

April 4, 2024

Department of Justice  
Office for Victims of Crime  
810 7th St. NW  
Washington, D.C. 20531

RE: Docket ID NO. Docket No.: OJP (OVC) 1808, Proposed Rules for Victims of Crime Act (VOCA) Victim Compensation Grant Program

The Center for American Progress (CAP) is submitting these comments on behalf of 48 nonprofit organizations in response to the proposed Federal Rule for VOCA Victim Compensation Grant Program.

We commend the effort by the Office of Justice Programs (OJP) Office for Victims of Crime (OVC) to promote fair and equitable administration of state victim compensation programs by expanding compensation eligibility and removing barriers that historically have disproportionately prevented Black victims from receiving just compensation.<sup>1</sup> We support the OVC's proposed changes to the Victim Compensation Program, which build on the progress made through the VOCA Fix to Sustain the Crime Victims Fund Act of 2021 ("VOCA Fix Act")<sup>2</sup> and reflect feedback from crime victims and victim advocates. Specifically, the following changes will help violence survivors to access compensation to help recover physically, emotionally, and financially:

1. Clarifying the definition of "medical expenses" and "mental health counseling and care" to give broader flexibility to States to define allowable expenses.
2. Proposing a new definition of "survivor of a victim" to give broader flexibility to States to make eligible more persons with relationship to a crime victim so they may apply and receive compensation.
3. Proposing a new provision to prohibit States from considering a victim's alleged contributory conduct in determining compensation claims, except in specific exceptional cases and where a written policy is publicly available.
4. Clarifying and encouraging States not to impose an evidentiary burden on victims to prove their cooperation with reasonable requests from law enforcement in criminal investigations into the inciting event.

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<sup>1</sup> Claudia Lauer and Mike Catalini, "Every state offers victim compensation. For the Longs and other Black families, it often isn't fair," Associated Press, May 17, 2023, available at <https://apnews.com/article/crime-victims-compensation-racial-bias-58908169e0ee05d4389c57f975eae49b>.

<sup>2</sup> VOCA Fix to Sustain the Crime Victims Fund Act of 2021, H.R.1652, 117th Congress, March 8, 2021, available at [https://www.congress.gov/bill/117th-congress/house-bill/1652#:~:text=Shown%20Here%3A-.Public%20Law%20No%3A%20117%2D27,\(07%2F22%2F2021\)&text=This%20bill%20adds%20a%20new,into%20the%20Crime%20Victims%20Fund](https://www.congress.gov/bill/117th-congress/house-bill/1652#:~:text=Shown%20Here%3A-.Public%20Law%20No%3A%20117%2D27,(07%2F22%2F2021)&text=This%20bill%20adds%20a%20new,into%20the%20Crime%20Victims%20Fund).

5. Proposing a provision to clarify the VOCA payor-of-last-resort provision does not extend to crowdfunded resources or private insurance.
6. Proposing a new provision prohibiting States from denying claims based on criminal history.

The proposed rule takes important steps to protect vulnerable people and families and support recovery. However, we urge the OVC to consider the following opportunities to strengthen the Rules:

**1) Requiring community feedback period**

As of the submission of this comment, 38 states require cooperation with law enforcement and do not include language in their existing statutes reflecting the most recent changes to federal guidelines, which were enacted through the 2021 VOCA Fix Act. Specifically, the 2021 VOCA Fix Act, among other changes, clarified States have broad discretion to waive the requirement that states promote cooperation with law enforcement investigations, going as far as to enumerate possible exceptions that States could consider in their review of applications.

According to the most recent available data, however, in 15 State Administering Agencies (SAA) more than 1 in 4 eligible applicants who are denied are denied due to being determined to be uncooperative with law enforcement.<sup>3</sup> Consequently, crime victims are being denied a critical lifeline, and their trust and confidence in government, and similarly law enforcement, is damaged. Importantly, a lack of social trust and higher levels of community cynicism towards the criminal legal system have been linked to higher levels of crime<sup>4</sup> - and therefore such policies can lead to more crime victims and subsequently a further erosion of social trust.

While the current proposed rule change goes farther to reduce the number of applicants who are denied based on their criminal history, perceived to have contributed to their own victimization, or determined to not have been “cooperative” with law enforcement requests, the new rule does not currently direct States as to the process through which they may redefine the preceding policies. Beginning in 2022, the OVC conducted ten listening sessions and “numerous community engagements” to hear directly from affected victims and program administrators about the systemic challenges and institutional barriers to serving victims.<sup>5</sup> To disrupt the cycle of social trust erosion and ensure States are not disproportionately denying crime victims from the populations most in need of compensation, we urge the OVC to consider

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<sup>3</sup> Author’s calculations of OVC State Performance Reports available at <https://ovc.ojp.gov/states>. Calculated as the 2022 share of applications denied in a given state of all total denials not including denials based on inelligible crimes, applications, or incomplete information.

<sup>4</sup> David Kirk and Mauri Matsuda, “Legal Cynicism, Collective Efficacy, and the Ecology of Arrest,” American Society of Criminology volume 49 (2)(2011): 443-472, available at: <https://onlinelibrary.wiley.com/doi/10.1111/j.1745-9125.2011.00226.x>

<sup>5</sup> Kristina Rose, “Message from the Director: Update on VOCA Crime Victim Compensation Guidelines”, Office of Victims of Crime, June 5, 2023, available at <https://ovc.ojp.gov/news/announcements/message-director-update-voca-crime-victim-compensation-guidelines>.

similarly requiring States to include community feedback or listening sessions with affected communities as they update their statutes to reflect these proposed changes. Specifically, when States develop written policies, meaningful coordination with victim advocacy organizations should be required. This should include advocates who work with survivors of community violence, sexual assault, and domestic violence, as well as culturally-specific organizations working with underserved communities including, but not limited to, tribal communities, immigrants, LGBTQI+ community, and individuals with disabilities.

## **2) Requirements for stronger data reporting**

Comprehensive and transparent data reporting is essential to ensure States' victim compensation programs are administered equitably and reach the populations facing the steepest challenges and greatest risk of financial hardship following violent victimization. The VOCA Victim Compensation Program matches 75% of state compensation funds, making it a crucial source of federal funding to support survivors. However, a 2022 national survey found that 96 percent of victims of violent crime did not receive victim compensation to help recover.<sup>6</sup> Of those who did receive compensation, 71 percent of all dollars support female survivors and disproportionately support white survivors between 29 and 59 of age.<sup>7</sup> Conversely, Black male youths in low-income urban communities face the highest risk of serious violent victimization but are statistically the least likely to access victim services<sup>8</sup>. Leaving crime victims without resources as they attempt to get their life back on track is not only morally inexcusable, but likely costs states more in the long run. Research shows that within five years of a violent victimization, 30 to 40 percent of victims of violent crime are treated in emergency rooms with another violent injury.<sup>9</sup>

The persistent gap between those who are at the highest risk of being a crime victim and those that are most likely to receive compensation from an SAA perpetuates generational and cyclical racial and socio-economic disparities across the nation. While the rule's proposed changes aim to reduce barriers and end this imbalance, without proper data and reporting, it will be impossible to hold SAAs accountable. Building on the success of the Performance Measurement Tool (PMT), we urge the OVC to consider requiring SAAs to report demographic breakdowns of who is approved and denied, as well as similar breakdowns for reasons for denial.

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<sup>6</sup> Alliance for Safety and Justice, "Crime Survivors Speak 2022: National Survey of Victims' Views on Safety and Justice," (Oakland, CA: 2022), available at <https://allianceforsafetyandjustice.org/wp-content/uploads/2022/09/Alliance-for-Safety-and-Justice-Crime-Survivors-Speak-September-2022.pdf>.

<sup>7</sup> "A Vision for Equity in Victim Services: What Do the Data Tell Us About the Work Ahead?," (Washington, DC: Office for Victims of Crime, 2021), available at <https://ovc.ojp.gov/media/video/12971>.

<sup>8</sup> John Maki and Heather Warnken, "Realizing the Promise of Crime Victim Compensation: Recommendations to Help Community Violence Intervention Meet the Needs of Underserved Victims," (New York City: Maron Institute of Urban Management, 2023), available at [https://marroninstitute.nyu.edu/uploads/files/Realizing\\_the\\_Promise\\_of\\_CVC\\_%281%29.pdf](https://marroninstitute.nyu.edu/uploads/files/Realizing_the_Promise_of_CVC_%281%29.pdf).

<sup>9</sup> "A Vision for Equity in Victim Services: What Do the Data Tell Us About the Work Ahead?."

### **3) Payment model**

Excluding crowdfunded resources and private insurance as disqualifying funding sources to receive victim compensation is an important and necessary step to ensuring families avoid undue financial hardships. However, it does not go far enough to ensure families are able to afford appropriate and dignified accommodations in the aftermath of violent victimization. Victim compensation programs relying on a reimbursement model to compensate victims is an ineffective and inhumane way to help victims and families in crisis. When a loved one is seriously injured or passes away from violent victimization, families should not have to worry about whether or not the potentially life saving expenses they are making in the immediate aftermath of a crime will be approved for reimbursement, and if so, when they will be reimbursed. Many applicants do not have the luxury of waiting several months to over a year to see their applications for compensation approved and their receipts reimbursed, and no family should have to make the difficult choice between supporting themselves and paying for medical bills or a funeral for a loved one. As of the submission of this comment, 25 states had some provision to make “emergency awards” to certain eligible victims.<sup>10</sup> However, even where emergency funds are available, the process to receive them can still be difficult, the awards are limited, and their usage highly restricted. To ensure no family must face undue financial hardship, we urge the OVC to require all States to include a provision for emergency awards and to make these funds unrestricted, allowing families to use this resource as they see fit.

### **4) Funding for sexual assault forensics evidence**

Under the existing rule, both OVC's Victim Compensation Program and Victim Assistance Program can fund sexual assault forensic exams if no other funding sources are available. The proposed rule would remove the requirement that OVC funding only be used if separately appropriated state funds are unavailable. Recognizing the limited funding available to serve victims of crime and the existing burden placed on victims applying for compensation, funding intended for victims should not be used to pay for costs that should reasonably fall under the purview of law enforcement. Reproductive health care and HIV prophylaxis should be covered by these programs rather than placing the financial burden on survivors of sexual violence, but the gathering of evidence should not. While the OVC's intent in changing the rule was to ensure more flexibility for States to cover the cost of SAFE's, in practice, advocates fear this will only further drain state victim compensation funds and take resources away from crime victims as they heal.

## **Conclusion**

The proposed Federal Rules for VOCA Victim Compensation Grant Program is a significant and important step to removing critical barriers to crime victims and offering greater support to people and families in their most vulnerable moments.

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<sup>10</sup> John Maki and Heather Warnken, “Realizing the Promise of Crime Victim Compensation: Recommendations to Help Community Violence Intervention Meet the Needs of Underserved Victims.”

We appreciate your consideration of these recommendations to improve the proposed Guidelines. If you have any questions about the aforementioned research, analysis, or recommendations, please reach out to Nick Wilson, Senior Director for Gun Violence Prevention, at [nwilson@americanprogress.org](mailto:nwilson@americanprogress.org).

Sincerely,

Center for American Progress  
Advocates for Change  
American Medical Women's Association  
Amnesty International USA  
Arizonans For Gun Safety  
Battle Born Progress  
Beauty Beyond Bars  
Both Sides of the Violence Inc  
Brady  
CeaseFirePA  
Chi-Town GVP Summit  
Cleveland Peacemakers Alliance  
CT Against Gun Violence  
CT Violence Intervention Program  
Delaware Coalition Against Gun Violence  
Guns Down America  
GunSense NH, a project of Granite State Progress  
The Health Alliance for Violence Intervention (HAVI)  
KAVI (Kings Against Violence Initiative)  
March for Our Lives  
Marylanders to Prevent Gun Violence  
Massachusetts Coalition to Prevent Gun Violence  
MomsRising  
Newtown Action Alliance  
North Carolinians Against Gun Violence  
Ohio Coalition Against Gun Violence  
Orange Ribbons For Jaime  
Protect Minnesota  
Public Health Advocacy Institute, Northeastern University  
Rebuild, Overcome, and Rise (ROAR) Center at University of MD, Baltimore  
Remembering Darien Victims Foundation  
Roca  
SAFE Illinois  
Safer Country  
Savie NGO LGBT DRC  
Sisters of Mercy of the Americas Justice Team

Stop Handgun Violence  
Survivors Empowered  
Temple Sinai (DC) GVP Group  
Texas Gun Sense  
The Campaign to Keep Guns Off Campus  
The IVYY Program  
The Ohio Council of Churches  
Tyme to Thrive Beyond Grief  
UMD PROGRESS Initiative  
Vera Institute of Justice  
Violent Crime Survivors  
WAVE Educational Fund