

Policies

Nevada Victims of Crime Program

Nevada State Board of Examiners

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Section One. Introduction

1. Nevada Victims of Crime Program

A. The Nevada Legislature established the Victims of Crime Program “VOCP” in 1969 pursuant to NRS 217.010 to NRS 217.270 to provide compensation to victims of violent crime in Nevada. The VOCP operates under the auspices of the Nevada State Board of Examiners “BOE”, established pursuant to NRS 353.010.

B. The policy of the State of Nevada is expressed in NRS 217.010. This section provides:

“It is the policy of this State to provide assistance to persons who are victims of violent crimes or the dependents of victims of violent crimes.”

C. VOCP Mission Statement

“It is the mission of the Nevada Victims of Crime Program to provide financial assistance to qualified victims of crime in a timely, cost efficient and compassionate manner.”

2. Scope of Nevada Victims of Crime Program

A. The Nevada VOCP assists victims who suffer injuries from violent crime. The VOCP does not assist with crimes involving property damage, or provide assistance for property loss or damage except as expressly provided for by these policies.

B. The VOCP is established to assist qualified Nevada residents, U.S. citizens, or others entitled to reside in the U.S., who sustained injuries in a crime committed in Nevada.

C. NRS 217.035 defines crimes covered by the VOCP as crimes “committed within this state”.

D. NRS 217.102 provides for assistance to Nevada residents injured by crimes outside Nevada. This section provides:

“A resident who is a victim of a crime that occurred in a state other than the State of Nevada may apply to the Board for compensation if:

- 1. The state in which the crime occurred does not have a program for compensating victims of crime for their injuries; or*
- 2. The resident is ineligible to receive compensation under the program of the other state.”*

E. The provisions of NRS 217.102 may be extended to Nevada residents injured while visiting other countries, where the country does not provide assistance to Nevada residents, comparable to the assistance offered by the VOCP for crimes committed in the State of Nevada.

F. NRS 217.065 defines resident as:

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“A person who is a citizen of the United States or who is lawfully entitled to reside in the United States; and

2. During the 6 weeks preceding the date of the crime was:

(a) Domiciled in this state; and

(b) Physically present in this state, except for any temporary absence.

Section Two. VOCP Policies

1. General

- A. The Board of Examiners is the governing authority of the Nevada Victims of Crime Program. NRS 217.130 empowers the BOE to adopt rules and regulations while NRS 217.150 requires the BOE to formulate standards for the payment of compensation to victims of crime.
- B. When adopted by the BOE these policies are the rules and regulations of the Nevada Victims of Crime Program and constitute the standards for the determination of the payments of claims to or on behalf of victims of crime.
- C. These policies are intended to assist in interpreting and applying the provisions of NRS 217. They are intended to provide guidance to compensation officers in determining eligibility requirements and in paying the benefits approved by these policies.
- D. These policies are intended to provide guidance to hearings and appeals officers in deciding matters that are properly before them, and to the BOE in reviewing their decisions.
- E. These policies are intended to assist victims of crime understand the rules and regulations which guide the decisions of the Nevada VOCP and the policies which determine available benefits. They will assist the victim in insuring decisions are made pursuant to these policies.
- F. The VOCP goal is to assist eligible victims of crime and their families cope, and recover from the physical, emotional and financial impact of violent crime. These policies recognize the VOCP does this best by paying for medical and dental care, counseling, lost income, and other approved benefits as quickly as possible: when a victim needs financial support and reassurance the most. These policies encourage a responsible sense of “urgency” in making decisions and providing benefits to qualified victims, and they encourage cooperation and coordination with victim advocates, and others working to assist victims of crime throughout Nevada.

2. Effective Date of Changes

- A. The benefits levels set forth in these policies for wage loss reimbursement, funeral expenses, mental health counseling, and all other benefits, are subject to change at any time by the Board of Examiners.
- B. Unless otherwise required by law, a substantive change to eligibility requirements will be effective for applications approved on or after the effective date of the change.

- C. Except as otherwise provided by the BOE or these policies, any decrease in claim limits or claim benefit levels will be applied to all claims effective at the time the change is adopted.
- D. An effective date or date of limitation included in the express provisions of a section will apply if there is any conflict with this section.
- E. Individual exceptions to claim or benefit levels may be approved by the VOCP coordinator if necessary to avoid undue hardship to a victim or when the application of a change would violate a commitment of the VOCP to the victim, a service provider, or other person.

3. **Anti-Discrimination Policy**

- A. The VOCP will not discriminate on the basis of race, color, religion (creed), gender, age, national origin (ancestry), disability, marital status, sexual orientation, or military status, in any of its activities or operations. These activities include, but are not limited to, determining an individual's eligibility for VOCP benefits, hiring and firing of staff, selection of volunteers, selection or treatment of vendors, and provision of services to, and dealings with, the public.

4. **Americans with Disabilities Statement**

- A. VOCP will take all reasonable measures to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently due to the absence of auxiliary aids and services identified in the Americans with Disabilities Act.
- B. If special needs accommodations are necessary in order for any individual to obtain services from the VOCP, advance notice should be provided to the VOCP staff.

5. **Language Interpreters and Hearing Interpreters**

- A. The VOCP recognizes that communication in the face of language barriers can be difficult and frustrating. The VOCP will provide information and referral assistance to persons who may be in need of hearing or language interpretation services.
- B. The VOCP will make reasonable efforts to insure its application and other critical documents or forms are available in Spanish translation.

6. **VOCP is the Payer of Last Resort**

- A. The VOCP is the "payer of last resort." This means that all existing resources a victim has must be utilized before the VOCP can pay any expenses. Existing resources include, but are not limited to, insurance, workers' compensation, or civil suit settlements.
- B. These policies adopt, by reference, federal guidelines that require federal assistance programs such as: Medicaid, Veterans Administration, Indian Health Services, or Social Security, pay before VOCP pays. If VOCP pays and such benefits become available, the

VOCP is entitled to be reimbursed pursuant to its subrogation lien or other provisions of law or these policies.

- C. Since the VOCP may pay approved victim claims immediately after an application is approved, resources may become available that were not available when benefits were paid to, or on behalf of the victim. In cases where a third party is determined responsible for paying for applicants injuries, after the VOCP has paid applicant claims, then the VOCP is entitled to reimbursement pursuant to its subrogation lien. If the applicant recovers from civil suit settlements, lump sum retroactive payments from social security, or other recoveries, the VOCP must be reimbursed.

7. VOCP is Not an Entitlement Program

- A. VOCP benefits available under these policies are paid on behalf of approved applicants, subject to restrictions that may be imposed as the BOE may determine, or as available funding may require. No legal rights to payment are conferred on an applicant when their application is approved by the VOCP other than those provided by NRS 217 or these policies.
- B. An applicant who incurs medical or other expenses related to the crime is legally responsible for those financial obligations regardless of whether those debts were incurred before or after acceptance by the VOCP. Neither the VOCP, nor the State of Nevada, is ever legally responsible for any of the bills or expenses incurred by an applicant at any time. If the application is approved by the VOCP, the applicant is still legally responsible for those financial obligations unless, and until they are paid or the applicant is otherwise relieved of legal responsibility.
- C. Approval of an application confers no right to any payments by the VOCP. Claim approval or the approval of any benefit may be revoked or withdrawn by the VOCP at any time, where the VOCP determines that the approval was made in error or for other cause consistent with these policies. Any such revocation or withdrawal may be appealed.
- D. Decisions denying benefits are appealable for the purposes of ensuring the appealable decisions of the VOCP were correctly made pursuant to the provisions of NRS 217 and these policies, not to establish a right to, or property interest in any benefit offered by the VOCP.
- E. Previous approvals or other decisions of the VOCP do not establish precedent, or require consideration in other cases or matters. Decisions of the VOCP are appealable through the administrative appeals process and to the BOE, only when appeal rights are provided with the decision, or as otherwise required by these policies or law.
- F. The BOE is the final appeal in all VOCP matters. Decisions of the BOE are final and cannot be appealed to the District Court or State Supreme Court. This is provided for in NRS 217.117 (4) which states:

“The decision of the Board is final and not subject to judicial review.”

8. Service of Documents at Last Known Address Sufficient

- A. It is the responsibility of the applicant to notify the VOCP of any change of address. Any notice or determination or other correspondence mailed to the applicant at the address on file with the VOCP is deemed received by the applicant no later than 3 days after the date mailed by the VOCP.
- B. If service of documents or receipt by the applicant of any VOCP document is an issue on appeal the applicant will have the burden of establishing lack of notice or delivery.

9. Conflicts

- A. Employees, contractors, and vendors of the VOCP will avoid all conflicts or appearances of conflicts in matters relating to VOCP business or its affairs.
- B. Employees, contractors, and vendors will not handle documents or files, make or influence decisions of family members, friends, or associates.
- C. Employees, contractors, and vendors will disclose to the VOCP coordinator any conflicts involving applicants or claims of family members, friends, or associates to the VOCP coordinator.

10. Confidentiality

- A. NRS 217.105 provides that all victim information maintained by the VOCP is confidential and will not be made public unless otherwise provided by law or court order.
- B. The VOCP necessarily releases or discloses certain information in the execution of its responsibilities in investigating and administering the claim. For example, the VOCP will provide certain information about the applicant to police agencies, medical providers, counselors, VOCP contractors or vendors, victim advocates or attorneys, in order to request reports or other information necessary to investigate, administer, or pay claims.
- C. The VOCP may release or disclose information to auditors or investigators or others with an official need for information related to their legal duties.
- D. The VOCP may release or disclose information to employees of the state budget office, treasurer's office, VOCP contractors or other agencies as necessary to pay claims or otherwise administer a claim.
- E. The VOCP may release or disclose information to the Hearing or Appeals Officers or the BOE when a matter is appealed.
- F. Confidential information may become public as a consequence of an appeal to the BOE, which conducts its meetings, and hearings open to the public.

- G. The VOCP may be required to provide or disclose information in response to a complaint by the applicant or in order to respond to an inquiry generated by the applicant.

Section Three. VOCP Standards for Determining Compensation

1. General

- A. NRS 217.150 requires the BOE to formulate standards for determining the amount “of any compensation payable” to an approved applicant. This section states:

“The Board shall, so far as practicable, formulate standards for the uniform application of NRS 217.010 to NRS 217.270, inclusive, by the compensation officers in the determination of the amount of any compensation payable pursuant to NRS 217.010 to NRS 217.270, inclusive. The standards must take into consideration rates and amounts of compensation payable for injuries and death under other laws of this state and of the United States.”

- B. These policies formulate the standards for the uniform application of NRS 217.010 to NRS 217.270 in the determination of compensation to be paid by the VOCP.
- C. “Compensation payable to an approved applicant” as required by NRS 217.150 will consist of only those claims approved for payment by the VOCP pursuant to these policies.
- D. A claim submitted for payment by the victim or provider is an “approved claim” when all of the following occurs:
 - 1) Receipt of the claim by VOCP, with all required supporting documentation; and
 - 2) Verification that the claim is the responsibility of the applicant; and
 - 3) Verification that the claim is crime related; and
 - 4) Confirmation that the claim is for an approved benefit; and
 - 5) Review and application of appropriate fee schedule or other approved rate; and
 - 6) Approval by the compensation officer; and
 - 7) Approval by the VOCP coordinator; and
 - 8) Approval by the Administrative Services Division of the State Budget Office.
- E. New incidents, or injuries suffered during a pending claim, with the same perpetrator, will be consolidated and included under any existing open or approved claim. The compensation officer may approve medical treatment for additional injuries under the existing claim.
- F. An applicant may not accumulate additional benefits by filing additional or duplicate applications, where there are multiple incidents or ongoing claims with the same perpetrator. The compensation officer may, however, consider additional costs as a result of further or additional injuries while an approved claim is open.
- G. If the applicant suffers additional injuries from subsequent crimes, and the medical and other costs exceed the claim limit of the approved claim, the compensation officer may increase

the claim limit of the existing claim, or close the existing claim and open a new claim with a new claim limit as determined by the compensation officer.

- H. Additional or subsequent claims will not be denied because the applicant filed prior claims, regardless if those claims were accepted or denied, when such filings are in good faith and not to obtain unwarranted benefits or payments.

2. **Estimating Revenue and Expenses**

- A. NRS 217.260 (1) requires the BOE to estimate its revenue and anticipated expenses on a quarterly basis, and when anticipated expenses exceed anticipated revenue to pay claims at the same reduced rate as expenses exceed revenue. This section states, in pertinent part:

“The Board shall estimate quarterly:

- (a) The revenue in the Fund which is available for the payment of compensation; and*
- (b) The anticipated expenses for the next quarter.*

If the estimated expenses for the quarter exceed the available revenue, all claims paid in that quarter must be reduced in the same proportion as the expenses exceeded the revenue.”

- B. These policies establish priorities for the payment of claims so that approved expenses do not exceed available revenues in any fiscal year quarter. When claims are paid pursuant to these policies expenses will not exceed revenues budgeted for the payment of claims.
- C. The application of cost containment measures, including fee schedules and claim and benefit caps are intended to maintain claim costs in a manner to avoid blanket claim reductions by a percentage of estimated expenses over revenue as provided by NRS 217.260 (1).

3. **Claim Payment Priorities**

- A. In order to effectuate the provisions of the applicable statutes, and the standards and criteria stated in these policies, the VOCP will pay approved claims according to the priorities established in this section. Claims will be categorized and paid by priority as follows:

B. Priority One Claims

- 1) Priority one claims will be paid before all other existing or known claims are paid and consist of bills for medical treatment or services provided to the applicant that were pre-approved by the compensation officer, after the claim has been approved by the VOCP. Such claims may include expenses such as: surgery to remove bullets, reparative cosmetic or dental care, prosthetic devices, or equipment such as wheelchairs.
- 2) Priority one claims will be paid upon receipt of appropriate billing documentation from the provider or vendor. Priority one claims will be paid at the rate pre-approved by the compensation officer or pursuant to VOCP fee schedules or these policies.

C. Priority Two Claims

- 1) Priority two claims will be paid after existing or known priority one claims, and consist of bills for services or for benefits provided to the applicant after the application has been approved by the VOCP. These claims consist of expenses such as mental health counseling, lost wage reimbursement, prescription medication, relocation costs and medical expenses incurred after claim approval.
- 2) Priority two claims will be paid upon receipt of appropriate billing documentation by the provider. Priority two claims will be paid at the fee schedule rate or the rates set forth by these policies.

D. Priority Three Claims

- 1) Priority three claims will be paid after existing, known, or anticipated priority one and priority two claims and will consist of bills or claims incurred by the applicant prior to claim acceptance by the VOCP. Such claims include hospital emergency room bills, ambulance charges and other medical or service charges incurred prior to claim acceptance by the VOCP.
- 3) Priority three claims may be paid after funds are reserved, but not yet paid, for known or anticipated priority one or priority two claims.
- 4) Priority three claims will be paid at the end of each fiscal year quarter as follows:
 - a) When adequate funds are available pursuant to VOCP funding and budgeting priorities, priority three approved claims will be paid at 100% of the approved amount.
 - b) When budgeted and available funding for the fiscal year quarter is insufficient to pay approved priority three claims at 100% of the approved amount, then all approved priority three claims will be paid a pro-rata share of funds available for that fiscal year quarter.

E. A claim may be paid at any time, as determined by the VOCP regardless of its priority status. Designation of a priority status lower than another does not mean it will be paid after a claim designated with a higher priority status.

4. **Financial Analysis and Counseling**

A. In order to provide the maximum financial benefit within the limits set forth in these policies, the VOCP, or its contractor, will review and analyze all victims resources including insurance, public assistance or other available benefits, and crime related debts and obligations to determine what VOCP resources will provide the most effective assistance. An analysis of all existing crime related financial impact including anticipated future financial impact will be conducted to insure resources are utilized efficiently and in the interest of the victim's maximum recovery from the financial impacts of the crime.

- B. The VOCP, or its contractor, will assist the victim with financial counseling as may be required.
- C. The VOCP contractor will analyze and restructure the crime related medical debts incurred by the victim by reviewing all medical bills and recommending payments that should be acceptable to medical providers based on workers' compensation standards, VOCP policies, known acceptable rates for service or usual and customary standards.

5. Fee Schedules

- A. These policies recognize that VOCP revenues will not always be sufficient to pay all approved claims at the approved amount, and that priorities for the payment of benefits are necessary to ensure the fair treatment of applicants and providers or vendors.
- B. These policies establish the principle that the VOCP will endeavor to provide assistance to victims in a manner that will assist them recover from injuries and trauma first; and then assist them with financial relief from crime related debt, incurred by the victim prior to claim acceptance by the VOCP.
- C. The VOCP will negotiate or compromise claims in a manner that will provide the greatest debt relief to a victim at the least cost to the VOCP.
- D. When determining the validity of medical or other provider claims, the VOCP will consider the fee schedules adopted by the State of Nevada for payment of workers compensation claims, or other insurance industry fee schedules accepted by the provider, whichever provides the greatest discount for the VOCP.
- E. The VOCP may utilize the fee schedule recommended payment or may pay a larger or smaller amount than the recommended fee schedule amount when circumstances of a particular claim may require,
- F. Where medical fee schedules are not available for a particular claim or service the VOCP will consider the usual and customary charges for such services.
- G. When pre-approving medical treatment or other services the VOCP may adjust such fees as approved by the VOCP coordinator.

Section Four. Responsibilities of Applicant

1. General

- A. When applying to the VOCP, the burden of proof for determining eligibility lies solely on the applicant. The applicant must provide clear evidence of eligibility for any and all benefits provided by the VOCP. It is not the responsibility of the VOCP to obtain documentation to substantiate claims and statements made by the applicant.

- B. The applicant is responsible for obtaining and submitting all bills, receipts and other documents required by the VOCP to evidence eligibility for payment of expenses submitted for payment.
- C. If the applicant is unable to obtain reports, bills or other documents the applicant must advise the VOCP and provide information sufficient to identify the creditor, agency or provider so the VOCP can assist the applicant in obtaining the reports, bills or other documents or information.
- D. All notices, letters or other correspondence, and direct payments to applicants will be mailed to the applicant's current address on file with the VOCP. No payments may be picked up at the VOCP offices or its contractors, or vendor's offices.
- E. The applicant must inform the VOCP of any change of address. All notices and other correspondence directed to the applicant, that may require action by the applicant, will be mailed to the address on file with the VOCP. Failure to respond to a deadline stated in a determination or other correspondence will not be excused where the failure to respond is caused, in whole or in part, by applicants' failure to report address changes to the VOCP.

2. Continuing Obligations:

- A. An applicant shall have a continuing obligation to:
 - 1) provide the VOCP with current information relating to the claim;
 - 2) cooperate with the VOCP in the investigation of the claim including responding promptly to all requests for further information;
 - 3) notify the VOCP of any change in address;
 - 4) provide information to the VOCP about any civil action anticipated or filed in connection with the crime;
 - 5) exhaust all other sources of payment or reimbursement for compensable expenses, and promptly notify the VOCP of any order for payment or eligibility for payment from any other source.

3. Filing Timely Police Report

- A. To qualify for VOCP benefits an applicant must establish that a police report was filed within 5 days of the crime or within 5 days of the time when a report could reasonably have been made. NRS 217.210 (1) provides:

“Except as otherwise provided in subsection 2, an order for the payment of compensation must not be made unless the application is made within 1 year after the date of the personal injury or death on which the claim is based, unless waived by the Board of Examiners or a person designated by the Board for good cause shown, and the personal injury or death was the result of an incident or offense that was reported to the police within 5 days of its occurrence or, if the incident or offense could not reasonably have been reported within that period, within 5 days of the time when a report could reasonably have been made.”

- B. The VOCP coordinator is authorized, and designated by the BOE to approve a waiver of the late filed police report requests made by the applicant or the compensation officer. In determining reasonableness of delays in reporting the crime to law enforcement, the compensation officer may consider the following factors:
- 1) Mental or physical impairment of the victim, or
 - 2) Coma or memory loss, or
 - 3) Absence from the state following the crime for reasons of personal safety, or
 - 4) The victim failed to comprehend or realize they were a victim of a crime, or
 - 5) Justifiable fear for victims' safety, or the safety of family members, or
 - 6) Justifiable fear of violent retaliation, or
 - 7) Credible threat of family disruption or displacement.

4. **Cooperation with Law Enforcement**

- A. Victims are required to provide reasonable cooperation with law enforcement in the investigation of the crime or prosecution of the offender. Reasonable cooperation includes answering investigators questions truthfully and making reasonable efforts to assist in identifying the offender. NRS 217.220(1)(f) provides:

*“Compensation must not be awarded if the victim:
(f) Fails to cooperate with law enforcement agencies. Such cooperation does not require prosecution of the offender.”*

- B. Reasonable cooperation also includes making reasonable efforts to assist in the prosecution of the offender; however prosecution or conviction of the offender is not required in order to qualify for VOCP assistance. NRS 217.180(3) provides:

“An order for compensation may be made whether or not a person is prosecuted or convicted of an offense arising from the act on which the claim for compensation is based.”

- C. An application may be denied where the applicant or victim fails to provide reasonable cooperation as follows:

- 1) Refused to testify when legally served with a subpoena in a proceeding related to the prosecution of the crime;
- 2) Committed perjury relating to the crime;
- 3) Did not completely and truthfully respond to a request for information, evidence or assistance in a timely manner, unless circumstances beyond the victim's control prevented the victim from complying.

- D. VOCP policies recognize that circumstances may exist where the victim fears for their life or safety, or the life or safety of family members, if they cooperate with law enforcement. These factors will be considered in cases where failure to cooperate with law enforcement is raised.

E. Initial failure to cooperate may be mitigated or waived where the victim establishes the following:

- 1) Subsequent cooperation with law enforcement
- 2) Justifiable fear for victims' safety, or the safety of family members
- 3) Justifiable fear of violent retaliation
- 4) Credible threat of family disruption or displacement

5. Cooperation with the VOCP

A. The applicant must cooperate with the VOCP, its staff, and the staff of its contractors or vendors, in the verification of all information necessary to determine eligibility including verifying the information on the application and in all matters related to the claim.

B. The following actions establish a lack of cooperation with the VOCP and constitute grounds for denial of the application or denial of further benefits and closure of an approved, open claim:

- 1) The applicant fails to provide information needed to process the application or the claim, that is available to the applicant, or that the applicant may reasonably obtain, and the applicant fails to provide the information after being requested, in writing, to do so.
- 2) The applicant intentionally submitted false or misleading information or intentionally incomplete or inaccurate information.
- 3) The applicant intentionally submitted documents that were falsified, altered, or "doctored".
- 4) The applicant intentionally submitted for payment bills, receipts, vouchers, or other documents that were not crime related.
- 5) The applicant intentionally attempted to obtain benefits they knew they were not entitled to, such as lost wages during a period they were employed, or the payment of expenses not related to the crime.
- 6) Threatening or harassing the BOE, the VOCP staff, or the staff of its contractors or vendors.
- 7) Intentionally or knowingly disregarding the reasonable written requests or instructions from VOCP or BOE staff.
- 8) The applicant fails to provide the VOCP with a current mailing address and mail is returned undeliverable.

C. For the purposes of determining applicants' intent under these policies, the applicants' conduct is considered intentional where the applicant knew or reasonably should have known the document, assertion, or declaration was false, and submitted it anyways.

D. The compensation officer may immediately deny, or close a previously accepted application, under these circumstances or in situations where the applicants' actions impede the VOCP staff, or the staff of its contractors or vendors in the completion or prosecution of their duties.

- E. The compensation officer may also submit the matter to the Attorney General or other officials for prosecution if the applicant knowingly submitted false claims under NRS 217.270, or violated any other provision of law.

6. Restitution, Civil Suits, and VOCP Subrogation Lien

- A. A judge may order restitution to the victim or to the VOCP directly. If the victim receives money from a restitution order directly, they will be required to repay the VOCP.
- B. If an applicant files a civil suit against a perpetrator or a third party, the law requires them to notify and repay the VOCP pursuant to NRS 217.240 and these policies.

Section Five. Application for VOCP Benefits

1. General

- A. To qualify for VOCP benefits a victim must submit a completed VOCP application to the VOCP.
- B. Applications for assistance will be deemed to be complete only if:
 - 1) The applicant provides all information as directed in the application.
 - 2) The applicant signs the application as provided.
 - 3) The applicant submits, or the VOCP obtains, a valid police report or verification of the filing of the police report.
- C. For purposes of determining when the application is complete in the VOC-NET database, the police report will be considered “submitted” when it is scanned into the VOC-NET file and available for review as a file document.
- D. In DUI cases the application is not complete until a BAC report or other evidence or verification of intoxication is submitted, if such information is not included in the original police or traffic report.

2. Incomplete Applications

- A. Incomplete applications may be returned to the applicant for completion, or may be denied.
- B. Before an application will be considered complete, each of the following sections must be completed where applicable:
 - 1) Victim information
 - 2) Applicant information
 - 3) Residency status
 - 4) Crime information
 - 5) Crime expenses
 - 6) Prior disability information

- 7) Prior VOCP claims
- 8) Insurance information
- 9) Signature of applicant

- C. Information concerning persons assisting the victim complete the application, and advocate or attorney information, is only required where applicable.
- D. The demographic and statistical sections of the application are not mandated, however, the information requested will help the VOCP identify victim demographics, and provide more complete data for reports for the BOE, Nevada Legislature, Nevada Attorney General, U.S. Department of Justice, National Association of Crime Victim Compensation Boards, law enforcement organizations, and community and local victim service organizations, who address the needs of the victims of violent crime at the local level throughout Nevada, and others. *Answers to these questions will not affect the applicants' eligibility in any way.* Victim advocates who assist victims complete the application, and individual applicants, are encouraged to provide the demographic and statistical information requested in the application.

3. **Third - Party Applications**

- A. Victims, their dependents or next-of-kin, may submit applications for VOCP assistance. A "victim" will not include an individual or company who merely provides medical or medically related services, funeral and/or burial services, estates, or corporations. All such expenses will only be paid based upon the submission of such expenses through the particular victim or their qualified representative.

4. **Waiver of Late Application**

- A. Subsection 1 of NRS 217.210 states in part:

"Except as otherwise provided in subsection 2, an order for the payment of compensation must not be made unless the application is made within one (1) year after the date of the personal injury or death due to a crime on which the claim is based, unless waived by the board of examiners or a person designated by the board for good cause shown..."

- B. Waiver of a late-filed application means that the claim can be evaluated and processed despite the late filing. Waiver of a late application does not mean the applicant is eligible. Waiver allows the compensation officer to consider the application on its merits rather than simply deny it for being late.
- C. The following criteria will be considered in mitigation when evaluating a request for waiver:
 - 1) Whether the victim was aware of VOCP
 - 2) Whether the victim was physically unable to apply
 - 3) Whether the victim was mentally unable to apply
 - 4) Length of the delay

- D. Authority to waive the 12-month deadline, when applications are submitted between 12 and 18 months of the crime, after a showing of good cause, is vested in the compensation officer.
- E. Authority to waive the deadline on claims filed after 18 months, after a showing of good cause, is vested in the VOCP coordinator.

5. Application Signature Requirements

- A. When an applicant files an application with the VOCP, they are subject to certain conditions imposed by law or by these policies. Benefits are available to qualified applicants who complete the application, provide the requested information, and acknowledge and agree to the conditions imposed by law or these policies.
- B. The applicant must authorize the release of information about the victim or applicant from medical providers, police agencies and others. This requires the applicant to sign the application containing the pertinent declarations, statements, acknowledgements and releases. If the victim is a minor or incapacitated, a parent or legal guardian must sign on their behalf. If the applicant does not sign where required, or attempts to modify the statements contained therein, the application may be denied.

6. Acknowledgement of Subrogation, Financial Eligibility and Penalties

- A. The section titled “My Promise to Repay the VOCP” reflects the provisions of NRS 217.240, which gives the State of Nevada a subrogation lien on any recoveries by the victim as a result of the crime. This applies primarily to lawsuits but could also cover restitution, insurance, social security, or other payments to victims.

My Promise to Repay the VOCP: I hereby acknowledge my legal obligation to repay the VOCP any money paid to me, or paid on my behalf, by the VOCP, if I receive any money, from any source, as a result of the crime. I hereby agree to notify the VOCP if I hire an attorney to pursue a lawsuit or if I receive any court ordered restitution or other recovery including, but not limited to, insurance payments, settlements or other benefit payments.

- B. The section titled “Certificate of Financial Eligibility” reflects the provisions of NRS 217.220 that provides for denial if payment of the bills would not present a financial hardship on the victim. The statute allows the victim to have up to one years worth of salary in savings or investments and still be eligible.

Certificate of Financial Eligibility: I hereby certify that I do not have Savings or Investments exceeding the amount of my Annual Income, and that it would be a financial hardship if I were to receive no assistance from the VOCP. I hereby authorize any insurer, financial institution, government agency, or any other person with information about me to release information about me to the VOCP.

- C. The section titled “Penalties for Providing False Information” reflects the provisions of NRS 217.270, which makes it a crime to provide false information for the purposes of obtaining benefits.

Penalties for Providing False Information: I understand that I may be imprisoned or fined for providing false or misleading, or intentionally incomplete information to the VOCP. I declare under penalty of perjury and pursuant to Nevada law that all the information I have provided is true, correct and completed to the best of my information and belief.

7. VOCP Releases of Information

- A. The section titled “VOCP Release of Information” reflects the policy allowing the VOCP to release information as necessary to administer the claim or the VOCP. Typical examples include releasing certain information to obtain police or medical reports and providing victims names to vendors to verify claim acceptance or denial information.

VOCP Release of Information: I hereby authorize the VOCP to release information to police agencies, medical or other service providers, my advocate, attorney, or representative concerning my application or claim as necessary to administer the VOCP or my claim. No information will be released where prohibited by law.

8. Medical, Law Enforcement and Employment Releases

- A. The language of the following sections reflect the provisions of NRS 217.090 and NRS 217.100 which requires the compensation officer to review the victims medical reports and police reports and, in cases of wage claims, employment information. These releases allow the compensation officer to obtain such reports.
- B. The section titled “Medical Information Release” is used by the VOCP to comply with requirements of the Health Insurance Portability and Accountability Act of 1996, and allows the VOCP to obtain medical information about the victim.

Medical Information: I hereby authorize any hospital, medical clinic, physician, dentist, mental health provider, pharmacist, or any other medical provider to release any and all information including medical reports, histories, prognosis, treatment plans, billing information and any other information relating to my medical treatment for my crime related injuries or condition, to the VOCP as required by NRS 217.100. *This Medical Authorization shall automatically expire without express revocation one year from the date below.* This release is in compliance with all HIPAA regulations.

- C. The section titled “Law Enforcement Reports” allows the VOCP to obtain investigative reports regarding the crime.

Law Enforcement Reports: I hereby authorize any police, law enforcement agency, child protective agency, or Coroners office to release any police, investigative, incident report, or coroners report related to my application to the VOCP as required by: NRS 217.110 (2)(d), NRS 217.180, NRS 217.210 (1) and NRS 217.220 (1) and (2). I understand that

all such reports will remain confidential as provided by State and Federal law and NRS 217.105.

- D. Requests for Lost Wages benefits or Survivors benefits will also require the following employment release and acknowledgement, which must be signed by the victim or authorized applicant.

Employment Information: I hereby authorize my current or former employer to release any and all information concerning my employment status, including my wages, benefits, insurance, lost time or other information to the VOCP.

9. **Adult Applicants**

- A. Adult victims and applicants must sign the application. Adults who cannot sign because of physical or mental limitations may have a dependent or representative sign an application on the victim's behalf. Documentation, evidencing the applicant's legal authority to act on behalf of the victim, may be required by the compensation officer.

10. **Minor Applicants**

- A. A minor who is a victim of crime may qualify for assistance from the VOCP. NRS 217.210 provides that minors, who are the victims of sexual abuse or assault, or a victim of pornography, have until age 21 to file a claim with the VOCP.
- B. Late claims may be excused as provided in paragraph 8 above: Waiver of Late Application.
- C. Minor victims cannot file an application without parental or responsible adult authorization. An adult must sign on behalf of the minor victim. The following adults may file an application on behalf of a minor:
- 1) Parent
 - 2) Legal Guardian
 - 3) Victim Advocate
 - 4) Social Worker or Probation Officer
 - 5) Relative Caregiver
 - 6) Other Court-Approved Designees

Section Six. Police Reports

1. **Police Reports Required**

- A. An application for VOCP benefits cannot be approved unless a police report was filed. NRS 217.090 requires the compensation officer to verify certain facts contained in the reports of law enforcement agencies who investigated the crime. This section states in part:

"A compensation officer shall:

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(a) Conduct an investigation to determine the eligibility of the applicant for aid, including but not limited to: ...

(3) Obtaining and reviewing reports of peace officers and statements of witnesses.”

B. The compensation officer verifies the following information from the police report:

- 1) Whether the report filed within 5 days of the crime per NRS 217. 210.
- 2) Whether the crime committed is covered by the VOCP.
- 3) Whether the applicant was a victim of that crime.
- 4) Whether the applicant was injured during the crime.
- 5) Whether the applicant participated in the crime.
- 6) Whether the applicant contributed to their injuries.
- 7) Whether the applicant cooperated with the police.

C. Police Reports must be provided to VOCP pursuant to NRS 217.110 (3). This section states:

3. If a compensation officer submits a request pursuant to subsection 2 for investigative or police reports which concern:

(a) A natural person, other than a minor, who committed a crime against the victim, a law enforcement agency shall provide the compensation officer with a copy of the requested investigative or police reports within 10 days after receipt of the request or within 10 days after the reports are completed, whichever is later.

(b) A minor who committed a crime against the victim, a juvenile court or a law enforcement agency shall provide the compensation officer with a copy of the requested investigative or police reports within 10 days after receipt of the request or within 10 days after the reports are completed, whichever is later.

4. A law enforcement agency or a juvenile court shall not redact any information, except information deemed confidential, from an investigative or police report before providing a copy of the requested report to a compensation officer pursuant to subsection 3.

5. Any reports obtained by a compensation officer pursuant to subsection 3 are confidential and must not be disclosed except upon the lawful order of a court of competent jurisdiction.

6. When additional reports are requested pursuant to subsection 2, the compensation officer shall render a decision in the case, including an order directing the payment of compensation if compensation is due, within 15 days after receipt of the reports.

D. In order to expedite the processing of the application, applicants are encouraged to obtain and submit, along with the application, a copy of the crime report prepared by the law enforcement agency where the crime was reported. In cases where the applicant or their representative is unable to obtain a crime report, the VOCP will attempt to obtain the crime report by sending a written request for the report to the agency identified in the application.

E. No application will be complete until VOCP receives a copy of the crime report. The report must be a report generated by a law enforcement agency, or a voluntary statement from the victim or witness to the crime that shows evidence of receipt by the law enforcement agency.

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If the applicant does not provide a police report with the application, or otherwise, and the VOCP does not receive a report after 30 days after its written request, the application may be denied.

- F. The police report must be legible and sufficiently free of redactions, whiteouts, and other markings to be read and understood by the compensation officer. The report must contain sufficient information to establish eligibility of the applicant under these policies. Reports that do not meet these criteria may be rejected and applications supported by such reports may be denied.
- G. The compensation officer may request a subpoena for a police report to be issued by the hearing or appeals officer, at the discretion of the compensation officer, whether or not an appeal or hearing request has been filed. The hearing or appeals officer will issue the subpoena where the compensation officer establishes the following:
 - 1) that a written request for the police report was denied, or
 - 2) the request was not responded to, as verified by the compensation officer, or
 - 3) the report provided is unreadable or difficult to decipher due to whiteouts, redactions or other alterations.

2. Police Report Verification Form

- A. If a law enforcement agency is unable to release a full investigative report for any reason, it may submit a completed a “Police Report Verification” form as provided by the VOCP, in lieu of submitting an official police report. The submission of a police report verification form does not excuse the law enforcement agency from complying with NRS 217.110 by providing an official police report, if the compensation officer or a hearings or appeals officer otherwise requires an official police report.
- B. The police report verification form approved by the VOCP provides the facts of the crime including:
 - 1) the date of the crime and the date the crime was reported,
 - 2) whether the victim participated in the commission of the crime,
 - 3) whether the victim was involved in the events leading to the crime, and
 - 4) whether the victim cooperated with law enforcement.
- C. In cases involving DUI’s, any other information that may be necessary, such as drug or alcohol test results, or police officer observations or field sobriety reports, may be provided in the Police Report Verification Form. These facts may also be verified by letter, email, or otherwise.

3. When Police Reports are Unavailable or Not Required

- A. If a crime report is not required to be made to law enforcement, by other state or federal laws or regulations, or when a sexual assault victim submits to a forensic examination, but does

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not file a law enforcement report, the compensation officer may approve the claim without a crime report as long as there is sufficient documentation that a crime was committed against the applicant.

- B. Where the VOCP has made a written request to the law enforcement agency identified in the application, and the law enforcement agency is unable or unwilling to provide a copy of the official police report, the hearing officer may not remand the matter to the VOCP. The hearing officer may subpoena police reports or personnel, if it will assist the hearing officer determine whether the applicant is qualified for VOCP assistance under these policies.
- C. If the applicant appeals the denial of an application for reasons related to the adequacy or existence of a law enforcement report, they will have the burden of establishing, by official documentation, that a police report was filed and the requirements of NRS 217.210 have been met.

4. **Statements of Law Enforcement in Police Reports.**

- A. Law enforcement reports will be accepted as evidence by the hearing or appeals officer, and will not be subject to disqualification based on hearsay objections.
- B. The compensation officer will consider the following when evaluating law enforcement statements concerning applicants' cooperation:
 - 1) Whether the applicant was required to cooperate under any other state or federal law or regulation
 - 2) Whether applicant demonstrates subsequent cooperation with law enforcement
 - 3) Whether applicant demonstrates justifiable fear for victims' safety, or the safety of family members
 - 4) Whether applicant demonstrates justifiable fear of violent retaliation
 - 5) Credible threat of family disruption or displacement
- C. Statements of law enforcement officers contained in their reports will be considered, and significant weight will be given to the evidence from, and conclusions of a law enforcement agency when determining whether or not a crime occurred. Evidence from the victim that contradicts, corrects or clarifies such reports will also be accepted into evidence and given full consideration.

Section Seven. Crime Types Eligible for Consideration

1. **Murder: NRS 200.010**

- A. Murder is defined under NRS 200.010 as the *"unlawful killing of a human being"*.

2. **Assault and Battery: NRS 200.471; NRS 200.481**

- A. Assault is defined under NRS 200.471 as *"intentionally placing another person in reasonable apprehension of immediate bodily harm"*.

B. Battery is defined under NRS 200.481 as “*any willful and unlawful use of force or violence upon the person of another*”.

3. **Robbery: NRS 200.380**

A. Robbery is defined under NRS 200.380 as:

1....the unlawful taking of personal property from the person of another, or in his presence, against his will, by means of force or violence or fear of injury, immediate or future, to his person or property, or the person or property of a member of his family, or of anyone in his company at the time of the robbery.

4. **Driving Under the Influence: NRS 484.379**

A. NRS 484.379 states:

1. It is unlawful for any person who:

(a) Is under the influence of intoxicating liquor;

(b) Has a concentration of alcohol of 0.08 or more in his blood or breath; or

(c) Is found by measurement within 2 hours after driving or being in actual physical control of a vehicle to have a concentration of alcohol of 0.08 or more in his blood or breath,

to drive or be in actual physical control of a vehicle on a highway or on premises to which the public has access.

2. It is unlawful for any person who:

(a) Is under the influence of a controlled substance;

(b) Is under the combined influence of intoxicating liquor and a controlled substance; or

(c) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders him incapable of safely driving or exercising actual physical control of a vehicle,

to drive or be in actual physical control of a vehicle on a highway or on premises to which the public has access. The fact that any person charged with a violation of this subsection is or has been entitled to use that drug under the laws of this State is not a defense against any charge of violating this subsection.

5. **Pedestrian Hit & Run: NRS 484.219: NRS 484.111**

A. A Hit & Run crime occurs when someone violates the requirements of NRS 484.219, which states:

1. The driver of any vehicle involved in an accident on a highway or on premises to which the public has access resulting in bodily injury to or the death of a person shall immediately stop his vehicle at the scene of the accident or as close thereto as possible, and shall forthwith return to and in every event shall remain at the scene of the accident until he has fulfilled the requirements of NRS 484.223.

B. A Pedestrian is defined under NRS 484.111, which states:

“Pedestrian” means a person afoot, a person in a manual or motorized wheelchair, or a person on an electric personal assistive mobility device as defined in NRS 482.029.

6. **Sexual Assault or Spousal Rape: NRS 200.366**

A. Sexual Assault is defined under NRS 200.366, which states:

1. A person who subjects another person to sexual penetration, or who forces another person to make a sexual penetration on himself or another, or on a beast, against the will of the victim or under conditions in which the perpetrator knows or should know that the victim is mentally or physically incapable of resisting or understanding the nature of his conduct, is guilty of sexual assault.

B. Spousal Rape is defined under NRS 200.373, which states:

It is no defense to a charge of sexual assault that the perpetrator was, at the time of the assault, married to the victim, if the assault was committed by force or by the threat of force.

7. **Domestic Violence: NRS 33.018**

A. Domestic Violence is defined under NRS 33.018, which states:

1. Domestic violence occurs when a person commits one of the following acts against or upon his spouse, former spouse, any other person to whom he is related by blood or marriage, a person with whom he is or was actually residing, a person with whom he has had or is having a dating relationship, a person with whom he has a child in common, the minor child of any of those persons, his minor child or any person who has been appointed the custodian or legal guardian for his minor child:

(a) A battery.

(b) An assault.

(c) Compelling the other by force or threat of force to perform an act from which he has the right to refrain or to refrain from an act which he has the right to perform.

(d) A sexual assault.

(e) A knowing, purposeful or reckless course of conduct intended to harass the other. Such conduct may include, but is not limited to:

(1) Stalking.

(2) Arson.

(3) Trespassing.

(4) Larceny.

(5) Destruction of private property.

(6) Carrying a concealed weapon without a permit.

(7) Injuring or killing an animal.

(f) A false imprisonment.

(g) Unlawful entry of the other's residence, or forcible entry against the other's will if there is a reasonably foreseeable risk of harm to the other from the entry.

2. As used in this section, "dating relationship," means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement. The term does not include a casual relationship or an ordinary association between persons in a business or social context.

8. Child Abuse, Endangerment, Molestation: NRS 200.508

A. Child Abuse and Endangerment is defined under NRS 200.508, which defines the abuser as:

1. A person who willfully causes a child who is less than 18 years of age to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect or to be placed in a situation where the child may suffer physical pain or mental suffering as the result of abuse or neglect:

B. Sexual Abuse of a minor is defined under 432B.100, which states:

"Sexual abuse" includes acts upon a child constituting:

- 1. Incest under NRS 201.180;*
- 2. Lewdness with a child under NRS 201.230;*
- 3. Sado-masochistic abuse under NRS 201.262;*
- 4. Sexual assault under NRS 200.366;*
- 5. Statutory sexual seduction under NRS 200.368;*
- 6. Open or gross lewdness under NRS 201.210; and*
- 7. Mutilation of the genitalia of a female child, aiding, abetting, encouraging or participating in the mutilation of the genitalia of a female child, or removal of a female child from this State for the purpose of mutilating the genitalia of the child under NRS 200.5083.*

9. Elder Abuse: NRS 200.5092

A. Elder Abuse is defined under NRS 200.5092, which states:

1. "Abuse" means willful and unjustified:

(a) Infliction of pain, injury or mental anguish on an older person or a vulnerable person; or

(b) Deprivation of food, shelter, clothing or services which are necessary to maintain the physical or mental health of an older person or a vulnerable person.

2. "Exploitation" means any act taken by a person who has the trust and confidence of an older person or a vulnerable person or any use of the power of attorney or guardianship of an older person or a vulnerable person to:

(a) Obtain control, through deception, intimidation or undue influence, over the older person's or vulnerable person's money, assets or property with the intention of permanently depriving the older person or vulnerable person of the ownership, use, benefit or possession of his money, assets or property; or

(b) Convert money, assets or property of the older person or vulnerable person with the intention of permanently depriving the older person or vulnerable person of the ownership, use, benefit or possession of his money, assets or property.

↳ As used in this subsection, “undue influence” does not include the normal influence that one member of a family has over another.

3. “Isolation” means willfully, maliciously and intentionally preventing an older person or a vulnerable person from having contact with another person by:

(a) Intentionally preventing the older person or vulnerable person from receiving his visitors, mail or telephone calls, including, without limitation, communicating to a person who comes to visit the older person or vulnerable person or a person who telephones the older person or vulnerable person that the older person or vulnerable person is not present or does not want to meet with or talk to the visitor or caller knowing that the statement is false, contrary to the express wishes of the older person or vulnerable person and intended to prevent the older person or vulnerable person from having contact with the visitor; or

(b) Physically restraining the older person or vulnerable person to prevent the older person or vulnerable person from meeting with a person who comes to visit the older person or vulnerable person.

↳ The term does not include an act intended to protect the property or physical or mental welfare of the older person or vulnerable person or an act performed pursuant to the instructions of a physician of the older person or vulnerable person.

4. “Neglect” means the failure of:

(a) A person who has assumed legal responsibility or a contractual obligation for caring for an older person or a vulnerable person or who has voluntarily assumed responsibility for his care to provide food, shelter, clothing or services which are necessary to maintain the physical or mental health of the older person or vulnerable person; or

(b) An older person or a vulnerable person to provide for his own needs because of inability to do so.

5. “Older person” means a person who is 60 years of age or older.

10. Pornography Involving a Minor: NRS 200.700

A. The crime of involving a minor in pornography is defined in NRS 200.700, which makes it unlawful to produce or promote any sexual conduct or portrayal of a minor. Definitions include:

1. “Performance” means any play, film, photograph, computer-generated image, electronic representation, dance or other visual presentation.

2. “Promote” means to produce, direct, procure, manufacture, sell, give, lend, publish, distribute, exhibit, advertise or possess for the purpose of distribution.

3. “Sexual conduct” means sexual intercourse, lewd exhibition of the genitals, fellatio, cunnilingus, bestiality, anal intercourse, excretion, sado-masochistic abuse, masturbation, or the penetration of any part of a person’s body or of any object manipulated or inserted by a person into the genital or anal opening of the body of another.

4. *“Sexual portrayal” means the depiction of a person in a manner which appeals to the prurient interest in sex and which does not have serious literary, artistic, political or scientific value.*

11. **Human Trafficking: NRS 200.468**

A. The crime of Human Trafficking for illegal purposes is defined under NRS 200.468, which states:

1. *A person shall not transport, procure transportation for or assist in the transportation of or procurement of transportation for another person into the State of Nevada whom he knows or has reason to know does not have the legal right to enter or remain in the United States with the intent to:*

(a) Subject the person to involuntary servitude or any other act prohibited pursuant to NRS 200.463 or 200.465;

(b) Violate any state or federal labor law, including, without limitation, 8 U.S.C. § 1324a; or

(c) Commit any other crime which is punishable by not less than 1 year imprisonment in the state prison.

12. **Stalking: NRS 200.575**

A. The crime of Stalking is defined under NRS 200.575, which states:

1. *A person who, without lawful authority, willfully or maliciously engages in a course of conduct that would cause a reasonable person to feel terrorized, frightened, intimidated or harassed, and that actually causes the victim to feel terrorized, frightened, intimidated or harassed, commits the crime of stalking.*

13. **Kidnapping: NRS 200.310**

A. The crime of Kidnapping is defined under NRS 200.310, which states:

1. *A person who willfully seizes, confines, inveigles, entices, decoys, abducts, conceals, kidnaps or carries away a person by any means whatsoever with the intent to hold or detain, or who holds or detains, the person for ransom, or reward, or for the purpose of committing sexual assault, extortion or robbery upon or from the person, or for the purpose of killing the person or inflicting substantial bodily harm upon him, or to exact from relatives, friends, or any other person any money or valuable thing for the return or disposition of the kidnapped person, and a person who leads, takes, entices, or carries away or detains any minor with the intent to keep, imprison, or confine him from his parents, guardians, or any other person having lawful custody of the minor, or with the intent to hold the minor to unlawful service, or perpetrate upon the person of the minor any unlawful act is guilty of kidnapping in the first degree which is a category A felony.*

2. *A person who willfully and without authority of law seizes, inveigles, takes, carries away or kidnaps another person with the intent to keep the person secretly imprisoned within the State, or for the purpose of conveying the person out of the State*

without authority of law, or in any manner held to service or detained against his will, is guilty of kidnapping in the second degree which is a category B felony.

14. Terrorism: NRS 217.035; NRS 217.070; 18 U.S.C. § 2331(1)

A. Acts of Terrorism as defined by 18 U.S.C. § 2331(1) include:

- (1) the term “international terrorism” means activities that—*
 - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State;*
 - (B) appear to be intended—*
 - (i) to intimidate or coerce a civilian population;*
 - (ii) to influence the policy of a government by intimidation or coercion; or*
 - (iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping; and*
 - (C) occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum;*

Section Eight. Eligibility Standards and Criteria

1. General

A. NRS 217.160 defines who may be approved by the VOCP. This section provides:

NRS 217.160 Persons who may be awarded compensation.

1. The compensation officer may order the payment of compensation:

- (a) To or for the benefit of the victim.*
- (b) If the victim has suffered personal injury, to any person responsible for the maintenance of the victim who has suffered pecuniary loss or incurred expenses as a result of the injury.*
- (c) If the victim dies, to or for the benefit of any one or more of the dependents of the victim.*
- (d) To a minor who is a member of the household or immediate family of a victim of a battery which constitutes domestic violence pursuant to NRS 33.018 who needs an assessment, a psychological evaluation or psychological counseling for emotional trauma suffered by the minor as a result of the battery.*
- (e) To a member of the victim’s household or immediate family for psychological counseling for emotional trauma suffered by the member as a result of the crime of murder as defined in NRS 200.010.*

B. The VOCP assists victims of crime when the victim suffers “personal injury” as defined in NRS 217.050, which includes “actual” bodily harm or “threat” of bodily harm.

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- C. The VOCP assists persons who are responsible for the victim, who have suffered financial loss from a victim's injuries, such as assistance with emergency room bills, and other crime related expenses. This applies to minor victims and other victims who are not minors, but are dependent for their care because of mental or physical incapacities or disabilities, or otherwise as approved by the compensation officer.
- D. The VOCP assists dependents of the victim who have suffered financial loss from a victim's death, such as payment of survivor benefits, crime scene cleanup, and mental health counseling.
- E. The VOCP assists minors who witness domestic violence crimes, and minors and family members of murder victims, with mental health counseling.
- F. The VOCP compensation officer will issue a written determination if the applicant qualifies for the VOCP, or does not qualify, according to NRS 217.090. The determination notice will avoid reference to sensitive information or details concerning the application or crime.
- G. In order for an applicant to qualify for the VOCP, the applicant must meet eligibility criteria set forth in NRS 217 and these policies.
- H. Crimes covered by the VOCP are referred to throughout these policies with citations to Nevada law. Any such reference is not by way of limitation, unless so stated. These policies are intended to provide for victims of federal crimes similar to those described herein. Changes to, or errors in statutory citations, will not affect the application of these policies.

2. Physical Injury Claims

- A. A victim must suffer physical injury or death to qualify for certain benefits including payment of medical or dental bills, lost earnings or support, funeral expenses, crime scene clean up, prescription medication, and in most cases relocation expenses. NRS 217.070 (1).
- B. A physical injury or a death most likely will be documented in the Police Report. Crime related deaths are documented in the Coroners Report. Medical Reports, particularly emergency room reports, will document the victim's injuries. These documents may help the compensation officer determine if a victim qualifies for benefits, as well as the scope of the claim. To avoid delays victims are encouraged to submit these reports and other supporting documents or bills with their applications or as soon as they become available after an application has been completed and submitted.
- C. Crimes that qualify for benefits associated with a physical injury claim in Nevada are:
 - 1) Murder, NRS 217.070 (1), NRS 217.160 (e), NRS 200.010
 - 2) Assault and Battery, NRS 217.070 (1), NRS 200.471, NRS 200.481
 - 3) Robbery, NRS 200.380
 - 4) Drunk Driving, NRS 217.070 (4), NRS 484.379
 - 5) Pedestrian Hit and Run, NRS 217.070 (5), NRS 484.219

- 6) Any other violent crime identified in these policies or the laws of the State of Nevada, where the victim suffers physical injury.

3. **Catastrophic Injury Claims**

- A. Catastrophic Injuries are those that create a total and permanent disability for the victim, such as the loss of multiple extremities, paraplegia or quadriplegia, or loss of sight in both eyes.
- B. A Catastrophic Injury claim may be approved by the VOCP coordinator for up to \$100,000 as permitted by NRS 217.200. Additional funds may be used to pay for items that directly assist the victim, such as medical care and surgeries, extended lost wages, making a home or vehicle accessible, job training and vocational rehabilitation, home health care, or purchase of and/or training in the use of special appliances or prosthetic devices.
- C. A claim involving life-threatening injuries, where additional surgical or emergency medical care is required to save the life or when failure to receive necessary treatment will result in significant and permanent loss of an important bodily function, and where the cost of such necessary medical care exceeds the \$35,000 limit set by these policies, may be approved for additional funding up to a maximum of \$100,000 by the VOCP coordinator.
- D. When the VOCP determines that claim funding exceeding \$100,000 is required to continue benefits to a victim of catastrophic injuries the VOCP coordinator may request that a the claim limit be extended by up to an additional \$50,000, or up to a total of \$150,000, by submitting a request as set forth in NRS 217.200 (4). This section states:

“Upon approval of the Board, an additional award of not more than \$50,000 may be made to a victim. Before approving such an additional award, the Board must consider the amount of money remaining in the Fund for the Compensation of Victims of Crime created pursuant to NRS 217.260 and the particular circumstances of the victim.”

4. **Presumed or Emotional Injury Claims**

- A. Certain crimes resulting in emotional or mental injuries only, may be eligible for mental health counseling, child care, relocation, home security repair, and emergency housing or living expenses. The compensation officer does not need to find physical injury in the following crimes:
 - 1) Sexual Assault, NRS 200.366
 - 2) Domestic Violence, NRS 217.160 (d), NRS 217.220 (3), NRS 200.485
 - 3) Spousal Rape, NRS 217.050 (3), NRS 200.366, NRS 200.377
 - 4) Child Abuse, Endangerment, Molestation, NRS 217.070 (3), NRS 432B.100, NRS 200.508, NRS 201.230
 - 5) Incest, NRS 201.180
 - 6) Elder Abuse, NRS 217.070 (6), NRS 200.5099
 - 7) Pornography Involving a Minor, NRS 217.050 (2)
 - 8) Human Trafficking, NRS 217.050 (3), NRS 200.467, NRS 200.468

- 9) Stalking, NRS 200.575,
- 10) Robbery, NRS 200.380
- 11) An Act of Terrorism, NRS 217.035 (2), NRS 217.070

B. If an applicant is a victim of a crime that is ongoing such as: domestic violence and child abuse, an application does not need to be filed for each incident. A series of incidents is considered one crime for application purposes.

5. Threat of Injury Claims

A. Certain crimes or threats resulting in emotional or mental injuries only may be eligible for mental health counseling benefits through the VOCP. NRS 217.050 defines personal injury as: “actual bodily harm or threat of bodily harm which results in a need for medical treatment”.

B. A threat of physical injury includes, but is not limited to the following situations:

- 1) The victim was directly threatened with a weapon;
- 2) The victim was within sight and range or proximity of a person brandishing a weapon and reasonably felt threatened for their own safety;
- 3) The victim was directly threatened with serious bodily injury and there was a reasonable probability that:
- 4) The threat would be carried out; and
- 5) Physical injury would result if the threat were carried out.

C. Crimes that may qualify under threat of injury include:

- 1) Robbery, NRS 200.380
- 2) Kidnapping, NRS 200.320
- 3) Involuntary servitude, NRS 200.463
- 4) Trafficking in persons, NRS 200.467, NRS 200.468
- 5) Stalking, NRS 200.575,

6. Children’s Claims in Domestic Violence Cases

A. A minor is presumed to have sustained an injury as a result of a domestic violence crime if the child witnessed a domestic violence crime. This presumption qualifies the victim for mental health counseling benefits as provided by these policies.

B. The children of parties involved in domestic violence and assault, that are exposed to domestic violence, are entitled to independent VOCP claims and benefits, whether or not their parents file claims or have claims approved or denied.

C. A minor witnessed a domestic violence crime if the minor saw or heard an act constituting a domestic violence crime. NRS 217.160 provides:

“Persons who may be awarded compensation.

1. The compensation officer may order the payment of compensation:

(d) To a minor who is a member of the household or immediate family of a victim of a battery which constitutes domestic violence pursuant to NRS 33.018 who needs an assessment, a psychological evaluation or psychological counseling for emotional trauma suffered by the minor as a result of the battery.”

7. **Vehicle-Related Crimes**

A. Most vehicle-related crimes are not covered by the VOCP. Injuries from accidents caused by speeding, reckless or careless driving, and similar crimes are outside the scope of VOCP coverage. NRS 217.220 prohibits acceptance of motor vehicle accident injuries except in limited circumstances. NRS 217.220 provides:

“Award of compensation prohibited under certain circumstances; exceptions.

1. Except as otherwise provided in subsections 2 and 3, compensation must not be awarded if the victim:

(a) Was injured or killed as a result of the operation of a motor vehicle, boat or airplane unless the vehicle, boat or airplane was used as a weapon in a deliberate attempt to harm the victim or unless the driver of the vehicle injured a pedestrian, violated any of the provisions of NRS 484.379 or the use of the vehicle was punishable pursuant to NRS 484.3795 or NRS 484.37955”.

B. The BOE acknowledges the misplaced comma after the word pedestrian, in Section 1(a), may be read to allow claims where the driver injured a pedestrian even if the driver was not intoxicated or did not leave the scene, as required in NRS 217.070. The BOE rejects this interpretation and declares that until the Legislature acts to correct this grammatical error, the intent of this section is to assist victims of intoxicated drivers as otherwise provided in this section.

C. The following vehicle crimes qualify for the VOCP:

- 1) Injury or death intentionally inflicted through the use of: a motor vehicle, aircraft, or a water vehicle. NRS 217.220 (1) a)
- 2) Pedestrian injury or death caused by Hit and Run, NRS 217.070 (5). NRS 484.219
- 3) Injuries caused by someone driving under the influence (DUI). NRS 217.070 (4), NRS 484.379
- 4) Vehicular Manslaughter. NRS 484.3775, NRS 217.220 (1) (a)

8. **DUI Crimes**

A. The compensation officer, when evaluating an application for a case involving DUI, will consider any of the following as evidence in support of an application:

- 1) Blood alcohol content report,
- 2) Blood test for drugs,
- 3) Breath test report,
- 4) Evidence that driver failed roadside tests,

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- 5) Acceptance of case for prosecution for DUI,
- 6) Other credible evidence including statements from officers investigating the crime that indicate the driver was driving under the influence of alcohol.

9. **Ineligible Crimes**

- A. A crime, which does not result in physical injury, threat of injury, presumed injury, or death to the victim.
- B. Crimes that involve only property loss or damage.
- C. A crime that occurs in the workplace and is covered by workers compensation.
- D. Traffic crimes.
- E. Other ineligible crimes include fraud, theft, Identity theft, computer and web related crimes, property damage, trespass and vandalism.

10. **Prison or Jail Victims**

- A. Individuals who are incarcerated at the time of their injury or death are not eligible for compensation by the VOCP pursuant to NRS 217.220 (1) (d).

11. **Residency and Citizenship Requirements**

- A. Nevada law requires that applicants must be legally entitled to reside in the United States as a condition of acceptance by the VOCP. NRS 217.220 provides:

“1. Except as otherwise provided in subsections 2 and 3, compensation must not be awarded if the victim:

(b) Was not a citizen of the United States or was not lawfully entitled to reside in the United States at the time the incident upon which the claim is based occurred or he is unable to provide proof that he was a citizen of the United States or was lawfully entitled to reside in the United States at that time”.

12. **Financial Eligibility Standards**

- A. An application may be denied if the victim will not incur a serious financial hardship without VOCP assistance. In determining if a hardship exists the VOCP allows the victim to have up to one year’s earnings in savings or investments, plus the equity in a home and automobile, and still be financially eligible. NRS 217.220 (4) provides:

“The compensation officer may deny an award if he determines that the applicant will not suffer serious financial hardship. In determining whether an applicant will suffer serious financial hardship, the compensation officer shall not consider:

(a) The value of the victim’s dwelling;

(b) The value of one motor vehicle owned by the victim; or

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(c) The savings and investments of the victim up to an amount equal to the victim's annual salary."

- B. These policies recognize that few if any victims of violent crime have savings and assets equivalent to those set forth in this section of the law. These policies also establish an "institutional philosophy" that all victims deserve to be treated equally and deserve to be made whole regardless of their position in life.
- C. The VOCP does not require income, budget or other financial documentation to determine financial eligibility. This issue is addressed by having the victim sign a certification of eligibility, with the application, that the victim meets the criteria set forth in NRS 217.220.
- D. This certification supplants any requirement that an applicant provide detailed financial information to VOCP to establish "financial hardship". It does not diminish the requirement that crime related resources, such as civil law suit proceeds, be used to reimburse the VOCP.

Section Nine. Limitations on Compensation

1. Contribution: General Considerations

- A. To the extent the victim's acts or conduct provoked or contributed to the victim's injuries, the VOCP may deny the award to the applicant.
- B. To qualify for VOCP benefits, the applicant must not have participated in the crime that led to the victimization. A victim participated and is not eligible if they are a "coconspirator, codefendant, or accomplice" in the crime, or if they are an adult passenger of a DUI driver.

NRS 217.220 Award of compensation prohibited under certain circumstances;

1. Except as otherwise provided in subsections 2 and 3, compensation must not be awarded if the victim: ...

(c) Was a coconspirator, codefendant, accomplice or adult passenger of the offender whose crime caused the victim's injuries:

- C. Claims may be denied where the victim was engaged in illegal activities, or was committing a crime under Nevada law at the time of their injuries.

2. Contributory Conduct Considerations

- A. A victim who is involved in the events leading to the crime may not be eligible for VOCP benefits if the behavior of the victim contributed to the victim's injuries.
- B. Sec. 2. NRS 217.180 provides:

1. Except as otherwise provided in subsection 2, in determining whether to make an order for compensation, the compensation officer shall consider the provocation, consent or any other behavior of the victim that directly or indirectly contributed to his injury or death, the prior case or social history, if any, of the victim, the need of the victim or his

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dependents for financial aid and other relevant matters.

2. If the case involves a victim of domestic violence or sexual assault, the compensation officer shall not consider the provocation, consent or any other behavior of the victim that directly or indirectly contributed to his injury or death.

C. Definition of contributory conduct:

Contributory conduct is intentional conduct, willingly and knowingly engaged in by the victim that is both a direct cause, and a proximate cause, of the victim's injuries.

D. Applications will not be denied based on contributory conduct where:

- 1) The victim is a victim of sexual assault;
- 2) The victim is a victim of domestic violence;
- 3) The victim acts in self defense or defense of others;
- 4) The victim acts are attributable to reasonable efforts by the victim to aid a crime victim, to prevent a crime from occurring in his presence, or to apprehend a person who has committed a crime in his presence.

E. If an application is denied for issues related to contributory conduct and the applicant appeals the denial, the applicant will have the burden of establishing that their conduct meets the standards and criteria set forth in these policies. The VOCP will not be required to establish an applicant's behavior did not meet the standards established by these policies.

F. To qualify for benefits associated with physical injury claims an applicant must not act in a way that caused or contributed to their injury. The contributory conduct must be the "proximate cause" of the injury to disqualify an applicant from acceptance by the VOCP. Such conduct may be determined by the victim's actions immediately before or during the crime.

G. Applications for assistance may be denied in whole or in part if the victim suffered physical injury from:

- 1) crimes in which the victim deliberately provoked the offender by means of fighting words, "road rage", racial pejoratives or other taunting, or by threats coupled with overt actions indicating the victim's intent to carry out the threat;
- 2) crimes in which the victim initiated or significantly escalated a physical altercation with the offender;
- 3) crimes constituting acts of retaliation or retribution for a crime or crimes previously committed by the victim;
- 4) crimes committed during the course of an illegal drug transaction in which the victim was a knowing and willing participant;
- 5) crimes in which the victim's felony criminal record, coupled with the circumstances of the crime, lead to the reasonable inference that the crime for which the applicant seeks compensation was directly caused or provoked by the victim's criminal history.

3. Mitigating Factors

- A. Contributory conduct may be mitigated or excused in some circumstances. In cases where contributory conduct has been raised, the following mitigating factors may be considered:
 - 1) The victim is a victim of presumed or threat of injury crimes.
 - 2) The victim suffered an injury that was significantly more serious than reasonably could have been expected from their involvement in the events leading to the crime. For example: victim agrees to a fistfight and is shot, or uses a racial pejorative and is stabbed.
 - 3) Another person involved in the events leading to the crime escalated their conduct in a manner not reasonably foreseeable by the victim.
 - 4) A third party interfered in a manner not reasonably foreseeable by the victim.

4. Drug and Alcohol Intoxication Issues

- A. Alcohol or drug Intoxication is not a basis for the denial of benefits under these policies.
- B. Alcohol or drug intoxication may affect a victim’s memory and credibility concerning the events leading to and involving the crime.
- C. In some situations alcohol or drug intoxication may undermine apparent consent, such as in cases involving “date rape” drugs.
- D. These policies establish that drug or alcohol intoxication will not support a finding of consent and may be a mitigating factor in sexual assault and domestic violence/ assault cases.

5. Limited Claim Acceptance

- A. Where there are contributory conduct issues that suggest denial, and mitigating factors that may reduce applicants’ culpability only partially, the compensation officer may approve the claim for limited benefits, such as paying medical bills, but not lost wages or prescription medication benefits.

6. Prior Case or Social History

- A. NRS 217.180(1) requires the compensation officer to consider whether the victim has prior VOCP applications or claims. A claim may be denied or benefits may be limited where the victim has filed previous or multiple claims or has a social history of crime or gang involvement. NRS 217.180(1) provides:

“In determining whether to make an order for compensation, the compensation officer shall consider the provocation, consent or any other behavior of the victim which directly or indirectly contributed to his injury or death, the prior case or social history, if any, of

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the victim, the need of the victim or his dependents for financial aid and other relevant matters.”

- B. An applicant will not be denied compensation because of the applicant's or the victim's familial relationship with the offender or because of the sharing of a residence by the victim or applicant and the offender.
- C. The compensation officer may consider the victims social history, including their criminal history and criminal or gang affiliations.
- D. Claims may be denied where the circumstances of the crime are related to gang or criminal activity involving the victim, or where the victims' background is consistent with the criminal activity leading to victims' injuries.

Section Ten. Claim Limits and Payment Policies

1. General

- A. The VOCP pays or reimburses victims for a variety of crime related expenses including medical, counseling, funeral, lost earnings, prescription medication, relocation and other crime related costs pursuant to NRS 217.200. This section provides:

“Payment of compensation for expenses and losses; certificate for meritorious citizen’s service; limitations.

- 1. The compensation officer may order the payment of compensation ... to a victim for:
 - (a) Medical expenses, expenses for psychological counseling and nonmedical remedial care and treatment rendered in accordance with a religious method of healing, that are actually and reasonably incurred as a result of the personal injury or death of the victim;*
 - (b) Loss of earnings or support that is reasonably incurred as a result of the total or partial incapacity of the victim for not longer than 52 weeks;*
 - (c) Pecuniary loss to the dependents of a deceased victim;*
 - (d) Funeral expenses that are actually and reasonably incurred as a result of the death of the victim; and*
 - (e) Another loss which results from the personal injury or death of the victim and which the compensation officer determines to be reasonable.**
- 2. The compensation officer may order the payment of compensation for a person who pays the funeral expenses of a victim.*
- 3. An award must not be made for more than \$100,000.”*

- B. The VOCP may reimburse applicants for specified expenses incurred as a result of the crime, which are not reimbursed by other sources.
- C. Medical expenses incurred by a deceased victim may be considered for reimbursement only in cases where the applicant has incurred a legal obligation for payment as a relative or dependent of the victim as defined in NRS 217.060 to include:

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- 1) A spouse, parent, grandparent or stepparent;
 - 2) A natural born, step or adopted child;
 - 3) A grandchild, brother, sister, half brother or half sister; or
 - 4) A parent of a spouse.
- D. The VOCP does not reimburse expenses or pay for property loss or pain and suffering. There is no cash payment, award or settlement.
- E. When expenses are submitted for payment, the VOCP will verify that the treatment or service was necessary as a result of the crime, and that it is payable under these policies.
- F. To detect and prevent possible billing errors or fraud, the applicant may be required to verify that treatments or services were received as billed, before payment to the provider is made. Payment may be denied where the VOCP is unable to verify service delivery.

2. Claim and Benefit Limits

- A. Section 3 of NRS 217.200 provides a limit on the Board of Examiner's authority to approve benefit payments exceeding \$100,000 per approved claim, or up to an additional \$50,000 upon specific approval by the BOE.
- B. The claim limit established by these policies is \$35,000 per approved claim, except in cases of catastrophic injuries, where limits may be extended up to \$100,000 per claim upon approval of the VOCP coordinator, or up to an additional \$50,000 per claim, for a total of \$150,000 per claim upon approval of the BOE.
- C. The BOE may set the claim limit at any amount up to \$100,000 pursuant to authority granted in NRS 217.150. This section states in part:

"The Board shall, so far as practicable, formulate standards... in the determination of the amount of any compensation payable pursuant to NRS 217.010 to 217.270, inclusive."

- D. Section 3 and 4 of NRS 217.200 provides for limits on claims:

3. Except as otherwise provided in subsection 4, an award must not be made for more than \$100,000.

4. Upon approval of the Board, an additional award of not more than \$50,000 may be made to a victim. Before approving such an additional award, the Board must consider the amount of money remaining in the Fund for the Compensation of Victims of Crime created pursuant to NRS 217.260 and the particular circumstances of the victim.

- E. The amount of compensation that is payable per approved claim is determined by the BOE after consideration of factors which include an evaluation of resources available to the VOCP and demands for services offered by the VOCP in the state. The BOE also considers the type and amount of compensation payable in other states.

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- F. The claim limit is the total amount the VOCP can pay per approved claim, regardless of applicants' expenses or the number, or type of benefits approved by the VOCP.

For example, an applicant may be approved for lost wage benefits up to \$18,000, prescription medication reimbursement up to \$6,000, counseling up to \$5,000 and payment of hospital bills up to \$35,000. If the VOCP pays \$9,000 in lost wage reimbursement, \$3,000 for prescription medication, and \$3,000 for counseling the remaining amount for the hospital is \$20,000. The applicant may have hospital bills totaling \$30,000, but since the claim limit is capped at \$35,000 and \$15,000 has been paid, or reserved for other benefit payments, the hospital would only receive up to \$20,000. If the hospital accepts the payment of the lesser amount, the entire bill is deemed paid in full by NRS 217.245, and the applicant is relieved of any further legal obligation for that debt.

- G. The VOCP pays a variety of "benefits" on approved claims. Most benefits are defined and limited by these policies. These limits are a cap on expenditures in a specific benefit category, not a guarantee or right to such a benefit payment. Any benefit levels provided for in these policies may be adjusted from time to time as the BOE determines.
- H. A hearings or appeals officer may not order the compensation officer to pay any claim or benefit that exceeds the limits set by these policies.
- I. The VOCP coordinator is authorized to approve payments that exceed the approved medical fee schedules or claim benefit levels when such approval is necessary:
- 1) In emergencies, or
 - 2) As necessary to address unforeseen circumstances, or
 - 3) As required to meet a commitment by the VOCP to a medical or other provider or vendor, or
 - 4) For good cause as determined by the VOCP coordinator.
- J. Such approvals must be documented in the VOCP file.
- K. The VOCP may reimburse applicants for specified expenses incurred as a result of the crime, which are not reimbursed by other sources. When expenses are submitted, staff will verify that the treatment or service was necessary as a result of the crime and that it is covered by the VOCP.

3. **Verification Process**

- A. Prior to the compensation officer approval of any single direct payment of \$1,000 or more, to an individual who is not the applicant, or an established vendor in the VOCP claims management system, such as for reimbursement of funeral expenses, a staff member, other than the compensation officer, will contact the originating source of the receipt for reimbursable expenses, to confirm the provision of and payment for the services provided to the victim. The verifying party will document this secondary confirmation in the claim file.

- B. Prior to the compensation officer approval of any single direct payment of \$1,000 or more to the applicant, such as for reimbursement of lost wages, funeral, relocation or crime scene cleanup expenses, a staff member, other than the compensation officer, will contact the originating source of the receipt for reimbursable expenses, to confirm the provision of and payment for the services provided to the victim. The verifying party will document this secondary confirmation in the claim file.

4. Medical Bill Review

- A. VOCP policies establish maximum rates and service limitations for all compensation benefits. Medical, hospital, dental and other bills are reviewed by VOCP's contracted bill review company, and reduced to established medical fee schedules, primarily Nevada workers compensation fee schedule. Other discounts may be applied, and usual and customary rates for specific treatments may be used.
- B. When adequate funding is available, bills are paid according to these fee schedule recommendations. When funding is less than the total of bills approved each fiscal quarter then the bills are paid at a reduced percentage of fee schedule amount, based on available funding.

5. Applicant or Provider Not Authorized to Obligate VOCP

- A. An applicant is never authorized to obtain medical or other services or products, including prescription drugs, with the expectation that such services will be paid for by the VOCP, without express, written authorization by the compensation officer.
- B. A medical or other provider or vendor is never authorized to provide a service or product to an applicant with the expectation that such services or product will be paid for by the VOCP, without express, written authorization by the compensation officer.

6. Pre-Approval Required to Assure Payment

- A. Written pre-approval is required before any medical treatment or other service, will be assured approval and payment by the VOCP.
- B. Pre-approval for payment of any claim is valid for sixty days (60) from the date authorized, unless a different time is stated in the authorization. If a medical or other service is pre-approved, the compensation officer will document their authorization in the claim file.
- C. Failure of the applicant or the medical provider to obtain pre-approval from the compensation officer may result in the denial of payment of the claim, if funds are not available under the claim, or if claim funds have been pre-authorized or committed to other purposes.
- D. Claims for services provided to the victim prior to application approval, such as hospital emergency room bills, are paid at the end of each fiscal year quarter, and may be discounted below fee schedule as otherwise provided in these policies. Any medical or other provider, or

any other person who accepts payment from VOCP, even significantly discounted or reduced payments, accepts the reduced rate as “payment in full” for the treatment or services provided to the victim as provided by NRS 217.245. The medical or other service provider or any other person cannot collect unpaid balances from the victim or the VOCP.

7. Reimbursement to Applicants Limited to Fee Schedule

- A. Applicants may be reimbursed up to the fee schedule amount, or the amount determined by the VOCP to be “usual and customary, for any crime related medical or other bill approved for reimbursement by the VOCP.
- B. Approved applicants should not pay medical bills themselves in expectation of full reimbursement; since the VOCP may reimburse the applicant up to the fee schedule rate only. The fee schedule rate is usually significantly less than the billed amount paid by the applicant.

8. Pre-existing Conditions are not payable by the VOCP

- A. Requests for the payment of treatment for needs that existed prior to the crime will be denied by the compensation officer, and will not be accepted as a part of the victim’s claim. For example, requests for the VOCP to pay for prescriptions that the applicant had been receiving prior to the crime will be denied.

9. Second Opinions and Independent Medical Exams

- A. The VOCP retains the right to require an applicant to obtain a second opinion or IME from a medical provider chosen by the VOCP, before agreeing to pay any medical claim or medically prescribed treatment, prescriptions, medical device or other costs, or further medical benefits.
- B. If the applicant fails to cooperate with a request for a second opinion, the claim may be closed, and further benefits denied.
- C. All expenses associated with a VOCP required second opinion or IME will be paid from the victim’s claim as a medical expense.

10. Co-Pays and Deductibles

- A. In cases where the victim is covered by insurance, and is liable for co-pays or deductibles, the compensation officer will determine whether the treatment was a direct result of the crime and authorize payments for co-pays or deductibles up to the maximum allowed pursuant to the applicable fee schedule rate or these policies.
- B. If the co-payment or balance due on any bill exceeds \$1,000, VOCP’s contractor will review the original bill to VOCP bill review standards. If the amount already paid by the insurer is more than the VOCP would have paid, the Compensation Officer will pay 10% of the co-payment or balance due to satisfy the debt. If the amount paid by the insurer is less than the

VOCP would have paid, the Compensation Officer will pay the co-payment or balance due in full, or will pay the amount the VOCP would have paid less any payment made by the insurer, whichever is less.

Section Eleven. Available Benefits

1. Medical and Dental Care

- A. The VOCP can assist the victim pay medical and dental expenses that have been incurred as a direct result of the crime up to a maximum of \$35,000, upon receipt of an itemized statement from the provider for all medical or dental expenses incurred, including the business address, telephone number and federal taxpayer identification number.
- B. The VOCP will only pay for medical treatment or other goods or services that are related to, and necessitated by the crime for which the application was approved. If the applicant is receiving treatment for a preexisting injury or condition at the time of the crime, and the injury or condition is aggravated by the crime, the VOCP will pay only the portion of the treatment related to the aggravation. For instance if the treatment is 50% crime related and 50% necessitated by the preexisting condition, the VOCP will pay 50% of the cost of continued treatment.
- C. Except in cases of emergency or medical necessity, once an application has been approved by the VOCP, pre-approval may be required before any surgical treatment or other medical or dental care will be approved for payment by the VOCP. If approved, the compensation officer must document their authorization in the claim file. Failure of the applicant or the medical provider to obtain pre-approval from the compensation officer may result in the denial of payment of the claim.

2. Chiropractic Treatment and Physical Therapy

- A. Any chiropractic medical intervention, including physical therapy, prescribed on a claim is limited to a maximum of \$5,000. The VOCP will consider the payment of these bills upon receipt of an itemized statement from the provider for all chiropractic treatment and/or physical therapy provided, including the business address, telephone number and federal taxpayer identification number of the provider.

3. Ambulance or Medical Transport

- A. Ambulance services will be paid at 75% of the billed amount, upon receipt of an itemized statement from the provider, including the business address, telephone number and federal taxpayer identification number.

4. Surgical Implants

- A. Surgical implants will be paid on a cost basis only, upon receipt of an itemized statement and invoice, including the business address, telephone number and federal taxpayer identification number.

5. Prescription Medication Benefits

- A. The VOCP may reimburse applicant for prescription medications prescribed for up to 6 months after the crime. The VOCP may reimburse up to a maximum of \$6,000 for prescription medication during this time. The applicant may be required to provide medical documentation that the prescription medication is crime related and medically necessary.
- B. These limits may be extended if the victim undergoes VOCP approved surgery or other major medical procedures, necessitated by complications from previous medical care, or medical care follow up, such as removal of bullets or reparative cosmetic or dental surgery. Requests for extensions may only be approved by the VOCP coordinator upon application of the compensation officer supported by medical documentation.

6. Counseling and Mental Health Services

- A. Mental Health counseling benefits are available for all approved claims involving physical, emotional and presumed injuries. The VOCP may pay up to \$5,000 for mental health counseling where required as a direct result of the crime, upon receipt of an itemized statement from the provider, including the business address, telephone number and federal taxpayer identification number.
- B. Hourly fees for professional counseling and drug or alcohol treatment or therapy services will be based on the following schedule. Other disciplines not listed will be paid at the rates closest to their level of credentials listed here:
 - 1) Psychiatrist (MD) \$125.00
 - 2) Psychologist (PHD) \$100.00
 - 3) Licensed Marriage/Family Therapist (LM/FT) \$ 90.00
 - 4) Licensed Clinical Social Worker (LCSW), \$ 90.00
 - 5) Licensed Group Therapy \$ 50.00
 - 6) Certified Intern \$ 50.00
- C. An applicant requesting mental health counseling may be required to establish, through appropriate documentation, the need for medical or psychological treatment pursuant to the provisions of NRS 217.050, before payments are approved.
- D. The medical or counseling provider may be required to provide treatment plans and progress reports as may be necessary to verify the need for mental health counseling, treatment or therapy, and that such treatment is related to the crime.

7. Work Interruption Claims

- A. Lost wage or income reimbursement claims for temporary, crime disabilities or work interruptions lasting up to ten (10) working days, or up to \$700, may be approved by the compensation officer, regardless of the type of crime or type or nature of injury.

- B. The compensation officer may require verification by the applicant and/or the employer that the applicant was absent from work as a consequence of the crime.

8. Lost Wage Reimbursement Claims

- A. Lost wage reimbursement claims may be approved for crime related physical disabilities lasting more than ten (10) work days if the following conditions are met:
 - 1) The applicant provides a disability statement from their treating physician, on a form provided by the VOCP, verifying that the applicant was injured in the crime for which the application was filed, and the applicants disability was caused or worsened by the crime related injuries, and;
 - 2) The disability statement specifies the nature and length of the disability, and;
 - 3) The victim did not work during the disability period, and
 - 4) The victim was employed at the time of the crime and the wages paid have been verified with the employer; or
 - 5) The victim had a bona fide job offer, supported by documentation from the employer, describing the duties, dates and wages for the employment at the time of the injury. In such cases the VOCP may require documentary evidence of the victim's qualifications for the proposed job; or
 - 6) The victim was self-employed. In such cases the VOCP may require tax returns or other documentation as evidence of the validity of the victim's earnings.
 - 7) Verification that the employer provided no continuing wage benefits as part of its policies or practices.
- B. Loss of earnings may be paid at up to 100% of the victim's take home pay, up to a maximum of \$350 per week, not to exceed 52 weeks, or up to a maximum of \$18,200.
- C. Lost wages will only be paid to the victim or the surviving dependents of a deceased victim. Family members, relatives or dependents are not entitled to lost wage reimbursement benefits of a living victim who may be entitled to lost wages.
- D. Lost wage claims may not be paid where applicant is entitled to workers compensation or other disability payments, whether or not the applicant has applied for, or is receiving such benefits.
- E. A self-employed applicant must submit the following documentation:
 - 1) Copies of tax returns for the two years preceding the crime injuries.
 - 2) Copies of business licenses, permits, or other documentation of self-employed status and income.
- F. Lost wage or income benefits are intended to assist applicants with living expenses during a period of disability, not as a replacement for all lost wages or lost income.
- G. Retroactive lost wage reimbursement will not be made for more than 12 weeks of documented back pay. For example if an applicant applies for VOCP assistance 6 months

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after the crime, and is still disabled at the time of filing the application, they would be eligible for 12 weeks of back pay, plus current lost earnings from the date of the application, for up to 40 additional weeks. If the applicant is no longer disabled when they apply to the VOCP, they would be eligible for up to 12 weeks back wages only.

- H. All wage or lost income claims must be supported by a minimum of two forms of documentation evidencing the lost income. Claims for wages earned “under the table” i.e.: without documentation as required by these policies, will not be accepted.
- I. Evidence of loss of income may include:
 - 1) Copies of wage check stubs for periods immediately preceding the date of the crime
 - 2) Copies of federal income tax returns filed by the victim or applicant for the tax year immediately preceding the date of the crime or during the year of the crime
 - 3) A Statement of Wages or Income as used to file with federal or taxing authorities such as a W-2 IRS form actually filed with the taxing authorities
 - 4) A statement signed by the employer on a form approved by the VOCP, attesting to the payment of wages or income to the victim. The statement must include the name, telephone number and address of the employer or person who paid or would have paid the wages or income, and must be subject to verification by the VOCP. Unverified statements may be rejected and claims supported by them denied.
- J. A statement of disability must be signed by the treating physician or by a physician who has examined the victim, and include information concerning the diagnosis, the extent and expected duration of disability, and certification that the disability resulted directly from the crime.

9. Survivor Benefits

- A. Loss of income or support payments may be paid to qualified dependents of a deceased victim, who was employed at the time of the crime.
- B. Approved support will only be paid directly to a dependant of the victim as described in NRS 217.040. This section states:

“Dependent” means the relatives of a deceased or injured victim who were wholly or partially dependent upon his income at the time of his death or injury.

- C. Evidence of loss of income may include:
 - 1) Copies of wage check stubs of the victim for periods immediately preceding the date of the crime
 - 2) Copies of federal income tax returns filed by the victim or applicant for the tax year immediately preceding the date of the crime or during the year of the crime
 - 3) A Statement of Wages or Income of the victim as used to file with federal or taxing authorities such as a W-2 IRS form actually filed with the taxing authorities

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- 4) A statement signed by the employer of the victim attesting to the payment of wages or income to the victim, which includes the name, telephone number and address of the employer, or person who paid or would have paid the wages or income, and must be subject to verification by the VOCP. Unverified statements may be rejected and claims supported by them denied.
- D. Loss of support may be paid at up to 100% of the victim's take home pay, up to a maximum of \$350 per week, not to exceed 52 weeks, or up to a maximum of \$18,200.
- E. Retroactive loss of earnings or support payments will not be paid for more than 12 weeks from the date of application or up to \$4,200.

10. Funeral and Burial Expenses

- A. The VOCP may reimburse any individual who pays funeral and burial expenses for a deceased victim of crime. This benefit is not restricted to family members, but can be paid to any individual who has paid funeral and burial expenses for a qualified victim. The VOCP may reimburse up to \$5,000 for a deceased victim's funeral and burial expenses.
- B. Funeral Expenses Not Covered include:
 - 1) Costs of banquets or wake
 - 2) Food or beverages
 - 3) Floral Arrangements
 - 4) A pre-purchased funeral or grave
 - 5) Finance or interest charges

11. Relocation Expenses

- A. The VOCP can assist with relocation expenses in cases where the victim will be in danger of physical or emotional injury if the victim is unable to relocate to a safe environment, away from the perpetrator. The relocation must be directly related to the crime, and required to avoid additional victimization by the perpetrator of the crime for which the application was approved.
- B. In order to qualify for relocation expenses, the compensation officer may require one or more of the following:
 - 1) Law enforcement verification that the relocation is necessary for the victim's personal safety, or
 - 2) Mental health provider's statement that the relocation is necessary for the victim's emotional well-being, or
 - 3) Verification from an advocate, or service provider familiar with victims' circumstances.
- C. The applicant may be required to provide the VOCP with a signed rental agreement (if requesting rent or a security deposit).

D. The total amount for all relocation expenses cannot exceed \$2,500 per claim and may include:

- 1) Rent, including security deposit and first and last month's rent
- 2) Utility deposits and connection fees
- 3) Rental Trucks
- 4) Telephone deposits and connection fees
- 5) Temporary lodging
- 6) Other necessary expenses (airline, train, bus fares, credit check, etc.)
- 7) Emergency food expenses
- 8) Emergency clothing expenses
- 9) Mileage

12. Crime Scene Clean Up

A. The Applicant, in a case involving a homicide, may request payment or reimbursement for professional crime scene clean up for up to \$5,000. Receipts, estimates or other documentation satisfactory to the compensation officer must support any request.

13. Home Security

A. A victim may be eligible to receive reimbursement of up to \$1,500 for repairing or improving residential security. If the victim is deceased, a person who resided with the victim at the time of the crime may also be eligible. Some expenses that may be covered are:

- 1) Damaged alarms, keypads, cameras or motion detectors
- 2) Damaged locks, doors or windows
- 3) Repairing or replacing window bars or security doors
- 4) Replacing or increasing number of locks
- 5) Self-defense courses

B. The VOCP will not pay for:

- 1) Weapons (guns, mace, etc) or
- 2) Guard dogs.

14. Child Care

A. Childcare expenses incurred by a victim or secondary victim as a direct result of a qualified crime may be approved. The total benefit available for all affected children, per crime, may not exceed \$2,500.

B. The following conditions will be considered before reimbursement of childcare expenses:

- 1) The injured or deceased victim was a primary caregiver for the victim's dependent children.

- 2) The benefit may only be paid for victims who suffer physical injury or death as a result of the crime.
 - 3) The benefit may not be paid in addition to lost wage or income, or support payments.
 - 4) The benefit may only be paid for care provided up to 30 days after the date of the crime.
- C. The childcare expenses must be consistent with the usual and customary rates charge by the childcare provider for other children in the provider's care or other providers in the area.

15. Mileage Reimbursement

- A. Applicants, who are required to travel for medical treatment, counseling, or court appearances may be reimbursed for travel expenses. The expenses must be for the following reasons:
- 1) Medically indicated services related to the crime injury;
 - 2) Attendance at, or participation in scheduled investigative, prosecutorial, judicial, or post conviction events;
 - 3) Expenses for travel to the funeral or memorial of a victim, who died as a result of crime related injuries may be paid for certain family or household members.
 - 4) Other documented travel required by factors related to the crime or as requested by VOCP staff in the processing of the victim's application or claim.
- B. Mileage reimbursement will only be considered when the total distance travelled is more than 100 miles. The first 50 miles of travel is excluded from reimbursement. This means the VOCP will not pay for the first 50 miles of any round trip over 100 miles. Travel will not be reimbursed for any round trip of less than 100 miles.
- C. The actual costs for commercial transportation, food, and lodging may be paid for travel of more than 100 miles one way.
- D. Mileage reimbursement for automobile travel will be paid at \$.50 per mile, after the first 50 miles of any round trip over 100 miles.

16. Compensation Officer Discretionary Authority

- A. A compensation officer may recommend, to the VOCP coordinator, the approval of any crime related expense that is not specified in these policies, or the extension of a specified benefit. For instance a compensation officer may use up to \$500 to provide additional crime scene clean-up reimbursement, or additional mental health counseling, than the amount otherwise specified by these policies. Or the compensation officer may approve the repair or replacement of necessary items destroyed in the crime such as smashed windshields or slashed tires on an automobile used for transportation to work, or clothing seized as evidence.
- B. The discretionary authority provided by this section may be exercised in the compensation officer's sole discretion and only after approved by the VOCP coordinator. Any decision

concerning the exercise of this authority is not appealable and a hearing or appeals officer may not order the use of such authority.

- C. The VOCP coordinator may approve such requests where the request is supported by documentation satisfactory to the VOCP coordinator. Such discretionary requests may not exceed \$500 per approved claim and must be documented in the claims file.

Section Twelve. Claim Acceptance, Denial and Closure, and Reconsideration

1. General

- A. NRS 217.110 requires the compensation officer to approve or deny claims within 60 days of application. The compensation officer must consider and apply the provisions of NRS 217 and the policies set forth herein when considering applicants eligibility for VOCP benefits. This section provides:

“Review of application; appeal of denial by compensation officer; investigation of claim; availability and confidentiality of reports concerning crime committed by minor; decisions.

1. Upon receipt of an application for compensation, the compensation officer shall review the application to determine whether the applicant qualifies for compensation. The compensation officer shall deny the claim within 5 days after receipt of the application if the applicant’s ineligibility is apparent from the facts stated in the application. ...

2. If the compensation officer does not deny the application pursuant to subsection 1, ... he shall conduct an investigation and, except as otherwise provided in subsection 4, render a decision within 60 days after his receipt of the application or order. If in conducting his investigation the compensation officer believes that:

- (a) Reports on the previous medical history of the victim;*
- (b) An examination of the victim and a report of that examination;*
- (c) A report on the cause of death of the victim by an impartial medical expert; or*
- (d) Investigative or police reports,*

would aid him in making his decision, the compensation officer may order the reports.

3. Upon the request of a compensation officer pursuant to subsection 2 for investigative or police reports which concern a minor who committed a crime against the victim, a juvenile court or a law enforcement agency shall provide the compensation officer with a copy of the requested investigative or police reports. Any reports obtained by a compensation officer pursuant to this subsection are confidential and must not be disclosed except upon the lawful order of a court of competent jurisdiction.

4. When additional reports are requested pursuant to subsection 2, the compensation officer shall render a decision in the case, including an order directing the payment of compensation, if compensation is due, within 15 days after receipt of the reports.”

2. Claim Acceptance

- A. When a claim is accepted the compensation officer will approve the payment of eligible benefits promptly upon receipt of documentation necessary to establish the following:

- 1) The expense is related to injuries to victim during the crime for which the application is approved.
- 2) The expense is for an approved benefit.
- 3) The expense is for a service actually provided.

B. A claim which has been accepted, may be denied and/ or closed where the compensation officer determines any of the following;

- 1) The application was approved in error
- 2) The application was approved based on false or fraudulent information
- 3) The applicant fails or refuses to cooperate with the VOCP.

3. **Claim Denial**

A. NRS 217.110 provides: *The compensation officer shall deny the claim within 5 days after receipt of the application if the applicant's ineligibility is apparent from the facts stated in the application.*

B. Applications that do not meet the criteria set forth in NRS 217 and these policies may be denied at any time, even if previously accepted, whether benefits were paid or not.

C. Applicants who would otherwise qualify under NRS 217 and these policies, but who have no financial need because the applicant's injuries are covered by workers compensation, health or disability insurance, or other benefit or assistance programs, or who otherwise have no financial need for the assistance offered by the VOCP, will be denied.

D. When a claim is denied the compensation officer will notify the applicant of the denial citing the statute or BOE Policy reason for the denial. The notice of denial will advise the applicant of appeal rights and the procedure for filing an appeal.

E. Denial of an application should not be construed as a finding of wrong doing by the applicant. Denial of an application or any benefit provided by the VOCP is simply a determination by the VOCP that the applicant has not met the criteria for approval. Denial for "contributory conduct", "failure to cooperate", or for other reasons is not intended to imply guilt or liability on any applicant denied VOCP benefits.

F. If an applicant disagrees with a denial, and believes the compensation officer made a mistake in closing a claim or denying the application or a particular benefit, or has additional information, they may request reconsideration, or appeal the denial, by following the instructions on the notice of denial.

4. **Reasons for Denial**

A. The compensation officer may deny an application when it does not comply with NRS 217 or BOE Policies. Common reasons for Application Denial include:

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- 1) Accident – Not Covered by NRS 217
- 2) Application Filed Late/Not Excused
- 3) Application Previously Denied or Consolidated
- 4) Crime not Committed in Nevada
- 5) Crime Not Covered by NRS 217
- 6) Crime Reported After 5 Days
- 7) Failure to Cooperate with Police
- 8) Failure to Cooperate with VOCP
- 9) Incomplete Application
- 10) No Crime Described in Police Report
- 11) No Physical Injury or Threat of Injury
- 12) No Police Report Filed
- 13) No Police Report Found by Police Department
- 14) No Response from Applicant
- 15) Police Department Denys Request for Police Report
- 16) Police Report Indicates No Crime Occurred
- 17) Police Report Indicates Victim Perpetrator/Aggressor
- 18) Police Report Unreadable from Redactions
- 19) Prison/Jail Applicant
- 20) Vacated or Withdrawn
- 21) Victim Adult Passenger of DUI
- 22) Victim Contributed to their Injuries
- 23) Victim Ineligible to File
- 24) Victim Injured while Committing Crime
- 25) Victim Not Listed in Police Report
- 26) Victim Not Pedestrian – Hit & Run
- 27) Victim Not US Resident
- 28) Workers Compensation Claim

B. Applications for multiple incidents involving the same perpetrator will be consolidated with any prior, open applications filed by the applicant.

5. Consolidated Applications

A. Duplicate, Multiple, or Succeeding Applications will be denied or consolidated with any open prior application filed by an applicant.

B. Applications for multiple incidents involving the same perpetrator will be consolidated with any open prior application filed by the applicant.

6. Vacated Applications

A. Applications withdrawn by the applicant will be considered vacated and will have no impact on the applicants' ability to reapply.

B. Applications that are incomplete, inadequate or otherwise not completed by the applicant may be vacated or denied by the compensation officer.

7. **Inactive Claims and Claim Closure**

- A. Claims may be considered “inactive” where no documented claim billing activity, including, but not limited to further medical treatment or counseling activity occurs for a period of 180 days or more from the last billing or claim activity.
- B. An inactive claim may be reopened to active status *at any time* upon the request of the applicant, for any of the following reasons:
 - 1) The applicant has additional crime related expenses
 - 2) The applicant wishes to resume mental health counseling
 - 3) The applicant needs additional crime related medical treatment or care
 - 4) Other reasons as approved by the compensation officer
- C. Claims may be closed for payment of further benefits when any of the following has occurred:
 - 1) All known, crime related expenses, as approved by the compensation officer have been paid.
 - 2) Newly discovered information indicates the claim was accepted in error or in violation of these policies.
 - 3) Suspected fraud, dishonesty or deceit.
 - 4) Harassment of VOCP staff or VOCP contractors.
 - 5) Failure to cooperate with VOCP staff or its contractors, or
 - 6) The applicant has violated any of the provisions of NRS 217 or the policies adopted herein.
- D. Claims may be closed for the payment of further benefits when the compensation officer provides applicant with written notice that:
 - 1) the claim is being closed, and
 - 2) the applicant can request reconsideration, and
 - 3) The applicant has the right to appeal the claim closure.
- E. Notice of appeal rights will be provided with every notice of claim closure.
- F. In cases where maximum benefits have been paid, closure notice and appeal rights are not required.
- G. If an applicant appeals claim closure they must establish the following:
 - 1) the VOCP failed to pay an approved or approvable crime related expense; or,
 - 2) the VOCP failed to pay an approved or approvable crime related benefit; and
 - 3) there were claim funds available for their payment, or
 - 4) the compensation officer abused their discretion in applying these policies or the provisions of NRS 217 when closing the claim for further benefits.

8. Reconsideration

- A. An applicant may request compensation officer reconsideration of closures or denials before or after filing an appeal.
- B. When requesting reconsideration the applicant should provide the information that cures the deficiency that led to the compensation officer's decision to close or deny the claim.
- C. The request for reconsideration may be made instead of an appeal. If a written request for reconsideration is made, it will extend the time to appeal the compensation officer determination until the request for reconsideration is approved or denied.
- D. If the reconsideration is denied, the decision closing or denying the claim can then be appealed.

9. Reopening

- A. An approved applicant, whose claim has been closed, may request reopening to request payment of documented crime related expenses, not paid at the time of claim closure, or to seek additional crime related medical care.
- B. Reopening will not be approved if the claim was closed for any of the following reasons:
 - 1) Fraud, deceit or dishonesty,
 - 2) Harassment of VOCP staff or VOCP contractors,
 - 3) Failure to cooperate with VOCP staff or its contractors, or
 - 4) The applicant has violated any of the provisions of NRS 217 or the policies adopted herein.
- C. Claims reopened for payment of additional crime related expenses may be re-closed without further notice or appeal rights. Such closure does not affect an applicant's ability to request reopening again.

10. Protection from Collection Agencies

- A. It is illegal under Nevada law for a vendor or provider to bill or hold the applicant responsible for the difference between the billed amount and the amount paid by VOCP and accepted by the provider. NRS 217.245 provides that when a provider or vendor accepts payment from the VOCP the payment is considered payment in full. This section states:

“Acceptance of payment from Board for certain services provided to victim constitutes payment in full. Notwithstanding another provision of law, if a person who provides a service to a victim for which compensation is ordered pursuant to paragraph (a) of subsection 1 of NRS 217.200 accepts payment from the Board for such a service, the person shall be deemed to have agreed to the condition that:

- 1. Such payment by the Board constitutes payment in full for the service provided;*

and

2. *The person may not collect or attempt to collect further payment from the victim or person on whose behalf the payment is made by the Board.*”

- B. If a bill collector, or anyone else, attempts to collect from the applicant after the bill has been paid by the VOCP, they should be told to cease all collection activities or risk criminal charges under NRS 217.245. VOCP staff will assist the victim in stopping collection activity after approved claims have been paid.

Section Thirteen. VOCP Subrogation Rights

1. Subrogation Lien

- A. The VOCP is entitled to be reimbursed any funds expended on any claim in the event the applicant obtains any recovery, either by civil lawsuit, restitution, or any other crime related payment, settlement, or reimbursement. NRS 217.240 provides:

“Recovery by applicant: Subrogation; duty of notice and payment. An applicant who accepts an award does so under the following conditions:

1. The State of Nevada is immediately subrogated in the amount of the award to any right of action or recovery the applicant may have against any party, and that right of subrogation may be diminished for attorney’s fees and other costs of litigation in obtaining a recovery from another source; and

2. If recovery from any source is obtained for damages caused by the crime, the applicant shall promptly notify the Department of Administration of the source and amount of that recovery, and shall promptly pay to the Board the lesser of the amount of the award made pursuant to this chapter or the amount recovered less attorney’s fees and costs. The duty of notice and payment pursuant to this subsection continues until the amount of the award has been repaid to the State of Nevada.”

- B. If the applicant received money from another person or entity, including any collateral source, for any expense paid by the VOCP, the VOCP has the right to recover this money.
- C. The VOCP has the authority to seek restitution from the offender for any money paid by the VOCP, and is subrogated to any collateral source that is available to the victim.
- D. If it is discovered that an applicant was not actually eligible to receive an award of any payments or other benefits the VOCP may recover the payments made.

2. Civil Suit by VOCP

- A. The VOCP may pursue a legal action to receive reimbursement, repayment, or subrogation. The VOCP has a right of reimbursement, repayment and subrogation from:
- 1) The offender who was convicted of an offense, which resulted in an award. Multiple offenders are jointly and severally liable.

- 2) A third party who has an expressed or implied contractual or legal relationship, which obligates them to pay any expenses.
- 3) Ineligible applicants, or applicants who have been overpaid, or paid benefits they were not entitled to.

B. Where the VOCP, commences an action against the person or persons responsible for the victim's injuries to recover monies compensated to a claimant, the claimant shall cooperate fully with the VOCP in pursuit of its action including, but not limited to, joining as a party to said action.

3. **Civil Suit by Applicant**

A. Applicants, who successfully pursue civil suits to recover damages, are entitled to a credit for their costs and attorney fees when determining the amount the applicant must pay to satisfy the VOCP subrogation lien.

B. To receive credit for attorney fees and costs the applicant is required to provide the VOCP with information about the civil suit, including the amount recovered by judgment or settlement, and the amount of attorney fees and costs. The VOCP will not consider reducing its lien or sharing in the attorney fees and costs without this information. In such cases the applicant will be required to repay 100% of the VOCP lien without a credit for fees and costs.

C. In calculating the value of attorney fees and costs the VOCP will apply the calculations set forth in the formula devised by the Nevada Supreme Court in Breen v. Caesar's Palace, 715 P.2d 1080 (Nev. 1986). The formula used to determine the amount due the VOCP is calculated as follows:

The maximum percentage of the VOCP share of attorney fees is determined by dividing the VOCP Lien Amount by the Amount of Settlement, less the Amount of attorney's fees. Next multiply the percentage obtained by the attorney's fees. This amount is deducted from the VOCP Lien Amount. For example, if the settlement was for \$100,000, and the attorney's fees were \$33,333.33 and the VOCP lien was for \$35,000.00, the VOCP's share of the attorney's fees would be 52.5% [$\$35,000 / (\$100,000 - \$33,333.33)$], or \$17,500.00 and the net due to the VOCP in subrogation would be \$17,500.00 [$\$35,000 \text{ Lien less } \$17,500 \text{ in attorney's fees}$].

D. VOCP liens may be waived entirely when the applicant demonstrates that the recovery is insufficient to adequately cover the damages suffered by the applicant due to the crime, and the VOCP determines the recovery by the victim outweighs the VOCP interest in its subrogation recovery.

E. The VOCP Coordinator is authorized to approve all compromises, settlements or waivers of subrogation liens. All subrogation lien compromises, settlements or waivers will be documented in the VOCP case file. The amount recovered from subrogation payments or other recoveries may be credited back to the claim increasing available benefits by the credited amount.

Section Fourteen. Appeal Rights and Procedures

1. Appeal Rights

A. When a claim or benefit is denied, and appeal rights are stated in the determination denying the claim or benefit, an applicant has sixty (60) days to appeal the denial by filing a request for hearing with the Hearings Division of the Department of Administration.

B. NRS 217.110 (1) provides:

“Upon receipt of an application for compensation, the compensation officer shall review the application to determine whether the applicant qualifies for compensation. The compensation officer shall deny the claim within 5 days after receipt of the application if the applicant’s ineligibility is apparent from the facts stated in the application. The applicant may appeal the denial to a hearing officer within 60 days after the decision. If the hearing officer determines that the applicant may be entitled to compensation, the hearing officer shall order the compensation officer to complete an investigation and render a decision pursuant to subsection 2. If the hearing officer denies the appeal, the applicant may appeal to an appeals officer pursuant to NRS 217.117. “

C. Determinations that are appealable under these Policies or the provisions of NRS 217.112, will include appeal rights substantially similar to the following:

APPEAL RIGHTS:

If you disagree with this decision, you have the right to appeal to the Hearing Officer. Appeals must be filed within sixty (60) days from the date of this letter by sending a copy of this letter with a written request for a hearing to:

*Department of Administration Hearing Division,
Address and Fax #*

The VOCP website has appeal forms in English and Spanish, and helpful information about your appeal rights, and the appeals process at: www.voc.nv.gov

2. Failure to Respond to Written Request

A. The compensation officer will respond to the written requests concerning benefit or claim issues within 30 days of the receipt of the written request.

B. If the compensation officer does not respond to a written request of the applicant, concerning claim or benefit issues provided for in these policies, within 30 days of the compensation officers’ receipt of the written request, the applicant may request a Hearing Officer review of the compensation officer’s failure to respond to the written request.

C. The Hearing Officer may consider the request if the matter is within the Hearing Officers jurisdiction, or may remand the matter for review by the compensation officer.

3. Non-Appealable Matters

- A. Applicants may only appeal written determinations of the compensation officer, or the failure to respond to a written request as provided for in these policies. Unless otherwise provided for in these policies, or by law, only written determinations by the compensation are subject to the jurisdiction of the Hearings Division under the provisions of NRS 217.112.

4. Burden of Proof

- A. To qualify for the benefits offered by the VOCP, the applicant must meet certain criteria, and the crime must be an eligible crime. The applicant has the burden of proof, by clear and convincing evidence to establish eligibility for acceptance and payment of any benefit offered by the VOCP.
- B. This level of proof places the burden of establishing eligibility on the applicant or victim by clear and convincing evidence as opposed to merely by a preponderance of the evidence. For instance claims for benefits such as lost wages or relocation payments must be supported by original, valid, business documents, such as receipts or tax returns. The applicant, to the reasonable satisfaction of the VOCP, must answer questions concerning the legitimacy of such documents.
- C. It is not the responsibility of the VOCP to prove the documents are not legitimate but rather the applicants' responsibility to prove they are. Doubt will be resolved in favor of the VOCP decision, unless overcome by evidence that is clear in its validity and convincing in its application to the matter under review.

5. Appeals Process

- A. The compensation officer will promptly notify the applicant if their application is denied, and the reason for the denial. The notification will include the applicant's appeal rights as specified in NRS 217.112. An applicant may appeal any written determination where appeal rights are stated in the determination or as otherwise provided by law or these policies.
- B. To avoid disclosure of sensitive information, and possible embarrassment to the applicant, the reason stated for denial will refer to the general reasons for denial set forth in these policies and will not cite details of the crime.
- C. Hearings conducted in VOCP matters by hearings or appeals officers are not open to the public except with the consent of the applicant.
- D. Decisions of the hearings or appeals officers are confidential documents and not available to the public without the written consent of the applicant or as otherwise required by law or court order, or these policies.

6. Appeal to a Hearing Officer

- A. If an applicant disagrees with a written determination of the compensation officer, which includes appeal rights as provided in these policies, the applicant may appeal the determination to a Hearing Officer as provided in NRS 217.112. This section requires the appeal to be filed within 60 days and states:

“1. An applicant who is subject to the provisions of this chapter may request a hearing before a hearing officer on any matter within the hearing officer’s authority. The compensation officer shall provide with his decision the necessary information for requesting such a hearing.

2. An applicant aggrieved by a compensation officer’s decision may appeal the decision by filing a request for a hearing before a hearing officer. Such a request must be filed within 60 days after the Clerk or compensation officer mailed the decision.

3. Failure to file a request for a hearing within the period specified in subsection 2 may be excused if the applicant shows by a preponderance of the evidence that he did not receive the notice of the decision and the information necessary to request a hearing.

4. The applicant shall notify the compensation officer and the hearing officer in writing of a change of address within a reasonable time after that change.”

- B. The time allowed to file an appeal includes an additional 3 days for mailing.
- C. The hearing officer will conduct an informal hearing, usually within 30 days of a request for hearing. The applicant may attend the hearing in person, by telephone, or may submit a written statement in lieu of appearing in person or by phone.
- D. The VOCP will, prior to the hearing, submit a written statement to the hearing officer and provide a copy of the statement to the applicant. The compensation officer may attend the hearing in person, by telephone, or may rely on the statement submitted to the hearing officer without appearing at the hearing.
- E. If the hearing officer does not resolve the matter, the applicant or the VOCP, may appeal the hearing officer decision to an appeals officer.

7. Appeal to Appeals Officer

- A. If either the applicant or the VOCP appeals a decision of the hearing officer, the compensation officer will compile an evidentiary package for the appeals officer that will include, but not to be limited to, the following:
- 1) A report or statement concerning the issue on appeal, and
 - 2) Documents in possession of the VOCP that were considered in the decision being appealed.
- B. Copies of this evidentiary package will be provided to the applicants address on file with the VOCP. Documents containing information considered confidential by law will be redacted.

- C. The compensation officer will be available to the appeals officer, either in person or by telephone or may submit the matter for decision based on the evidentiary package submitted to the appeals officer.

8. Appeals to the Board of Examiners

- A. If either the applicant or the VOCP appeals a decision of the appeals officer to the BOE, the VOCP coordinator will notify the appeals officer who will provide the BOE with a record of the appeals officer proceeding. The VOCP coordinator will submit a recommendation to the BOE.
- B. The Board will review the decision of the Appeals Officer and may affirm or reverse the Appeals Officer decision.
- C. The Board may also remand the matter to the appeals officer or the VOCP for further consideration or proceedings.

9. Decisions of the BOE

- A. A decision of the BOE concerning a hearing it conducted may be made at the conclusion of the hearing, or at a subsequent meeting.
- B. The BOE may adopt the written recommendation of the VOCP coordinator, or render its own decision in the matter.
- C. The decision of the BOE is effective upon its vote.
- D. The Clerk of the BOE may sign any order or decision necessary to effectuate the decision of the BOE.
- E. The Clerk of the BOE will notify the appellant, and VOCP coordinator of its decision.

Section Fifteen. Victim Advocates and Attorneys

1. Advocate Assistance

- A. Victim advocates provide a variety of services to victims of crime. An important priority among their duties is providing assistance completing applications for compensation from the Victims of Crime Program. If an agency or program receives federal funding for victim of crime assistance they are required by law to assist victims complete the VOCP application and to assist them obtain VOCP benefits.
- B. These policies will assist victim advocates understand VOCP rules and identify available benefits. They will assist advocates comply with federal law by providing guidance to those submitting VOCP applications and in helping victims obtain appropriate crime related benefits.

2. Federal Requirements

- A. United States Code, Title 42, Chapter 112, § 10603, Crime Victim Assistance Section 10603 (b)(1)(E) requires recipients of federal VOCA funds to assist victims' complete VOCP applications. This federal law provides in part:

“(1) A victim assistance program is an eligible crime victim assistance program for the purposes of this section if such program ...
(E) Assists potential recipients in seeking crime victim compensation benefits”

3. The Advocate's Role in the Appeal Process

- A. The VOCP encourages victim advocates to assist the applicant in the appeals process. If a claim is denied an advocate may be a significant help to the victim by assisting the victim with the appeal. The majority of claim denials are because the victim failed to provide necessary information to the VOCP and failed to respond to a request for additional information from the VOCP.
- B. The victim advocate can help the victim complete the application process and help the victim respond to VOCP requirements or communications. The advocate can help the victim obtain and present required information or documents, such as police or medical reports, to the hearing officer.
- C. If the advocate chooses to assist the victim, they will receive copies of all correspondence from the VOCP related to the claim. If the advocate wishes to assist the applicant in the appeal process the applicant must sign the consent on the application.
- D. Advocates are not required to be licensed to practice law in order to assist an applicant with appeals of VOCP decisions.

4. Attorney Fees

- A. Attorney fees may be allowed in payment to Nevada attorneys for legal services in assisting the victim apply and recover benefits available through the VOCP pursuant to NRS 217.140. This section states:

“1. The hearing officer may, as part of any order entered pursuant to the provisions of NRS 217.010 to 217.270, inclusive, allow reasonable attorney's fees, but these fees may not exceed 10 percent of the award.

2. It is unlawful for any attorney to ask for, contract for or receive any larger sum than the amount so allowed.”

- B. The VOCP may pay attorney fees in an amount not to exceed 10% of the amount paid to the victim, or on the victims' behalf, upon submission of an itemized statement for legal services provided and approval by the hearing officer.

- C. Attorney fees may be paid only to the extent claim balance funds are available at the time such fees are requested, and must be approved by a hearing officer as provided in NRS 217.140. Attorney fees paid will be charged against the claim as a claim cost.

Section Sixteen. VOCP Claims Management System

1. Paperless Claims Management System

- A. In conjunction with its contractor, the VOCP manages all VOCP claims via an Internet based, paperless, claims management system. This system provides for the imaging of all documents related to a claim, upon receipt. All file documents can be viewed while logged on to the system, and claims can be processed, approved and paid electronically.
- B. In order to promote this technology, and the efficiencies of the paperless management system, these policies establish the electronic images of the original documents will be deemed to be an original document, as defined in NRS 52.205 for all purposes, including satisfying any requirements for original documents or signatures by any police agency, medical provider, employer or other party identified by these policies or the authorizations approved herein.

2. File Retention

- A. After paper documents are imaged and uploaded to the claims management system, all documents will be destroyed by shredding, any time after 30 days of being scanned into the system. Electronic documents will be retained for a period of not less than 7 years after a claim closes, or in the case of a minor victim, 7 years after the victim reaches the age of 21.

3. Systems Security and Backup

- A. All data contained in the claims management system is solely the property of the State of Nevada VOCP. The VOCP contractor will provide a full backup of the data and documents to the VOCP coordinator in electronic form on a monthly basis. The backup information will be provided on compact disks in a sealed envelope, and will be delivered to the VOCP coordinator office by the 5th of each month. The VOCP coordinator will maintain the back up disk in a secure location.
- B. The VOCP contractor is responsible for ensuring that all data and documents contained in the VOCP operating system and a fully functional version of the operating system is backed up daily and maintained in a secure offsite location.

4. System Functionality

- A. To ensure compliance with VOCP Policies, the claims management system used by the program performs the following functions:
 - 1) Tracks all benefits paid on individual claims by benefit type
 - 2) Ensures benefits paid do not exceed benefit levels approved by the Board

- 3) Allows program to reduce benefits paid on a percentage basis whenever necessary
- 4) Allows benefit levels to be changed on individual claims with authorization of the coordinator or the Board
- 5) Tracks and documents all critical changes to a claim
- 6) Provides a multi-level approval process for all benefits paid
- 7) Provides real-time reporting
- 8) Allows remote access to system for authorized personnel for claims management and auditing purposes
- 9) Provides vendor access to payment information and claim status verification
- 10) Detects potential duplicate benefit payments

Section Seventeen. Operating Procedures

1. Application Processing

- A. Applications received at the VOCP office are sent to the VOCP contractor for processing within 1 business day of receipt. The VOCP contractor enters completed applications into the claims management system, and provides notification to the compensation officer and Administrative Assistant assigned to the claim. The application is scanned and saved in electronic format to the new claim established in the claims management system.
- B. The VOCP contractor will attempt to contact applicant or their designated representative as provided to the VOCP in the application by telephone or email for required information if the application submitted is incomplete. If the VOCP contractor is unable to obtain all information required to process the application in the system, the application will be returned to the applicant or their designated representative with a letter documenting what information is needed.

2. Document Processing

- A. All documents associated with a claim are forwarded, upon receipt, to the VOCP contractor for scanning. Each document is identified by document type and saved in an electronic format in the appropriate claim file. All documents are retained by the VOCP contractor for a minimum of 30 days, after which time they are destroyed by shredding.

3. Medical Bill Processing

- A. All medical bills, payment requests and receipts for payments are forwarded to the VOCP contractor upon receipt. Medical bills are subject to review, and are scanned into the system with an explanation of benefits form that shows the recommended payment amount based on medical fee schedules approved by the VOCP.
- B. Vendors must be set up in the claims management system before they are eligible to receive payments from the VOCP. All vendors must submit a completed W-9 form before they can be set up in the claims management system. The VOCP contractor is responsible for obtaining and maintaining all W-9's and for adding and maintaining the vendors in the claims management system.

- C. Payments can only be approved by the compensation officer assigned to the claim. The compensation officer will review the bill to determine whether the service is directly related to the crime before approving for payment. All payments are subject to review and approval by the VOCP coordinator, and are also subject to review and approval by designated Administrative Services personnel.

4. Direct Payment Processing

- A. Payment requests and requests for reimbursement are sent to the VOCP contractor for scanning and are saved in electronic format in the appropriate claim file. Direct payments are payments made to an individual. Usually they are payments made to the applicant, but direct payments can also be made to reimburse individuals for payments made on behalf of the victim. Direct payments are not subject to withholding or reported as taxable benefits.
- B. The compensation officer assigned to the claim can only approve direct payments. The compensation officer will review the bill to determine whether the request for payment is directly related to the crime before approving for payment. All payments are reviewed and approved by the VOCP coordinator, or the coordinators designee, and are also subject to review and approval by designated Administrative Services personnel. All direct payments to individuals for \$1,000 or more are subject to the Verification Process outlined in Section Ten, paragraph 3 of these policies.
- C. The VOCP contractor will provide third party review services, checking all direct payments to confirm documented compliance with program policies before releasing the payments.

5. Check Production

- A. Administrative Services personnel are responsible for creating the check run data files. Authorized employees will review the outstanding approved payments weekly. After insuring adequate funds are available to pay the outstanding checks the Authorized Employee will authorize checks to be produced. Check run data files can be created based on selected bill types, all bills pending, or can be restricted to non-vendor payments only. The claims management system shows the total number and amount of pending payments by category, allowing the Budget Office to manage the funding process.
- B. After the check run data file has been produced by Administrative Services, the VOCP contractor will print the checks and mail them directly to the payee indicated. Medical payments will be mailed with a copy of the explanation of benefits form.

6. Stop Payments

- A. If a payment is not received and a stop payment needs to be made so that the check can be reissued, the compensation officer will contact the VOCP contractor to determine whether the original check has been paid. If the original has not been paid a notarized Affidavit must be completed by the payee, and forwarded to the VOCP contractor. Upon receipt of the Affidavit, the VOCP contractor will place a stop payment order on the check and void the

payment in the claims management system. The compensation officer can then reissue the payment through the standard payment process.

- B. If a payment is made in error, upon instruction from the VOCP Coordinator the contractor will attempt to place a stop payment on the check. The VOCP understands and acknowledges that payment must be made if the check is presented for payment by a holder in due course.

7. Reconciliation of Bank Account

- A. Statements on the VOCP bank account will be mailed directly to the VOCP contractor. The VOCP contractor is responsible for reconciling the account and reporting the results each month to Administrative Services. Reconciliation reports will include: checks paid in period, checks outstanding and checks voided in period.

8. Tax Reporting

- A. Before January 31st of each year, the VOCP contractor will produce and mail 1099's to all vendors receiving payment from the Victims of Crime Program during the prior calendar year. The VOCP contractor is also responsible for obtaining and maintaining required W-9 forms, filing required tax reports with the IRS and responding to B-Notices.

9. Deposits

- A. All payments received for deposit will be stamped with the VOCP endorsement stamp upon receipt by an Administrative Assistant. Refunds and other payments associated with a claim will be entered into the claim management system, and copies of the documents sent to the VOCP contractor for scanning into the claim file.
- B. After entering the information into the claims management system, the Administrative Assistant will send the payment to Administrative Services for processing. Payments will be sent to Administrative Services for depositing by Thursday of every week. Items over \$10,000 will be sent immediately.

Section Eighteen. Operational Goals and Standards

1. General

- A. To meet the mission of providing timely assistance to victims of crime, the program has adopted the following standards, with the goal of meeting or exceeding the stated standards at least 95% of the time. These standards are aspirational. Failure to meet any specified goal, in any case, will not be considered a violation of these policies:
 - 1) Documents and applications received at the VOCP offices are to be sent to the contractor for processing within 1 business day of receipt.
 - 2) Applications are to be entered into the system and a claim number assigned within 1 business day of receipt by the contractor.

- 3) The contractor will make phone calls to applicants submitting incomplete applications within 1 business day of receipt of the application.
- 4) The contractor will image documents into the system within 2 business days of receipt.
- 5) The contractor will review medical bills containing required details within 2 business days of receipt.
- 6) Compensation Officers will approve or deny completed applications within 1 business day of submission of a completed application as defined by these policies.
- 7) Decision letters will be mailed within 2 business days from date of decision.
- 8) For applications received without police reports, a written request for the police report will be initiated by the VOCP within 2 business days.
- 9) Eligible benefit payments will be processed by the VOCP within 5 business days.
- 10) Priority 1 and 2 payments will be paid weekly.
- 11) The contractor will mail weekly benefits paid to victims the last working day of the week.
- 12) The contractor will mail weekly benefits paid to providers with appropriate documentation within 2 business days from the date of the check.
- 13) The contractor will mail quarterly payments with appropriate documentation within 10 business days from the date of the check.

Section Nineteen. Reports

1. Reports to the Legislature

- A. NRS 217.250 requires the BOE to report certain information to the Nevada Legislature when it meets biannually. This section states:

“The Board shall prepare and transmit biennially to the Legislature a report of its activities, including:

- 1. The amount of compensation awarded;*
- 2. The number of applicants;*
- 3. The number of applicants who were denied compensation; and*
- 4. The average length of time taken to award compensation, from the date of receipt of the application to the date of the payment of compensation.”*

- B. The VOCP will prepare a report to the BOE that includes the information required by NRS 217.250 and transmit the report to the BOE as it may require.

2. Reports to the BOE

- A. NRS 217.260 requires the BOE to estimate its revenue and anticipated expenses on a quarterly basis, and when anticipated expenses exceed anticipated revenue to pay claims at the same reduced rate as expenses exceed revenue.
- B. The VOCP coordinator will provide the BOE with a report at the end of each fiscal year quarter, which will include the information required by NRS 217.260. This report will include analysis and recommendations for paying claims pursuant to the standards set forth in these policies.

Section Twenty. VOCP Funding

1. General

- A. Funding for the VOCP comes from fines, penalties and costs imposed by Nevada's courts as well as court ordered restitution, prisoner wage deductions, bail bond assessments and forfeitures. The VOCP also accepts federal grant funding from the United States, Department of Justice: Office of Victims of Crime. The VOCP also accepts private grants and donations.

2. State Funding Sources

- A. The following revenue sources make up the state funding sources for the VOCP and are identified by the Budget Office Revenue Source Code and authorizing statutory reference:
- 1) 3739 FILING FEE: Fees collected by county justice of the peace per NRS 4.060.
 - 2) 3749 COURT ASSESSMENT: Administrative assessments collected for misdemeanor offenses per NRS 176.059.
 - 3) 4151 CIVIL PENALTIES: Revenue received from the Department of Motor Vehicles per NRS 484.3791.
 - 4) 4152 FINES/FORFEITURES/PENALTIES: Fees collected from persons charged with a gross misdemeanor or felony per NRS 178.518.
 - 5) 4201 REIMBURSEMENT: Forfeited property proceeds per NRS 179.118
 - 6) 4256 RESTITUTION COLLECTIONS: Undistributed court ordered restitution payments per NRS 176A.430.
 - 7) 4280 WAGE ASSESSMENT: Inmate wage assessments per NRS 209.247.
- B. NRS 176.059 Administrative assessment for misdemeanor: Collection; distribution; limitations on use. ...

8. Of the total amount deposited in the State General Fund pursuant to subsections 5 and 6, the State Controller shall distribute the money received to the following public agencies in the following manner:

(a) Not less than 51 percent to the Office of Court Administrator for allocation as follows:

(1) Eighteen and one-half percent of the amount distributed to the Office of Court Administrator for the administration of the courts.

(2) Nine percent of the amount distributed to the Office of Court Administrator for the development of a uniform system for judicial records.

(3) Nine percent of the amount distributed to the Office of Court Administrator for continuing judicial education.

(4) Forty-eight percent of the amount distributed to the Office of Court Administrator for the Supreme Court.

(5) Three and one-half percent of the amount distributed to the Office of Court Administrator for the payment for the services of retired justices and retired district judges.

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(6) *Twelve percent of the amount distributed to the Office of Court Administrator for the provision of specialty court programs.*

(b) *Not more than 49 percent must be used to the extent of legislative authorization for the support of:*

- (1) *The Central Repository for Nevada Records of Criminal History;*
- (2) *The Peace Officers' Standards and Training Commission;*
- (3) *The operation by the Department of Public Safety of a computerized interoperative system for information related to law enforcement;*
- (4) *The Fund for the Compensation of Victims of Crime; and*
- (5) *The Advisory Council for Prosecuting Attorneys.*

3. OVC VOCA Victim Compensation Grant

- A. Federal grant funds are available to state compensation programs and are derived from criminal penalties assessed at the federal level. The federal grant currently provides a 60% match of all state funds paid on victim claims during the prior federal fiscal year.
- B. Each year the VOCP submits an application to the United States, Department of Justice, Office of Victims of Crime, for funding made available to the states pursuant to United States Code, Title 42, Chapter 112, §10602.
- C. Federal guidelines on the use of OVC VOCA Victim Compensation Grant funds are set forth in the OVC VOCA Victim Compensation Grant Program Guidelines (dated May 10, 2001) which provide:

Section III.B: "Grant Period. Victim compensation grant funds are available for expenditure throughout the fiscal year (FY) of the award plus the next three fiscal years. The federal fiscal year (FFY) begins on October 1 and ends on September 30. State crime victim compensation programs may pay compensation claims retroactively to October 1, even though the VOCA grant may not be awarded until later in the fiscal year."

Section IV.B.4: Nonsupplantation. The state must certify that grants received under VOCA will not be used to supplant state funds otherwise available to provide crime victim compensation benefits or to administer the state crime victim compensation program. States may not decrease their financial commitment to crime victim compensation solely because they are receiving VOCA funds for the same purpose. Expenditure of VOCA funds received based on state certified payouts from previous years does not constitute supplantation."

- D. The OJP Financial Guide addresses the "Minimum Cash on Hand" Policy that all OJP grantees must adhere to:

Part III, Chapter 1. Payments: Minimum Cash on Hand "Grant recipient organizations should request funds based upon immediate disbursement/reimbursement requirements. Funds will not be paid in a lump sum, but rather disbursed over time as project costs are incurred or anticipated (with the exception of block grant program such as Justice

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Assistance Grant (JAG), Juvenile Accountability Block Grants [JABG], and State Criminal Alien Assistance Program Grants [SCAAP] which are paid in a lump sum). Recipients should time their drawdown requests to ensure that Federal cash on hand is the minimum needed for disbursements/reimbursements to be made immediately or within 10 days.”

- E. Federal guidelines permit State Programs to set aside 5% of the total federal grant funds for VOCP administrative expenses. By utilizing federal funds for administrative purposes, state funding is freed up for payment of victim expenses thereby increasing the federal match of state funding. In order to maximize the federal matching funds the VOCP elects to exercise this option each fiscal year. Federal policy statements provide:

Administrative and Training Funds usage: State grantees choosing to use a portion of the award for administrative and training purposes must report the percentage/amount of the total grant that will be used for these purposes. The Department of Justice Reauthorization Act of 2005 (Pub. L. No. 109-162) amended the Victims of Crime Act by expanding the purposes of the 5 percent administrative set aside for State Victim Compensation and Victim Assistance programs. Under 42 U.S.C. 10602(a)(3) and 10603(b)(3) respectively, eligible State Victim Compensation and State Victim Assistance programs may set aside up to a total of 5 percent of the respective grant funds for administrative and training purposes.

- F. Federal funding may be carried forward for a maximum of four (4) years. The VOCP generally draws the full grant award each year, however the VOCP may carry forward funds where such action may be beneficial to the VOCP.

Section Twenty-One. Federal Policies Pursuant to: USC Title 42

1. General

TITLE 42, CHAPTER 112, § 1060: Crime victim compensation.

(a) Authority of Director; grants

(1) Except as provided in paragraph (2), the Director shall make an annual grant from the Fund to an eligible crime victim compensation program of 40 percent in fiscal year 2002 and of 60 percent in subsequent fiscal years of the amounts awarded during the preceding fiscal year, other than amounts awarded for property damage. Except as provided in paragraph (3), a grant under this section shall be used by such program only for awards of compensation.

(2) If the sums available in the Fund for grants under this section are insufficient to provide grants of 40 percent in fiscal year 2002 and of 60 percent in subsequent fiscal years as provided in paragraph (1), the Director shall make, from the sums available, a grant to each eligible crime victim compensation program so that all such programs receive the same percentage of the amounts awarded by such program during the preceding fiscal year, other than amounts awarded for property damage.

(3) Not more than 5 percent of a grant made under this section may be used for training purposes and the administration of the State crime victim compensation program receiving the grant.

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(b) Eligible crime victim compensation programs

(1) A crime victim compensation program is an eligible crime victim compensation program for the purposes of this section if—

a) Such program is operated by a State and offers compensation to victims and survivors of victims of criminal violence, including drunk driving and domestic violence for—

(i) Medical expenses attributable to a physical injury resulting from compensable crime, including expenses for mental health counseling and care;

(ii) Loss of wages attributable to a physical injury resulting from a compensable crime; and

(iii) Funeral expenses attributable to a death resulting from a compensable crime;

b) Such program promotes victim cooperation with the reasonable requests of law enforcement authorities;

c) Such State certifies that grants received under this section will not be used to supplant State funds otherwise available to provide crime victim compensation;

d) Such program, as to compensable crimes occurring within the State, makes compensation awards to victims who are nonresidents of the State on the basis of the same criteria used to make awards to victims who are residents of such State;

e) Such program provides compensation to victims of Federal crimes occurring within the State on the same basis that such program provides compensation to victims of State crimes;

f) Such program provides compensation to residents of the State who are victims of crimes occurring outside the State if—

(i) The crimes would be compensable crimes had they occurred inside that State; and

(ii) The places the crimes occurred in are States not having eligible crime victim compensation programs;

g) Such program does not, except pursuant to rules issued by the program to prevent unjust enrichment of the offender, deny compensation to any victim because of that victim's familial relationship to the offender, or because of the sharing of a residence by the victim and the offender;

h) Such program does not provide compensation to any person who has been convicted of an offense under Federal law with respect to any time period during which the person is delinquent in paying a fine, other monetary penalty, or restitution imposed for the offense; and

i) Such program provides such other information and assurances related to the purposes of this section as the Director may reasonably require.

(c) Exclusion from income, resources, and assets for purposes of means tests. Notwithstanding any other law (other than title IV of Public Law 107-42), for the purpose of any maximum allowed income, resource, or asset eligibility requirement in any Federal, State, or local government program using Federal funds that provides medical or other assistance (or payment or reimbursement of the cost of such assistance), any amount of crime victim compensation that the applicant receives through a crime victim compensation program under this section shall not be included in the income, resources, or assets of the applicant, nor shall that amount reduce the

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amount of the assistance available to the applicant from Federal, State, or local government programs using Federal funds, unless the total amount of assistance that the applicant receives from all such programs is sufficient to fully compensate the applicant for losses suffered as a result of the crime.

(d) Definitions

As used in this section—

(1) The term “property damage” does not include damage to prosthetic devices, eyeglasses or other corrective lenses, or dental devices;

(2) The term “medical expenses” includes, to the extent provided under the eligible crime victim compensation program, expenses for eyeglasses or other corrective lenses, for dental services and devices and prosthetic devices, and for services rendered in accordance with a method of healing recognized by the law of the State;

(3) The term “compensable crime” means a crime the victims of which are eligible for compensation under the eligible crime victim compensation program, and includes crimes, whose victims suffer death or personal injury, that are described in section 247 of Title 18, driving while intoxicated, and domestic violence; and

(4) The term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, and any other possession or territory of the United States.

(e) Relationship to certain Federal programs

Notwithstanding any other law, if the compensation paid by an eligible crime victim compensation program would cover costs that a Federal program, including the program established under title IV of Public Law 107–42, or a federally financed State or local program, would otherwise pay,

(1) Such crime victim compensation program shall not pay that compensation; and

(2) The other program shall make its payments without regard to the existence of the crime victim compensation program.

Section Twenty-Two. Federal Guidelines: VOCA Grant Program

1. General

27158 Federal Register/Vol. 66, No. 95/Wednesday, May 16, 2001/Notices

DEPARTMENT OF JUSTICE

Office for Victims of Crime [OJP(OVC)–1319]

Victims of Crime Act Victim Compensation Grant Program

AGENCY: Office for Victims of Crime, Office of Justice Programs, Justice.

ACTION: Final program guidelines.

SUMMARY: The Office for Victims of Crime (OVC), United States Department of Justice (DOJ) is publishing Final Guidelines to implement the crime victim compensation grant program as authorized by the Victims of Crime Act of 1984, as amended, 42 U.S.C. 10601, et seq., hereafter referred to as VOCA.

EFFECTIVE DATE: These Final Guidelines are effective upon publication in the Federal Register or until reissuance by OVC.

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FOR FURTHER INFORMATION CONTACT:

Carol R. Watkins, Director, State Compensation and Assistance Division, Office for Victims of Crime 810 Seventh Street, NW., Washington, DC 20531; phone: (202) 514-4696. (This is not a toll-free number). E- mail:watkinsc@ojp.usdoj.gov

SUPPLEMENTARY INFORMATION: *The Victims of Crime Act (VOCA) authorizes federal financial assistance to states for the purposes of compensating and assisting crime victims, funding training and technical assistance, and serving victims of federal crimes.*

2. These Final Guidelines provide information specifically for the administration and implementation of the VOCA crime victim compensation grant program as authorized in section 1403 of VOCA, Public Law 98-473, as amended, codified at 42 U.S.C. 10602.

These VOCA Final Guidelines are outlined as follows:

I. Definitions

II. Background

III. Funding Allocations

IV. State Eligibility Criteria

V. State Certification

VI. Application Process and Performance Reporting

VII. Administrative Costs

VIII. Financial Requirements

IX. Monitoring

X. Suspension and Termination of Funding

I. Definitions

For purposes of these Final Guidelines, the following terms are defined:

A. Driving While Intoxicated. This includes drunk driving and driving under the influence of alcohol and/or other drugs. Specific definitions may be provided by state statutes, written rules, or other established policies.

B. Federal Crime. A federal crime is any crime that is a violation of the United States Criminal Code or violation of the Code of Military Justice. In general, federal crimes are investigated by federal law enforcement agencies, including the Federal Bureau of Investigation (FBI), Drug Enforcement Administration (DEA), Bureau of Alcohol, Tobacco and Firearms (BATF), U.S. Postal Service (USPS), Department of Interior (DOI), U.S. Secret Service (USSS), U.S. Customs Service (USCS), and Immigration and Naturalization Service (INS). Federal crimes are prosecuted in Federal District Courts by U.S. Attorneys and the U.S. Department of Justice Criminal Division. Examples of Federal crimes include, but are not limited to:

1. Crimes against Federal officials

2. Crimes that take place on Federal property, including national parks and military bases, certain maritime and territorial jurisdictions, and buildings owned or leased by the Federal Government

3. Bank robberies where the bank is insured or otherwise secured by the Federal

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Government

- 4. Crimes affecting interstate activities, such as kidnapping, interstate domestic violence, and fraud via U.S. mail, telephone, or wire*
- 5. Crimes occurring in Indian Country or on reservations, where the Federal Government has criminal jurisdiction*
- 6. Trafficking of persons*

C. Federal Program, or a federally financed State or local program is a program that provides third party reimbursement for victim expenses and includes such funding sources as Medicaid, Medicare, and CHAMPUS or provides direct Federal appropriations for organizations that provide direct services such as Indian Health Service and the Veterans' Administration.

D. Mass Violence occurring within or outside the United States. The term mass violence is not defined in VOCA or in any statute amending VOCA nor is it defined in the U.S. Criminal Code. Thus, OVC has developed a working definition of this term. The term mass violence means an intentional violent criminal act, for which a formal investigation has been opened by the Federal Bureau of Investigation or other law enforcement agency, that results in physical, emotional or psychological injury to a sufficiently large number of people as to significantly increase the burden of victim assistance and compensation for the responding jurisdiction. If there is a discrepancy between the definition provided in these Final Guidelines and the Antiterrorism and Emergency Fund Guidelines for Terrorism and Mass Violence Crimes, the definition in the Antiterrorism and Emergency Fund Guidelines takes precedence.

E. Mental Health Counseling and Care. Mental health counseling and care mean the assessment, diagnosis, and treatment of an individual's mental and emotional functioning. Mental health counseling and care must be provided by a person who meets state standards to provide these services.

F. Property Damage and Loss. Property damage is damage to material goods. Property loss is destruction of material goods or loss of money, stocks, bonds, etc. Property damage does not include damage to prosthetic devices, eyeglasses, other corrective lenses, dental devices, or other medically related devices.

G. Restitution. Restitution is payment made by the offender to the victim who was injured in the crime, to the legal guardian of a vulnerable adult or child victim, or to beneficiaries of the victim of homicide. Restitution does not refer to the general collection of fines, fees, and other penalties from offenders that provide basic revenue for a compensation program and are not attributable to reimbursement of payouts on a specific claim.

H. State. The term state includes the 50 states, the District of Columbia, the U.S. Virgin Islands, Guam, Puerto Rico and any other possession or territory of the United States.

I. Terrorism occurring within the United States. The term terrorism means an activity that... (1) involves a violent act or an act dangerous to human life that is a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed

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within the jurisdiction of the United States or any State; and (2) appears to be intended ... (a) to intimidate or coerce a civilian population, (b) to influence the policy of a government by intimidation or coercion, or (c) to affect the conduct of a government by assassination or kidnapping (18 U.S.C. 3077).

J. Terrorism Occurring Outside the United States. The Antiterrorism and Emergency Reserve Fund Guidelines for Terrorism and Mass Violence Crimes.

In any fiscal year in which Fund deposits are greater than the amount deposited in fiscal year 1998, an amount equal to 50 percent of the increase in the amount from fiscal year 1998 shall be available for Child Abuse Prevention and Treatment Grants in addition to the base amount of \$10 million. The total amount allocated for Child Abuse Prevention and Treatment grants for any fiscal year refers to the term terrorism, when occurring outside the United States, as international terrorism to mean an activity that... (1) involves a violent act or an act dangerous to human life that is a violation of the criminal laws of the United States of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; (2) appears to be intended ... (a) to intimidate or coerce a civilian population; (b) to influence the policy of a government by intimidation or coercion; or (c) to affect the conduct of a government by assassination or kidnapping; and (3) occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum (18 U.S.C. 2331).

II. Background

In 1984, VOCA established the Crime Victims Fund (hereinafter referred to as the Fund) in the U.S. Treasury to receive deposits from fines, penalties, and bond forfeitures levied on criminals convicted of federal crimes. The Fund is administered by OVC to support the activities authorized by VOCA. OVC makes annual VOCA crime victim compensation grants from the Fund to eligible states and territories. The primary purpose of these grants is to supplement state efforts to provide financial assistance and reimbursement to crime victims throughout the Nation for costs associated with crime, and to encourage victim cooperation and participation in the criminal justice system. With the exception of most property damage and loss as explained in these Final Guidelines, state crime victim compensation programs may use VOCA compensation grant funds to pay for eligible expenses allowed by state compensation statute, rule, or other established policy.

III. Funding Allocations

A. Distribution. By statute, deposits are to be allocated as follows:

- 1. Child Abuse Prevention and Treatment Grants. Up to \$20 million of the first amounts deposited in the Fund are allocated to Child Abuse Prevention and Treatment Grants. Of these funds, 85 percent are forwarded to the Department of Health and Human Services. The remaining 15 percent is retained by OVC to assist Native American Indian tribes in developing, establishing and operating child abuse programs.*
- 2. Federal Criminal Justice System.*

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Specific amounts are earmarked by Congress annually for improving services for the benefit of crime victims in the Federal criminal justice system.

3. Remaining Fund Deposits. The remaining fund deposits are distributed as follows:

a. Victim Compensation Grants. Forty- eight and one half percent (48.5%) is available to eligible state programs for crime victim compensation.

b. Victim Assistance Grants. Forty- eight and one half percent (48.5%) is available to states for victim assistance grants. Unused funds from the victim compensation portion of the deposits are added to this amount.

c. Discretionary Grants. Three percent (3%) is available to OVC for demonstration projects, training and technical assistance grants, and financial support for services to victims of federal crime.

d. Antiterrorism and Emergency Fund. If monies in the Fund are sufficient to fully provide VOCA grants to the states, and deposits total 110 percent of the previous fiscal year, or if any funds are deobligated, the OVC director may retain up to \$100 million in an emergency fund. These funds are to be used (1) for Victims of terrorism within and outside the United States and for victims of other mass violence crimes; (2) for supplementing State Compensation and Assistance Programs' basic state compensation and assistance awards at the discretion of the OVC Director; and (3) to pay benefits under the newly authorized international compensation program.

B. Grant Period. Victim compensation grant funds are available for expenditure throughout the fiscal year (FY) of the award plus the next three fiscal years. The federal fiscal year (FFY) begins on October 1 and ends on September 30. State crime victim compensation programs may pay compensation claims retroactively to October 1, even though the VOCA grant may not be awarded until later in the fiscal year.

C. VOCA Victim Compensation Grant Formula. The Director of OVC is required to make an annual grant to eligible crime victim compensation programs that is equal to 40 percent of the amount awarded by the state program to victims of crime from state revenues during the fiscal year preceding the year of deposits in the Fund (two years prior to the grant year). If the amount in the Fund is insufficient to award each state 40 percent of its prior year's compensation payout from state revenues, all states will be awarded the same reduced percentage of their prior year payout from the available funds. To determine the amount available, each state must submit with its annual application a certification of the amount expended by the crime victim compensation program in the previous federal fiscal year. See Section V. for additional information.

IV. State Eligibility Criteria

A. Grantee. The grantee must be an operational state-administered crime victim compensation program. A new compensation program is entitled to a VOCA grant after it has awarded benefits that can be matched under VOCA. VOCA may not be used as start-up funds for a new state compensation program. In the event that a state chooses to administer its compensation program in a decentralized fashion, the state remains accountable to VOCA for expenditure of these funds.

B. Program Requirements. For a state to meet or maintain eligibility for a VOCA crime

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victim compensation grant, it must satisfy the following requirements:

1. Compensable Crimes.

(a) VOCA Mandated Crimes. At a minimum, VOCA specifically requires the grantee to offer compensation to crime victims and survivors of victims of criminal violence for certain identified expenses (see below) resulting from physical injury from a compensable crime as defined by the state. VOCA requires that states include as compensable crimes those crimes whose victims suffer death or physical injury as a result of terrorism, driving while intoxicated, and domestic violence. In addition, VOCA requires that states include as compensable crimes those crimes whose victims suffer death or personal injury as a result of the intentional or attempted defacement, damage, or destruction of any religious real property because of (1) its religious character or the obstruction, by force or threat of force, of any person's enjoyment of the free exercise of religious beliefs when the crime is covered by interstate or foreign commerce; (2) the race, color, or ethnic characteristics of any individual associated with the religious property. (b) Coverage of Other Crimes. VOCA places priority on violent crime, but it does not prohibit coverage of nonviolent crime. States may choose to broaden the range of compensable crimes to include those involving threats of injury or economic crime where victims are traumatized but not physically injured. In doing so, they may include payments to victims for compensable expenses for these crimes on the state's certification of funds expended for the compensation program.

2. Compensable Expenses.

(a) VOCA Mandated Expenses. At a minimum, VOCA requires states to award compensation for the following expenses when they are attributable to a physical injury resulting from a compensable crime:

- i. Medical Expenses. This may include eyeglasses and other corrective lenses, dental services, prosthetic or other devices, and other services rendered in accordance with a method of healing recognized by state law.*
- ii. Mental health counseling and care.*
- iii. Lost wages.*
- iv. Funeral expenses attributable to a death resulting from a compensable crime.*

(b) Other Allowable Expenses. State grantees may offer compensation for other types of expenses as authorized by state statute, rule, or other established policy.

(i) Property Damage and Loss.

Amounts awarded for property damage and loss cannot be included in the amount certified as a basis for the award of VOCA compensation grants except as listed under Section IV.B.2(b)(ii)4&5 of these Final Guidelines.

(ii) In addition to VOCA mandated expenses, other allowable expenses may be included in the certified payout amount such as:

- 1. Travel and transport for survivors of homicide victims to secure bodies of deceased victims from another country or state.*
- 2. Temporary lodging.*
- 3. Necessary building modification and equipment to accommodate physical disabilities resulting from a compensable crime.*
- 4. Replacement costs for clothing and bedding held as evidence.*

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5. *Replacement or repair of windows and locks.*
6. *Crime scene cleanup, as defined by state statute, rule or other established policy. Crime scene cleanup does not include replacement of lost or damaged property, except for locks and windows, and for clothing and bedding held as evidence.*
7. *Attorneys' fees related to a victim's claim for compensation, for establishing guardianship, settling estates, and other activities related to the crime.*
8. *Payments related to forensic sexual assault examinations (1) If such payments are made from funds administered by the compensation programs and are allowable under state statute, rule, or other established policy; and (2) to the extent that other funding sources such as state appropriations specifically earmarked for these exams are unavailable or insufficient.*
9. *Dependent care to allow victims to participate in criminal justice activities or secure medical treatment and rehabilitation services.*
10. *Financial counseling services for victims of economic crime, domestic violence, survivors of homicide victims, and other victims faced with financial difficulty as a result of a crime. Allowable activities provided to crime victims by financial counselors include but are not limited to: analysis of a victim's financial situation such as income producing capacity and crime related financial obligations; assistance with restructuring budget and debt; assistance in accessing insurance, public assistance and other benefits; assistance in completing financial impact statements for criminal courts; and assistance in settling estates and handling guardianship concerns. Financial counseling must be provided by a person who meets state standards for provision of this service.*
11. *Pain and suffering.*
12. *Annuities for loss of support for children of victims of homicide.*
13. *Victim Cooperation With Law Enforcement. Crime victim compensation programs must promote victim cooperation with the reasonable requests of law enforcement authorities. State crime victim compensation programs maintain the authority and discretion to establish their own standards for victim cooperation with the reasonable requests of law enforcement. VOCA's cooperation with the reasonable requests of law enforcement requirement may be fulfilled by using the following criteria or by any other criteria the state believes is necessary and acceptable to encourage and document victim cooperation with law enforcement. For example, a state may:
 - a. *Require a victim to report the crime to a law enforcement agency;*
 - b. *Require a victim to report the crime to an appropriate government agency, such as child and/or adult protective services, family court, or juvenile court;*
 - c. *In the case of a child or a vulnerable adult, accept a crime report to law enforcement or to a child or adult protective services agency from a mandated reporter or other person knowledgeable about the crime;*
 - d. *Accept proof of the completion of a medical evidentiary examination, such as medical reports, x-rays, medical photographs, and other clinical assessments as evidence of cooperation with law enforcement.**
14. *Nonsupplantation. The state must certify that grants received under VOCA*

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will not be used to supplant state funds otherwise available to provide crime victim compensation benefits or to administer the state crime victim compensation program. States may not decrease their financial commitment to crime victim compensation solely because they are receiving VOCA funds for the same purpose. Expenditure of VOCA funds received based on state certified payouts from previous years does not constitute supplantation.

15. Compensation for Residents

Victimized Outside Their Own State. A state must provide compensation to state residents who are victims of crimes occurring outside the state if the crimes would be compensable crimes had they occurred inside that state and the crimes (1) occurred in a state without an eligible VOCA crime victim compensation program, or (2) in cases of terrorism, occurred outside the territorial jurisdiction of the United States. The state must make these awards according to the same criteria used to make awards to those who are victimized while in the state.

6. Compensation for Nonresidents of a State. The state, in making awards for compensable crimes occurring within the state, must make compensation awards to nonresidents of the state on the basis of the same criteria used to make awards to victims who are residents of the state.

7. Victims of Federal Crime. The state must provide compensation to victims of federal crimes occurring within the state on the same basis that the program provides compensation to victims of state crimes.

8. Unjust Enrichment. States cannot deny compensation to a victim based on the victim's familial relationship to the offender or because the victim shares a residence with the offender. States must adopt a rule or other written policy to avoid unjust enrichment of the offender, but it cannot have the effect of denying compensation to a substantial percentage of victims of violence perpetrated by family members or others with whom the victim shares a residence. In developing a rule, or other written policy, states are encouraged to consider the following:

a. The legal responsibilities of the offender to the victim under the laws of the state and collateral resources available from the offenders to the victim. For example, legal responsibilities of the offender may include court-ordered restitution or family support under the domestic, marital property or child support laws of the state. Collateral resources may include insurance or pension benefits available to the offender to cover the costs incurred by the victim as a result of the crime. Victims of family violence must not be penalized when collateral sources of payment are not viable. Examples of such situations include when the offender refuses to, or cannot, pay restitution or other civil judgments within a reasonable period of time or when the offender impedes direct or third party (i.e., insurance) payments.

b. Payments to victims of family violence that only minimally or inconsequentially benefit offenders. These payments are not considered unjust enrichment. For example, denial of medical or dental expenses solely because the offender has legal responsibility for the charges, but is unwilling or unable to pay them, could result in the victim not receiving treatment. When indicated, the state has the option of seeking

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reimbursement from the offender.

c. Consultation with social services and other concerned government entities, and with private organizations that support and advocate on behalf of victims of violence perpetrated by family members.

d. The special needs of child witnesses to violence and child victims of criminal violence, especially when the perpetrator is a parent who may or may not live in the same residence.

9. Discrimination Prohibited. No person shall on the grounds of race, color, religion, national origin, disability, or sex, be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with, any undertaking funded in whole or in part with sums made available under VOCA. States must comply with these VOCA nondiscrimination requirements, the Federal civil rights statutes and regulations cited in the Assurances that accompany the grant award document, and all other applicable civil rights requirements. States with decentralized operations must assure that all operations comply with these requirements.

10. Additional Information Requested by the OVC Director. The state must provide other information and assurances as the Director of OVC may reasonably require.

VOCA Funds and Collateral Federal Programs

1. Means Testing. Federal, state, or local government programs that use federal funds are prohibited from including victim compensation benefits when determining income eligibility for an applicant, until the total amount of medical or other assistance that the applicant receives from all programs is sufficient to fully compensate the applicant for losses suffered as a result of the crime. VOCA requires this policy when an applicant needs medical or other assistance, in full or in part, because of the commission of a crime against the applicant. VOCA gives the OVC Director authority to determine whether such medical or other assistance is necessary to an applicant for victim compensation because of the commission of a crime against the applicant. Through these Final Guidelines, the Director's authority is delegated to state VOCA crime victim compensation administrators.

2. Payer of Last Resort. The compensation program is the payer of last resort with regard to federal or federally financed programs. When a victim is eligible to receive benefits from a federal program such as Veterans' benefits, Medicare, and Social Security Disability or federally financed state or local program, such as Medicaid the state compensation program shall not use VOCA funds to pay costs that another federal or federally financed program covers. The federal or federally financed program must make payments without regard to benefits awarded to a crime victim by a state crime victim compensation program. To facilitate victim access to other funding resources, OVC recommends that VOCA compensation administrators coordinate their activities and provide appropriate referrals to other programs that provide financial assistance and services to crime victims, whether funded by federal, state or local governments. Examples of such programs include worker's compensation, vocational rehabilitation, and VOCA victim assistance subgrantee programs. Outreach to other programs can

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result in mutual understanding of eligibility requirements, application processing, time lines, and other program specific requirements. As payer of last resort, it is in the compensation program's discretion to make exception for victim needs that are not adequately met by collateral sources. Additionally, this provision does not mandate that states require victims to apply for or use other federally funded programs prior to accessing the crime victim compensation program.

V. State Certifications State grantees must provide information about crime victim compensation claim payouts including all available funding sources, deductions, and recovery costs on a certification form provided by OVC. The Office of Budget and Management Services, Office of Justice Programs, uses this information to calculate allocations for VOCA eligible crime victim compensation programs.

A. Program Revenue. States must report on the certification form all sources of revenue to the crime victims compensation programs during the federal fiscal year. In some instances, funds are made available to the crime victim compensation programs from other departments or agencies, from supplemental appropriations, donations, or unspent funds carried over from prior years. The amount of certified revenue, excluding VOCA funds, but including all other sources, including carried over funds, must meet or exceed the amount of certified payments to crime victims.

B. Program Expenditures. The total amount to be certified by the state program must include only those amounts paid from state funding sources that are allowable under Section IV.B.1&2 to, or on behalf of, crime victims during the federal fiscal year (October 1 to September 30).

C. Amounts to be Excluded.

Compensation for property damage or loss except for items found in Section IV.B.2.(b)ii.4&5 of these Final Guidelines; audit costs; personnel costs; costs related to the collection of offender fines, fees, penalties, and other revenues that provide basic program funding; and, any other program administrative costs.

D. Deductions. Deductions are receipts or refunds that offset or reduce expense items that are allocable to a particular crime victim compensation claim. These include funds received through a state's subrogation interest in a claimant's civil law suit recovery, restitution, refunds, or other reimbursements. For purposes of applicable credits, the term restitution means payment made by the offender to the victim who was injured in the crime, to the legal guardian of a vulnerable adult or child, or to beneficiaries of the victim of homicide. Restitution does not refer to the costs of general collection of fines, fees and other penalties from offenders that provides the basic revenue for the compensation program and are not attributable to reimbursement of payouts on a specific claim. Refunds include amounts from overpayment, erroneous payments made to claimants, and uncashed checks. Additional guidance regarding applicable credits can be found in OMB Circular A-87, Cost Principles for State and Local Governments.

F. Recovery Costs. Salary and benefits costs for personnel directly involved in recovery efforts may be offset against the amount of income received from such reimbursement. Recovery efforts are those activities that are directly attributable to obtaining restitution, refunds, and other reimbursements for the expenses of specific crime victims who have

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received compensation from the state program. Expenses shall be limited to the percentage of those salaries and benefits incurred by the state for individual employees whose primary responsibilities (not less than 75 percent of each individual employee's work time) are directly and specifically related to recovering restitution and other reimbursements on behalf of compensated victims. Additional allowable recovery costs are garnishment fees, service of legal documents, costs of legal publication, and subpoena fees related to collecting reimbursements. Recovery costs cannot be claimed for employees whose salary and benefits are derived from federal administrative grant funds. Recovery costs do not include the collection of fines, fees, and other penalties that provide the basic revenue for the compensation program and are not identifiable to reimbursement of payouts on a specific victim claim.

G. Sources of Payments to Crime Victims. There is no financial requirement that state compensation programs identify the source of individual payments to crime victims as either federal or state dollars, nor are there any requirements that restitution recoveries or other refunds be tracked to federal or state dollars paid out to the victim.

H. Incorrect Certifications. If it is determined that a state has made an incorrect certification of payments of crime victims compensation from state funding sources and a VOCA crime victim compensation grant is awarded in error, one of the following two courses of action will be taken:

1. Overcertification. In the event that an overcertification comes to the attention of OVC or the Office of the Comptroller, OJP, the necessary steps will be taken to recover funds that were awarded in error. OVC does not have the authority to permit states to keep amounts they were not entitled to as a result of overcertification. Generally, it is the policy of OVC to reduce the amount of the subsequent year VOCA victim compensation award by the amount of the overpayment.

2. Undercertification. If a state undercertifies amounts paid to crime victims, OVC and the Office of the Comptroller, OJP, will not supplement payments to the state to correct the state's error since this would require recalculating allocations to every state VOCA compensation and assistance program and cause disruption in administration of these programs.

VI. Application Process and Performance Reporting

A. Application for Federal Assistance.

Each year, OVC issues to each eligible state an application package that contains the necessary forms and detailed information required to apply for VOCA crime victim compensation grant funds. The amount for which each state may apply is included with the application package. States shall use the Standard Form 424, Application for Federal Assistance, and its attachments to apply for VOCA victim compensation grant funds. Applications for VOCA crime victim compensation grants may only be submitted by the state agency designated by the governor to administer the VOCA victim compensation program and grant. Completed applications must be submitted on or before the stated deadline, as

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determined by OVC. If an eligible state fails to apply for its crime victim compensation allocation by the prescribed deadline, OVC will redistribute federal VOCA crime victim compensation dollars to the VOCA victim assistance grant program, after all states have received the statutorily prescribed percentage of their prior years' payout.

B. Annual Performance Report.

States receiving VOCA crime victim compensation grant funds must submit an annual OVC Performance Report. The Performance Report is due January 15 of each year for the preceding federal fiscal year.

VII. Administrative Costs

A. Administrative Costs Allowance.

VOCA allows states to use up to 5 percent of crime victim compensation grant funds for administering the crime victim compensation grant program. Any portion of the allowable 5 percent that is not used for administrative purposes must be used for awards of compensation to crime victims. The intent of this provision is to support and advance program administration in all operational areas including claims processing, staff development and training, public outreach, and program funding by supporting activities that will improve program effectiveness and service to crime victims.

If a state elects to use up to 5 percent of the VOCA compensation grant for administrative purposes, only those costs directly associated with administering the program, enhancing overall program operations, and ensuring compliance with federal requirements can be expended with administrative grant funds. State grantees are not required to match the portion of the grant that is used for administrative purposes. The state administrative agency may charge a federally approved indirect cost rate to this grant, but this cost is capped by the limits of these 5 percent administrative funds.

States must certify that VOCA funds used for administrative purposes will not supplant state or local funds but increase the amount of funds available for administering the compensation program. For the purpose of establishing a baseline level of effort, states must maintain documentation on the overall administrative commitment of the state prior to their use of VOCA administrative grant funds. State grantees will not be in violation of the nonsupplantation clause if there is a decrease in the state's previous financial commitment toward the administration of the VOCA grant programs in the following situations:

(1) if serious loss of revenue occurs at the state level, resulting in across-the-board budget restrictions, and

(2) if there is a decrease in the number of state-supported staff positions used to meet the state's effort in administering the VOCA grant programs.

State grantees using administrative funds must notify OVC if there is a decrease in the amount of its previous state financial commitment to the cost of administering the VOCA

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program. Only staff activities directly related to compensation functions can be funded with VOCA administrative funds. Similarly, any equipment purchases or other expenditures charged to the VOCA administrative funds can be charged only in proportion to the percentage of time used by the compensation program.

B. Allowable Costs.

Allowable administrative costs include but are not limited to, the following:

- 1. Salaries and benefits for staff and consultant fees to administer and manage the financial and programmatic aspects of the crime victim compensation program. Staff supported by administrative funds under the VOCA crime victim compensation grant must work directly for the compensation program in the same proportion as their level of support from VOCA grant funds. If the staff performs other functions unrelated to the provision of compensation to crime victims, the proportion of time spent working on the compensation program must be documented using some reasonable method of valuation at regular measurable intervals, e.g., time and attendance records. The documentation must provide a clear audit trail for the expenditure of grant funds. Temporary or periodic personnel support, such as qualified peer reviewers for medical and mental health claims, and data processing support services are also allowable. These services may be obtained through means deemed acceptable by state administrative procedures.*
- 2. Training and technical assistance includes attendance at training and technical assistance meetings and conferences that address issues relevant to state administration of victim compensation programs. Allowable costs may include travel, registration fees, and other such expenses.*
- 3. Monitoring compliance with federal and state requirements.*
- 4. Automation, including the study, design, and implementation of claims processing and other relevant systems; purchase and maintenance of equipment for the state grantee, including computers, software, FAX machines, copying machines, and TTYs; and services required to support the use of technology to enhance services to crime victims.*
- 5. Training to victim services providers, criminal justice personnel, and health, mental health and social services providers about the crime victim compensation program.*
- 6. Memberships in crime victim organizations and victim-related informational materials.*
- 7. Prorated program audit costs for the crime victim compensation program.*
- 8. Indirect costs at a federally approved rate that, when applied, does not exceed the 5 percent administrative cost allowance.*
- 9. Participation in improving coordination efforts on behalf of crime victims with other federal, state, and local agencies and organizations. This includes development of protocols, policies, and procedures that promote coordination of victim compensation with other*

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financial and victim service programs that improve responses to crime victims. Such participation includes the development and coordination of criminal crisis response teams.

10. Informational materials including development of applications, brochures, posters, training manuals and other relevant publications that describe the compensation application process, eligibility criteria, and the range of benefits available for crime victims. This includes related printing costs.

11. Development of strategic and financial plans, conduct of surveys, and needs assessments, survey of victim satisfaction with the program, and employment of geographic information systems (GIS) technology for planning.

12. Toll-free telephone numbers, Internet access to claim information, and other such program enhancements.

C. Requirements to Notify OVC of Use of Administrative Funds. State grantees that elect to use administrative funds under the VOCA compensation grant are required to include with their annual application, notification of their intent to use administrative funds, the percentage of funds, and the purposes for which they will be used. Grantees will be expected to include in their annual performance report, documentation of actual use of administrative funds.

*D. Confidentiality of Research Information. Except as otherwise provided by federal law, no officer or employee of the Federal Government or recipient of monies under VOCA shall use or reveal any research or statistical information gathered under this program by any person, and identifiable to any specific private person, for any purpose other than the purpose for which such information was obtained, in accordance with VOCA. Such information, and any copy of such information, shall be immune from legal process and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial, legislative, or administrative proceeding. This provision is intended, among other things, to assure confidentiality of information provided by crime victims to employees of VOCA-funded victim compensation programs. However, there is nothing in VOCA or its legislative history to indicate that Congress intended to override or repeal, in effect, a state's existing law governing the disclosure of information, which is supportive of VOCA's fundamental goal of helping crime victims. For example, this provision would not act to override or repeal, in effect, a state's existing law pertaining to the mandatory reporting of a suspected child abuse. See *Pennhurst State School and Hospital vs. Halderman, et al.*, 451 U.S. 1 (1981).*

VIII. Financial Requirements

As a condition of receiving a grant, states must agree to ensure adherence to the general and specific requirements of the OJP Financial Guide (effective edition) and all applicable OMB Circulars and Common Rules. This includes the maintenance of books and records in accordance with generally accepted government accounting principles.

For copies of the OJP Financial Guide, call or write the OJP Office of the Comptroller, 810 7th Street NW., Washington, DC 20531, Customer Service Center 1/800-458-0786; or visit the

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website at: www.ojp.usdoj.gov/FinGuide/ IX. Monitoring A. Office of the Comptroller/General Accounting Office/Office of the Inspector General. The U.S. Department of Justice, Office of Justice Programs, Office of the Comptroller; the General Accounting Office; and the U.S. Department of Justice, Office of the Inspector General, conduct periodic reviews of the financial policies and procedures and records of VOCA state grantees. Therefore, upon request, states must provide authorized representatives with access to examine all records, books, papers, case files, or other documents related to the expenditure of funds received under this grant.

B. Office for Victims of Crime. OVC conducts onsite monitoring in accordance with its monitoring plan. While on the site, OVC personnel review various documents and files including (1) Program manuals; (2) procedures; (3) program reports; (4) claimant application, eligibility requirements, and determination and appeal process; (5) a random sampling of victim compensation claim files; and (6) other applicable state records and files. Grantees are notified in writing of their compliance with requirements of VOCA.

X. Suspension and Termination of Funding

If, after reasonable notice to the grantee, OVC finds that a state has failed to comply substantially with the following: VOCA, the state's application for funding, the OJP Financial Guide Crime Victim Compensation Grant Program Guidelines, or any implementing regulation or federal requirements, the OVC Director may suspend or terminate funding to the state and/or take other appropriate action. Under the procedures of 28 CFR part 18, states may request a hearing on the record on the justification for the suspension and/or termination of VOCA funds.