

# Office for Victims of Crime

## VOCA Administrator Regional Meeting | SUMMARY

<b>MEETING DATE</b>	June 14-15, 2016
<b>MEETING LOCATION</b>	Sacramento, CA
<b>TYPE OF MEETING</b>	Regional VOCA Administrators Meeting
<b>FACILITATOR</b>	Marilyn Roberts (OVC Deputy Director) and Allison Turkel (OVC Deputy Director)
<b>PARTICIPANTS</b>	VOCA Administrators: Anita Ahuja (CA); Dionne Bell-Rucker (CA); Bradley Bucher (IL); Mariela Caban (Puerto Rico); Doris Contreras (TX); John Cruz (Northern Mariana Islands); Marlene Dederick (CA); Kelly Kissell (CO); Kelly McIntosh (MT); Holly J. Meyer (WY); Christie Munson (CA); David Murtaugh (IN); Cletus Nnanabu (WA); Jill Nore (CO); Amanda Powers (WI); Rebecca Shaw (OR); Shannon Sivell (OR); Mary Soderquist (WA); Kathy Zupan (WI)
<b>ATTENDEES IN PERSON</b>	Eugenia Pedley (OVC Program Manager); Marilyn Roberts; Allison Turkel; Steve Derene (NAVAA) Executive Director; Dan Eddy (NACVCB Executive Director), Herman Millholland, OVC TTAC Consultant
<b>ATTENDEES VIA PHONE</b>	Diane Alexander (Program Manager, OVC TTAC); Shelby Crawford (Program Specialist, OVC); DeLano Foster (Team Lead, OVC); Tiffany Graham (Program Specialist, OVC); Joel Hall (Program Specialist, OVC); Shadine Jankovic (Program Specialist, OVC); Marti Kovener (Program Manager, OVC TTAC); Toni Thomas (Associate Director, OVC); Brian Sass (Program Specialist, OVC); Adrian Wilairat (OVC Technical Writer-Editor)

### **APPENDIX: AGENDA**

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#### **WELCOME REMARKS – MARILYN ROBERTS, OVC DEPUTY DIRECTOR; ALLISON TURKEL, OVC DEPUTY DIRECTOR**

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- Marilyn welcomed participants attending in person and via teleconference and thanked the California representatives for hosting the meeting.
- These meetings are an opportunity for OVC to hear from VOCA administrators in a smaller setting and to provide you with an opportunity to talk with each other.
- We have changed the format of VOCA Regional meetings this year in that we offered the same topics in two locations and invited all Administrators to attend one of the meetings if they so choose. Attendees indicated they preferred this new format.
- Allison introduced herself and described her oversight of the Federal, International, and Tribal (FIT) Division, which includes OVC's mass violence programs. She also introduced Eugenia Pedley, of her staff, and Herman Millholland who is an OVCTTAC consultant who would lead the discussion for most of the day.
- Attendees introduced themselves.

#### **ROLE OF STATE VOCA COMPENSTATION AND ASSISTANCE IN INCIDENTS OF MASS VIOLENCE, HERMAN MILLHOLLAND, OVC CONSULTANT**

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- Herman provided an overview and facilitated a discussion about OVC's Mass Violence Toolkit, released in 2015 and available at [www.ovc.gov/pubs/mvt-toolkit](http://www.ovc.gov/pubs/mvt-toolkit).
- VOCA Administrators and over 100 stakeholders nationwide, including those who have responded to incidents of mass violence, played an important role in providing OVC with a framework for preparing the toolkit and its focus on planning, preparation, response, and recovery. OVC used their best practices, lessons learned, and experiences to help shape the toolkit.
- It is important to hear VOCA Administrators' experiences with these incidents and their opinions about the usefulness of the toolkit.
- Role of VOCA Administrators in planning, response, and recovery for mass violence incidents.
  - Participation in the planning process.
  - Promoting the importance of a victim assistance plan.
  - Ensuring financial support for communities for compensation and assistance.
  - Educating sub grantees and partner agencies about the toolkit.
  - Serving as a partner in relationship development, which is key to developing a good mass violence victim assistance plan, a good communications plan, and planning as a whole.
  - Providing technical assistance.
- Partnerships & Planning are paramount.
  - Ensure that your plan includes both traditional and nontraditional partnerships.
  - Traditional partners are those you work with every day.
  - Nontraditional partners are key to planning in general, and for creating a victim assistance strategy.
    - Examples of nontraditional partners: Nonprofit organizations, business leaders, US Postal Service, FedEx.

Planning is about preparing for the response.

- Establish a planning committee and include victims on it.
- Review state statute provisions regarding mass violence and terrorism to determine what benefits are eligible to be paid.
  - Eg., Will mental health services be extended to first responders who need services but may not be victims?
- Victim assistance plans are key.
- It is not necessary to overhaul your existing plans and start over.
- Establish and expand a planning committee. The toolkit's Partnership and Planning Checklist (downloadable) has many examples of groups and people to include: airport directors, funeral home directors, business leaders, city managers, colleges, county commissioners, city councilpersons, faith and spiritual leaders, financial institutions, hospital officials, public health officials, emergency managers, organizations focused on people with disabilities, mass transit officials, and the media. It is also important to include a public information officer: very important in the context of social media and controlling information that gets out unofficially.
- Include the Partnership and Planning Checklist in a binder that you can access easily should an incident occur.
- Establish MOUs with surrounding communities in case the affected community is overwhelmed. Eg., Newtown received help from 13 surrounding communities.
- Review state and local emergency response plans.
  - Since the release of the toolkit, there have been several mass violence incidents, and jurisdictions have used the toolkit to help with responses to these incidents.
  - Ensure that your victim assistance plan is coordinated with and incorporated into state and local emergency response plans.

- Make sure tribal agencies and resources are included.
- Consider natural disasters and geographic features, because these also can affect victim services.
- Family Assistance Centers
  - Use the toolkit's Family Assistance Center Protocol Checklist to ensure that you consider all key issues.
  - Hotels – ideal location, because they have lodging, food, conference rooms, places for private meetings, quiet rooms, and transportation readily available.
  - At same time you are setting up a Family Assistance Center, you also need to establish a temporary safe location, such as a local fire station, police station, school, library, with no access for the media.
- Challenges in partnerships and planning include donation management and media management.
- Examine the toolkit for more in depth information about all of this information.

## **DISCUSSION: WHAT PARTNERSHIPS, PARTICULARLY NONTRADITIONAL PARTNERSHIPS, EXIST IN YOUR COMMUNITIES?**

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- Toolkit includes videos, which, among other things, highlight the importance of using established relationships for planning and preparedness.
- Donations of all types often are received. You need to plan comprehensively for managing donations that are received continuously.
- It is important to include victims in planning and preparedness. Victims don't want what they experienced to happen to others and can share important information.
- California victim services asked the state Office of Emergency Services to include them in the management plan, which helped with the response.
- It's important to include appropriate vicarious trauma services. For example, law enforcement might not have experienced dealing with high numbers of dead bodies, which could cause unexpected vicarious trauma and compassion fatigue.

### Eugenia Pedley, OVC Program Manager:

- You do not have to redo your emergency response plans entirely; rather, we want to emphasize the importance of making sure these plans include victim response plans.
  - First responders have other thing to focus on, so it is up to us to make sure the victims are prioritized.
- Planning checklists – must include them in a binder, because during and after an incident, communication modes may be shut down.
- Have a media plan. Media always wants access to victims, who may or may not want to talk. Newtown assigned a state trooper to each family so that the trooper could allow or deny the media access, thereby protecting the family.

## **RESPONSE & RECOVERY TO MASS VIOLENCE, HERMAN MILLHOLLAND, OVC CONSULTANT**

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- Chaos is inevitable, but we can plan.
- Victims and families will want information above all else: where are loved ones, how do I receive more information, where do I go physically, will the media be reliable?
- Provide victims and families with information as soon as you can.

Discussion:

- Law enforcement offices have seen the benefits of incorporating victim services into the planning process, enabling them to fully respond to incidents.
- Some states found it difficult to respond because they had to wait for the governor's office to declare a mass casualty. FBI guidelines define a mass casualty as 4 deaths or more with no cooling off period, but states have different standards for mass violence in their respective statutes.
- Some states have built relationships, ensuring that local communities know the appropriate liaisons for victim services in state offices.
- Each incident provides lessons for improving responses. Examples include the importance of crime scene evidence and the value of therapy dogs.
- In Colorado, there are victim advocates in nearly all law enforcement agencies.
- During the Aurora, CO, trial:
  - Therapy dogs were used every day, and they provided comfort to all groups, not just victims.
  - Mental health therapists and counselors were made available at the courthouse.
  - Information was disseminated through teleconferences for victims, notification system from the trial was via text message (replacing the need for 1,000 phone calls), and private webinar. This enabled victims to know exactly how to receive information. They could choose to opt in.
  - Compensation and prosecutor's offices were on the same hall, so communication could happen frequently.
- Response to San Bernardino:
  - Crisis counseling was already in place, so it could be mobilized immediately for survivors, families, and first responders.
  - Staff members from different county departments formed small liaison teams, assigned to individual families to take care of needs: funeral arrangements and dealing with the media. These teams are still in place today!
  - Collaboration between state office and county office. California has liaisons at county offices—single POC who is responsible for putting victims in touch with reimbursement sources, holding weekly meetings. sending information to families, and working on the grant process with OVC. Also, weekly meetings were held with everyone to make sure that everything was in place for victims.
- California has established a protocol for response to mass violence incidents. State compensation waits one or two days until things are calmer, then contacts local POCs to determine which victims are potentially eligible for compensation.
- Average compensation award is \$5,000. Maximum compensation award differs drastically depending on the state: on the lower end, the max is \$10,000, while on the higher end, it is \$190,000.
- Death notification—important to know which agency is responsible. Review the death notification section in the toolkit.
- Donation management – Make sure you have policies and procedures to manage the overwhelming amount and types of donations.
  - Determine as part of the planning process which agency will be responsible for administering the funds that come in.
  - Involve victims in the process.

## Recovery

- You will have to consider many difficult issues, including long term mental health issues.
- Set up a resiliency center or recovery center.
- Make sure to continue to work with local victim advocates.
- The toolkit has tools to help with recovery.

- Eugenia Pedley described the OVC Antiterrorism Emergency Assistance Program (AEAP):
  - Designed to help communities that have been ‘overwhelmed’. This definition is vague on purpose because each community is different, i.e., what is overwhelming for one jurisdiction might not be for another. For example, a shooting and kidnapping in Alabama a few years ago overwhelmed a small rural county; such an event would not have overwhelmed other jurisdictions.
  - OVC uses AEAP to ensure that a mass violence event does not drain the state’s resources and hinder the state’s ability to support victims of other crimes.
  - The AEAP application process can take a long time, because it takes time to determine the victims, their needs, and gaps.
  - AEAP grants don’t pay for regular salaries but could pay for overtime for death notification.
    - Newtown: because it was a significant mass violence event in a small area, a satellite facility had to be opened for the response. The AEAP grant paid for administrative costs associated with the facility, such as rent.
  - AEAP awards require grant applications.
  - AEAP awards are available only to organizations, not individuals.
  - After an event, OVC holds an introductory call to make the jurisdiction aware of AEAP to tell them OVC will be in touch. OVC then follows up after 24-48 hours to ask how the response is going. Often we only know what’s being reported by the media, and the reality can be very different.
  - OVC realizes how difficult it can be to determine the needs after an event. OVC can send a consultant to help you manage needs and strategize on writing a grant application.
  - OVC TTAC is available to provide training and technical assistance at no cost. Please take advantage of what TTAC has to offer.

Day 2:

## **WELCOME AND OVERVIEW ON OVC FUNDING**

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- OVC Deputy Director Marilyn Roberts provided an overview on how OVC allocates funding from the Crime Victims Fund, at the request of a participant. Congress determines the obligation limitation on the Fund each year. From this obligation limitation, OVC must set aside money to other federal agencies: HHS through the Children’s Justice Act (CJA), FBI, U.S. Attorney’s Offices, Victim Notification System. From the amounts remaining, 5% is allocated to OVC discretionary grants. Then from the remaining balance, a maximum of 47.5% can be allocated to state compensation offices and 47.5% is allocated for state assistance formula grants. State compensation grants are determined by calculating 60% of the state compensation payout 2 years prior. If the allocation from the Fund provides enough funding needed for each state compensation program to provide full grants, then the remaining amount rolls over to state assistance allocations.

The Path Forward: How Can OVC Help Support State Administrators’ Efforts to Successfully Engage American Indian and Alaska Native Tribes?

Allison Turkel, OVC Deputy Director:

- 567 federally recognized tribes in U.S., including 2 added in the last 2 years.
- Each tribe has a different identity and relationship with the federal government.
- Some states recognize tribes that the federal government doesn’t recognize.
- Tribes need trustworthy partners.
- Although most tribes are underserved, it is just a few who continuously apply for OVC grants.

- DOJ has made a single point of entry for tribes to apply for DOJ grants – the Coordinated Tribal Assistance Solicitation (CTAS).
- OVC has 2 purpose areas in CTAS for tribal grants: Children’s Justice Act grants and Comprehensive Tribal Victim Assistance (CTVA) grants, the latter of which is supported through discretionary funding. OVC makes approximately 30 tribal awards each fiscal year.
- Due to the increase in the obligation limitation, OVC made more awards in 2015 and will likely make more CTVA awards in 2016.
- There are many considerations for whether a tribe is eligible for federal grants, and which federal grants.
- Three quarters of tribes live off of reservation lands.
- About half of the tribes are in Alaska, and these tribes are mostly small, in remote places, and practice subsistence living.
- In the continental U.S. most of the tribes are in California.
- Public Law (PL) 280 determines which police agency can make arrests on tribal lands.
  - PL 280 states: primary law enforcement jurisdiction is given to the state itself, which in practice usually means that local law enforcement will respond to incidents on tribal land. California and Alaska are PL 280 states.
  - Non-PL 280 states: tribes, not the state, determine how policing is conducted, which in practice results in tribes having their own law enforcement, using Bureau of Indian Affairs (BIA) law enforcement, contracting for law enforcement, or not having any law enforcement presence. Often results in law enforcement not having access to tribal lands unless in hot pursuit of a criminal or when the police agency is invited.
  - Whether a state is PL 280 or non-PL 280 affects responses to victims and the safety of victims. Example: if someone is assaulted on tribal land and afraid to report, and the victim reports to law enforcement off tribal land, whether or not the law enforcement agency can come in will differ. Complicating factors even more are the type of alleged crime and all the exceptions to the laws.
- Tribal leader elections are difficult to track and vary depending on the tribe: some have elections once a year, some every 2 years, some every 4 years.
- Before traveling to a tribe, call ahead to make sure the tribal leader on your list is still there.
- Sexual violence is a huge problem on tribal lands.
  - 120 tribes have public sex offender registration sites, with 3,000 sex offenders registered with tribes. These tribes are more engaged with holding them accountable.
- Collaborative programs work in some jurisdictions but not in others. In some places, collaborative models are not practical because of geographic isolation.
- Since the increase in VOCA funding, 3-4 pieces of legislation have been proposed that would change how funds are allocated to tribes. Several proposed bills have failed. The House and Senate appropriations bills for 2017 under consideration would provide 5% statutory set aside for tribes. If the federal government plans to take action that will substantially affect tribes, then it must conduct a consultation with tribes for their input.

## **DISCUSSION: OVERCOMING CHALLENGES TO SUCCESSFULLY ENGAGING TRIBES ON CRIME VICTIMIZATION**

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- Rate of victimization in tribes is very high, and providing services is very challenging.
- Washington State:
  - Sexual assault programs have tribal setasides.
  - Tribes have expressed interest in CTAS funds. Tribes want more funding, including more funding to combat human trafficking.

- WA state office directly asks tribes how it can help them.
- Washington has set aside \$3.1 million of new funding for the 29 tribes in Washington to submit applications.
- Working with tribes during the summer is a challenge, because the summer is ‘journey time’—tribes are sometimes out of the office for 6 weeks--but the state needs to make awards during this time.
- California:
  - State compensation office worked closely with tribes in response to an incident in which one tribal leader was accused of murdering several tribal members. The compensation office entered into a contractual relationship with the tribes so that the compensation office could access remote areas and hire tribal members. The comp office also brought in mental health providers for trauma informed services.
  - This practice was really helpful: built a relationship with the tribe, helped the tribe understand that compensation was available, and it was more cost effective for the compensation program.
  - State compensation also held a conference in Humboldt County with multiple tribes, which helped establish trust and build relationships.
- Wisconsin has several tribes. Challenges include providing services to a county that does not have a victim witness coordinator, and underlying racial tension.
- Oklahoma – through a discretionary grant, a tribal outreach coordinator conducted outreach to the tribes, which led to an increase in grant applications.
- General challenges:
  - Balancing in-person outreach about available compensation and building capacity to administer grants.
  - Working with tribal councils that are constantly changing—the personal relationships you have cultivated are suddenly lost.
  - Working with tribes in remote areas.
  - Underlying distrust and racial tension.
  - Complex statutes affecting law enforcement jurisdiction eligibility for services.

Q. What’s a tribal TA provider? TA providers who are trained in tribal issues. OVC’s Tribal TA providers are Unified Solutions and Fox Valley Technical College.

- The biennial Indian Nations Conference is coming up in December.
  - 900-1,000 attendees
  - Potential topic: alleviating difficulties in having tribes speak directly with VOCA administrators and staff.
  - At the 2014 conference, comments from the tribes indicated that many did not have a clear understanding of VOCA and that they are eligible for compensation, and how to apply.
- Need more outreach on reservations (though 75% of AI/ AN peoples live outside of tribal lands).
  - One state used their updated computer systems to send out new information about eligibility.
- Court systems also need to conduct outreach.
- When conducting outreach, it is important to establish rapport.

**FACILITATED DISCUSSION: IMPACT OF THE AFFORDABLE CARE ACT/PAYER OF LAST RESORT POLICY ON CRIME VICTIM COMPENSATION CLAIMS: SHARING OUR SUCCESSES AND**

## **CHALLENGES, MARILYN ROBERTS, OVC DEPUTY DIRECTOR, AND KRIS BRAMBILA, OJP ASSISTANT GENERAL COUNSEL**

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- OVC sent a message to the listserv on June 3, 2013, titled, 'Clarification regarding the applicability of the payer of last resort provision in the Patient Protection and Affordable Care Act (ACA) to state VOCA victim compensation programs.'
- Background: a state compensation program asked OVC and the Indian Health Service (IHS) to opine on how the VOCA payer of last resort provision (42 U.S.C. § 10602(e), for state victim compensation programs) applies in light of ACA's similar and more recently enacted provision (25 U.S.C. § 1623, for certain Indian health programs).
- In particular, OVC and IHS were asked to provide policy guidance in determining the appropriate funding source to cover the costs of sexual assault examinations for victims who are eligible to receive such examinations from the Indian health organizations covered by the ACA provision.
  - ACA identifies such organizations as IHS, Indian Tribes, tribal organizations, and urban Indian organizations, and provides specific definitions (25 U.S.C. § 1603).
- After a thorough evaluation of these statutes, OVC determined that the more recently enacted ACA payer of last resort provision supersedes the VOCA provision in situations where both apply.
  - Consequently, state compensation programs should use VOCA funds to pay for eligible victim compensation costs (including sexual assault examinations) that otherwise would be covered by the Indian health programs listed in the ACA provision.
  - The Indian health programs covered by the ACA provision would be the payer of last resort for such costs.
- OVC encourages state victim compensation programs to coordinate proactively with the relevant Indian health organizations in the state to ensure that any potential gaps in services are addressed, and that victims' needs are met, in instances where both VOCA funds and IHS resources for sexual assault examinations are possible options.
- Discussion:
  - Some attendees were aware of the June 2013 listserv message, while others were not.
  - Washington State: state compensation is aware and has paid the costs for sexual assault exams in these situations.
  - California: compensation program functions as the payer of last resort.
  - As a practical matter, if IHS as payer of last resort refused to pay a cost, would the compensation program then pay? In California, the compensation program examines the detriment to the claimant if the cost would not be paid.

## **CLOSING REMARKS – MARILYN ROBERTS, OVC DEPUTY DIRECTOR**

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- Marilyn thanked the attendees for coming and for their participation, and noted that the biennial Indian Nations Conference, which will be held in December, will be a great opportunity to discuss victimization issues facing AI/ AN communities more in depth.
  - Marilyn asked whether attendees would be interested in a session at the conference at which VOCA Administrators could speak more in depth with tribal representatives.
  - Attendees indicated that such a session would be of interest.
  - Marilyn said that OVC staff would help add this session to the conference agenda.