



TESTIMONY IN SUPPORT OF SB 471 / HB 575

Criminal Procedure – Victim Compensation – Alterations

TO: Members of the Senate Judicial Proceedings and House Judiciary Committees

FROM: **Center for Criminal Justice Reform, University of Baltimore School of Law**

DATE: February 9, 2024

My name is Heather Warnken, and I am the Executive Director of the University of Baltimore School of Law’s Center for Criminal Justice Reform. Prior to my current role, I served for five years as a Visiting Fellow at the U.S. Department of Justice (DOJ), in the first-ever position dedicated to bridging the gap between research, policy, and practice to improve the response to individuals and communities impacted by crime victimization. In this role, I facilitated collaboration across federal, state and local government partners, practitioners, researchers, and directly impacted communities in the design and implementation of equitable, data-informed policies, programs, and funding streams nationwide.

A substantial piece of this work included advising and collaborating with DOJ’s Office for Victims of Crime and its constituencies of state administering agencies and victim service programs across the country on the administration of the Victims of Crime Act (VOCA) Victim Assistance and Victim Compensation programs at the federal and state level. **Based on this background and experience, I submit this testimony strongly in favor of SB 471 / HB 575.**

Victim compensation is one of the nation’s dedicated resources for helping victims by providing financial assistance for expenses incurred as a result of being a victim of crime. These expenses, such as medical and mental health needs, funeral and burial, housing instability and lost wages, are not borne equally. A large body of evidence demonstrates profound racial disparities in risk for violent victimization and its impacts, with low-income communities of color bearing the brunt of these costs.

In communities where violence is concentrated, the impact of this trauma combines with chronic disinvestments, lack of support services, and an overreliance on policing, prisons and jails. These conditions often break down social trust and breed cynicism toward government. Compensation programs give government agencies a different way to respond to victimization outside of the criminal legal framework of arrest, prosecution, and incarceration. And in so doing, they provide

opportunity for government agencies and community-based organizations to work together and build trusting relationships needed to interrupt cycles of violence and solve crime.

In other words, SB 471 / HB 575 is not just about the healing and dignity of victims; it is about public safety. By assisting with these destabilizing expenses, victim compensation helps reduce the risk of future victimization and the long-term costs of violence to the state.

Notwithstanding the profound potential of victim compensation to meet the needs of survivors, interrupt cycles of harm, and promote system legitimacy, these programs have been notoriously inaccessible to the majority of victims, especially those most marginalized and in need of this support. A growing body of research, including my own, demonstrates that Black and brown victims, and in particular those living in low-income communities, are least likely to be seen and served as victims of crime.¹ Despite higher rates of violent victimization, victim compensation programs disproportionately create barriers and deny applicants of color at alarming rates.²

Maryland's Criminal Injuries Compensation Board (CICB), the entity responsible for this state's victim compensation program, is no exception; tragically, it is viewed as especially problematic and inaccessible on the continuum of such programs nationwide. CICB disproportionately disqualifies, alienates, and denies Black applicants and families from receiving compensation, especially Black men and youth impacted by gun and other forms of community violence. Domestic violence victims are also greatly underserved by the current compensation system. In FY 2022 and FY 2023, no domestic violence-related claims were specified as paid, despite approximately 35,000 total domestic violence incidents reported in Maryland each year.³ Overall, according to the most recent CICB annual report, over 60% of all claims were denied in Maryland in FY 2023.

¹ Warnken, H., & Lauritsen, J. (2019). Who experiences violent victimization and who accesses services? Findings from the National Crime Victimization Survey for expanding our reach. Center for Victim Research, <https://www.ojp.gov/ncjrs/virtual-library/abstracts/who-experiences-violent-victimization-and-who-accesses-service>; A Vision for Equity in Victim Services: What Do the Data Tell Us About the Work Ahead. Warnken (2021) <https://ovc.ojp.gov/media/video/12971>.

² Maki, J., & Warnken, H. (2023). Realizing the Promise of Crime Victim Compensation: Helping Community Violence Intervention Meet the Needs of Victims, New York University, <https://marroninstitute.nyu.edu/papers/realizing-the-promise-of-crime-victim-compensation>.

³ <http://goccp.maryland.gov/wp-content/uploads/FL-%C2%A7-4-516a-GOCYVS-Domestic-Violence-Program-FY-2020-Annual-Report-MSAR-8611.pdf>.
<https://goccp.maryland.gov/wp-content/uploads/CP-%C2%A7-11-805a8-GOCYVS-Criminal-Injuries-Compensation-Board-FY-2023-Annual-Report-MSAR-11640-Revised.docx.pdf>.
<https://mdsp.maryland.gov/Document%20Downloads/Crime%20In%20Maryland%202020%20Uniform%20Crime%20Report.pdf>.

Victim compensation is a payor of last resort, intended specifically to support victims who are low income and do not have insurance or other financial resources, making it especially troubling that compensation has long been least accessible to those very groups. There are a range of other problematic aspects of the program currently undermining its effectiveness, including:

A paradoxical reliance on reimbursement. One of the most challenging structural issues with CICB is that it uses a reimbursement model that requires victims to pay the costs of compensable expenses upfront even though the program is specifically intended for people who lack such resources. This is compounded by the long processing timelines for claims, which even when approved, can take several months or even years to pay out.

Unreasonable and discriminatory attempts to promote victim “cooperation” and reporting.

In its federal enabling statute, VOCA compensation requires that states “promote victim cooperation with the reasonable requests of law enforcement authorities, except if a program determines such cooperation may be impacted due to a victim’s age, physical condition, psychological state, cultural or linguistic barriers, or any other health or safety concern that jeopardizes the victim’s wellbeing.” While the VOCA Fix Act recently clarified the longstanding policy that victims need not be coerced in order to be helped,⁴ states like Maryland have maintained strict victim “cooperation” mandates and continued additional administrative practices that exclude substantial percentages of victims from accessing assistance. In Maryland, this includes an overreliance on law enforcement certifications as a gatekeeping mechanism to determine who is eligible, and—more stringent than many other jurisdictions—a requirement to report the victimization to police within 48 hours. The current CICB process alienates victims from applying to the program based on a lack of willingness to report and/or “cooperate” with investigation and prosecution once they do. This is especially unjust for those who may fear or distrust police⁵ or those who may have prior involvement with the criminal legal system (for whom this perception of “uncooperative” or “involved” is often furthered by a discriminatory reliance on past criminal arrest or conviction records alone). Research has also consistently shown that about half of all victimization is never reported to law enforcement.⁶ These laws, policies, and practices needlessly shut out many of the most victimized people from accessing one of the primary dedicated victim resources.

⁴ <https://ovc.ojp.gov/about/crime-victims-fund/voca-fix>.

⁵ There are many reasons for this distrust, including that Black people are three times more likely to be killed by police, <https://mappingpoliceviolence.us/>.

⁶ Warnken, H., & Lauritsen, J. (2019). Who experiences violent victimization and who accesses services? Findings from the National Crime Victimization Survey for expanding our reach. Center for Victim Research, www.ojp.gov/ncjrs/virtual-library/abstracts/who-experiences-violent-victimization-and-who-accesses-services.

Blaming the victim. Relatedly, CICB routinely rejects victims it somehow determines are responsible for their own victimization, operating on a model of only supporting “innocent” victims. This framework is not only fundamentally flawed in its dehumanization of those in need of support, it is often downright inaccurate, basing categorizations of “innocence” and “worthiness” on race or other discriminatory factors described above. A recent citywide assessment that I led in my prior role at DOJ details how the system routinely criminalizes Black and brown victims of gun violence in the aftermath of their victimization, rather than supports them, regardless of the circumstances of the underlying events.⁷ The report also describes the ways in which these practices undermine public safety and offers numerous recommendations for changing this pattern, including an unequivocal need to reform the policy and practices of CICB through legislative action.⁸

A harmful reliance on criminal justice system fines and fees. A significant portion of the funding used to pay claims comes—not from a meaningful investment in state general funds toward CICB’s important goals—but rather, from people who are cycling in and out of the criminal justice system who are disproportionately low income and Black and brown. In this sense, the current compensation structure functions as a tax on many of the same families and communities it should serve. When individuals who pay into the fund through this mechanism are then violently victimized and should be eligible for these benefits, they are often denied for one or more of the other barriers discussed above. This promotes an unjust and counterproductive false binary between “victims” v. “perpetrators” and “worthy” v. “unworthy” applicants, which is often not based on the facts surrounding the underlying victimization. A program designed to stabilize should not be reliant on a system that often destabilizes.

SB 471/ HB 575 addresses many of these barriers, clearing pathways for *all victims* to get access to the support and dignity they deserve. After decades of well known challenges, this bill is the product of collaboration by a large and diverse coalition of organizations and directly impacted people representing the overlapping constituencies of victims and survivors who face these barriers everyday. This includes victim service organizations and those working in violence prevention, criminal justice reform, reentry, racial justice and more. **This bill builds bridges because it is about effective public safety for all.**

A well functioning victim compensation program plays an important role in community violence intervention efforts—a critical benefit we have yet to realize in Maryland. A 2023 report our

⁷ Warnken et al., *Victim Services Capacity Assessment Report*, USDOJ National Public Safety Partnership, July 2021; <https://www.baltimorepolice.org/sites/default/files/2022-08/PSP%20Victim%20Services%20Assessment%20FINALB.pdf>.

⁸ Id.

Center co-authored with New York University’s Marron Institute, *Realizing the Promise of Crime Victim Compensation: Helping Community Violence Intervention Meet the Needs of Victims*, speaks directly to the value of an effective, accessible compensation program in improving public safety. We encourage members of this body to review the research described in this report.⁹ This includes improving systemic trust and legitimacy—critical to our collective efforts to improve abysmal clearance rates for violent crime.

As, *how do we pay for it* will inevitably be debated, our coalition poses what the research tells us is a more apropos question: *how do we not?* A well functioning CICB program helps reduce state and local costs of violence and unaddressed trauma. Research indicates that victims who are able to cover the costs associated with their victimization are less likely to develop post-traumatic stress and other related symptoms.¹⁰ Left untreated, these symptoms can have devastating effects on people’s lives, including loss of employment, substance use, an overreliance on emergency rooms to manage pain and suffering, and, in some cases, justice involvement and cycling through jail and prison.

Supplemental funds from the federal government support state efforts to help victims avoid these outcomes. With passage of the VOCA Fix Act in 2022, which increased the federal government match to state expenditures on compensation from 60 to 75%, Maryland is further financially incentivized to pass this bill.¹¹

A growing number of states have recently passed or introduced legislation designed to improve victim compensation, and the DOJ Office for Victims of Crime just this week released updated federal guidance for the first time in a generation. As a participant in the early phases of this federal work and many stakeholder meetings since, I can confidently say the changes offered in this bill align with nationally recognized best practices for compensation programs, and will make Maryland a leader on this issue nationwide. The bill applies sound evidence and lessons learned from other states, while also taking a transformative approach that will create an example for others throughout the country working to reform victim compensation programs.

For these reasons, we urge a favorable report on SB 471 / HB 575.

⁹ Maki, J., & Warnken, H. (2023). *Realizing the Promise of Crime Victim Compensation: Helping Community Violence Intervention Meet the Needs of Victims*, New York University, <https://marroninstitute.nyu.edu/papers/realizing-the-promise-of-crime-victim-compensation>.

¹⁰ Alvidrez, J., Shumway, M., Boccillari, A., Green, J. D., Kelly, V., & Merrill, G. (2008). Reduction of state victim compensation disparities in disadvantaged crime victims through active outreach and assistance: A randomized trial. *American Journal of Public Health, 98*(5), 882–888. Ozer, E. J., Best, S. R., Lipsey, T. L., & Weiss, D. S. (2003). Predictors of posttraumatic stress disorder and symptoms in adults: a meta-analysis. *Psychological Bulletin, 129*, 52.

¹¹ <https://ovc.ojp.gov/about/crime-victims-fund/voca-fix>.