



**Domestic Violence and Sexual Assault
Funding Study Work Group**

Review of Federal Laws

June 11, 2014

Overview



- Virginia State Crime Commission
- House Bill 885 and Study Mandate
- Federal Funds and Their Authorizing Statutes
- Legal Limitations
- Discussion

Virginia State Crime Commission



- The Virginia State Crime Commission (VSCC) is a legislative agency, established by statute in 1972, with the mission to “study, report and make recommendations on all areas of public safety and protection.”

Virginia State Crime Commission



- The VSCC is a criminal justice agency, and routinely receives privileged and confidential information.
- To facilitate the ability of the VSCC to fully investigate sensitive topics, we are exempt from state and federal FOIA laws and requirements.

Virginia State Crime Commission



- While the VSCC investigates topics relating to public safety, it is not an executive branch agency, and does no enforcement work.

Virginia State Crime Commission



- The VSCC works closely with the Virginia legislature:
 - Proposing statutes;
 - Assisting with legislative drafting;
 - Analyzing criminal justice bills in committees;
 - Making official endorsements and recommendations on criminal justice issues; and,
 - Carrying out studies that are assigned to it by the Virginia legislature.

Virginia State Crime Commission



- The membership of the VSCC is defined by statute:
 - Six members from the Va. House of Delegates;
 - Three members from the Va. Senate;
 - Three members appointed by the Governor; and,
 - The Attorney General of Virginia, or designee.

House Bill 885



- During the 2014 Regular Session of the Virginia General Assembly, House Bill 885 was passed by the legislature and signed into law by the Governor.
- The main text of the bill extended the time period for which certain claims for compensation by victims of crime could be considered by the CICF, and increased the amounts of various awards that can be made to victims.

House Bill 885



- However, House Bill 885 also contained a second enactment clause—language which is directory, and has the force of law, but is not printed in the Code of Virginia.

House Bill 885



- “That the Virginia State Crime Commission shall convene a stakeholder workgroup to include state and local representatives from the sexual and domestic violence coalition; representatives from DCJS, DSS, VDH, the CICF, and other relevant state or local entities to support an efficient and comprehensive streamlining of current federal and state sexual and domestic violence victim service agency funding.”
 - The work group is to complete its work by September 30, 2014.

House Bill 885



- The purpose of the study is to look at the statewide system, as a whole, with the main objective of seeing what can be done to streamline the grant funding process for local programs.

Federal Funds



- State Administering Agencies (SAAs) for federal criminal justice grants, such as Byrne Grants, are designated by the governor of each state.
- The Governor of Virginia has designated DCJS as Virginia's SAA.

Federal Funds



- 50 state breakdown by SAA Offices:

Location	Number of SAAs	% of Total SAAs
Freestanding state agency	11	20
Department/Office/Division of Public Safety	18	32
Governor/Executive-level Office	13	23
Attorney General's Office/Department of Justice	6	10
Department of Finance, Administration, Commerce, etc.	4	8
State police departments	2	4
Department of Homeland Security	1	2
Other	1	2
Total	56	100

Source: National Criminal Justice Association, 2014.

Federal Funds



- The following Virginia agencies administer federal funds connected with domestic violence and sexual assault programs:
 - DCJS: VOCA (some of which goes through SAGP); V-STOP; SASP; GEAP
 - DSS: FVPSA; VOCA (via DCJS)
 - VDH: RPE, PHHS (80% to Action Alliance), MCH (Projects RADAR and Connect)
 - DHCD: ESG (granted funds are not DV specific, but still may support some DV shelters)
 - CICF: VOCA (for victim compensation)

Federal Funds: VOCA



- Victims of Crime Act (VOCA) funding is a major source of federal grant money to all states, including Virginia, which received \$10.7 million during Federal Fiscal Year 2013 for victim assistance.
- The enabling statutes for VOCA funds are 42 U.S.C. § 10601 *et seq.*

Federal Funds: VOCA



- Some VOCA funds go towards crime victim compensation, per 42 U.S.C. § 10602, and are made directly to a crime victim compensation program.
 - In Virginia this is the Criminal Injuries Compensation Fund, established by Va. Code § 19.2-368.18, under the Virginia Workers' Compensation Commission.
 - Received \$1.16 million during State Fiscal Year 2013.

Federal Funds: VOCA



- The VOCA funds that go towards victim assistance, per 42 U.S.C. § 10603, must go to “the chief executive of each State for the financial support of eligible crime victim assistance programs.”
- The chief executive must certify that the funds are used in accordance with the requirements listed under § 10603(a)(2).
 - Under the definitional subsection, § 10603(d)(5), the chief executive can include “a person designated by a chief executive to perform the functions of the chief executive.”
- Per the VOCA Final Program Guidelines, the Governor designates which state agency will administer these funds.

Federal Funds: VOCA



- The certifications required for VOCA grants mean that a non-executive branch agency probably would not be able to administer them.
 - The chief executive would probably not be willing to provide a certification about the compliance of an agency that is outside his purview.
- VOCA funds are used by DCJS in their SAGP, along with state general funds; the SAGP helps fund local sexual assault crisis centers and statewide programs to provide or enhance direct services to victims of sexual assault.
 - In State Fiscal Year 2014, SAGP awarded \$3.4 million.

Federal Funds: V-STOP



- Services Training Officers Prosecutors (STOP) funding is another important source of funding to all states, including Virginia, which received \$2.7 million in Calendar Year 2012.
- STOP funding comes from the federal Violence Against Women Act Grant Program (VAWA), which provides grant funding for a number of grant programs, including STOP and SASP.

Federal Funds: V-STOP



- STOP funding is authorized by 42 U.S.C. § 3796gg *et seq.*
- Unlike VOCA funding, the relevant subsections under § 3796gg refer simply to “the State,” and not the “chief executive.”
- For example, per § 3796gg(i), “A State applying for a grant under this part shall develop an implementation plan...”

Federal Funds: V-STOP



- STOP funding requires, per 42 U.S.C. § 3796gg-1(c)(2), implementation plans, and coordination with:
 - The State sexual assault and domestic violence coalition;
 - Law enforcement entities within the State;
 - Prosecution offices and state and local courts;
 - Representatives from underserved populations;
 - Victims service providers and population specific organizations; and,
 - Other entities identified as needed.

Federal Funds: V-STOP



- STOP funding also specifies, per 42 U.S.C. § 3796gg-1(c)(3), minimum percentages that shall be granted to each group:
 - No less than 25% to law enforcement;
 - No less than 25% to prosecutors;
 - No less than 30% to victims services, of which at least 10% shall be to culturally specific community-based organizations; and,
 - No less than 5% to courts.
- At least 20% of the total must go to programs, in at least two of these group allocations that meaningfully address sexual assault.

Federal Funds: V-STOP



- However, the STOP Program Guide specifically requires that the Governor of each State be the person responsible for ensuring these requirements are met.

Federal Funds: SASP



- The Sexual Assault Services Program (SASP) is also funded through VAWA; Virginia received \$274,000 in Calendar Year 2014.
- SASP funding is authorized by 42 U.S.C. § 14043g *et seq.*
- Similar to STOP funding, the relevant subsections refer to “the State,” and not “the chief executive.”

Federal Funds: SASP



- For SASP grants that are awarded to States, there must be an identified State agency that is responsible for the administration of programs and activities, per 42 U.S.C. § 14043g(b)(3)(B).
- There is also a requirement that each eligible entity that desires a grant must include in its application “procedures designed to ensure meaningful involvement of the State sexual assault coalition.”

Federal Funds: RPE



- Rape Prevention and Education (RPE) Initiative funding is authorized by 42 U.S.C. § 280b-1b.
 - VDH receives VAWA funds from the federal Centers for Disease Control “to be used for rape prevention and education programs conducted by rape crisis centers, State sexual assault coalitions, and other public and private nonprofit entities.”
- These funds are sent directly to the VDH; the amount in State Fiscal Year 2014 was \$653,000.

Federal Funds: FVPSA



- The Family Violence Prevention and Services Act is authorized by 42 U.S.C. § 10401 *et seq.*
- It requires the “chief executive officer of a State” to be the one who applies for any FVPSA formula grants going to that state, per 42 U.S.C. § 10407(a)(1).
 - Virginia received \$2.1 million in State Fiscal Year 2013.

Federal Funds: FVPSA



- In the application, the chief executive officer must “specify the State agency to be designated as responsible for the administration of programs... and for coordination of related programs within the jurisdiction of the State.”
 - In Virginia, that agency is DSS.
- 42 US.C. § 10406(d) requires the state to submit an annual performance report to the federal Secretary of Health and Human Services describing the grantee and subgrantee activities that have been carried out with the grant funds, and containing an evaluation of the effectiveness of such activities.

Legal Limitations



- Because of the certification requirements for VOCA funding, that must be made by the Governor, it probably would not be possible to transfer VOCA funds to a non-executive branch agency.
- Similarly, because the Governor is responsible for selecting the agency that will distribute V-STOP and FVPSA funds, that responsibility would probably not be given to a non-executive branch agency.

Legal Limitations



- The RPE funding comes directly from the federal CDC to VDH; it is unclear if the CDC would be willing to send those grant funds to another agency.

Legal Limitations



- All federal funds that are received must be used only for their intended and limited purposes.
- The General Assembly cannot “direct” the Governor to reallocate federal funds in a manner that would be inconsistent with the authorizing federal act.
 - (Va. Att. Gen. Opinion, May 31, 2002).

Legal Limitations



- Each federal grant fund is very specific about what the money can be used for:
 - Who is an eligible recipient or sub-grantee;
 - If matching state funds must be provided; and,
 - What audits or reporting requirements must be performed.
- Each grant has different requirements.

Legal Limitations



- Examples:
 - VOCA funds that are used for victim compensation can only go to state agencies that will provide compensation for victims of federal crimes, and will use the same criteria for out-of-state and in-state victims.
 - Grants received cannot be used to supplant State funds otherwise available for victim compensation.

Legal Limitations



- Examples:
 - VOCA funds that are used for victim assistance must give priority to assistance programs that serve victims of sexual assault, spousal abuse, or child abuse.
 - No more than 5% of the funds received may be used for training and the administration of the victim assistance program.

Legal Limitations



- **Examples:**

- With some exceptions, there must be 20% matching contributions of non-federal monies to each VOCA funded project.
- VOCA recipients must maintain records that clearly show the source, amount, and period during which these matching funds were allocated.
- They must also maintain records on all disbursement of funds; daily time and attendance records; client files; and other records which facilitate an effective audit.
- In-patient treatment facilities are NOT eligible for VOCA funds.

Legal Limitations



- **Examples:**

- VOCA funds can be used for training non-VOCA funded service providers; however, VOCA funds cannot be used for management and administrative training for executive directors, board members, and other individuals that do not provide direct services.
- VOCA funds can be used to purchase furniture that provides direct services to crime victims. However, they cannot be used to support the entire cost of an item that is not exclusively used for victim services.
 - Instead, the cost of the item must be prorated.

Legal Limitations



- Examples:
 - V-STOP funds may not be used for certain expenses or activities, such as:
 - Indirect costs;
 - Food expenses;
 - National training expenses for V-STOP grantees;
 - Services to children younger than 11, unless those services are tied to primary service of an adult parent.
 - V-STOP does not allow more than 15% of services to be provided to male victims.

Next Meeting Dates



- Next meeting dates:
 - July 30, 2014
 - September 10, 2014
- Both meetings will be held in Richmond, VA.

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Discussion
