

INTERNATIONAL TERRORISM VICTIM  
EXPENSE REIMBURSEMENT PROGRAM  
REPORT TO CONGRESS

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# EXECUTIVE SUMMARY

Over the years, hundreds of U.S. nationals, officers, and employees of the U.S. Government have been killed or injured in acts of international terrorism occurring outside the United States. These incidents of terrorism continue worldwide. Recognizing that providing assistance and support to these victims presents a number of challenges and obstacles, the United States Congress amended the Victims of Crime Act of 1984 (VOCA) [42 U.S.C. § 10601] (Public Law 98-473) by authorizing an International Terrorism Victim Expense Reimbursement Program (ITVERP)<sup>1</sup> so that victims of acts of international terrorism that occur outside the United States may receive reimbursement for “expenses associated with that victimization.”

Victims of acts of international terrorism that occur outside the United States face unique obstacles in securing assistance, expense reimbursement, and support, which are more readily available to victims of violent crime and domestic or international terrorism occurring within U.S. borders. Victims and family members often face immediate needs, such as covering expenses for medical treatment, funeral and burial services, short-term lodging, and emergency transportation. Language and cultural barriers can impair a victim’s ability to secure appropriate support. Moreover, resources for victim assistance vary widely from one country to the next. Many of the countries that have established victim compensation programs compensate only their own citizens, leaving U.S. citizens without financial assistance.

Although the U.S. Department of Justice (DOJ), Office for Victims of Crime (OVC) provides funding to states to administer victim compensation programs, the programs administered by each state vary; survivors of the same act of

international terrorism occurring abroad may be residents of different states and thus may receive different levels of compensation for similar injuries.

Partially in recognition of this disparity in treatment, VOCA was amended so that states are no longer required to compensate victims of international terrorism occurring outside the United States: The Federal Government will now oversee an expense reimbursement program for these victims. Additionally, by providing coverage for employees of the U.S. Government abroad, this statute authorizes payment for foreign nationals working for the U.S. Government who may be killed or injured in an international terrorist attack.

VOCA directs OVC to submit a report to Congress annually on the status and activities of the ITVERP program. Because the proposed program regulations have not been finalized, OVC has incorporated the status of ITVERP in its biennial *Report to the Nation*. These reports have included an overview of the program, its purpose, the categories of eligible recipients, and interim measures developed by OVC to address the emergency assistance needs of victims of international terrorism outside the United States. This new report covers in greater detail the challenges and obstacles faced in developing this program, a compendium of the groundwork laid thus far, and the emergency assistance provided to victims in the interim while program regulations are being finalized.

Once the program is fully operational and victims begin to receive expense reimbursement as outlined in the statute, OVC will address the following detailed information in an annual ITVERP report to Congress. An analysis of the resulting

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statistics will serve as a measurement for assessing the success of the program. ITVERP reports will include—

- (1) An explanation of the procedures for filing and processing applications for expense reimbursement.
- (2) A description of the procedures and policies instituted to promote public awareness about the program.
- (3) A complete statistical analysis of the victims assisted under the program, including the following:
  - (a) The number of applications for reimbursement submitted.
  - (b) The number of applications approved and the amount of each award.

- (c) The number of applications denied and the reasons for denial.

- (d) The average length of time needed to process an application for reimbursement.

- (e) The number of applications for reimbursement pending and the estimated future liability of the program.

- (4) An analysis of future program needs and suggested program improvements.

In August 2005, the proposed ITVERP regulations were published in the *Federal Register* for a 60-day comment period.

# SUPPORT FOR CRIME VICTIMS

The Office for Victims of Crime (OVC) is a component of the Office of Justice Programs (OJP). OJP provides federal leadership in developing the Nation's capacity to prevent and control crime, improve criminal and juvenile justice systems, increase knowledge about crime and related issues, and assist crime victims. Through programs developed and funded by its bureaus and offices, OJP works to form partnerships among federal, tribal, state, and local government officials to control drug abuse and trafficking; reduce and prevent crime; rehabilitate neighborhoods; improve the administration of justice in America; meet the needs of crime victims; and address problems such as gang violence, prison crowding, juvenile crime, and domestic violence.

OVC was created by the U.S. Department of Justice (DOJ) in 1983 and formally established by Congress in 1988 through an amendment to the Victims of Crime Act of 1984 (VOCA) [42 U.S.C. § 10601] (Public Law 98-473). OVC's mission is to enhance the Nation's capacity to assist victims of crime and to provide leadership in changing attitudes, policies, and practices to promote justice and healing for all victims of crime. VOCA also established the Crime Victims Fund (the Fund), the sole source of funding for VOCA-authorized programs. The fund comprises the fines, penalties, and special assessments imposed on convicted federal defendants and gifts, bequests, and donations. The Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104-132) amended VOCA to authorize OVC to establish an Antiterrorism Emergency Reserve to assist victims of terrorism and mass violence. The OVC Director is authorized to set aside up to \$50 million in reserve for this purpose.

OVC accomplishes its mission through the administration of the Fund and the Antiterrorism

Emergency Reserve, and by supporting direct services, providing training programs, and sponsoring demonstration and evaluation projects that have national and international impact. OVC publishes, disseminates, and encourages replication of materials that highlight promising practices in support of crime victims worldwide. OVC sponsors fellowships and clinical internships to educate, sensitize, and enhance the capabilities of individuals dedicated to providing assistance to crime victims.

*"I want to express my thanks and sincere gratitude to all who assisted with the new reimbursement process."*

*—A recipient of mental health counseling who had lost a son in Iraq*

OVC works with international, national, military, tribal, state, and local victim assistance and criminal justice agencies, as well as other professional organizations to promote fundamental rights and comprehensive services for crime victims. OVC not only administers funding, but also develops policy and provides training and technical assistance to states, localities, and other federal agencies on effective responses to crime victims and supports public awareness and education on critical victim issues. The largest amount of OVC funding is provided to state agencies to administer programs for assisting crime victims: victim compensation and victim assistance formula grant programs.

OVC makes annual awards to each state, the District of Columbia, the U.S. Virgin Islands, Guam, and Puerto Rico to support crime victim compensation programs. The VOCA crime victim compensation formula grant program reimburses victims for crime-related expenses such as

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medical costs, mental health counseling, funeral and burial costs, lost wages, or loss of support. Although each state compensation program is administered independently, most programs have similar eligibility requirements and offer comparable benefits. Maximum awards generally range from \$10,000 to \$25,000. Compensation is paid only when other financial resources, such as private insurance and offender restitution, do not cover the loss. Some expenses, including theft, property damage, and property loss, are not covered by most compensation programs.

Each compensation program operates under state statutes and rules that generally require victims to cooperate with the reasonable requests of law enforcement and to submit a timely application to the compensation program. VOCA funds supplement state efforts to compensate crime victims. The formula for VOCA compensation is based on an allotment of 60 percent of the state payments to crime victims in the previous year.

VOCA victim assistance grants are also awarded each year to states to support community-based

organizations that serve crime victims. More than 6,000 grants are made to domestic violence shelters, rape crisis centers, child abuse programs, and victim service units in law enforcement agencies; prosecutors' offices; hospitals; and social service agencies. These programs provide services including crisis intervention, counseling, emergency shelter, criminal justice advocacy, and emergency transportation. States are required to give priority to programs serving victims of domestic violence, sexual assault, and child abuse. Additional funds must be set aside for underserved victims, such as survivors of homicide victims and victims of drunk driving crashes.

All states, the District of Columbia, the U.S. Virgin Islands, and Puerto Rico receive a base victim assistance amount of \$500,000 each. The territories of the Northern Mariana Islands, Guam, and American Samoa receive a base amount of \$200,000 each. Additional funds are distributed based on population.

# U.S. VICTIMS OF INTERNATIONAL TERRORISM ABROAD: CHALLENGES AND OBSTACLES

Over the years, hundreds of U.S. nationals, officers, and employees have been killed or injured in acts of international terrorism occurring outside the United States. These incidents—such as the bombing of Pan Am flight 103 over Lockerbie, Scotland, in 1988; the Khobar Towers bombing in Saudi Arabia in 1996; the bombing of the American Embassies in Kenya and Tanzania in 1998; the attack on the U.S.S. Cole in Yemen in 2000; the attacks in Bali, Indonesia, in 2002; the housing complex bombing in Saudi Arabia and the U.N. Headquarters bombing in Baghdad, Iraq, in 2003; and terrorist attacks in Afghanistan, Iraq, Egypt, and London, England, in 2004 and 2005—left hundreds dead and injured. Violent and unexpected acts of international terrorism outside the United States leave victims and their families with devastating, often fatal, physical wounds and debilitating emotional wounds. Nothing can prepare an innocent victim for the horror of a terrorist act, its long-term physical and emotional impact, and its often-resulting annihilation of a sense of security in the world. Nothing can prepare the family of an international terrorism victim for the shock and terror associated with the unexpected and violent death or injury of a loved one overseas.

While victims of acts of international terrorism abroad have much in common with victims of other types of violent crime, they face some unique challenges based on the nature, extent, and location of the crime. Domestic and international terrorism can involve the calculated or random murders of many innocent victims, have multiple perpetrators, and result in massive death, injury, violence, destruction, and mayhem.

At times, victims are targeted based on their real or perceived affiliations with a government. At other times, they are targeted simply because they are present in a building or aircraft affiliated with a particular government. International terrorism victims appear to experience extraordinarily high levels of emotional distress, due in part to the unique issues associated with the trauma and magnitude of politically motivated violent crime. In terrorist acts that occur outside the United States, injured victims often find themselves thousands of miles away from appropriate medical and mental health care, and families of victims may be separated by vast distances and face unexpected expenses and heart-wrenching delays in reuniting with their loved ones.

*"At a time like this, we thank God there are people like you on this earth. Thank you so much for all your help."*

*—Response of a family member of a victim who died in Yemen, for funeral and burial assistance*

Although victims of all violent crimes experience a range of physical, emotional, legal, and financial needs, victims of acts of international terrorism occurring outside the United States often face unique obstacles in securing financial assistance to meet those needs. Often, families of these victims face extraordinary hardships in securing funds to transport the body of a loved one home for burial. Survivors of such terrorism often face enormous challenges in securing appropriate medical and mental health care



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outside the United States. Victims and family members may face the need for immediate international travel and later long-term travel expenses associated with participating in the criminal justice process. Communication is often limited, and access to resources can be daunting. Language, legal, and cultural barriers impair victims' and service providers' abilities to secure appropriate support. Moreover, local governmental infrastructures and the resources of nongovernmental organizations' vary considerably in different countries and, as a result, countries' abilities to respond to terrorist incidents and provide crisis intervention and services to victims vary widely. Few countries have established victim compensation programs, and those that do rarely compensate noncitizens.

*"It's fitting that a Federal Government program should provide financial assistance to American victims of international terrorism, rather than relying on various state compensation agencies. Uniform benefits and procedures may make it easier for victims to access compensation and be fully compensated for their losses."*

*—Dan Eddy, Executive Director,  
National Crime Victim Compensation Boards*

Once overseas, victims, survivors, and their families face unexpected difficulties coordinating and securing the state-administered and philanthropic assistance, compensation, and support that are more readily available to victims of violent crime and terrorism occurring within U.S. borders. The Uniting and Strengthening America by Providing Appropriate Tools Required To Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act) [H.R. 3162, S.1510] (Public Law 107-56) eliminated the requirement for state crime victim compensation programs to pay compensation to victims in cases of international terrorism. As currently proposed, ITVERP will be the primary reimbursement source for these victims. State crime victim compensation programs are not restricted from providing compensation to victims of international terrorism abroad, however. If a state chooses to compensate residents who are victims of international terrorism outside the United States, it may consider federal ITVERP payments as collateral source payments that diminish the state's payment obligations. Moreover, international terrorism victims are not required to apply to state compensation programs before filing an application for reimbursement under ITVERP. Accordingly, the state compensation programs retain their status as the payers of last resort. This program is intended to replace compensation programs administered by the states only to the extent that they reimburse expenses associated with acts of international terrorism occurring outside the United States.

# VOCA AUTHORITY AND FUNDING FOR ITVERP

OVC's programs and activities are authorized by VOCA, as amended. The specific authority to implement the International Terrorism Victim Expense Reimbursement Program (ITVERP) falls under the provisions of VOCA, Title II, § 1404C [42 U.S.C. § 10603c]. These provisions authorize the Director of OVC, a component of OJP, to establish a program to reimburse eligible victims of acts of terrorism that occur outside the United States for expenses associated with that victimization.

To be eligible to receive reimbursement under this program, an individual victim of international terrorism abroad must be either (1) a national of the United States or (2) an officer or employee of the U.S. Government on the date on which the act of terrorism occurred. In addition, the statute expressly requires that the individual victim must have suffered "direct" physical or emotional injury or death as a result of an act of international terrorism occurring on or after December 21, 1988, with respect to which an investigation or prosecution was ongoing or was commenced after April 24, 1996. As currently proposed, the Attorney General shall determine whether there is a reasonable indication that an act of international terrorism has occurred, after consultations with other relevant Federal Government agencies.

## Victim Reimbursement

As authorized by VOCA, ITVERP is designed to reimburse victims of acts of international terrorism occurring abroad on or after December 21, 1988, for related expenses based on a structure that reflects model state programs. In evaluating claims, ITVERP will take into account the unique nature and impact of international terrorism victimization and the unusual additional

expenses (such as long-distance travel for burial) that victims, survivors, and family members of international victims often incur. Under ITVERP, victims of acts of international terrorism occurring outside the United States on or after December 21, 1988, will file streamlined expense reimbursement claims directly with OVC, rather than with the victims' home states. OVC then will process the claims using an expense reimbursement structure to ensure that victims receive fair and equitable reimbursement for similar expenses.

## Expense-Based Program Compared With Compensation Program

The statute provides that eligible victims of international terrorism may be reimbursed "for expenses associated with that victimization." The language of the statute restricts the ITVERP program to one that directly reimburses victims for actual out-of-pocket expenses, such as funeral, burial, or mental health counseling expenses. Thus, under this proposed rule, victims can only receive payment for reimbursable expenses. Losses such as pain and suffering, lost wages, loss of enjoyment of life, and loss of consortium are not considered reimbursable expenses.

The devastating impact of the September 11, 2001, terrorist attacks in the United States and the resulting creation of the September 11th Victim Compensation Fund brought the issue of "compensation" to the hearts and minds of not only the victims and their surviving family members but the public as well. Concerns have been raised that the ITVERP program for victims of international terrorism outside the United States should replicate the September 11th fund. Nevertheless, the statute authorizing the September 11th fund differed radically from the statute

authorizing ITVERP in the scope of “compensation” that was mandated. ITVERP was specifically devised as an expense-based program, whereas the September 11th fund was not limited to expense reimbursement. In addition, funding authorized by Congress for the September 11th victims was much more extensive than the funding available in the Crime Victims Fund Antiterrorism Emergency Reserve for ITVERP.

### **Collateral Source Offset**

Under the terms of the statute, the amount of reimbursement to a victim must be reduced by any amount that the victim receives in connection with the same act of international terrorism under Title VIII of the Omnibus Diplomatic Security and Antiterrorism Act of 1986. In preparing draft regulations, OJP/OVC looked at the types of compensation and benefits that are considered collateral sources under that Act, section 1051(b) [10 U.S.C. § 1051(b)], which provides that—

*Any compensation otherwise payable to a person under this section in connection with any disability or death shall be reduced by any amount payable to such person under any other program funded in whole or in part by the United States in connection with such disability or death, except that nothing in this subsection shall result in the reduction of any amount below zero.*

OJP/OVC has determined that sources that provide reimbursement for specific expenses reimbursed under ITVERP—e.g., health, property, and funeral insurance—are considered collateral sources. Life insurance proceeds are not considered a collateral source, as they do not compensate for specific expenses. This definition of collateral sources is consistent with other provisions relating to crime victim compensation programs under VOCA.

OJP/OVC has focused on developing proposed program regulations that are consistent with the authorizing legislation, while taking into account the unusual challenges facing victims of international terrorism abroad. OJP/OVC plans to process victim claims using an expense reimbursement structure to

ensure that victims receive fair and equitable reimbursement for similar expenses incurred. In addition to the proposed regulations, OJP/OVC has taken preliminary steps to identify victims who may be eligible for reimbursement based on acts of terrorism dating back to December 21, 1988, as specified in the statute. OJP/OVC has continued to update this database of potentially eligible victims and other relevant information so it can notify victims and distribute applications for benefits quickly once the regulations are finalized.

### **Allocation of Funds— Set-Aside in Antiterrorism Emergency Reserve**

OVC set aside money deposited into the Crime Victims Fund in an emergency fund of \$20 million in 1996 (the Antiterrorism and Effective Death Penalty Act of 1996). With the passing of the USA PATRIOT Act in 2001, the fund was named the Antiterrorism Emergency Reserve. Section 621 of the USA PATRIOT Act amended VOCA to authorize the Director of OVC to set aside up to \$50 million (from the amount transferred to the Crime Victims Fund for use in response to the terrorist atrocities of September 11, 2001) as the Antiterrorism Emergency Reserve, which specifically would be available only for victim assistance or compensation related to acts of terrorism or mass violence [42 U.S.C. § 10601(d)(5)(A) & (B)]. Unlike other OVC funding, these funds (used to establish the Antiterrorism Emergency Reserve) were tax dollars transferred to OVC at the direction of the President.<sup>2</sup>

The USA PATRIOT Act amendment expressly authorizes the OVC Director to replenish the Antiterrorism Emergency Reserve in subsequent fiscal years by using up to 5 percent of the amount remaining in the Crime Victims Fund in any fiscal year after distributing amounts otherwise available for that year (i.e., after the formula and discretionary grants and statutory earmarks have been made, subject to the annual appropriations-statute limitation, commonly referred to as the “Cap” on the amount available for distribution from the Crime Victims Fund—year 2005

[found at section 618 of Division B of Public Law 108-99]). At no point may the Reserve exceed \$50 million [Id. § 10601(d)(5)(A)]. Amounts in the Antiterrorism Emergency Reserve “may be carried over from fiscal year to fiscal year,” and the statute expressly provides that, “[n]otwithstanding certain provisions of law, including the Cap (as it may exist from year to year), unless the same should expressly refer to this section, any such amounts carried over shall not be subject to any limitation on obligations from amounts deposited to or available in the [Crime Victims Fund]” [Id. § 10601(d)(5)(C)].

The foregoing provisions create a régime under which the Federal Government quickly can bring resources to bear (without using tax dollars) for emergency assistance in the wake of terrorist violence. (The Crime Victims Fund is funded by fines, not tax dollars.)

Currently, the OVC Director is authorized to hold certain amounts from the Crime Victims Fund in reserve for the following purposes<sup>3</sup>:

- ◆ To support compensation and assistance services for victims of domestic terrorism or mass violence.
- ◆ To support assistance services to victims of international terrorism.
- ◆ To fund directly an ITVERP.

To date, assistance to these victims has included the medical evacuation of injured victims to medical facilities, repatriation of remains, funeral and burial expenses, mental health counseling, and emergency travel. Other assistance has supported travel and lodging for criminal justice proceedings, the establishment of case-specific Web sites, toll free telephone lines, family briefings, and the establishment of remote sites for closed-circuit viewing of trial proceedings by victim families.

In Fiscal Year (FY) 2005, \$50 million was set aside in the Antiterrorism Emergency Reserve for victims of terrorism or mass violence both within and outside the United States. Thus far in FY 2005 (through June 1, 2005), OVC has obligated

\$684,641. Included in this total is annual funding for the OVC Victim and Family Assistance Call Center (\$129,034); emergency assistance for victims of terrorism outside the United States (\$2,613), including emergency travel and mental health counseling; a contract for victim support (\$100,000) in an open and competitive bidding process to replace the current contract, which expires at the end of FY 2005; a Reimbursable Agreement with the FBI (\$100,000) to establish an emergency fund for victims of terrorism and mass violence outside the United States for preparation and return of remains, emergency medical evacuation, emergency travel, and other assistance.

*“In my situation, it is so painful to deal with these issues and the mundane realities of everyday life when all I really want to do is mourn for my husband. I appreciate the government’s sensitivity to this by always getting back to me so quickly with information. I sincerely mean this. None of us know when we will fall and how far and I hope someday I can help someone else get up and start over.”*

*—Spouse of man who died in Saudi Arabia,  
in response to receiving mental health counseling  
and assistance with funeral/burial expenses*

In addition, OVC has given \$250,000 to the Minnesota Department of Public Safety for victim compensation for the mass violence school shooting at Red Lake High School; \$63,000 to the Georgia Criminal Justice Coordinating Council for victim compensation following the mass violence courtroom shootings and carjackings in the Atlanta area, and \$39,994 for miscellaneous expenses for administrative support, publications, and training and technical assistance through its Training and Technical Assistance Center.

As outlined here, the Antiterrorism Emergency Reserve funding will be used primarily for ITVERP. However, this funding is also used for meeting the immediate and ongoing challenges of serving victims in the United States and

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abroad in the aftermath of terrorism and mass violence. Under OVC's Antiterrorism and Emergency Assistance Program for Terrorism and Mass Violence Crimes (AEAP), OVC offers the following assistance to meet the immediate and extended needs of victims and their communities after a terrorism and mass violence crisis:

- ◆ Crisis response grants that provide funds to help victims build adaptive capacities, decrease stressors, and reduce symptoms of trauma immediately after the event.
- ◆ Consequence management grants that provide supplemental funds to help victims recover from the traumatic event and restore their sense of equilibrium.
- ◆ Criminal justice support grants that facilitate victim participation in an investigation or prosecution directly related to the terrorism or mass violence event.
- ◆ Compensation grants that provide supplemental funds to victim compensation programs for reimbursing victims for out-of-pocket expenses related to their victimization.
- ◆ Training and technical assistance that provides tools to help federal, state, and local authorities identify victims' needs and necessary resources, coordinate services to victims, develop strategies for responding, and address related issues.

*"At a time when victim families are in acute distress, the challenges of dealing with a crime which occurred in a foreign country are overwhelming. Families want their loved one home as soon as possible. A family's lack of financial resources to overcome these challenges should not result in painful delays, or in having to settle for cremation when that is not their wish or burial in another country. Providing practical, compassionate assistance to victims and families in these situations has a direct impact on their ability to cope, their lifelong memories about the tragedy, and how they feel about their government."*

*—Federal Bureau of Investigation spokesperson*

Via AEAP, using monies from the Antiterrorism Emergency Reserve, nearly 22,000 victims, crisis responders, and family members have been assisted by state agencies and local programs in the aftermath of the September 11, 2001, terrorist attacks in the United States. Approximately 37,000 victims were assisted through OVC's Call Center, and 1,800 victims and family members received travel support through OVC's 9/11 Victim and Family Travel Assistance Center. More recently, AEAP funding has supplemented state crime victim compensation programs in Minnesota in the aftermath of the 2005 Red Lake High School shootings and in Georgia for the mass violence, courtroom shootings and carjackings in the Atlanta area.

# PROGRAM IMPLEMENTATION EFFORTS

**P**rior to drafting the proposed regulations, OJP/OVC consulted with individuals and working groups composed of federal and state government officials, victims of international terrorism, victim advocates, and nongovernmental victim service organizations about various concepts related to expense reimbursement for victims of international terrorism. OJP/OVC convened working group meetings in June 2001 and February 2002. In addition, many other discussions, informal meetings, and draft reviews were held by OJP/OVC throughout the development of the proposed regulations.

Federal Government agencies participating in these working groups and discussions included the U.S. Department of State, the Federal Bureau of Investigation (FBI), the U.S. Agency for International Development, the U.S. Department of Defense, the Office of Personnel Management, and the National Transportation Safety Board. State crime victim compensation program representatives from New Jersey, Virginia, Oklahoma, and Idaho also participated in working group meetings, as did a representative from the National Association of Crime Victim Compensation Boards. OJP/OVC also sought input from victims who would be eligible to apply for this program.

Wherever possible, OJP/OVC attempted to address the concerns raised during the working group sessions and in meetings with various groups. For example, in response to concerns that it would cause hardship for some victims who may be unable to produce receipts for expenses incurred, the proposed ITVERP regulations allow victims, at the discretion of the OVC Director, to certify that the receipts are unavailable and to provide an itemized list of expenses.

OJP/OVC drafted and published in the *Federal Register* a system of records for maintaining general information on individuals who are killed or injured in acts of international terrorism. OJP/OVC issued a request for quotation (RFQ) and selected a vendor for administrative support for ITVERP to include tasks such as processing of victim expense reimbursement applications/claims and case management. Informational materials such as brochures, fact sheets, and question-and-answer documents that describe the parameters of the program have been developed for eventual public dissemination. OJP/OVC expects to notify victims and receive, process, and pay claims as soon as practical after the final regulations are published.<sup>4</sup>

## **Pending Regulations**

On May 2, 2005, the proposed regulations were forwarded to the Office of Management and Budget (OMB) for final review. In August 2005, the regulations were published in the *Federal Register* for a 60-day period for public comment and will be finalized, with comments incorporated as appropriate. At that time, OJP/OVC plans to do wide-scale notification to victims through the *Federal Register* and other appropriate means and will be disseminating and accepting applications for benefits.

## **Victim Identification and Notification**

Preliminary efforts have been made by OVC to identify victims who may be eligible for reimbursement based on acts of terrorism dating back to December 21, 1988, as specified in the statute. The preliminary list of potential victims/claimants includes approximately 900 entries.

These will be verified and confirmed prior to any notification of potential eligibility. The names of many victims have come from the U.S. Department of State's List of Significant Terrorism Incidents and from the State Department's Bureau of Consular Affairs. The names also come from those victims known to OVC through its work on previous terrorism cases, including Pan Am flight 103 and the bombings at the U.S. Embassy in East Africa, and at Khobar Towers. Victims of the more recent terrorist bombings in 2002–2005 on the island of Bali, and in Russia, Yemen, Saudi Arabia, Afghanistan, Iraq, Egypt, and England, have been added to the list. OJP/OVC continues to update this database of potentially eligible victims and other relevant information to facilitate timely notification and distribution of applications for reimbursement once the regulations are finalized.

## Program Materials

Informational materials, such as brochures, fact sheets, and question-and-answer documents that describe the parameters of the program are being developed for public dissemination. In addition, OJP/OVC has developed an extensive draft internal program operations manual. OJP/OVC plans to send individual letters to potential claimants, as well as to work with other federal partner agencies (e.g., the U.S. Departments of State and Defense) to update contact points for those agency-specific employees and family members who have been killed and injured in incidents of terrorism abroad. OJP/OVC's dissemination plan will also include outreach via the *Federal Register* and other appropriate means to reach as wide an audience as possible. OJP/OVC expects to notify, receive, process, and pay claims as soon as practical upon publication of the final regulations.

## Claims Processing

In March 2003, OJP/OVC issued an RFQ for administrative support for ITVERP. The administrative support includes tasks such as processing victim expense reimbursement applications/claims and case management. This was a full and open competition. The contract

was awarded to a Washington, D.C., company, which is currently providing emergency assistance to victims of international terrorism under a separate contract. At present, OJP/OVC works on a daily basis with the contractor to provide expeditious emergency assistance to the victims and to prepare for possible future incidents of terrorism or mass violence. OJP/OVC has developed detailed interim internal operating requirements for its work with the contractor for making emergency payments to victims. This contractor assistance may include telephone and e-mail contact with victims, responding to questions victims may have, acting as a liaison with other federal agencies to obtain any missing information or verify next-of-kin, obtaining documentation and original receipts from victims, verifying collateral sources, and providing OJP/OVC with all the receipts and documentation it needs to review the applications. Emergency payments are made through the U.S. Department of the Treasury.

After ITVERP is operational, OJP/OVC will continue to work with the contractor to ensure accurate, timely processing of expense reimbursement claims. As previously mentioned, OJP/OVC has developed an extensive draft internal program operations manual to ensure fair and equitable support to all eligible claimants. The contractor will have to process the large backlog of cases dating from 1988 onward. After those victims' claims have been reviewed and processed, this contract will provide a baseline level of support and will promptly expand its baseline operations if a large-scale terrorism or mass violence incident occurs abroad involving U.S. nationals and U.S. Government employees.

## Privacy Act

Pursuant to the provisions of the Privacy Act of 1974 [5 U.S.C. § 552a], OJP/OVC has established a system of records for maintaining general information on individuals who are killed or injured in acts of international terrorism, and for providing access to such information to other components of DOJ as necessary to assist them in fulfilling their statutory obligations to victims. The system of records addresses privacy,

confidentiality, and routine uses of records maintained in the system. This system is important for protecting identifiable victim information.

## Information Technology Support

OVC is working with the OJP Office of the Chief Information Officer (OCIO) and the OJP Acquisition Management Division on a procurement process to identify a vendor that will develop software for ITVERP. This information technology support will include software development, and implementation and database maintenance, and will include the electronic processing of victim expense reimbursement claims. OVC and these other OJP offices are working with the OJP Office of the Comptroller (OC) to ensure that the accounting and payment system is sound, transparent, and able to be tracked. OJP/OVC will ensure that the new software system will support stringent financial management and auditing requirements. OJP/OVC also is working with OC and OCIO to incorporate these auditing and financial standards into its internal operating requirements for ITVERP.

## Accounting and Payment System Plan

OJP/OVC has identified and outlined detailed steps to follow for processing emergency payments to victims. OVC anticipates that many of these tasks will also be required to issue payments to victims of terrorism outside the United States after ITVERP is operational. Additional tasks may be needed to address the expanded coverage of expenses and associated documentation required for identifying collateral resources, as well as to extend payments to U.S. Government employees who may not be nationals of the United States and who may live abroad and have different means of accessing services and assistance.

In addition, ITVERP may not necessarily administer a one-time payment to a victim or claimant. Therefore, steps are in place to address this eventuality as well. Payment mechanisms via the U.S. Department of the Treasury may include checks or electronic-fund transfer, which is preferred as a

more secure, expeditious payment method.

## Assistance for Victims' Emergency Needs

Because ITVERP is not yet operational, OJP/OVC has established two mechanisms to assist victims of international terrorism. In March 2003, OJP/OVC initiated a memorandum of understanding (MOU) between the FBI, the Department of State, and OVC. The MOU outlines the conditions and procedures to be followed by each agency in providing emergency assistance to victims of international terrorism. As set forth in the MOU, the first mechanism for emergency assistance is an FBI Crime Victim Assistance Fund. OVC provided the FBI with funding to support immediate crisis response assistance, such as emergency travel, transportation, repatriation of remains, and medevac costs to transport injured victims to appropriate medical facilities. OVC also has the capacity to provide supplemental funding to the FBI on an as-needed basis.

*"There are no words to thank you for all the large and small things you did for me and my family after my husband was killed. I told my parents I wouldn't have your job for all the money in the world, but I am so grateful there are people like you to help families deal with the horror of losing someone they love to terrorists. Thank you for making this trying time easier for us to bear."*

*—A family member of a victim*

If emergency expenses should fall outside the parameters of the FBI Crime Victim Assistance Fund, a second mechanism goes into effect. OVC handles requests from eligible victims and their family members for reimbursement for funeral and burial expenses, mental health counseling, and other emergency expenses. To date, OJP/OVC has assisted victims of international terrorism that occurred overseas, including the terrorist bombings in Bali, Moscow, and Yemen



**Interim Emergency Payments (October 2002–March 1, 2005)**

Expense Category	OVC	FBI Fund <sup>a</sup>	Number of Victims Served (OVC)	Number of Victims Served (FBI Fund)
Mental Health Counseling	\$2,138	\$0	3	0
Emergency Travel	\$5,569	\$19,432	9	29
Emergency Lodging	\$3,591	\$2,189	5	1
Medical	\$306	\$0	1	0
Medevac	\$0	\$8,445	0	1
Funeral/Burial	\$60,008	\$0	8	0
Repatriation of Remains	\$2,075	\$47,740	5	26
Miscellaneous (e.g., long-distance phone calls, cleaning of personal effects, documents, and courier fees)	\$6,930	\$4,672	10	12
<b>Total</b>	<b>\$80,617</b>	<b>\$82,478</b>	<b>41*</b>	<b>69*</b>
<b>Combined Total</b>		<b>\$163,095</b>		<b>88</b>
			Total Number of Individuals Served	

<sup>a</sup>FBI Fund represents funding transferred to the FBI from OVC to provide emergency assistance to eligible victims.

\*Note: The numbers in columns 3 and 4 do not equal the total number of victims served because some victims received multiple services from both OVC and the FBI. The total number of individual people who received services is 88 [FBI = 62; OVC = 26].

in 2002; terrorist bombings in Saudi Arabia and the U.N. Headquarters in Baghdad in 2003; and terrorist attacks in Saudi Arabia, Afghanistan, and Iraq in 2004. This assistance has included the medical evacuation of injured victims to medical facilities, funeral and burial expenses, mental health counseling, and emergency travel. OJP/OVC has documented assistance to these victims and will reduce any future reimbursement for expenses under ITVERP based on the emergency assistance provided to these victims. (See the Interim Emergency Payment chart above for a breakdown of emergency funding.)

**Other Implementation-Related Expenditures**

- ◆ OVC awarded \$208,663 in FY 2002–2003 funding to support the development of policies and procedures and other administrative support to further implement ITVERP.
- ◆ OVC awarded \$300,000 in FY 2003 for the provision of administrative support in the development of the program infrastructure and to coordinate case management activities after ITVERP is operational.

- ◆ OVC awarded \$450,000 in FY 2003–2004 to assist victims in cases of domestic and international terrorism and mass violence crimes in the United States. [Note: This contract has been used to provide direct financial emergency assistance to eligible victims of international terrorism, as detailed in the Interim Emergency Payments chart above, as well as contractor labor and other expenditures related to this victim support contract. In addition, this contract was also used for final reimbursements for mental health counseling for a number of the Pan Am 103 victim family members in the aftermath of the trial and appeal.]

- ◆ OVC is working in collaboration with OJP/OCIO on a procurement process for ITVERP software development and implementation and database maintenance. OVC anticipates \$100,000 in initial funding for this effort. Additional projected costs associated with this task are estimated not to exceed \$500,000 total. To date, no FY 2005 funding commitments have been made.

# SUMMARY

The U.S. Department of Justice (DOJ) Office for Victims of Crime (OVC) has taken a number of steps to implement the International Terrorism Victim Expense Reimbursement Program (ITVERP) to ensure that it is an effective and efficient expense reimbursement program for victims of terrorism overseas and to fully implement the provisions of its authorizing statute. In May 2005, proposed draft regulations and an application form for collecting victim (claimant) information were submitted to the Office of Management and Budget (OMB) for review. In August 2005, the draft regulations were approved by OMB, and published in the *Federal Register* for a 60-day period for public comment. The regulations will be finalized, incorporating comments received, as appropriate.

OVC has developed a preliminary list of potential victims/claimants, including approximately 900 entries, which will be verified and confirmed prior to notification of potential eligibility. OJP/OVC plans to provide wide-scale notification to victims through the *Federal Register* and other appropriate means, including individual letters to those for whom current contact information is available.

In the interim, OJP/OVC will continue to provide emergency assistance to victims of international terrorism for such immediate crisis needs as emergency travel, repatriation of the remains of deceased victims, mental health counseling for victims and their immediate family members, and medevac costs for transporting injured victims to appropriate medical facilities.

*"Thank you for bringing my daddy home. Thank you for sending me my daddy's jewelry. I didn't get to say goodbye to him on the phone but I got to say goodbye at the church.*

*Love, \_\_\_\_\_"*

*—From the 7-year-old son of a victim*

OJP/OVC encourages all victims of international terrorism outside the United States and their family members to carefully review the proposed regulations published in the *Federal Register*. OJP/OVC welcomes comments from all potential claimants; state, local, and federal agencies that work with victims of terrorism or mass violence; and the general public to ensure that this program provides the most equitable, fair, and expeditious expense reimbursement for victims of international terrorism or mass violence abroad.

# NOTES

1. Originally known as the International Terrorism Victim Compensation Program (ITVCP).
2. Prior to the enactment of the USA PATRIOT Act, OVC was authorized to administer an emergency reserve for specific purposes such as emergency grants to state formula grantees for crime victim compensation and assistance programs. Funds from that reserve were initially used to assist victims of the September 11, 2001, terrorist attacks. The USA PATRIOT Act repealed the authorization for that general reserve fund and authorized the Antiterrorism Emergency Reserve fund specifically to assist victims of terrorism and mass violence.
3. See Appendix A.
4. See Appendix B for detailed ITVERP chronology.

# APPENDIX A. ANTITERRORISM EMERGENCY RESERVE

To date, with emergency assistance from Congress<sup>1</sup>, expenditures from the Antiterrorism Emergency Reserve have been used primarily to assist victims of terrorism and mass violence, including victims of—

1. Pan Am flight 103 Lockerbie bombing over Lockerbie, Scotland (1988)
2. Alfred P. Murrah Federal Building bombing in Oklahoma City (1995)
3. Khobar Towers bombing in Dhahran, Saudi Arabia (1996)
4. U.S. Embassy bombings in East Africa (1998)
5. Oregon (1997) and Colorado (1999) school shootings
6. U.S.S. Cole bombing in the port of Aden, Yemen (2000)
7. September 11th terrorist attacks in New York, Virginia, and Pennsylvania (2001)
8. Bali, Moscow, Yemen terrorist attacks (2002)
9. Saudi Arabia, Afghanistan, and Iraq terrorist attacks (2003–2005)

<sup>1</sup>In the September 11 attacks on the United States, and the Oklahoma City and Pan Am flight 103 bombing cases, Congress enacted special legislation that expanded OVC's authority to fund activities beyond the parameters of its previous governing statute.

# APPENDIX B. ITVERP PROGRAM CHRONOLOGY

Fall 2000—Congress amends VOCA to authorize the establishment of ITVERP (Public Law 106-386), a program to reimburse victims of acts of international terrorism that occur outside the United States for expenses associated with that victimization.

February 2001—OVC convenes an internal working group to begin program development.

June 2001—OVC convenes an external working group with representatives from the U.S. Department of State, the Federal Bureau of Investigation, the U.S. Agency for International Development, the U.S. Department of Defense, the Office of Personnel Management, the National Transportation Safety Board, state VOCA administrators, and victims.

February 2002—OVC convenes the second external working group of selected state VOCA compensation administrators and federal benefit program representatives to discuss the development of the program.

September 2002—OVC publishes final system of records in the *Federal Register*.

October 2002—Determination is made that guidelines must now be written as “regulations.”

March 2003—RFQ is released for open and competitive bidding for ITVERP administrative support and claims processing.

April 2003—OJP/OVC convenes a meeting with Pan Am flight 103 victim family members to discuss legislation and program parameters.

May 2003—OJP/OVC again contacts three members of the original ITVERP working group, to request and gain their feedback on ITVERP’s programmatic developments to date, especially with regard to its proposed policies and procedures.

July 2003—Courtesy Associates is selected as the contract organization to provide administrative and claims processing support.

August 2003—OVC convenes a formal kickoff meeting with Courtesy Associates to give its representatives a broad overview of ITVERP. OVC presentations include a program overview and review of program inquiries, program highlights, points of contact, victim privacy, system of records, victim sensitivity/compassion, the proposed program application/instructions, potential victims list, the importance of meeting deadlines, recordkeeping, and a report on the database/data fields.

August 2003—OVC holds a daylong software vendor demonstration meeting for potential program vendors to exhibit their software applications.

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September 2003–December 2004—Meetings convene with the Office of the Comptroller to discuss financial management and auditing standards.

September 2003—OJP/OVC begins developing a database of potentially eligible victims and victim families for ITVERP; the database consists of nearly 900 victims and/or their family members.

November 2003—OVC holds a daylong victim sensitivity training for Courtesy Associates and staff.

December 2003—OVC schedules a 2-day site visit to the Virginia state compensation program to research and review sample procedures for administering a victim compensation program.

March 2004—OVC completes an extensive ITVERP flowchart and mockup of an ITVERP hardcopy sample case file.

March 2004—OVC completes extensive “Federal Collateral Sources”; compiles financial list, draft memorandum of agreement, and statement of work for three ITVERP external review professionals.

April 2004—OVC completes a draft memorandum to the Attorney General for approval of a reasonable indication of an act of international terrorism, once ITVERP is operational.

May 2004—Program name changes from ITVCP to ITVERP.

September 2004—OVC completes draft internal program operations manual.

December 2004—Draft regulations forwarded to OMB for review and approval. They are returned for reconsideration of program parameters and allowable expenses.

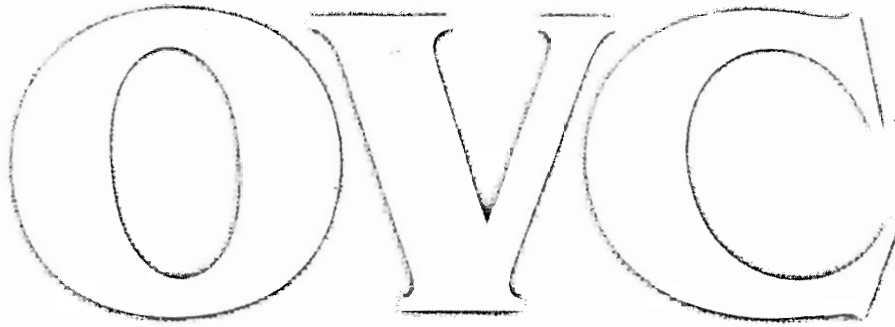
March 2005—OVC develops an extensive internal operational requirements document for emergency payments to victims of international terrorism outside the United States (in the interim while awaiting ITVERP final regulations).

May 2005—The revised ITVERP proposed regulations are forwarded to OMB for review and approval.

May 2005—OVC drafts a letter to transmit proposed regulations to potential claimants/victims and other interested parties after the public comment period begins.

August 2005—OMB clears the proposed regulations for publication in the *Federal Register*. The proposed regulations are published in the *Federal Register* on August 24, 2005, with a public comment period from August 24 to October 24, 2005.

OJP/OVC continues to update the database of potential claimants and to refine the operations procedures manual, application kit, various draft letters, fact sheets, brochures, FAQs, and other materials. All program materials and literature will be completed after the regulations have been finalized.



# **International Terrorism Victim Expense Reimbursement Program**

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