



**Joint Legislative Justice Oversight Committee  
Surcharge Subcommittee Testimony  
Chris Fenno, Executive Director  
November 13, 2019**

Thank you for inviting the Center to testify regarding the Draft Report of the Surcharge Subcommittee. The Subcommittee's task was to assess whether, when offenders have otherwise successfully completed the terms of sentencing, the inability to pay outstanding surcharges should block the opportunity to seek expungement or sealing of records.

**Establishment of Surcharges**

Surcharges were established to provide funding for victim-based justice initiatives (base funding as well as supplemental funding). The accepted premise was to assign a measure of financial responsibility to those whose actions have given rise to the need for victims' services. Vermont relies upon fees and surcharges as a primary method of financial support (in conjunction with federal funds) for victim services across the state. Surcharges have supported victim services in Vermont since 1991.<sup>1</sup> In the 2000s, the General Assembly gradually increased criminal surcharge amounts while decreasing the allocation of general funds to support victim services.

Although, in practice, surcharges can create a challenging hurdle for offenders with limited financial resources, this system also creates challenges for the recipient; the funding is uncertain and is decreasing over time.

The introduction of a waiver of surcharges exacerbates the funding shortfall that has been trending over the last several years and will continue to grow as more cases are moved to diversion, fewer driving tickets are issued, and surcharges such as this are eliminated or reduced. Vermont is among only a handful of states that currently fund its share of state-based crime victim services entirely with traffic ticket surcharges and criminal court surcharges instead of general taxpayer funds or some blend of both.<sup>2</sup>

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<sup>1</sup> Currently, for criminal offenses or traffic violations committed after June 30, 2013, the court surcharge of \$47.00 includes \$29.75 for the Victims Compensation Special Fund, with the remainder going to the Judiciary. 13 V.S.A. § 7282. For criminal offenses that include a fine as part of the criminal sentence, a surcharge of 15% of the fine is added to support the Crime Victims Restitution Special Fund.

<sup>2</sup> In the Center's current budget, some amounts of general fund are allocated either to be passed-through as matching grants or to pay for the Center's access to the state's VISION accounting software. The Center does not receive any general funds to support its operations. Vermont also heavily relies on federal grant funds to support the state-mandated Victim Assistance Program, which has not added any new staffing positions in over ten years.

## **Surcharge Recipients**

Vermont has four special funds for surcharges: Victims Compensation Special Fund, Domestic and Sexual Violence Special Fund, Crime Victims' Restitution Special Fund, and Specialized Investigative Unit (SIU) Grants Board. All except for the last are managed by the Vermont Center for Crime Victim Services.

### ***Victim's Compensation Special Fund***

The purpose of the Victim's Compensation Special Fund is to reimburse victims of crime, as long as they have no other source such as insurance, to pay for their losses for medical and dental care, mental health counseling, funeral costs, lost wages, travel expenses, crime scene cleanup, rent and relocation costs, safety and security, eyeglasses, hearing aids, dentures or any prosthetic device, and pet injuries and care. In recent years, revenues into the Victims Compensation Special Fund have been on an overall declining trend. In 2013, the General Assembly formed a study committee to consider the health of the special fund and identify opportunities to limit expenditures. Improving surcharge collections was an area of concern addressed by the group.

- The Victims' Compensation Fund receives funding from **surcharges (\$29.75 of the \$47.00 surcharge on court fines and traffic tickets)**, restitution payments from defendants, and funds from inmate labor contributions from the prison industries enhancement program. § 5359(b)(1)-(3). The enabling statute anticipates funding through appropriations, § 5359(b)(4), but to date monies from the General Fund have never been appropriated. In addition, the Center receives Victims of Crime Act (VOCA) funds and STOP Violence Against Women from the U.S. Department of Justice, and Family Violence Prevention and Services funds from the U.S. Department of Health and Human Services. The Domestic and Sexual Violence special fund also receives funding from a fee on marriage licenses.

### ***Domestic and Sexual Violence Special Fund***

The Domestic and Sexual Violence Fund supports grants to the Vermont Network Against Domestic and Sexual Violence and pays the cost of a Domestic Violence Trainer dedicated to domestic violence training at the Vermont Police Academy.

- The Domestic and Sexual Violence Fund receives **\$10.00 of the \$47.00 surcharge on court fines and traffic tickets, § 7282(a)(8)(D), as well as a \$20 surcharge on marriage licenses enacted three years ago. 32 V.S.A. § 1712(1).**

### ***Crime Victims' Restitution Special Fund***

The Fund is authorized to make an advance payment of up to \$5,000.00 to an eligible individual crime victim. 13 V.S.A. § 5363(d). When an offender makes restitution payments, the amount

received is paid out by first reimbursing the victim for his or her losses that were not eligible for an advance payment from the Fund. After the victim is made whole, the Fund is reimbursed by the amount that was advanced to the victim. Businesses and governmental entities are not eligible to receive advances, and instead receive payment as the Restitution Unit of the Center for Crime Victim Services collects from the offender. Six full-time Restitution Case Managers at CCVS work with approximately 5,500 offenders who currently owe restitution. They make efforts to locate and contact every offender on their caseloads at least once each month, provide information about job programs and support services, and help offenders understand the role of repaying the victim in their own rehabilitation. Repairing financial harm is a point of pride for many offenders on the RU caseload. In FY18, the Restitution Unit collected over one million dollars on behalf of victims and the State of Vermont.

- The Crime Victims' Restitution Special Fund is capitalized by a **15 percent surcharge on criminal fines or certain civil penalties, as specified in 13 V.S.A. § 7282(a)(9).**

#### ***The Specialized Investigative Unit Grants Board***

This board was created through 24 V.S.A. § 1940(c). Support of the SIU program has been provided by general fund dollars and consistently exceeds the revenue generated by the surcharge. The surcharge has been used to offset the expense of the SIU program, but the performance of the surcharge has not been allowed to limit the support of the SIUs.

- Since 2009, **\$100 from the total surcharge of \$147 collected is deposited into the General Fund.** The SIU surcharge is distinguishable from the above-mentioned surcharges in that it is funded out of the General Fund and is fully funded even when the revenue from surcharges decreases. Consequently, the SIUs do not have the same vulnerability as the Center.

#### **Impact of Waiver of Surcharges and Recommendations**

The somewhat steady decline in the receipt of surcharges are already having a significant impact on the funds that assist victims. This negative impact will be significantly steeper if surcharges are forgiven in these cases. Reliance upon a surcharge to adequately fund a broad-based government program is problematic.

We are concerned about how the Center for Crime Victim Services, and the services we support, can continue to be effective with the declining revenue from surcharges. Ultimately, waiving or “writing off” even small surcharge amounts could have consequences for victims and victim services.

All of the Center's direct service programs, including the Victims Compensation Program, the Restitution Unit, and the Sexual Assault Program, as well as the Center's training and community outreach efforts, rely heavily on criminal surcharges to remain in operation.

Recommendations:

- The Center for Crime Victim Services recommends that any change regarding surcharges be delayed. We recommend further study and data collection before making any changes, as we do not think we have adequate data to know if these recommendations are in the best interest of victims.
- We also recommend a more broadly-based range of funding alternatives. For example, use of the General Fund to fully support victim services while relying upon a combination of federal funds, fees, and surcharges to supplement and backfill the General Fund dollars is a model to consider.

Thank you considering these comments.