

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

2020–2021



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Preface

Standing language within 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.* For the 2020-2022 biennium (encompassing reports due October 16, 2020 and 2021), this directive is located in [Item 406.B.2](#).

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Executive Summary

In fiscal years (FY) 2020 and 2021, 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 (*Virginia 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 FY 2007 and FY 2016, 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 may 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 state FY 2020 and FY 2021, there were 110 local grant-funded Victim/Witness programs and three statewide victim assistance programs in Virginia. The Criminal Justice Services Board (CJSB) must approve all grant awards.

Local Victim/Witness programs are crime victim advocacy programs with a statutory mandate (*Virginia 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 Virginia Victims Fund (VVF);
- 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 state fiscal year 2019, the federal and state dollars allocated to Victim/Witness programs increased to over \$18.8 million. State fiscal years 2020 and 2021 were part of a three-year grant cycle that started in 2019. Grant awards to Victim/Witness programs remained level to 2019 amounts, at just over \$18.8 million, during these two years.

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, as well as match provided by some recipient agencies.

Unfortunately, the financial health of the Crime Victims Fund is at risk. In 2015, Congress increased the cap on distributions from the Fund, allowing 2.5 million more victims to receive support. Since then, there have been significant fluctuations in the VOCA cap and thus in the amount of VOCA dollars allocated to states. Specifically, unprecedented large VOCA awards to states in federal fiscal year 2018 led the balance of the Crime Victims Fund to decline sharply.

In 2021, Congress passed the VOCA Fix to Sustain the Crime Victims Fund Act of 2021, commonly referred to as the “VOCA Fix Act.” The VOCA Fix Act was intended to address long-term sustainability problems with the Crime Victims Fund. Among other actions, the Act directed monies from federal criminal settlements from non-prosecution and deferred prosecution agreements to be deposited into the Fund. (Previously these funds were deposited into the General Treasury.) Federal legislators intended these funds to rebuild the balance of the Crime Victims Fund, and address existing sustainability problems with the Fund, over time. It remains to be seen how much the non-prosecution and deferred prosecution agreements will deposit into the Fund. In the near future, it is unlikely that the Fund will be able to sustain VOCA cap levels that result in large awards to states.

Federal VOCA funding levels for Virginia have been highly volatile over the past decade (see Table 1). Prior to federal FY 2015 (FFY 2015), 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. The federal Appropriations Act of 2015 included a provision raising the nationwide VOCA appropriation, resulting in significant increases to all state allocations beginning in FFY 2015: Virginia’s average VOCA allocation from FFY 2009 through FFY 2014 was about \$10.3 million, whereas Virginia’s VOCA allocation from FFY 2015 through FFY 2017 was about \$51.5 million. Virginia’s largest award since FFY 2015 was the FFY 2018 award, which totaled \$85,366,389. Since that time, VOCA awards to Virginia have been declining, with the most precipitous reduction being our recent FFY 2021 award of \$26,655,243.

TABLE 1: VOCA Allocations for Virginia, FFY 2011 through FFY 2021

Federal Fiscal Year	Virginia's VOCA Allocation
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
FFY2020	\$42,711,960
FFY2021	\$26,655,243

} Average: \$51.5 million

Source: DCJS Grant Awards from the Office for Victims of Crime

Given this funding volatility, and in order to better plan for future potential decreases, DCJS has been continuously monitoring VOCA appropriations. It is standard practice for DCJS to seek feedback and survey key stakeholders, such as victim advocates and allied professionals, in order to gather additional input about funding needs, service delivery gaps, and organizational capacity.

In state FY 2020 and FY 2021, approximately 28% (\$13.2 million/year) of the VOCA funds received in Virginia supported Victim/Witness programs.

State Funding – Virginia Crime Victim/Witness Special Fund

In 1995, the General Assembly established the Virginia Crime Victim/Witness Fund (*Virginia 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 (*Virginia 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 pursuant to *Virginia Code* § 9.1-104.

In the 2020–2022 biennial budget, a total of \$5,692,738 was appropriated for each year from the Victim/Witness Fund. As with the federal Crime Victims Fund, annual revenues into the Victim/Witness Fund have been declining. In state FY 2020, annual deposits into the fund totaled \$2,983,021, nearly \$1 million less than FY 2019 deposits of \$3,941,660. In FY 2021, annual deposits were even lower at \$2,262,504. As of June 30, 2021, the balance in the Victim/Witness Fund totaled \$7,278,770.

Given the likely reductions in federal VOCA awards in the near future, the balance in the Virginia Crime Victim/Witness Fund will provide a small cushion to limit the extent of reductions in funding to Victim/Witness programs. DCJS has managed – and will continue to manage – expenditures from the

Victim/Witness Fund so that an appropriate operating balance can be maintained to support Virginia's Victim/Witness programs.

State Funding – General Funds

State general funds are an important component of the support for Victim/Witness programs across Virginia. In FY 2011, the general fund appropriation supporting Victim/Witness programs was reduced by \$465,000 (to \$2,635,000) and remained at that level until FY 2018, when it was further reduced to \$943,700 (a reduction of 64%). Since then, the annual general fund appropriation for Victim/Witness programs has remained at that same level. DCJS uses general funds to provide a portion of the required 20% match to federal VOCA funds supporting Victim/Witness programs. General fund support for Victim/Witness programs remains an important part of the total funding picture for these codified services.

Local Funding

DCJS continues to encourage programs to secure local funds to supplement state and federal grant awards. In state FY 2020 and FY 2021, 89% of DCJS grant funding was used to support program costs of personnel serving crime victims. Local funding helped to pay for essential training, equipment, travel, and other operating costs. As uncertainty with VOCA funding levels continue, it is anticipated that more and more grant funding will be used to exclusively support personnel costs for direct service providers.

Conclusion

Historically, DCJS has taken a conservative approach to funding Victim/Witness programs in Virginia to ensure continued provision of services codified under the Virginia Crime Victim and Witness Rights Act. Recognizing the volatility in the federal VOCA allocations to Virginia, DCJS has employed conservative and strategic utilization of the Victim/Witness Fund. This approach allows DCJS to avoid or mitigate severe funding cuts to local programs during lean years, and to promote maintenance and sustainable growth during years in which there is more funding available.