county government employees working with compensation programs and VOCA assistance grant administration.

Long Beach will be a refreshing site for us to gather this year, and we thank our California hosts for welcoming us!

National Training
Conference
Long Beach
September 19-22
NACVCB
NAVAA

I hope you're making plans to join us at our National Training Conference in Long Beach, California, in September. We've developed an exciting agenda, with many different sessions on a wide variety of topics. I know it will be worth your while to attend, and we look forward to your active participation.

Since we'll be joining at this year's conference with our colleagues in the National Association of VOCA Assistance Administrators (NAVAA), collaboration and cooperation will be among the topics that are sure to get a lot of attention. I know how important it is to work with your associates in various agencies that share the same goal of helping victims. Here in Georgia, I participate in our State Victim Services Partnership, which involves a number of state agencies with responsibilities in the criminal justice field, including the state police and the Georgia Bureau of Investigation. Each agency is invited to attend a meeting once a month, where we explore ways we can work together more effectively. One of our products will be a document to explain the criminal justice system to victims. We're also working with Georgia State University on a survey as part of a "voice of victims" project. We hope to learn from the different perspectives and experiences of victims to improve the way our state provides services.

One of this Association's goals in our Strategic Plan is to build stronger relationships with other national organizations. We've had a long

collaborative relationship with NAVAA, and we want to work with them on how compensation and VOCA assistance programs can work together to help victims seek compensation and find other services they may need. One of our officers, George Gutierrez of Idaho, will attend the Victims Committee meeting of the National District Attorneys Association at their annual conference in Sun Valley in July.

Maryland's compensation director, Cortney Fisher, and her assistant, Nikki Charles, recently presented a compensation workshop at the National Center for Victims of Crime's national conference, and Pennsylvania staff will join with our executive director in presenting a workshop at the annual conference of the National Organization for Victim Assistance. Our executive director also met recently with staff from the International Association of

Chiefs of Police, and he participates regularly with various national victims groups in discussions in Washington about federal funding and pending legislation. All of these efforts should result in improved understanding and communication.

We'll be talking about these efforts, as well as other work on other aspects of our Strategic Plan, at our Business Meeting at the National Conference in Long Beach. This will be your opportunity to hear from your elected Association officials on what we do to further your interests and strengthen our organization. See you in September!

President's Message from Shawanda Reynolds-Cobb

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2012 VOCA Cap May Remain Level as Budget Issues Grow

Compensation Grants Secure at 60% of State-Dollar Payout

While the President's budget called for a \$135 million increase in VOCA spending in 2012, and advocates were pushing for a \$1 billion VOCA cap, it's likely that funding at last year's level of \$705 million will be the final result for the current fiscal year. So far, as Washington's debate over the federal budget becomes fiercer, no proposal to cut VOCA spending has emerged.

Compensation grants to states in 2012 will remain at 60% of state payout, as they have since Federal FY 2003, since no change is contemplated to the VOCA grant formula.

A record total of \$499.9 million was awarded by compensation programs in FY 2010 in combined state and federal money (nearly 2/3 of the total is state funds, and the rest is VOCA grants). However, since states were spending federal Recovery Act funds in addition to VOCA money that year, state spending remained nearly level — which means that total VOCA compensation and assistance grants in FY 2012 will remain at about the same levels as 2011.



***National Crime Victims Rights Week
April 22—28, 2012***

Welcome!

Lisa Ogden comes from the White House to her position directing the Delaware Victim Compensation Assistance Program. She served as a Special Assistant to the President in 2010, after working as a legislative aide to Sen. Joseph Biden.

Melba Depena is Rhode Island's new compensation administrator. Melba's most recent experience is directing the Human Relations Commission in Providence.

Carla Trahan is managing the Louisiana Crime Victims Reparations Board, one of a number of positions she's held with the Board's parent agency, the Commission on Law Enforcement. Carla has attended our conferences in the past and we hope to see her in Long Beach.

Jill Karofsky was appointed in January to head the Crime Victim Services Section in the Wisconsin Department of Justice. (Kathy Zupan remains the compensation manager within the office.) For the past year, Jill served as the Violence Against Women resource prosecutor for the Wisconsin DOJ, and she's also served as an assistant and deputy D.A., as well as counsel at the National Conference of Bar Examiners.

NACVCB at NDAA Conference

Treasurer **George Gutierrez**, Idaho's compensation director, represented the Association at the Victims Committee meeting of the National District Attorneys Association in Sun Valley on July 15. George discussed the need for prosecutors to do more to help victims with compensation applications, and to ensure that restitution is ordered on all offenders. A number of other victims groups, as well as OVC Director Joye Frost, also joined in the discussion.

Comp. Spending At Record High as Claims and Costs Rise

State compensation programs spent a record combined total of \$499.9 million in state and federal funds in federal fiscal year 2010. Spending levels are up approximately 16% from those of 5 years ago, and almost 72% from 10 years ago, when spending was under \$300 million.

While most compensation programs are getting more claims now than in previous years, increased spending also reflects an inflation in medical costs. Some programs' increases result from new benefits, including forensic-exam payments and domestic-violence relocation.

While every compensation program is spending more than ten years ago, some compensation programs have shown remarkable sustained growth just in the last half-decade. If "sustained growth" is measured by comparing the average of the past two years, 2009 and 2010, to the average payouts in 2004 and 2005, then eight states have increased their spending by more than 50%. (A two-year average was seen as a more accurate gauge of spending, to avoid looking simply at one year that might show an unusually high or low total.) States showing the most sustained growth from 2004 on include:

North Dakota	116%
Mississippi	95%
Delaware	86%
Virginia	78%
Nevada	72%
Georgia	64%
Maryland	59%
California	57%
Florida	45%
Tennessee	43%
Pennsylvania	42%

Crime Drops — But Claims Rise

One of the more interesting facts about crime victim compensation is that annual claims have nearly doubled nationally in the past decade, though the number of violent crimes committed each year has gone down dramatically. Compensation claims in all states 10 years ago totaled around 120,000; the figure is just over 200,000 today. Over the same period, the number of violent crimes went down 12.5%, as measured by the FBI's Uniform Crime Reports, from 1,425,486 in 2000, to 1,390,745 in 2005, and an estimated preliminary figure of around 1,250,000 violent crimes in 2010 (a remarkable 5% drop from 2009's 1,318,398).

A 12.5 % drop in the actual number of violent crimes (not just the crime rate); but a 67% increase in compensation claims . . . Not too shabby!

Trends in Victim Compensation: Increasing Awards

Increasing Medical Costs Lead the Way

Payments for victims' medical care have doubled in 10 years, from around \$130 million to nearly \$260 million, with \$35 million of that increase occurring in the past 5 years. Over the past

decade, lost-wage and lost-support payments have grown from \$51 million to \$71 million, a 40% increase, and funeral/burial payments also have gone up 40%, to around \$50 million.

Mental health payments as a national total actually have dropped slightly since a decade ago, from \$50 million to \$45 million. But it should be noted that 2/3 of the national counseling total always has been paid by California, so the drop reflects changes in one state more than a contraction in other states.

The category of payment showing the largest growth is for forensic exams in sexual assaults. Ten years ago, when local police and county governments covered most of these costs, the total paid by compensation programs was under \$5 million; now, with about 3/5 of the states designating their compensation program as the primary payment source for exams, the total is over \$30 million.

Surveys Show How States Approach Difficult Issues

The Association conducts regular surveys of compensation managers on a variety of questions posed by its membership. Here are some results from recent inquiries we made of our Advisory Board, consisting of a cross-section of 18 program managers (our officers and Board of Directors) . . .

Victim or Witness?

One of our member programs accepted a claim on behalf of an 11-year-old girl who was on a school bus when a fellow student was stabbed, and then collapsed, bleeding, on the girl's lap. The program had changed its law recently to open eligibility up to witnesses and people "exposed" to crimes, who were not the subject of an attack themselves. These secondary victims could get up to \$1,000 in counseling. The problem in this case was that after 5 years of therapy, the girl's counseling bills had gone up to \$20,000, and her lawyer was demanding the girl be treated as a "primary victim," eligible for the program's full maximum of \$35,000, since there is no limit on counseling for primary victims.

We posed this question to our Advisory Board of 18 program managers (our officers and Board of Directors). While the case raises questions about the effectiveness of therapy — whether 5 years and counting of therapy actually is warranted — our advisors focused on whether the girl would be treated as "primary" or "secondary" under their own state laws.

Most advisors felt that the test was whether the girl was in a "zone of danger," in reasonable fear for her own safety because of the proximity of the attack, and most concluded that she was. She was trapped on the bus, had no route of escape, and thus faced possible harm herself. Most programs' laws did not have a special category for witnesses, so the choice for them would be either to deny the claim because the girl was not the direct victim, or to find a way to consider her primary — and most, given these facts, chose that alternative.

COBRA Payments

The question was whether to make COBRA payments if either (a) the offender's conviction caused a loss of insurance for his dependent child, whom he victimized, and who would use it to pay for counseling; or (b) the victim's own insurance was going to lapse because of a termination of employment.

The consensus was that most states would not pay COBRA when it was the offender's insurance, but could consider paying it if it was the victim's own insurance that was lapsing; though some didn't make that distinction, since in fact it was the victim's insurance that was lapsing -- it was simply the offender's insurance that also was covering her.

To pay the COBRA was not automatic, however, and it wasn't done simply as a benefit to the victim. It required a determination that it would result in a cost-savings for the compensation program, comparing the insurance payment to the cost of the care if it was not covered by insurance. As one state put it: "We may pay COBRA if there are ongoing medical bills and it would

save our program money to pay the premium vs. medical bills." Another: "We would help keep in place an insurance or Medicaid/Medicare coverage IF the cost of doing so plus the co-pay and deductible for crime-related expenses are less than what will likely be the cost of directly paying for the full cost of crime related treatment. But we would not pay the COBRA simply for the sake of keeping the victim(s) insured. We would need to show we did it as a cost saving to the program."

And another program said it "may reimburse a claimant for health insurance premiums, including COBRA, when the victim's insurance will lapse as a result of the crime, and it is economically advantageous to the Program to reimburse the cost of the premiums when compared to paying the actual medical or mental health expenses. If a claimant does not have ongoing medical or mental health expenses, we do not pay insurance premiums."



NACVCB
Survey
Results

Programs Pay for Rape Exams and Variety of Related Care

Close to 30 compensation programs are paying not only for forensic exams in sexual assaults, but also for a variety of related medical treatment and other costs, through special procedures separate from their regular compensation process. This separate process typically doesn't require the victim to report the crime or cooperate with law enforcement, and the use of insurance as a collateral resource is not required.

In other states, where compensation programs are not involved in the payment of these costs, the responsibility for paying for the exams is borne typically by counties or local law enforcement. In one state, it's the state's sexual assault coalition that has been given state funding to pay for the exams.

The compensation programs that pay for the exams help their states meet a condition for receipt of grants under the Violence Against Women Act (VAWA). To qualify for a VAWA grant, the state VAWA administrator must certify that exams for all reporting and nonreporting victims in the state are free of charge to the victim.

A recent survey conducted by the Indiana Crime Victim Compensation Program (Sandy Warren on their staff performed the work) details the items and costs paid for by victim compensation programs that are involved in rape-exam payment. Of course, these compensation programs pay for the performance of the exam itself, including a doctor or SANE (sexual assault nurse examiner) fee. Beyond that, there are variations from state to state in what is covered. Nearly all will pay for pregnancy testing, and most cover testing for sexually transmitted diseases, HIV, and hepatitis. Prophylaxis treatments for all of the above also are generally covered, though there is variation in how much HIV-preventative treatment is covered (a 3-day treatment vs. a 28-day treatment). Some will pay for alcohol and date-rape-drug testing. A few will pay for minor medical treatment provided in the emergency room through this separate payment procedures, but of course all rape victims would be eligible for payment of medical care through

the regular application process. Similarly, while all programs could cover counseling through a regular application, a couple of programs offer a limited number of counseling sessions through this special procedure for victims submitting to exams.

Currently, insurance and public benefits can be used as a source for payment under VAWA rules in meeting the requirement that the exams are provided without charge to the victim. In practice, only a few of the compensation programs paying for the exams require insurance to be used first before considering payment, but close to half allow it to be used at the victim's discretion; in other words, the victim can choose whether the bill goes to her insurance company. About half the states simply don't regard insurance as a collateral resource, and the exam providers

directly bill the compensation program rather than running the costs through insurance first. It's worth noting that a recent proposal to amend VOCA would remove states' ability to require insurance to be used first for payment of the exams, and some compensation programs have expressed concerns about added costs.

Many programs have caps and limits either overall or on specific items paid for through these special forensic-exam procedures. Florida has a \$500 cap, Maine and Tennessee have a limit of \$750, and the maximum in Mississippi and Pennsylvania is \$1,000.

More than \$30 million annually is spent by these compensation programs for rape exams and related costs. Some of the largest states, like Texas, New York, Ohio and Indiana, are each paying \$4 million or more annually, and Florida, Missouri, Pennsylvania, Tennessee, Virginia, and Washington state are paying around \$2 million.

State compensation programs are allowed to use VOCA funds to pay for the exams, and any state funds used can be included in the amount upon which the 60% VOCA grant is calculated.

Further information about what each state pays for can be found at www.nacvcb.org or by contacting us.

Forensic Rape Exams Survey

*National Association of
Crime Victim Compensation Boards*

Training Calendar

2011

National Training Conference
Long Beach, California
September 19 – 22, 2011

National Organization for Victim Assistance
National Conference, Philadelphia
Workshop scheduled August 17, 12:30 p.m.

NACVCB National and Regional Conferences
Are under development for 2012;
Sites and dates to be determined