

**First Draft: Key Findings and Recommendations - Assembled Ideas -
No Committee Action/decisions To Date**

The Vermont Center for Crime Victim Services Legislative Study Group

December 2, 2013

A. Key Themes/Findings:

1. The Vermont Center for Crime Victim Services is facing a significant fiscal challenge: the Center's current sources of funding are insufficient to meet the expenses it incurs. If steps are not taken to address the Center's financial resources, in FY 2015 the Center's Victim's Compensation fund will have insufficient assets to cover expenses.
2. The Vermont Legislature is committed to helping the Vermont Center for Crime Victim Services meet its financial challenges, and considers it a high priority to continue its support of the Center in its effort to provide services to those impacted by crime. After taking extensive testimony from a wide variety of stakeholders and interested parties, the Study Committee on Future Funding for VCCVS makes a number of recommendations to return the Center to fiscal health.

B. Areas of Recommendations:

(This is an initial list from committee discussions to date. The list is provided as an initial step to develop final committee recommendations)

1. Changes to the Restitution Fund
 - i. Require that victims use the Victims Compensation Fund first, before the Restitution fund, in order to maximize federal reimbursement
 - ii. Consider caps of various forms or establish new guidelines for what will be reimbursed from the restitution fund
 1. Lower overall caps from the \$10,000
 2. Limits on restitution payments for personal property, autos, and other property. (Does the state make up for someone who chooses not to cover property with insurance?)
 3. Cap some payments at an amount such as \$500 -- the equivalent of likely insurance copay. For example the state might distinguish between essential and non-essential property. With a lower coverage limit for non-essential items.
 4. Other limit
 - iii. Request that the Vermont Network Against Domestic and Sexual Violence and Vermont Hospitals Association jointly develop a proposal regarding whether: (a) a fixed amount should be set for reimbursement from the Victim's Compensation Program for rape exams; and (b) whether health insurance carriers should be billed first for a rape exam before billing the program, with a set of exceptions to insure that victim's privacy and other appropriate interests are protected.
 - iv. Create a statewide unit to standardize restitution practices, perhaps based upon the Chittenden County Pilot Project. Best practices should: (1) ensure earliest

possible point of contact between victim's advocates and prosecutors/defense attorneys so that amount of restitution can be verified prior to the plea agreement; and (2) encourage use of summary judgment motions to prevent parties from ignoring or being unprepared on restitution matters.

- v. Consider assessing interest and penalties for nonpayment or late restitution payments by offenders with ability to pay who willfully refuse (would require a statutory change).

2. Offender Collection Considerations

- i. Stick Approach: Consider contempt order and incarceration if offender is able to pay and willfully refuses for 30 days; Office of Child Support procedure may be a model for this approach.
- ii. Carrot Approach: Offer shorter time to serve for nonviolent offenders who complete restitution payments (reduced parole/reduced sentences- could be linked to a deferred sentence with minimal supervision done by restitution unit).
- iii. Ensure inmates maximize payments:
 - 1. Through fees on purchases from commissary accounts
 - 2. Ensure all state avenues of fund collection are utilized (driving, professional licenses, and fishing/hunting license applications, U.S. Treasury Offset)
- iv. Create opportunity for a random investigation of offender's ability to pay and income verification, similar to an audit.
- v. Simplify the civil enforcement process by making restitution order an enforceable civil judgment rather than having to open a new case and pay filing fee in superior court.
- vi. Enforce statute that requires restitution at time of sentencing.
- vii. Update parental responsibility statute which holds parents responsible for financial criminal obligations of minor children.

3. VCCVS System Changes

- i. Designate VCCVS Restitution Unit as "an investigative unit," similar to the Office of Child Support Services, in order to increase the ability to receive information from the Department of Public Safety
- ii. Make improvements to VCCVS IT systems to enable
 - 1. development of a grant management system
 - 2. make other improvements or replace the restitution data base

4. State resource options/ state fiscal policy choices

- i. Include victim's advocates in Pay Act starting in FY 2014 at an annual cost of between \$30,000 and \$40,000.

- ii. Repayment of \$2 million loan to GF

C. The Center's State Funding Sources

1. The Center manages three special funds, the Restitution Fund, the Victims Compensation Fund, and the Domestic and Sexual Violence fund.

- a. The Restitution Fund, which supports the Restitution Unit, is funded by a 15% surcharge on criminal and civil fines. Projections for the Restitution Special fund indicate that the fund will be solvent, through FY 2014 and into the foreseeable future. Part of the reason that the Restitution fund is solvent is that in FY 2013 some expenses were moved to the Victims Compensation Special Fund. The Restitution Unit has an appropriation of just over \$2 million in FY 2014 and is projecting revenues of about \$2.1 million.

The state "borrowed" \$2 million from the Restitution Special Fund in 2009. The language in Act 192 of 2008, Sec. 4.002.1(a)(1) stated that it is the intent of the general assembly that the restitution fund be repaid. To date these funds have not been repaid putting additional pressure on the resources in the Fund.

- b. The Victims Compensation Fund is supported through a surcharge on criminal and civil fines and on traffic tickets. Currently there is a \$47.00 surcharge on fines and traffic tickets. This surcharge revenue is divided into three parts. The first \$29.75 is directed to the Victims Compensation Special Fund. The second, \$10.00 is directed to the Domestic and Sexual Violence special fund and, third, \$7.25 is deposited into the general fund. In FY 2013 the surcharge was increased by \$6.00, which is part of the \$29.75 that is deposited into the Victims Compensation fund. These surcharges have declined by 25% in the last 5 years, and there is no longer any room to continue the recent practice of increasing revenue by raising the surcharge amounts.

The Victim's Compensation fund is where the anticipated shortfall will occur in FY 2015 and beyond. Currently, in FY 2014 the revenue into the fund is projected to be \$2.5 million. The appropriation is \$3,352,786, but the revised projection is that the expenditures will be \$3.2 million. The difference between revenue and the revised expenditure figure is about \$700,000. However, there is a \$918,000 carryforward that can be used to offset this shortfall in FY 2014, which leaves an end of the year balance in FY 2014 of about \$222,000. The funding issue is projected to occur in FY 2015 and beyond. The year-end balance at the end of FY 2015 is projected to be a negative \$400,000.

Additional financial pressure is put on the Compensation Fund because it pays for 22 FTE state employed Victim's Advocates and their annual pay increases. Currently the Center does not receive any Pay Act funds to pay the mandated increases for these 22 state employees.

c. The Domestic and Sexual Violence Fund appears to be solvent at this time. The FY 2014 the appropriation is \$912,242 and anticipated revenues are about \$954,000, based upon the collections from the first four months of the fiscal year.