



New York State Office of the State Comptroller
Thomas P. DiNapoli

Division of State Government Accountability

Controls Over Selected Expenditures

Office of Victim Services



Report 2017-S-72

September 2018

Executive Summary

Purpose

To determine if the Office of Victim Services' (OVS) internal controls ensure that expenditures are made only to eligible victims and for eligible victim services. The audit covers the period January 1, 2016 to May 10, 2018.

Background

OVS' mission is to provide compensation to innocent victims of crime and their families in a timely, efficient, and compassionate manner; to fund direct services to crime victims through a network of community-based Victim Assistance Programs (VAPs); and to advocate for the rights and benefits of all innocent crime victims. OVS is led by a Director who is appointed by the Governor. A 20-member advisory council assists in forming policies addressing the problems of crime victims and provides recommendations to the Director to improve service delivery to victims.

Eligible claimants must generally be either an innocent crime victim or a dependent relative, and must report the crime within one week; file a claim within one year of the crime; and cooperate with police, the district attorney's office, and OVS. OVS also assists sexual assault survivors by directly reimbursing licensed providers for forensic rape examination (FRE) services. In addition to these services, OVS awards grants to VAPs that serve crime victims. OVS is a payer of last resort, and therefore claimants must exhaust all other sources of compensation before it pays for their crime-related losses. Covered items may include medical expenses, replacement of stolen items, and lost earnings.

OVS receives State funding from the Criminal Justice Improvement Account and receives federal funding for compensation and grants from the Crime Victims Fund, which was established by the Victims of Crime Act of 1984. During the State fiscal year ended March 31, 2017, OVS awarded 223 grants totaling \$45.5 million to 169 VAPs; paid \$22.5 million for 13,033 claims covering personal injury, death, essential personal property, and FRE claims; and approved \$823,267 for 415 emergency awards. OVS has about 80 employees at its offices in Albany and Brooklyn.

Key Findings

- OVS' internal controls generally ensure that its expenditures for crime victim compensation claims, FRE exams, and VAP grants were made only to eligible victims and for eligible victim services.
- We identified minor discrepancies in OVS' verification of FRE provider licenses. In response, officials stated they have begun to develop a risk-based approach to verify and validate provider licenses on submitted FRE claims.

Key Recommendation

- Implement a risk-based approach to verify and validate provider licenses on submitted claims.

Other Related Audits/Reports of Interest

[Division of Criminal Justice Services: Hate Crime Reporting \(2013-S-67\)](#)

[State Education Department/Division of State Police: Compliance With the Enough is Enough Act \(2017-S-38\)](#)

State of New York
Office of the State Comptroller

Division of State Government Accountability

September 4, 2018

Elizabeth Cronin, Esq.
Director
Office of Victim Services
Alfred E. Smith Building
80 S. Swan St., Second Floor
Albany, NY 12210

Dear Ms. Cronin:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage government resources efficiently and effectively and, by so doing, providing accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities, and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit entitled *Controls Over Selected Expenditures*. The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

This audit's results and recommendation are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

Office of the State Comptroller
Division of State Government Accountability

Table of Contents

Background	5
Audit Findings and Recommendation	7
Crime Victim Compensation Claims	7
Reimbursement for Forensic Rape Examinations	7
Grant Awards	8
Recommendation	9
Audit Scope, Objective, and Methodology	9
Authority	10
Reporting Requirements	10
Contributors to This Report	11
Agency Comments	12

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This report is also available on our website at: www.osc.state.ny.us

Background

The Office of Victim Services (OVS) was created under Executive Law Article 22 in June 2010, and replaced the Crime Victims Board, which was established in 1966 to provide financial assistance to crime victims. OVS' mission is to provide compensation to innocent victims of crime and their families in a timely, efficient, and compassionate manner; to fund direct services to crime victims through a network of community-based Victim Assistance Programs (VAPs); and to advocate for the rights and benefits of all innocent victims of crime. Both State and federal funding sources support OVS' compensation to crime victims. State funding is obtained from the Criminal Justice Improvement Account, which is supported by mandatory surcharges and crime victim assistance fees assessed on certain offenders. Federal funding for compensation and victim and witness assistance grants is received from the Crime Victims Fund, which was established by the federal Victims of Crime Act of 1984 (VOCA).

OVS is led by a Director who is appointed by the Governor. A 20-member advisory council assists in forming policies addressing the problems of crime victims and provides recommendations to the Director to improve service delivery to victims. To reflect the diversity of the State population, council members are individuals from a variety of organizations (i.e., a family shelter, an elder abuse center, a hospital, and a district attorney's office).

To be eligible for compensation, a claimant must be an innocent victim of the crime; a victim's relative who is primarily dependent on the victim for support; or meet other criteria, such as having paid for burial costs for an innocent crime victim or having been a stalking victim. To be considered innocent, a person's conduct must not have contributed to their injuries. The law allows OVS to reduce or deny claims if it determines that a claimant's actions contributed to their losses. Claimants must also:

- Report the crime within one week to police or another criminal justice agency;
- File a claim with OVS within one year of the crime or, if late in filing, include a written justification of the reason for the delay; and
- Cooperate with police, the district attorney's office, and OVS.

OVS also directly reimburses hospitals and other health care providers that are licensed by New York State to perform forensic rape examination (FRE) services. This reimbursement system is designed to ensure that sexual assault survivors are not billed for FRE services. OVS will reimburse the provider if an individual does not have health insurance or opts not to use it, in order to maintain their personal privacy as a sexual assault victim. A licensed provider must file a claim, including an itemized bill for services, within one year of the examination to receive reimbursement.

In addition to providing financial assistance to crime victims and families, OVS awards grants to VAPs that provide direct services and benefits to crime victims. VOCA guidelines require states to allocate at least 10 percent of total grant funding to each of four priority categories (Domestic Violence, Sexual Assault, Child Abuse, and Underserved Victims of Crime), or 40 percent of available funding. In 2014, VOCA guidelines included two new funding priorities—Young Men

of Color (ages 16-24) and Native Americans—each of which were to comprise up to 2 percent of total grant funding. OVS uses a Request for Proposals (RFP) process to award funds to VAPs. It evaluates programs on their ability to serve crime victims and their families, using criteria including past performance, other resources available within a geographic area, and VOCA guidelines. To be eligible, a provider must either be a not-for-profit corporation or operate as a unit of state or local government. The most recent RFP in 2014 resulted in 226 grant contracts, each generally with a three-year term and a two-year renewal option. The next RFP is anticipated to occur in 2019. OVS personnel also visit each VAP at least once every two years to verify that the work claimed is VOCA-allowable, that staff identified in the contract are providing services at the percentages approved in the contract, and that victims are treated appropriately.

OVS is a payer of last resort. As such, crime victims or their family members must exhaust all other sources of compensation—such as health insurance or workers’ compensation—before OVS will pay for crime-related losses. Covered compensation to victims may include medical expenses, replacement of stolen items or repair of damaged items, and lost earnings. A victim or family member’s acceptance of an award entitles OVS to any right of action to recover losses that result from the crime and creates a lien in its favor on any crime-related proceeds. Victims or their family members can file a claim online via the Victim Service Portal or at any VAP, police department, or hospital emergency room.

During the State fiscal year ended March 31, 2017, OVS awarded 223 grants totaling \$45.5 million to 169 VAPs; paid \$22.5 million for 13,033 claims covering personal injury, death, essential personal property, and FRE claims; and approved \$823,267 for 415 emergency awards. OVS has about 80 employees at its offices in Albany and Brooklyn.

Audit Findings and Recommendation

OVS' controls generally ensure that its expenditures for crime victim compensation claims, FRE exams, and VAP grants were made only to eligible victims and for eligible victim services. We identified minor discrepancies in OVS' verification of FRE provider licenses. After we brought this to officials' attention, they stated they have begun to develop a risk-based approach to verify and validate the provider license numbers on submitted FRE claims.

Crime Victim Compensation Claims

We found that the claims we reviewed that were paid by OVS to reimburse crime victims (or their families, where applicable) were to eligible victims and for eligible victims' services. However, OVS could improve its controls over FRE claims processing to better ensure that it is verifying the validity of licenses for provider services.

OVS reimburses three types of compensation claims: personal injury, death, and essential personal property. Essential personal property includes items such as clothing, furniture, and medication. In addition, OVS will reimburse a maximum of \$30,000 in lost wages or lost support, including lost wages of a parent if a child victim is hospitalized; \$6,000 in burial or funeral expenses; and loss or damage of essential personal property up to \$500. OVS may also provide emergency awards of up to \$2,500 in instances where a crime victim will suffer undue hardship and it is likely they will be eligible for compensation.

We reviewed records for a random sample of 75 claims totaling \$220,838 that OVS paid to crime victims or family members to determine if the victims and the claimed items were eligible for the reimbursement they received. The sample included 31 personal injury, 30 death, and 14 essential personal property claims, of which 30 claims were for \$5,000 or more and 45 were under \$5,000. We found that, in general, claims were eligible for reimbursement and supported by appropriate documentation. There were four claims with minor errors or departures from the approved payment process that we brought to OVS' attention. For example, the amount paid for one claim was \$100 more than what was documented on the claim form, and in another instance, a claim did not receive a second layer of approval, as required.

Reimbursement for Forensic Rape Examinations

Under Executive Law §631(13), FREs are among the services provided to sexual assault survivors that may be billed directly to OVS and may not be charged to the victim. Providers—who must be New York State-accredited hospitals, accredited sexual assault examiner programs, or licensed health care providers—may be reimbursed up to \$800 per claim. To be reimbursed for the FRE, the claim must include a valid provider license number and an itemized listing of services and charges to OVS. OVS personnel conduct trainings and provide guidance to hospital billing departments and others who provide FRE services.

Of the 11,702 FRE claims totaling \$9.2 million that OVS paid between January 1, 2016 and December 13, 2017, we reviewed a sample of 75 totaling \$58,149 and found that nearly all met the criteria for reimbursement. There were two claims for which we could not verify the validity of the provider information. One claim did not have a valid license number for the person who provided the service. Instead, it had a valid license number for a different person who also provided services at the same facility. For the remaining claim, we could not verify the validity of the examiner's license number.

FRE claims that reflect incorrect or unverifiable license information may indicate that victims are receiving services from unlicensed or otherwise unqualified providers, and that OVS is paying claims that are inappropriately billed or incorrectly completed. In response to our findings, OVS officials cited a lack of resources as contributing to their not having a process in place to verify the accuracy of FRE license numbers prior to approving reimbursement. They also stated that they have begun to develop a risk-based approach to verify and validate the provider license numbers on submitted FRE claims.

Grant Awards

Based on our sample of ten programs, we found that OVS' internal controls helped ensure that the grant expenditures it paid to reimburse VAPs were for eligible victim services. We also found that the funds that VAPs reported having spent on behalf of the program complied with the terms of the contract and were generally adequately supported.

OVS requires VAP providers to submit an annual budget documenting how grant funds and matching funds from other sources—which must equal 20 percent of total support for each grant—will be expended on operating the victim services program. At the end of each quarter, VAPs submit a fiscal cost report to OVS documenting their spending in personal and non-personal service cost categories. They are not required to submit supporting documentation for expenses claimed. OVS performs desk audits of the quarterly fiscal reports to determine whether reported grant expenditures comply with the program's approved budget, its executed contract, and State and VOCA regulations. If, during the funding year, VAP spending is not aligning with the approved budget, the VAP must submit a budget amendment to OVS for approval.

Of the 223 grants that OVS awarded to 169 VAPs for the federal fiscal year ended September 30, 2017, we selected a sample of ten VAPs to evaluate OVS' monitoring of their reported grant expenditures. The grant amounts ranged from \$24,404 to nearly \$1.6 million. We visited the five VAPs with the highest-dollar grant awards for that year, which ranged from \$806,000 to \$4.5 million and in some cases represented funding under more than one contract. From the remaining VAPs, we selected the five with the highest-dollar grant awards that OVS personnel did not visit during that year, which ranged from \$354,000 to \$512,000. The ten VAPs received \$10.4 million in grants for the year under 21 contracts. We reviewed \$3.3 million in claimed expenditures under these grants, including \$2 million in payroll and fringe benefit costs reimbursed by OVS between July 1 and September 30 of 2017 and \$1.3 million in non-personal service costs reimbursed by OVS between October 1, 2016 and September 30, 2017. The non-personal service costs included items such as rent and contractual services. We reviewed available documentation at the ten

VAPs and found that the claimed expenditures were adequately supported and consistent with the contract terms.

Recommendation

1. Implement a risk-based approach to verify and validate FRE provider licenses on submitted claims.

Audit Scope, Objective, and Methodology

The objective of the audit was to determine if OVS' internal controls ensure that expenditures are made only to eligible victims and for eligible victim services. The audit covers the period January 1, 2016 to May 10, 2018.

To accomplish our objective, we reviewed relevant laws, regulations, and OVS' policies and procedures. We interviewed OVS officials to understand their role in oversight for claims processing and grants. We also reviewed site visit logs to determine if OVS conducted VAP contract site visits required under VOCA.

Using information about the 6,693 victim compensation claims totaling about \$5 million that OVS paid during the period January 1, 2016 through October 31, 2017, we created two groups: one for claims totaling \$5,000 or more, and one for claims totaling less than \$5,000. We selected a random sample for each group, resulting in a total of 75 claims: 30 that totaled \$5,000 or more and 45 that totaled less than \$5,000.

Of the 223 grants that OVS awarded to 169 VAPs for the federal fiscal year ended September 30, 2017, we selected a judgmental sample of ten VAPs to visit to evaluate OVS monitoring of their reported grant expenditures. We included the five VAPs with the highest-dollar grant awards during the federal fiscal year ended September 30, 2017, which ranged from \$806,000 to \$4.5 million, and in some cases represented funding under more than one contract. From the remaining VAPs, we selected the five with the highest-dollar grant awards that OVS personnel did not visit during that year. These grants ranged from \$354,000 to \$512,000. In total, our sample included ten VAPs that received \$10.4 million in grants during the year under 21 contracts. Of the \$10.4 million, we reviewed \$3.3 million in claimed expenditures under these grants, including \$2 million in payroll and fringe benefit costs reimbursed by OVS between July 1 and September 30 of 2017 and \$1.3 million in non-personal service costs reimbursed by OVS between October 1, 2016 and September 30, 2017.

We also reviewed the submitted budgets and fiscal cost reports for the federal fiscal year ended September 30, 2017 to select areas to review during our site visits. As a result of that review, we selected payroll and fringe benefit costs that were reimbursed by OVS between July 1, 2017 and September 30, 2017 for testing. We selected non-personal service costs based on either risk or high dollar value. We reviewed available documentation at the ten VAPs to determine if the personal and non-personal service expenditures claimed were adequately supported and

consistent with the contract terms. We also randomly selected a sample of 75 FRE claims totaling \$58,149 that were paid between January 1, 2016 and December 13, 2017 to determine if the claims met conditions for reimbursement.

We conducted our performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions, and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating threats to organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

Authority

The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

Reporting Requirements

We provided a draft copy of this report to OVS officials for their review and formal comment. We considered OVS' comment in preparing this final report and have included it in its entirety at the end of the report. In their response, OVS officials concurred with the audit recommendation and indicated that certain actions have been or will be taken to address it.

Within 90 days after final release of this report, as required by Section 170 of the Executive Law, the Director of the Office of Victim Services shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendation contained herein, and if the recommendation was not implemented, the reasons why.

Contributors to This Report

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Vision

A team of accountability experts respected for providing information that decision makers value.

Mission

To improve government operations by conducting independent audits, reviews, and evaluations of New York State and New York City taxpayer-financed programs.

Agency Comments



ANDREW M. CUOMO
Governor

Office of
Victim Services

ELIZABETH CRONIN
Director

August 22, 2018

Stephen Goss
Audit Director
Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236-0001

Re: Audit Report 2017-S-72

Dear Mr. Goss:

Attached please find the Office of Victim Services' (OVS) response to the final draft report regarding your audit of the OVS controls over operations.

If you have any questions or require additional information, please let me know.

Very truly yours,

A handwritten signature in black ink, appearing to read "Elizabeth Cronin".

Elizabeth Cronin, Esq.
Director

OSC Recommendation

1. Implement a risk-based approach to verify and validate FRE provider licenses on submitted claims.

OVS Response:

OSC's examination of 75 FRE claims found that nearly all met the criteria for reimbursement. There were two claims for which OSC could not verify the validity of the provider information. According to our notes and our preliminary audit response, both claims did not have a valid license number for the person who provided the service. Instead, both had a valid license number for a different person at each facility.

OVS researched the license number problems with the providers initially identified as having issues with reporting the FRE provider license number. We discussed the problems with those providers. We offered their facilities training on the FRE Direct Reimbursement Program and accurate completion of the associated claim form. Furthermore, OVS amended its FRE training to include information on the importance of accuracy when providing this particular information – and notes to providers that such information will be randomly spot-checked, which may result in a delay or denial of claims.

OVS has also developed a risk-based approach to verify and validate the provider license numbers of submitted claims. First, we identified the various licensing agencies based on the profession of the examiner; i.e., doctor, nurse, physician assistant, nurse practitioner, SANE, SAFE. OVS researched whether there were readily accessible databases from which we could make such inquiries. We determined that the information for these various licensed professions is available on one database, that of the Office of the Professions at the NYS Education Department (<http://www.op.nysed.gov/opsearches.htm>). We have implemented a review and validation of the license number on every tenth claim originally submitted to the FRE Direct Reimbursement Program (i.e., 10% of all new FRE claims, not including resubmissions). Additionally, if an FRE claim is to be rejected for any other reason, we also review and validate the license number. Part of processing resubmitted FRE claims includes reviewing all rejection reasons, so if the license number was a reason, it would be checked again upon resubmission. This may result in checking a larger number of claims from those providers that submit more frequently, but the risk is higher for these providers than those that submit less often and we believe that will be a positive outcome of the implemented procedure. Additionally, the providers identified in this audit as having issues, have been flagged for enhanced validation of submitted claims for the next 12 months.

This risk-based approach to verify and validate FRE provider licenses on submitted claims was developed as a result of the OSC's preliminary audit findings. The process was implemented on May 1, 2018.