

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

2019



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Preface

Item 395 B.2 of the 2018 Appropriations Act directed 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.*

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Executive Summary

In fiscal year (FY) 2019, there were 110 local Victim/Witness programs and 3 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 funding 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 of local programs and stakeholders. Local Victim/Witness programs are housed in government agencies, primarily in the offices of Commonwealth's Attorneys and Sheriffs.

Between FY2007 and FY2016, total funding awarded by DCJS to support local Victim/Witness programs increased just 4.8%. However, beginning with the federal Appropriations Act of 2015, each state's VOCA victim assistance formula allocation was significantly increased, with Virginia's allocation increasing more than four-fold. 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 to initiate programs in unserved areas. Unfortunately, if current national trends continue, the increased VOCA allocations will likely return to pre-2015 levels (i.e., be insufficient to keep pace with need) in the coming years.

Victim/Witness Program Overview

Victim/Witness programs in Virginia 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. These programs are primarily located in the offices of Commonwealth's Attorneys and Sheriffs. In FY2019, there were 110 local grant-funded Victim/Witness programs and 3 statewide victim assistance programs in Virginia. Grant awards must be approved by the Criminal Justice Services Board (CJSB).

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 in a way that protects their privacy;
- Are informed of their rights;
- Receive authorized services; and
- Are heard at all critical stages of the criminal justice process.

Services provided 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 (i.e., final status or outcome of an arrest or prosecution).

In June 2016, the CJSB 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 CJSB approved level funding to maintain all grant-funded programs. New programs were also established in the counties of Bath, Buckingham, Franklin, and Richmond. In 2018, the CJSB authorized the funding of a full-time position for Victim/Witness services in Giles County, enabling victims of crime in that locality to have access to dedicated staff and services rather than sharing funding with a neighboring locality.

In May 2019, the CJSB funded the Hampton Victim Witness Assistance Program with an award to fund the Rapid Engagement of Support in the Event of Trauma (R.E.S.E.T.) program. This program supports advocates, concerned citizens, and law enforcement in addressing the community's social and emotional needs after a traumatic crime has occurred. With the funding of the R.E.S.E.T. program, total funding allocated to Victim/Witness programs increased to over \$18.8 million in VOCA funds.

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

Federal Funding – Victims of Crime Act (VOCA)

The federal Victims of Crime Act (VOCA) has been a key funding component of Victim/Witness programs in Virginia and nationwide since 1984. 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. VOCA is funded by criminal fines, forfeitures, and other non-tax revenues collected by the federal government into the Crime Victims Fund. Congress annually sets VOCA appropriations levels, and appropriated funds are distributed to states using a funding formula. States must provide matching funds of at least 20%, and Virginia funds its VOCA match using both general and special funds. VOCA funds are typically competitively awarded by states to local community-based organizations providing direct services to crime victims.

Federal VOCA funding levels for Virginia have been highly volatile over the past decade (see Table 1). Prior to federal FY2015 (FFY2015), Virginia experienced minimal volatility in the amount of VOCA funds awarded to the state. Virginia maintained, but was unable to increase, total Victim/Witness program funding levels during this period, using federal VOCA funds in combination with available special funds and general funds. The federal Appropriations Act of 2015 included a provision raising the nationwide VOCA appropriation, resulting in significant increases to all state allocations beginning in FFY2015: Virginia’s average VOCA allocation from FFY2009 through FFY2014 was about \$10.3 million, whereas Virginia’s VOCA allocation averaged about \$51.5 million from FFY2015 through FFY2017. Virginia received yet another increase in its allocation of federal VOCA funds in FFY2018—when the state received \$85,366,389 in federal VOCA funds—but its award fell once again the following year, to \$57,815,818 for FFY2019.

TABLE 1: VOCA Allocations for Virginia, FFY2009 through FFY2019

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
FFY2019	\$57,815,818

Average: \$10.3 million (for FFY2009-2014)

Average: \$51.5 million (for FFY2015-2017)

Source: DCJS.

Of the \$57.8 million in federal VOCA funding for state FY2019, \$14 million (24.2%) was devoted to Victim/Witness programs, compared to \$13.3 million (15.6%) of the state's total VOCA allocation of \$85.4 million in state FY2018.

While VOCA allocations to states generally increased significantly starting in FFY2015, national trends suggest that this increase may be short-lived and state allocations will likely return to pre-2015 levels in the near future. The increase in awards from FFY2015 through FFY2018 is primarily attributable to criminal fees collected in about 70 cases against corporate defendants, which accounted for ~69% of the VOCA fund's balance as of 2017. Absent those 70 cases, the annual allocation would have likely stayed at the FFY2009–2014 levels. National experts have cautioned state VOCA administrators to expect a significant decrease in VOCA awards due to recent federal government litigation practices suggesting a lower volume of high-dollar cases in the near term. Indeed, there were no high-dollar cases during FFY2019, following a year with only one such case settled toward the beginning of the fiscal year.

Given this funding volatility, and in order to better plan for a projected decrease in FFY2020 VOCA funding, DCJS has been continuously monitoring VOCA appropriations for FFY2020. Legislation adopted by the U.S. Senate in October 2019 included an allocation of \$3.177 billion for the Crime Victims Fund, the source of funding for VOCA allocations to states, which is slightly lower than the FFY2019 amount of \$3.353 billion. It is standard practice for DCJS to continuously survey key stakeholders, such as victim advocates and allied professionals, in order to gather additional input about funding needs, service gaps, and grant solicitations development.

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 state law (*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.

The 2017 Appropriations Act included an appropriation of \$5,124,059 from the Victim/Witness Fund, although annual revenue to the Fund averaged \$3.9 million in the preceding two years. As of July 1, 2017 (the first day in FY2018), the balance in the Fund was \$7.35 million, and the ending balance as of June 30, 2018 (the last day of that fiscal year) was \$9.17 million. The ending balance as of September 2019 was \$9.3 million. DCJS projects that the FY2020 balance will be level to the ending balance for FY2019.

Given the likely reduction in federal VOCA awards in the near future, the balance in the Virginia Crime Victim/Witness Fund will provide a small cushion to reduce the need for reductions in services. DCJS has managed—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 across Virginia. Due to the aftermath of the Great Recession, the general fund appropriation supporting Victim/Witness programs was reduced by \$465,000 in state FY2011 to \$2,635,000, and remained at that level until FY2018, when it was further reduced to \$943,700—a reduction of 64%. 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 Fund—and, correspondingly, maintenance of a reasonable Victim/Witness Fund operating balance—as a hedge against any decline in federal VOCA funds.

Local Funding

DCJS continues to encourage programs to secure local funds to supplement the funds they receive from state and federal sources as administered by DCJS. In FY2018–FY2019, 89% 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 in Virginia to ensure continued provision of services. Recognizing the volatility in the federal VOCA allocation to Virginia as well as the recent decline in general fund appropriations for Victim/Witness purposes, DCJS has employed conservative and strategic utilization of the Victim/Witness Fund. This approach allows DCJS to avoid or mitigate funding cuts to local programs during lean years, as well as to sustainably meet federal match requirements, which is estimated to be \$14 million in FY2020.