

**REPORT OF THE DEPARTMENT OF
CRIMINAL JUSTICE SERVICES**

**Report of the Mass Violence
Fund Work Group
(2023 Appropriation Act,
Item 485.M.)**

TO THE GENERAL ASSEMBLY OF VIRGINIA



HOUSE DOCUMENT NO. 7

**COMMONWEALTH OF VIRGINIA
RICHMOND
2024**



COMMONWEALTH of VIRGINIA

Department of Criminal Justice Services

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October 1, 2024

Virginia General Assembly
c/o Division of Legislative Automated Systems
Old City Hall
1001 East Broad Street, Suite 210
Richmond, VA 23219

To Members of the Virginia General Assembly:

In accordance with 2023 Special Session 1 Appropriation Act Item 485(M), I am pleased to submit the attached legislative document on behalf of the Mass Violence Fund Work Group.

This document includes information on gaps in available services for victims of mass violence events, options for investing and administering the mass violence fund, options for determining eligibility for funding, definitions of "mass violence event" and "mass violence victim," and approaches used in Virginia and other states to support victims of mass violence. It also includes conclusions from the Work Group.

If additional information is needed, please contact Tracey Jenkins, Division Director for the Division of Programs and Services at DCJS. She can be reached by phone at 804-225-0005 or by email at Tracey.Jenkins@dcjs.virginia.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Jackson H. Miller".

Jackson Miller
Director

Preface

As amended during the 2023 Special Session 1 of the Virginia General Assembly, and signed by Governor Glenn Youngkin, [Item 485 \(M\) of the Appropriation Act](#) included a \$10,000,000 state general funds appropriation in the second year of the 2022-2024 biennium to be provided for victims of mass violence. The Appropriation Act allows for remaining balances to carry forward and specified that the Virginia Department of Planning and Budget shall not transfer funds until the General Assembly adopts a structure for administering the funding based on the findings of a work group.

Within the budget language, the Virginia Department of Criminal Justice Services (DCJS) was directed to convene a work group to assess:

- i. gaps in available services for victims of crimes, especially mass violence events;
- ii. methods of investing the funds to ensure sustainable annual financial returns;
- iii. options for determining eligibility for funding, including parameters for who is considered a victim of a mass violence event;
- iv. a detailed plan for administering the funds that works holistically with the Criminal Injuries Compensation Fund;
- v. any potential categories of victims and witnesses, including families that are impacted by violence but are not currently eligible for the Criminal Injuries Compensation Fund; and
- vi. approaches used in other states to support victims of mass violence.

In accordance with the language, the purpose of the work group was to identify specific options to help ensure that those impacted by violence, especially mass violence, are able to cover out-of-pocket health and mental health expenses that are connected to the violent event but are not covered by insurance.

The work group included representatives of the following organizations as specified within the budget language:

- Virginia Department of Criminal Justice Services, including the Victim/Witness Grant Program and Financial Services Office;
- Criminal Injuries Compensation Fund (known as the Virginia Victims Fund);
- Virginia Department of Planning and Budget;
- Virginia Retirement System;
- Virginia Department of Treasury;
- VTV Family Outreach Foundation;
- Staff members of the House Appropriations and Senate Finance and Appropriations Committees; and
- Other stakeholders as appropriate.

Additional stakeholders included representatives from two statewide victim service organizations, the Virginia Sexual and Domestic Violence Action Alliance and the Virginia Victim Assistance Network.

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Appreciation is extended to the following people who brought their knowledge and expertise to the work group discussions. Their commitment to ensuring a thoughtful, efficient, and practical process made the completion of this report possible.

Karen Blackwell, *Virginia Department of Criminal Justice Services*
Baron Blakley, *Virginia Department of Criminal Justice Services*
Jessica Buchanan, *Virginia Victims Fund (Criminal Injuries Compensation Fund)*
Maddie Campbell, *Virginia Department of Planning and Budget*
John Colligan, *Virginia Department of Criminal Justice Services*
David Cotter, *Virginia Retirement System*
Jeffrey Dion, *Mass Violence Survivors Fund*
Shannon Dion, *Virginia Victims Fund (Criminal Injuries Compensation Fund)*
Patricia Foster, *Virginia Department of Criminal Justice Services*
Julia Fuller-Wilson, *Virginia Department of Criminal Justice Services*
Kate Hanger, *Virginia Victim Assistance Network*
Sandy Jack, *Virginia Retirement System*
Tracey Jenkins, *Virginia Department of Criminal Justice Services*
Cliff Lewis, *Virginia Department of the Treasury*
Justin Liang, *Virginia Department of Criminal Justice Services*
Uma Loganathan, *VTV Family Outreach Foundation*
Jackson Miller, *Virginia Department of Criminal Justice Services*
Michael Parham, *Virginia Department of the Treasury*
David Reynolds, *House Appropriations Committee*
Kelly Richards, *Virginia Department of Planning and Budget*
Catie Robertson, *Senate Finance and Appropriations Committee*
Joseph Samaha, *VTV Family Outreach Foundation*
Courtenay Schwartz, *Virginia Sexual and Domestic Violence Action Alliance*
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Neely Thompson, *Virginia Department of Planning and Budget*
Kristina Vadas, *Virginia Department of Criminal Justice Services*
Jonathan Yglesias, *Virginia Sexual and Domestic Violence Action Alliance*

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Executive Summary

Virginia's 2022–2024 biennium budget included an appropriation of \$10,000,000 in the second year for victims of mass violence. The budget language directed the Virginia Department of Criminal Justice Services (DCJS) to convene a work group tasked with identifying specific options to help ensure that those impacted by mass violence are able to cover out-of-pocket health and mental health expenses that are connected to the violent event but are not covered by insurance. Prior to distributing any funds, the Virginia General Assembly must adopt a structure for administering the funding based on the findings of the work group.

DCJS first convened the work group on May 2, 2024, and held two subsequent meetings (June 6, 2024 and July 11, 2024). This legislative document reports on the work group's discussions and conclusions.

Discussion topics of the work group included gaps in services for victims of mass violence, options for determining funding eligibility, defining "mass violence event" and "mass violence victim," fund investment and administration options, and costs to invest and administer the fund. To inform their discussions, the work group also received presentations from DCJS, Virginia Department of the Treasury, Virginia Retirement System, and Virginia Victims Fund.

Conclusions of the work group include:

- That the fund's initial structure be flexible and allow for adjustments.
- Fund investment should be managed by a state agency generally tasked with similar responsibilities and experience in investing funds to ensure sustainable annual financial returns.
- Fund administration to victims should be handled in a manner that minimizes burdens and stress for victims and ensures the most efficient and expeditious delivery of compensation funds.
- That the role of collateral resources and the "payor of last resort" be clearly defined.
- Funding for administrative costs will be necessary to support staffing, technology needs, and outreach and public awareness efforts.
- Definitions of "mass violence event" and "victim of mass violence."

Background

Virginia has experienced several major mass violence events in the last 20 years, including the 2007 shooting at Virginia Polytechnic Institute and State University (Virginia Tech), the 2010 shooting in Appomattox, and the 2019 Virginia Beach Municipal Center shooting. Most recently, in 2022, there were two additional mass violence events: the University of Virginia shooting where three students were killed, and the Chesapeake Walmart shooting where six store employees were killed. In addition, there have been other mass violence events that have occurred in Virginia that have not garnered as much attention.

In response to the severity of mass violence events, and harm to victims and families, Virginia established a mass violence fund (MVF) in 2023. The MVF began with a base appropriation of \$10,000,000, to help ensure that those impacted by mass violence are able to cover out-of-pocket physical and mental health expenses that are connected to the violent event but are not covered by insurance.¹ Before any funds are distributed, the General Assembly is to adopt a structure for administering the funding based on findings of a work group convened by DCJS (see Appendix A for enabling language).

Victim Services and Mass Violence Response in Virginia

There is a wide network of programs throughout the state that assists victims following violent crimes. DCJS provides grant funding to 114 Victim Witness Assistance Programs, which offer support and services to victims of crime as they navigate the criminal justice system. To specifically address the short- and long-term needs of mass violence victims, DCJS also coordinates the Victims Crisis Assistance and Response Team (VCART) which is a statewide program to assist K-12 schools, institutions of higher education, localities, and hospitals to assess, identify, and meet the needs of victims following mass violence events. VCART includes over 300 volunteer crisis responders trained to provide trauma mitigation and education in the aftermath of a critical incident.

Virginia has been a leader in the development of programming, crisis assistance, and services for victims of mass violence. Virginia is the only state in the country with codified statewide crisis response responsibilities to assist and support victims following criminal mass violence events.² Additionally, Virginia is the first state to create a state-supported MVF that provides compensation to cover the long-term medical and mental health expenses for victims of these crimes. The lack of other comparable state programs is challenging when developing Virginia's MVF, as there are no other models to follow.

Virginia's victim compensation program, the Virginia Victims Fund (VVF), officially named the Criminal Injuries Compensation Fund,³ provides financial compensation to help victims of violent

¹ Chapter 1, Virginia Acts of Assembly, 2023 Special Session 1 ("Appropriation Act"); Item 485(M).

² *Code of Virginia* § 22.1-279.8, § 23.1-804, § 32.1-111.3, § 44-146.18, § 44-146.19

³ All references to the Virginia Victims Fund and VVF in this report mean the Criminal Injuries Compensation Fund.

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crime cover out-of-pocket expenses.⁴ VVF operates within the Virginia Workers' Compensation Commission. To qualify for compensation assistance, a person must be a victim of a qualifying crime involving physical injury or death. For certain crimes, emotional injury alone is eligible for compensation. Certain family members or other loved ones of deceased victims may also qualify.

Allowable expenses include:

- Medical and dental treatment
- Mental health services
- Grief counseling (\$3,500/\$5,000 cap)
- Lost wages
- Funeral & burial expenses (\$10,000 cap)
- Mileage to medical or mental health appointments
- Moving expenses (\$2,000 cap)
- Prescriptions
- Domestic loss of support (13-week cap)
- Homicide loss of support
- Other crime related expenses

Victim Services and Mass Violence Response in Other States

All 50 states, the District of Columbia, and U.S. territories have crime victims' compensation programs which have similar requirements and benefits and are funded primarily through federal Victims of Crime Act (VOCA) grants. Programs are required to cover medical and counseling costs, lost wages, lost support for families of homicide victims, as well as funeral and burial expenses. Most states do not differentiate between mass violence victims and victims of other violent crimes and all victims are subject to the same levels of funding.

Maine was the second state, after Virginia, to create a mass violence fund following the 2023 mass shooting in Lewistown. On February 22, 2024, the Maine State Legislature enacted An Act to Strengthen Public Safety by Improving Maine's Firearm Laws and Mental Health System,⁵ which includes a \$5,000,000 endowment to be invested by the Office of the State Treasurer, with eligibility determined and proceeds distributed by the Maine Crime Victims Compensation Board within the Office of the Attorney General. This endowment will be used to supplement Maine's current victim compensation program. It will increase the cap on compensation levels to provide increased coverage for physical and mental health out-of-pocket expenses for those identified as victims of mass violence. According to Maine officials, this is an efficient and

⁴ [Chapter 21.1](#) of the *Code of Virginia*, Compensating Victims of Crime

⁵ An Act to Strengthen Public Safety by Improving Maine's Firearm Laws and Mental Health System. S.P. 953, §393 (2024). <https://www.mainelegislature.org/legis/bills/getPDF.asp?paper=SP0953&item=1&snum=131>

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integrated approach that allows victims to apply one time yet receive the additional benefits that are allowable under the mass violence fund.

Several other states are also considering establishing a mass violence fund. New Jersey is close to passing legislation to appropriate \$10,000,000 to create a statewide MVF. New Jersey Senate Bill 3124 is pending a vote,⁶ and the legislation is expected to pass once the Senate reconvenes. This fund will be invested through the New Jersey Department of the Treasury and administered by the New Jersey Victims of Crime Compensation Office. In addition, there is interest in legislation and discussions are being held in Michigan, with support from the victims and families of the Oxford High School shooting. Legislators in Kansas, Texas, and Colorado have also expressed interest in pursuing mass violence fund legislation during their 2025 sessions.

⁶ Full text at: https://www.njleg.state.nj.us/bill-search/2024/S3124/bill-text?f=S3500&n=3124_I1

Data Review and Anticipated Need

The MVF work group reviewed available data on the numbers of mass violence events and victims in Virginia, as well as data on claims and payouts made to victims of mass violence through already existing programs for victims of violent crime. This was done in an attempt to estimate the potential numbers of victims and claims that might be covered by the MVF. However, for a variety of reasons, none of the available data could be used to accurately predict the numbers of victims that could potentially file claims, or the dollar amounts that might be paid out, through the MVF.

The data available on the numbers of violent crimes and their victims as reported to law enforcement, and on the numbers and amounts of claims filed with the existing victims' programs, are not directly comparable to what could potentially be covered by the MVF. However, the data did allow the work group to better understand and consider what is known about mass casualty events and their victims.

Law Enforcement Data on Mass Violence Incidents and Victims

The table below shows Virginia Incident-Based Reporting System (VAIBRS) data on the number of violent incidents involving three or more victims that were reported to law enforcement over the 10-year period 2014–2023. The number of victims excludes the perpetrator. In VAIBRS, the violent crimes reported are homicide, rape, robbery, and aggravated assault. Mass violence incidents that occurred in a home or residence are not included in the table, because the proposed MVF eligibility criteria would compensate victims for incidents that occurred in a “public space.”

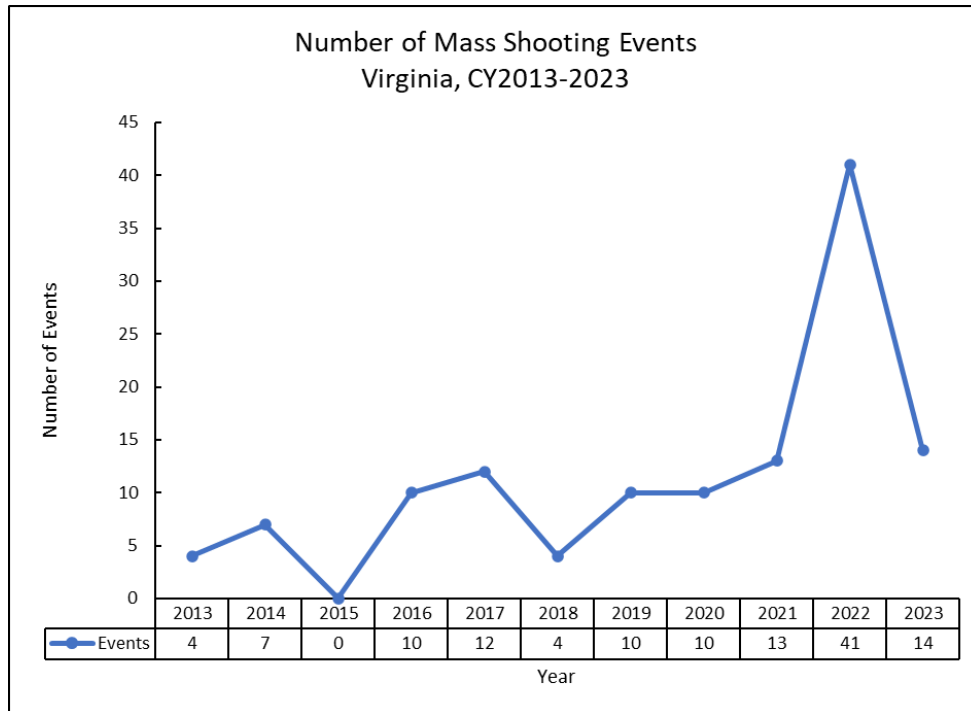
Number of Violent Crime Incidents and Victims Involving Three or More Victims Virginia 2014–2023		
CY	No. of Incidents	No. of Victims
2014	244	860
2015	252	896
2016	273	984
2017	232	815
2018	192	698
2019	245	927
2020	266	976
2021	288	1,047
2022	324	1,231
2023	290	1,040
Total 2014–2023	2,606	9,474
Yearly Average	261	947

Data Source: Virginia State Police Incident-Based Reporting System

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Over the 10-year period, there were a total of 2,606 incidents involving 9,474 victims. There was an average of 261 incidents and 947 mass violence victims per year, with the number of victims ranging from a low of 698 victims in 2018 to a high of 1,231 victims in 2022.

The most significant mass casualty violent events usually involve shootings with large numbers of victims killed or injured. The chart below, also based on VAIBRS data, shows the number of mass shootings (three or more victims) in Virginia from CY2013 through CY2023. During this period there was a total of 125 mass shooting events.



Data Source: Virginia State Police Incident-Based Reporting System

From 2013 to 2023, Virginia averaged 11 mass shooting events per year. However, the chart clearly shows that the annual number of these events can greatly vary from year to year – there were no such events in 2015, but 41 in 2022.

The VAIBRS data shown in the charts above do not capture all of the potential incidents and victims that could be eligible for compensation under the MVF. VAIBRS data captures detailed data on only the four most serious types of violent crime (murder, rape, robbery, and aggravated assault), whereas the MVF may include other categories of crimes that can result in physical, psychological, or emotional harm to victims.

The VAIBRS data above on the yearly numbers of mass casualty violent crime victims and shooting victims illustrates that it is difficult to make projections about the numbers of victims or claims that the MVF might encounter in the future.

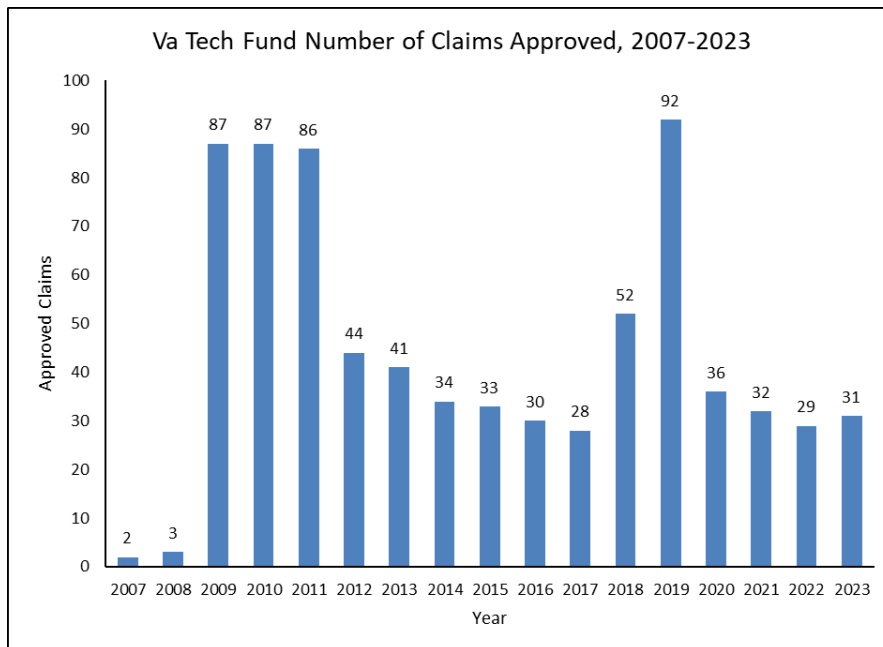
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Virginia Tech Victims Fund

In 2007, a mass shooting at Virginia Tech killed 32 victims and remains the third deadliest mass shooting in the United States. The Virginia Tech shooting resulted in far more fatalities than any of the previously cited mass victimization events in Virginia, and illustrates the impact of a single, large scale mass violence event.

As part of a 2008 state settlement to compensate victims and families of the shooting, state general funds were set aside to provide reimbursement for mental health services. This fund, named the Virginia Tech Victims Fund, was established at DCJS.

The following chart shows the annual number of claims approved for payment by the Virginia Tech Victims Fund from 2007 through 2023.

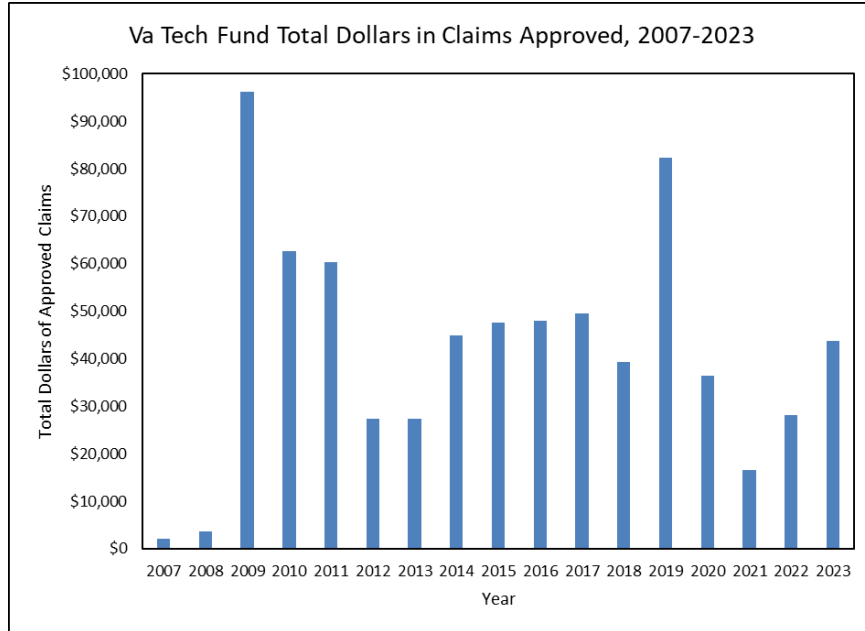


Data Source: DCJS Financial Services, 1/11/2024, prepared by DCJS Criminal Justice Research Center 1/18/2024

From 2007 through 2023, the Virginia Tech Victims Fund approved a total of 747 claims from victims, with the annual number of claims ranging from two in 2007 to 92 in 2019. An average of 44 claims was approved each year, but the number of claims filed greatly varied from one year to the next.

The following chart shows the annual number of dollars paid for claims approved by the Virginia Tech Victims Fund from 2007 through 2023.

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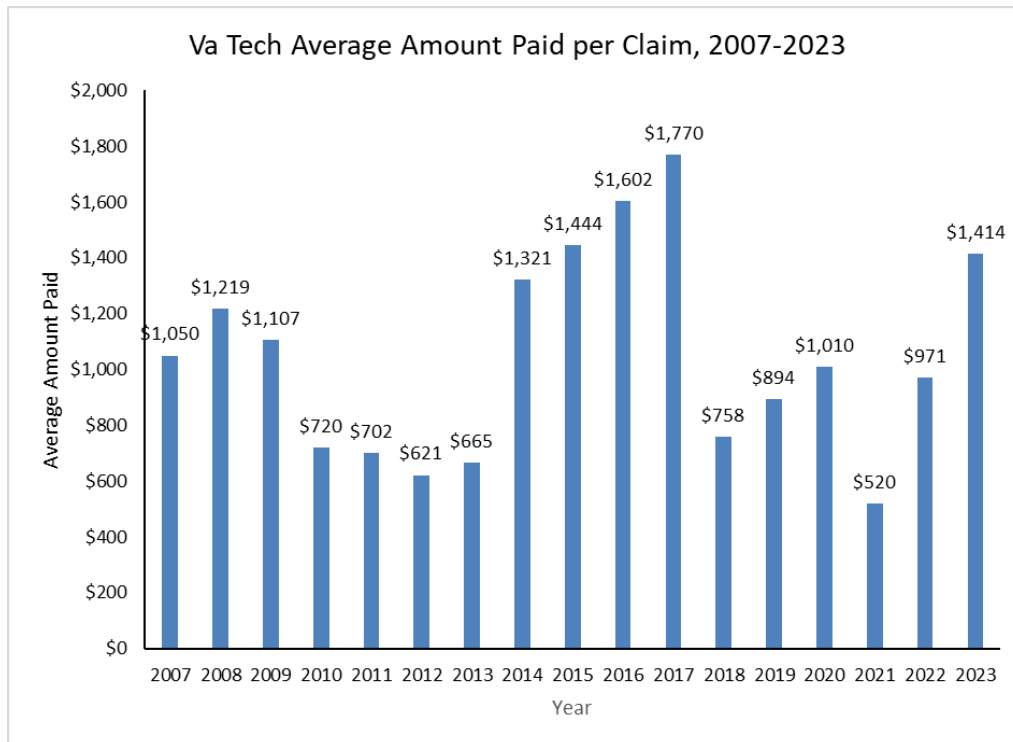


Data Source: DCJS Financial Services, 1/11/2024, prepared by DCJS Criminal Justice Research Center 1/18/2024

Over the period 2007 through 2023, the fund paid a total of \$716,521 in claims. Annual claim amounts paid ranged from a high of \$96,272 in 2009 to a low of \$2,100 in 2007 (2007 was the first year the fund was operational). During this period, the average annual amount paid out was \$17,788.

The following chart shows the average dollar amount paid per claim for claims approved by the Virginia Tech Victims Fund from 2007 through 2023.

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Data Source: DCJS Financial Services, 1/11/2024, prepared by DCJS Criminal Justice Research Center 9/10/2024

The annual average amount paid per claim ranged from a low of \$520 in 2021 to a high of \$1,770 in 2017. Over the entire period 2007 through 2023, the average annual amount paid per claim was \$1,046.

Virginia Victims Fund

As mentioned earlier in this report, the Virginia Victims Fund (VVF) provides financial compensation to help victims of violent crime cover out-of-pocket expenses. To receive compensation, a person must be a victim of a qualifying crime resulting in physical injury or death. In some cases, emotional injury alone is sufficient, and certain family members or loved ones of a deceased victim may qualify.

Although the qualification criteria for the VVF may vary from the final criteria for the MVF, the goals and operating procedures of the two funds will likely be similar. Therefore, information from VVF may provide the best example of what may be encountered by the MVF.

The VVF provided the work group with data on the claims it has processed resulting from mass casualty events (three or more victims) which resulted in claims to the fund. The table below shows the number of claims that were filed from 2019 to 2023 as a result of several of the most serious and highly publicized mass violence events in recent Virginia history.

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VVF Mass Casualty Claims	
Virginia Beach (5/31/2019)	219 claims
Charlottesville (UVA) (11/13/2022)	4 claims
Chesapeake (Walmart) (11/22/2022)	14 claims
Richmond (Altria Theater) (6/3/2023)	11 claims

Data Source: Virginia Victims Fund

In the table above, generally each claim is associated with one claimant. However, in some cases a single victim can have multiple claimants (such as a spouse and/or children). As can be seen in the table above, the number of major mass casualty claims processed by the VVF varies greatly from one year to the next, ranging from only 11 claims in 2023 to 219 claims in 2019.

The table below shows the annual dollar amounts of payouts by VVF for mass casualty events from 2019 through 2023. The figures in the table below are for all mass casualty claims in each year, and are not limited to only the more serious events shown in the table above.

VVF Mass Casualty Expenses by Year	
2019	\$100,160
2020	\$38,427
2021	\$98,748
2022	\$28,329
2023	\$55,091

Data Source: Virginia Victims Fund

Data Summary

The data above provides an overview of what is known now about the numbers of mass violence events, their victims, and what financial compensation is currently provided to these victims by the Commonwealth. However, this data also illustrates that it is difficult to anticipate the need or demand on the MVF.

By their nature, mass casualty events cannot be predicted. Such events, horrific as they are, are rare. They are unpredictable regarding when and how often they occur, and in terms of the number of victims involved in any single event. Some years may see few or no mass casualty events, other years may see a large number of events involving a relatively small number of victims, and some years may see large-scale fatality events such as the shootings at Virginia Tech.

Comparisons to existing programs such as VVF also provide only a rough indication of anticipated need. The MVF may establish different criteria than the VVF for what defines a qualifying crime, a qualifying victim, and a qualifying expense that is eligible for compensation.

Mass Violence Fund (MVF) Work Group

DCJS convened a work group to assess specific elements requested by the General Assembly to inform the development of a structure for compensating victims of mass violence for out-of-pocket health and mental health expenses that are connected to the event but not currently eligible for the Virginia Victims Fund (VVF). In addition to approaches used in other states to support victims of mass violence, the work group discussed and considered:

- Gaps in available services for victims of crimes, especially mass violence events;
- Methods of investing the funds to ensure sustainable annual financial returns;
- Options for determining eligibility for funding, including parameters for who is considered a victim of a mass violence event;
- A detailed plan for administering the funds that works holistically with VVF; and
- Any potential categories of victims and witnesses, including families that are impacted by violence but are not currently eligible for VVF.

The MVF work group met three times:

May 2, 2024, Patrick Henry Building, Richmond, Virginia

June 6, 2024, Patrick Henry Building, Richmond, Virginia

July 11, 2024, Virtual Meeting

Each meeting allowed for public comment, yet none was presented beyond the comments offered by work group representatives. To inform their discussion, the work group received presentations from the following agencies (see Appendix B):

- Virginia Department of Criminal Justice Services
- Virginia Department of the Treasury
- Virginia Retirement System
- Virginia Victims Fund, a division of the Virginia Workers' Compensation Commission

DISCUSSION

Gaps in Services and Eligibility for Victims

The work group identified several gaps that create barriers for victims of mass violence.

Maximum Cap:

The current codified maximum cap on VVF funding may create a gap in services for victims.⁷ Currently, the maximum cap on VVF funding is \$35,000, with a maximum of \$3,500 for grief counseling for the family of homicide victims. Though few victims reach the maximum cap on total funding, the caps on counseling can be quickly reached. If several family members need mental health counseling, \$3,500 may not be sufficient to cover the long-term expenses. The MVF may be used to increase the cap for these families and fill this gap.

Payor of Last Resort:

Code of Virginia § 19.2-368.11:1(G) states that any “claim made pursuant to this chapter shall be reduced by the amount of any payments received or to be received as a result of the injury from or on behalf of the person who committed the crime or from any other public or private source, including an emergency award by the Commission pursuant to § 19.2-368.9.” The statute requires claimants to exhaust all available collateral resources before VVF can make payment. This means that VVF is the payor of last resort. The resources relevant in each claim depend on both the crime type and the resources available to the victim. This includes but is not limited to:

- Health insurance benefits
- Homeowners and renters insurance
- Auto insurance
- Medicare/Medicaid
- Social security benefits
- Healthcare provider financial assistance/charity care
- Life insurance
- Funeral/burial insurance
- Deceased victim's estate in excess of \$25,000
- Disability insurance
- Workers compensation
- Sick leave and/or short-term disability
- Court-ordered restitution
- Civil suits⁸

⁷ *Code of Virginia* § 19.2-368.11:1. Amount of award.

⁸ Retrieved from <https://virginiavictimsfund.org/compensation>, August 8, 2024.

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Being the identified payor of last resort creates a conflict with the MVF if the new fund is identified as a collateral resource.

Timeframe for Filing a Claim:

The current filing limitations for VVF state that the application for compensation must be filed within one year of the crime incident. If more than one year has passed, victims must include a letter explaining the delay in filing the application. It is not uncommon for victims to identify a need for mental health services related to their victimization several years following the event. This can create a barrier to accessing compensation for mental health services. There are several options that can help mitigate this issue: 1) the timeframe for applying can be extended for mass violence victims; 2) widespread outreach and awareness efforts about the MVF could be conducted; 3) a webpage that provides information and resources for submitting a MVF application could be developed; 4) additional training to local victim advocates would be needed to promote a clear understanding of the funding and its timeframe requirements.

Victim Eligibility:

VVF identifies victims that are eligible for compensation as:

- Any person who suffers personal physical injury or death as a direct result of a crime.
Code of Virginia §§ 19.2-368.2 and 19.2-368.4(A)(1)
- Any person who suffers personal emotional injury as a direct result of a violent felony offense as defined in subsection C of §17.1-805, or stalking as defined in §18.2-60.3, or robbery or abduction, attempted robbery or abduction.
Code of Virginia §19.2-368.2
- Any person (except a law-enforcement officer engaged in the performance of his duties) who suffers personal physical injury or death as a direct result of attempting to prevent a crime from occurring in his presence or trying to apprehend a person who (a) had committed a crime in his presence, or (b) had, in fact, committed a felony.
Code of Virginia §§ 19.2-368.2 and 19.2-368.4(A)(3)
- A surviving spouse, parent, grandparent, sibling, or child, including posthumous children, of a victim of a crime who died as a direct result of such crime.
Code of Virginia § 19.2-368.4(A)(2)
- A surviving spouse, parent, grandparent, sibling or child, including posthumous children, of any person who dies as a direct result of trying to prevent a crime or attempted crime from occurring in his presence, or trying to apprehend a person who had committed a crime in his presence or who had, in fact, committed a felony.
Code of Virginia § 19.2-368.4(A)(4)
- Any other person legally dependent for his principal support upon a victim of crime who dies as a result of such crime or who dies as a direct result of trying to prevent a crime or attempted crime from occurring in his presence or trying to apprehend a person who had committed a crime in his presence or had, in fact, committed a felony.

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Code of Virginia § 19.2-368.4(A)(5)

Though the definitions above seem comprehensive, there are victims that have sustained psychological or emotional injuries that may not qualify. For example, a person that witnesses a homicide but is not physically injured themselves, may not be eligible. This can create a gap where people that have suffered significant psychological or emotional trauma due to the crime are not eligible to apply.

In addition, the legal guardians and household members of homicide victims are not eligible for compensation under VVF's definition of a victim. The work group identified this as a gap that excludes a group of secondary victims that are often directly impacted by the crime.

Out-of-Pocket Expenses:

The work group discussed the fact that there are many victims that still incur out-of-pocket physical and mental health expenses when using VVF compensation. The MVF could potentially eliminate these costs with increased caps and additional funding.

Options for Determining Eligibility – Definitions of Mass Violence Events and Victims

There is no universal definition of mass violence, and definitions that do exist vary by the numbers of victims, numbers of deaths and/or injuries, types of events, weapons used, or other factors. The United States Secret Service's National Threat Assessment Center defines mass attacks as "incidents in which three or more people, not including the perpetrator, were harmed during an attack in a public or semi-public space." The Federal Bureau of Investigation (FBI) defines the term mass murder as "a multiple homicide incident in which four or more victims are murdered, within one event, and in one or more locations in close geographical proximity." Even more broadly, the United States Department of Justice's Office for Victims of Crime (OVC) defines mass violence as "an intentional violent crime that results in physical, emotional, or psychological injury to a sufficiently large number of people and significantly increases the burden of victim assistance and compensation for the reporting jurisdiction, as determined by the OVC Director."

Considering the scope of the current definitions and the purpose of the MVF, the work group defined a **mass violence event** as:

an intentional crime that results in physical injury to three or more people, not including the perpetrator, occurring in a public space and in one or more locations in close geographical proximity.

Further, the work group defined a **victim of mass violence** as:

a person who has suffered physical, emotional, or psychological injury as the result of a mass violence event.

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Because the purpose of the MVF is to ensure that victims of mass violence receive the resources and services that they need to recover, these definitions are broad enough to reach those impacted, yet definitive enough to capture the intention of the funding. In addition, the work group identified legal guardians and other family or household members of homicide victims as a current gap, as they are not eligible for compensation by VVF. This is an important group of victims that is often directly impacted by the crime and should be considered eligible for physical and mental health compensation.

Fund Investment:

There was robust discussion in the MVF work group to determine which agency would be the best option for investing the funds. A detailed presentation was provided by the Virginia Retirement System (VRS), which does not seem to be the best investment option for two primary reasons:

1. The VRS fiduciary duty and the Exclusive Benefit Rule require VRS to act solely in the interests of VRS members, retirees, and beneficiaries. Efforts spent on non-VRS fund investments do not comport with this duty.
2. VRS may not be well-suited to accomplish the goals of the proposed fund because it is difficult to allocate the fund across the VRS portfolio, given its size. Additionally, the VRS long-term investment time horizon does not match the investment goals of the MVF, and there is limited ability to make distributions.

The Virginia Department of the Treasury (DOT) also presented on their agency's processes for investment and allocation, and it was determined to be the better option for the investment of the MVF. The DOT Cash Management and Investments Division (CMI) manages and invests funds, and investment oversight is mandated by the *Code of Virginia* to be the responsibility of the Treasury Board. CMI's primary investment objectives are safety, liquidity, and return on investment. Although the returns on investment are not as large as those of VRS, the DOT has the capacity manage the investment and the periodic distribution of funds from the MVF.

Fund Administration and Management:

Both DCJS and VVF were discussed as options for managing claims and administering the MVF. Several work group members suggested that VVF may be best positioned to administer these funds. VVF is the only state agency that currently administers funds directly to crime victims, and they have trained staff and technology that allows VVF to manage individual claims.

Costs to Invest and Administer the MVF:

There will be additional administrative costs for both the fund investment agency and the fund administration agency, including costs for staff, technology needs, and outreach and public awareness efforts. Specific administrative costs will need to be determined by each designated agency. It is unclear if administrative funds are intended to be derived from the \$10,000,000 or if additional state funding is needed.

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To ensure that the MVF is sustainable and can operate in perpetuity, the actuarial costs for the implementation of this project are required. In addition, the data provided by VVF details how much compensation has been provided to mass violence victims over the last several years. As previously noted, the compensation amounts that have been paid for mass casualty claims between 2019 and 2023 vary drastically: in 2019, VVF paid \$100,160 to victims, while in 2022, VVF paid \$28,329.⁹ With an average annual rate of return of 4.76% through the DOT, staff administering the MVF will be required to forecast annual expenditures to ensure that funds will be available for distribution.

⁹ These amounts cover all applicable compensable expenses to victims of mass violence, not only expenses related to physical and mental health.

Conclusions

Based on the available information, presentations, and work group discussions, the following conclusions are offered for consideration by the Virginia General Assembly in establishing a structure for administering the funding allocated for victims of mass violence:

1. A designated state compensation fund only for victims of mass violence has not yet been operationalized by any state. Since there is not a precedent to provide guidance, it is important that the initial structure of the MVF includes flexibility and be reviewed intermittently to allow for adjustments.
2. Fund investment should be managed by a state agency generally tasked with similar responsibilities and experience in investing funds to ensure sustainable annual financial returns. The primary option for consideration is the Virginia Department of the Treasury, which currently manages similar funds.
3. Fund administration to victims should be handled in a manner that minimizes burdens and stress for victims and ensures the most efficient and expeditious delivery of compensation funds, without overlap or duplication in the application or payment processes. Both DCJS and VVF were discussed as options for fund administration and management, and several work group members suggested that VVF may be best positioned to administer these funds. VVF is the only state agency that currently administers funds directly to crime victims, with trained staff and technology that allows VVF to manage individual claims. VVF is responsible for compensation to victims of crime, as specified in Chapter 21.1 of Title 19.2 of the *Code of Virginia*.
4. Victims may be eligible for compensation for health and mental health expenses from VVF, insurance, lawsuit settlements, or private collections and donations. The addition of another potential funding source necessitates clarity for when such funds may be used for compensation, especially since VVF is currently considered the “payor of last resort.”
5. It must be defined that the MVF is not considered a collateral resource for the period of time following the mass violence event before the MVF can be accessed. This stipulation will allow VVF to cover all eligible physical and mental health expenses for that time period and allow the MVF to begin paying for these eligible expenses after the waiting period has ended. Thus, the MVF should be deemed as the payor of last resort, to be disbursed after the VVF’s funds for physical and mental health compensation have been used to their full extent.
6. Regardless of which agency invests or administers the MVF, funding for administrative costs will be necessary to support staffing, technology needs, and outreach and public awareness efforts. The selected agencies should be provided with the opportunity to develop fiscal impact statements and identify specific budget needs. They should also provide input into any legislative or budget language regarding the structure for administering the funds to

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ensure clarity and minimize potential conflicts with existing language governing compensation for crime victims.

7. “Mass violence” and “mass violence event” are defined differently by various entities, with some common elements. A definition of a qualifying event should be used to ensure clarity for victims and potential claims under the MVF. A suggested definition is offered by the work group:

A **mass violence event** is an intentional crime that results in physical injury to three or more people, not including the perpetrator, occurring in a public space and in one or more locations in close geographical proximity.

8. In addition to a definition of a qualifying event, a definition of a qualifying victim should be used to ensure clarity of who would be eligible for claim payments under the MVF. A suggested definition is offered by the work group:

A **victim of mass violence** is a person who has suffered physical, emotional, or psychological injury as the result of a mass violence event.

Appendix A

2023 Special Session 1 of the Virginia General Assembly Item 485 (M) of the Appropriation Act

M. Out of this appropriation, \$10,000,000 the second year from the general fund shall be provided for victims of mass violence. Any balances remaining at the end of the fiscal year shall carry forward. The Director of the Department of Criminal Justice Services shall convene a work group to assess: (i) gaps in available services for victims of crimes especially mass violence events; (ii) methods of investing the funds to ensure sustainable annual financial returns; (iii) options for determining eligibility for funding, including parameters for who is considered a victim of a mass violence event; (iv) a detailed plan for administering the funds that works holistically with the Criminal Injuries Compensation Fund; (v) any potential categories of victims and witnesses, including families of victims, that are impacted by violence but are not currently eligible for the Criminal Injuries Compensation Fund; and (vi) approaches used in other states to support victims of mass violence. The purpose of the work group is to identify specific options to help ensure that those impacted by violence, especially mass violence, are able to cover out-of-pocket health and mental health expenses that are connected to the violent event but are not covered by insurance. The work group shall consist of representatives of the: Department of Criminal Justice Services, including the Victim/Witness Grant Program and Financial Services Office; Criminal Injuries Compensation Fund; Department of Planning and Budget; Virginia Retirement System; Department of Treasury; the VTV Family Outreach Foundation; appropriate staff members of the House Appropriations and Senate Finance and Appropriations Committees; and any other stakeholders as appropriate. The work group shall report its findings to the General Assembly by September 1, 2024. The Department of Planning and Budget shall not transfer the funds until the General Assembly adopts a structure for administering the funding based on the findings of the work group.

Appendix B

During the meetings of the Mass Violence Fund Work Group, the group received presentations from the following agencies:

- Virginia Department of Criminal Justice Services
- Virginia Department of the Treasury
- Virginia Retirement System
- Virginia Victims Fund

To obtain copies of the presentation slides presented by these agencies, contact Kristina Vadas, Manager of the DCJS Victims Services Team. She can be reached by phone at 804-786-7802 or by email at Kristina.Vadas@dcjs.virginia.gov.

