programs, some respondents requested that the Guidelines specify that in both situations, claimants must meet the eligibility requirements of the applicable State statute. These Final Program Guidelines stipulate that claimants are eligible to apply for crime victim compensation from the State in which the crime occurred if the State's statutory eligibility requirements are met. However, if the State in which the crime occurred does not have an eligible compensation program, the crime victim should apply in the State in which he or she resides. Victim eligibility and the extent to which an eligible victim will be compensated are established by the respective State statute.

E. State Certification

In response to a request from one respondent, the definition of a 'compensable crime'' has been further defined to include not only crimes of violence but other crimes in which the victim suffers psychological or emotional trauma although there may not be any physical injury. While most State statutes explicitly define the crimes which will be covered under their program, questions have been raised as to whether certain crimes which involve emotional abuse, but did not involve physical injury, would be considered compensable under VOCA. Hopefully, this modification clarifies the type of crimes which may be considered compensable.

One respondent expressed concern regarding the availability of compensation for traditional healing and burial expenses. The respondent noted that there is great variation among the States as to the type and extent of expenses which are eligible for compensation. OVC appreciates the cultural and financial issues, as well as the need for each State to recognize and support various methods available and preferable to victims in their recovery and/or stabilizing their lives after a victimization. However, determinations as to the extent of benefits available to crime victims remains solely within the prerogative of each State. VOCA does not stipulate with any specificity the extent or any qualifying factors for the payment of expense categories.

In connection with the payment of forensic sexual assault examinations, one respondent recommended that clarification be given regarding inclusion of payments made for forensic sexual assault examinations in a State's certified payments. Specifically, the respondent suggested that the Guidelines advise that although the eligibility criteria for a VOCA compensation grant require that a victim

report to local law enforcement, States may waive the reporting requirement in the following circumstances: (1) the primary purpose of the examination is to collect forensic evidence; (2) such payments are allowable under the State's statute or administrative rules; and (3) such payments are made from funds administered by the compensation program.

Guidelines for Crime Victim Compensation Grants

Background

In 1984, VOCA established the Crime Victims Fund (Fund) in the U.S. Treasury and authorized the Fund to receive deposits from fines and penalties levied on criminals convicted of Federal crimes. This Fund provides the source of funding for carrying out all of the activities mandated by VOCA.

OVC was established in 1984 as the Justice Department's chief advocate for America's crime victims. OVC's program activities are consistent with VOCA. These Final Program Guidelines address the specific program and financial requirements of the VOCA crime victim compensation grant program.

OVC makes annual VOCA crime victim compensation grants from the Fund to eligible States. The primary purpose of these grants is to supplement State efforts to provide financial assistance and reimbursement to crime victims throughout the Nation for costs associated with being a victim of a crime, and to encourage victim cooperation and participation in the criminal justice system. State crime victim compensation programs may use VOCA compensation grant funds to pay for eligible expenses provided by the State compensation statute except for property damage and property losses.

The 1994 amendments to VOCA made a number of changes affecting the crime victim compensation program. These amendments can be found in sections 1402(d) which describe the distribution of the Crime Victim Fund and section 1403 of VOCA, which describes the requirements and eligibility criteria for a VOCA victim compensation grant award.

For the first time since the inception of the State VOCA victim compensation program, States may use up to five percent of their grant award for administrative purposes. This provision will apply to State VOCA victim compensation grants for Federal Fiscal Year 1995. Guidance as to the conditions, limitations, and reporting requirements on the expenditure of administrative funds is set forth the

Availability of Funds section of these Final Program Guidelines.

States have the responsibility for establishing guidelines and procedures for applying for crime victim compensation benefits which meet the minimal statutory requirements outlined in VOCA and the requirements in these Program Guidelines.

Funding Allocation and Application Process

A. Distribution of Crime Victim Fund

OVC administers the deposits made into the Fund for programs and services, as specified in VOCA. The amount of funds available for distribution each year is dependent upon the total deposits into the Fund in the preceding Federal Fiscal Year.

The Federal Courts Administration Act of 1992 removed the cap on the Fund, beginning with Federal Fiscal Year (FFY) 1993 deposits. This Act also eliminated the need for periodic reauthorization of VOCA and the Fund. Thus, under current legislation, the Fund will receive deposits indefinitely.

The Violent Crime Control and Law Enforcement Act of 1994 provides that the deposits into the Fund are to be distributed as follows:

1. The first \$6,200,000 deposited in the Fund in each of the fiscal years 1992 through 1995 and the first \$3,000,000 in each fiscal year thereafter is available to the Administrative Office of United States Courts for administrative costs to carry out the functions of the judicial branch under Sections 3611 of Title 18, U.S. Code.

2. Of the next \$10,000,000 deposited in the Fund a particular fiscal year,

a. 85 percent shall be available to the Secretary of Health and Human Services for grants under Section 4(d) of the Child Abuse Prevention and Treatment Act for improving the investigation and prosecution of child abuse cases;

b. 15 percent shall be available to the Director of the Office for Victims of Crime for grants under Section 4(d) of the Child Abuse Prevention and Treatment Act for Assisting Native American Indian Tribes in developing, establishing, and operating programs to improve the investigation and prosecution of child abuse cases.

3. The remaining Fund deposits are distributed as follows:

a. 48.5 percent is available for victim compensation grants;

b. 48.5 percent is available for victim assistance grant;

c. 3 percent is available for support of services to Federal crime victims and for demonstration, training, and technical assistance grants to eligible crime victim programs.