

**The Need to Revise the Wisconsin Crime Victim Compensation Program in Accordance
with State Statutes**

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The Need to Revise the Wisconsin Crime Victim Compensation Program in Accordance with
State Statutes

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Abstract

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Under the Supervision of Dr. Sabina Burton

Restorative justice is becoming a popular approach for helping to heal victims of crime, both emotionally and financially. The main options of restorative justice programs are mediation and restitution, but many times victims are unable to use either of these alternatives. As a last resort, each state has a Crime Victim Compensation Program to assist eligible victims in paying certain expenses. Funding for the compensation programs is gained mainly through VOCA, or the Victims of Crime Act of 1984. Unfortunately, many victimization claims are denied. In particular, Wisconsin's eligibility criteria exclude victims of crimes who qualify for relief in other states such as Minnesota, Arizona, and California. In Wisconsin, juvenile victims and their families are the victims most affected by the discrepancy. Recommendations are made to evaluate Wisconsin's program and to revise the eligibility qualifications to reflect definitions in the state statute.

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INTRODUCTION: THE IMPORTANCE OF VICTIM COMPENSATION

Victimization is a serious concern for any age group. Whether they are children or adults, victims often require both emotional and financial recovery. Unfortunately, restitution payments are not always completed, and not all victims have insurance or other types of financial support to help them recover. Wisconsin, as well as most other states, has a program to help in such situations. In Wisconsin, the program is called the Wisconsin Crime Victim Compensation Program, and it provides compensation to the victims of a crime in the state. Such compensation includes lost wages, the costs of medical treatment and counseling, as well as other needs (Wisconsin Crime Victim Compensation Program, 2010). Wisconsin Statutes define victims as a parent, guardian, or legal custodian if the crime victim is a child (Section 950.02(20m) and 950.02(4)). Although the state's definition of victims includes the parent of a minor, the Wisconsin Crime Victim Compensation Program does not provide compensation for lost wages of parents caring for a child victim of crime (Wisconsin Crime Victim Compensation Program, 2010). The topic of this research will be the Wisconsin Crime Victim Compensation Program, and how eligibility for it compares to Wisconsin statute definitions. The paper will focus on reviewing how the program affects juvenile victims and their parents, and any policy recommendations that may help make the program more effective in assisting with victim recovery.

Wisconsin's Crime Victim Compensation Program is the state's response to recognizing the needs of victims and their families. The program was created to help victims of crime with financial burdens they face as a result of that crime. The objectives of the program are to aid innocent victims of crime, ease their financial burden, and to help them maintain their dignity as they go through difficult or traumatic times. The program does this by paying eligible victims up

to \$40,000 for approved expenses for any one injury or death. The types of financial support they provide are fairly specific, but include financial help for medical treatment, counseling, and lost wages due to obtaining these types of treatment (Wisconsin Crime Victim Compensation Program, 2010). Because the definition of victims for the Crime Victim Compensation Program do not match up with the definition of victims in the Wisconsin state statutes, many victims that should be eligible for financial assistance through the program are not approved for that assistance when they apply.

Eligible applicants of the program include innocent victims of a crime that occurred in Wisconsin and innocent victims who suffer physical or emotional harm or death from a crime in that state. A dependent or legal representative of an innocent person killed as a result of a crime will also be considered a victim. Other people eligible for compensation from the program include people who are injured while helping a crime victim or police officer, people who suffer a reaction from the death of a family or household member, and people who are injured in automobile accidents caused by drunk drivers (Wisconsin Crime Victim Compensation Program, 2010).

Once a victim is determined to be eligible for compensation, the expenses the victim is requesting be paid must also be approved. Medical and counseling expenses, lost wages, funeral costs up to \$2,000, and loss of support to a dependent of a crime victim who was killed are all qualifying expenses. Also eligible are reasonable replacement costs for property held as evidence and reasonable costs for cleaning a crime scene. Victims must have also met the deadlines for reporting the crime and filing a claim, and they must not have contributed to the crime. Lastly, the victims must be cooperative with law enforcement (Wisconsin Crime Victim Compensation Program, 2010).

There are important categories of victims that are not considered eligible by the Wisconsin Crime Victim Compensation Program, however. First, if a parent experiences lost wages while taking their dependent child to medical appointments due to victimization, the parent does not qualify for compensation (Wisconsin Crime Victim Compensation Program, 2010). According to Wisconsin Statute 950.02(4)(a)2, if the victim is a child, then victim is defined as a parent, guardian, or legal custodian of the child, as well. This means that by state statute, the parent is defined as a victim, but they are not eligible to be reimbursed for wages lost while caring for their victimized child. Another category of victims that will not be approved by the program is victims who were behind on child support payments. If a parent is behind on child-support payments and is killed as a victim of a crime, their children cannot receive compensation for funeral costs from the Wisconsin Crime Victim Compensation Program, even though funeral costs are usually an approved expense. In this case, the children or the parents are victimized again when they are unable to receive help that they may need.

Victims have long been overlooked in the criminal justice system. While the system is now placing more emphasis on the victims and their recovery, many victims are unable to restore their finances to the same state as before the victimization occurred. The Justice Department has estimated the annual cost of crime, including medical expenses, lost wages, and victim assistance, to be approximately \$105 billion. It has also been estimated that about 87% of restitution currently goes uncollected each year. The criminal justice system recognizes the importance of restoring the lives of crime victims as closely as possible to their pre-crime condition, and passing legislation to decrease unpaid restitution and recognizing the importance of how victims are treated within the system show that victim rights are becoming a priority (Criminal Restitution Improvement Act, 2006). Although the importance of restitution and

restoring the victim are recognized by the criminal justice system, the Crime Victim Compensation Program considers the state only as the “payer of last resort” (Wisconsin Crime Victim Compensation Program, 2010). Restitution is beneficial to the victim for financial and emotional reasons, but it is also beneficial to the offender. Studies have shown that offenders who paid a higher percentage of their restitution had lower recidivism rates (Criminal Restitution Improvement Act, 2006). Restitution payments are thought to help rehabilitate the offender, as they are being held accountable for their actions and are responsible for repairing the damage that was done (Schmallegger, 2010). The State of Wisconsin is the secondary payer for the out-of-pocket approved expenses that are not paid through restitution, insurance, or any other means. These financial resources must also be used before the program can approve any compensation requests (Wisconsin Crime Victim Compensation Program, 2010).

The 2008 Wisconsin State Wide Compensation Report showed that 1,377 claims were approved as eligible, 268 of which were victims 17 and under. Very few were approved, but 2,634 claims were considered ineligible or closed (Victims of Crime Act..., 2009). While many more claims were closed than were approved, there was substantial funding left over at the end of the year. In 1999, a survey of compensation administrators indicated that 35 of 52 states or territory programs had an average of \$1.8 million in unspent funds annually that carried over. (Alvidrez, et al., 2008). If claims do not meet the requirements of the program, they cannot be approved.

Victims that file claims for compensation often expect the outcome to be therapeutic, as well as to help with financial recovery. This is especially true of sexual assault victims (Feldthusen, Hankivsky, & Greaves, 2000). When a claim is denied, the victim loses out on financial compensation, as well as assistance with therapeutic recovery. Ineligible victims also

are not given the satisfaction of acknowledgment that they did not cause the victimization. For financial and therapeutic reasons, it is important that crime victims receive compensation, whether through restitution payments or through help from the state's compensation program.

The purpose of this research is to show the inconsistencies between the state statute definition of victims and the definition of eligible victims for the Wisconsin Crime Victim Compensation Program. After showing financial need for victims of crime, issues with restitution payments, and the effect that victimization can have on juvenile victims of crime, the main purpose of the paper will be to provide recommendations for a revision of this state restitution program. Recommendations will focus on revision of requirements for eligible applicants.

The method of approach to gather data found in this paper will include using secondary data. This will incorporate review of practical findings on victim financial need and victim compensation programs. The data will come from the Wisconsin Crime Victim Compensation Program and will be compared to compensation programs in other states (Crime Victim Compensation Program, 2010). Empirical and theoretical data will also be reviewed to analyze the need for financial support for victims, and the availability of that support through the state. Information to support the need for compensation for victims of crime will also include data gathered from case reviews, financial reports, statistics, and surveys. The analysis of programs in other states or agencies will be completed in order to compare and show support for the recommendations.

Based on the findings, recommendations will be made to revise the Wisconsin Crime Victim Compensation Program to reflect the Wisconsin Statute on victims. The recommendations provided will also be helpful for creating effective policies for compensation

of juvenile victims and the families of juvenile victims. Information on compensation through the civil legal system will be provided, including differentiating between restitution paid from monies earned versus income earned while incarcerated. In addition to this, restorative justice will be focused on in an attempt to explain the importance of compensation for victims of crime.

Statement of the Problem

The 2008 Wisconsin State Wide Compensation Report showed that 1,377 claims were approved as eligible, 268 of which were victims 17 and under. Very few were approved, but 2,634 claims were considered ineligible or closed (Victims of Crime Act..., 2009). While many more claims were closed than were approved, there was substantial funding left over at the end of the year. In a survey of compensation administrators Alvidrez, et al. (2008) found that 35 of 52 states or territory programs had an average of \$1.8 million in unspent funds that carried over annually.

Victims that file compensation claims often expect the outcome to be therapeutically and financially helpful, but if claims do not meet the requirements of the program, they cannot be approved (Feldthusen, Hankivsky, & Greaves, 2000). According to state statute, parents of child victims are defined as victims, but they are not eligible to receive compensation through the state for expenses incurred while caring for their child. Children of a victimized or murdered parent that was behind on child-support payments will also not receive assistance from the state (Wisconsin Crime Victim Compensation Program, 2010). These are groups of victims that should not be excluded from qualifying for compensation through the state, especially if state legislation defines them as victims. Other states, such as California, Arizona, and Michigan,

have made the decision to provide for these groups of victims that are defined similarly to those of Wisconsin.

Process evaluations done of compensation programs in all 50 states estimated that the number of victims that were eligible but not served was about 55%, despite outreach efforts to victims. In 2002, only 4% of the nation's violent crime victims applied for compensation through the state. Findings from these evaluations, as well as evaluations done by the Justice Research and Statistics Association, made the following suggestions as the main changes that were needed to increase effectiveness of compensation programs: better outreach and less restrictive eligibility requirements (Karmen, 2010).

Methods of Approach

The main method of approach in this paper is the use of secondary data. Comparing Wisconsin's Crime Victim Compensation Program with those programs of other states provided practical findings on compensation claims and program eligibility. These comparisons offer empirical support for the paper's recommendations. Data was also reviewed to determine victim financial need and the availability of support from the state or through other programs, such as victim-offender mediation or restitution programs. This data was gathered from Compensation Program reports containing quantitative data on victimization types, claim amounts, and payout or rollover of funds. Lastly, research on funding for the programs and case review of supporting legal cases was used to provide background information and supporting evidence for the recommended changes.

Anticipated Outcomes

An evaluation of the Wisconsin Crime Victim Compensation Program and revision of its eligibility criteria will result in an increased number of compensation claims being approved. This will assist victims in the healing process, and it will prevent victims and their families from feeling as though they are being victimized again. Victims can also gain compensation through restitution payments made by the offender. Implementing policies to increase the number of restitution agreements that are fulfilled will help restore the victim, and it will also help reduce recidivism by holding the offender accountable and showing them the consequences of their actions. Implementing the recommended changes will support the criminal justice system's move toward restorative justice practices.

OVERVIEW OF COMPENSATION PROGRAM HISTORY AND FUNDING

The idea of a state providing financial reimbursements to crime victims was originally proposed in the 1950s by Margery Fry, an English penal reformer. Victim compensation was first implemented in New Zealand in 1963, and Great Britain soon followed suit. In short time, the United States began adopting victim compensation, as well. These early programs started in California in 1965, and were basically welfare programs to help victims in need. New York soon followed, and by 1979, 28 states had victim compensation programs that recognized that victims were deserving of compensation whether they were financially in need or not (Young & Stein, 2004).

Program Funding and the Victims of Crime Act

Currently, almost 200,000 victims and their families across the country receive assistance from their state's Crime Victim Compensation Program each year. According to the National Association of Crime Victim Compensation Boards, the country pays out approximately \$450 million overall annually. About one third of the money used to fund these programs comes from the federal VOCA fund, and the majority comes not from taxpayers' money, but from offender fees and fines (National Association of VOCA Assistance Administrators, 2010). VOCA stands for the Victims of Crime Act, and is a federal law that was enacted by Congress in 1984 to provide funding for services and to assist crime victims. It was originally created for a four-year term, but in 1988, Congress made VOCA permanent. The Office for Victims of Crime in the U.S. Justice Department is responsible for administering the funds and programs at the federal level, and the Governor designates specific agencies to administer VOCA funds at the state level (National Association of VOCA Assistance Administrators, 2010).

In the Office for Victims of Crime's 2009 Report to the Nation, a total of \$679,654,000 was distributed between the states and territories in 2007 and 2008. Wisconsin received \$6,812,000 of this fund in 2007, and \$5,658,000 in 2008. As for distributions, Wisconsin paid out \$1,143,000 in 2007, and \$977,000 in 2008 (U.S. Department of Justice, 2009). Between the two years, that results in a total of \$10,350,000 in funds. As a nation, \$342,589,000 of the fund was not paid out to victims in 2007 or 2008. These numbers do not include distributions to tribes, tribal communities, or victim assistance programs (U.S. Department of Justice, 2009). However, large amounts of the funds were not distributed to victims, leaving them to be allocated to other programs, rolled-over to following years, or used to replenish other funds.

Victims require more than just financial recompense, and for that reason, VOCA funds are used for more than compensation payments alone. Funding also supports state victim compensation and victim assistance program grants, victim-witness coordinators, Federal Bureau of Investigation (FBI) victim specialists, the Federal Victim Notification System, and the Children's Justice Act. Grants are used for training, victim services, and to supplement the state funds used to reimburse victims. Under VOCA, each state compensation program receives a yearly grant equal to 60% of the program's annual expenditures. Only 5% of each year's VOCA grant can be used for administration and training; the remainder must go to services for victims (U.S. Department of Justice, 2009). VOCA funds also support victim-witness coordinators in U.S. Attorney's Offices and FBI victim specialists. These are positions that assist victims of federal crimes, informing them of court proceedings, case developments, and appropriate resources. The Federal Victim Notification System is used to notify victims of federal crimes about the release or detention status of offenders. Lastly, the Children's Justice Act provides state grants to American Indian and Alaska Native community tribes to improve the investigation

and prosecution of child abuse and neglect cases in tribal communities (U.S. Department of Justice, 2009).

After awarding funding to the above programs, the VOCA statute also allows leftover funds to be used to replenish the Antiterrorism Emergency Reserve. The Antiterrorism Emergency Reserve is used to fund emergency expenses and other services for victims of terrorism or mass violence both within the United States and overseas. The difficult part of allocating funds for VOCA is that it is done through fixed formulas. Since other programs are calculated using the same system, any increase in funding for these other programs reduces the money available for state assistance and grants. Fortunately, most VOCA funds are dedicated to states and territories for victim compensation and victim assistance. State compensation grants account for up to 47.5% of the funds, and state assistance grants account for another 47.5% (U.S. Department of Justice, 2009).

According to the Office for Victims of Crime's 2009 report to the nation, the majority of recipients whose expenses are reimbursed by the program consist of assault, homicide, child abuse (both sexual and physical), and robbery victims. Domestic violence victims account for nearly 30% of total assault and homicide victim claims that were reimburse, and almost 50% of the reimbursed stalking claims. Medical and dental care costs made up about 50% of the total expenses reimbursed (U.S. Department of Justice, 2009). A list of compensable crimes in the state of Wisconsin can be found in Appendix A. The Office for Victims of Crime estimates that the average payout per claim is approximately \$3,000 (U.S. Department of Justice, 2009). In order to obtain these calculations and to properly distribute funding, states provide performance reports. In these reports, VOCA administrators determined the amount of additional victims that VOCA funds allowed them to serve. Connecticut found that VOCA funds paid 32% of the total

compensation provided to crime victims. The District of Columbia reported that VOCA funds allowed their program to increase its payments by 7% from 2006 to 2007. Minnesota found that, due to federal funding, their program provided critical financial assistance to over 1,500 victims of violent crime (U.S. Department of Justice, 2009). The Office for Victims of Crime and the VOCA fund are very important to the success of state compensation programs, and, fortunately, funding and the ability to provide services for victims of crime seem to be increasing overall.

Juvenile Victims of Crime

Many victim claims for reimbursement, however, are still denied. Victimized juveniles whose parents file claims for lost wages are not approved, even though lost wages are an eligible expense through the compensation programs. Appendices B and C are applications for crime victim compensation and mental health services through the provider, respectively. Nationally, over 45,000 claims were approved for crime victims age 17 and under, but it is unknown how many eligible child victims exist. The National Crime Victimization Survey found that only 28% of violent crimes against youths age 12-17 are known to law enforcement, and reporting rates for children younger than 12 are even lower. Throughout the nation, of those victims receiving compensation from state programs, only 22% were child abuse victims. More than \$37 million was provided for victim services for these children, and more than half of this amount was distributed in California, possibly because California uses victim compensation to pay for children victim's psychotherapy. The United States Department of Justice states, however, that data does not exist on what percentage of eligible children apply for victim compensation (Finkelhor, Cross, & Cantor, 2005).

Fortunately, and since state compensation programs are considered the payer of last resort, restitution payments are sometimes ordered by judges in court. Of the 32 state crime victims' rights constitutional amendments, 18 give the victim a right to restitution payments, and courts in every state have the statutory authority to order restitution. In fact, statutes require courts in more than one-third of states to order restitution unless there are extraordinary circumstances. In cases in which victims have a clear right to receive restitution, payments are ordered even in cases in which plea agreements are reached. Most restitution laws apply to crime victims in general, but many states specifically order restitution to victims of certain offenses, such as crimes against the elderly, domestic violence, sexual assault, hate crimes, child abuse, child sexual assault, drunk driving, and identity theft and fraud (U.S. Department of Justice, 2002). Restitution does not necessarily go to the direct victim, either. It can be ordered to be paid to third parties or family members, and is often ordered for the same losses that the state compensation programs approve claims for. Considerations that need to be taken into account for ordering restitution, however, include public policy on restitution and the financial burden that has been placed on the victim or other injured parties. Most courts also take into account the financial resources of the defendant and their ability to make payments in the future (U.S. Department of Justice, 2002). Care should be taken to differentiate and choose correctly between ordering offenders to make restitution payments from monies earned versus from income earned while incarcerated. If an offender is ordered to make payments while in a correctional facility, payments may only come from income. If payments are to come from monies earned, then any of it can be used for restitution payments, such as monetary gifts from family members. This is an important distinction to make in order to ensure restitution payments are being made when possible. Unfortunately, crime victims do not always receive restitution,

even when ordered by the courts. When insurance and all other options are exhausted, victims need to be able to turn to the Crime Victim Compensation Program, whose objectives are to aid innocent victims of crime, ease their financial burden, and to help them maintain their dignity as they go through difficult or traumatic times, to help them recover financially (Wisconsin Crime Victim Compensation Program, 2010).

RESEACH OF RELEVANT CASE REVIEW, LEGISLATION, AND LITERATURE REVIEW

In 1979, Wisconsin was the first state to pass statutory basic rights and protections for victims (Davis & Mulford, 2008). Every state has followed suit, but each state differs in their restitution statutes and their eligibility requirements for victim compensation. Wisconsin does not approve compensation for parents of a juvenile victim, or for family members of a victim that owed child support. Wisconsin is not alone in denying these as qualifications for compensation; however, many states have changed their eligibility standards of the compensation program to provide recompense for parents of children who have been victimized. In fact, some states, such as Arizona, have made restitution mandatory in every criminal case. In this way, the state avoids the issue of the victim failing to request restitution by placing the responsibility on the court. Wisconsin law follows this to an extent, by requiring the court to ask the prosecutor if there is a requested amount of restitution (U.S. Department of Justice, 2002).

Case Review and Legislation

In the decision of *State of Wisconsin v. Tony G. Longmire* (2004), the court of appeals noted the following:

Section 973.20 reflects a strong equitable public policy that victims should not have to bear the burden of losses if the defendant is capable of making restitution. Additionally, we are to construe the restitution statute broadly and liberally in order to allow victims to recover their losses [that occur] as a result of a defendant's criminal conduct. (p. 6)

There are Wisconsin court cases, such as *State of Wisconsin v. William A. Rouse* (2002), that prove Wisconsin's restitution statute is interpreted broadly in favor of recovery for the victims.

William Rouse was ordered to pay restitution to an employer for their employee's lost wages while assisting police in researching Rouse's crime. However, eligibility for compensation through the state of Wisconsin is not interpreted broadly or liberally in favor of the victims.

There are some states that have broadened their compensation eligibility requirements. The Minnesota statute definition of a victim is similar to that of Wisconsin, in that a guardian or a custodian of a minor, incompetent, incapacitated, or deceased person is considered a victim (Minnesota Office of the Revisor of Statutes, 2009). The difference between the two states is that Minnesota has interpreted eligibility qualifications to receive compensation to follow their statute definition. *In the Matter of the Welfare of J.A.D., Child* (1999), the State of Minnesota Court of Appeals affirmed that a child victim's parent is entitled to restitution for expenses occurred on the child's behalf. In their analysis, the Court of Appeals stated that denying compensation to the parents of a child victim for losses incurred while making the child available for investigation purposes would go against the spirit of the restitution statute.

Other states, such as California, have actually changed the eligibility requirements of their compensation programs to include parents of child victims. California lists separate classifications of people who are generally eligible for compensation under their eligibility requirements. One of these classifications is a parent, sibling, spouse, or child of the victim. California also lists "up to 30 days of wage loss for the parent or legal guardian of a minor victim who is hospitalized or dies as a direct result of crime" as an eligible expense for reimbursement (California Victim Services Resources, 2008, p.7). California law specifies that parents can be compensated for wages lost while caring for an injured minor victim of a crime. Arizona's statute is not as specific, but its Court of Appeals has also interpreted their statute to reach the

same conclusion. Parents are entitled to restitution for wages lost while taking their child victim to medical appointments and juvenile hearings on the case (U.S. Department of Justice, 2002).

Victim rights have been expanded over the last twenty-five years. Federally, the biggest steps that have been taken for financial restoration for victims are the 1984 Victims of Crime Act (VOCA), the 1990 Victim Rights and Restitution Act, the 1994 Violent Crime Control and Law Enforcement Act, the Mandatory Victims Restitution Act of 1996, and the 2004 Crime Victim Rights Act. In the 1990 Victim Rights and Restitution Act, Congress gave federal crime victims the right to notification of court proceedings and the right to attend them. Additionally, victims were provided the right to notice about changes in the offender's detention status, the right to consult with prosecution, and the right to protection from offender aggression. Following this, the 1994 Violent Crime Control and Law Enforcement Act gave federal victims the right to speak at sentencing hearings. Through this act, restitution was also made mandatory in sexual assault cases (Davis & Mulford, 2008). The Mandatory Victims Restitution Act of 1996 followed, and made restitution in federal criminal cases where financial losses have occurred a requirement. It also states that if there is an identifiable victim, a restitution amount must be determined. The defendant's present and future ability to pay is taken into account during this determination (Goodwin, 2001). In 2004, the Crime Victim Rights Act was passed to provide rights to crime victims in federal court, including the right to be present and heard at any court proceedings (Davis & Mulford, 2008). Since then, bills such as the Criminal Restitution Improvement Act of 2006 and the Criminal Restitution Improvement Act of 2007 have been proposed to Congress, but they have not been passed (H.R. 845--110th Congress: Criminal Restitution Improvement Act of 2007, 2007). The Mandatory Victims Restitution Act of 1996 is still very important to victims, determining restitution through a five-step analysis. These steps

include identifying the statutory offense, identifying the victim(s), identifying the harm caused to the victim(s), identifying which harms and costs can be compensated with restitution, and the effect of a plea agreement on the restitution. The federal statutes also authorize restitution in certain cases, such as juvenile cases or cases with multiple victims. Pertaining to juvenile violations, restitution can be imposed, even though the violations are not legally considered to be “offenses.” Also, multiple victim cases have been recognized. Restitution can be ordered to direct, indirect, named, and unnamed victims. The victims must be identified by the time the restitution is ordered, but they do not necessarily need to have been found at this time (Goodwin, 2001).

Literature Review of Program Assessments and Recommendations

At the end of the 1980s and beginning of the 1990s, two process evaluations were done of a sample of all 50 states’ compensation programs. The evaluations were done to determine how compensation programs actually work, and found that the survey’s sample granted financial assistance to about two-thirds of the applicants. In comparing all states, denial rates varied. Some boards were much stricter than others in their decision-making patterns. However, when looking at the number of victims that applied versus the total number of victimizations, the number of victims that were eligible but were not served was estimated to be 55%, despite outreach efforts. This means that more than half of all possible qualifying victims did not know their rights and/or did not file a claim (Karmen, 2010). In 1991, a study found that less than one-third of victims of violent crime were encouraged by law enforcement to file for compensation (Davis & Mulford, 2008). This creates a large number of victims across the nation that are not being informed of possible assistance that is available to them. Similarly, less than one-third of

Maryland victims had heard of victim compensation prior to being surveyed as well. Of those that were aware of the program, 70% chose not to file a claim (Alvidrez et al, 2008). Of any victim who chooses not to file a claim, reasons are thought to be similar to those of non-reporting of crimes: feeling that the crime was not important enough, the incident was a private matter, not wanting to be labeled as a victim, and a lack of trust for police to effectively intervene. Experts also think that the non-reporting of crimes may be related to the nonuse of programs since most victims are introduced to victim services through law enforcement (Justice Research and Statistics Association, 2008).

Following the evaluations, the researchers found that there were four major problems that were causing problems with the effectiveness of the programs. First, outreach is inadequate. In 2002, only 4% of violent crime victims in the nation applied for compensation through the state. Second, the eligibility requirements are too restrictive, causing many claims to be denied. Third, the funding that is awarded to applicants is often not enough to help them with their financial problems, and lastly, there is not enough money being obtained through fines and penalties (Karmen, 2010). The second problem listed above agrees with the statement of problem in this paper: eligibility requirements for state compensation programs are too restrictive. Because of this, many qualified victims, such as parents of child victims or children of adult victims that are behind on child-support payments, are denied compensation. Along with this issue, many victims are unaware of the programs or do not file claims.

In 2008, the Justice Research and Statistics Association completed an assessment to examine the use and nonuse of Pennsylvania's Victims Compensation Assistance Program. The Pennsylvania Commission on Crime and Delinquency requested the assessment, particularly because of concern that the program was being underutilized. Because of the differences

between state requirements and programs, comparisons were done with the nation as a whole instead of other individual states. Researchers found that the lack of awareness about victim services explains nonuse of the program to a great degree. Perceptions about compensation availability are also a factor. Pennsylvania's compensation policies were found to be similar to those of other states, and of victim beneficiaries, 92% reported satisfaction with the state's compensation program process. Unfortunately, only 3% of surveyed crime victims in 2003 sought assistance through victim services. Due to these findings, five recommendations were made to improve victim compensation programs. The first recommendation is that programs be expanded wherever possible, as federal allocations for victim compensation are expected to continue to rise. Second, needs assessments, strategic planning, coordination and automation, and technical assistance from the Office for Victims of Crime should be completed to improve program management. Third, outreach should be expanded to increase awareness about compensation eligibility. Fourth, improved communication about policies and procedures should result in quicker claims processing. Finally, education and outreach to rejected claimants needs to be increased. If a claim is denied, the victim should be informed as to why (Justice Research and Statistics Association, 2008).

Research by Alvidrez et al (2008) found similar numbers regarding the number of victims that seek compensation through the state programs. Nationwide, the number of applications represents fewer than 5% of all victimizations. In addition to nominal numbers of applications and strict decision-making boards, 35 of 52 state programs had annual surpluses that averaged \$1.8 million in unspent funds that was carried over. In California, in 2007, the surplus was \$128 million (Alvidrez et al, 2008). These funds could be distributed to victims if eligibility

requirements were less restrictive. The funds could also be used to create and expand outreach programs to educate victims about the resources available to them.

Alvidrez et al (2008) looked at where active outreach programs and assistance would have the largest effect. They found that the two groups most underrepresented by state compensation programs are financially disadvantaged victims and younger, male, minority victims. Because these two groups are underrepresented among compensation claims, individuals of low socioeconomic status may also be underrepresented. In California, studies have shown that younger, less educated, and homeless victims were less likely to file compensation claims than older, more socioeconomically advantaged victims. Active outreach and assistance was found to increase the overall proportion of victims that filed claims. It also reduced the disparities in disadvantaged crime victims utilizing California's victim compensation program. The findings suggested that the main barriers to filing a claim are lack of information about victim compensation and difficulty with the application process. Due to this, the researchers in this study recommended that outreach and educational efforts target the underrepresented victim groups in order to increase their access to financial assistance through victim compensation programs (Alvidrez et al, 2008).

THEORETICAL FRAMEWORK: RESTORATIVE JUSTICE AND THERAPEUTIC JURISPRUDENCE

Restorative justice is a sentencing model of which the goal is to make the victim whole again. This is done through restitution and community participation. This type of justice is also referred to as balanced and restorative justice, as balance is achieved through giving equal consideration to community safety and offender accountability (Schmallegger, 2009). Instead of only punishing criminals, the goal is to hold the offender accountable for their actions by taking responsibility for the victim and helping repair the loss that the community has suffered. Under restorative justice, criminal justice is about repairing the damage done to victims by crime, to make the community feel safe and secure again, and to assist the offender in choosing future behaviors (Abadinsky, 2006).

Restorative justice goes hand in hand with therapeutic jurisprudence. Therapeutic jurisprudence is the study of law's role as a healing agent. While the law often allows people to find closure and to move on, it can also be harmful to the healing process. Therapeutic jurisprudence focuses attention on the psychological and emotional impact of the law, legal procedures, and the involved parties. It identifies anti-therapeutic elements and determines whether action can be taken to avoid them while still adhering to the established legal principles. For example, therapeutic jurisprudence does not ask the judge not to accept a "no contest" plea, but it does ask the judge to consider the therapeutic consequences that may come of this plea, for both victims and offenders (Schma, 2000).

The History of Restorative Justice

Beginning in the 1970s, dispute resolution was promoted as a way to resolve conflicts in which both parties shared responsibility. The reasoning behind this was to reduce the workload

for police and courts when dealing with minor violations. Also, the argument was made that going to court can just intensify the conflict and hostility (Wallace, 2007). The activists' solution was alternative dispute resolution (ADR). The alternative methods were available at places called multi-door courthouses or neighborhood justice centers. The parties in the dispute took their cases to a referral unit, where they were screened and referred to the most appropriate method of resolution: conciliation, mediation, arbitration, or adjudication within the criminal justice system. Conciliation is a simple conversation between disputants with a go-between to facilitate the flow of conversation, while mediation involves negotiations between parties with a neutral person to help the parties arrive at a mutually acceptable compromise. In arbitration, an impartial individual is used to break a deadlock. Both sides give presentations, and the arbitrator makes a fair and final decision. Using these methods of alternative dispute resolution was seen as preferable to adjudication because it could lead to a satisfying compromise for both sides and could resolve the dispute. The use of private attorneys was discouraged, and the proceedings were kept fairly informal. These alternative methods of conflict resolution were even encouraged by judges to prevent backup in the courts and to make settling disputes in court at the public's expense a last resort (Karmen, 2010).

In 1980, Congress passed the Dispute Resolution Act, which authorized a national clearinghouse to conduct research and publish information about "storefront" justice, or community dispute settlement. Conflict resolution began receiving recognition, legitimization, and support, especially when Congress set aside money to establish the Institute of Peace. This allowed for techniques, strategies, and philosophies of conflict resolution to be taught in schools, colleges, and other training programs (Karmen, 2010).

At the start of the 1990s, there were over 125 Victim-Offender Reconciliation Programs operating in 20 states, and they handled about 16,000 cases a year. By the end of the 1990s, there were about 300 programs spread throughout all states (Wallace, 2007). In 2002, the United Nations encouraged countries to set up experimental restorative justice programs. Currently, there are thousands of programs being operated in over 50 nations (Karmen, 2010).

Restorative Justice Programs

The two main types of restorative justice programs are mediation and restitution programs. Much like the conflict resolution mediation option, mediation is a restorative justice program that places both the victim and offender in problem-solving roles. The basis for mediation is that problem solving for the future is more important than establishing blame for past behavior. Public safety is the highest priority, but it is also important to give victims the opportunity for empowerment, restitution, closure, and healing. In mediation, it is more important to help the victims and show the offender the impact of their behavior than to severely punish the offender. Mediation accomplishes the important goals, but it also promotes active victim and community involvement in the justice process and it enhances the quality of justice that the victim and the offender experience (Gray, 2002).

The process begins when judges, probation agents, prosecutors, or victim assistance staff refer the offender to a victim-offender mediation program. Many of these programs accept a referral after a formal admission of guilt has occurred in court, but cases are also taken as part of a diversion or deferred prosecution agreement. Each case is assigned to a mediator within the program, and the mediator meets with each party individually to listen to their stories and to explain the program. Voluntary participation of both the offender and the victim is a very

important aspect of the program. Once participation has been established, the mediation session is scheduled. During the first part of the session, the focus is on the facts and feelings related to the crime. The second part of the session consists of figuring out a plan to restore the victim. Losses and restitution are decided upon. These meetings usually last about one hour, but some can last up to two (Abadinsky, 2006). Reports from victim-offender mediation programs show that in more than 95% of mediation sessions, a restitution agreement is successfully negotiated and signed off on by the victim, offender, and mediator (Gray, 2002).

Public support for these mediation programs is high. In a Minnesota study of adults, more than four of five Minnesotans responded with interest in participating in victim-offender mediation, especially if the offender was a juvenile or young adult. Respondents indicated that it was more important to address restitution and prevention strategies than to get retribution (Gray, 2002). This sample implies that the public is much more open to the idea of restorative justice versus retributive justice than had previously been thought.

The second type of restorative justice program is restitution. Restitution was historically designed to benefit the offender instead of the victim. It was seen as less severe, more humane, and a rehabilitative option for the offender. Restitution also diminished a victim's "need" for vengeance. Now, with the focus being on the victim, restitution is used for efficiency and additional punishment more than for leniency. It helps combat prison overcrowding, places the burden of victim compensation on the offender, and offers treatment benefits to both the victim and the offender (Eskridge, 2004).

Restitution is rarely paid in time to assist with the costs it was intended for. Because of this, victim compensation was created to respond to victims' immediate need for financial assistance, whether or not they would eventually receive restitution. In fact, a study done in New

York found that many victims chose not to request restitution because they have received or are eligible for victim compensation, as it tends to be faster, more certain, and geared more toward victims' needs (Eskridge, 2004).

The goals of restitution programs are simple and straightforward: recovery of the victim, rehabilitation of the offender, and restoration of harmony (Karmen, 2010). These goals are accomplished through restitution sentences that require the offender to pay money to the victim and possibly the criminal justice system. The sentences can also require the offender to perform community service to help restore harmony to the community. Restitution programs are widely used in the United States. A recent survey estimated that there exist between 500 and 800 such programs for juvenile offenders in the country, and between 250 and 500 restitution programs being used in criminal courts. The popularity of this approach is continually growing because it assists victims as well as fulfilling the goals of sentencing: retribution, deterrence, rehabilitation, and reintegration. Retribution is achieved in that restitution requires that offenders pay for their crime and the harm it caused. Financial restitution and community service help satisfy both the victim and community's need for "just deserts." Restitution programs also help to deter crime because they require greater demands and offender accountability than supervision alone. As far as rehabilitation, restitution works to rehabilitate the offender through confronting the offender with the consequences of their crime. Victim-offender restitution programs bring the victim and offender together to resolve losses and damage, and these programs often increase offender responsibility. Lastly, restitution helps with reintegration because offenders who have recompensed are more easily accepted and seen more positively by the victim and the community. Restitution programs also help the offender maintain community ties (Gray, 2002).

Applying Restorative Justice from a Victim's Perspective

The criminal justice system defines crime in terms of the offenders' acts, but other aspects of crimes may be more significant in the eyes of the victim. The degree of violence of the act, the type of injuries, or the relationship between the victim and the offender may be very important to them. For example, the criminal justice system defines crimes as assaults or homicides, but these definitions do not explain the victimizations suffered during the crimes (Eskridge, 2004).

Restorative justice can help return the focus to the victim. Victims need closure, and witnessing the offender's guilt and remorse can be healing and help the victim to forgive the offender. This process can be difficult, but it will help the victim to move on better than revenge or retribution will. Offenders are also more likely to pay restitution if they have admitted guilt or shown remorse. Reimbursement can also serve as a way to restore victims, especially if the offense was a property crime or only caused minor injury. Paying compensation shows that the offender is willing to help restore the victim. This improves the offender's self-image as well as the victim's image of offenders (Eskridge, 2004).

International Interpretations and Applications of Restorative Justice

Victim-offender mediation is the most obvious representation of restorative justice, and the field has continued to develop in recent years, and interest in this form of justice theory is increasing immensely throughout North American and Europe. There are more than 120 victim-offender mediation programs in the United States, 26 in Canada, and even more in Europe. There is a widespread network of programs being developed through the United States, Canada, England, Germany, France, Austria, Norway, and Finland (Gray, 2002). In fact, surveys have

found that while there were only a handful of victim-offender mediation programs in the 1970s, there are now more than 1,000 programs throughout North American and Europe, over 300 being in North America and over 700 in Europe (Miers, 2001).

Current mediation programs in Austria have been evaluated, and a 96% victim satisfaction rate was found, along with a 75% overall rate for resolving conflicts. Belgium, Czech Republic, Denmark, Finland, and Netherlands show satisfied participants of their programs, but have no current evaluations to show exact rates. France, Germany, and Slovenia have no official statistics on the results of their programs. Evaluations of Norway's programs found that 95% of victims and offenders would recommend mediation as a way to resolve conflicts, but re-offending rates have not been assessed. Poland's programs were deemed successful because the agreements were completed. Compensation was received or possessions were returned, for which offenders were spared the usual sentence for their crime. Evaluations of Spain's programs were very positive, as well. Mediation was found to be a "win-win" solution; victims felt less victimized, victims and offenders were able to participate in the outcome, and both parties were satisfied with the session and the outcomes. Programs in other European jurisdictions were found to be successful, too, but the value of mediation for preventing recidivism of minor offenses in these countries was unclear (Miers, 2001).

Australia's program evaluations found 90% of victims and offenders were satisfied with the agreement and thought the outcome was fair to the victim. Canada, however, only noticed a moderate success rate when program evaluations were completed. Evaluations of New Zealand's programs discovered that most victims were willing to participate, and that of those that do, about 60% report satisfaction. Twenty-five percent reported feeling worse as a consequence of the program; however, the assessments did suggest that the restorative processes

can reduce re-offending, especially for those offenders who apologized to their victims (Miers, 2001).

Overall, restorative justice is gaining popularity internationally, particularly through victim-offender mediation programs. Evaluations of these sessions in other countries have found high success rates of completion, high rates of satisfaction among both victims and offenders, and also a possibility of reducing recidivism among offenders (Miers, 2001).

The Future of Restorative Justice

Popularity of restorative justice is increasing, and the number of cases directed to neighborhood justice centers and victim-offender mediation programs will grow in the future, as well. One of the important reasons for this growth is the movement toward a more informal criminal justice system. Informality is seen through procedures that are unwritten, flexible, and discretionary. In this way, they can be tailored to fit particular cases. The increasing interest in informal justice has also been promoted by the thought that centralized government is not succeeding as an instrument of social change. Because of this, people must solve their own problems, and using decentralized, community-controlled settings is a way in which to do this. The court system is becoming increasingly overwhelmed, leading some people to believe that non-stranger conflicts should be diverted from the formal adjudication system as often as possible. Lastly, in the public eye, punishment and rehabilitation efforts in prisons seem to fail in curing offenders. Because of these reasons, and the fact that criminal courts are overworked and prisons are overcrowded, public enthusiasm for informal alternatives and restorative justice programs is increasing. Neighborhood justice centers and victim-offender mediation programs can help the criminal justice system at times like this. These programs can help relieve the

excess of cases in the courts at a time when there is a demand for more services and less taxation (Karmen, 2010).

With restorative justice becoming more and more popular, the system must take caution to ensure that these programs do not become overburdened. Originally, cases that were eligible for mediation, restitution, and reconciliation programs were limited to petty, nonviolent offenses against property. This allowed for techniques to safely be perfected, controversy was avoided, and funding and resources were established. Now, however, the referral sources are more willing to send violent conflicts between strangers to mediation. Some of these more serious cases do not fit the format of the mediation programs. More importantly, restitution cannot repair the harm done by these serious crimes. More difficult cases take more time to resolve and require professional mediators and increased resources. Restorative justice can have very positive effects on both victims and offenders in the criminal justice system, but it is important that caseloads for these restorative justice programs do not become too large. To maintain the high success, one has to guarantee that mediation sessions take their time and continue to be held face-to-face (Karmen, 2010).

RECOMMENDATIONS

After reviewing practices of restorative justice across the United States and internationally, as well as examining literature review on compensation programs throughout different states, a formal assessment of the Wisconsin Crime Victim Compensation Program is needed. Restorative justice is gaining popularity, and compensation has been found to be very important in healing victims. Paying restitution has also been shown to be beneficial to the offender, as studies have shown that offenders who compensate the victim for the loss suffered had lower recidivism rates (Criminal Restitution Improvement Act, 2006). An assessment of the state's compensation program would provide information on approvals and denials of claims, funding and rollover amounts, and victim satisfaction with the program. The 2008 Wisconsin State Wide Compensation Report stated that 1,377 claims were approved, 268 of which were child victims. The same report also showed that 2,634 claims were declined (Victims of Crime Act...,2009). This shows that many more victims are denied compensation than are approved for it. Alvidrez, et al (2008) also found that nationally, there was an average of \$1.8 million unspent funds in 1999 that carried over to the following year. The amount of funding since then has increased, which implies that the average amount of unspent resources in the nation that have carried over each year since has been equal to or more than \$1.8 million.

Due to these statistics, and following a formal needs assessment of the program, it is recommended that the Wisconsin Crime Victim Compensation Program eligibility requirements be revised. As the program qualifications currently stand, juvenile victims and their families may not be fairly compensated by the program. As stated in the introduction of this paper, Wisconsin statutes state that if a victim is a child, then the child's parent, guardian, or legal custodian is considered a victim, as well (Wisconsin Statute 950.02(4)(a)2). However, a juvenile

victim's parents will be denied compensation though the state for lost wages while caring for their victimized child, even though lost wages are a qualifying expense though the state's compensation program (Wisconsin Crime Victim Compensation Program, 2010). Similarly, if a parent is victimized or dies and was behind on child support payments, their children are victimized again by not receiving benefits from the program. In order to project a strong and unified front as a state, Wisconsin's statutes and compensation program should be complimentary. For this reason, a revision of the policy to include provisions for parents of child victims and dependent children of victims as being eligible for compensation should be made. Other eligibility requirements will still apply, and stipulations can be added about the circumstances under which these new categories of victims would be eligible.

Lastly, as paying restitution is beneficial to both the victim, in terms of restoration, and the offender, by way of rehabilitation and reduced recidivism, the legislator should clarify the court orders for victim restitution by instating the following procedure. The important restorative justice tool of restitution can be made more effective if the offender is simply ordered to pay restitution from monies earned instead of income earned. With this simple modification, more restitution payments will be made, and more offenders may see the rehabilitative effects of compensating their victim.

SUMMARY AND CONCLUSIONS

Victimization causes a need for both emotional and financial recovery, and many times, the criminal justice system is the only available avenue to obtaining them. With the increasing interest in therapeutic jurisprudence and restorative justice programs, such as mediation and restitution, more emphasis is being placed on victims and their recovery. Unfortunately, many victims cannot restore their finances to their pre-victimization state. The Justice Department has estimated that the nation's annual cost of crime, including medical expenses, lost wages, and victim assistance, is about \$105 billion. It has also been estimated that approximately 87% of restitution goes uncollected each year (Criminal Restitution Improvement Act, 2006). The criminal justice system recognizes the importance of restoring crime victims, as does the state. For this reason, states have created the Crime Victim Compensation Programs in order to provide financial assistance to eligible victims of crime.

Wisconsin's Crime Victim Compensation Program was created to assist crime victims with financial problems they face as a result of the victimization (Wisconsin Crime Victim Compensation Program, 2010). Unfortunately, many victims may not be eligible for the compensation program's benefits due to the state's restrictive qualifications. When victims file compensation claims, they often do so in hopes of the outcome being both therapeutically and financially healing (Feldthusen, Hankivsky, & Greaves, 2000). Because of this, the recommendation of this paper is to revise the eligibility requirements of Wisconsin's Crime Victim Compensation Program to better assist juvenile victims and their families. Other states, such as Minnesota, California, and Arizona have modified their qualifications to include parents of child victims as eligible for compensation. Expenses would include, among others, lost wages while taking their child to medical appointments or assisting with investigative purposes (U.S.

Department of Justice, 2002). In fact, Minnesota's statute definition of a victim is very similar to that of Wisconsin, but Minnesota's Court of Appeals stated *In the Matter of the Welfare of J.A.D. Child* (1999) that denying compensation to parents of a minor victim for these losses would go against the intents and goals of the restitution statute. Likewise, the Wisconsin Court of Appeals stated that the restitution statute should be interpreted "broadly and liberally" for the recovery of victims (Wisconsin Department of Justice, 2005). However, despite this statement, Wisconsin's compensation program qualifications still have not been updated to reflect their statute definitions.

Positive steps have been taken for victims across the nation. According to the National Association of VOCA Assistance Administrators (2010), almost 200,000 victims and their families do receive assistance from their states' compensation program. These programs receive much of their funding from federal legislation; such as the 1984 Victims of Crime Act, the 1990 Victims Rights & Restitution Act, the 1994 Violent Crime Control and Law Enforcement Act, the Mandatory Victims Restitution Act of 1996, and the 2004 Crime Victims Rights Act, which have all expanded victims' rights over the last 25 years. The states have followed in expanding the rights of victims. Process evaluations of compensation programs in all 50 states have shown that financial assistance is granted to two-thirds of applicants. Unfortunately, denial rates vary greatly due to different eligibility requirements for the programs and different opinions on the denial boards (Karmen, 2010). When compensation programs were assessed at the state level, the Justice Research and Statistics Association (2008) found that in Pennsylvania, non-use of the program was extensive. In 2003, only 3% of surveyed Pennsylvania crime victims filed such claims. Alvidrez, et al. (2008) found similar results in Maryland. Of the third of surveyed crime victims that were aware of the compensation program, 70% chose not to file claims. As a result

of the national evaluations, the researchers determined the top two causes of ineffectiveness of the programs were inadequate outreach and eligibility requirements that were too restrictive (Karmen, 2010). This is a major supporting factor for expanding program qualifications in Wisconsin and all states. Outreach and available program information should be increased, as well. Because of these findings, a formal assessment of the Wisconsin Crime Victim Compensation Program is recommended.

The theory behind victim compensation is restorative justice. The goals of this theory are to make the victim whole again, to restore safety to the community, and to hold the offender accountable for their actions (Schmallegger, 2009). Therapeutic jurisprudence also plays a hand, as it focuses on the healing powers of the law and legal procedures. This can make a difference in how a judge rules if they decide that a certain ruling may be more beneficial for healing the victim (Schma, 2009). As for restorative justice, there are two main types of programs: mediation and restitution. Mediation is the more widely recognized approach for solving conflicts between victims and their offenders, nationally and internationally. Restitution, on the other hand, is usually used in conjunction with another punishment or with mediation. Restitution was originally intended as a more humane, rehabilitative option for the offender that decreased the victim's "need" for vengeance (Eskridge, 2004). According to Schmallegger, (2009), restitution is thought to help rehabilitate the offender through holding them responsible for their actions; they are to repair the damage caused by the crime. Community service can also be required as part of the compensation, which helps restore the community and improves the offender in the eyes of society. As paying recompense to the victim can help with the healing process, as well as restore the community and rehabilitate the offender, the last recommendation of this paper is to increase the amount of restitution that is paid. As previously stated, about 87%

of restitution goes uncollected each year (Criminal Restitution Improvement Act, 2006). One way to increase the number of restitution payments made by incarcerated offenders is to order the offender to pay restitution from monies earned. This ensures that portions of any money they receive will go toward restitution payments.

This paper substantiates the need for the aforementioned recommendations. Restorative justice is becoming more widely recognized and accepted, and as victims continue to be an important part of the criminal justice system, the programs and rights afforded them will need to be updated to reflect their newly discovered needs and rights. The recommendations have been made in support of restorative justice and making the victim whole again. As helping with victim healing is also beneficial for offender rehabilitation, these recommendations may also aid in increasing offender accountability, and hopefully, reducing recidivism.

Appendix A

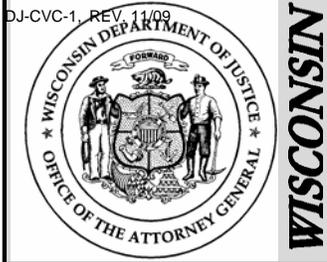
Compensable Crimes – Delitos Compensables *Revised 5/09*

Section	Title	Español
346.62(4)	Reckless Driving	Conducir con imprudencia temeraria
346.63(2) or (6)	Operating Under the Influence of Intoxicant or Other Drug	Conducir bajo los efectos/influencia del alcohol o de drogas
346.67(1)	Duty Upon Striking (Pedestrian Only)	Obligación de detenerse en caso de atropellar a un peatón
940.01	First-Degree Intentional Homicide	Homicidio intencional en primer
940.02	First-Degree Reckless Homicide	Homicidio con imprudencia temeraria
940.03	Felony Murder	Homicidio efectuado durante la comisión de un delito grave
940.05	Second-Degree Intentional Homicide	Homicidio intencional en segundo grado
940.06	Second-Degree Reckless Homicide	Homicidio con imprudencia temeraria
940.07	Homicide Resulting from Negligent Control of Vicious Animal	Homicidio causado por el control negligente de un animal agresivo
940.08	Homicide by Negligent Handling of Dangerous Weapon, Explosives or Fire	Homicidio causado por el manejo negligente de un arma peligroso, explosivos o fuego
940.09	Homicide by Intoxicated Use of Vehicle or Firearm	Homicidio causado por el uso de un vehículo o arma de fuego bajo los efectos del embriagante
940.10	Homicide by Negligent Operation of Vehicle	Homicidio causado por el uso negligente de un vehículo
940.19	Battery; Substantial Battery; Aggravated Battery	Agresión física; agresión física sustancial, agresión física agravada
940.20	Battery; Special Circumstances	Agresión física bajo circunstancias especiales
940.201	Battery or Threat to Witnesses	Agresión física o amenaza contra un testigo
940.21	Mayhem	Mutilación
940.22(2)	Sexual Exploitation by a Therapist	Explotación sexual por un terapeuta
940.225	Sexual Assault	Agresión sexual
940.23	Reckless Injury	Lesiones causadas por imprudencia temeraria
940.24	Injury by Negligent Handling of Dangerous Weapon, Explosives or	Lesiones causadas por imprudencia temeraria
940.25	Injury by Intoxicated Use of a Vehicle	Lesiones causadas por el uso de un vehículo bajo los efectos del embriagante
940.285	Abuse of Vulnerable Adults	Abuso de adultos vulnerables
940.29	Abuse of Residents of Penal Facilities	Abuso de residentes de instituciones penales
940.30	False Imprisonment	Detención ilegal

940.302(2)	Human Trafficking	Tráfico de los seres humanos
940.305	Taking Hostages	Toma de rehenes
940.31	Kidnapping	Secuestro
940.32	Stalking	Acosar a una persona
940.327	Tampering with Household Products	Alteración de productos domésticos
943.02	Arson of Buildings; Damage of Property by Explosives	Incendio intencional de edificios; Daños a la propiedad con explosivos
943.03	Arson of Property Other than Building	Incendio intencional de propiedad aparte de edificios
943.04	Arson with Intent to Defraud	Incendio intencional con intención de
943.10	Burglary	Allanamiento de morada con fines delictivos
943.20	Theft	Hurto, robo
943.23(1g)	Operating Vehicle Without Owner's Consent While Possessing Dangerous	Conducir un vehículo sin permiso del dueño en posesión de una arma peligrosa
943.32	Robbery	Robo
943.81	Theft from a Financial Institution	Hurto de la institución financiera
943.86	Extortion against a Financial Institution	Extorsión contra la institución financiera
943.87	Robbery of a Financial Institution	Robo de la institución financiera
948.02	Sexual Assault of a Child	Agresión sexual de un menor
948.025	Engaging in Repeated Acts of Sexual Assault of the Same Child	Actos repetidos de agresión sexual de
948.03	Physical Abuse of a Child	Maltrato físico de un menor
948.04	Causing Mental Harm to a Child	Causar daño a la salud mental de un menor
948.07	Child Enticement	Incitación de un menor
948.085	Sexual Assault of a Child Placed in Substitute Care	Agresión sexual de un menor puso en
948.095	Sexual Assault of a Student by a School Instructional Staff Person	Agresión sexual de un estudiante por parte de un empleado docente de escuela
948.20	Abandonment of a Child	Abandono de un menor
948.30	Abduction of Another's Child; Constructive Custody	Secuestro de un menor ajeno; Custodia
948.51	Hazing	Novatadas

(Compensible Crimes, 2009)

Appendix B



CRIME VICTIM COMPENSATION PROGRAM APPLICATION INFORMATION

An application may be filed by, or on behalf of, a person who was injured or died as a result of the crime. The Program may help with certain expenses such as medical or mental health bills or other losses directly related to the crime and covered by the Program. **Personal property losses including cash, or “pain and suffering” claims cannot be reimbursed by the Program.**

WHAT TO DO

- Please print clearly in ink. Separate applications must be completed for each injured victim.
- Enclose copies of crime-related medical bills received so far and send any other bills as they are received. The Program requires that the bills be itemized. It is the applicant’s responsibility to document the losses. **If there is insurance, Medical Assistance or other coverage sources for costs of medical or mental health expenses, a provider from within the provider group or that the network will reimburse, must be used. If those sources are not used first, the Program may not be able to consider reimbursement of those costs.**
- Send the completed application to the Crime Victim Compensation Program as soon as possible. Do **not** wait until court is over or until treatment is completed.
- The application must be signed by the injured victim or by the parent or guardian if the victim is under 18 years of age. If the victim is deceased, the application may be signed by a family member or by the administrator of the victim’s estate.
- Provide all information requested by the District Attorney’s Office to them in a timely manner. The Crime Victim Compensation Program Application does not need to be sent there.
- Return the completed application to the address listed on the bottom of this page. The applicant will receive a letter from the Crime Victim Compensation Program acknowledging the receipt of the application. Call the Program if a letter is not received after two weeks of submitting the application. Notify the Program of any changes in address or phone number. If you have any questions, please call (608) 264-9497 or 1-800-446-6564 (Toll-free). **Keep this information sheet for your records.**

REMEMBER

- The crime must be **reported to law enforcement within 5 days of the date of the crime** and the victim must cooperate in the investigation and prosecution of any known suspects. **The application must be filed within 1 year of the date of the crime.** However, there are very limited circumstances in which this requirement may be waived. If the crime was not reported within 5-days or the claim was not filed within 1 year, attach a written statement explaining the reason for the delay.
- Any money received from other sources such as restitution, lawsuits, insurance settlement, etc. **must be repaid** to the Crime Victim Compensation Program for crime related expenses paid by the Program.

Wisconsin Department of Justice
Crime Victim Compensation Program
Post Office Box 7951
Madison, WI 53707-7951
(608) 264-9497 or 1-800-446-6564 (Toll-free)

All information will be verified by the Crime Victim Compensation Program. Section 949.17 of the Wisconsin Statutes provides penalties for persons who submit fraudulent applications.

<h1 style="margin: 0;">CRIME VICTIM COMPENSATION APPLICATION</h1> <p style="margin: 0;">Post Office Box 7951 Madison, WI 53707-7951 (608) 264-9497 or 1-800-446-6564 (Toll-free) WI Statutes Chapter 949</p>	<p>CLAIM NO: _____</p> <p>DATE RECEIVED: _____</p> <p style="text-align: right;">(For Office Use Only)</p>
--	--

PLEASE BE SURE TO SIGN THE APPLICATION ON THE LAST PAGE
THE APPLICATION MUST BE FILED WITHIN 1 YEAR OF THE DATE OF THE CRIME

SECTION 1: VICTIM INFORMATION					
1. Victim's First Name		Victim's Last Name		2. <input type="checkbox"/> Female <input type="checkbox"/> Male	3. Date of Birth / /
4. Social Security Number		5. Mailing Address			
6. City		7. State	8. Zip Code		9. County
10. Home Telephone ()		11. Cell Phone ()		12. Work Telephone ()	
13. Is the victim represented by an attorney due to this crime: In filing this application? <input type="checkbox"/> Yes <input type="checkbox"/> No In a civil lawsuit? <input type="checkbox"/> Yes <input type="checkbox"/> No In an insurance action? <input type="checkbox"/> Yes <input type="checkbox"/> No		14. Name of Attorney Street Address City State Zip Code			
15. The following information is used for statistical purposes only and is needed to comply with federal regulations					
A. Handicapped Before Crime: <input type="checkbox"/> Yes <input type="checkbox"/> No After Crime: <input type="checkbox"/> Yes <input type="checkbox"/> No		B. Race: <input type="checkbox"/> White <input type="checkbox"/> American Indian of Alaskan Native <input type="checkbox"/> Black <input type="checkbox"/> Asian/Pacific Islander <input type="checkbox"/> Hispanic <input type="checkbox"/> Other			
C. How did you learn about the Compensation Program? (Check all that apply)					
<input type="checkbox"/> Law Enforcement		<input type="checkbox"/> Attorney		<input type="checkbox"/> Probation or Parole	
<input type="checkbox"/> District Attorney		<input type="checkbox"/> Sexual Assault Program		<input type="checkbox"/> Newspaper	
<input type="checkbox"/> Victim/Witness Program		<input type="checkbox"/> Domestic Abuse Program		<input type="checkbox"/> Funeral Director	
				<input type="checkbox"/> Friend	
				<input type="checkbox"/> Poster or Brochure	
				<input type="checkbox"/> Relative	
				<input type="checkbox"/> Public Service Announcement	
				<input type="checkbox"/> Hospital	
				<input type="checkbox"/> Other	
SECTION 2: PERSON FILLING OUT THE APPLICATION IF VICTIM IS A MINOR, HAS A GUARDIAN, OR IF VICTIM IS DECEASED					
1. Person's Name			2. Relationship to Victim		
3. Mailing Address		4. City		5. State	6. Zip Code
7. Home Telephone ()		8. Cell Phone ()		9. Work Telephone ()	

SECTION 3: CRIME INFORMATION

1. Type of Crime (Check all that apply)

<input type="checkbox"/> Homicide	<input type="checkbox"/> Domestic Violence	<input type="checkbox"/> Hit and Run of Pedestrian	<input type="checkbox"/> Drunk Driving / DUI
<input type="checkbox"/> Attempted Homicide	<input type="checkbox"/> Child Physical Abuse	<input type="checkbox"/> Sexual Assault	<input type="checkbox"/> Other _____
<input type="checkbox"/> Assault/Battery	<input type="checkbox"/> Child Sexual Abuse	<input type="checkbox"/> Robbery	

2. Location of Crime: Street Address _____ 3. City _____ 4. State _____ 5. County _____

6. Date of Crime / / 7. Date Crime Reported / / 8. Law Enforcement Agency to which crime was reported _____ Officer's Name _____

9. Offender(s) Names(s): _____

10. Did victim know offender(s)? Yes No If yes, in what way? _____

Description of crime (optional): _____

SECTION 4: MEDICAL/MENTAL HEALTH EXPENSE INFORMATION

1. Name and address of medical facility where victim was first treated: _____ 2. Date of Treatment: / /

3. Mental Health Treatment received, or to be received ? Yes No Unknown

SECTION 5: MISCELLANEOUS EXPENSES

Homemaker Services \$ _____ Documented Crime Scene Cleanup \$ _____

Securing a Crime Scene \$ _____ Property held as evidence and damaged by Crime Lab testing \$ _____

Clothing/bedding held as evidence and the reasonable replacement value of each:

_____ \$ _____ _____ \$ _____

_____ \$ _____ _____ \$ _____

SECTION 6: INSURANCE AND BENEFIT INFORMATION

1. Was there insurance or other source of payment to cover expenses at the time of the crime? Yes No

2. Check all that apply: _____ _____ _____

Employers/Union Group Workers' Compensation Medical Assistance/Title 19 Homeowners Insurance

Veterans' Benefits County Welfare/GAMP Victim/Spouse/Parent Insurance Badger Care

Lawsuit _____ Disability _____ Medicare _____ Other (describe) _____

SECTION 7: CRIMES INVOLVING MOTOR VEHICLES

Did the victim have auto insurance? Yes No Unknown Name of company: _____

Did the driver have auto insurance? Yes No Unknown Name of company: _____

Did the offender have auto insurance? Yes No Unknown Name of company: _____

SECTION 8: EMPLOYMENT INFORMATION

Complete the section **ONLY** if the victim was employed at the time of injury.

1. Did victim miss time from work immediately following the crime? Yes No Unknown

2. Is the victim self-employed? Yes No

3. Dates absent from work due to crime related injuries: From _____ To _____

4. Name of Employer _____ 5. Employer Telephone () _____

6. Employer Mailing Address _____ 7. City _____ 8. State _____ 9. Zip Code _____

FOR CRIME RESULTING IN DEATH

SECTION 9: FUNERAL/BURIAL EXPENSES

1. Funeral Home Name		2. Mailing Address	
3. City	4. State	5. Zip Code	6. Telephone ()
7. Life Insurance <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown		Amount: \$ _____ Beneficiary _____	

SECTION 10: DEPENDENTS FINANCIALLY SUPPORTED BY VICTIM AT TIME OF

First Name	Last Name	Date of Birth Month / Day / Year	Relationship to Victim
		/ /	
		/ /	
		/ /	

NOTE: If a claim is approved, the Program may be able to assist certain family/household members of the deceased victim with losses due to emotional/physical reactions to the death. More information can be obtained by calling the Crime Victim Compensation Program office.

AGREEMENT

- My signature below means that I certify that information on this application is true and correct.
- I agree that payments for bills may be paid directly to whom the payment is owed.
- I understand that the Crime Victim Compensation Program reimburses for costs not covered by any other source.
- I agree to notify the Crime Victim Compensation Program if a lawsuit is filed.
- I agree to repay the Crime Victim Compensation Program for all payments made if I receive money from any other source.
- I agree to refund the Crime Victim Compensation Program for all money paid by the Program if this claim is determined to be false or fraudulent.

AUTHORIZATION

I authorize and request any person having information needed by the Crime Victim Compensation Program to process my claim to release that information to the Wisconsin Department of Justice. That includes, but is not limited to, all past law enforcement records concerning me; private and governmental physicians and hospitals; local, state and federal law enforcement and prosecutors office and federal court personnel; any employer; and any private company or governmental agency that is providing or may provide medical or monetary benefits. A photocopy or facsimile of this authorization shall be considered as effective and valid as the original.

I authorize the Crime Victim Compensation Program to release copies of crime-related medical bills and wage information to the Office of the District Attorney for determination and documentation of restitution. I certify that I understand and agree to the above statements.

Signature of Victim or Person filing Claim

Date

RETURN COMPLETED APPLICATION TO:

**Wisconsin Department of Justice
Crime Victim Compensation Program
Post Office Box 7951
Madison, WI 53707-7951
FAX (608) 264-6368**

**FOR ASSISTANCE CALL: In Madison (608) 264-9497
Toll Free 1-800-446-6564**

Appendix C

PROVIDER INSTRUCTIONS RENEWAL REQUEST FOR MENTAL HEALTH SERVICES

Your client has reported that you have provided crime-related treatment and has provided this Program with an authorization to obtain and/or review any and all medical records concerning this treatment. The Program requires justification for payment of sessions beyond the initial 16 sessions originally approved.

Please complete the attached Renewal Request and return it directly to the CVC Program. You should be thorough in documenting the need for continuing treatment as it relates to the crime. **PAYMENT WILL NOT BE CONSIDERED UNTIL THE COMPLETED FORM IS RECEIVED.**

In providing compensation for mental health counseling, the CVC Program must ensure that the treatment is only as intensive and extends only as long as necessary to restore the victim to a level of functioning consistent with that immediately prior to the victimization. Consequently, the initial authorization allows payment for 16 sessions only. Justification for payment of additional sessions must be clearly defined in the form attached. Unfortunately, counseling dealing with family or relationship dysfunction, parenting skills, common adolescent problems or any other pre-existing or unrelated condition is not compensable.

The information you submit on this form will be reviewed by the Director of Crime Victim Compensation and the applicant will be informed whether payment for additional sessions will be approved.

If there are any other sources to pay for therapy expenses (such as insurance, Medical Assistance or Medicare, etc.), the bills **must** be submitted to that source first. **The Crime Victim Compensation Program will only consider payment of a bill after it has been processed by every other available source. If this Program determines that a claimant had a collateral source that would have covered the charges, but chose to receive treatment by a provider not covered by that source, the payment may be denied by this Program. If the patient advises you that this Program will cover the charges, you should verify that information with this Program.** If the victim/claimant is eligible for a sliding fee scale, the provider must bill the Program no more than the sliding fee scale.

The Program **cannot** cover:

missed appointments	sessions with the offender
court appearances	travel time
advocacy functions	interest on charges
report writing	case management
telephone counseling	criminal investigative procedures
reunification sessions	counseling for issue not directly related to the crime

YOU MUST BILL YOUR CLIENT. This is done because your client may be responsible for all or a portion of their bills. If you wish to expedite this claim, you may send duplicate copies of the itemized bills that are sent to the claimant, along with copies of the corresponding insurance explanation of benefit forms, to the address below:

**Crime Victim Compensation Program
PO Box 7951
Madison, WI 53707-7951**

If you have any questions please call 608-264-9497 and ask to speak with the Claims Specialist handling this claim. This form can be faxed to 608-264-6368.

Revised 5/09

RENEWAL REQUEST FOR MENTAL HEALTH SERVICES

**Crime Victim Compensation
Program
PO Box
7951
Madison, WI 53707-7951**

CLAIM #: _____

MENTAL HEALTH THERAPY PROVIDER INFORMATION

Therapist Name & Title:

Telephone:

Federal Tax ID Number:

Agency Name & Address:

License Number:

SECTION I: VICTIM/SURVIVOR INFORMATION

Name:

D.O.B.:

Address:

Date Entered Treatment:

Health Insurance Carrier:

Frequency of Treatment Sessions:

Number of Sessions to Date:

List any new events in the victim/survivor's life since treatment began that are impeding treatment progress.

SECTION II: VICTIM/SURVIVOR TREATMENT ISSUES

Please summarize progress toward treatment goals since last report.

Please list any pre-existing mental health issues identified prior to the date of the crime. If your treatment focus includes conditions that occurred prior to the crime but are exacerbated by the crime, please describe those conditions, how they are exacerbated and how they will be addressed.

Please Note: The Victim Compensation Program can only pay for the percentage of treatment that is necessary as a direct result of the crime for which the application was filed. In your opinion, what percentage of your treatment is necessary as a direct result of the qualifying crime?

D 0%
25%
50%

D 75%
100%
Other: _____%

In the past 3 months, has this victim exhibited any of the following symptoms at a level that you consider clinically significant?
Check all that apply:

Aggression	Dissociation	Obsessive Behavior
Anger	Emotional numbing	Panic
Anxiety	Fear	Phobias
Apathy	Flashbacks	Self-blame
Avoidance	Guilt	Self-destructive Relationships
Behavior Problems	Harm/Threats to Others	Self-harm Behavior
Compulsive Behavior	Hyperactivity	Sexual Acting Out
Crying	Hyperarousal	Sexual Dysfunction
Denial	Insomnia/Sleep Problems	Somatic Complaints
Depression	Irritability	Substance Abuse
Difficulty Concentrating	Memory Problems	Substance Abuse Withdrawal
Disordered Eating Symptoms	Nightmares	Other

Please state your goals for the additional treatment sessions and how you hope to accomplish these goals using objective and measurable goals.

Medications and dosages currently prescribed that have changed since the first report (please **circle** those directly related to crime):

Is the victim/survivor currently disabled from working due to the mental health condition **directly** related to the crime?
No ___ Yes ___ If yes, provide: the date disability began _____
and the date the victim/survivor will be able to return to work: _____

Based on the information presently available, please rate the victim's prognosis for resolution of the crime related concern for which you were consulted:

Excellent	Good	Fair	Poor
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Frequency of therapeutic contacts: _____ Anticipated date of termination: _____

Circumstances that would extend or shorten the period until termination date:

SECTION III: OTHER PERTINENT INFORMATION

Please add additional information not in the assessment and treatment plan if necessary. If more space is needed, attach a separate document to this plan.

SECTION IV: SIGNATURE

The information contained herein is correct to the best of my knowledge, information and belief. I understand and agree to the following:

1. I meet the requirements as listed in Wisconsin Rule JUS 11.06;
2. Under the statutes and rules applicable to the Crime Victim Compensation Program as the payer of last resort, I agree to apply for any insurance benefits of the victim, including, but not limited to, Medicaid/Medicare, to which the victim may be entitled and I agree to apply the sliding fee scale that would be billed to the victim in billing the Crime Victim Compensation Program;
3. I will cooperate with the Program for requests for information needed to determine initial and continuing eligibility for the Program.

Therapist's Signature

Date

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