This workshop was held at the 2019 Equal Justice Conference in Louisville, Kentucky.

Title:

Responding to the Opioid Crisis and Helping Crime Victims: Civil Legal Aid and Federal Funding

Presenters:

Michael Figgins, Legal Aid Services of Oklahoma, Oklahoma City, OK

Karen Lash, American University's School of Public Affairs Justice Programs Office, Washington D.C., DC

Kathrina S. Peterson, Department of Justice, Washington D.C., DC

Radhika Singh, National Legal Aid and Defender Association, Washington, DC

What does civil legal aid have to do with responding to the opioid crisis and helping crime victims? A lot. Legal aid providers help victims of domestic violence, elder abuse, identity theft, wage theft, financial fraud, human trafficking, child abuse and neglect, and so much more. Legal aid also has a critical role to play helping children and their caregivers when a parent has a substance use disorder, and in helping people with a SUD in their recovery. This session will provide a general overview of federal funding opportunities with a focus on the opioid crisis and crime victims. Panelists will share information, the latest trends, and experiences tapping into funding opportunities from the U.S. Department of Justice Office for Victims of Crime, U.S. Department of Health & Human Services, as well as other federal funding streams to support this important work
Responding to the Opioid Crisis and Helping Crime Victims: Civil Legal Aid and Federal Funding

Equal Justice Conference, Louisville KY
3:30 – 5 pm  Bluegrass 2
November 9, 2019

Michael Figgins, Executive Director, Legal Aid Services of Oklahoma
Karen A. Lash, Practitioner-in-Residence and Director, THE JUSTICE IN GOVERNMENT PROJECT
Kathrina Peterson, Acting Deputy Director, State Compensation and Assistance Division, DOJ OVC
Radhika Singh, Director, Civil Legal Aid Initiative, National Legal Aid & Defender Association
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  - still a very high amount.
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    • Trafficking Victims Protection Act - $85 million
    • Justice for Victims of Trafficking Act – $3 million
  • Minor Victims of Trafficking program
    ($10 million in FY 2018 funding; awards to occur during FY 2019)
Increased Support to States in FY 2018

- VOCA Formula Victim Compensation and Victim Assistance Programs

  - **VOCA Victim Compensation**: supplements state compensation programs that provide financial assistance and reimbursement to victims for crime-related out-of-pocket expenses

  - **VOCA Victim Assistance**: Direct assistance to victims through the states.
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• Spurring innovation and the use of technology
• Legal assistance
• Public outreach regarding victim compensation
• Serving victims of child abuse, sexual assault, and domestic violence
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  • Almost $1 billion dollars was awarded to these organizations
  • All states and territories (except for Alaska) are included
States Funding Legal Aid

• Examples:
  • Connecticut
  • Hawaii
  • Idaho
  • Kentucky (5 new legal aid programs in 2019)
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• OVC FY 2019 Increasing Victim Access to Restitution (not posted 4/26/19)


• Will discuss
OVC/OJP Resources

2019 OVC/OJP Program Plan:

2019 OJP Grant Postings:
https://ojp.gov/funding/Explore/CurrentFundingOpportunities.htm
In addition to legal aid for domestic violence and sexual assault...

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- Technology tools including online court-approved order of protection forms (South Carolina Legal Services)
- Elder Justice Initiative, Crime Victims Legal Assistance Project (Michigan Advocacy Project)
- Disaster-related crime victims (North Carolina Legal Services)
- Kinship care for abused or neglected children, including for children affected by the opioid crisis (Atlanta Legal Aid Society)
Examples of states going big and statewide:

• Massachusetts – Civil Legal Aid for Victims of Crime Initiative¹
• Michigan – Crime Victims Legal Assistance Project²
• Washington – Integrated Civil Legal Aid to Crime Victims Program³

TIP: How did they do it? Intermediaries tell all in narratives found in The JGP Toolkit Module ³⁴

Psst... MORE TIPS
— See FAQs About Legal Aid and VOCA in The JGP Toolkit Module ²⁵
— See Research Briefs on legal aid and domestic violence, elder abuse, human trafficking, and more, in The JGP Toolkit Module ¹⁶
Evaluation: Allowable cost!

28 CFR 94.109(b)(5) Program Evaluation

Change from the Guidelines. Clarifies examples of allowable program evaluation expenses:

§94.109 Allowable administrative costs.

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... (5) Program evaluation, including, but not limited to, surveys or studies that measure the effect or outcome of victim services

For more information see A2J Lab handout

Access to Justice Lab | Center on the Legal Profession
Harvard Law School

The Opioid Crisis: How Civil Legal Aid Helps
The Opioid Crisis Affects Millions of People

- **Individuals**
  People with a Substance Use Disorder

- **Families**
  Family members, including parents and children, of someone with a Substance Use Disorder

- **Communities**
  Entire communities impacted when great swathes of community members’ lives are destabilized – including economically and socially
The Opioid Crisis Affects Millions of People

- **Individuals and Families**
  - More than 11 million are affected by the opioid crisis
  - More than 2 million have a Substance Use Disorder

- **Communities**
  - The economic burden is estimated to be $504 billion
  - $28.9 billion in health care costs
Civil Legal Aid Helps Those Affected

➢ Help individuals enter and remain in recovery
  • SAMHSA's evidence-based areas that are crucial to managing life in recovery
    – Health, Home, Purpose, Community
  • Secure safety
    – From homelessness, human trafficking, domestic violence
  • Stabilize income, housing, health care
    – Access to benefits and housing assistance
    – Remove barriers to employment and housing, including mitigating criminal records and advocating for people to stay on medication assisted treatment (MAT)

➢ Stabilize Families and Communities
  • Child support, custody, guardianship, adoption, foster care
    – Including financial resources to support children, and secure medical care and other benefits
    – Help address children’s medical, behavioral, and social needs
Civil Legal Aid Helps Those Affected

Collaborations that include civil legal aid

- **Medical-legal partnerships**
  - Partnerships with health care partners help people enter and remain in recovery
  - National Center for Medical-Legal Partnership brief "The Opioid Crisis in America & The Role Medical-Legal Partnership Can Play"

- **Partnerships with courts and bar associations**
  - The top two referrals to treatment are the health care system and the courts
  - Help address guardianship, custody, child behavioral needs, etc.
  - National Judicial Opioid Task Force (Conference of Chief Justices and Conference of State Court Administrators)

- **Collaborations with community partners**
The Opioid Crisis: 
Supporting Critical Civil Legal Aid
Federal Funding to Address the Opioid Crisis

- Billions in federal funds
  - FY 2017
    - $3.310 billion ($10.16 per capita)
  - FY 2018
    - $7.402 billion ($22.73 per capita)

- Categories of activities funded
  - Treatment and Recovery
  - Prevention
  - Mixed: Treatment/Recovery and Prevention
  - Research
  - Criminal Justice
  - Law Enforcement
  - Interdiction

Funding Agencies

- Health and Human Services
  - Substance Abuse and Mental Health Services Administration
  - Indian Health Service
  - Centers for Disease Control
  - Health Resources and Services Administration
  - Administration for Children and Families
  - National Institutes of Health
  - Food and Drug Administration
- Office of National Drug Control Policy
- Department of Justice
- Department of Veterans Affairs
- Department of Homeland Security
- Department of Labor
## Federal Funding to Address the Opioid Crisis

<table>
<thead>
<tr>
<th>Category</th>
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<tr>
<td>Law Enforcement</td>
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<td>$312,000,000</td>
</tr>
</tbody>
</table>

*Tracking Federal Funding to Combat the Opioid Crisis, Bipartisan Policy Center, March 2019*
Federal Funding to Address the Opioid Crisis

- **U.S. Department of Health and Human Services**
  - [HHS Strategy to Combat Opioid Abuse, Misuse, and Overdose](#)
    - Point 1: [Better Addiction Prevention, Treatment, and Recovery Services](#)
  - Substance Abuse and Mental Health Services Administration (SAMHSA)
    - Opioid State Targeted Response (STR) grants
    - Substance Abuse Prevention and Treatment Block Grants (SABG)
    - Offender Reentry Program
  - Health Resources and Services Administration (HRSA)
    - Rural Communities Opioid Response Program-Planning (RCORP)
    - Rural Health Opioid Program (RHOP)
    - The Access Increases in Mental Health and Substance Abuse Services (AIMS)
  - Administration for Children and Families (ACF)
    - Temporary Assistance for Needy Families (TANF)
Federal Funding to Address the Opioid Crisis

➢ U.S. Department of Health and Human Services
  • See JGP’s Grants Matrix for information on block and formula grants
  • Opioid State Targeted Response (STR) grants (21st Century Cures Act)
    – FY19: $1.5 billion
      o Carve outs for Indian Tribes or tribal organizations; states with highest mortality rate
      o No state receives less than $4 million
    – Supports prevention, treatment and recovery activities for OUD
      (opioids, heroin, illicit fentanyl, fentanyl analogs)
    – Every state has submitted an STR plan
  • Substance Abuse Prevention and Treatment Block Grants (SABG)
    – FY19: $1.9 billion
    – Supports partnerships and programs to help address SUD and advance health equity
    – Supports prevention activities that support recovery, prevention, and treatment
    – Supports services for pregnant women, parents with dependent children, and others
Federal Funding to Address the Opioid Crisis

- U.S. Department of Health and Human Services
  - Offender Reentry Program (last awarded 2018)
    - 2018 Awards: $850 million
    - Supports expansion of SUD treatment and related recovery and reentry services
    - Supports services for adult offenders/ex-offenders returning to families and community from incarceration in state and local facilities (prisons, jails, detention centers)
  - Temporary Assistance for Needy Families
    - FY19: $16.5 billion
    - Supports legal services where problems are a threat to family stability or undermine the employment of needy families
Federal Funding to Address the Opioid Crisis

➢ U.S. Department of Health and Human Services
  • Rural Communities Opioid Response Program-Planning (RCORP)
    – FY19: $120 million
    – Supports treatment for and prevention of SUD in rural counties at the highest risk for SUD
    – Legal aid is listed as a core activity for recovery
    – FY 18 Grantees
  • Rural Health Opioid Program (RHOP)
    – Consortiums of health care providers, social service and faith-based organizations, law enforcement, and other community-based groups
    – Outreach and education for individuals at risk on treatment options and support services; educating community members
    – FY 18 Grantees
Federal Funding to Address the Opioid Crisis

- **Others**
  - **AmeriCorps**
    - Supports activities to expand/build capacity; build a volunteer infrastructure; direct services
    - Priority investment in “Healthy Futures – reducing and/or preventing prescription drug and opioid abuse”
  - **U.S. DOJ OVC**
    - VOCA (Victim Assistance Formula)
    - Enhancing Community Responses to the Opioid Crisis
Federal Funding to Address the Opioid Crisis

➢ On the horizon (thinking creatively)?
  • Community Services Block Grant
    – HHS, Administration for Children and Families
    – Supports services and activities addressing employment, education, better use of available income, housing, nutrition, emergency services and/or health
  • Medicaid
    – Support for legal services
    – 2018 Substance Use Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities (SUPPORT) Act
  • Workforce Development
    – Removing barriers to employment
Are you serving this population?

- Is this for me?
  - What services are you currently providing?
  - Who is receiving those services?
  - Who are your partners?

- What other services are you providing?
  - Check / participate in planning processes
Responding to the Opioid Crisis

- Enhancing Community Responses to the Opioid Crisis
  - FY 18 provided $29.8 million in support for 41 communities for children who have been victimized and impacted by the opioid epidemic.

  - Funding partnerships between victim service providers and first responders who encounter an overdose where children are present.

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• Funded 4 Legal Aid Organizations:
  • Northern Kentucky Legal Aid Society, Inc.
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  • Legal Aid of West Virginia
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**Definition of “victim”:**

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• OVC FY 2019 Reducing Child Fatalities and Recurring Child Injuries Caused by Crime Victimization: Purpose Area 1: Demonstration Sites (not posted 4/26/19)

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HIGHLIGHTS INCLUDE

- 15 research briefs on how legal aid can assist with efforts to reduce domestic violence, remove obstacles to employment, help Americans access healthcare, among others;

- A grants matrix outlining 19 state-administered federal funding sources that can support legal aid and a growing list of in-depth FAQs on select sources;

- Multiple case studies on successful state partnerships with legal aid; and

- Additional tools to help you take the next steps to support legal aid.

To hear about updates and new tools or to provide feedback, send an email to jgp@american.edu
VOCA funding regulations have removed the prohibition on funds being used for evaluation. Administrative funds may now be used for program evaluation, including, but not limited to, surveys or studies that measure the effect or outcome of victim services.¹

Why is evaluation important?
The most important reason to do evaluation, of course, is that we want to understand the impact of what we’re doing on individual’s lives. We want to increase services that are helpful and meanwhile, don’t want to continue putting time and resources into efforts that are not helpful or important. Evaluation is also important to provide evidence to funders to encourage them to continue and to increase our funding.

What kinds of VOCA programs can be evaluated?
Some form of evaluation can be extended to just about any program funded by VOCA. These programs may include assistance to victims of domestic violence, human trafficking, elder abuse, financial fraud, identity theft, and other crimes that raise civil legal needs and/or that help victims in exercising their rights to participate in criminal justice proceedings.

What are the restrictions on using funds for evaluation?
Evaluation falls under the administrative costs, which are capped by VOCA. Within the administrative costs, there are no requirements or restrictions regarding program evaluation.

What guidance can the A2J Lab provide for programs interested in project evaluations?
The A2J Lab is happy to help you think through an evaluation that might work for your program. Some evaluation approaches can be done within your organization, with some support from the A2J Lab. Other approaches might require a consultant or University-based partnership. Feel free to visit the A2J Lab’s blog post on evaluation methods to familiarize yourself with different methodologies: https://a2jlab.org/rcts-and-other-evaluation-methods/

What guidance does the OVC provide for grantees interested in project evaluations?
The Center for Victim Research was created to assist grantees with project evaluations. See 28 CFR 94.118 (94.121: Allowable Sub-Recipient Administrative Costs). The OVC Training and Technical Assistance Center can help identify tools that states and subgrantees can use for project evaluations. There are a number of training resources on that site dedicated to the topic of evaluation, including but not limited to guidance on how to write measurable goals and objectives, data collection tools, and evaluating and writing objectives.

Civil Legal Aid Helps Those Affected by the Opioid Crisis

Among the nearly 72,000 drug overdose deaths in 2017, the sharpest increase occurred among deaths related to opioids. Every day, 1,000 people are treated in emergency rooms for opioid overdoses. The total economic burden is estimated to be $504 billion. Of this, $28.9 billion is due to health care costs. Including those in recovery and their extended family members, more than 11 million Americans are affected by the opioid crisis, with 2.1 million addicted. They need our help.

Policymakers know the current epidemic requires a multi-disciplinary response that includes law enforcement, doctors, nurses, mental health professionals, social workers, and case managers.

But civil legal aid providers are also essential partners in solving one of America’s most pressing public health issues.

STUDIES HAVE SHOWN...

Legal aid helps with child support, custody, adoption, and guardianship when parents are unable to care for their children:

- When parents have periods of intense drug use, children may not be properly fed, clothed, or cared for.
- Children of addicted parents experienced dramatically increased medical, behavioral, and psychological issues.
- In states with the highest number of opioid-related overdose deaths, the child welfare systems are seeing increases in children being removed from their parents’ care.

Legal aid can help reduce burdens on the child welfare and health care system, improve health, and reduce stress:

- When parents, including those with a Substance Use Disorder (SUD), have legal representation, children exited foster care at a rate 11 percent higher than unrepresented parents. Representation almost doubled the speed to adoption and doubled the speed to legal guardianship.
- Representation leads to cost savings for foster parents, subsidies for children’s medical care, cash benefits, and the expense of monitoring the foster family.
- Patients receiving legal services reported reduced stress levels and improved health.
- When civil legal needs were addressed, inpatient and emergency department use dropped 50 percent and health care costs decreased 45 percent.
- When parents have access to legal services, child health and access to food and income supports improved.

LEGAL AID HELPS...

Grandma gets help to enroll grandchildren in school

“Norma” received a call from her daughter’s neighbor in a distant city. The daughter – suffering from opioid addiction – had left Norma’s grandchildren with the neighbor and disappeared. After a week, the neighbor could not care for the children and called Norma. Norma went to the Legal Aid Society of Greater Cincinnati the next day. The attorney volunteer drafted a “Grandparent Caregiver Affidavit” that Norma filed with the court the same day. This gave Norma immediate authority to enroll the children in school, take them to the doctor, and apply for benefits to ensure she could afford to properly feed her grandchildren.

Medical-legal partnership helps family stay housed

“Melissa” lives in a home with her adult son “Brian.” While Brian is currently in recovery for an opioid-related SUD, this wasn’t always the case. When still using opioids, he drained his mother’s bank account to buy drugs, leaving her unable to pay her mortgage. Through a medical-legal partnership, Melissa’s health care provider referred her to their Indiana Legal Services partner attorney who helped her negotiate a loan modification. Under the new terms, Melissa could make the payments and stay in her home, along with Brian, who remains in active recovery with a stable place to live.
HOW LEGAL AID HELPS ADDRESS THE OPIOID CRISIS

The Substance Abuse and Mental Health Services Administration identifies health, home, purpose, and community as four essential components to recovery from drug addiction. Because legal aid can help individuals with opioid-related SUDs secure housing and health care services, ensure their children are cared for, escape domestic violence, and remove obstacles to employment, legal aid supports these four components, increasing the likelihood of recovery.

Legal aid programs have partnered with local courts, bar associations, schools, and their medical counterparts to provide legal help, often leveraging staff attorneys and paralegals with pro bono volunteers.

EXAMPLES OF PARTNERSHIPS WITH LEGAL AID

Medical-legal partnerships help individuals with SUDs

Indiana Legal Services and Eskenazi Health teamed up to help people with SUDs expunge criminal records, secure housing assistance, and navigate custody issues. In Ohio, Good Samaritan Hospital Faculty Medical Center’s program to help opiate-addicted pregnant women addresses legal needs related to homelessness, human trafficking, domestic violence, and access to benefits through their partnership with Legal Aid Society of Cincinnati. Training ensures that attorneys and paralegals better understand SUDs, and nurses and social workers learn how to spot problems with possible legal solutions and make referrals.

Partnerships with courts and bar associations

Local news profiled Texas Legal Services Center and Legal Aid Society of Greater Cincinnati when they launched pro bono partnerships with courts and bar associations to provide grandparents and other extended family members with free legal help to care for the children when the opioid epidemic robs them of their parents.

Legal aid programs awarded US Department of Justice grants to partner with nonprofits and schools

In September 2018, the US Department of Justice Office for Victims of Crime awarded Enhancing Community Responses to the Opioid Crisis: Serving our Youngest Crime Victims grants to ensure critical legal help: Ohio State Legal Services Association will convene community partners to launch the Appalachian Ohio Children’s Victim Assistance and Prevention Project; Legal Aid Services of Oklahoma will partner with the Center on Child Abuse and Neglect, and Kids’ Space, for wraparound multidisciplinary services; and Legal Aid of West Virginia and Legal Aid of the Bluegrass will provide trauma informed legal and other services to children and their caregivers in partnership with public elementary schools.

FUNDING OPPORTUNITIES

Several federal grant sources can fund social services – including legal services – to individuals and families dealing with SUDs. Examples of federal block grants administrated at the state level or grants administrated directly by federal agencies that allow funds for legal help in include: Substance Abuse Prevention and Treatment Block Grant and Mental Health Services Block Grant; State Targeted Response to Opioid Crisis Grant; Rural Community Opioid Funding Opportunity; state VOCA Victim Assistance Formula Grants; and AmeriCorps State and National.

For more information about using federal funds to expand legal services for people dealing with the opioid epidemic, contact Karen Lash, The Justice in Government Project, American University: klash@american.edu and Radhika Singh, National Legal Aid & Defender Association’s Civil Legal Aid Initiative: r.singh@nlada.org. For more information about medical-legal partnership, contact Ellen Lawton, National Center for Medical-Legal Partnership: ellenlawton@gwu.edu

Endnotes

5 Shulman, L., Shapiro, S. R. & Hirschfeld, S. (2000) Outreach developmental services to children of patients in treatment for substance abuse. American Journal of Public Health, 90, 1930-1933. 66 percent of the children had cognitive limitations; 68 percent had speech impairments; 16 percent had emotional or behavioral problems; and 83 percent had medical problems.
19 https://oig.hhs.gov/oei/grant/award_search.html
20 The most recent application for FY 2018-19 says that states "May wish to develop and support partnerships and programs to help address social determinants of health and advance overall health equity. For instance, some organizations have established medical-legal partnerships to assist persons with mental and substance use disorders in meeting their housing, employment, and education needs." https://www.samhsa.gov/grants/block-grants/cshb
21 https://www.samhsa.gov/grants/grant-announcements/7/7-014
23 https://oig.hhs.gov/oei/press/nki/pressreleases/519181.html
25 The most recent application for FY 2018-19 says that states "May wish to develop and support partnerships and programs to help address social determinants of health and advance overall health equity. For instance, some organizations have established medical-legal partnerships to assist persons with mental and substance use disorders in meeting their housing, employment, and education needs." https://www.samhsa.gov/grants/block-grants/cshb
26 https://www.samhsa.gov/grants/grant-announcements/7/7-014
Civil legal aid programs in Kentucky, Ohio, Oklahoma, and West Virginia are launching projects to provide legal help to children and their caregivers affected by the opioid crisis. The U.S. Department of Justice Office for Victims of Crime (DOJ OVC) Enhancing Community Responses to the Opioid Crisis: Serving Our Youngest Crime Victims grant announcements were made on October 1, 2018.1

Across the nation, communities struggle to respond to the opioid crisis. DOJ OVC invited proposals calling for a multi-disciplinary approach: “A strong link between crime victimization and substance abuse has been evidenced for some time, and these issues cannot be successfully addressed in ‘silos’ or by one discipline or agency.”2 These projects will work collaboratively with schools, law enforcement, health and social service providers, and other community partners.

Legal Aid of the Bluegrass (LAB):
KY Children RISE (Reducing Impediments to Stable Education)
Studies show that children living with parents who have substance use disorders are three times as likely to be emotionally, physically, or sexually abused, and four times as likely to be emotionally or physically neglected. Local school districts also point to opioid abuse as a leading cause of soaring chronic absentee rates among their students. LAB will collaborate with school districts, family resource centers, health professionals and other community partners to create community driven clinics that holistically help child victims and families affected by the opioid crisis.

Legal Aid Services of Oklahoma (LASO)
The Centers for Disease Control and Prevention rank Oklahoma 5th for the highest rate of opioid prescriptions nationally. In the last 15 years, death by drug overdose has increased 91%. Legal Aid Services of Oklahoma, Inc. (LASO) will provide civil legal aid to children victimized by the opioid epidemic. Together with its two partner programs, the “A Better Chance” (ABC) Program Clinic at the Center on Child Abuse and Neglect and Child Study Center at the University of Oklahoma Health Sciences Center (OUHSC), interdisciplinary teams will address the children and caregivers’ wraparound needs, including help to ensure safe housing, legal custody or guardianship, and access to health and other benefits.

Legal Aid of West Virginia (LAWV): Lawyer in the School Project
As the opioid crisis devastates West Virginia communities, an increasing number of children whose parents have a substance use disorder have caused child abuse and neglect statistics to soar. LAWV Lawyer in the School Project will provide services to youth impacted by the opioid crisis and who attend Marion County Schools. The Project seeks to stabilize the lives of the youngest victims of the opioid crisis, by providing onsite legal help to school families on issues like legal custody for caregivers, eviction, and disrupted income.

Ohio State Legal Services Association (OSLSA):
Appalachian Ohio Children’s Victim Assistance and Prevention Project
Children of parents addicted to opiates are flooding into Ohio’s child protection system. Ohio’s child welfare system has seen a 19% increase in the number of children removed from parental care since 2010 and now has close to 15,000 children in custody. OSLSA will convene a comprehensive group of experienced community partners to provide evidenced-based, trauma informed care for children and youth victims of crime.

Endnotes
**FAQS ABOUT VICTIMS OF CRIME ACT (VOCA) VICTIM ASSISTANCE FORMULA GRANT PROGRAM**

1. Q: What is the Victims of Crime Act (VOCA)?
2. Q: What does the VOCA program have to do with legal aid?
3. Q: What does the new rule say about the range of allowable legal services?
4. Q: What other allowable costs were changed in the new rule especially relevant to legal aid programs and the courts?
5. Q: How much VOCA Victim Assistance funding is available to states?
6. Q: Do any states already provide VOCA-funded legal services to crime victims?
7. Q: How does DOJ OVC allocate VOCA funds for Victim Assistance Grants?
8. Q: Do states submit a plan to DOJ OVC for their VOCA Victim Assistance funds?
9. Q: Is there a match requirement for VOCA Victim Assistance grantees?
10. Q: Who selects the state’s VOCA administrator?
11. Q: Are there other victim-related federal funds administered by my state?
12. Q: Do states invite public input on crime victim needs and priorities?
13. Q: What next steps can the legal aid community and its partners take to tap into VOCA funds to help meet the legal needs of crime victims in my state?

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To download this document and others, visit Module 2 in the Justice in Government Project’s (JGP) Toolkit: [https://www.american.edu/spa/jpo/toolkit/module-2.cfm](https://www.american.edu/spa/jpo/toolkit/module-2.cfm)

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THE JUSTICE IN GOVERNMENT PROJECT

GETTING RESULTS WITH LEGAL AID
American University | Justice Programs Office

April 2019
1. Q: What is the Victims of Crime Act (VOCA)?
A: The Victims of Crime Act (VOCA) of 1984 established the Crime Victims Fund (CVF), the nation's primary funding source to help victims of all types of crimes. CVF is a repository of federal criminal fines, forfeitures and special assessments. It does not include tax dollars.

Among the VOCA-authorized grant programs is the state administered victim assistance formula grants. It provides funding to groups and direct services for victims, such as domestic violence shelters, legal support, faith-based organizations, and child abuse organizations.

The DOJ Office for Victims of Crime (OVC) – the federal CVF administrator for all the VOCA-authorized grant programs – awards the VOCA Victim Assistance Formula Grant Program in accordance with VOCA and the Victim Assistance Rule and related guidance. The states, in turn, provide sub-grants to local public agencies and non-profit community service providers (referred to as the “subgrantee” or “subrecipient”) that help individuals, families and communities recover from both the initial trauma and the long-term effects of victimization.

2. Q: What does VOCA have to do with legal aid?
A: A lot. At least for those legal aid programs that provide legal assistance to victims of domestic violence, human trafficking, elder abuse, financial fraud, identity theft, and other crimes that raise civil legal needs and/or that help victims in exercising their rights to participate in criminal justice proceedings.

For three reasons, the VOCA Victim Assistance Formula Grant Program administered by states provides an excellent opportunity to expand crime victim legal services:

2. DOJ OVC new VOCA Assistance rule expanded legal services. The new rule, effective August 8, 2016, included clarification that state VOCA administrators have the freedom and flexibility to use their funds for a broader array of legal needs. Victims may now receive VOCA-funded legal services that extend beyond the immediate aftermath of the crime. (See question 3).
3. Increase in state VOCA Victim Assistance funds. Beginning in 2015, Congress significantly increased the amount available from the CVF for all VOCA-authorized grant programs (as well as some that are not authorized in the VOCA statute) including the VOCA Victim Assistance program. (See question 4).

Now, more than 40 states use VOCA funds to expand legal assistance for various types of crime victims.

3. Q: What does the new rule say about the range of allowable legal services?
A: The DOJ OVC compared the 1997 guidance to the new rule and identified a non-exhaustive list of legal services arising directly from a criminal victimization that state VOCA victim assistance administrators could fund:

- Proceedings for protective/restraining orders or campus administrative protection/stay-away orders;
- Family, custody, housing, and dependency matters, particularly for victims of intimate partner violence, child abuse, sexual assault, elder abuse, and human trafficking;
• Divorce and child support proceedings;
• Immigration assistance for victims of human trafficking, sexual assault, and domestic violence;
• Intervention with creditors, law enforcement (e.g., to obtain police reports), and other entities on behalf of victims of identity theft and financial fraud;
• Intervention with administrative agencies, schools/colleges, tribal entities, and other circumstances where legal advice or intervention would assist in addressing the consequences of a person’s victimization; and
• VOCA funds may also be used to allow victims to file a motion to vacate and/or expunge certain convictions based on their status of being a victim.

The rule makes clear that states may fund direct services regardless of a victim’s participation in the criminal justice process and that victim eligibility under this program for direct services is not dependent on the victim’s immigration status. The rule also reaffirmed the prohibition against using VOCA funds for criminal defense and tort lawsuits.

4. Q: What other allowable costs were changed in the new rule especially relevant to legal aid programs and the courts?
A: Section 94.121, Allowable sub-recipient administrative costs, details the non-inclusive list of allowable costs. Notable because of the key changes in the new rule includes relocation costs, organizational expenses necessary and essential to providing direct services and other allowable victim services, indirect costs at the sub-recipient level, and the costs of evaluations of specific project effectiveness. Section 94.119 now allows services for incarcerated victims, including filing motions to vacate and/or expunge certain convictions based on their status of being a victim.

5. Q: How much VOCA Victim Assistance funding is available to states?
A: Because of fluctuations in annual CVF deposits of federal criminal fines and penalties, in 2000, Congress began “capping” annual CVF obligations “to ensure that a stable level of funding will remain available for these [VOCA] programs in future years.” Unspent amounts remained in the CVF for future victim services. By 2015, CVF’s balance had grown by 900 percent, but the annual cap increased by only 49 percent – from $500 million in 2000 to $745 million in 2014.

As the National Association of Victim Assistance Administrators (NAVAA) explained, “[S]tate VOCA victim assistance grants did not even keep pace with the rate of inflation let alone the growing needs of crime victims. The mounting [CVF] balance was used by congressional appropriators to offset spending for other federal programs. However, the 2015 Congressional Budget Resolution limited the amount the [CVF] could be used as an offset and the cap was increased to $2.361 billion!” The large cap increase resulted in state VOCA victim assistance grants quadrupling. NAVAA said, “States will use these funds to catch up with the needs of current victim service providers, to expand services to new and underserved populations and to invest in desperately needed infrastructure and technology improvements.”

Although the amount has fluctuated from year-to-year, Congress has so far continued at elevated levels since the 2015 increase with the 2018 increase significantly surpassing all previous years. To illustrate the increase in VOCA Victim Assistance Grants, see a sample from NAVAA’s VOCA Assistance Grants, 2010-2018 chart.
6. Q: Do any states already provide VOCA-funded legal services to crime victims?
A: According to the American Bar Association, more than 40 states now use VOCA funds for legal aid for crime victims. A number of states have also launched statewide VOCA-funded legal aid programs. The statewide models show great promise to eliminate legal aid “deserts” that can occur through fragmented grantmaking, as well as raise the overall quality of services through joint provider trainings, consistent data-collecting to better identify statewide patterns and trends as well as identify hotspots that need greater attention, improved collaboration among the state’s legal aid providers, and importantly, to get legal aid to rural areas. The Justice in Government Project profiled three statewide VOCA-funded legal aid programs. These narratives can be accessed in Module 3 of the JGP toolkit. Some examples of statewide programs include:

**Massachusetts:** In 2017, the Massachusetts Legal Assistance Corporation received a VOCA grant to increase access to legal services for victims of violent and economic crimes in the state. The Civil Legal Aid for Victims of Crime (CLAVC) initiative helps victims of crime throughout Massachusetts with their related civil legal problems — including family law, housing, immigration, disability rights, child welfare, education, consumer, identity theft, employment rights and public benefits. There are six regional CLAVC-funded legal aid programs and three statewide CLAVC-funded legal aid programs.

**Michigan:** In 2016 and 2017, Michigan Advocacy Program (MAP) received VOCA funding for 14 attorneys serving survivors of domestic violence and another 12 dedicated to helping elder abuse survivors. These attorneys work out of 18 legal aid offices across Michigan. This Michigan statewide program arose out of a culture of collaboration and partnerships that Michigan’s legal aid organizations had nurtured for years.

**Washington:** In 2016, thanks to a Department of Commerce VOCA grant, the Washington State Office of Civil Legal Aid (OCLA) established the Integrated Civil Legal Aid to Crime Victims Program. The effort was informed by findings in the 2015 Civil Legal Needs Study which found that victims of crime experience civil legal problems at substantially higher rates than the general public and focus groups that the state’s VOCA administering agency held throughout the state. OCLA recognized the need for a coordinated statewide effort and agreed to subcontract, support, and oversee the delivery of civil legal aid services.

Other innovative uses of VOCA since the new rule include:

- Online automated court-approved Petition for Order of Protection Forms in South Carolina
- [Victims of Crime Portal](#) at Illinois Legal Aid Online
- [Human Trafficking Prevention Project](#) at the University of Baltimore School of Law
- Economic Exploitation and Fraud Prevention Project at Washington DC’s Tzedek DC
- Helping employment-related crime victims, such as those who experienced wage theft, at California Rural Legal Assistance
7. Q: How does DOJ OVC allocate VOCA funds for Victim Assistance Grants?  
A: All states, the District of Columbia, the U.S. Virgin Islands, and Puerto Rico each receive an annual VOCA victim assistance grant with a base amount of $500,000; the Northern Mariana Islands, Guam, and American Samoa each receive a base amount of $200,000. Additional funds are distributed to states and territories based on population, following the grant formula.

In each state and territory, VOCA assistance funds are awarded to subrecipients—local community-based organizations and public agencies that provide services directly to victims of crime. The final rule outlines some criteria for state spending; for example, a minimum of 10 percent of each year’s VOCA grants will go to each of the three priority categories of victims – sexual assault, spousal abuse, or child abuse – and another minimum 10 percent to underserved victims of violent crimes. But the rule makes clear that VOCA administrators have sole discretion to determine what organizations will receive funds, and in what amounts, subject to the minimum requirements of the final rule and VOCA statute.

8. Q: Do states submit a plan to DOJ OVC for their VOCA Victim Assistance funds?  
A: The final rule did not require states to have a strategic state plan to allocate funding. However, the final rule encourages states to develop a funding strategy, and requires states to have a documented method of making funding decisions.16 DOJ OVC also included things states should consider in strategic planning, including: “The range of direct services throughout the State and within communities; the sustainability of such services; the unmet needs of crime victims; the demographic profile of crime victims; the coordinated, cooperative response of community organizations in organizing direct services; the availability of direct services throughout the criminal justice process, as well as to victims who are not participating in criminal justice proceedings; and the extent to which other sources of funding are available for direct services.”17 As part of the state application for VOCA assistance grants, in some years OVC has asked states to submit a statement explaining the process by which they will make subgrants, including efforts to identify additional victims’ needs.

9. Q: Is there a match requirement for VOCA Victim Assistance subgrantees?  
A: Yes. State VOCA subrecipients must contribute 20 percent of the total project cost of each VOCA-funded project, with some exceptions, e.g., federally recognized American Indian or Alaska Native tribes and projects that operate on tribal lands. Match contributions may be cash and/or in-kind.18 If the state VOCA administrator supports a waiver for a specific subrecipient, the administrator may apply to the Director of DOJ OVC to request a full or partial match waiver. Waivers are made at the discretion of the DOJ OVC Director, who typically considers factors such as local resources, annual budget changes, past ability to provide match, and whether the funding is for new or additional activities requiring an additional match, versus continuing activities where match is already provided.19

Relatedly, VOCA-funded programs must use volunteers in order to be eligible to receive VOCA funds. The mandated use of volunteers provision is an eligibility requirement for subgrantees, not as a requirement for individual VOCA-funded projects. This eligibility requirement can be waived by the chief executive of the state (who may act through the administrator), however, when certain circumstances are met.20

10. Q: Who selects the state’s VOCA administrator?  
A: Generally, the Governor decides which office or department administers VOCA. Consequently, where VOCA sits in the state executive branch varies state-to-state.
“Providers and Community Leaders” and click on your state: http://ojp.gov/ovc/map.html NAVAA also has a directory state administrators, here: http://navaa.org/statedirectory.html

11. Q: Are there other victim-related federal funds administered by my state?
A: Yes, and many state VOCA administering agencies also administer at least one other victim-related funding program, and often several. These are typically other federal formula or discretionary grants and/or state-supported victim funding or service programs. For example, agencies administering VOCA may also have responsibility for STOP Violence Against Women Act formula grant program and the Family Violence Prevention and Services Formula grants to states and territories, both of which allow funding for legal services. JGP published a grants matrix, which includes information about how these two grants, among others, can support legal aid and examples of how states have used these funds to advance their goals with legal aid. All states also operate crime victim compensation programs supported mostly with state funds that are supplemented with VOCA compensation formula grants.

12. Q: Do states invite public input on crime victim needs and priorities?
A: It depends on the state. In some states, like Massachusetts and California, there are opportunities for public comment where citizens can submit information to make the case to invest in certain organizations or communities. For example, in California, the VOCA Steering Committee holds a public hearing, where key organizations (one of which was the Legal Aid Association of California) and the public can present and discuss VOCA priorities and directions. If your state holds a public hearing, attending can help raise awareness about the civil legal needs of crime victims.

13. Q: What next steps can the legal aid community and its crime victim provider partners take to tap into VOCA funds to help meet crime victims’ legal needs in my state?
A: Start by getting more background about your state and its grant-making history. The US Department of Justice, Office for Victims of Crime US Resource Map of Crime Victim Services & Information makes it easy to click on your state to find your state’s administering agency, information on events, statistics, compensation and assistance, and VOCA performance reports. The state’s “assistance report” AKA “annual state performance report” can be found at the “VOCA Reports” tab. This performance report provides a snapshot of financial information for the last four fiscal years, and information about subawards, the number of individuals VOCA-funded services served including legal services.

A number of states have had their VOCA programs audited by the DOJ Office of Inspector General. To see if your state has been audited, scroll down to your state and see if there’s a “Victim Assistance Formula Grants” audit report. These reports are similarly filled with helpful information about your state.

In some states, like California, the VOCA administrator submits reports the state legislature. If your state prepares this kind of report, you may find additional information about how VOCA victim assistance grants work in your state.

Finally, the NAVAA website has helpful updates about Congress, funding, and other useful information.

In light of the fiscal year 2018 increase, the legal aid community can expand its collaborations – among legal aid programs, with other service providers, and with the courts – and consider ambitious proposals
for meeting the civil legal needs of your state’s crime victims. Karen Lash at The Justice in Government Project, klash@american.edu, is happy to help brainstorm about this. For more information about JGP at American University’s Justice Programs Office, go here. 27

“Mary” lived in a remote rural community in Washington State with her abusive husband and two young children. For years, her husband had sexually assaulted her and kept her without telephone access or transportation. After fleeing to a domestic violence shelter, Mary’s VOCA-funded attorney with the Washington state Northwest Justice Project helped her secure a life-long protection order and protection orders for Mary’s children until they turn 18. She now lives with her children and peace of mind. 28
Endnotes

4. VOCA Allowable Direct Service Costs- Legal Assistance- 28 CFR Part 94.119(f); See Supra note 2 at 35.
5. https://www.law.cornell.edu/cfr/text/28/94.121
17. Ibid., § 94.103 (d)
18. Ibid., 28 CFR 94.118
19. Ibid., 28 CFR 94.118
20. Ibid., 28 CFR 94.113
27. https://www.american.edu/spa/jpo/JGP.cfm