

# FINANCIAL ASSISTANCE FOR ILLINOIS VICTIMS: CRIME VICTIM COMPENSATION FUND



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*Abstract: Crime victim compensation (CVC) fund programs are available in all 50 states to financially assist victims of violent crime. The following article summarizes the purpose of crime victim compensation, victim-centered principles in CVC programs, and the criteria for CVC in Illinois. Researchers identified data on CVC awareness and applications in Illinois to explore how these data compare with reported crime trends and victim characteristics. Results suggest that many victims, including family members of homicide victims, are potentially eligible but do not receive CVC. Implications for how to adapt CVC programs to be victim-centered and improve access to CVC funds are discussed.*

## **Introduction**

Every year, over 1 million Americans become victims of violent crime, most commonly aggravated assault, robbery, and sexual assault.<sup>1</sup> Not every person who experiences a crime will need or want help; some victims are able to adjust and cope without formal support services. For other victims, however, their victimization experiences may adversely impact their daily life and overall well-being. Victims and their family members are at increased risk of depression, post-traumatic stress disorder (PTSD), and other negative mental health effects. Physical injuries from physical and sexual assaults occurred over 2 million times in 2016, according to the Center for Disease Control and Prevention.<sup>2</sup> Some may also experience a loss of productivity or “bandwidth” to manage day-to-day tasks or difficulty navigating systems, such as hospitals or the criminal justice system, following these experiences.<sup>3</sup> Other tangible effects of victimization include lost wages due to missing work, stolen or damaged property, legal fees, and funeral costs for family members of homicide victims.<sup>4</sup>

Violent crime may cost victims thousands of dollars in medical care, lost productivity, and decreased quality of life (estimated by comparing average jury compensation awards for pain and suffering over time).<sup>5</sup> While many victims can access low- or no-cost health care services, they may still incur out of pocket expenses for long-term healthcare, lost wages, and damaged property. These costs are not entirely shouldered by victims themselves, as many seek assistance from non-profit or state social service and victim service agencies and community health centers. Some victims receive restitution in criminal court proceedings or civil damages in lawsuits, though the number of cases where victims are awarded punitive damages is low.<sup>6</sup>

## **Victim Compensation**

States have responded to the need for tangible aid to victims with compensation programs. Crime victim compensation (CVC) fund programs are available in all 50 states to financially assist victims of violent crime and fill in some of the gaps between social service aid, private and public insurance, and legal restitution. CVC fund programs are the only nationwide government-run programs that directly compensate victims. Compensation funds began in the 1960s in a handful of states and proliferated with the passage of the Victims of Crime Act (VOCA) of 1984 under then-President Ronald Reagan.<sup>7</sup> The philosophy underlying victim compensation practices has existed for centuries in societies dating as far back as ancient Greece and represents a formal acknowledgement by the state that a victim has been harmed and should be provided with support to recover from victimization.

### *Theoretical Framework*

Victims of crime, especially victims of interpersonal violence, have improved psychological well-being when they fully understand system processes and when they feel their concerns have been heard and taken seriously by the justice system (known as feeling a sense of *procedural justice*).<sup>8</sup> Victims of violence feel a sense of *distributive justice*, or reparation and

validation, upon receiving compensation when this compensation is disbursed in an equal and fair manner, which contributes positively to moving forward after being victimized.<sup>9</sup> Taken together, procedural and distributive justice are both forms of *organizational justice*, or the overall sense of being treated fairly by formal legal systems.

The slow pace of investigations and processing applications for resources and a lack of transparency about such processes can negatively impact victim healing.<sup>10</sup> Organizational justice is bolstered by an acknowledgement of a person's victimization and then helping that person move forward. These concepts, supported by a growing body of research on victimization and citizen encounters with the criminal justice system, posit that there is intrinsic value to people feeling processes and outcomes are just from the very beginning. Societies can express 'social solidarity' with crime victims through monetary compensation as both recognition of harm caused and investment in healing.<sup>11</sup>

### *Crime Victim Compensation Funds*

CVC programs can help foster social solidarity wherein victims of violent crime receive formal recognition from the state that their victimization matters and they deserve assistance as they financially, mentally, and physically recover. Every state operates a CVC fund overseen by the U.S. Office for Victims of Crime (OVC), as established by VOCA. CVC funds are not taxpayer generated; they are supported by fines, penalties, and fees collected from individuals convicted of federal offenses and private donors. In 2013, Congress set a cap of \$730 million in funds available for distribution through state victim compensation programs.<sup>12</sup> OVC disburses money to individual state funds through formula grant programs.<sup>13</sup> Though requirements vary by state, most stipulate these eligibility requirements:

- Funds are only available to victims of *violent* crime (and their family members).
- Victims must report crimes to law enforcement or have completed a sexual assault evidence collection kit.
- Crimes must be reported within specified windows of time.
- Victims must cooperate with police and prosecutors.
- The fund is considered the "payer-of-last-resort" after other sources of funds have been exhausted (e.g., insurance, civil restitution, public assistance).
- Victims must not be implicated in the crime.

Nationally, approximately 4 percent of violent crime victims in the U.S. seek compensation.<sup>14</sup> Application denial rates vary between 10 percent and 24 percent across states.<sup>15</sup> Application rates are lowest among young, male, ethnic minority assault victims and women who survive interpersonal violence (i.e. domestic violence and sexual assault).<sup>16</sup> It may be that these low rates are due to CVC funds being restricted to those victims who report and cooperate with law enforcement and who have no criminal involvement.<sup>17</sup> Research indicates that while 54 percent of clients served in federally funded victim assistance programs were domestic violence

survivors, only 13.4 percent received CVC.<sup>18</sup> National studies suggest victims of violent crime who are older, more educated, and who receive comprehensive psychosocial services are more likely to access crime victim compensation funds.<sup>19</sup>

### **Victim-Centered Approaches to Crime Victim Compensation**

Victims report increased feelings of procedural justice when they perceive processes to be impartial and unbiased, receive respectful interpersonal treatment, and feel their concerns are heard and taken seriously.<sup>20</sup> Victims who feel processes are procedurally just are more likely to seek mental health assistance and use the criminal justice system in the future.<sup>21</sup> CVC programs have an important role to play in affecting the public's perception of the criminal justice system.

Victim-centered approaches to crime victim compensation, grounded in the principles of procedural and distributive justice, include the following key elements:

- Clear and transparent processes for applying for compensation.
- Integration with other community victim service agencies.
- Case managers or other professionals available to assist applicants.
- Public awareness of the CVC program, especially among populations most likely to be victims of violent crime.

Studies on the federal September 11<sup>th</sup> Victim Compensation Fund, created by an act of Congress shortly after the attack, have found procedural and distributive justice to be important elements of people's overall assessment of receiving compensation.<sup>22</sup> The September 11<sup>th</sup> Fund adopted victim-centered practices that were well-received by the claimants, research showed. The process for the fund was structured to best meet victim needs through personalized family hearings conducted by a single team and an unlimited amount of resources to cover their needs. In addition, the process was transparent as formulas of award amounts were published online. The fund covered compensation for pain and suffering in standardized amounts for all claimants, with caps for those who made over \$230,000. The 97 percent acceptance rate suggests few constraints made people ineligible for funds. However, some processes negatively impacted feelings of distributive justice:

*The award amounts were based on victim earning power at the time of the attack; therefore, disparate amounts were disbursed to families... White families [received] more compensation than non-White families, which eroded feelings of distributive justice. Being the 'payer of last resort', or reducing the amounts based on other payments from worker's compensation and life insurance, also led to decreased feelings of distributive justice as families felt the government had a primary duty to acknowledge their pain and suffering.<sup>23</sup>*

Ultimately, while most September 11<sup>th</sup> Fund recipients were dissatisfied with the award amount, they were mostly satisfied with the process. Feeling the process was fair helped people become

more accepting of the outcome, but only to a point. Outcomes matter greatly to people, perhaps even more so when the outcome is financial and related to loss of quality of life after victimization. Simply increasing the fairness of a process does not automatically translate to improved perceptions of outcome fairness.<sup>24</sup>

CVC funds often operate in ways that run counter to what would be considered victim-centered<sup>25</sup>, because they place many restrictions on eligibility which can erode victims' feelings of trust. The 2016 National Victimization Crime Survey indicated 42 percent of all violent victimizations were reported to the police that year, with sexual assault victims having the lowest reporting rate (23 percent).<sup>26</sup> Reasons for not reporting to police included the desire to deal with the matter in another way (25 percent), belief that the police would not or could not help (21 percent), or fear of reprisal or getting the offender in trouble (19 percent).<sup>27</sup> Requirements to report and cooperate are barriers to victims who may need compensation, but do not want to report to police. Researchers estimated between 2006 and 2010, 63 percent of sexual assaults<sup>28</sup> went unreported. The number of sexual assault victims who receive medical forensic exams to complete an evidence collection kit is unknown, but only 32 percent of victims seek medical care.<sup>29</sup> Victims who seek medical care also are more likely to seek law enforcement help.<sup>30</sup>

Victim cooperation is another barrier to accessing CVC funds. Cooperation, or lack thereof, is defined by the National Incident Based Reporting System (NIBRS) as a closed case file marked "Victim refused to cooperate with law enforcement."<sup>31</sup> One analysis of NIBRS data found a low incidence of refusal to cooperate, though refusal was most common among victims of physical assault and for victims of physical and sexual assault who knew the alleged offender in some capacity.<sup>32</sup> Data also indicated the reporting and cooperation requirements automatically prohibited over half of all violent crime victims from receiving CVC funds.

Research on the nature of interpersonal violence also highlights how CVC requirements pose barriers to victims of such crimes. Victims of interpersonal violence often do not meet the eligibility requirements for receiving compensation because they may not choose to report the crime in the first place or they do not want to continue working with law enforcement (thus not meeting the requirement for 'cooperation') once a crime has been reported. Victims of domestic violence may not want to involve law enforcement in their situations if the alleged perpetrator is an intimate partner or family member, which may pose as a barrier to support through CVC to address the impacts of these experiences.<sup>33</sup> Victims of sexual violence may face an additional barrier when eligibility requirements are time-sensitive, as many victims wait longer than seven days to report an assault.<sup>34</sup> In 2015, 62 percent of sexual assault victims in Illinois sought services from victim service providers within the first week,<sup>35</sup> but most never reported to law enforcement, underwent a forensic medical exam, or sought an order of protection, all of which are required for compensation.

Victims who have more serious psychological health needs are less likely to know where and how to apply for CVC funds and to follow the process to completion than victims with lower psychological health needs.<sup>36</sup> Case managers or advocates knowledgeable about the CVC processes and application may assist victims in accessing such care. CVC fund assistance is managed separately from other victim services, which limits the amount of help available to victims, and most states do not employ case managers to guide people through the CVC application process.

### **Crime Victim Compensation in Illinois**

In Illinois, victims and close family member survivors of violent crime,<sup>37</sup> along with violent crime witnesses, are eligible to apply for CVC funds. The state covers expenses incurred with physical and mental health treatment, relocation, loss of wages, transportation to and from medical and counseling facilities, and replacement of items taken or destroyed during the crime. Individuals may apply for and receive up to \$27,000 in compensation, with CVC earnings capped at \$1,250 per month and funeral/burial expenses at \$7,500.<sup>38</sup> To be eligible for CVC funds in Illinois, most crime must be reported within 72 hours. Sexual assault victims must report within 7 days.

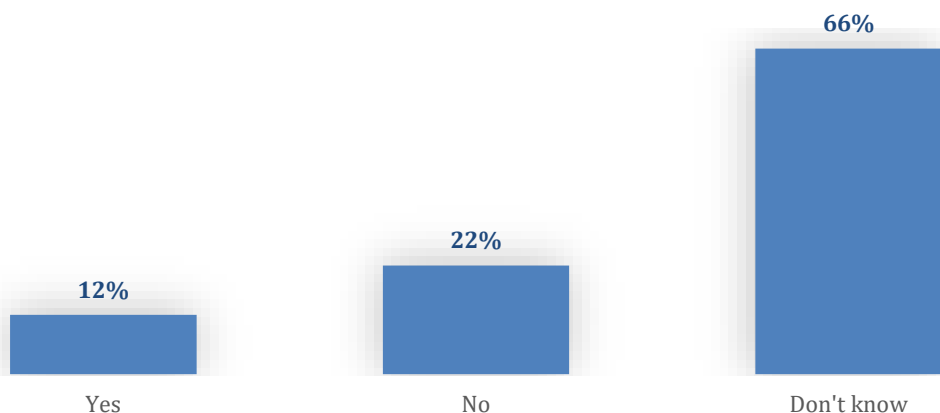
	<b>Eligibility Requirements</b>
All victims	<ul style="list-style-type: none"> <li>• Must notify law enforcement within 72 hours or within 7 days for sexual assaults.</li> <li>• File application within 2 years of date of crime or 1 year of criminal charges filed, whichever is later.</li> <li>• Cooperate with law enforcement.</li> <li>• Cooperate with Attorney General’s office.</li> <li>• Did not contribute to their injury (engaging in wrongful acts, provoking the offender, or being accomplice).</li> <li>• The victim cannot be paid compensation until released from probation, parole, mandatory supervised release for a felony, or from correctional institution (but they may apply).</li> </ul>
Domestic Violence Victims	<ul style="list-style-type: none"> <li>• Must notify law enforcement OR obtain Order of Protection or Civil No Contact Order after the incident.</li> </ul>
Sexual Assault Victims	<ul style="list-style-type: none"> <li>• Must notify law enforcement OR obtain Order of Protection OR undergo sexual assault evidence collection exam within 7 days.</li> </ul>

In 2015, 49,755 violent crimes were reported to law enforcement in Illinois.<sup>39</sup> That same year, the CVC fund paid a total of \$6 million to 1,813 approved claimants (54 percent of all applications filed).<sup>40</sup> Of the applications approved that year, 53 percent were victims of assault and battery; 23 percent were family member survivors of homicide victims; 13 percent suffered sexual offenses; 3 percent were victimized by someone who was driving under the influence of drugs or alcohol; 1 percent fell under an 'Other' category.<sup>41</sup>

Compared to the number of violent crime victims in the state, the number of CVC applications in 2015 in Illinois was low (just 6.8 percent of crime victims).<sup>42</sup> In a recent study, only 2.6 percent of violent crime victims in Illinois applied for victim compensation.<sup>43</sup> One reason for the low application rate may be a general lack of knowledge of these funds. Using a weighted sample to represent the population in Illinois, Aeffect, Inc. found that that most adults in Illinois did not know whether victims were eligible for compensation (*Figure 1*).<sup>44</sup>

**Figure 1.**  
**Illinois Resident Responses to the Question, "Are Crime Victims Eligible for Compensation in Illinois?"**

Source: Aeffect Inc. 2016 Victim Needs Assessment. Chicago, IL: ICJIA.



In a recent Illinois victim needs assessment conducted by Aeffect,<sup>45</sup> participants were asked whether they applied for CVC. Results showed most of the participants who applied for victim compensation in Illinois were:

- Male.
- White.
- English-speaking.
- Between 18 and 54 years old.
- Living within the City of Chicago.
- Assisted in filling out the CVC application.
- Actively enrolled in health insurance, Medicare or Medicaid.

Characteristics of Illinois CVC recipients mirror those of recipients in other states. National studies have found most recipients were White and male.<sup>46</sup> While the type and amount of application assistance Illinois recipients received is unknown, national studies suggest those with psychosocial support submit more successful applications.<sup>47</sup> Nationally, denial rates typically fall between 10 percent and 24 percent.<sup>48</sup> The 2015 CVC data indicate Illinois' denial rate is higher than the national average, at about 50 percent. However, without other annual data for comparison, it is unclear if the 2015 denial rate is typical.

About 10,000 sexual violence victims annually seek help from Illinois rape crisis centers (mostly women), and the number of Latino clients in search of services is increasing.<sup>49</sup> According to a 2016 UCR data analysis, over-represented as crime victims in Illinois are Hispanics and Blacks, those listed as having a disability, the LGBTQ population, and those with annual incomes of less than \$20,000.<sup>50</sup> Among Illinois homicide victims, 60 percent were aged 29 or younger, 87 percent were men, and 72 percent were Black.<sup>51</sup> The UCR data analysis and the Aeffect demographic study of groups most likely to receive CVC in Illinois indicated many victims, including family members of homicide victims, are potentially eligible but do not receive CVC. More data from the CVC program is needed to fully understand discrepancies between the demographics of violent crime victims and those who apply for and receive compensation from the state.

Some restrictions prohibit violent crime victims from applying and qualifying for compensation. Most states require the victim to not have engaged in “contributory misconduct” or played a part in the crime. For example, if someone was physically assaulted while buying drugs, buying drugs would be considered “contributory misconduct.”<sup>52</sup> While most victims do not become offenders, most offenders have been victims of violent crime.<sup>53</sup> Many social-ecological factors support the link between victims and their engagement in offending behavior, including an individual's interpersonal relationships and their social context, such as neighborhood poverty, levels of violence, and unemployment.<sup>54</sup> Committing an offense while also being a victim of violent crime could be related to drug addiction, poverty, or living in a high-crime milieu. Crime victim compensation could be a pathway to resources, but the risk of contributory misconduct can lead to a barrier for many victims who are also offenders.

Another challenge for victims in need of compensation is the waiting period to reimbursement. In Illinois, the entire process, from application submission to approval, can take up to a year.<sup>55</sup> People waiting to receive compensation for lost wages or medical bills may encounter compounded financial hardship as their losses go uncompensated. Having to pay bills up front while losing wages during recovery can result in unintentionally ruined credit histories.<sup>56</sup> In Illinois, 24 percent of households are considered asset poor, meaning they could not subsist more than three months at the poverty level if they experienced a sudden loss of income.<sup>57</sup>



Illinois has exceptions for victims of interpersonal violence that allow orders of protection, no contact orders, and medical forensic exams as substitutes for official law enforcement reporting. While these special provisions are intended to help survivors of interpersonal violence, they can lead to secondary victimization as many victims feel they have no choice but to obtain the orders or an exam if they want compensation.<sup>58</sup> Secondary victimization occurs when victims experience shaming, negative reactions, and loss of agency when engaging with social service providers and other formal systems of care.<sup>59</sup> Lack of choice and agency can have strong negative effects on survivors' mental health and recovery.<sup>60</sup>

Medical forensic exams can be re-traumatizing for survivors of sexual violence.<sup>61</sup> Further, simply undergoing a medical forensic exam does not necessarily result in better legal outcomes for those who undergo them and may constitute a practice victims undergo in order to be perceived as legitimate in the eyes of law enforcement.<sup>62</sup> Past research demonstrates that investigators use forensic evidence along with many other factors in a case to determine its trajectory<sup>63</sup> and improved legal outcomes are typically only found with strong Sexual Assault Nurse Examiner (SANE) programs, which are not always available.<sup>64</sup>

Orders of protection are under-utilized by victims of interpersonal violence, but are more likely to be obtained by victims with higher incomes and more education. African-American women are less likely to obtain orders of protection.<sup>65</sup>

## **Implications for Policy and Practice**

**Explore easing reporting and cooperation requirements to expand eligibility for domestic violence and sexual assault victims.** As noted earlier, Illinois requires applicants for victim compensation to file police reports on the crime to be eligible for compensation. For sexual assault and domestic violence victims, Illinois allows the substitution of filed orders of protection, no contact orders or completed sexual assault evidence kits for police reports.<sup>66</sup> Research should be conducted with survivors of interpersonal violence and victim service providers to determine other modes eligibility without engaging the criminal justice system or undergoing a medical forensic exam.

**Increase public awareness of the victim compensation program in Illinois.** In 2015, only 54 percent of applications resulted in funds being distributed.<sup>67</sup> Illinois should encourage and fund efforts to increase public awareness of the CVC program through state agencies, victim service providers, and educational campaigns in public settings. Exploratory research could examine the impact of informational campaigns in non-traditional settings (such as schools, doctor's offices, community centers) to inform individuals before they may become victims of crime.

**Provide more training for victim advocates on how to assist victims in accessing victim compensation.** Another way to help increase the number of applications is to increase crime

victim compensation training for advocates. The role of advocates is especially important for helping people with trauma who may not have the energetic capacity to navigate filling out forms and entering what can often be a yearlong process before receiving compensation.<sup>68</sup> Such trainings may cover how to complete the application, including gathering documentation, explore options for an appeal when claims are denied (appeal), and help victims navigate multiple systems of compensation, including health insurance, unemployment, home insurance.

**Explore how to increase access to the program for more victims of crime in Illinois.** The Illinois CVC program denies just over half of all applications it receives, yet little is known about who is being denied and what happens after the process concludes. Several barriers to eligibility could be causes for denial, including low accessibility of forms, lack of law enforcement cooperation, non-contributory behavior, and the guarantee that the state is the payer of last resort.

Research is needed to understand who is not accessing or receiving victim compensation due to ineligibility, exclusionary criteria, language barriers and other challenges to completing an application. Understanding who needs victim compensation and who is unable to access it may help inform areas for improvement and lead to more applications submitted and approved by people from communities that are most affected by violent crime and poverty.

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