



Commonwealth of Virginia

Department of Criminal Justice Services

October 16, 2008

Memorandum

TO: John W. Marshall, Secretary of Public Safety
The Honorable Charles J. Colgan, Chairman, Senate Finance Committee
The Honorable Lacey E. Putney, Chairman, House Appropriations Committee
Daniel S. Timberlake, Director, Department of Planning and Budget

FROM: Leonard G. Cooke, Director

RE: Funding of Victim/Witness Programs

As you know, Item 395 B2 of the 2008 Appropriation Act directs the Department of Criminal Justice Services to "provide a report on the current and projected status of federal, state and local funding for victim-witness programs supported by the [Victim- Witness] Fund." Item 395 B2 further indicates that "copies of the report shall be provided to the Secretary of Public Safety, the Department of Planning and Budget, and the Chairmen of the Senate Finance and House Appropriations Committees by October 16, 2008."

In response to this directive, I have enclosed, for your review, a report entitled, "Victim/Witness Program Overview, Performance, and Funding."

My staff and I look forward to discussing this report with you and appreciate your concern regarding these important programs providing invaluable services to innocent victims of crime.

cc: Marilyn Harris, Deputy Secretary of Public Safety
Erin Bryant, Assistant Secretary of Public Safety

Victim/Witness Program Overview, Performance, and Funding

A Report Prepared Pursuant to Item 395 B2 of the 2008 Appropriation Act for:

John W. Marshall, Secretary of Public Safety

The Honorable Charles J. Colgan, Chairman, Senate Finance Committee

The Honorable Lacey E. Putney, Chairman, House Appropriations
Committee

Daniel S. Timberlake, Director, Department of Planning and Budget

Virginia Department of Criminal Justice Services
202 North Ninth Street, 10th Floor
Richmond, Virginia 23219

October 16, 2008

Preface

Item 395 B2 of the 2008 Appropriation Act directed the Department of Criminal Justice Services to provide a report on the current and projected status of federal, state and local funding for victim-witness programs supported by the Victim-Witness Fund and to provide copies of the report to the Secretary of Public Safety, the Department of Planning and Budget, and the Chairmen of the Senate Finance and House Appropriations Committees by October 16, 2008.

As directed, DCJS provides the following report.

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Executive Summary

Currently, there are 102 local grant funded Victim/Witness Programs and 4 statewide victim assistance programs. DCJS uses federal Victims of Crime Act (VOCA) funds and state general and special funds to make grants to support these programs.

Services provided include explaining victims' rights, assisting victims in obtaining protective orders, explaining and helping victims apply for compensation through the Criminal Injuries Compensation Fund (CICF), notifying victims of case statuses, court dates, and prisoner statuses, explaining the criminal justice process, accompanying victims to court and criminal justice related meetings, assisting victims in preparing victim impact statements, providing crisis intervention, and providing case disposition information.

In FY2007, these programs provided direct services to over **71,000** crime victims.

Federal VOCA funds available to Virginia have declined considerably over the years. For example, Virginia's Federal Fiscal Year 2008 award **decreased 17%** compared to the Federal Fiscal Year 2007 award. Federal VOCA funding available to Virginia is now at the lowest level it has been for nine years.

The Victim/Witness Special Fund balance had been significantly depleted in recent years in order to maintain local programs and the delivery of essential victims services. However, with the appropriation of \$3.1 million dollars in General Funds beginning in FY2008, and DCJS' conservative approach to managing current obligations against the Victim/Witness Special Fund, the Fund balance is beginning to rebound.

The amount of 2009 federal fiscal year VOCA funds available for state FY2010 is not yet known. Additionally, the amount of Victim/Witness Special Funds available for award in state FY2010 cannot be projected with certainty. However, the Victim/Witness Special Fund is expected to continue to be solvent. DCJS is reasonably confident that combined available resources will enable the agency to increase FY2010 awards to the level supported in FY2008. This restoration of funding should allow programs to avoid FY2010 layoffs, which appear likely if no increase in grant awards is provided.

DCJS' ability to increase FY2010 awards depends on the following assumptions.

- Total VOCA funds available for award in state FY2010 do not decrease from the amount awarded in FY2009.
- Special Funds available for award in FY2010 increase modestly as a usable Fund balance is established.

- The General Fund appropriation remains at \$3.1 million.

The need for additional funding for Victim/Witness Programs is clear. However, DCJS also is aware that the severe budget challenges faced by the Commonwealth likely preclude allocation of additional General Funds to support Victim/Witness Programs in FY2010. Additionally, DCJS, and local program staff, understand that the appropriation of General Funds, beginning in FY2008, demonstrates the General Assembly's recognition that ongoing additional funding is needed to support these critical programs and the essential services they provide to crime victims. Further, DCJS, and local program staff, appreciate that the ongoing appropriation of General Funds has averted a funding disaster and has stabilized the funding outlook for Victim/Witness Programs. DCJS commits to keeping the General Assembly informed of any significant changes in the funding situation for these important programs that provide vital and necessary services to crime victims in the Commonwealth.

Victim/Witness Program Overview, Performance, and Funding

Program Overview

Currently, there are 102 local grant funded Victim/Witness Programs and 4 statewide victim assistance programs.

Local Victim/Witness Programs are crime victim advocacy programs:

- With a statutory mandate (19.2-11.01) to serve all types of crime victims and ensure that victims:
 - Have opportunities to make the courts aware of the full impact of crime;
 - Are treated with dignity, respect, and sensitivity and that their privacy is protected;
 - Are informed of their rights;
 - Receive authorized services; and,
 - Are heard at all critical stages of the criminal justice process.

Services provided include:

<ul style="list-style-type: none">• Explaining victims' rights• Explaining and helping victims apply for compensation through the Criminal Injuries Compensation Fund (CICF)• Explaining the criminal justice process• Assisting victims in preparing victim impact statements• Assisting victims in obtaining protective orders	<ul style="list-style-type: none">• Notifying victims of case statuses, court dates, and prisoner statuses• Accompanying victims to court and criminal justice related meetings• Providing crisis intervention• Providing case disposition information
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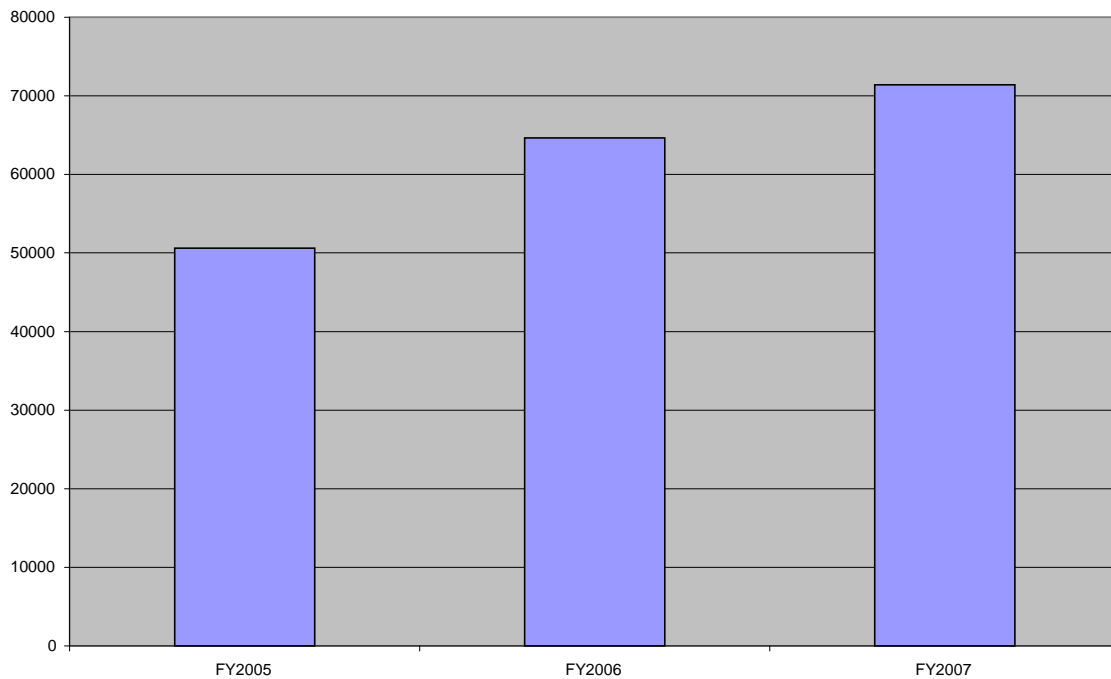
- Victim/Witness Programs:
 - Provide comprehensive victim assistance services. There are 23 specific service objectives.
 - Are government based and serve victims from within the criminal justice system

- Have the mandate, expertise, and position to make the criminal justice system more responsive to victims' interests at critical stages of the criminal justice process
- Are primarily located within the offices of Commonwealth's Attorneys. Program locations also include Sheriff's' Offices, Police Departments, and other local units of government.

Victim/Witness Program Performance Data FY2005 – FY2007

Graphs presented below depict several aspects of Victim/Witness Program performance during the period July 1, 2004 through June 30, 2007. Data are derived from reports submitted by grant-funded programs. Specific issues covered include the total number of victims served, client type of victimization, and the number of victims provided with various services by program staff.

Direct Service Victims by Fiscal Year



Notes:

In FY2007, these programs provided direct services to over **71,000** crime victims.

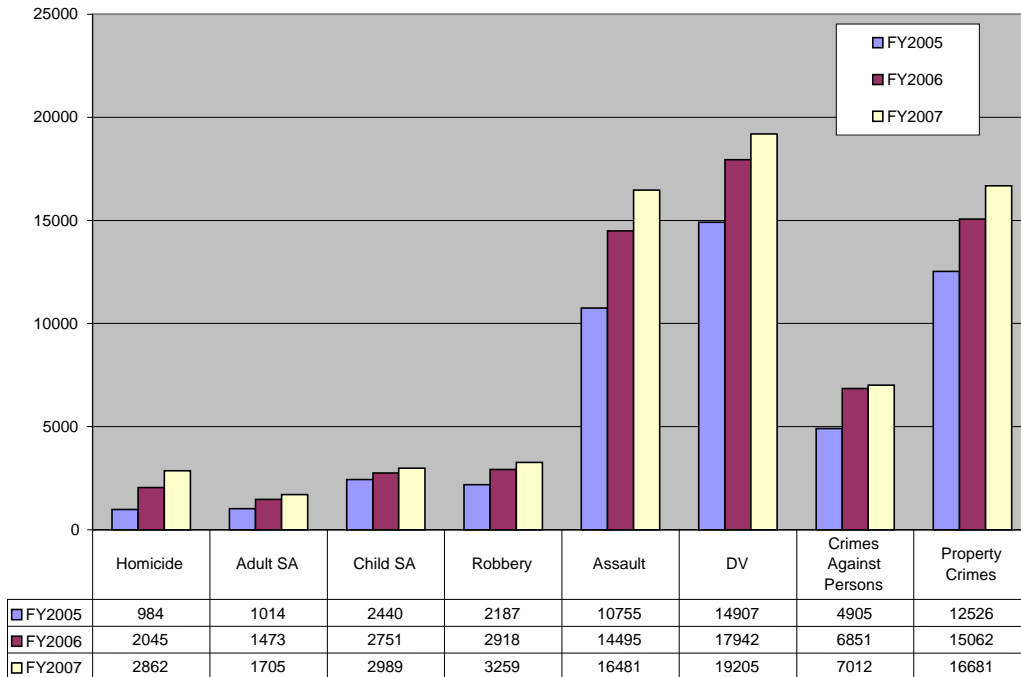
“Direct services” are program services provided to victims which go beyond the provision of routine or generic services such as the provision of pre-printed

information, and routine contact related to advanced notice of court dates, restitution, and case dispositions.

According to 19.2-11.01B, "Victim" means a person who suffered physical, psychological or economic harm as a direct result of: the commission of any felony, or certain misdemeanors (Assault and battery; assault and battery against a family or household member; stalking; sexual battery; attempted sexual battery; or driving while intoxicated).

The definition of "victim" includes: spouses and children of all victims, and parents and guardians of minor victims, and parents, siblings or guardians of mentally or physically incapacitated victims and/or victims of homicide, and foster parents or other caregivers, under certain circumstances.

Victimization Type by Fiscal Year



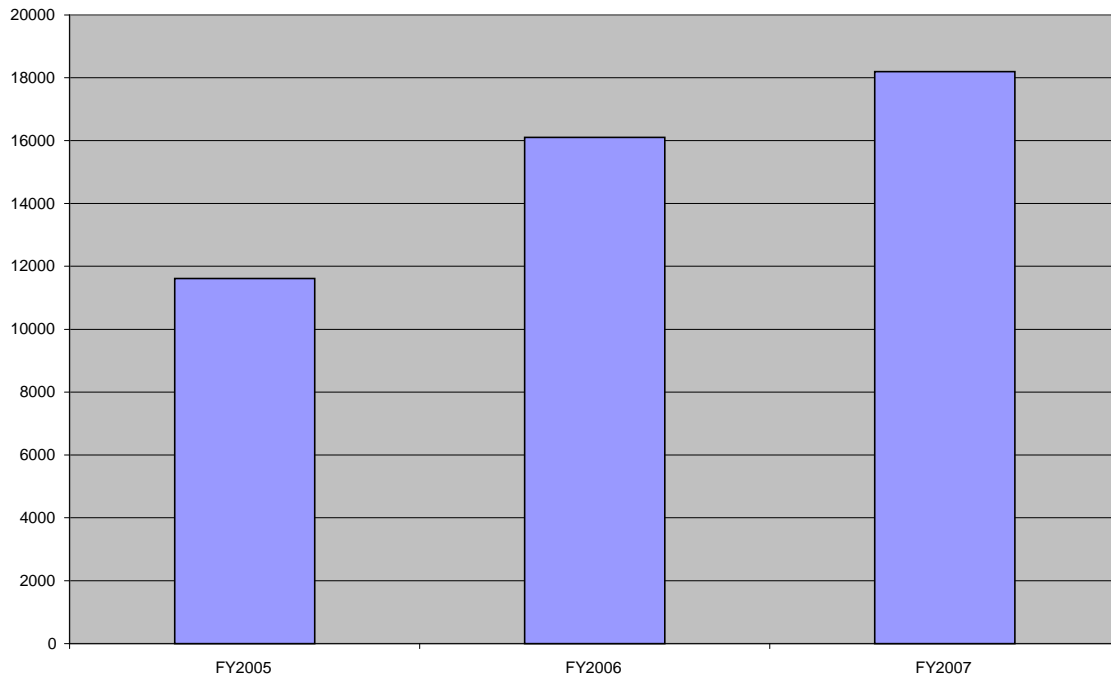
Notes:

Direct service victims are counted only once by their most serious victimization.

Crime categories are based on federal program requirements, and are listed in order of a "crime hierarchy". If a victim was the subject of more than one type of crime during a single incident, he or she is counted once in the "highest" crime

category on the list. For example, a victim who was both raped and robbed is counted one time in the category “Adult Sexual Assault.”

Victims Provided Explanation of Victims' Compensation Program

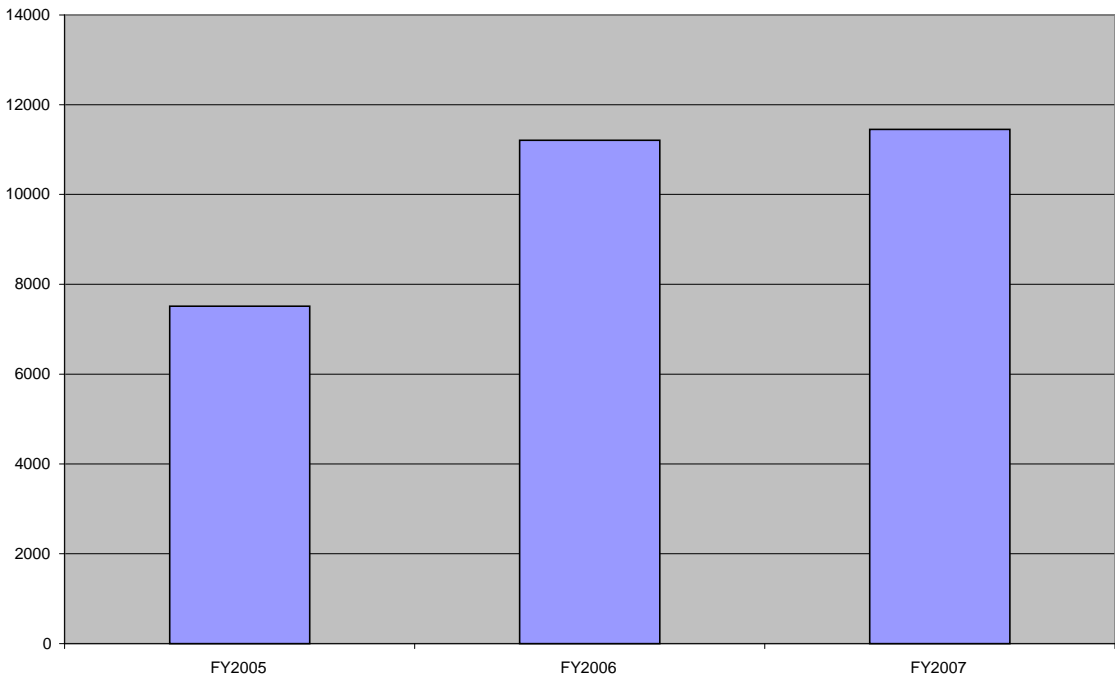


Notes:

Victims' compensation related services provided by Victim/Witness Program staff include explaining how the compensation process works and the steps that need to be taken in order to process a claim. In FY2007, **18,192** victims received this service.

In FY2007, program staff assisted victims in receiving **1,512** victims' compensation awards totaling **\$2,573,507**.

Domestic Violence Victims Assisted in Filing for Protective Orders

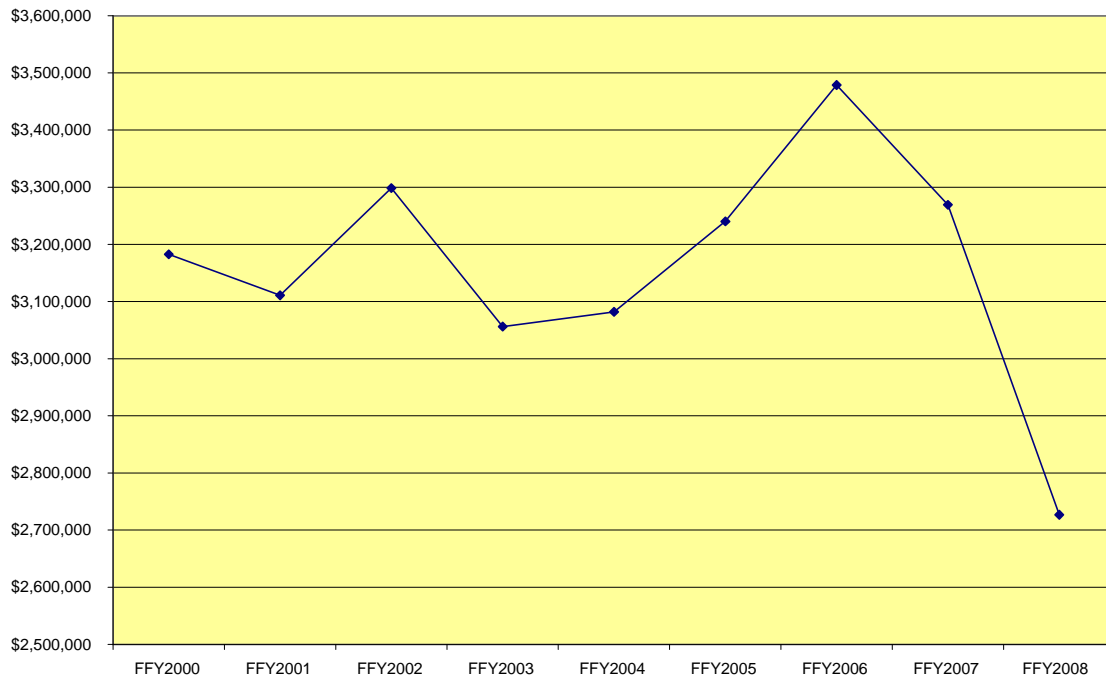


Notes

In FY2007 Victim/Witness Program staff informed **11,450** victims of domestic violence about the availability of protective orders, and the action needed to obtain them.

Victim/Witness Program Funding History and Outlook

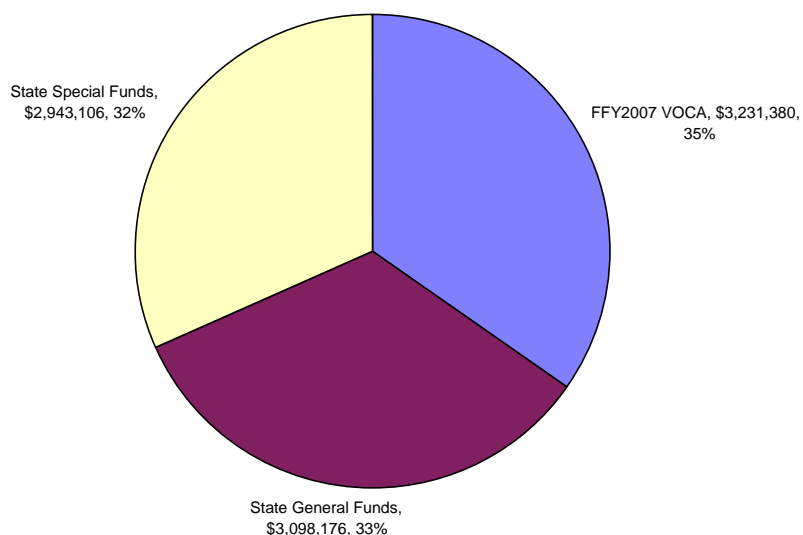
Victim/Witness VOCA Allocations by Federal Fiscal Year FFY2000-FFY2008



DCJS uses federal Victims of Crime Act (VOCA) funds and state general and special funds to make grants that support **102** local victim/witness and **4** state level programs. They provide information and assistance required by the Victim and Witness Rights Act, with emphasis on direct services to victims of all types of crime. Grants typically fund salaries and benefits only.

Federal VOCA funds available to Virginia have fluctuated considerably over the years. For example, on June 27, 2008 DCJS was notified by the federal Office for Victims of Crime that Virginia's Federal Fiscal Year 2008 award will **decline 17%** compared to the Federal Fiscal Year 2007 award. Federal VOCA funding available to Virginia is now at the lowest level it has been for nine years.

State FY 2008 Award by Source - \$9,272,662 Total Award

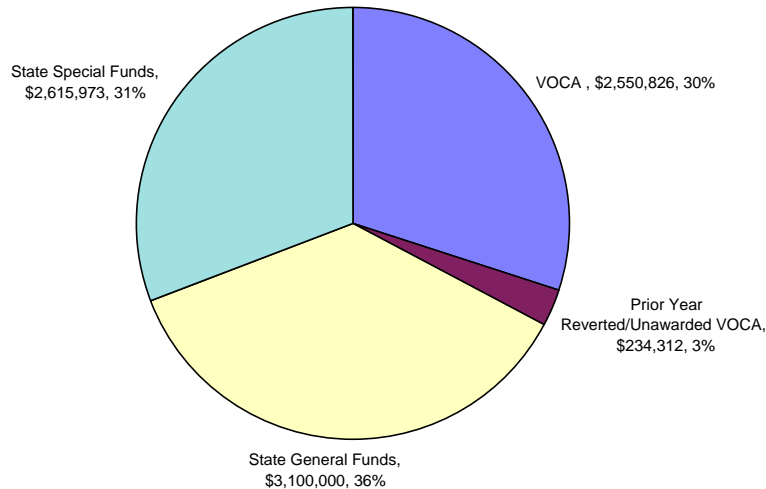


FY2008

The state budget adopted during the 2007 Session included a General Fund appropriation of \$3.1 million dollars to support Victim/Witness Programs in FY2008 (July 1, 2007 through June 30, 2008). With this appropriation, combined federal and state funds were sufficient to avoid a reduction of up to 30%, had no new funding been appropriated.

Instead, due to this appropriation, DCJS was able to support “level funding” for all current grantees in FY2008. FY2008 marked the third consecutive year of level funding. Given rising program costs, “level funding” typically, forces programs to reduce operating expenses as they attempt to cover personnel expenses. In FY2008, on average, 93% of grant funds awarded supported personnel expenses.

State FY2009 Award by Source - Total Award \$8,501,111



FY2009

Due to the reduction in available federal VOCA funds, significant reductions were required of grant funded Victim/Witness Programs starting July 1, 2008 (FY2009). Specifically, DCJS required that programs reduce their FY2009 grants by 8%. Therefore, for FY2009 (July 1, 2008 through June 30, 2009) grant awards were only 92% of the FY2008 awards.

This approach was taken to mitigate the 17% reduction in the amount of federal VOCA funds available in FY2009, while seeking to maintain service delivery and appropriately manage and limit obligations against the Victim/Witness Special Fund.

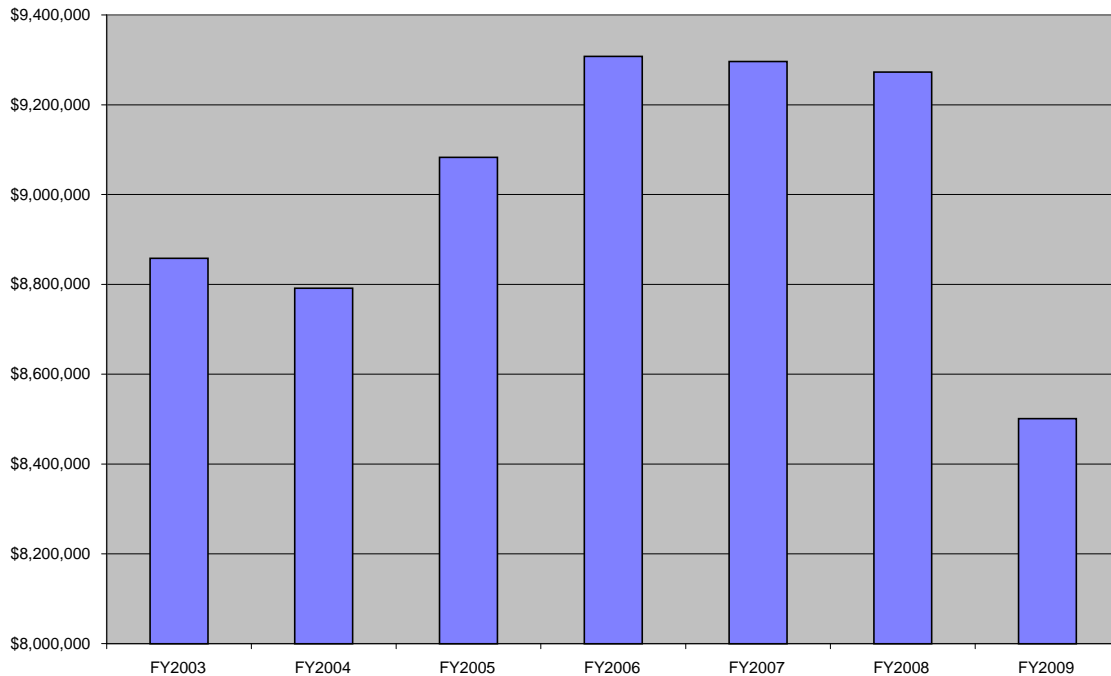
The Victim/Witness Special Fund balance had been significantly depleted in recent years in order to maintain local programs and the delivery of essential victims services. However, with the appropriation of \$3.1 million dollars in General Funds beginning in FY2008, and DCJS' conservative approach to managing current obligations against the Victim/Witness Special Fund, the Fund balance is beginning to rebound.

This rebound, which may enable DCJS to increase grant awards in FY2010, has come at a cost. To the extent possible many local governments have sought to mitigate the recent reduction in grant funding. However, some programs have reduced hours or cut salaries and many have no grant or local funds to support basic operating expenses other than personnel costs.

The Current Outlook for FY2010

In accordance with the DCJS Grant Guidelines issued in March 2008, grant awards are currently scheduled to be maintained at the FY2009 award level in FY2010. It is important to again note that the FY2009 funding level represents an 8% reduction when compared to FY2008.

Victim/Witness Program Grant Funds Awarded by Fiscal Year



It is equally important to note, however, that combined available funding may enable DCJS to increase the FY2010 awards, at least modestly.

The amount of 2009 federal VOCA funds available for state FY2010 is not yet known. Additionally, the amount of Victim/Witness Special Funds available for award in state FY2010 cannot be projected with certainty. However, the Victim/Witness Special Fund is expected to continue to be solvent. DCJS is reasonably confident that combined available resources will enable the agency to increase FY2010 awards to the level supported in FY2008.

Any increase in the FY2010 awards will be welcomed. However, it must also be acknowledged that with struggling local economies, and personnel expenses currently comprising 96% of grant awards, a fifth consecutive year of level or reduced grant funding may result in programs struggling to retain staff and to maintain service quality and volume.

Current Local Funding

Given the grant award limitations required over the past four years, DCJS has encouraged allocation of local funds to maintain current staffing levels and the delivery of essential services. However, in order to provide localities with maximum flexibility in managing grant funds, DCJS has set no specific cash match percentage.

While no specific cash match amount is required, with each passing year, localities have been under increasing pressure to provide local cash support, because of the decline in grant funds, increasing program costs, and high demand for program services.

Many local officials support having the flexibility to determine the level of cash or in-kind match provided, given local resources and economic conditions. However, many view the history of reductions in grant funding as a de facto cash match policy.

Requiring localities to provide a cash match faces significant opposition and obstacles for reasons including the following:

Funding is a State Responsibility – The Constitution of Virginia (Article I, Section 8-A) and state law (19.2-11.01) establish victims' rights. Sections 19.2-11.01 and 19.2-11.03 further mandate that state funded Victim/Witness Programs provide all victims information and assistance in securing their rights and receiving services in accordance with the Victims Bill of Rights.

Programs Are Currently Under Funded – Many programs are significantly under-staffed and 40 additional FTE positions are needed in the 10 most under staffed programs. This estimate is based on DCJS' Victim/Witness Staffing Needs Assessment that examines crime statistics in each locality.

For the past several years, DCJS has been forced to impose "level funding" on these programs. "Level funding," in fact, means that programs are forced to make reductions because of increasing costs of operating programs. Additionally, grant funds have been insufficient to provide salary increases like those available to other state funded local employees.

Demand for program services, by citizens and criminal justice system partners, has outpaced available funding as these programs have become institutionalized and the criminal justice system has become more responsive to victims needs and interests. Despite the decrease in funding to support these programs, services provided by the programs have increased. These programs have been "doing more with less."

Because of the decline in funding available to these important programs, many of these programs no longer have funds to provide training to their staff

members. Working with crime victims requires well-trained staff with very specialized skills. Unfortunately, staff members may not be receiving the necessary training, and services to crime victims could be adversely impacted by that lack of training.

A Match Requirement is Inequitable. If cash match were required, a large urban locality, like Virginia Beach, which for years has supported locally funded positions due to workload and grant funding limitations, would be required to continue to support five locally funded FTE positions **and** to provide tens of thousands of dollars in additional support. In the localities reporting locally funded FTE's, officials tend to take the view that a match requirement would give them no "credit" for their on-going financial support for the programs and that a cash match requirement amounts to a financial penalty for that support. Alternatively, an economically stressed locality like Pittsylvania County may well elect to discontinue the Victim/Witness Program due to a cash match requirement. Note: An article to this effect appeared in the Danville Register on March 20, 2006.

For these reasons local officials (Commonwealth's Attorneys, Sheriffs, Police Chiefs, City Managers, and County Administrators) have voiced opposition to a local cash match requirement or any reduction in grant awards.

Cost to Maintain Programs in FY2010

As indicated above, DCJS is reasonably confident that current combined resources will be sufficient to restore grant awards to their FY2008 level. This restoration of funding should allow programs to avoid FY2010 layoffs, which appear likely if no increased funding is provided to grant programs.

DCJS' ability to increase FY2010 awards depends on the following assumptions.

- Total VOCA funds available for award in FY2010 do not decrease from the amount awarded in FY2009.
- Special Funds available for award in state FY2010 increase modestly as a usable Fund balance is established.
- The General Fund appropriation remains at \$3.1 million.

Unmet Needs and Current Economic Conditions

Unmet Needs

FY2010 is likely to be the fifth consecutive year in which grant awards have been “level” or reduced. “Level funding” in fact, means that programs are forced to make reductions because of increasing costs of operating programs. And, grant funds have been insufficient to provide salary increases like those available to other state funded local employees.

In addition, many local programs are significantly under-staffed and 40 additional FTE positions are needed in the 10 most under staffed programs. This estimate is based on DCJS’ Victim/Witness Staffing Needs Assessment that examines crime statistics in each locality. Based on analysis of quarterly report data submitted by currently funded programs, it is estimated that the addition of 40 FTE’s would result in a total of 11,789 more victims served annually.

Finally, there are six localities in Virginia without Victim/Witness programs. They are the counties of: Buckingham, Franklin, Highland, Nottoway, Rappahannock, and Richmond. It is estimated that Franklin County would require 1 FTE and each of the other localities could be staffed at the .5 FTE level. Thus, six localities could be staffed with a total of 3.5 FTE’s.

Current Economic Conditions

While the need for additional funding for Victim/Witness Programs is clear, DCJS also is mindful of current economic conditions. It is understood that the severe budget challenges currently faced by the Commonwealth likely preclude allocation of additional General Funds to support Victim/Witness Programs in FY2010. Further, DCJS and local program staff are aware that the appropriation of General Funds, beginning in FY2008, demonstrated the General Assembly’s recognition that ongoing additional funding is needed to support these programs and the essential services they provide to crime victims. Additionally, it is acknowledged that the appropriation of General Funds averted a funding disaster and has stabilized the funding outlook for Victim/Witness Programs.

Summary of Findings and Recommendation

Findings:

- Victim/Witness programs are the only victim assistance programs with a Code responsibility to implement the Victims Bill of Rights and to serve all types of crime victims within the criminal justice system.
- Funding is viewed as a state responsibility.
- Programs are currently significantly under funded and under-staffed.

- Severe budget challenges currently faced by the Commonwealth likely preclude allocation of additional General Funds to support Victim/Witness Programs in FY2010.

Recommendation:

Consequently, DCJS recommends that consideration be given to:

Continuing the appropriation of \$3.1 million in General Funds annually to maintain Victim/Witness Programs. At this funding level DCJS is reasonably confident that combined federal and state resources will be sufficient to restore FY2010 grant awards to their FY2008 level.

DCJS commits to keeping the General Assembly informed of any significant changes in the funding situation for these important programs that provide vital and necessary services to crime victims in the Commonwealth.