



State of New Jersey

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January 21, 2011

Marsetta Lee, Director
Victims of Crime Compensation Office
Office of the Attorney General
Department of Law and Public Safety
50 Park Place
Newark, New Jersey 07102

Dear Director Lee,

Please be advised that on June 29, 2010, Governor Chris Christie signed legislation effecting a consolidation of the functions of the Office of the Inspector General (OIG) into the Office of the State Comptroller (OSC). As such, all of OIG's functions have been transferred to and will be exercised and performed by OSC.

OSC is providing the attached summary report setting forth the former OIG's findings and recommendations regarding its 2007-2008 investigation concerning the operations and internal controls of the Victims of Crime Compensation Agency, predecessor of the Victims of Crime Compensation Office. OSC understands the scope of the OIG review occurred prior to your appointment as Director and that changes have been made since that time. However, OSC wanted to provide the attached summary report for your information.

If you have any questions or comments regarding the attached summary report, please contact me at 609-777-3104.

Very truly yours,

John Hoffman, Esq.
Director of Investigations

Victims of Crime Compensation Agency (VCCA) Summary Report on Operations and Internal Controls

The primary purpose of the Victims of Crime Compensation Agency (VCCA) is to provide compensation to innocent victims who have suffered from the commission of various statutorily enumerated crimes. The Criminal Injuries Compensation Act (Act) and the New Jersey Administrative Code (Code) set forth parameters for VCCA employees to use in determining a claimant's eligibility for benefits.

In 2007, the VCCA was transferred from the Department of Law and Public Safety (LPS) to the Department of Treasury (Treasury), requiring Treasury to provide procurement services and financial oversight, although Treasury did not have access to actual claimant files. Shortly after this transition, Treasury representatives grew concerned about whether VCCA was following sound fiscal policies and procedures. Treasury's executive administration asked the former Office of the Inspector General (OIG), which has since been consolidated into the Office of the State Comptroller (OSC), to conduct a review of VCCA's operations and internal controls to determine whether such disbursements were supported by adequate documentation and disbursed in compliance with the requirements of VCCA's enabling statutes and regulations. VCCA was moved back into LPS as a division and was renamed the Victims of Crime Compensation Office (VCCO) in July 2008.¹

From December 2007 through 2008, OIG conducted a review of VCCA operations and internal controls, attended multiple staff meetings and interviewed VCCA employees including management, supervisory staff, claim investigators and administrative staff. In addition, a random sample of claims processed from 2003 through 2007 was analyzed for compliance with VCCA statutes and regulatory codes. The following is a summary of the OIG's investigatory findings. This OIG investigation pertained to the time period prior to the transfer of VCCA back to LPS and did not reflect any subsequent remedial actions taken by LPS.

Summary of Findings:

The lack of VCCA management oversight led to an environment where the absence of appropriate follow-up, verification of vendor services and the failure to consistently comply with the VCCA statute and regulations created an environment susceptible to abuse. Numerous concerns were revealed regarding the manner in which applications were completed, submitted to VCCA, and processed.

A. Weak or Missing Internal Controls

VCCA did not maintain an adequate internal controls system. Several weaknesses and deficiencies required improvement:

1. VCCA did not maintain formal policies and procedures for all aspects of its claims processing and other operations.

¹ In an effort to maintain consistency and alleviate confusion, VCCA will be used throughout this summary report.

2. VCCA did not develop or use standard forms and/or checklists in many areas.
3. VCCA management did not provide guidance, direction or formal job training to staff, which led to confusion and inconsistency among staff regarding many aspects of claims processing.
4. VCCA management failed to evaluate employee productivity and performance. VCCA's case processing system (CPS), an automated electronic database which documents each case from intake through payment of benefits, automatically assigned claims to VCCA investigators. However, the current status of the case workload of staff could not be determined since the CPS did not track such status or provide pertinent details of the applications for benefits or claim analysis.
5. VCCA management failed to monitor employee attendance to ensure the weekly hours worked were in accord with VCCA policy.
6. VCCA management did not adhere to grant funding requirements and improperly requested federal grant funds before claimant expenditures were authorized and approved.
7. The case file storage room housing confidential information was accessible to all staff members and the room was not secure with the door often open and accessible to VCCA visitors or any VCCA employee, including non-authorized employees.

Recommendations:

- Evaluate and assess internal controls regarding claimant eligibility, claims processing, and CPS.
- Develop and implement policies and procedures, standardized forms and checklists, and training to ensure consistency and statutory compliance with all aspects of claims processing requirements.
- Periodically evaluate these systems.

B. Weak Information Technology System Controls

A limited review of VCCA's information technology system (IT) revealed significant weaknesses and found inadequate controls. VCCA had not fully developed or implemented policies and procedures regarding database administration, maintenance, security, operations and system documentation. Also, manuals and flowcharts had not been developed.

VCCA had not implemented IT security measures, creating an environment vulnerable to fraud, waste and abuse. Other control weaknesses posed risk of unauthorized access to the CPS, altered payment amounts, unauthorized payments, duplicate payments, and modification and destruction of information.

Specifically:

1. VCCA did not enforce a strong password policy or require routine password changes for users accessing the CPS.
2. VCCA did not establish written policies and procedures for controlling changes made to the automated CPS software. The IT department did not document or maintain system change requests for modifications to its software and systems.

3. VCCA did not have a comprehensive IT disaster recovery plan. VCCA did not maintain written policies and procedures for server backup and data recovery that are necessary to ensure efficient recovery of data in the event of a computer operations disruption.
4. VCCA did not monitor its IT control systems to assess the quality of the system's performance over time.
5. Several application controls specific to the automated claims processing system required attention to improve reporting and to prevent inappropriate or unauthorized transactions. Specifically:
 - a. The CPS did not provide thorough and accurate case statistics necessary for annual and grant reports.
 - b. The CPS did not track the progress of individual cases.
 - c. The CPS did not monitor and measure the statutory limits allowed for benefit payments, the number of medical provider sessions, or administrative code regulations.
 - d. Payment orders were not controlled, making it difficult to track corrections or re-issue or update payment orders.
 - e. Supervisory review and approval of investigator actions were not electronically captured in the system.

Recommendations:

- Develop and implement policies and procedures for the IT systems, including entity-wide security administration and program controls.
- Develop and implement a strong password policy that requires, at a minimum, assignment of unique passwords to all users.
- Develop and implement a disaster recovery plan to ensure that when unexpected events occur, critical operations continue without interruption or are promptly resumed, and that critical and sensitive data are protected from destruction.
- Perform periodic monitoring of IT controls allowing for a timely assessment of the control's design and operation with any necessary corrective action.

C. Failure to Consistently Apply the VCCA Enabling Statute and Administrative Code

A review of a sample of VCCA case files found incorrect and inconsistent interpretations and applications of the statutes and regulatory code sections that direct VCCA operations:

1. VCCA failed to consistently apply statutory requirements regarding eligibility of claimants.

The Act mandates criteria for determining a claimant's eligibility and describes a number of circumstances wherein a claimant is to receive reduced compensation or be precluded from compensation altogether. Instances in which such criteria were not followed include:

- a. VCCA failed to consider whether the claimant was an innocent victim or was cooperative with law enforcement and/or VCCA staff throughout the claim review process.
- b. VCCA failed to ensure the complained of injury was linked to a covered crime. Claim files lacked evidence that a crime had taken place or, if such crime had occurred, that the injury was related to the commission of a covered crime and not related to a pre-existing condition or medical conditions stemming from other causes.

- c. VCCA failed to enforce requirements concerning whether claimants who were passengers of drivers under the influence knew or should have known of the driver's condition prior to injury or death.
- d. VCCA failed to ensure claims were filed within the two-year time limit set by the Act and the Code.

Recommendations:

- Develop and implement policies and procedures to ensure statutory compliance.
 - Provide ongoing training on specific factors to be considered and resources to be reviewed in making eligibility determinations.
 - Consider creating regulations to ensure that qualifying injuries are directly related to the commission of enumerated crime(s) as opposed to pre-existing medical conditions or medical conditions related to other causes.
2. VCCA was inconsistent in its application of time and benefit amount limitations. The Act and the Code set forth limitations on awards of benefits VCCA can make, including limits on the length of time a claim may be eligible and the amounts available for specific covered expenditures.
 - a. VCCA failed to consistently apply the statutory five-year time limitation for awards. Payments were made as many as 11 years after the claim was determined to be eligible.
 - b. VCCA failed to consistently apply regulatory limitations for covered expenses, even though the Code specifies the maximum amounts claimants can receive for various expense categories.

Recommendations:

- Provide training for employees regarding the statute of limitations for filing claims and the regulatory limitations for payment of awards
 - To the extent there is a lack of clarity in the application of the time limits in the Act, seek advice from the Office of the Attorney General.
3. VCCA overreached its statutory authority by expanding coverage. Claimants were compensated for crimes that do not appear on the enumerated list of covered crimes in the Act, including: simple assault, harassment, hit and run automobile accidents, contempt of court, and destruction of personal property.

Recommendation:

- Provide ongoing training for employees on eligible crimes.
4. VCCA failed to consistently consider amounts received from other sources when determining an amount of compensation as required by the Act. Many other governmental departments and public and private entities provide benefits and services to VCCA claimants including, but not limited to the following: Department of Human Services, Department of Children and Families including the Division of Youth and Family Services, Department of Health and Senior Services, Department of Education, Department of Labor and Workforce Development (including Workers Compensation, Unemployment Compensation and Temporary Disability Compensation),

Social Security, Charity Care, local and regional battered women's organizations and rape crises centers, shelters, and any other type of assistance organization. It also was noted that after the September 11, 2001 terrorist attack the federal government provided money to be dispersed to victims or their families. There were few indications that VCCA consistently considered other sources of compensation as required by the Act or that the VCCA was in active communication with other state agencies to: determine availability of other sources of compensation, coordinate benefits, ensure that claimants were getting the services needed, and avoid duplication of efforts and benefits. The lack of coordinated communication with other entities likely resulted in payments by VCCA for expenses covered by another source.

Recommendation:

- Develop and implement a policy and procedures to contact appropriate agencies concerning the coordination of benefits.

5. VCCA was inconsistent in the application of the statutory requirement that VCCA pursue restitution from victims where available.

The Act and the Code mandate pursuit by VCCA of restitution from claimants, and any other possible resources that might be available to claimants including, but not limited to, life, health, homeowner and automobile insurance as well as through civil law suits.

- a. VCCA has underutilized its statutory subrogation and restitution authority. VCCA has no written policy for restitution and subrogation and lacked staffing resources to handle the statutory requirements.
- b. VCCA has been inconsistent in monitoring claimants' pending civil suits and in seeking its own judgments for potential collection. Also, VCCA has on occasion and on an ad hoc basis, rather than pursuant to a written policy or guidelines, waived its right to collect funds or reduced the amount due on liens.

Recommendations:

- Require that claimants submit confirmation to VCCA of their obligation to reimburse VCCA if they receive funds from other sources for the incident at issue.
- Create and implement policies and procedures for VCCA to actively pursue restitution from claimants and other available sources.
- Develop criteria by which decisions to waive rights to all or part of a judgment against a claimant can be made.

6. VCCA was inconsistent in its application of the statutory requirement that VCCA provide victim counseling services.

The Act requires VCCA to establish a victim counseling service unit to identify and develop sources available to provide information, emergency assistance, and referrals for counseling and legal services. The Act further mandates establishment of a separate counseling services unit for children and families to be directed by a person with training or experience specific to cases of child abuse.

- a. VCCA was not in compliance with statutory requirements because only one staff member was assigned to the "counseling unit" and VCCA did not provide evidence of this staff member's counseling credentials.

- b. VCCA lacked policies, procedures, and managerial control over which case files were to be sent to the counseling unit.
- c. A counseling referral list was created and provided to claimants without any vetting process.

Recommendations:

- Develop and implement policies and procedures to increase consistency concerning: making determinations about whether claimants' files require assignment to the counseling unit, and processing of the assigned claims.
- Develop a vetting process for potential counseling references to ensure that claimants' needs are met by qualified providers.
- Ensure that the staff member(s) assigned to the counseling unit have the proper training and education and that there is proper managerial review and oversight.

D. Inadequate Management of Staff and Oversight of Claim Files

Insufficient management and deficient supervision of staff was a pervasive problem at VCCA, resulting in inconsistent decision making and claims processing. Management failed to provide adequate guidance and direction to staff, remedy specific problems that arose, and review consistently the files in the claims processing system.

1. No standard procedures were used to process claims, to determine claimant eligibility, or in the computation of benefits. Specifically, problems were noted in the areas of: emergency applications, payments awarded in excess of statutory limitations or without adequate documentation, home modifications for catastrophic claimants, advance payments for loss of wages and/or loss of support benefits, reimbursement of child care or domestic service benefits, record keeping to prevent duplicate payments, and lack of consistency in case notes.
2. VCCA staff received no formal initial or on-going training.
3. Case files lacked evidence that supervisors reviewed the investigators' analysis and computation of benefits or that the supervisors were utilizing a consistent system and/or approach to reviewing case files and the work performed by the investigators. This lack of oversight or monitoring resulted in unauthorized and improper payments to claimants.
4. There was a lack of final and/or consistent decisions regarding claims processing matters at supervisory staff meetings. There was no record kept of which cases were discussed, or any formal tracking or monitoring of the cases or specific issues discussed. Thus, there was no way for management to ascertain whether directions or mandates from these supervisory staff meetings were followed, were consistent, or had a positive effect on the specific case or issue discussed.
5. Final authorizations for claim payments were improperly entered into the CPS.
6. Catastrophic claims were handled by one supervisor. Decisions concerning eligibility and determination of benefits made by that supervisor were not reviewed by management.

Recommendations:

- Develop and implement policies and procedures for the handling of claims and computation of benefits to include such topics as: eligibility determinations, emergency claims, child support payments in arrears, acceptable documentation for loss of earnings

and loss of support, competitive quotations for home modifications, and payments extending into the future.

- Provide regular and uniform training on the above-mentioned aspects of claims processing.
- Develop and implement policies and procedures for an effective system of supervisory review and management oversight for all claims processing, including appropriate documentation.

E. Legal Representation of Claimants and Fees Paid by VCCA

Files wherein the claimant had legal representation or legal assistance were reviewed and the following were observed:

1. Affidavits of service, required by the Code when an attorney is paid \$1,500 or more in legal representation fees in direct relation to a claim before the VCCA, were not on file in all case files.
2. Claim files showed no evidence that affidavits of service were reviewed for reasonableness or to ensure that there had not been duplication of services.
3. VCCA staff did not confirm the current and ongoing attorney representation of claimants when claim files spanned a long period of time.
4. An attorney referral list was made available to claimants, though no guidance was given to VCCA staff on when to use it and some staff did not know of the list's existence. In addition, there was a potential conflict of interest because the spouse of a VCCA employee, who often distributed the list to claimants, was an attorney on the list.

Recommendation:

- Develop and implement policies and procedures to verify claimants' attorney representation and for the review of attorney's fees and affidavits of service for reasonableness.

F. Grant Compliance

VCCA has a responsibility to provide adequate monitoring and oversight of grant receipts to ensure that Federal and State funds are properly expended for the intended purpose and that the VCCA is performing responsibly in accordance with the terms and conditions required by the grants. The following weaknesses were observed:

1. VCCA procedures and internal controls were not adequate to ensure the appropriate use of grant funds.
2. VCCA did not have a formal position description or define the qualifications necessary for grant management duties and did not provide appropriate training to staff given the task of providing required periodic reports.
3. VCCA management did not perform any grant monitoring or oversight of grant management and reporting.
4. The CPS does not capture all statistical information required of grant reporting and often required extensive manual efforts resulting in excessive work hours to classify data, causing concern as to the integrity of the data and reports.

Recommendations:

- Develop and implement policies and procedures that ensure compliance with Federal and State grant rules and regulations.
- Provide training to grant management staff regarding their duties and responsibilities and pertinent grant rules and regulations.

G. Medical Examinations

VCCA payments totaling \$88,350 were made to a medical provider performing examinations.² The analysis of case files and evidence reveals that these payments, which went mostly to the medical provider and not the victim, were improperly approved. Unlike other VCCA claim files, these claim files evidenced, among other things, that: there rarely was contact by VCCA with the claimant; many of the VCCA applications appeared to have been at least partially completed by the medical provider who received the money; and, in all but one claim, there was no evidence of any additional VCCA benefits being provided to any of the victims (*i.e.*, counseling, medical bills). In addition to deficiencies found in the claim files, there was no evidence that the bill of service had ever been provided to the claimant for review and payment. This matter was referred to the U.S. Department of Justice and the New Jersey Attorney General, Division of Criminal Justice.

H. Other Concerns of Selected Medical Providers

1. Questionable Applications for Oral and Maxillofacial Services:

A review of VCCA claim files disclosed documents indicating that a single medical provider was reimbursed more than \$400,000 for oral and/or maxillofacial surgical procedures rendered in an approximate six-year period. A review of case files raised concerns regarding the claim applications and victim eligibility submitted to VCCA that warrants further investigation. Accordingly, this matter was referred to the U.S. Department of Justice and the New Jersey Attorney General, Division of Criminal Justice.

2. Questionable Claim Files Involving a Jersey City Physician:

During the course of this review, a physician providing medical services was found to be operating using three different names with separate tax identification numbers. Claim files revealed all three entities billed from the same office location. In the two case files reviewed, at least two if not three of the entities billed the claimant for services on the same date and in some cases billed under the same medical procedure codes. This matter was referred to the U.S. Department of Justice and the New Jersey Attorney General, Division of Criminal Justice.

² This is based on information provided by VCCA staff as reported in Treasury's central accounting system as of October 2007.