



NEW MEXICO VICTIMS' RIGHTS BULLETIN

July-August 2004

Major Shortcomings Found In Nation's Victim Compensation Program

August 9, 2004, Washington, DC - The National Center for Victims of Crime, one of the nation's leading resource and advocacy groups for crime victims, released a comprehensive report detailing serious problems with our nation's compensation system for the more than 23 million Americans who become victims of crime each year.

The report, "Repairing the Harm: A New Vision for Crime Victim Compensation in America," finds major shortcomings in the U.S. system of victim compensation, including:

Underutilization: Most crime victims do not access the victim compensation available to them through their state's compensation program. In 2002, compensation applications represented only four percent of violent crime victimizations.

Inadequate Outreach: Few crime victims are informed of the compensation benefits to which they are eligible. According to one study cited in the National Center report, 90 percent of compensation claimants were unaware that compensation existed prior to their victimization, and less than half of victims who sought crime victim services were told about the availability of victim compensation.

Exclusion of Victims: Victims of non-violent crime--many of whom suffer similar consequences (missed work, psychological problems and lost or damaged property) as those of violent crime--are excluded entirely from compensation programs in almost every state. Many states also exclude victims who fail to meet application deadlines for compensation.

Insufficient and Unstable Funding Source: The majority of compensation paid to crime victims relies on offender fines and court fees, creating an unpredictable and unstable revenue source that also ignores the larger societal responsibility to help victims of crime.

"It is fundamentally wrong to commit federal tax dollars for every aspect of our response to crime--except our response to victims," said Susan Herman, executive director of the National Center for Victims of Crime. "We must act now to provide financial assistance to every crime victim in America, using lessons learned from compensating September 11 victims here in America and from victim compensation programs abroad."

Repairing the Harm is the first independent report that analyzes the September 11th Federal Victim Compensation Fund, critiquing the strengths and weaknesses of the most unique event in compensation history. Drawing lessons from the U.S. government's unprecedented compensation efforts, the report encourages a major reform of our nation's general approach to crime victim compensation.

In concluding that far more can be done to help victims rebuild their lives, *Repairing the Harm* sets forth a framework for strengthening the victim compensation system in America. This framework reflects the following core principles:

Examination: State and federal government leaders should initiate a comprehensive examination of the American system of crime victim compensation.

Design and Process: The victim compensation process should be fair, efficient, and easy to understand. Compensation should also be part of a broader system of support for victims of crime.

Eligibility: All crime victims should be eligible for compensation unless implicated in the crime.

Coverage of Losses: Compensation should recognize all types of losses, including economic and non-economic, as well as victims' ongoing losses. Tax relief should also be provided to help victims recover from the harm caused by crime.

Outreach: All crime victims should be informed about compensation and how to apply for it.

Funding: The federal funding base for victim compensation should be broadened to include tax revenues and other sources of funding.

In developing this report, the National Center conducted an exhaustive analysis of compensation data from all 50 states, existing research on compensation benefits and outreach efforts, and federal studies on the rates and costs of crime in America. The report also draws from a discussion at a national roundtable of experts convened by the National Center and papers commissioned for that meeting. In addition to reviewing the September 11 Victim Compensation fund, the report examines compensation programs in other countries, including Great Britain and Australia.

"Our hope is that this report triggers a fresh look at our nation's response to victims of crime," said Herman. "While even an ideal compensation system cannot address all that victims suffer, it can provide a critical ingredient in repairing the harm."

In reviewing the National Center's *Repairing the Harm* report, key members of Congress agree that more needs to be done to fulfill the promise of America's victim compensation system.

"I hope that this detailed analysis will spur Congress to launch a comprehensive review of how to improve federal programs to compensate crime victims," said Senator Patrick Leahy (D-VT), ranking minority member of the Senate Judiciary Committee and a former prosecutor. "Victims of crime deserve our compassion and understanding, and they have that. But they also deserve and need the tangible support that these programs offer."

The full-text version of *Repairing the Harm: A New Vision for Crime Victim Compensation in America*, can be found at [www.ncvc.org](#). Further inquiries regarding the report can be directed to Mary Rappaport at the NCVC at (202) 467-8714

Taking Abusers To Court: Civil Lawsuits Potentially Available To Domestic Violence Victims

The most dangerous place for a woman in the United States has become the home where she lives, and her risk for harm in that home currently is higher than her risk from heart attacks, cancer, strokes, car crashes and rapes *combined*.

In the past decade, several horrifying statistics came to light:

- By 1992, the U.S. Surgeon General had ranked abuse by spouses and boyfriends as the leading cause of injury or death to women and classified domestic violence as having reached epidemic proportions
- An estimated 2 million women are beaten by their husbands each year, an average of one woman every 16 seconds.
- Every day, an average of 5-6 women die in the United States due to domestic violence.
- A March of Dimes study cites battering during pregnancy as the leading cause of birth defects and infant mortality.

In the face of this epidemic of domestic violence, there has been a sharp upswing in criminal prosecutions of the men accused of this battery. In addition, victims of domestic violence are learning that they have civil recourses to seek compensation for their harms. Depending upon the type of domestic violence suffered, a victim of domestic violence may have an action in court for:

1. Assault
2. Battery
3. False imprisonment
4. Intentional or reckless infliction of emotional distress (this is usually available only if the victim has also suffered physical harm)
5. Tortious infliction of a venereal disease
6. Wrongful death (of the spouse victim, or of a child victim)

There are usually statutes of limitations for filing claims for these wrongs, so it is important for a victim of domestic violence to seek legal assistance as soon as possible.

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The New Mexico Victims' Rights Project is dedicated to providing education and enforcement of victims' constitutional rights. The Project is a joint effort of the and other victim assistance organizations, and is available to assist all victims of crime.

www.nm-victimrights.org

The Importance Of Your Victim Impact Statement

One of the most important tools available to victims in their fight against crime is their 'victim impact statement' used at the time of sentencing of defendants, and in many states, at parole hearings.

In New Mexico, a victim of any enumerated crime has the right to make their victim impact statement to the court at sentencing and at any post sentencing hearings for the accused (N.M.S.A. Sec. 31-26-4G). For most victims of crime, these statements provide an opportunity to focus the court's attention on the often forgotten human cost of the crime and become part of the criminal justice process. More than 80 percent of crime victims who have given such statements consider them to be a very important part of the process, according to a survey by the National Center for Victims of Crime.

However, the victim impact statement is effective only when the victim takes the time to think through the consequences of the crime to themselves and their families. Victims can and should utilize the chance to spell out

to the court, and to the accused, the multiple ways in which being a victim of a crime has changed their lives.

To be most effective, a victim impact statement should contain the following:

- The physical, financial, psychological or emotional impact of the crime.
- The harm done to family relationships by the crime, such as the loss of a parent, child, sibling or caregiver.
- Descriptions of medical treatment or psychological services required by the victim as a result of the crime.
- The need for restitution.
- The victim's opinion of an appropriate sentence for the offender.

To find out more about the law on a victim's right to address the court with a victim impact statement, contact the NM Victim's Rights Project at (505) 292-2838.

CRIME VICTIMS' RESOURCES

Adult Protective Services	(800) 797.3260
Agora Crisis Center	(505) 277.3013
Child Protective Services	(800) 797.3260
Covenant House Hotline	(800) 999.9999
DWI Resource Center	(888) 410.1084
MADD	(800) 522.6233
NM Crime Victims' Reparations	(505) 841.9432
Rape Crisis Center	(505) 266-7711
Hopeline (Suicide Hotline)	(800) 784-2433
NM Coalition Against Domestic Violence	(800) 773-3645
Resources Inc.	(877) 974.3400
Survivors of Homicide	(877) 700.8500
Victims' Rights Project	(888) 410.1084
Women Community Association	(800) 773.3645