

Reforming Crime Victims' Compensation Policies

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ABSTRACT

Crime Victims' Compensation programs across the country provide essential and lifesaving financial support to survivors of domestic violence, as well as victims/survivors of other qualifying crimes. Crime Victims Compensation can cover critical costs related to the crime including therapy bills, relocation expenses, lock changes, medical bills, and more.

Unfortunately, these pools of funding are often restricted only to survivors who report to police or obtain a restraining order. This restricts survivors of marginalized identities from being able to access Crime Victims' Compensation, because of fear of engaging in criminal systems.

Survivors who are LGBTQ+, Black, Indigenous, and People of Color (BIPOC), or undocumented, and survivors who exist at the intersections of these identities, are particularly harmed by processes that require forced interactions with police. These are often the same communities that experience higher rates of poverty and have disproportionate barriers to accessing financial safety. It is therefore critical that states reform their Crime Victims' Compensation programs to allow alternative types of qualifying documentation that do not require that survivors engage with the criminal legal system.

ANALYSIS

Barriers for LGBTQ+ Survivors

Data has consistently shown that LGBTQ+ people experience domestic violence and sexual assault at higher rates than non-LGBTQ+ people, with transgender people, bisexual women, and BIPOC LGBTQ+ people at particularly high risk.ⁱ Lesbian, bisexual, and gay people experience higher rates of sexual violence and intimate partner violence than heterosexual people; 56.3% of lesbian women and 69.3% of bisexual women, compared to 46.3% of heterosexual women in the U.S. experienced some form of intimate partner violence during their lifetimes.ⁱⁱ 47.7% of gay men, 46.1% of bisexual men, and 44.1% of heterosexual men in the U.S. experienced some form of intimate partner violence during their lifetimes.ⁱⁱⁱ

Additionally, according to the U.S Transgender Survey, there is a 66% lifetime prevalence of sexual assault and a 54% lifetime prevalence of domestic violence for transgender people.^{iv} LGBTQ+ survivors cannot afford to have more restrictions and barriers placed on their ability to access critical support for their safety, well-being, and access to legal recourse.

Law Enforcement Interaction as a Barrier

There are many reasons why survivors do not want to involve police: fear of not being believed, fear of anger or retaliation from their abusive partner or perpetrator, the retraumatization of re-telling their traumatic experience, shame and stigma, and exposing themselves and their families to involvement with child welfare systems.^v According to research conducted by the

National Domestic Violence Hotline that documented survivors' experiences with law enforcement, of survivors surveyed who chose to involve law enforcement by calling 911, only 20% said they felt safer and 80% said they had no change in safety or felt even less safe.^{vi} Survivors from marginalized communities are disproportionately harmed by forced interactions with law enforcement, including BIPOC, LGBTQ+, and undocumented survivors. A report done by the STOP Program at the Los Angeles LGBT Center found that many of the LGBTQ+ survivors whom they served were afraid of reporting to police.^{vii} Even for those survivors who did report to police, there were frequent reports of dissatisfaction with the police officers' homophobic and/or sexist treatment, and many felt their cases were not taken seriously.^{viii} Additionally, 46% of transgender people surveyed in this study reported being uncomfortable seeking police assistance.^{ix} This means that many LGBTQ+ survivors do not have access to legal documentation, such as a police report or restraining order, that proves their domestic violence.

Crime Victims Compensation's Limitations

Crime Victims' Compensation (CVC) programs are state-operated programs that can reimburse victims of crime for costs related to the crime, for example: medical bills, therapy, relocation expenses, income loss, lock changes, and more. While each state operates its own CVC program and has its own rules and regulations on qualifications to access CVC, generally all states require that a survivor has to report to law enforcement and cooperate with law enforcement.^x This means that survivors who do not feel safe accessing law enforcement, especially LGBTQ+ survivors—with BIPOC and transgender survivors disproportionately impacted—are overwhelmingly unable to access the same financial support to find safety and heal after domestic violence as their non-LGBTQ+ counterparts.

According to a report done by the organization Free From on how race, gender identity, sexual orientation, and disability shape survivors' experiences and needs, survivors reported an average of \$10,120 in abuse-related costs, with the top costs identified as relocation, property damage, lost wages, and medical bills.^{xi} All of these needs are costs that can be supported by CVC. This report also showed a stark difference between LGBTQ+ survivors' financial needs and cisgender and heterosexual survivors' financial needs. For example, 31.9% of queer and trans survivors reported needing support with these costs (medical bills, healing costs, mental health care, pharmacy costs, etc.), a rate that was 1.6x that of cisgender and heterosexual survivors. These numbers are not surprising. LGBTQ+ people in general experience poverty at a higher rate (21.6%) compared to heterosexual, cisgender people (15.7%).^{xii} LGBTQ+ survivors are therefore stuck in a double bind of both being disproportionately financially harmed by

domestic violence and facing disproportionate barriers in accessing institutional support through CVC.

RECOMMENDATION

In order to reduce barriers to essential systemic support for LGBTQ+ survivors, it is critical that state laws be reformed to include alternative options for identification that do not require law enforcement intervention in their respective CVC qualification criteria. There is already a precedent for this in domestic violence tenant's rights law. Many states, such as California, require that tenants experiencing domestic violence can break their lease without penalty, if they have supporting documentation.¹ This supportive documentation can be a police report or restraining order, much like CVC.² But it also can include a letter signed by a qualified third party. This letter can come from a domestic violence provider, doctor, case worker, or therapist and allows survivors to still access the critical legal support they need to navigate their safety. CVC programs could also implement a similar policy and allow survivors to qualify for compensation with documentation from a qualified third party. This would ensure that survivors of marginalized identities, who are less likely to engage in the criminal legal system, are still able to receive financial support to exit abusive relationships, heal, and navigate their safety. When LGBTQ+ survivors can choose if and when they report to police, they will feel safer and more comfortable in navigating their options.

ⁱ Holt, S., & Whirry, R. (2020, September 20). Finding Safety: A Report About LGBTQ Domestic Violence and Sexual Assault. Los Angeles LGBT Center. <https://stopviolence.lgbtcenter.org/>

ⁱⁱ Chen, J., Khatiwada, S., Chen, M. S., Smith, S. G., Leemis, R. W., Friar, N., Basile, K. C., and Kresnow, M. (2023). The National Intimate Partner and Sexual Violence Survey (NISVS) 2016/2017: Report on Victimization by Sexual Identity. Atlanta, GA: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention.

ⁱⁱⁱ Chen, J., Khatiwada, S., Chen, M. S., Smith, S. G., Leemis, R. W., Friar, N., Basile, K. C., and Kresnow, M. (2023). The National Intimate Partner and Sexual Violence Survey (NISVS) 2016/2017: Report on Victimization by Sexual Identity. Atlanta, GA: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention.

^{iv} United States Transgender Survey. "Report on the Experiences of Black Respondents." National Center for Transgender Equality. 2015. <https://www.transequality.org/sites/default/files/docs/usts/USTS-Black-Respondents-Report.pdf>

^v Lippy, C., Jumarali, S.N., Nnawulezi, N.A. et al. The Impact of Mandatory Reporting Laws on Survivors of Intimate Partner Violence: Intersectionality, Help-Seeking and the Need for Change. *J Fam Viol* 35, 255–267 (2020).

^{vi} Lippy, C., Jumarali, S.N., Nnawulezi, N.A. et al. The Impact of Mandatory Reporting Laws on Survivors of Intimate Partner Violence: Intersectionality, Help-Seeking and the Need for Change. *J Fam Viol* 35, 255–267 (2020).

^{vii} Holt, S., & Whirry, R. (2020). Finding Safety. Los Angeles LGBT Center. https://stopviolence.lgbtcenter.org/wp-content/uploads/2022/08/Finding_Safety.pdf

^{viii} Holt, S., & Whirry, R. (2020). Finding Safety. Los Angeles LGBT Center. https://stopviolence.lgbtcenter.org/wp-content/uploads/2022/08/Finding_Safety.pdf

¹ "California Housing Laws". Womens Law. Accessed February 22, 2024.

<https://www.womenslaw.org/laws/ca/housing-laws>

² Ibid.

^{ix} Holt, S., & Whirry, R. (2020). Finding Safety. Los Angeles LGBT Center.

https://stopviolence.lgbtcenter.org/wp-content/uploads/2022/08/Finding_Safety.pdf

^x "Crime Victim Compensation". *Rape, Abuse, and Incest, National Network*. Accessed February 21, 2024.

<https://www.rainn.org/articles/crime-victim-compensation>

^{xi} FreeFrom, Support Every Survivor: How Race, Ethnicity, Gender, Sexuality, and Disability Shape Survivors' Experiences and Needs, August 17, 2022, <https://www.freefrom.org/support-every-survivor>

^{xii} Lee Badgett, M.V., Soon Kyu Choi, and Bianca D.M. Wilson, "LGBT Poverty in the United States: A study of differences between sexual orientation and gender identity groups," Williams Institute, October 2019, <https://williamsinstitute.law.ucla.edu/wpcontent/uploads/National-LGBT-Poverty-Oct2019.pdf>