

**COMMENTS ON PROPOSED AMENDMENTS TO THE  
RULES AND REGULATIONS PERTAINING TO THE  
CRIME VICTIM COMPENSATION PROGRAM  
July 6, 2006**

The ACLU urges the General Treasurer's office to reject the proposed amendment to these rules, contained in Section 1.08, which would authorize the reduction or denial of victim compensation awards to victims of violent crimes simply because they have a criminal drug record. We are deeply troubled by the General Treasurer's on-going crusade to denigrate the seriousness of violent crimes committed against Rhode Islanders based solely on a victim's status as an ex-offender.

Ever since the victim compensation law was enacted in its present form, the ACLU has argued that, except in extraordinary circumstances, it should simply be irrelevant whether the victim of a crime has a criminal record that is totally unrelated to the offense leading to the compensation request. It only serves to penalize ex-offenders for their blameless involvement as victims in separate, unrelated criminal acts. This is hardly in keeping with the philosophy underlying the victim compensation law.

A narrow use of past criminal conduct is especially important since compensation is, generally speaking, available only for very serious offenses. Furthermore, there are already numerous limitations on compensation to prevent any unjust awards to people with criminal tendencies. For example, the statute explicitly bars compensation when the behavior of the victim directly or indirectly contributed to his or her injury or death, and the law further bars any compensation for any injuries incurred while a victim was incarcerated.

In addition, the state's current regulations make note of a litany of situations that can be used to reduce or deny compensation because the victim has engaged in "contributory conduct." See §1.08(3)(c). In light of the restrictions already in place by statute and regulation, expansive efforts to reduce or deny compensation based on a victim's past criminal record unfairly punish innocent victims solely on the basis of their status as ex-offenders. This is fundamentally unfair.

Only a year ago, in a similar attack on the rights of ex-offenders, the General Treasurer added a comparable provision in these rules concerning victims with a DUI record. At the time, we argued that "[o]nce DUI is added to the regulations as a disqualifying factor, there is no logical stopping point to the inclusion of a wide range of other ... non-violent felonies, in the determination of whether a victim should be fairly compensated." Frankly, we didn't expect to be proven correct so quickly.

DUI, we pointed out last year, is often a manifestation of a disease that requires treatment as much as punishment. It is worth noting that the same is true of this latest proposal: many people convicted of the drug offenses encompassed by this proposed regulation are themselves drug addicts, engaged in the criminal behavior for which they are convicted in order to help feed their habit. It is particularly harsh to further punish a person who has been the victim of a violent crime solely because of a past offense that may be directly linked to his or her drug addiction.

Indeed, there is something inordinately cruel in a regulation that tells a victim of a sexual assault, for example, that she may not receive the compensation otherwise due her for the harm that has befallen her simply because she used to sell drugs to help pay for her cocaine habit. It does not suffice to say that the proposed regulation makes the

reduction or denial in aid discretionary. The regulation's mere presence may be enough to discourage some victims from applying for compensation in the first place.

In sum, we can think of no valid, much less compelling, reason for this proposed amendment. It runs directly counter to the goals of victim compensation, and unfairly and inappropriately re-victimizes victims. The ACLU strongly urges its rejection.

We appreciate your attention to our views, and trust that you will give them your careful consideration. If the suggestions we have made are not adopted, we request that, pursuant to R.I.G.L. §42-35-3(a)(2), you provide us with a statement of the principal reasons for and against adoption of these rules, incorporating therein your reasons for overruling the suggestions urged by us. Thank you.

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