

Division of Victim Services

Crime Victims Compensation
Surcharge Account

Joint Judiciary Interim Committee Meeting

May 2022

DIVISION OF VICTIM SERVICES



Division's Primary Responsibilities

The Division of Victim Services is a division within the Office of the Attorney General.

Determine eligibility for crime victims' compensation

Manage state and federal funds granted to local victim service providers

Monitor local programs for compliance

Provide outreach and education regarding victims' rights and victim services

Compensable Crimes Include:

- Homicide
- Sexual Assault
- Child Physical Abuse
- Child Sexual Abuse
- Indecent Liberties w/a minor
- Domestic Violence
- Kidnapping
- Robbery
- Assault
- DUI
- Certain Vehicular Related Crimes
- Acts of Terrorism on US Soil

Compensable Losses Include:

Mental Health Counseling and Care

Medical, Dental & Hospital Service

Articles Taken As Evidence

Out-of-pocket expenses

Funeral/Burial Expenses Including Native American Services

Loss of Earnings

Loss of Support for Dependents

Mileage Expense to/from medical appointments

Compensation Limits

- \$15,000 per claim per victim per crime
- \$10,000 catastrophic loss (available in some circumstances – explained in a moment)
- Per Claim/ Per Victim / Per Crime

Crime Reporting Requirements (Eligibility Requirements)

Crime must be reported to law enforcement.

Some verification that a crime occurred is necessary.

Some proof a crime was committed is required

Arrest NOT required

Prosecution is NOT required

Conviction is NOT required

The victim suffered physical/mental injury as a result of the criminal act.

Victim should cooperate with the investigation and prosecution.

Denial of Claims

Top 3 reasons

No crime occurred (per LE)

No innocent victim

No compensable loss

Compensation Denials SFY 21

Claims Statistics - Approved and Denied

<u>Reason for Denial</u>	<u>Number</u>	<u>Denied %</u>
No Compensable Loss	16	22.54%
Crime Did not Occur in Wyoming	4	5.63%
No Physical Injury/Property Loss	2	2.82%
Failure to Supply Information	5	7.04%
No Innocent Victim/Contribution	11	15.49%
Claim not Filed on Time	4	5.63%
Lack of Cooperation with L.E. or Commission	2	2.82%
Benefit Offender	2	2.82%
No Crime Occurred	23	32.39%
Unable to Locate Victim	1	1.41%
Mutual combatant	1	1.41%

Total Denied: 71

Compensation Statistics

During SFY 2021, 903 claims were received in our office

832 claims approved (92 % approved)

\$1,138,929.80 was paid out to crime victims injured in Wyoming

Majority of claims filed by assault victims

Majority of victims were females between 18 – 29

Compensation Statistics (cont.)

<u>Victims By Race</u>	<u>Number Approved</u>	<u>Number Denied</u>
African American	8	2
Hispanic/Spanish Origin	65	6
Native American	82	1
Asian/Pacific Islander	13	0
Caucasian	552	57
Unknown	74	4
Multi-racial	<u>38</u>	<u>1</u>
TOTAL:	832	71

Where Crime Victims Compensation Comes From

Federal Money = Victims of Crime Act (VOCA) Compensation. Accounts for approximately 1/3 to 1/2 of total money going to victims each year – fluctuates due to the formula which was historically \$0.60/ per every state dollar spent. Raised to \$0.75/ per every state dollar spent in 2021 with the “VOCA Fix Act”.

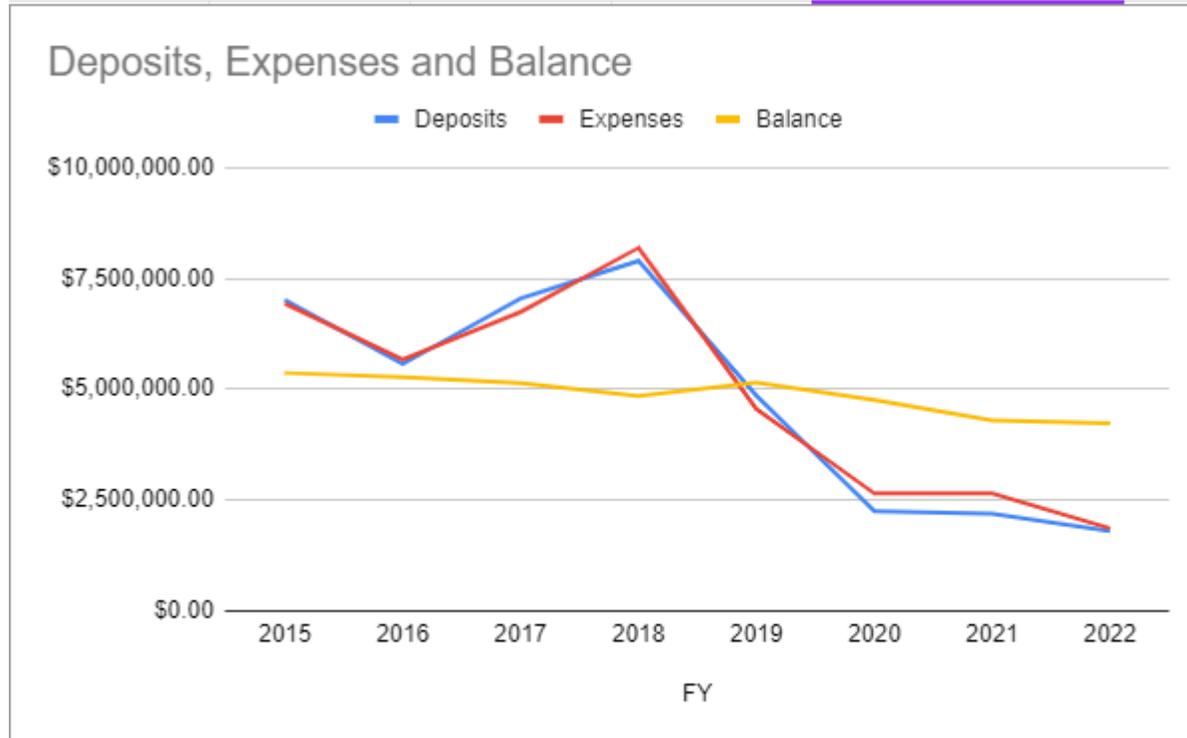
Surcharge = Money from criminal fines/fees deposited into the Crime Victims Fund by the courts. Accounts for the largest percentage of money for Victim Services both Compensation and pass through to Assistance programs.

Restitution = Amount court ordered to victim or the Division to be paid directly from offender for pecuniary loss. **Typically represents less than 2 % of money collected by the state.

Recovery from Offender = Different from “Restitution” in that it contemplates civil damages. Division has a subrogation interest if there is a subsequent civil suit (Think OJ Simpson; Criminal = Not Guilty; Civil = \$33 Million dollar award)

Surcharge Fund Balance History:

FY	Deposits	Expenses	Balance		Delta Deposits v Expenses
2015	\$7,018,257.45	\$6,931,289.29	\$5,369,295.52		\$86,968.16
2016	\$5,569,477.15	\$5,668,178.03	\$5,270,594.64		-\$98,700.88
2017	\$7,050,236.15	\$6,741,459.32	\$5,139,179.35		\$308,776.83
2018	\$7,898,673.06	\$8,188,564.14	\$4,849,288.27		-\$289,891.08
2019	\$4,856,827.87	\$4,552,139.51	\$5,153,976.63		\$304,688.36
2020	\$2,251,036.58	\$2,650,824.31	\$4,754,188.90		-\$399,787.73
2021	\$2,198,201.92	\$2,654,674.63	\$4,297,716.19		-\$456,472.71
2022	\$1,797,595.35	\$1,864,348.20	\$4,230,963.27	Through April 2022	-\$66,752.85



DEPARTMENT ATTORNEY GENERAL
 DIVISION VICTIM SERVICES DIVISION
 UNIT VICTIM SERVICES DIVISION,
 SURCHARGE

Wyoming On Line Financial Codes
 DEPT DIVISION UNIT FUND APPR
 015 0900 0901 022 022

SECTION 1. UNIT STATUTORY AUTHORITY

Crime Victims Compensation Act, W.S. 1-40-101 through 1-40-119
 Victim and Witness Bill of Rights, W.S. 1-40-201 through 1-40-210
 Compensation from Benefits of Crime, W.S. 1-40-301 through 1-40-308
 Privileged Communications and Acts, W.S. 1-12-101
 Confidential Communications, W.S. 1-12-116
 Offenses Against the Person, W.S. Title 6, Chapter 2
 Offenses Against Property, W.S. Title 6, Chapter 3
 Offenses Against Morals, Decency and Family, W.S. Title 6, Chapter 4
 Victim Restitution, W.S. Title 7, Chapter 9
 Family Violence, W.S. Title 7, Chapter 20
 Victim Impact Statement, W.S. Title 7, Chapter 21
 Victims of Delinquent Acts, W.S. 14-6-501 through 14-6-509
 Domestic Violence Protection Act, W.S. 35-21-101 through 35-21-112

SECTION 2. STANDARD BUDGET REQUEST

Part A: Narrative

Established in 1997, the Wyoming Division of Victim Services' (DVS) mission is to improve the treatment of all victims of crime by providing them with the assistance and services essential to their restoration. DVS has a staff of ten full time employees; the director, deputy director, one administrative assistant, one compensation claims analyst, four regional program managers, one Safe2Tell administrator, and one Safe2Tell public relations specialist. Additionally, the Division pays the salary and benefits of one accounting analyst. DVS administers programs dedicated to serving crime victims, and it assists victims of crime, provides awareness, education and training to the general community, and supports legislative, judicial and social reforms beneficial to crime victims. DVS staff is funded through a portion of the Division's Surcharge and uses administrative funds from each federal grant to support training, travel, and office supplies for DVS. The Safe2Tell program is funded by a grant from the Wyoming Office of Homeland Security.

DVS administers the Wyoming Crime Victim Compensation Program (CVCP) which is supported through a combination of a federal grant award, and the Division's Surcharge Funds. The Surcharge account is supported through criminal fines and fees assessed and collected by the court pursuant to W.S. 1-40-119. The federal portion of the CVCP award amount is calculated at 60 percent of state expenditures for the fiscal year two years prior to the current award.

DVS also administers Victims of Crime Act (VOCA) funds, Violence Against Women Act (VAWA) funds, Family Violence Prevention Services Act (FVPSA) funds, four separate appropriations of State General Funds, and the Division's Surcharge Funds are distributed to local service providers, either by formula or

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non-formula distribution. These funds support victim/witness advocates primarily located in prosecutor's offices or law enforcement agencies, family violence/sexual assault shelter service providers, Child Advocacy Centers, Sexual Assault Nurse Examiner (SANE) programs and Court Appointed Special Advocate (CASA) programs located in every county in the state providing victim services to their communities. The State General funds are distributed through formula to 23 domestic violence/sexual assault shelter service providers; 26 Victim/Witness programs located in government agencies servicing all victims of crime; 5 dual program offering services to all victims of crime, including domestic violence, sexual assault, and stalking; 8 special project programs including Sexual Assault Nurse Examiners (SANE) programs; Court Appointed Special Advocates (CASA) programs and 3 Child Advocacy Programs; and 1 Family Justice Center, and are used to provide shelter services, crisis intervention, social service advocacy, medical advocacy, legal advocacy, court accompaniment, transportation to court, peer support groups, forensic interviews, referral services and follow up services to name a few to women, men and children who have been victims of crime.

Part B: Revenue

\$3,832,536 RSRC 5706, Crime Victim Surcharge.
\$400,000 RSRC 5708, Crime Victims Restitution

\$4,232,536 Total Revenue

RSRC 5706: Crime Victim Surcharge
 RSRC 5708: Crime Victims Restitution.

Part C: Grant Requirements

This unit pays the states share of VOCA Compensation payments. While there is no required match, federal grant funding is based on 60% of the states expenditures from two fiscal years prior, i.e. FY21 grant funding will be 60% of FY2019 state expenditures from this unit.

GOVERNOR'S RECOMMENDATION

I recommend approval of the standard budget as submitted.

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Statutory Authority W.S.

Crime Victims Compensation Act, W.S. 1-4-101 through 1-4-119
 Victim and Witness Bill of Rights, W.S. 1-40-201 through 1-40-210
 Compensation from Benefits of Crime, W.S. 1-40-301 through 1-40-308
 Privileged Communications and Acts, W.S. 1-12-101
 Confidential Communications, W.S. 1-12-116
 Offenses Against the Person, W.S. Title 6, Chapter 2
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Fund Description and Restrictions - Fund 022 is a dedicated fund used to collect surcharge and victim restitution payments from the courts. The Division of Victim Services manages payment to both those providing services to victims of crime and to the victims of crime themselves. Additionally, they provide pass through grants from a number of federal grants combined with state funding that contributes to supporting a network of victim assistance programs throughout the state. These programs range from victim services provided by local law enforcement agencies to shelters for abused women and children. The funding for these grants and programs are managed within Fund 022. In BFY2019 we began migrating our federal grants from this fund into the FED fund.

Revenue Sources Codes & Descriptions:

5706 Crime Victim Surcharge
 5708 Crime Victims Restitution
 5906 Registration Fees
 6239 Other private sources

DEPARTMENT DIVISION UNIT	ATTORNEY GENERAL VICTIM SERVICES DIVISION VICTIM SERVICES DIVISION, SURCHARGE	Wyoming On Line Financial Codes					APPR 022
		DEPT 015	DIVISION 0900	UNIT 0901	FUND 022		
1		2	3	4	5	6	7
Description	Code	Base Budget 2023-2024	Standard Budget	Total Dept Exception Request	Total Budget Request	Governor Exception Changes	Governor Recommendation
EXPENDITURES							
SALARIES CLASSIFIED	0103	1,107,485	1,102,523	0	1,102,523	0	1,102,523
EMPLOYER PD BENEFITS	0105	304,906	296,957	0	296,957	0	296,957
EMPLOYER HEALTH INS BENEFITS	0196	264,066	255,335	0	255,335	0	255,335
RETIRES INSURANCE	0197	6,762	6,664	0	6,664	0	6,664
PERSONNEL	0100	1,683,219	1,661,479	0	1,661,479	0	1,661,479
MAINTENANCE AGREEMENTS	0292	320,000	320,000	0	320,000	0	320,000
SUPPORTIVE SERVICES	0200	320,000	320,000	0	320,000	0	320,000
CENTRAL-SER DATA-SER	0410	13,884	34,722	0	34,722	0	34,722
TELECOMMUNICATIONS	0420	11,864	14,473	0	14,473	0	14,473
CENT. SERV./DATA SERV.	0400	25,748	49,195	0	49,195	0	49,195
AIDS (TO/BEHALF OF)	0608	0	0	0	0	0	0
GRANT PAYMENTS	0626	600,980	600,980	0	600,980	0	600,980
CLIENT/RECIPIENT BENEFITS PAID	0630	1,685,622	1,685,622	0	1,685,622	0	1,685,622
CLIENT/RECIPIENT BENEFITS PAID	R630	0	0	0	0	0	0
GRANTS & AID PAYMENT	0600	2,286,602	2,286,602	0	2,286,602	0	2,286,602
EXPENDITURE TOTALS		4,315,569	4,317,276	0	4,317,276	0	4,317,276
SOURCE OF FUNDING							
GENERAL FUND	1001	0	0	0	0	0	0
GENERAL FUND/BRA	G	0	0	0	0	0	0
INVESTMENT INCOME	4601R	0	0	0	0	0	0
CRIME VICTIM SURCHARGE	5706	3,915,569	3,917,276	0	3,917,276	0	3,917,276
CRIME VICTIMS RESTITUION	5708	400,000	400,000	0	400,000	0	400,000
REGISTRATION FEES	5906	0	0	0	0	0	0
GIFTS & DONATIONS	6204	0	0	0	0	0	0
MITIGATION SETTLEMENT	6228	0	0	0	0	0	0
RESTITUTION OTHER	6314	0	0	0	0	0	0
SPECIAL REVENUE	SR	4,315,569	4,317,276	0	4,317,276	0	4,317,276
TOTAL FUNDING		4,315,569	4,317,276	0	4,317,276	0	4,317,276
AUTHORIZED EMPLOYEES							
FULL TIME EMPLOYEE COUNT		8.50	8.50	0.00	8.50	0.00	8.50
TOTAL AUTHORIZED EMPLOYEES		8.50	8.50	0.00	8.50	0.00	8.50

1-40-119. Surcharge to be assessed in certain criminal cases; paid to account.

(a) In addition to any fine or other penalty prescribed by law, a defendant who pleads guilty or nolo contendere to, or is convicted of, the following criminal offenses shall be assessed a surcharge of not less than one hundred dollars (\$100.00) nor more than three hundred dollars (\$300.00) for the offenses specified in paragraph (v) of this subsection, not less than one hundred fifty dollars (\$150.00) nor more than three hundred fifty dollars (\$350.00) for the first plea to or conviction of offenses specified in paragraphs (i) through (iv) of this subsection, and not less than two hundred dollars (\$200.00) nor more than four hundred dollars (\$400.00) for each subsequent plea to or conviction of offenses specified in paragraphs (i) through (iv) of this subsection:

(i) Any violation of W.S. 6-1-101 through 6-2-313 and 6-2-319 through 6-10-203;

(ii) Any violation of W.S. 31-5-225, 31-5-229, 31-5-233 or 41-13-220(a);

(iii) Any violation of W.S. 35-7-1001 through 35-7-1057;

(iv) Any violation of W.S. 6-2-314 through 6-2-318;

(v) Any violation of a municipal ordinance which has substantially similar elements to the criminal offenses specified in paragraphs (ii) through (iv) of this subsection or any other violation of a municipal ordinance which causes actual damage to persons or property.

(b) The surcharge enumerated in subsection (a) of this section shall be imposed upon any defendant for whom prosecution, trial or sentence is deferred under W.S. 7-13-301 and 7-13-302 or who participates in any other diversion agreement.

(c) Under no circumstances shall a court fail to impose the surcharge required by subsections (a) and (b) of this section if the court determines the defendant has an ability to pay or that a reasonable probability exists that the defendant will have an ability to pay.

(d) The surcharge shall be paid within ten (10) days of imposition unless the court determines that it shall be paid in installments over a reasonable period of time. Failure to comply with the provisions for payment of the surcharge is punishable as contempt of court. Contempt proceedings or other proceedings to collect the surcharge may be initiated by the prosecuting attorney, by the court on its own motion or by the division.

(e) Monies paid to the court by a defendant shall be applied to the surcharge before being applied to any fine, penalty, cost or assessment imposed upon the defendant. The proceeds from the surcharge imposed by this section shall be remitted promptly by the clerk of the court to the division for deposit in the account.

Surcharge Fee Schedule:

1-40-119. Surcharge to be assessed in certain criminal cases; paid to account.

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Surcharge Fee Schedule (cont.)

\$100- 300 for Municipal Code Violations that would be a criminal offense and causes actual damage to persons or property

\$150 – 350 for first count of a misdemeanor or felony (includes traffic violation and eluding LE - statute specifically includes child SA)

\$200 – 400 for every additional count.

Surcharge VS. Restitution

7-9-101. Victim Restitution -Definitions.

(a) As used in this chapter:

(i) "**Criminal activity**" means any crime for which there is a plea of guilty, nolo contendere or verdict of guilty upon which a judgment of conviction may be rendered and includes any other crime which is admitted by the defendant, whether or not prosecuted. In the case of restitution ordered under W.S. 7-13-301, "criminal activity" also includes a crime charged against the defendant;

(ii) "**Long-term physical health care restitution order**" means an order entered pursuant to W.S. 7-9-113 through 7-9-115;

(iii) "**Pecuniary damage**" means all damages which a victim could recover against the defendant in a civil action arising out of the same facts or event, including damages for wrongful death. It does not include punitive damages and damages for pain, suffering, mental anguish and loss of consortium;

(iv) "**Restitution**" means full or partial payment of pecuniary damage to a victim;

(v) "**Victim**" means a person who has suffered pecuniary damage as a result of a defendant's criminal activities. An insurer which paid any part of a victim's pecuniary damages shall be regarded as the victim only if the insurer has no right of subrogation and the insured has no duty to pay the proceeds of restitution to the insurer.

7-9-102. Order to pay upon conviction.

In addition to any other punishment prescribed by law the court shall, upon conviction for any misdemeanor or felony, order a defendant to pay restitution to each victim as determined under W.S. 7-9-103 and 7-9-114 unless the court specifically finds that the defendant has no ability to pay and that no reasonable probability exists that the defendant will have an ability to pay.

7-9-103. Determination of amount owed; execution.

(a) As part of the sentencing process including deferred prosecutions under W.S. 7-13-301, in any misdemeanor or felony case, the prosecuting attorney shall present to the court any claim for restitution submitted by any victim.

(b) In every case in which a claim for restitution is submitted, the court shall fix a reasonable amount as restitution owed to each victim for actual pecuniary damage resulting from the defendant's criminal activity, and shall include its determination of the pecuniary damage as a special finding in the judgment of conviction or in the order placing the defendant on probation under W.S. 7-13-301. In determining the amount of restitution, the court shall consider and include as a special finding, each victim's reasonably foreseeable actual pecuniary damage that will result in the future as a result of the defendant's criminal activity. A long-term physical health care restitution order shall be entered as provided in W.S. 7-9-113 through 7-9-115.

7-9-102. Order to pay upon conviction. (CONT)

(c) The court shall order the defendant to pay all or part of the restitution claimed or shall state on the record specific reasons why an order for restitution was not entered. If the court determines that the defendant has no ability to pay and that no reasonable probability exists that the defendant will have an ability to pay in the future, the court shall enter specific findings in the record supporting its determination.

(d) Any order for restitution under this chapter constitutes a judgment by operation of law on the date it is entered. To satisfy the judgment, the clerk, upon request of the victim, the division of victim services or the district attorney, shall issue execution in the same manner as in a civil action.

(e) The court's determination of the amount of restitution owed under this section is not admissible as evidence in any civil action.

(f) The defendant shall be given credit against his restitution obligation for payments made to the victim by the defendant's insurer for injuries arising out of the same facts or event.

***Restitution Enforcement
A Judicial Perspective
A Judicial Constitutional
Duty to Assure Prompt
Restitution***

Judge Roland Steinle (ret.)
Maricopa County Superior Court



Judge Steinle's Philosophy:

RESTITUTION ENFORCEMENT

- Promising restitution through court orders without collecting and disbursing the funds leads to dissatisfaction of victims.
- The study found that closer monitoring of offenders' payments increased their compliance with restitution orders. Further, regular updates to victims about the status of their restitution accounts helps them feel better informed (Davis & Smith, 1993).

1-40-112. Recovery from offender; restitution.

(a) If an order for the payment of compensation for personal injury or death is made under this act, the state, upon payment of the amount of the order, shall be subrogated to any right of action the victim or dependent of the victim has against the person or persons responsible for the injury or death, and the state may bring an action against the responsible person for the amount of the damages the applicant sustained.

(b) The applicant or other recipient shall give written notice to the division of the making of a claim or demand or the filing of a suit for the damages specified in subsection (a) of this section.

(c) Restitution by an offender under W.S. 7-9-101 through 7-9-115 shall:

(i) To the extent compensation is paid under this act, be paid to the division, deposited in the account and be set off against a judgment in favor of the state in a civil action arising out of the same facts or event;

(ii) Reduce by like amount any compensation subsequently paid under this act arising out of the same facts or event.

1-40-112. Recovery from offender; restitution.

...

(g) Any payment of benefits to, or on behalf of, a victim or other claimant under this act creates a debt due and owing to the state by any person found, in a criminal court proceeding in which he is a party, to have committed the criminal act. Payment of the debt shall be a condition of probation or parole:

(i) In making payment of the debt a condition of probation or parole, the court or state board of parole shall set the schedule or amounts of payments, subject to modification based on change of circumstances;

(ii) If the court or board does not order payment of the debt, or orders only partial payment, it shall state on the record the reasons therefor.

CONTACT INFORMATION

Cara Boyle Chambers

Director, Division of Victim Services

Office of the Attorney General

320 W. 25th Street

Capitol Hill Building, 2nd Floor

Cheyenne, WY

307-777-7200 phone

307-777-6683 fax

<http://victimservices.wyoming.gov>