

# CRS Report for Congress

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## **Victims of Crime Compensation and Assistance: Background and Funding**

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# Victims of Crime Compensation and Assistance: Background and Funding

## Summary

The Crime Victims Fund (CVF or “Fund”) was established in the U.S. Treasury in 1984 (P.L. 98-473) by the Victims of Crime Act (VOCA) to provide funding to state victim compensation and assistance programs. VOCA was amended in 1988 (P.L. 100-690) to, among other things, establish the Office for Victims of Crime (OVC) to administer the Fund. The OVC awards formula grants to states in accordance with the VOCA. The OVC is also authorized by the VOCA to distribute Fund money to award discretionary grants to states, local units of government, individuals, and other entities. Specially designated programs such as the child abuse program, a victim notification system, and others as listed below, are also awarded money from the Fund through the OVC. The OVC is part of the Department of Justice (DOJ) Office of Justice Programs.

The VOCA was amended in 1996, 2000, and 2001, to provide assistance to victims of terrorism who are nationals of the United States or officers or employees of the United States Government, who are injured or killed as a result of a terrorist act outside the United States. Also included in these amendments are provisions providing compensation and assistance to victims of terrorism within the United States. The USA Patriot Act authorized the Director of the OVC to set aside \$50 million of Fund money, as an antiterrorism emergency reserve to respond to the victims of 9/11 and, subsequently, to replenish any amounts expended so that not more than \$50 million is reserved in any fiscal year. In addition, the OVC received a one-time \$68.1 million in the FY2002 Department of Defense Appropriations Act to assist in its work of providing relief to 9/11 victims.

Deposits to the Crime Victims Fund come from criminal fines, forfeited bail bonds, penalties and special assessments collected by the U.S. Attorneys’ Offices, federal U.S. courts, and the Federal Bureau of Prisons. Since FY2002, Congress has allowed gifts, bequests, or donations from private entities, to be deposited to the Fund. When the Fund was authorized in 1984, a cap was placed on how much could be deposited annually for the first eight years; the cap was lifted in FY1994 and reinstated in FY2000. The cap for FY2005 is \$625 million (Consolidated Appropriations Act, 2005, P.L.108-447, §616).

All 50 states and several territories have passed some form of legislation to benefit victims of crime. Every state administers a crime victim compensation program. In addition, all the states award funds for victim assistance services such as crisis intervention, emergency shelter, emergency transportation, counseling, and criminal justice advocacy. Federal grant programs, as prescribed in VOCA, are key in the funding for crime victim assistance within the states. However, states play an important role in the financial support of their victim of crime programs and several state fund raising approaches are set out in this report. This report provides background and funding information on the CVF and VOCA, and it will be updated to reflect any major program changes.

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# Victims of Crime Compensation and Assistance: Background and Funding

## Background

The Crime Victims Fund (CVF or “Fund”) was established in the U.S. Treasury in 1984<sup>1</sup> by the Victims of Crime Act (VOCA)<sup>2</sup> to provide a dedicated source of funds for state victim compensation and assistance programs. VOCA was amended in 1988<sup>3</sup> to, among other things, establish the Office for Victims of Crime (OVC) to administer the Fund. The OVC awards formula grants to states in accordance with the VOCA. The OVC is also authorized by the VOCA to distribute Fund money to award discretionary grants to states, local units of government, individuals and other entities. Specially designated programs such as the child abuse program, a victim notification system, and others as listed below, are also awarded money from the Fund through the OVC. The OVC is part of the Department of Justice (DOJ) Office of Justice Programs.

The VOCA was amended in 1996, 2000, and 2001,<sup>4</sup> to provide assistance to victims of terrorism who are nationals of the United States or an officers or employees of the United States Government, who are injured or killed as a result of a terrorist act outside the United States. Also included in these amendments are provisions providing compensation and assistance to victims of terrorism within the United States. The USA Patriot Act authorized the Director of the OVC to set aside \$50 million of Fund money, as an antiterrorism emergency reserve to respond to the victims of 9/11 and, subsequently, to replenish any amounts expended so that not more than \$50 million is reserved in any fiscal year.<sup>5</sup>

The Fund, as established, does not receive appropriated funding.<sup>6</sup> Deposits to the Fund come from criminal fines, forfeited bail bonds, penalties, and special assessments collected by the U.S. Attorneys’ Offices, federal U.S. courts and the

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<sup>1</sup> P.L.98-473, 98 Stat. 2170.

<sup>2</sup> VOCA is codified at 42 U.S.C. §10601 et seq.

<sup>3</sup> P.L.100-690, 102 Stat. 4420.

<sup>4</sup> P.L.104-132, 110 Stat. 1243 (1996); P.L. 106-386, 114 Stat. 1543 (2000); P.L.107-56, USA Patriot Act, 115 Stat. 370 (2001).

<sup>5</sup> P.L. 107-56, 115 Stat. 371. For more information on federal, state and private relief for victims of 9/11, see CRS Report RL31716, *Homeland Security: 9/11 Victim Relief Funds*, by M. Ann Wolfe.

<sup>6</sup> After 9/11 a one time appropriation of \$68.1 million, in the FY2002 Department of Defense Appropriations Act, was passed to assist in providing relief to 9/11 victims.

Federal Bureau of Prisons.<sup>7</sup> In 2001, the USA Patriot Act as signed into law, provided that gifts, bequests, or donations from private entities could be deposited to the Fund. When the Fund was authorized in 1984, a cap was placed on how much money could be deposited annually for the first eight years. The cap was then lifted in FY1994 but reinstated in FY2000. The cap has fluctuated through the years as shown in **Table 1**.

## Office for Victims of Crime Authorization and Caps

The OVC is part of the Department of Justice's Office of Justice Programs. The Office of Justice Programs were authorized to be appropriated for FY2002-FY2003 by P.L.107-273. In the 108<sup>th</sup> Congress, H.R. 3036 was introduced to authorize the DOJ, including Office of Justice Programs, for FY2004-FY2006. H.R. 3036 passed the House on March 30, 2004. The related Senate bill, S. 2863, received no action.

**Caps.** When the Crime Victims Fund (CVF) was authorized in 1984, a cap was placed on how much money could be deposited for the first eight years (FY1985 through FY1993). Congress lifted the cap for FY1994 through FY1999. Beginning in FY2000, Congress reinstated annual caps to "protect against wide fluctuations in receipts into the Fund, and to ensure that a stable level of funding will remain available for these programs in future years."<sup>8</sup> See the table below for CVF caps from FY2001 through FY2005.

**Table 1. Caps for Crime Victims Fund for FY2001-FY2005**  
(\$ in millions)

Fiscal Year	2001	2002 <sup>a</sup>	2003 <sup>b</sup>	2004 <sup>c</sup>	2005 <sup>d</sup>
CAP	\$532.4	\$550	\$621	\$621.3	\$625

**Source:** Department of Justice budget justifications.

- a. FY2002, \$68.1 million was appropriated in response to 9/11(see discussion below on special assistance to victims of 9/11).
- b. FY2003, the cap as passed by Congress was \$625 million. After the required government-wide rescission the cap was lowered to \$621 million.
- c. FY2004, the cap, as passed by Congress, was \$625 million. After the required government-wide rescission the cap was lowered to \$621.3 million.
- d. FY2005, the cap of \$625 million was included in the Consolidated Appropriations Act, 2005, §616.

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<sup>7</sup> See 42 U.S.C. §10601.

<sup>8</sup> H.Rept. 106-479 for the FY2000 Appropriations for the District of Columbia and for Other Activities, Section 620.

## Distribution of the Crime Victims Fund

**Child Abuse Program.** According to the FY2005 DOJ Budget Justifications, up to \$20 million must be used annually to improve the investigation, handling, and prosecution of child abuse cases. The money is divided between the U.S. Department of Health and Human Services (up to \$17 million (85%)) and the OVC, (up to \$3 million (15%)). In FY2004 and again in FY2005, the OVC estimates that \$20 million will be provided to support the programs as designated above.

**Executive Office of United States Attorneys (EOUSA) Positions.** According to the FY2005 DOJ Budget Justifications, the OVC provides annual funding to support victim-witness coordinators and victim advocates within each of the 93 U.S. Attorney's Offices to provide direct services to victims of crime. The OVC will provide \$18.896 million in FY2004 and \$19.207 million in FY2005.

**Federal Bureau of Investigation (FBI) Positions.** According to the FY2005 DOJ Budget Justifications, the OVC provides annual funding to support victim specialists positions within the 56 FBI field offices to provide direct services to victims of crime. The OVC will provide \$11.926 million in FY2004 and \$12.212 million in FY2005.

**The Victim Notification System (VNS).** According to the FY2005 DOJ Budget Justification, the OVC provides annual funding to support the VNS, that is administered by EOUSA. VNS is the vehicle that allows victims to be notified, through an automated system, of major case events relating to the offender, from the time a case is opened, through indictment, subsequent prosecution, and to incarceration of the defendant. The OVC will provide \$5 million for VNS in FY2004 and in FY2005.

**Antiterrorism Emergency Reserve Fund.** The Director of the OVC is authorized to set-aside up to \$50 million, in the Antiterrorism Emergency Reserve to meet the immediate and longer-term needs of terrorism and mass violence victims by providing supplemental grants to states for victim compensation and assistance and by also providing direct compensation to victims (U.S. nationals or officers or employees of the U.S. government, including Foreign Service Nationals working for the U.S. government) of terrorism occurring abroad.

After these five specified programs are funded, funds remaining are distributed as follows: Victim Compensation Formula Grants, 47.5%; Victim Assistance Formula Grants, 47.5%; and Victim Discretionary Grants, 5%.

**Victim Compensation Formula Grants Program.** Of the remaining CVF funds available (after the above listed efforts are funded), 47.5% are for grant awards to state crime victims compensation programs.<sup>9</sup> Currently, all 50 states, the District of Columbia, the U.S. Virgin Islands, Puerto Rico and Guam have victim compensation programs (see below for further descriptions of state programs). The OVC awards each state (or territory) 60% of the total amount the state paid to victims

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<sup>9</sup> See 42 U.S.C. §10601 (d)(4).

from state funding sources, two years prior to the year of the federal grant award. Compensation formula grants may be used to reimburse crime victims for out-of-pocket expenses such as medical and mental health counseling expenses, lost wages, funeral and burial costs, and other costs (except property loss) authorized in a state's compensation statute.

Prior to receiving a formula grant, a state compensation program must meet the following requirements: 1) promote victim cooperation with the reasonable requests of law enforcement authorities; 2) certify that grants received will not be used to supplant state funds; 3) insure that non-resident victims receive compensation awards on the same basis as victims residing within the state; 4) insure that compensation provided to victims of federal crimes is given on the same basis as the compensation given to the victims of state crime; and 5) provide compensation to residents of the state who are victims of crimes occurring outside the state.

In FY2002, approximately 228,308 claims were filed under the states and territories victim compensation programs; 176,929 were subsequently deemed eligible and 51,379 were denied. Victim compensation programs paid out approximately \$448 million in claims to victims, including \$3 million in claims for medical expenses and economic support. OVC will provide \$268 million in FY2004 and \$270 million in FY2005 for victim compensation efforts.

**Victim Assistance Formula Grants Program.** Of the funds available, after the five designated efforts are funded, 47.5% is designated for state agencies selected by Governors to administer federal funds for state and community-based victim *service* program operations.<sup>10</sup> Each state, the District of Columbia, the U.S. Virgin Islands and Puerto Rico receive a base amount of \$500,000 each year. The territories of the Northern Mariana Islands, Guam, and American Samoa each receive a base amount of \$200,000 annually. The remaining funds are distributed based on U.S. census population data. States and territories receiving these funds are required to give priority consideration to victims of domestic violence, sexual assault, and child abuse, and to under-served victims. The states and territories receiving these funds are required to spend a minimum of 10% of their awards in each of the listed priority areas. The Victim Assistance Formula Grants Program supports direct services to crime victims including information and referral services, crisis counseling, temporary housing, criminal justice advocacy support, and other assistance needs. States may not use federal funds to supplant state and local funds otherwise available for crime victim assistance. Up to 5% of the annual award may be used for administrative purposes.

During FY2002 a total of 5,629 subgrants were awarded to 4,390 agencies. The agencies served 3.8 million victims of which 2,001,455 represented domestic violence victims and 312,401 represented child abuse victims. The OVC will provide \$268 million toward this effort in FY2004 and an estimated \$270 million in FY2005.

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<sup>10</sup> Ibid.

**Discretionary Grants/Activities.** The OVC is authorized to make 5% of remaining funds available for *discretionary* activities.<sup>11</sup> At least half of this amount must be allocated for national training and technical assistance and demonstration and evaluation projects. Examples of discretionary program activities include:

- *Helping Outreach Programs to Expand (HOPE) Grants* — Funds provide support to develop newsletters or brochures and flyers advertising programs available to victims of crime. In addition programs use funds to purchase computer equipment, fax machines, copiers, telephone service, local travel and to train their volunteers. The grants for these programs are often quite small;
- *Victim-Oriented Policing* — OVC awarded \$400,000 in FY2003 to the International Association of Chiefs of Police for planning a multi-year project to design and implement a national strategy to create systemic change among law enforcement agencies to recognize victim services as an integral part of daily department life and to conduct police training in trauma, sensitivity during evidence collection and a general awareness of the problems that victims of crime experience;
- *National Center for Victims of Crime (NCVC)* — Another multi-year project is receiving funding for the development of “Victim Law” a comprehensive online database of federal, state, and tribal victims’ rights statutes and codes, and relevant case law.

OVC awarded \$25 million for *discretionary* program activities in FY2003 and plans to provide \$28 million in FY2004 and in FY2005.

## **Office for Victims of Crime Activities to Assist Victims of 9/11**

When 9/11 occurred, the OVC had a mechanism in place, through previous legislation,<sup>12</sup> to respond to the victims of these terrorist attacks. Since OVC had statutory authority and experience<sup>13</sup> in working with communities responding to incidents of terrorism and mass violence, the OVC was selected to administer funds

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<sup>11</sup> Ibid.

<sup>12</sup> See P.L. 98-473, 98 Stat. 2170; P.L. 104-132, Antiterrorism and Effective Death Penalty Act of 1996, 110 Stat. 1243; P.L. 106-386, §2003 Aid for Victims of Terrorism, 114 Stat. 1543. These provisions and more codified at 42 U.S.C. §10601 et seq., Victims of Crime Act.

<sup>13</sup> OVC had funded and coordinated victim assistance services for the Pan Am Flight 103 bombing over Lockerbie, Scotland(1988); the Alfred P. Murrah Federal Building bombing in Oklahoma City(1995); the Khobar Towers bombing in Dhahran, Saudi Arabia(1996); the U.S. Embassy bombings in East Africa (1998); and the U.S.S. Cole bombing in the port of Aden, Yemen (2002).

and programs to assist the victims of 9/11. The USA Patriot Act<sup>14</sup> authorized the Director of the OVC to set aside \$50 million of Fund money, as an antiterrorism emergency reserve to respond to the victims of 9/11, and subsequently, to replenish any amounts expended so that not more than \$50 million is reserved in any fiscal year for any future victims of terrorism. In addition, the OVC received a one-time \$68.1 million in the FY2002 Department of Defense Appropriations Act.<sup>15</sup> to assist in its work of providing relief to 9/11 victims.

Using the funds available in the Antiterrorism Emergency Reserve, the OVC awarded, in less than two weeks from the attack, \$3.1 million in victim assistance funding and \$13.5 million in victim compensation funding to the state of New York and the Commonwealths of Virginia and Pennsylvania.<sup>16</sup> These funds were used by the states to coordinate and provide emergency assistance to the victims in the form of crisis counseling and other direct services, and to offset out-of-pocket expenses for medical, mental health, funeral, and lost wages. At the same time, OVC staff worked to identify the short and long term needs of these victims and related costs, as well as to coordinate its efforts with other federal agencies such as the Federal Emergency Management Agency (FEMA). Within 24 hours, OVC set up a Call Center which offered a 24-hour, toll-free telephone line for collecting information in a database on victims from family members and providing referrals for financial, housing and/or counseling assistance. Approximately 37,000 victims and family members received assistance and referrals through the Call Center. The OVC also established a Victim and Family Travel Assistance Center at a cost of \$751,572, that handled all logistical arrangements and paid travel and lodging costs for 1,800 family members traveling to funerals and memorial services. The OVC also designed and operated a special “Hope and Remembrance” website to provide victims with answers to frequently asked questions, official messages from U.S. government sources, news releases, etc.<sup>17</sup>

## Selected Bills Introduced in the 108<sup>th</sup> Congress

The following bills have been introduced in the 108<sup>th</sup> Congress but have not received final action.

**S.J.Res. 1** introduced by Senator Jon Kyl on January 7, 2003, proposes an amendment to the Constitution of the United States to protect the rights of crime victims (S.Rept. 108-191). **H.J.Res. 10** was introduced by Representative Edward Royce on January 7, 2003, and **H.J.Res. 48** was introduced by Representative Steve Chabot on April 10, 2003, with similar provisions as found in S.J.Res 1 but with no major action taken.

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<sup>14</sup> P.L. 107-56, 115 Stat. 371(codified at 42 U.S.C.§10601(d)(5)).

<sup>15</sup> P.L. 107-117, 115 Stat. 2294.

<sup>16</sup> U.S. Department of Justice, Office for Victims of Crime, *Meeting the Needs of the Victims of the September 11<sup>th</sup> Terrorist Attacks*, Department of Defense Appropriations Act of 2002, report to Congress, Apr. 2003.

<sup>17</sup> For further information on federal, state and private relief for victims of 9/11, see CRS Report RL31716, *Homeland Security: 9/11 Victim Relief Funds*, by M. Ann Wolfe.

**S. 805** introduced by Senator Patrick Leahy on April 7, 2004, and **H.R. 3381** introduced by Representative Eleanor Holmes Norton on October 28, 2003, would enhance the rights of crime victims, to establish grants for local governments to assist crime victims, and for other purposes.

**S. 684** introduced by Senator Gordon Smith on March 21, 2003, and **H.R. 401** introduced by Representative Robert Andrews on January 28, 2003, would create an office within the Department of Justice to undertake certain specific steps to ensure that all American citizens harmed by terrorism overseas receive equal treatment by the U. S. government regardless of the terrorists' country of origin or residence, and to ensure that all terrorists involved in such attacks are pursued, prosecuted, and punished with equal vigor, regardless of the terrorists' country of origin or residence.

**S. 2329** introduced by Senator Jon Kyl on April 21, 2004, would protect crime victims' rights; amends the Victims of Crime Act of 1984 so that grants are made to develop, establish and maintain programs for the enforcement of crime victims' rights and to develop and implement state-of-the-art systems for notifying crime victims of important dates and developments relating to criminal proceedings in a timely and efficient manner and for other purposes. Passed the Senate with an amendment on April 22, 2004. The provisions of S. 2329 were included in **H.R. 5107** (Title I) which became **P.L. 108-405** on October 30, 2004. **H.R. 4342** was introduced by Representative Steve Chabot on May 12, 2004, with similar provisions to those found in S. 2329. No action was taken on H.R. 4342.

**H.R. 944** introduced by Representative Rob Simmons on February 26, 2003, would amend the Victims of Crime Act of 1984 to require the Director of the Office for Victims of Crime to ensure that all sums in the Victims of Crime Fund in a fiscal year are in fact obligated in the subsequent fiscal year.

## State Legislative Actions Concerning Victims of Crime

**Background.** As mentioned previously in this report, the OVC awards grants to the several states in accordance with the VOCA. In order to qualify for these funds, all 50 states have passed some form of legislation to benefit victims of crime.<sup>18</sup> As of 2000, 33 states have recognized the fundamental rights for crime victims by raising these protections to the state constitutional level. The strength of enforcement within the 50 states varies. However, every state administers a crime victim compensation program that provides financial assistance to victims of both federal and state crimes. Most state programs have similar eligibility requirements and offer a comparable range of benefits. Maximum awards generally range from \$10,000 to \$25,000. The typical compensation program requires victims to report crimes to law enforcement within three days of the offense and to file claims within a fixed period of time (usually two years). Most states can extend these time limits for good cause. If other financial resources such as private health and property insurance are available

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<sup>18</sup> U.S. Department of Justice, Office of Justice Program, State Legislative Approaches to Funding for Victims' Services, Legal Series Bulletin no. 9, see [<http://www.ojp.usdoj.gov/ovc/publications/bulletins/legalseries/bulletin9/welcome.html>].

to the victim, the program pays only to the extent these resources do not cover the loss.

In addition to victim compensation funding, all the states and several territories provide some victim assistance services such as crisis intervention, emergency shelter, emergency transportation, counseling and criminal justice advocacy. As noted above, VOCA awards are made annually, by states to organizations, to provide these and other services to victims of crime. VOCA assistance funds may be used only for direct services to crime victims. Most funding is awarded on a competitive basis.

VOCA also authorizes the OVC to award discretionary funds to improve the skills, knowledge and abilities of victim service providers. In addition to the national training and technical assistance described above, VOCA funds support services for federal crime victims such as developing materials that inform federal crime victims of their rights and the services available, programs that establish new, and expand existing services for federal crime victims and programs that train federal criminal justice system personnel on victims' issues.<sup>19</sup>

**State Approaches to Funding for Victims Services.** Although federal grant programs are key in the funding for crime victim assistance, state-level support can play an important role. There are several methods used by the 50 states to help fund victim programs:

**Offender-Based Funding.** The level of "offender surcharges" varies within the several states. Some states impose a low fee on all offenders, including most traffic offenders. For example, Virginia imposes a \$3 fee on all traffic and misdemeanor offenders and some felony drug offenders. These funds are then deposited into Virginia's victim-witness fund and used to implement victims rights. Virginia brings in \$3.8 million annually using this method. Texas imposes a \$45 penalty for a felony, \$35 for class A and B misdemeanors and a \$15 fee for Class C misdemeanors. Using these fees, Texas raised nearly \$69 million, in 1999, for the Texas Crime Victims' Compensation Fund and more than \$16 million was appropriated for crime victim services. In addition, several states raise money by setting specific assessments for offenders of particular types of crime, e.g., child pornography, other offenses against children, domestic violence, sex offenses, pimping or soliciting a prostitute and crimes against the elderly or disabled. Several states impose costs on offenders placed on probation or other forms of supervised release and several states withhold a percentage of an inmates earnings that then go to fund victim assistance.

**Funding Through Fees.** Many states have imposed nonoffender-based fees for certain services, which are used to fund crime victim programs, e.g., adding a surcharge when issuing a marriage license or filing for a divorce and using the money to fund domestic violence, child abuse prevention, rape prevention or a general victim/witness assistance program. Several states have attached fees for issuing birth

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<sup>19</sup> See [<http://www.ojp.usdoj.gov/ovc/help/links.htm>] for VOCA funding information to individual states and the several territories.

certificates and deposit those funds to a Children's Trust Fund or to fund child abuse and prevention programs.

***State-Facilitated Funding by Private Citizens.*** Some states place a voluntary income tax checkoff box on tax forms that designate payment to crime victim programs. A few states use this method to fund domestic violence programs or sexual assault. Another way to raise money to support children's programs is through the sale of special license plates. Also, a few states have passed laws allowing jurors to donate their fees to crime victim-related programs such as a child welfare service fund or a fund for domestic violence programs.

***Miscellaneous Approaches.*** Some states give county boards special taxing authority, after submitting a resolution to the voters at a general election, to create Children's Advocacy Centers (Illinois) or to provide grant money for crime assistance programs (Ohio). Connecticut sells urban action bonds to fund centers for the elderly, shelter for domestic violence victims and emergency shelters. Washington imposes a \$1-per-gallon tax on the syrup used to make soft drinks and in Florida there is an option for counties to adopt a tax on food, beverages, or alcohol to fund the construction and operation of domestic violence shelters and to help the homeless.