



COMMONWEALTH of VIRGINIA

Department of Criminal Justice Services

Shannon Dion
Director

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November 1, 2018

The Honorable Brian J. Moran
Secretary of Public Safety and Homeland Security
Patrick Henry Building
1111 East Broad Street
Richmond, Virginia 23219

The Honorable Emmett W. Hanger, Jr.
Co-Chairman, Senate Finance Committee
Pocahontas Building, 14th Floor
900 East Main Street
Richmond, Virginia 23219

The Honorable Thomas K. Norment, Jr.
Co-Chairman, Senate Finance Committee
Pocahontas Building, 14th Floor
900 East Main Street
Richmond, Virginia 23219

The Honorable S. Chris Jones
Chairman, House Appropriations Committee
Pocahontas Building, 14th Floor
900 East Main Street
Richmond, Virginia 23219

***Re: Report on Current and Projected Status of Federal, State,
and Local Funding for Victim/Witness Programs***

Dear Sirs:

Pursuant to the 2018 Appropriations Act (2018 Virginia Acts of Assembly, Chapter 780, Item 395 B.2), the Department of Criminal Justice Services produced the attached report on the current and projected status of federal, state and local funding for victim-witness programs supported by the Virginia Crime Victim-Witness Fund.

Please contact me with any questions.

Sincerely,

A handwritten signature in blue ink that reads "Shannon Dion".

Shannon Dion

Attachment

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

Report on Current and Projected Status of Federal, State, and Local Funding for Victim/Witness Programs



Virginia Department of Criminal Justice Services
1100 Bank Street, Richmond, Virginia 23219

www.dcjs.virginia.gov

October 2018

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Preface

Item 395 B.2, of the Appropriations Act directs that the *Department of Criminal Justice Services shall provide a report on the current and projected status of federal, state and local funding for Victim/Witness programs supported by the Fund. Copies of the report shall be provided annually to the Secretary of Public Safety and Homeland Security, the Department of Planning and Budget, and the Chairmen of the Senate Finance and House Appropriations Committees by October 16 of each year.*

Executive Summary

In fiscal year (FY) 2018, there were 110 local Victim/Witness programs and three statewide projects focused on the delivery of services required under Virginia's Crime Victims Bill of Rights (Va. Code §19.2-11 *et seq.*). Services provided by these programs include: explaining to crime victims their rights; assisting victims in obtaining protective orders; helping victims apply for compensation; explaining the criminal justice process; accompanying victims to court; assisting victims in preparing victim impact statements; and providing crisis intervention and other services.

The Virginia Department of Criminal Justice Services (DCJS) provides grant support to Victim/Witness programs using federal Victims of Crime Act (VOCA) grant funds, state general funds, and state special funds accrued from court fees. The grant awards are based on a funding formula that DCJS developed with the input from local programs and stakeholders. Local Victim/Witness programs are located in government agencies, primarily in the offices of Commonwealth's Attorneys and Sheriffs offices.

Between FY2007 and FY2016, total funding awarded by DCJS to support local Victim/Witness programs increased just 4.8%. Beginning with the federal Appropriations Act of 2015, each state's VOCA victim assistance formula allocation was significantly increased, with Virginia's allocation seeing more than a 400% increase. The availability of increased VOCA funding has allowed DCJS to address long unmet needs within local programs, especially the need to increase staffing levels and the need to initiate programs in unserved areas. However, if current national trends continue, the increased VOCA allocations will likely return to pre-2015 levels in the coming years.

In June 2016, the Criminal Justice Services Board awarded over \$13.3 million in VOCA funds to support Victim/Witness programs. The number of VOCA funded positions within those programs increased from 96 to 292. In June 2017, the Criminal Justice Services Board approved level funding to maintain all grant funded programs. New programs were also established in the counties of: Bath, Buckingham, Franklin, and Richmond.

Victim/Witness Program Overview

Victim/Witness programs in Virginia are primarily located in the offices of Commonwealth's Attorneys or the Sheriff's Office and 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. There are 110 local grant-funded Victim/Witness programs and 3 statewide victim assistance programs.

Local Victim/Witness programs are crime victim advocacy programs with a statutory mandate (Va. Code §19.2-11.01) to serve *all types* of crime victims and ensure that they:

- 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.

Provided services include, but are not limited to:

- 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;
- Notifying victims of case status, court dates, and prisoner status;
- Accompanying victims to court and criminal justice related meetings;
- Providing crisis intervention; and
- Providing case disposition information.

The Current and Projected Status of Federal, State, and Local Funding

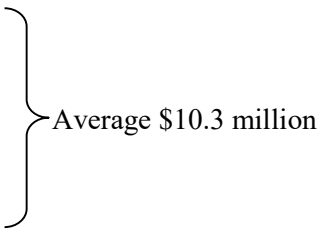
Federal Funding – Victim of Crime Act (VOCA)

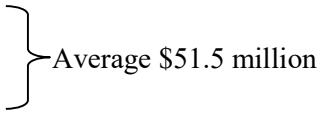
The federal Victim of Crime Act (VOCA) has been a key funding component of Victim/Witness programs. In FY2018, \$13.3 million of Virginia’s federal VOCA award was devoted to Victim/Witness programs. In addition to Victim/Witness programs, VOCA also funds sexual assault and domestic violence programs, child abuse programs, and other services for victims of crime. The VOCA funds require a 20% match to be paid by the grant recipient. The match for the Victim/Witness programs is paid for with state general and special funds.

VOCA is funded by criminal fines, forfeitures, and other non-tax revenues collected by the federal government. Congress annually sets the VOCA appropriation, which is then distributed to states using a funding formula. Prior to FFY2015, VOCA funds awarded to Virginia over the prior 10 fiscal years experienced modest volatility. The absence of any meaningful increase meant that service and staffing needs went unmet. VOCA funds, in combination with available special funds and general funds, allowed DCJS to maintain, but not significantly increase total Victim/Witness program funding levels during this period. In fact, comparing total FY2007 Victim/Witness program grant awards to FY2016 initial awards, the total increase over this nine-year period was only 4.8%.

The federal Appropriations Act of 2015 included a provision raising the nationwide VOCA appropriation, resulting in significant increases to all state allocations. Virginia’s average VOCA allocation from FFY2009 to FFY2014 was about \$10.3 million. After the significant increase in FFY2015, Virginia’s allocation has averaged about \$51.5 million. This year, Virginia received another increase to \$85,366,389 for FFY2018.

| Federal Fiscal Year | Virginia’s VOCA Allocation |
|---------------------|----------------------------|
| FFY2009 | \$8,980,533 |
| FFY2010 | \$10,247,166 |
| FFY2011 | \$10,754,064 |
| FFY2012 | \$9,542,027 |
| FFY2013 | \$10,748,555 |
| FFY2014 | \$11,561,072 |
| FFY2015 | \$50,330,687 |
| FFY2016 | \$56,993,066 |
| FFY2017 | \$47,315,341 |
| FFY2018 | \$85,366,389 |





While the VOCA allocations have increased significantly in recent years, national trends suggest that this increase may be short-lived and that the state allocations will likely return to pre-2015 levels in the coming years. The increase in awards is primarily attributable to criminal fees collected in about 70 cases against corporate defendants. These 70 cases accounted for about 69% of the VOCA fund’s balance from 1985 to 2017. Absent those 70 cases, the annual allocation would have likely stayed at the FFY2009 to FFY2014 levels. National experts have cautioned state VOCA administrators to expect a significant decrease in the VOCA awards due to current federal government litigation practices that suggest that in

the near-term there will likely not be such high monetary cases. There have been no high-dollar cases this year and only one in 2017 that settled in the first few months of the year.

Given this funding volatility, and in order to better plan for a projected increase in federal FY2018 VOCA funding, DCJS is conducting an extensive survey of victim advocates statewide. DCJS also plans to convene regional stakeholder input sessions in order to gather additional input about funding needs and service gaps from victim advocates and allied professionals across the state.

State Funding – Virginia Crime Victim-Witness Fund

In 1995, the General Assembly established the Virginia Crime Victim-Witness Fund (Va. Code § 19.2-11.3) as a special non-reverting fund administered by DCJS to support victim and witness services that meet the minimum standards required by the Virginia Code (Va. Code §19.2-11.1). A portion of the sum collected for fixed court fees is deposited into the state treasury and directed to the Victim-Witness Fund. The Victim-Witness Fund is distributed according to grant guidelines developed by DCJS in accordance with Va. Code §9.1-104.

While the 2017 Appropriations Act included an appropriation of \$5,124,059 from the Fund, the annual revenue to the Fund has only averaged \$3.9 million in the past couple of years. As of July 1, 2017, the balance in the Fund was \$7.35 million and the ending balance as of June 30, 2018 was \$9.17 million.

Anticipating a likely reduction in the VOCA awards in the near future, the balance in the Virginia Crime Victim-Witness Fund will provide a small cushion to lessen reductions in service. DCJS has and will continue to manage allocations and expenditures from the Victim-Witness Fund so that an appropriate operating balance can be maintained.

State Funding – General Funds

State general funds are an important component of the support for local Victim/Witness programs. Due to the economic downturn, the general fund appropriation supporting Victim/Witness programs was reduced by \$465,000 in FY2011 to \$2,635,000 and remained at that level until FY2018 when it was further reduced to \$943,700, a 36% reduction. These remaining funds were used in FY2018 to provide a portion of the required 20% match to federal VOCA funds supporting Victim/Witness programs.

General fund support for Victim/Witness programs continues to remain important and provides a portion of the required match to federal VOCA funds. The general funds enable a sustainable expenditure level from the Victim/Witness Special Fund and enable maintenance of a reasonable Victim-Witness Fund operating balance, as a hedge against any decline in federal VOCA funds.

Local Funding

DCJS encourages programs to secure local funds to supplement the funds they receive from DCJS. In FY2018, 88% of DCJS grant funding was used to support program personnel serving crime victims. Local funding helped to pay for essential training, equipment, travel, and other operating costs.

Conclusion

Historically, DCJS has taken a conservative approach to funding Victim/Witness programs to ensure continued provision of services. Recognizing the volatility in the federal VOCA allocation to Virginia, DCJS has employed conservative and strategic utilization of the Victim Witness Fund. This approach allowed DCJS to avoid or mitigate funding cuts to local programs during lean years. With the increase in VOCA funds, this approach also placed DCJS in good position to effectively leverage and utilize federal funds for Victim/Witness by applying state funds to pay the required 20% or \$13.3 million match to federal VOCA fund grants.